

# PLANNING DIVISION STAFF REPORT

February 26, 2024



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 117-125 West Mifflin Street (4<sup>th</sup> Alder District - Alder Verveer)  
**Application Type:** Demolition Permit  
**Legistar File ID #** [81556](#)  
**Prepared By:** Colin Punt, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Ethan Schwenker; Hovde Properties; 122 W Washington Ave #350; Madison, WI 53703

**Owner:** Hovde Building LLC/Hovde Properties; 122 W Washington Ave #350; Madison, WI 53703

**Requested Action:** Approval of demolition permits for a five commercial buildings at 117-125 West Mifflin Street.

**Proposal Summary:** The applicant proposes to demolish five single-story commercial buildings at 117-125 West Mifflin Street. The applicant has not presented a proposal for future development at this time.

**Applicable Regulations & Standards:** This proposal is subject to the standards for demolition permits [MGO Section 28.185(7)].

**Review Required By:** Plan Commission

**Summary Recommendation:** If the Plan Commission can find that the demolition standards are met, the Planning Division recommends that the Commission approve the request to demolish five commercial buildings at 117-125 West Mifflin Street. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies beginning on page 4.

## Background Information

**Parcel Location:** The five parcels, totaling 10,142 square feet, located at the east quadrant of the intersection of West Mifflin Street and North Fairchild Street. It is located within Alder District 4 (Alder Verveer) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The subject site, which is zoned DC (Downtown Core District), is developed with five buildings on five existing parcels. Details are provided below.

Address	Lot Area (SF)	Floor Area (SF)	Height	Constructed
117 W Mifflin St	2,107	1,842	1 story	1923
119 W Mifflin St	1,984	1,760	1 story	1923
121 W Mifflin St	1,980	1,760	1 story	1923
123 W Mifflin St	2,000	1,760	1 story	1923
125 W Mifflin St	2,071	1,760	1 story	1923

### Surrounding Land Use and Zoning:

Northeast: State History Museum and three- and nine-story office buildings zoned DC;

**Southeast:** 10-story office building and historic church building, both zoned DC;

**Southwest:** Across North Fairchild Street, Madison Public Library Main Branch, zoned DC; and

**Northwest:** Across West Mifflin Street, a variety of office, retail, and mixed-use buildings between one and four stories, all zoned DC.

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2018) recommends Downtown Core (DC) for the subject site. The [Downtown Plan](#) (2012) recommends Downtown Core Mixed-Use.

**Zoning Summary:** The property is in the Downtown Core (DC) District

<b>Other Critical Zoning Items</b>	Utility Easements, Urban Design (DC)
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*Prepared by Jacob Moskowitz, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

## Project Description, Project Analysis, and Conclusion

The owner applicant originally requested approval to demolish five single-story commercial buildings addressed 117, 119, 121, 123, and 125 West Mifflin Street and a three-story building addressed as 15 North Fairchild Street. The applicant subsequently amended the demolition permit request to remove consideration of 15 North Fairchild Street (also addressed 115 West Mifflin Street).

The applicant states in the original letter of intent and its addendum, that after consultation with three contractors and consultants, the applicant determined that due to the site constraints for the construction of the adjacent Wisconsin Historical Society (WHS) museum, the demolition of the five Mifflin Street buildings is necessary to maintain the life safety standards and functionality of the adjacent Churchill Building. The demolition photos ([pp 4-5](#)) provided by the applicant show buildings of various states of repair, with some visible damage, but Planning Division staff are unaware of current structural issues affecting any of the buildings. The applicant also states their disagreement with the Landmarks Commission advisory report (detailed below), but also states their willingness to incorporate salvageable terra cotta features from the façade of the West Mifflin Street buildings into future redevelopment of the property. The applicant also states in the addendum that by allowing WHS to use the post-demolition Mifflin Street site for construction staging, impacts on the Mifflin Street plaza, including tree removals and pedestrian access, may be reduced.

According to the letter of intent, the applicant intends to undertake demolition in spring 2024. The applicant notes that they expect to redevelop the site into a "high-quality, mixed-use project," but details of said proposal are not provided.

### Consistency with Adopted Plans

The [Comprehensive Plan](#) (2018) recommends Downtown Core (DC) for the subject site. Downtown Core represents the nucleus of downtown and accommodates a wide variety of employment, service, retail, government, residential, and other uses in large scale buildings that comprise the most intensely developed part of the city. The [Downtown Plan](#) (2012) recommends Downtown Core Mixed-Use and maximum building height at the capitol view preservation limit. The subject parcels are also identified as a location for potential redevelopment/infill in the Downtown Plan, specifically as an "underutilized site and/or obsolete building." West Mifflin Street is identified as an important pedestrian connection and North Fairchild Street as a downtown thoroughfare. The subject buildings are not approved landmarks or identified in the Downtown Plan as a potential

landmarks, though are within a national-register district that was considered but never approved. No future use is proposed with the demolition request so staff cannot analyze further whether the proposed use is consistent with the recommendations of the adopted plans.

### **Demolition Permit Standards**

At its October 5, 2021 meeting, the Common Council adopted Ordinance 21-00065 (ID [67074](#)) to revise the standards and process for demolition and removal permits in Section 28.185 of the Zoning Code to remove consideration of proposed future use as a factor in approving demolition requests. In order to approve a demolition request under the revised standards, the Plan Commission shall consider the seven approval standards in §28.185(9)(c) M.G.O. when making a determination regarding demolition requests. The factors include a finding that the proposed demolition or removal is consistent with the statement of purpose of the demolition permits section and with the health, prosperity, safety, and welfare of the City of Madison.

The Planning Division believes that it may be possible for the standards for Demolition Permits to be met, but provides the following comments regarding standard 4, *“That the Plan Commission has received and considered the report of the City’s Historic Preservation Planner regarding the historic value of the property as well as any report that may be submitted by the Landmarks Commission.”* At its December 4, 2023 meeting, the Landmarks Commission found that the existing building at 15 North Fairchild Street has no known historic value due to a dramatic loss of historic integrity. At the same meeting, the Landmarks Commission found that the five buildings at 117-125 West Mifflin Street have historic value for their architectural significance, as buildings that the Keeper of the National Register determined are contributing to a proposed National Register historic district, represent the work of an architect of note (Philip M. Homer), and as an intact example of arcade-style building that is rare in Madison. The Landmarks Commission recommends that the applicant preserve as much of the terracotta as possible for future reuse if the building is approved for demolition. The December 4 Landmarks Commission report is available [here](#).

Standard 6 states that the “Plan Commission shall consider the condition of the building or buildings proposed for demolition or removal. In order to find this standard met, the Plan Commission may consider a report of the Madison Fire Department, Police Department, and/or Building Inspection Division regarding the proposed demolition, including whether any evidence of a potential fire hazard, unlawful use of the property, public nuisance, or other public health and safety concern supports demolition or removal.” The applicant states in the addendum to the original letter of intent, that after consultation with three contractors and “numerous” consultants, the applicant determined that due to the site constraints for the construction of the adjacent Wisconsin Historical Society (WHS) museum, the demolition of the five Mifflin Street buildings is necessary to maintain the life safety standards and functionality of the adjacent Churchill Building. The applicant has not provided any documentation from MFD, MPD, or Building Inspection.

Planning Division staff believe all other standards of approval can be found to be met or are not applicable to this request.

Staff note that both standard 4 and standard 6 require that the Plan Commission shall “consider” the reports of the historic preservation planner/Landmarks Commission and from the City agencies regarding public health and safety concerns.

Standard 7, which includes references the standards 1-6 states that “The Plan Commission shall consider the factors and information specified in items 1-6 and find that the proposed demolition or removal is consistent with the statement of purpose of this section and with the health, prosperity, safety, and welfare of the City of Madison.” In applying this standard, the Plan Commission must consider the required information and advisory

recommendations and make findings related to the demolition section’s statement of purpose overall health, prosperity, safety, and welfare of the City. As historic value has been raised by the Landmarks Commission, Staff advises that careful consideration should be given to the Landmarks Commission’s findings. However, the Plan Commission is the deciding body on the demolition requests and staff does not believe that the Commission is precluded from approving the requested demolitions should it find the applicable standards are met. Since adoption of the revised demolition standards, there have been instances in which the Plan Commission has both approved and denied demolition requests that were found to have historic value by the Landmarks Commission. On balance, considering the provided information and adopted plan recommendations, staff believes that it may be possible for the Plan Commission to find the standards met. However, if the Plan Commission cannot find that one or more of the aforementioned standards are met by the application, the Plan Commission should place the request on file without prejudice.

At the time of report writing, staff has received public comment regarding this proposal, including comments from Capitol Neighborhoods Inc., the Wisconsin Historical Society, and the Madison Trust for Historic Preservation, all of which has been added to the legislative file.

## Recommendation

### Planning Division Recommendation (Contact Colin Punt, 243-0455)

If the Plan Commission can find that the demolition standards are met, the Planning Division recommends that the Commission approve the request to demolish five commercial buildings at 117-125 West Mifflin Street. This recommendation is subject to input at the public hearing and the conditions recommended by the reviewing agencies below:

#### **Recommended Conditions of Approval** Major/Non-Standard Conditions are Shaded

### Planning Division (Colin Punt, 243-0455)

1. That the applicant shall, to the greatest extent possible, remove and preserve the terracotta tiles from the buildings’ front façades for potential future reuse.
2. That in the event that a future use is not identified before construction of the adjacent Wisconsin Historical Society museum is completed, that the site be graded and seeded or sodded with turf grass as required by ordinance.

### Zoning Administrator (Jacob Moskowitz, 266-4560)

3. Approval of the demolition permit will require the removal of all structures including the principal building, accessory garage, parking lot, and driveways. The driveway aprons shall be removed and replaced with curb and gutter as per City of Madison Engineering and Traffic Engineering requirements. During demolition and prior to curb and gutter, barriers shall be installed across the driveways to prevent the parking of vehicles. Disturbed areas shall be graded and seeded or sod planted to minimize erosion. Revise plans to remove reference to “completed gravel pad” and clarify that the lot will be graded and seeded.
4. Section 28.185(9)(b) requires that every applicant for a demolition or removal approval that requires approval by the Plan Commission is required to get a Reuse and Recycling Plan approved by the City Recycling Coordinator, Bryan Johnson at streets@cityofmadison.com prior to receiving a raze permit. Every person who

is required to submit a reuse and recycling plan pursuant to Section 28.185(9)(b) shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition. A demolition or removal permit is valid for two (2) years from the date of the Plan Commission approval.

**Engineering Division** (Tim Troester, 267-1995)

5. Obtain a permanent sewer plug permit for each existing sanitary sewer lateral serving a property that is not to be reused and a temporary sewer plug permit for each sewer lateral that is to be reused by the development. The procedures and fee schedule is available online at <http://www.cityofmadison.com/engineering/permits.cfm>. (MGO CH 35.02(14))
6. Obtain a permit to plug each existing storm sewer. This permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>. (MGO CH 37.05(7))
7. An Erosion Control Permit is required for this project. See Storm comments for permit specific details and requirements.
8. This project will disturb 20,000 sf or more of land area and require an Erosion Control Plan. Please submit an 11" x 17" copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at [meberhardt@cityofmadison.com](mailto:meberhardt@cityofmadison.com), or Daniel Olivares (east) at [daolivares@cityofmadison.com](mailto:daolivares@cityofmadison.com), for approval.
9. Demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year. The WDNR provided workbook to compute USLE rates can be found online at <https://dnr.wi.gov/topic/stormwater/publications.html>
10. Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.

**Engineering Division – Mapping Section** (Julius Smith, 264-9276)

11. Per the Title documents listed on the map provided Parcel VII which is to remain and is not a part of the proposed associated adjacent construction at 30 N Carroll Street, this parcel has easement rights to the 12' wide Private Ally included within the Demo area and the adjacent alley that is to remain. Owner/developer/contractor is required to provide agreement/permission from ALL benefiting easement holders of this demolition and the possible disturbance of there use of the existing all within the easement to remain along with any utility rights that may be disrupted. The agreement/permission shall be provided to the City prior to sign off.

**Fire Department** (Contact Matt Hamilton, 266-4457)

12. Please consider allowing Madison Fire Dept. to conduct training sequences prior to demolition. Contact MFD Training Division to discuss possibilities: Division Chief Jeff Larson at [jtlarson@cityofmadison.com](mailto:jtlarson@cityofmadison.com) or (608) 2665946.

**Forestry Section** (Contact Brad Hofmann, 267-4908)

13. An existing inventory of street trees located within the right of way shall be included on the site, demo, utility, landscape, grading, fire aerial apperatus and street tree plan sets. The inventory shall include the following:

location, size (diameter at 4 1/2 feet), and species of existing street trees. The inventory should also note if a street tree is proposed to be removed and the reason for removal.

14. All proposed street tree removals within the right of way shall be reviewed by City Forestry before the Plan Commission meeting. Street tree removals require approval and a tree removal permit issued by City Forestry. Any street tree removals requested after the development plan is approved by the Plan Commission or the Board of Public Works and City Forestry will require a minimum of a 72-hour review period which shall include the notification of the Alderperson within who's district is affected by the street tree removal(s) prior to a tree removal permit being issued. Add as a note on the street tree plan set.
15. Contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. Contractor shall operate equipment in a manner as to not damage the branches of the street tree(s). This may require using smaller equipment and loading and unloading materials in a designated space away from trees on the construction site. Any damage or injury to existing street trees (either above or below ground) shall be reported immediately to City Forestry at (608) 266-4816. Penalties and remediation shall be required. Add as a note on the site, grading, utility, demolition, and street tree plan set.
16. As defined by the Section 107.13 of City of Madison Standard Specifications for Public Works Construction: No excavation is permitted within 5 feet of the trunk of the street tree or when cutting roots over 3 inches in diameter. If excavation is necessary, the Contractor shall contact Madison City Forestry at (608) 266-4816 prior to excavation. City of Madison Forestry personnel shall assess the impact to the tree and to its root system prior to work commencing. Tree protection specifications can be found on the following website: <https://www.cityofmadison.com/business/pw/specs.cfm> Add as a note on the site, grading, utility, demolition and street tree plan sets.
17. Section 107.13(g) of City of Madison Standard Specifications for Public Works Construction (website: <https://www.cityofmadison.com/business/pw/specs.cfm>) addresses soil compaction near street trees and shall be followed by Contractor. The storage of parked vehicles, construction equipment, building materials, refuse, excavated spoils or dumping of poisonous materials on or around trees and roots within five (5) feet of the tree or within the protection zone is prohibited. Add as a note on both the site and street tree plan sets.
18. On this project, street tree protection zone fencing is required. The fencing shall be erected before the demolition, grading or construction begins. The fence shall include the entire width of terrace and, extend at least 5 feet on both sides of the outside edge of the tree trunk. Do not remove the fencing to allow for deliveries or equipment access through the tree protection zone. Add as a note on both the site and street tree plan sets.
19. Street tree pruning shall be coordinated with City Forestry at a minimum of two weeks prior to the start of construction for this project. Contact City Forestry at (608)266-4816. All pruning shall follow the American National Standards Institute (ANSI) A300 - Part 1 Standards for pruning. Add as a note on both the site and street plan sets.

**Water Utility** (Contact Jeff Belshaw, 261-9835)

20. The Madison Water Utility shall be notified to remove the water meter at least two working days prior to demolition. Contact the Water Utility Meter Department at (608) 266-4765 to schedule the meter removal appointment.

**Parking Utility** (Contact Trent Schultz, 246-5806)

21. The agency reviewed this project and determined a Transportation Demand Management (TDM) Plan is not required as part of demolition approval. A TDM Plan may be required as part of future development review.

*Items not directly related to the demolition permit are reference items for future permitted use site plan review*

*The Traffic Engineering Division, Parks Division, and Metro Transit have reviewed this request and have recommended no conditions of approval.*