



Department of Planning & Community & Economic Development

## Economic Development Division

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### Real Estate

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January 27, 2026

Ms. Brenda Konkel  
Social Justice Center  
1202 Williamson Street, #1  
Madison WI 53703

RE: Privilege in Streets Application

Dear Ms. Konkel:

This letter serves as a response to your Privilege in Streets request, on behalf of the above-mentioned property ("Center"), completed and circulated on November 13, 2025. The City's review of the application included input from multiple sources, and significant staff time was spent on the review.

The application pertains to certain private items and improvements placed in the S. Few Street right-of-way without permission, including three benches, art, and a food pantry/little free library. The application seeks permission for them to remain, pursuant to Madison General Ordinance 10.31 Privilege in Streets. The City approves of the application in part, but not whole. **The art is allowed to remain, but all other items named in the application shall be removed upon receipt of this letter.**

This decision is based upon significant substantiated issues raised by neighbors and the Marquette Neighborhood Association expressing concerns related to noise, trash, illegal drug use, alcohol consumption, disorderly conduct, encampments, and public urination and defecation adjacent to and on Center property. These activities are frequently associated with individuals utilizing the benches in the terrace, which is public right-of-way. There have been observations of individuals sitting on the benches with their belongings scattered about the public sidewalk. There have also been documented observations of individuals sitting on the benches and/or putting their belongings on the benches and sitting, laying, congregating on the public sidewalk in a manner that prevents typical use of the sidewalk by others. The benches are similar to an "attractive nuisance" in that they attract and invite individuals to occupy the benches and congregate in the area for long periods of time. This becomes problematic because there is no staff supervision or oversight of this area by the Center and no resources available (e.g. restrooms) for those occupying the benches, congregating, and/or sleeping in this area. This activity has negatively impacted the quality of life for those living in the surrounding neighborhood and has at times resulted in obstruction of the public sidewalk making it difficult or impossible for others to use the sidewalk to access other area businesses or residences. The lack of staff oversight also puts the individuals congregating in the area themselves at risk.

The Madison Police Department ("MPD") has spent a significant amount of time responding to complaints and calls for service related to the activity occurring outside of, and in association with, the Center. In 2025, MPD responded to 212 calls for service at, or in association with the Center. Much of the police

response has been related to individuals using the benches in the terrace and around the food pantry. Police response has also been related to activity in the Center's parking lot area. There were arrests of individuals in this area for depositing human waste, possessing drug paraphernalia, possessing open intoxicants, trespass, fights and disturbances. MPD encountered individuals smoking crack in the Center's parking lot on several occasions. MPD observed individuals camping on the public sidewalk and terrace of S. Few Street. A primary focal point of this activity has been the benches and the food pantry. The benches invite individuals to congregate in this area and extend the duration of their stay. There is no regular supervision of this area by the Center and allowing the benches to remain would provide incentive and physical infrastructure for prolonged stationary use of the terrace. The history and existing conditions make it reasonably foreseeable that allowing the benches would result in continued and potentially escalated nuisance activity in the area and obstruction of the public right-of-way. The terrace is not designed or intended to function as a passive gathering area, and the documented nuisance activity in this location demonstrates the incompatibility of such use.

In addition, Public Health Madison Dane County ("Public Health") conducted a site inspection of the Center's parking lot and surrounding area in September 2025 and found human waste, which is a potential health hazard. Public Health also observed illegal drug use on and adjacent to the Center property. Individuals using the parking lot as a restroom are not necessarily users of the benches, however, the benches are near the parking lot and serve as an invitation for people to stay, congregate and ultimately engage in illegal or unsafe behavior. There is at least one photo of an individual using the area near the benches as a bathroom. Thus, the application for the benches is denied.

Regarding the combined outdoor food pantry/little free library; while the City does allow for little free libraries to be placed in the right-of-way under privilege agreements, this structure is not a standard little free library and, by design, does more than just provide a publicly accessible book exchange. Rather, it is meant to be a "food pantry", where food is left or stored for public use. The City has not authorized any other similar use of the right-of-way and does not feel that food storage and food exchange is an appropriate use of the right-of-way. If the Center desires for such an item to exist, it shall be placed on private property, not in the public right-of-way.

The food pantry is unmonitored and not compatible with the surrounding neighborhood. It is also located within an area that has documented ongoing public safety, sanitation, and nuisance issues. The lack of operational oversight contributes to litter, noise, and sidewalk obstruction. The area is already experiencing sanitation and nuisance issues, and the food pantry exacerbates those issues as an attractor. The food pantry encourages regular congregation without supervision which increases the likelihood of the nuisance issues that regularly occur in this area.

Moreover, the current food pantry is a public safety issue in terms of food safety risks and misuse. There is no oversight over what is placed in the pantry; no routine inspection or food-safety oversight; no oversight as to perishables, expired or recalled items; no consistent stocking or restocking of items; and no cleaning. The lack of oversight increases the risk of illness, litter, food waste and pests. Lack of oversight and maintenance also increases the likelihood of misuse, food tampering, dumping of food and other non-food items, placement of prohibited or unsafe items (e.g. alcohol, non-food waste, etc.). Allowing the food pantry to remain in the public right-of-way can reasonably be expected to perpetuate the existing nuisance activity and adversely affect neighborhood livability, and it presents an active risk to the public's health, safety and welfare. Thus, the application for the food pantry/little free library is denied.

The City maintains consistent expectations for the maintenance and management of parking lots, terraces, and adjacent public spaces across all land uses, including bars, housing, retail establishments, nonprofit facilities, and City-owned buildings. These expectations exist because unmanaged or

unsupervised spaces in the public realm are well-documented contributors to public safety, sanitation, and accessibility concerns. In this instance, the terrace installations have created conditions that increase the likelihood of such impacts, without any operational oversight, supervision, or supporting infrastructure.

The City recognizes its broader responsibility to address needs in this area and continues to invest in appropriate infrastructure and services, including the forthcoming automated locks at the public restroom facility at McPike Park that will allow for more consistent and earlier bathroom access nearby. These City-led efforts are designed to provide supervised, code-compliant, and equitably managed amenities that do not compromise sidewalk accessibility or neighborhood safety. However, such efforts do not negate the City's obligation to ensure that private installations in the public right-of-way comply with applicable ordinances and do not create foreseeable public safety or nuisance impacts.

Moving forward, the City offers to enter into an Encroachment Agreement with the Center to allow the art in the right-of-way to remain. The agreement will be subject to fees and insurance requirements set forth in MGO 10.31 Privilege in Streets. In this case, the annual fee will default to the minimum of \$500. If the Center does not wish to enter into an Encroachment Agreement with the City, it shall also remove the art from the public right-of-way.

You may appeal this decision to the Board of Public Works within thirty (30) days after the mailing of this notice. Such appeal must be in writing and must inform the Board of the reasons why you believe this decision to be in error.

Please contact me at 608-267-8737 or [mmikolajewski@cityofmadison.com](mailto:mmikolajewski@cityofmadison.com) if you have any questions.

Sincerely,

*Matthew B. Mikolajewski*

Matthew Mikolajewski  
Director, Economic Development Division