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THE PERMIT EXTENSION LEGISLATION: SOME PROBLEMS

The following legislative summaries and examples of how the permit – extension legislation works are available at the following School of Government webpage: <http://www.sog.unc.edu/dailybulletin/summaries09/>. Look under “Community Planning, Land Development, and Related Topics.”

See particularly “The 2009 Permit-Extension Legislation: Some Examples, Applications, and Exercises” and “2009 Planning and Development Legislation.” See also the blogs “New Life for Old Development Approvals” and “The Land Development Permit Extension Legislation: Some Applications and Examples.”

- (1) Suppose that a city issued a building permit to Deluxe Building on November 1, 2007. No work was initiated under the permit prior to May 1, 2008. Suppose that there is no local ordinance provision that affects the answer. Is the permit still valid?

- (2) On February 1, 2008 River City approved a certain preliminary subdivision plat with the proviso that the approval would expire a year later if no final plat had been approved. On the day before the preliminary approval was about to expire, the city, because of the economy, extended the approval for another year. When does the preliminary plat approval expire?

(3) On February 1, 2009 Juniper Enterprises began work under its building permit. However, progress was slow, and Juniper decided to abandon the project until the economy improved. The town has a policy under which it refunds a portion of building permit fees if a permit holder relinquishes the permit before certain inspections have been made. On May 1, 2009 Juniper turned in its permit and claimed its refund. However, later on in the summer, when Juniper heard about the permit extension legislation, it returned to the inspections department, claiming that it never would have relinquished the permit had it known that the legislature was going to adopt permit extension legislation like it did. Juniper then offered to return the refund so that its permit may be resurrected. Is Juniper's permit still good?

(4) On October 1, 2009, Bart obtained a zoning permit to build batting cages and a small recreational complex on a vacant parcel zoned Highway Business. The permit is for a use permitted by right and has no expiration date. But Bart's plans never materialize because he cannot obtain financing, and he postpones preparing and submitting plans for a building permit. On March 1, 2010, the town's new stormwater rules became part of the ordinance. Will Bart have to comply with them?

(5) On March 1, 2009, the city contracted under G.S. 160A-320 ("Public enterprise improvements") with the developer of a "big box" project to make "oversized" sewer line improvements in connection with its land development project, with the city reimbursing a portion of the costs. The contract requires that the developer acquire the land necessary for the development project prior to September 1, 2009, or the contract is void. The developer fails to acquire the land by the September deadline. Does the developer's obligation qualify for a time extension under the Permit Extension Act?