



AXLEY BRYNELSON, LLP

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July 27, 2020

VIA EMAIL – mtucker@cityofmadison.com

Planning Commission
City of Madison
c/o Mathew Tucker

RE: Project Address: 502-516 W. Washington Avenue & 8-14 N. Bassett Street
Legistar File ID #: 60673 & 60915
Our file: TBD

Ladies and Gentlemen:

We represent CJK, Inc., (“CJK”) which is the owner of the property at 502-516 W. Washington Avenue and 8-14 N. Basset Street (collectively, the “Property”). CJK is the applicant for the demolition permit and rezoning request for the Property, which are Agenda Items 13 and 14. Keller Development LLC is CJK’s agent for purposes of obtaining approval, but CJK will be the owner and operator of the Property.

We are responding to the Interdepartmental Correspondence from George Hank dated July 23, 2020 to the Planning Commission. Mr. Hank requests additional conditions that include a letter of credit to guaranty completion of the project because of a past action involving a different entity, Tennyson Terrace, LLC, and Thomas J. Keller. In his letter, Mr. Hank makes generalizations about the past dispute and the applicant, which do not provide an entirely accurate picture.

Mr. Hank imputes the dispute with Tennyson Terrace, LLC and Thomas J. Keller onto CJK, and ignores CJK’s long history of compliance with City ordinances and approvals. Most importantly, it would be fundamentally unfair to require CJK to incur the substantial cost of a letter of credit because of a dispute that involved Tennyson Terrace, LLC and Thomas J. Keller.

Mr. Hank cites to the City of Madison Ordinances to support his request for additional conditions. Specifically, the ordinance provides:

The Plan Commission may recommend conditions that are consistent with the intent of this ordinance and will protect the public interest including consideration of overdue taxes and/or fees; **the applicant's history** of compliance with relevant ordinances and approvals, including but not limited to building and minimum housing code, and zoning code; and alcohol license provisions and approvals.

MGO § 28.182(5)(a)3 (emphasis added). The ordinance makes clear that the basis of such conditions are to be based on the “**applicant’s history.**” A review of the applicant’s history makes clear that the request for an additional letter of credit is unfounded.

First, the applicant in this matter is not the same entity that owned 1902 – 1910 Tennyson Lane, the property subject to Mr. Hank’s allegations. The entity that owned the property on Tennyson Lane was Tennyson Terrace, LLC. The applicant for this project is CJK. These are two different entities that do not have the same underlying ownership. Although Thomas J. Keller was a part owner of Tennyson Terrace, LLC and is a part owner of CJK, the two entities have different owners. CJK has additional shareholders that had no part in the Tennyson Lane project, and also includes shareholders outside of the Keller family.

Second, the applicant, CJK, has a long “history of compliance with relevant ordinances and approvals, including but not limited to building and minimum housing code, and zoning code.” CJK was incorporated in 1993, and has owned properties in Madison for approximately 27 years. CJK owns the following properties in the City.

440-442 W. Washington Ave	3 Unit	
444-446 W. Washington Ave	3 Unit	
8 N. Bassett	2 Unit	Part of proposed Redevelopment
10 N. Bassett	2 Unit	Part of proposed Redevelopment
14 N. Bassett	2 Unit	Part of proposed Redevelopment
504 W. Washington Ave	2 Unit	Part of proposed Redevelopment
506 W. Washington Ave	2 Unit	Part of proposed Redevelopment
508-510 W. Washington Ave	2 Unit	Part of proposed Redevelopment
512 W. Washington Ave	2 Unit	Part of proposed Redevelopment
514 W. Washington Ave	2 Unit	Part of proposed Redevelopment
516 W. Washington Ave	2 Unit	Part of proposed Redevelopment
534 W. Washington Ave	Commercial	Washington Court
536 W. Washington Ave	44 Unit	Washington Court
540 W. Washington Ave	7 Unit	Washington Court
542 W. Washington Ave	Commercial	Washington Court
25 N. Bedford	House	

The City has not had problems with CJK’s properties in almost 27 years of ownership in the City. CJK maintains a significant portfolio of properties in the City separate from this redevelopment, which provides security to the City.

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Third, the Tennyson Terrace matter was a complicated one-off matter that the City experienced with Thomas J. Keller. There were failures by Tennyson Terrace, LLC to maintain the property; however, there were other circumstances that caused the delay to demolish and redevelop the property. The project was being done during the great real estate recession. The portion of the project at issue involved the sale of the property to a developer, which planned to develop it as low income housing using Section 42 affordable tax credits. Obtaining Section 42 tax credits is a competitive process where projects are scored and judged against each other. The entity purchasing the property needed to be the entity that did the demolition as a crucial factor to obtain a higher score in the application process.

The City was very aware of the fact that the developer was purchasing the property to do a Section 42 tax credit project because the City was providing the developer a grant to assist it in creating the low income rental property. The City is very familiar with the scoring process for Section 42 tax credits. If Tennyson Terrace, LLC, had demolished the property prior to closing on the sale to the developer, it would likely have prevented the buyer from obtaining its low income tax credits. During the transaction the buyer passed away, and another low income property developer stepped in to purchase the property, which caused further delays.

Notwithstanding the great real estate recession and other delays, the Tennyson Terrace project is one of the best mixed income, multi-generational opportunity based housing developments in Madison. The project includes 14 Habitat for Humanity homes, section 42 affordable housing apartments, senior living apartments, market rate housing, and commercial space. We would suggest that the Planning Commission members go visit the Tennyson Terrace development to see the fruits of that successful project.

The fact of the matter is that other than the problems experienced in this one project, the City has not had significant problems with Thomas Keller or Keller Development, LLC. Keller Real Estate Group and Keller Development, LLC have a long history of completing successful projects in the City of Madison, Dane County, and surrounding counties.

In the spirit of cooperation, CJK is willing to enter into an agreement with the City that includes the following conditions:

- CJK shall complete the proposed project according to all zoning approvals and in compliance with all other city ordinances, including zoning code and building.
- CJK shall remain fully liable for any violations resulting from its failure to comply with the law, and for any corrections.
- CJK shall provide a copy of the executed construction contracts establishing the work will be done, and the completion date.

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The above conditions will provide the City the necessary assurances that this Project will be complete.

Sincerely,

AXLEY BRYNELSON, LLP

A handwritten signature in black ink, appearing to read "Robert C. Procter". The signature is written in a cursive style with a large initial "R" and "P".

Robert C. Procter
RCP:mma