

Parks, Timothy

From: Jeff Erlanger [jeff.erlanger@gmail.com]

Sent: Tuesday, March 27, 2007 11:02 AM

To: Parks, Timothy

Cc: jreich@wisc.edu; snobrdr56@aol.com; markraszewski@uwalumni.com; sweisman@wisc.edu; santoniewski@uwhealth.org; dseeley@stevebrownaps.com; Jeff Butler; Rosemary Lee; Capitol Neighborhoods - Executive Committee; state-langdon Neighborhood; harold@centralaps.com; info@houseofwisconsincheese.com; Scott Herrick; Johnny O

Subject: rooftop terrace at johnny's?

Dear Planning Commission members,

At a State-Langdon Neighborhood meeting Monday, March 26, the rooftop terrace proposal passed 6-0. It should be noted that there were only 6 residents present (despite signs on kiosks, reminders via e-mail and a request to landlords to pass out the meeting notice). However, 6 residents is the normal turnout for a reg. meeting (we did have 50 ppl when we registered residents to vote in October and about 30 at a mayoral debate in early March). Further, it should be noted that while there were only 6 residents, one lived next door to Johnny O's and one will live at the new development right across the street.

If I can be of any additional assistance, don't hesitate to contact me.

Jeff Erlanger
State-Langdon Neigh. District-President
255-3794

3/27/2007

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Murphy, Brad

From: Jeff Erlanger [jeff.erlanger@gmail.com]
Sent: Wednesday, March 21, 2007 11:02 AM
To: Fred Mohs
Cc: Murphy, Brad
Subject: Re: Johnny O's Rooftop Terrace

Fred,

Thanks. I trust the residents to know if such a proposal would hurt them. As for your larger pt, I'm for a mixed downtown, but I think State-Langdon is best off w/o condominiums. I think we disagree but I think condominiums dilute the amount of student housing and aren't good buys in mostly student districts. -Jeff

On 3/21/07, **Fred Mohs** <fred@mmwp-law.com> wrote:

Dear Jeff:

Good for you for requesting a delay on the Johnny O's Rooftop Terrace. In my opinion, every effort should be made to see that rooftop venues for bars are not approved anywhere near residential housing. Downtown residents suffer from noise from traffic and rooftop air condition equipment, so they do not need another source of annoyance. The fact is that when people are socializing on a roof, the sound carries and can bother people a couple of blocks away. Needless to say, with modern amplified sound equipment, the potential exists to ruin people's lives over a much greater area.

As we all know, the inclusion of students as a protected class has produced a ghettoization of neighborhoods near the campus. The inability of landlords to select tenants who want a quiet lifestyle has been sacrificed for some reason that I cannot quite remember. Nevertheless, possibly in a condominium format or some other way, age diversity might be reintroduced into the campus area. You would know better than I if your constituents would object to having middle aged or older people live in their midst. If a more age diverse class of neighbors is ever to happen, avoiding activities that will obviously annoy residents will be an important step. My pitch, however, is not for the few diverse people who may want to venture into the student ghetto. Students need and deserve a quiet place to study and sleep. Rooftop bars are nothing but a negative.

Sincerely,
Frederic E. Mohs
Mohs, MacDonald, Widder & Paradise
20 North Carroll Street
Madison, WI 53703
Phone: (608)256-1978
Fax: (608)257-1106

3/22/2007

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Herrick & Kasdorf, L.L.P.

Patricia K. Hammel
 Scott N. Herrick *Court Commissioner*
 Robert T. Kasdorf *Trustee in Bankruptcy*
 Juscha E.M. Robinson
 David R. Sparer

Robert L. Reynolds, Jr. (1930-1994)

Law Offices

16 N. Carroll, Suite 500
 Madison WI 53703

Peter Zarov *of counsel*
 Gretchen Twietmeyer *of counsel*
 Roger Buffet *of counsel*

March 19, 2007

Outline of Testimony to the City Plan Commission

Scott Herrick, attorney for Harold Langhammer and The Varsity of Madison LLC (632 University Ave.)

Re. 620 University Avenue: conditional use (and rear yard variance) request: Opposed

My client owns "The Varsity," a 27-bedroom apartment one door away, overlooking the proposed rooftop facilities. I sketched our opposition to the variance and conditional use in my March 14 memo, which focused on the ordinance standards for zoning variances and which I will not repeat here. In general terms, my clients' key concerns are:

- a. Noise burden on tenants, with direct impact on marketability and property value;
- b. Usage, trespass, congestion, maintenance, safety, and noise issues associated with increased traffic at rear;
- c. Very doubtful formal qualification for variance;
- d. If these requests imply an expansion or modification of the applicant's licensed liquor operations, my client opposes that expansion or modification;
- e. Very doubtful formal qualification for conditional use.

More particularly, we are convinced the application does not qualify under the Ordinance standards, at MGO 28.12(11)(g): Standards. No application for a conditional use shall be granted by the City Plan Commission unless such commission shall find ***all of the following*** conditions are present (***my emphasis***):

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the ***public health, safety, or general welfare***. (Am. by Ord. 13,232, 2-11-03) ...
3. That the ***uses, values and enjoyment of other property in the neighborhood*** for purposes already established shall be ***in no foreseeable manner substantially impaired or diminished*** by the establishment, maintenance or operation of the conditional use.
4. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. That adequate utilities, access roads, drainage, parking supply, ***internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements*** have been or are being provided.

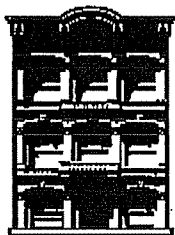
6. That measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken *to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.* (Am. by Ord. 13,422, 10-24-03)

In addition to these legal and practical concerns, my clients and I are offended by the applicants' failure to advise and consult Harold Langhammer early on, like Harold always does when he develops his own plans - like he did in fact with the Okoneks at the beginning of the planning work for The Varsity. Why must an owner of student housing in the campus area be in constant brush-war conflict with the tavern industry? Why must a good neighbor like Harold maintain virtually an intelligence operation to track such things and protect his housing operations and basic property values against encroachments by drinking, smoking, and "entertainment?"

It's hard enough to offer and maintain decent, quiet, safe housing on campus and on University Avenue in particular. This very doubtful conditional use would only make it more difficult.

SH/hs

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CENTRAL PROPERTIES

513 N. Lake Street
Madison, WI 53703
Telephone: 608-255-1767

March 19, 2007

TO: Plan Commission
RE: JohnnyO's Rooftop Garden, Univ Ave
From: Harold Langhammer

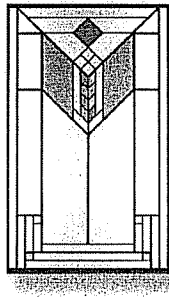
I have asked our attorney, Scott Herrick, to appear this evening to represent our interests in this matter.

I spoke with the neighborhood representative, Jeff Erlinger, this morning. He told me that he had written to your staff requesting a postponement of this item from tonight's agenda. He asked if I would make available space for a neighborhood meet in our building, and I willingly agreed, as I have not been informed by the applicant concerning this project. I said that the basement space at 401 N. Lake Street is open and would be appropriate for a neighborhood meeting. Jeff said he would prepare leaflets for this purpose, for both our building and adjoining properties. This would happen sometime in the first two weeks of April.

My concerns about this project are twofold. (1) We have 27 bedrooms, meaning anywhere from 27 to 35 students living in our building. They are students, not party goers. Many of them are from overseas. They ABSOLUTELY need a quiet apartment to study and live in, just as they now have. The documents sent from your office mentioned nothing about noise. But Jeff said this morning that outdoor speakers were planned. Is this true? I don't know, because nothing was presented to me timely and early as it should have been. I still don't know any details concerning amplified noise, people noise, hours, etc. That is why I welcome Jeff's suggestion for a public meeting.

(2) The exiting issue is CRITICAL. As my attorney stated in his earlier letter to you, I have not given permission to cross our property for the purpose of pedestrians either exiting on a regular basis or for milling around outside. It would both constitute a nuisance for our tenants whose apartments are in that area, and a danger for people dead ended there. When the Church Key expanded their alcohol license, restrictions were added requiring them to NOT have customers exiting to the rear, to create sound proofing between the buildings and to clean up the bar trash of their patrons daily.

I would like to emphasize this last point to you, that of clean up. Even though the clean up obligation is on the bar(s) causing the mess, it is our family and our employees who, EVERY DAY have to clean up the bottles and slop left over from their activities. I invite each of you as you are driving in the morning by JohnnyO's, the Church Key and our



FLUNO CENTER for Executive Education

601 UNIVERSITY AVE., MADISON WI 53715-1035

GENERAL 608-441-7117, FAX 608-441-7124

RESERVATIONS 877-77-FLUNO

March 19, 2007

Ref: Johnny O's Rooftop Expansion Project

Dear Planning Commissioners:

On behalf of the Fluno Center for Executive Education and its owner, the Center for Advanced Studies in Business, located at 601 University Avenue, I respectfully request that the Commission adopt the condition that would restrict the use of amplified sound of any kind related to the proposed rooftop expansion project at Johnny O's Restaurant & Bar located at 620 University Avenue, Madison. This would otherwise have an adverse impact on our guests' experience and future use thereby impacting our ability to fully contribute to the mission of the UW-Madison School of Business and UW-Madison as a whole, as well as diminishing the economic potential of the Fluno Center.

The Fluno Center for Executive Education is a residential and meetings facility that promotes a full-immersion learning environment for individuals, UW departments, professional groups and corporate teams to learn, exchange ideas and explore new business strategies. The program participants attend classroom instruction throughout the day and study well into the evening. The success of the Fluno Center depends on its ability to maintain a distraction-free environment so participants can easily focus on learning.

Designed exclusively as an educational learning facility, the Fluno Center provides the ideal location for UW-Madison public enrollment programs and custom programs including company and industry-specific symposiums, seminars and conferences. This world-class facility hosts thousands of guests annually, both from the local community as well as nationally and internationally. During non-study times, guests enjoy easy access to local merchants and eateries that bring great value to the community.

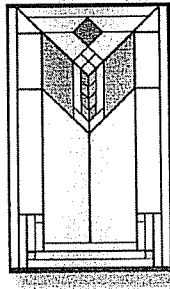
The Fluno Center has achieved the honorable distinction as the #1 Executive Education facility in the world for Custom Programs in the Food and Accommodation category for three years running as reported by the *London Financial Times*. Additionally, the Center has been recognized for two years as the *Best Executive Management Educational Institution* by over 600 top executives in the Greater Madison business community as reported by *InBusiness* magazine.

The prominence that the Fluno Center has achieved is, in part, due to its ability to provide a distraction-free learning environment. The adoption of this restriction will mitigate the adverse effects to the Center, its guests and its value to the community.

Thank you for your consideration.

Sincerely,

Jeff Butler
General Manager



FLUNO CENTER for Executive Education

601 UNIVERSITY AVE., MADISON WI 53715-1035

GENERAL 608-441-7117, FAX 608-441-7124

RESERVATIONS 877-77-FLUNO

April 9, 2007

Ref: Johnny O's Rooftop Expansion Project

Dear Planning Commissioners:

On behalf of the Fluno Center for Executive Education and its owner, the Center for Advanced Studies in Business, located at 601 University Avenue, I respectfully request that the Commission adopt the condition that would restrict the use of amplified sound related to the proposed rooftop expansion project at Johnny O's Restaurant & Bar located at 620 University Avenue, Madison. This would otherwise have an adverse impact on our guests' experience and future use thereby impacting our ability to fully contribute to the mission of the UW-Madison School of Business and UW-Madison as a whole, as well as diminishing the economic potential of the Fluno Center.

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The prominence that the Fluno Center has achieved is, in part, due to its ability to provide a distraction-free learning environment. The adoption of this restriction will mitigate the adverse effects to the Center, its guests and its value to the community.

Thank you for your consideration.

Sincerely,

Jeff Butler
General Manager