



Department of Planning & Community & Economic Development

## Planning Division

William Fruhling, Interim Director

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Madison Municipal Building, Suite 017  
215 Martin Luther King Jr. Boulevard  
Madison, Wisconsin 53703  
Phone: (608) 266-4635  
[www.cityofmadison.com](http://www.cityofmadison.com)

**TO:** Mayor Satya Rhodes-Conway  
Madison Common Council

**FROM:** Bill Fruhling, Acting Secretary of the Plan Commission

**DATE:** May 3, 2024

**SUBJECT:** ID [82802](#) – Appeal of the Plan Commission action on the demolition permit for 428-444 State Street, Legistar ID 81565. (District 2))

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On March 25, 2024, the Plan Commission voted to place on file a request to demolish three commercial buildings located at 428-444 State Street. The motion to place the demolition permit on file passed on the following 5-3 vote: AYE: Zellers, Heck, Mendez, Solheim, Spencer; NAY: Ald. Duncan, Ald. Figueroa Cole, McCahill; EXCUSED: Ald. Field, Soldner. Materials related to the demolition permit may be found in legislative file ID [81565](#).

In placing the demolitions on file, the Plan Commission specifically found that Demolition Standard #7 was not met. In speaking to this motion, it was stated this standard requires findings related to the Demolition Section's statement of purpose and with the health, prosperity, safety, and welfare of the City of Madison. The Demolition "Statement of Purpose" in Madison General Ordinance 28.185 states, in part, "The purpose of this section is therefore to ensure the preservation of historic buildings, encourage applicants to strongly consider relocating rather than demolishing existing buildings, aid in the implementation of adopted City plans, maximize the reuse or recycling of materials resulting from a demolition." It was further specified that it the demolitions did not aid in the implementation of adopted plans as it was contrary to Downtown Plan Recommendation 75 that states, "Encourage the preservation, rehabilitation and adaptive reuse of sound older buildings that contribute to the district's character."

A related conditional use request to redevelop the site with a six-story tall mixed-use building was referred by the Plan Commission at the same meeting (see ID [69792](#)).

Section 28.185(10) of the Zoning Code provides the following regarding the filing of appeals for demolition permits (excerpt):

*(10) Appeal of Plan Commission Decision.*

*(a) The Plan Commission's decision to grant or deny a demolition or removal permit may be appealed to the Common Council by:*

*1. The applicant, or*

*2. The Alderperson of the district in which the building proposed for demolition or removal is located.*

*(b) The appeal shall specify the grounds, with specific reference to the findings of the Plan Commission.*

- (c) The appeal shall be filed with the Zoning Administrator within ten (10) days of the final action of the Plan Commission.*
- (d) The Zoning Administrator shall transmit the appeal to the City Clerk, who shall file the appeal with the Common Council.*
- (e) After receiving the appeal from the City Clerk, the Common Council shall introduce the appeal at one Common Council meeting and set the appeal for a public hearing at the next Common Council meeting. In addition to setting the appeal for a public hearing, the City shall also provide email notice to anyone whose name appears on the list of persons wishing to receive information about demolitions. The Common Council shall make a decision on the appeal within a reasonable period of time.*
- (f) The action of the Plan Commission shall be upheld unless it is reversed or modified by a favorable vote of two-thirds ( $\frac{2}{3}$ ) of the members of the Common Council.*

On April 4, 2024, a petition was submitted by Ald. Julianna Bennett to appeal the Plan Commission's action to place on file the demolition permit on file to the Common Council. The appeal was properly filed pursuant to requirements in Section 28.185(10) of the Zoning Code. The appeal was introduced at the April 16, 2024 Common Council meeting and referred to May 7 for public hearing. The required e-mail notice to the list of persons wishing to receive information about demolitions stipulated in (e) above was provided at around 3:20 PM on May 3, 2024 using the online notification tool. As noted in Section 28.185(10), the action of the Plan Commission shall be upheld unless it is reversed or modified by a favorable vote of two-thirds (2/3) of the members of the Common Council.

Note: If the Plan Commission's decision on the demolition permit is modified or reversed and the demolitions are approved by the Common Council, the applicant will still be required to obtain Plan Commission approval of their conditional use requests to redevelop the property with a new mixed-use building. To date, the Plan Commission has not rendered a decision on those requests, which are governed by Section 28.183 of the Zoning Code.

cc: Maribeth Witzel-Behl, City Clerk  
Michael Haas, City Attorney  
Matt Wachter, Director, Department of Planning and Community and Economic Development  
Kate Smith, Assistant City Attorney  
Kevin Firchow, AICP, Principal Planner, Planning Division  
Tim Parks, Planner, Planning Division  
Joe McCormick and Colin Smith, JD McCormick Properties, LLC (by e-mail)