



Project Addresses: 428-444 State Street

Application Type: Demolition Permit and Conditional Uses

Legistar File ID # [81565](#) and [69792](#)

Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Reviewed By: Kevin Firchow, Planning Division

Summary

Applicant & Property Owner: Joe McCormick, JD McCormick Properties, LLC; 101 N Mills Street; Madison.

Contact Person: Kevin Burow, Knothe & Bruce Architects, LLC; 8401 Greenway Blvd Suite 900; Middleton.

Requested Actions: Consideration of a demolition permit to allow demolition of three mixed-use buildings at 428, 434 and 444 State Street; and consideration of a conditional use in the Downtown Core (DC) District for a new building; and consideration of a conditional use for non-residential development immediately adjacent to the boundary of a City-owned public park, to allow construction of a six-story tall mixed-use building containing up to 6,445 square feet of commercial space and 26 apartments adjacent to Lisa Link Peace Park.

Proposal Summary: The project was first submitted for Plan Commission review in early February 2022 but was referred on numerous occasions over a 15-month period to allow revisions to the architecture and refinements to the scope of the proposed mixed-use building. However, at the June 26, 2023 Plan Commission meeting, the Commission found that the standards for approval for demolition permits were not met and placed the demolition of the three (3) two-story mixed-use buildings located at 428, 434, and 444 State Street on file without prejudice. The related conditional use requests for the redevelopment of the site (ID 69792) were referred indefinitely.

The applicant has submitted a new Land Use Application requesting approval of a demolition permit to raze the three buildings, as well as additional information about the buildings in an updated letter of intent and demolition photos of the buildings. If the demolitions are approved, the applicant is requesting approval of conditional uses to allow construction of a mixed-use building with 2,935 square feet of commercial space in the basement, 3,350 square feet of commercial space on the first/ground floor and 25 units on floors 2-5. The dwelling unit on the fifth floor will have a loft space above. No automobile parking is proposed; parking for 26 bicycles will be provided on-site. The 2024 application and letter of intent indicate that construction will commence in fall 2024, with completion anticipated in fall 2025.

Applicable Regulations & Standards: Section 28.074(4) requires that all new buildings and additions greater than 20,000 square feet or that have more than four stories in the DC (Downtown Core) District shall obtain conditional use approval. In addition, the Urban Design Commission shall review such projects for conformity to the design standards in Section 28.071(3), if applicable, and the Downtown Urban Design Guidelines, and shall report its findings to the Plan Commission. Section 28.139(1) of the Zoning Code requires that non-residential development immediately adjacent to the boundary of a City-owned public park shall be reviewed as a conditional use. Section 28.183 provides the process and standards for the approval of conditional use permits. Section 28.185 provides the process and standards for the approval of demolition and removal permits.

Review Required By: Urban Design Commission and Plan Commission.

Summary Recommendation: The Planning Division recommends that if the Plan Commission can find the applicable standards are met, the Planning Division recommends the following:

- That the Plan Commission find the standards for demolition permits are met to **approve** demolition of the buildings located at 428, 434 and 444 State Street; and
- That the Plan Commission find the standards for conditional uses are met to **approve** the construction of a six-story tall mixed-use building containing 6,445 square feet of commercial space and 26 apartments in DC zoning and adjacent to Lisa Link Peace Park as shown the project plans dated May 18, 2023.

Approval of the requests should be subject to input at the public hearing, the May 31, 2023 advisory recommendation of the Urban Design Commission for the conditional uses, and the conditions from reviewing agencies beginning on **page 11** of this report.

Background Information

Parcel Location: An approximately 6,928 square-foot (0.16-acre) parcel located on the north side of State Street between W Gilman and W Gorham Streets; Alder District 2 (Bennett); Madison Metropolitan School District.

Existing Conditions and Land Use: Three two-story mixed-used buildings, zoned DC (Downtown Core District).

Surrounding Land Uses and Zoning: The subject site is bordered on the north and west by Elizabeth “Lisa” Link Peace Park. Properties in the 400-block of State Street are developed with a variety of two- and three-story mixed-use buildings fronting State Street. The preceding uses are zoned DC (Downtown Core District). Properties to the northeast of the site along W Gilman Street are developed with two- and three-story residences in UMX (Urban Mixed-Use District) zoning; the north side of Gilman Street includes the three-plus-story tall Wisconsin Lutheran Chapel and six-story mixed-use building in PD zoning and the three-story Women’s Building (Samba, Side Door Grill & Tap), zoned UMX.

Adopted Land Use Plans: The subject site, Lisa Link Peace Park, and neighboring State Street properties are identified in the Downtown Mixed-Use (DMU) district by the 2023 Comprehensive Plan, while the adjacent properties to the northeast along W Gilman Street are recommended for Medium Residential (MR).

The 2012 Downtown Plan includes the subject site and adjacent properties in the “State Street” District and recommends that these properties be developed with Downtown Mixed-Uses. The Plan seeks to maintain and enhance the “unique,” “vibrant,” “special,” and “intimate” character of the State Street District as the City’s “premier” destination for shopping, dining, culture and entertainment by reinforcing the pedestrian-scale of the district and “human-scale” developments that promote synergy and interaction (Objective 4.2). Heights along State Street are recommended not to exceed four stories at the street, with six stories possible following a 30-foot setback above four stories.

Zoning Summary: The property is zoned DC (Downtown Core District).

Requirements	Required	Proposed
Lot Area	None	6,928 sq. ft.
Lot Width	None	95’
Minimum Front Yard Setback	None	1.5’
Maximum Front Yard Setback	5’	1.5’

Requirements	Required	Proposed
Side Yard Setback	None	0' 3.14'
Rear Yard	None	1.28'
Maximum Lot Coverage	None	91%
Usable Open Space	None	1,636 sq. ft.
Minimum Building Height	2 stories	Will Comply
Maximum Building Height	6 stories (4 stories within 30' of State Street property line)	6 stories (4 within 30' of State Street property line)
Auto Parking	None (Central Area)	None
Electric Vehicle (EV) Stalls	N/A	None
Accessible Stalls	N/A	None
Bike Parking	31	26 (See conditions)
Loading	None	None
Building Forms	Commercial Block Building	Will Comply
Other Critical Zoning Items		
Yes:	Urban Design (DC zoning), Barrier Free, Utility Easements, Adjacent to Park	
No:	Wellhead Protection, Waterfront Development, Wetlands, Floodplain, Landmarks	
Prepared by: Jacob Moskowitz, Assistant Zoning Administrator		

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor. Lisa Link Peace Park is not identified in a mapped corridor.

Public Utilities and Services: The site is currently served by a full range of urban services, including Metro Transit, which operates seven-day service nearby on 100-300 blocks of State Street and to the south on University Avenue and W Johnson Street.

Previous Hearing and Approval

On June 26, 2023, the Plan Commission found that the standards for approval for demolition permits were not met and placed the demolition of the buildings located at 428, 434, and 444 State Street on file without prejudice. The related conditional use requests for the new mixed-use building (ID 69792) were referred indefinitely.

Specifically, the Plan Commission found that the demolition permit did not meet standard #7: *"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 finding that the standard was not met, members cited the statement of purpose in Section 28.185 regarding implementation of approved plans, specifically noting that Recommendation 75 in the Downtown Plan recommends "...the preservation, rehabilitation and adaptive reuse of sound older buildings that contribute to the district's character".

A one-lot Certified Survey Map to combine the three existing lots comprising the subject site into one lot was approved by the Plan Commission at the June 26 meeting. A resolution approving the lot combination was approved by the Common Council on July 11, 2023 (see ID [69800](#)). Recording of the approved CSM is pending.

Project Description

The applicant has submitted a new request for approval of a demolition permit to raze three two-story mixed-use buildings in the 400-block of State Street adjacent to Lisa Link Peace Park. The 6,928 square-foot site is zoned DC (Downtown Core District). Following demolition, the applicant is proposing a six-story tall mixed-use building with 6,285 square feet of commercial space on the basement and ground floors and up to 26 apartments on the upper floors. The proposed building will be located on a lot previously approved for the site; recording of the CSM creating the lot is pending.

Moving from east to west, the site is developed as follows:

- 428 State Street is a two-story building principally constructed in 1893 with a small addition in 2009, which includes 2,358 square feet of finished space, including a first floor storefront and a three-bedroom apartment on the second floor. The building occupies a 2,810 square-foot parcel, that includes a 7.5-foot panhandle that extends northerly from the majority of the parcel to connect to W Gilman Street along the easterly side of Lisa Link Peace Park;
- 434 State Street is a two-story building constructed in 1899 and remodeled in 1996 per City records, which contains 1,560 square feet of ground floor commercial space and two apartments on the second floor; and
- 440-444 State Street is a two-story building constructed in 1962, which includes 1,661 square feet of commercial space in two ground floor storefronts and two apartments on the second floor.

Photos of the interior and exterior of the three buildings are included in the application materials. The new demolition request was submitted with supplemental information on the condition of the buildings, as well as additional photographic evidence of the buildings to substantiate the applicant's opinion of their condition. The additional information, including building survey and photos, are attached to the legislative file for the demolition permit and linked [here](#).

The plans for the site following demolition have not changed from the plans that were before the Plan Commission in June 2023. If the demolitions are approved, the applicant continues to propose redevelopment of the site with a six-story tall mixed-use building. The proposed building will include 2,935 square feet of commercial space in the basement and 3,350 square feet of commercial space on the first/ground floor. The 2024 letter of intent indicates that the proposed building will contain 26 apartments comprised of 22 studios, three one-bedroom units, and one two-bedroom unit, while the 2023 architectural plans dated May 18, 2023 call for 25 units comprised of 21 studio units and three one-bedroom units on floors 2-4, and one five-bedroom unit on the fifth floor, which will have a loft space above containing two of the five bedrooms. No automobile parking is proposed; parking for 26 bicycles will be provided in the basement. As noted in the application materials, eight (8) bicycle stalls are proposed in the State Street right of way; however, those stalls cannot be counted towards the bike parking for the project as they are not located on the property.

The building will be setback 1.5 feet from the State Street property line, 3.2 feet from the western property line abutting the State Street frontage of the park, and between 1.28 and 5.3 feet from the northern property line abutting the main portion of the park, which fronts onto W Gilman Street. A stairwell serving the basement through the fifth floor will be located on the rear, northern wall of the building, which will egress from a door on the western façade. As part of the redevelopment, the applicant is proposed to remove a rock retaining wall and

landscaping that forms the eastern edge of State Street approach to the park, which is currently built up adjacent to the western wall of 444 State. [Comments from the Parks Division dated March 22, 2023 are attached, and impacts from the development on the park will be discussed in the following sections of this report.] The primary residential entrance, access to the basement commercial space, and second stairway for the building will be accessed from the State Street sidewalk at the southeastern corner. The first floor commercial spaces will be accessed directly from the State Street sidewalk.

The proposed building will be primarily clad in a light-colored brick except for the portions of the upper floors, which will be clad with a gray horizontal composite siding. Consistent with the Downtown Height Map in Section 28.071(2), the building will be four stories tall at State Street before stepping back 30 feet at the fifth floor. The stepback area will be used as a common roof deck amenity and as a patio for the fifth floor unit. The loft space, which will appear as a sixth story at the rear of the building when viewed across the park, will be further stepped back on all sides from the parapet above the fifth floor. The building will include a substantial amount of window openings and balconies along the northern façade overlooking the main portion of Lisa Link Peace Park, as well as windows on the western façade overlooking the park adjacent to State Street.

Additional Regulations

Section 28.139 of the Zoning Code states that “non-residential development immediately adjacent to the boundary of a City-owned public park shall be reviewed as a conditional use. The purpose of this requirement is to assess the impact of proposed development on natural resources, drainage patterns, pedestrian traffic and recreational uses of the park. Conditional use applications shall include the following:

- a) A complete inventory of vegetation in any area proposed for development within 100 feet of the park boundary.
- b) Any proposed cutting of trees or removal of vegetation within 100 feet of the park boundary. Removal of vegetation may be limited within 35 feet of the park boundary.
- c) Grading and drainage within 35 feet of the park shall be reviewed for its effect on drainage patterns and vegetation within the park.”

Project History and Analysis

There are two questions pending before the Plan Commission at this time. First is the applicant’s new request to demolish the three existing buildings, ID [81565](#), which was filed on January 29, 2024. Unlike zoning map amendments (Section 28.182) and conditional use requests (Section 28.183), Section 28.185 of the Zoning Code, Approval of Demolition (Razing, Wrecking) and Removal, does not contain any restrictions on when a request that is denied or placed on file may be resubmitted, and regardless, the Plan Commission’s decision on June 26, 2023 to place the February 2022 demolition request on file *without prejudice* would allow a demolition permit request to be resubmitted at any time in the future.

The conditional use approvals in the DC zoning district needed to construct the six-story tall mixed-use building have been in referral since the effective denial of the original demolition request. The materials related to the conditional use request are attached to ID [69792](#). Section 28.074(4) of the Zoning Code requires that all new buildings and additions greater than 20,000 square feet or that have more than four stories in the DC (Downtown Core) zoning district shall obtain conditional use approval. In addition, the Urban Design Commission shall review

such projects for conformity to the design standards in Section 28.071(3), if applicable, and the Downtown Urban Design Guidelines, and shall report its findings to the Plan Commission. The proposed development also requires a conditional use for development adjacent to Lisa Link Peace Park. Because the design of the project is unchanged since last year, the project was not required to return to the Urban Design Commission prior to the March 11, 2024 Plan Commission meeting, and the discussion about the design of the project is largely unchanged from the staff report that preceded the June 26, 2023 meeting.

As noted on page 1 of this report, applications to redevelop the subject site were first submitted for review in February 2022. Since the initial submittal, there have been three other versions of the proposed mixed-use building submitted for review by City agencies, the Urban Design Commission and the Plan Commission. However, the project had failed up until May 2023 to proceed past the Urban Design Commission review due to a combination of factors that included concerns by City agencies about the design of the earlier iterations of the mixed-use building, and referrals by the Urban Design Commission on June 29, 2022 and March 29, 2023 due to concerns that body had regarding the building's design. [For more information on the Urban Design Commission's review of the project, the Plan Commission should refer to the UDC file on the development, ID [69486](#), which includes the different plan versions, Planning Division staff memos, and Urban Design Commission reports.]

Additionally, some of the earlier versions of the development would have required the applicant to obtain "no build" easements from the City over the park to allow the new building to be constructed closer to the property lines than currently proposed, to which the Parks Division formally objected in writing to the developer on December 8, 2022. In rejecting the implication that easements would be granted for the project, Parks Division staff cited concerns that granting easements for the development could interfere with the public's enjoyment of the park, impair the City's title to the parkland, and potentially limit what the City could do with the park in the future with regard to additional structures, etc.

For informational purposes only, the three earlier versions of the project plans for the subject site are attached at the end of the list of attachments in the conditional use file, ID [69792](#). However, the plans pending for approval are those attached to the file preceded and followed by "*" and dated **05-18-23** in the attachment name.

Consistency with Adopted Plans

The 2012 Downtown Plan includes the subject site and adjacent properties in the "State Street" District and recommends that these properties be developed with Downtown Mixed-Uses. The Plan seeks to maintain and enhance the "unique," "vibrant," "special," and "intimate" character of the State Street District as the City's "premier" destination for shopping, dining, culture and entertainment by reinforcing the pedestrian-scale of the district and "human-scale" developments that promote synergy and interaction (Objective 4.2). Heights along State Street are recommended not to exceed four stories at the street, with six stories possible following a 30-foot stepback above four stories. The heights recommended in the Downtown Plan have since been codified in the Downtown Height Map in Section 28.071(2) of the Zoning Code, which allows up to four stories along the State Street frontage and up to six stories beginning 30 feet north in the case of the subject site; the six-story height limit covers most of the rest of this block extending toward the corner of N Henry and W Gilman Streets, where it transitions down to five stories.

The Downtown Plan encourages that ground floor spaces be reserved for retail and services uses along State Street, including dining and entertainment, with employment and residential on upper floors. Retail spaces should be suitable for a wide variety of unique, relatively small businesses consistent with the existing character of State Street. However, the recommendations for State Street also "encourage the preservation, rehabilitation and

adaptive reuse of sound older buildings that contribute to the district’s character,” and recommends that funding sources be used to support rehabilitation and remodeling of existing buildings.

The subject site, Lisa Link Peace Park, and neighboring State Street properties are also identified in the Downtown Mixed-Use (DMU) district by the 2018 Comprehensive Plan, while the adjacent properties to the northeast along W Gilman Street are recommended for Medium Residential (MR).

The Planning Division believes that the Plan Commission may find that the new building proposed is largely consistent with the above plan recommendations. The proposed building generally reflects the scale and intensity of development allowed in the State Street sub-district in the Downtown Plan, with a building that will meet the maximum four-story height at State Street before stepping back into a five-story building that meets the 30-foot setback requirement but includes a loft space above the fifth floor, which will appear as a sixth floor when viewed across adjacent Lisa Link Peace Park from W Gilman Street. The project includes ground floor commercial spaces that should provide the sort of activation that the Downtown Plan encourages. However, the recommendation to preserve and reuse “sound older buildings” still has bearing on the request to demolish the three buildings, as will be discussed in the next sub-section.

Consideration of Demolition Permit Standards

In order to approve a demolition request, the Plan Commission shall consider the factors and information specified in Section 28.185(9)(c) and find 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 standards for demolition approval in subsection (c) and staff review are as follows:

1. *The applicant has included information related to any efforts to relocate the building, including but not limited to assessing the costs of relocation, the impact of relocation on city terrace trees, and the structural soundness of the building.*

Regarding standard 1, the applicant has indicated that relocation of the buildings is not feasible due to their inability to be transported along State Street or across Lisa Link Peace Park due to impact on trees in the park.

2. *The applicant has received a Certificate of Appropriateness from the Landmarks Commission under MGO Sections. 41.09(1)(c) and 41.12(3), if applicable.*

This standard does not apply, as the buildings are not local landmarks and are not located in a local historic district.

3. *The applicant has received an approved reuse and recycling plan from the City Recycling Coordinator.*

The applicant will be required to have a reuse and recycling plan approved as a condition of approval if the demolitions are approved.

4. *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 January 8, 2024 meeting, the Landmarks Commission voted to recommend to the Plan Commission that the buildings at 428-430 State Street and 432-436 State Street have historic value based on their

status as contributing structures in a potential National Register Historic District, and the building at 440-444 State Street has historic value related to the vernacular context of Madison's built environment and its intact condition, which could make it contributing to a potential National Register Historic District. The motion passed by voice vote/other. A full report of the Landmarks Commission's discussion on the proposed demolition is attached to ID [81161](#). The findings of the Landmarks Commission are effectively the same as were made when the previous demolition request was before them in January 2022.

5. *The Plan Commission has received and considered the report of the City Forester regarding the impact a proposed building relocation could have on City terrace trees, if applicable.*

This standard does not apply; the applicant is not proposing to relocate any of the buildings from the site.

6. *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.*

As noted earlier in this report, the applicant has provided additional information with their current demolition request on the condition of the buildings for the Plan Commission's consideration. The information provided includes photos of the existing buildings as well as a report on the condition of the buildings provided by a third party. The information submitted by the applicant suggests that the buildings have various deficiencies, including structural and foundation issues, mold, water infiltration, and plumbing concerns. While the Zoning Code notes that the condition of a building to be razed shall be considered, it does not specify that a certain structural condition or level of disrepair is necessary in order to approve a demolition. Planning Division staff has not received any comments from the Building Inspection, Fire, or Police departments/divisions on the existing buildings.

7. *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.*

The statement of purpose in Section 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, protect the public from potentially unsafe structures and public nuisances..."

Like with the previous demolition permit request, the Landmarks Commission has recommended to the Plan Commission that all three of the buildings have historic value to be considered in deciding whether to approve their demolition. The two oldest buildings were given the Landmarks Commission's highest recommendation of historic value, while the newer building was noted for its contributions to the overall character of State Street. However, unlike the request placed on file last year, the applicant has provided more information on the condition of the buildings, to which the Plan Commission should also give careful consideration as it weighs their soundness against the recommendation in the [Downtown Plan](#) to preserve and reuse "sound older buildings." The lack of evidence regarding the condition of the buildings was cited by members of the Plan Commission during deliberations in June 2023 as one of the factors that prevented the demolition requests from overcoming the plan

recommendation. Ultimately, 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.

Consideration of the Conditional Use Standards

Similarly, the Plan Commission may not approve an application for a conditional use unless it can find that all of the standards found in Section 28.183(6)(a), Approval Standards for Conditional Uses, are met. That section states: “The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the [standards for approval in Section 28.183(6) are met].”

As noted earlier in this report, conditional use approval is required for the proposed new mixed-use building in DC zoning and due to its adjacency to Lisa Link Peace Park.

The Planning Division believes that if the Plan Commission can find that the standards for approval for the related demolition permit request are met that it may also find that the conditional use standards are met for the proposed six-story tall mixed-use building. The uses, values and enjoyment of other property in the neighborhood for purposes already established should not be substantially impaired or diminished in any foreseeable manner by the project, nor should the establishment of the conditional uses impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Comments submitted by agencies do not suggest that the proposed mixed-use development will negatively impact the City’s ability to provide services to the project subject to meeting the recommended conditions of approval in the final section of this report.

However, any approval of the project should include the conditions enumerated in the Parks Division’s comments to the Urban Design Commission and Plan Commission dated March 22, 2023, which were submitted after the project plans were revised to no longer require permanent easements over the park. Those conditions are also included in the recommended conditions of approval in the final section of this report. In the March 22, 2023 letter, Eric Knepp, City Parks Superintendent, is requiring a developer’s agreement specifically governing restoration of Lisa Link Peace Park following construction of the building, approval of a construction staging plan, protection of the trees in the park, approval of the improvements to the park adjacent to the development site, and the developer acquiring a temporary construction easement from the City prior to the issuance of any permits for the project. For context purposes, the Plan Commission may refer to the attachment ‘Park Photos’ in the conditional use file, which include views of the development from the adjacent park, including the landscaping area that will be altered as part of the project.

Review by the Urban Design Commission

As noted earlier in this section, the Urban Design Commission formally reviewed the proposed development on June 29, 2022 and March 29, 2023, referring the project both times due to significant concerns about the design of the project. The Commission also received an informational presentation on February 8, 2022 concurrent with the original submittal to redevelop the site. Further, a December 14, 2022 review of the project was referred at

the applicant's request in the wake of the Parks Division's rejection of permanent easements over the park for the benefit of the project.

The Urban Design Commission reviewed the current proposal for the mixed-use building (dated May 18, 2023) at its May 31, 2023 meeting. On a 5-3 vote, the Commission made an **advisory recommendation** to the Plan Commission to grant Final Approval subject to a condition related to the brick to be used, which Planning staff has included in its proposed conditions of approval. A full report of the Urban Design Commission's review of the development is attached to the conditional use file, which includes a link to the full UDC legislative file (ID [69486](#)).

Conclusion

The applicant has submitted a new application to demolish three two-story mixed-use buildings at 428-444 State Street, which is up for consideration along with a previous request for conditional use approval that has been in referral since an earlier demolition permit request was placed on file without prejudice last June. The conditional use requests will allow the construction of a six-story tall mixed-use building with up to 6,445 square feet of commercial space and 26 apartments adjacent to Lisa Link Peace Park. The plans for the new building are the same as those that were before the Plan Commission in June 2023 and recommended for final approval by the Urban Design Commission on May 31, 2023.

The requests are subject to the standards for approval for demolition permits and conditional uses. The Planning Division believes that the Plan Commission may find that the proposed redevelopment is largely consistent with the recommendations for the site in the Downtown Plan, which generally support the development of a four- to six-story building on the site that includes ground floor commercial spaces oriented to State Street and upper floor employment or residential uses. Staff feels that the proposed building can be a successful addition to the iconic State Street corridor, and that its potential impacts on Lisa Link Peace Park largely have been or will be addressed, the latter through conditions of approval, including the conditions submitted by the Parks Division designed to protect the park during and following construction of the building.

However, the Plan Commission must once again weigh whether the standards for demolition permits are met given the Landmarks Commission's findings of historic significance for all three existing buildings during its review of the demolitions, and also consider the recommendations in the Downtown Plan, which encourage that "sound older buildings" be preserved and rehabilitated. Unlike the previous application, however, the applicant has provided additional information on the condition of the buildings including a third-party analysis, which the Plan Commission should also consider.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, (608) 261-9632)

If the Plan Commission can find the applicable standards are met, the Planning Division recommends the following to the Plan Commission:

- That the Plan Commission find the standards for demolition permits are met to **approve** demolition of the buildings located at 428, 434 and 444 State Street; and
- That the Plan Commission find the standards for conditional uses are met to **approve** the construction of a six-story tall mixed-use building containing up to 6,445 square feet of commercial space and 26

apartments in DC zoning and adjacent to Lisa Link Peace Park as shown the project plans dated May 18, 2023.

Approval of these requests should be subject to input at the public hearing, the May 31, 2023 advisory recommendation of the Urban Design Commission for the conditional uses, and the conditions from reviewing agencies that follow.

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

Planning Division

1. Consistent with the advisory recommendation of the Urban Design Commission of May 31, 2023, that elevations for the proposed building be revised to use modular brick and not utility brick, which the Commission found is a scale issue that is very important on State Street.

2. Dimension the setbacks of the fifth floor and the lofted space above the fifth floor on Sheet A-1.5.

City Engineering Division (Contact Tim Troester, (608) 267-1995)

3. The applicant shall connect to or extend public storm sewer connecting directly to a public storm structure that is either in the public sidewalk or terrace area, or inlet at the curb on the side of the street, adjacent to the development. Any storm lateral extension crossing any lanes of traffic or running longitudinally within a public street right of way for over 20 feet, in order to connect to the public system, shall be considered a private storm sewer lateral and will require an approved and recorded privilege in streets agreement.

4. Enter into a City / Developer agreement for the required infrastructure improvements. Agreement to be executed prior to sign off. Allow 4-6 weeks to obtain agreement. Contact City Engineering to schedule the development and approval of the plans and the agreement.

5. Construct sidewalk, terrace, and pavement to a plan approved by City Engineer. Note that the sidewalk is exposed granite aggregate sidewalk and terrace is comprised of structural tree vault.

6. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder ((608) 261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff.

7. Provide the City Engineer with the proposed earth retention system to accommodate the restoration. The earth retention system must be stamped by a Professional Engineer. The City Engineer may reject or require modifications to the retention system.

8. 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.

9. Obtain a permit to plug each existing storm sewer.

10. An Erosion Control Permit is required for this project.

11. This site appears to disturb less than one (1) acre of land. No submittal to the Wisconsin Department of Natural Resources (WDNR), Capital Area Regional Planning Commission (CARPC), or Department of Safety and Professional Services (DSPS) is required, as the City of Madison Building Inspection Division is an approved agent for DSPS.
12. There are existing City fiber facilities within the State Street terrace area. Coordinate any excavation, utility installation, or construction of improvements within State Street with City Engineering Division street design staff and City Information Technology staff. This coordination will need to be completed prior to the issuance of any public improvements plans or permits to excavate in the right-of-way. The initial street design contact is Fadi El Musa Gonzalez (FElMusaGonzalez@cityofmadison.com) and initial City IT contact is Taletha Skar (TSkar@cityofmadison.com).
13. Revise the site plan to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.
14. This project will disturb 4,000 square feet or more of land area and require an Erosion Control Permit. Submit the Erosion Control Permit Application (with USLE calculations and associated fee) to Megan Eberhardt (west) at meberhardt@cityofmadison.com, or Daniel Olivares (east) at daolivares@cityofmadison.com, for approval.
15. Demonstrate compliance with MGO Section 37.07 and 37.08 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.
16. Revise the site plan to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service.
17. Submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West).

City Engineering Division – Mapping Section (Contact Jeff Quamme, (608) 266-4097)

18. The ground floor plans have been modified along the frontage moving the envelope nearer to the State Street right of way, which results in three sets of entrance doors opening and extending into the public right of way. The doors shall not open into the public right of way, unless permitted by City of Madison Traffic Engineering Division.
19. Show the easement per Document No. 5054350 for the storm sewer owned by this site within the adjacent park. Note that the storm sewer maintenance is the responsibility of this site on the Utility and Existing conditions plans.
20. Provide the agreement/documentation with the City of Madison Parks Division allowing for the reconstruction of City Parks' retaining wall and related improvements within the adjacent park. With the removal of the area way and associated improvements per the existing agreement with the City of Madison per Document No. 1685368, the release of this agreement should be considered.

21. The building elevations show fixed canopies along the State Street most eastern entrances of the building, likely encroaching into the State Street right of way. The applicant shall confirm and note on the plans all encroachments, including, (but not limited to) balconies, roof overhangs and underground vaults. Make an application with the City of Madison Office of Real Estate Services for a privilege in streets agreement. An approval of the development does not constitute or guarantee approval of any encroachments within a public right of way.
22. The site plans shall provide setback distances to the front of the building. Most notable is the corner bay on the upper floors. Confirm and show the bays to not extend into the State Street right of way. Also, all floor plans shall show the property lines and canopies to assure the locations of all of the building in relation to the right of way of State Street.
23. The site plan indicates bike racks within the State Street right of way. The applicant shall also confirm any footings or fixed canopies that encroach into the right of way. Make an application with the City of Madison Office of Real Estate Services for a privilege in streets agreement. An approval of the development does not constitute or guarantee approval of any encroachments within a public right of way.
24. The base address of the apartments is 446 State Street. The lower level commercial is 448 State Street. The address of the street level commercial is 450 State Street. The site plan shall reflect proper street addresses of the property as reflected by official City of Madison Assessor's and Engineering Division records.
25. The pending Certified Survey Map application for this property shall be completed and recorded with the Dane County Register of Deeds, the new parcel data created by the Assessor's Office, and the parcel data available to Zoning and Building Inspection staff prior to issuance of building permits for new construction or early start permits.
26. Submit a site plan and a complete building Floor Plan in PDF format to Lori Zenchenko (lzenchenko@cityofmadison.com) that includes a floorplan of each floor level on a separate sheet/ page for the development of a complete interior addressing plan. Also, include a unit matrix for apartment buildings. The Addressing Plan for the entire project shall be finalized and approved by Engineering (with consultation and consent from the Fire Marshal if needed) PRIOR to the Verification submittal stage of this land use application with Zoning. The final approved stamped Addressing Plan shall be included in said application.

Per MGO Section 34.505, a full copy of the approved addressing plan shall be kept at the building site at all times during construction until final inspection by the Madison Fire Department.

For any changes pertaining to the location, deletion or addition of a unit, or to the location of a unit entrance, (before, during, or after construction), a revised Address Plan shall be resubmitted to Lori Zenchenko to review addresses that may need to be changed and/or reapproved.

Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

27. The applicant shall submit a waste removal plan for review, which shall include vehicular turning movements.
28. The applicant shall submit for review a commercial delivery plan, which shall include times, vehicle size, use of loading zones, and all related turning movements.

29. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
30. The developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
31. The City Traffic Engineer may require public signing and marking related to the development; the developer shall be financially responsible for such signing and marking.
32. All parking facility design shall conform to the standards in MGO Section 10.08(6).
33. All bicycle parking adjacent pedestrian walkways shall have a two (2)-foot buffer zone to accommodate irregularly parked bicycles and/or bicycle trailers.
34. Per MGO Section 12.138 (14), this project is not eligible for residential parking permits. It is recommended that this prohibition be noted in the leases for the residential units.
35. The applicant shall provide a clearly defined five-foot walkway from the front door to the public right of way clear of all obstructions to assist citizens with disabilities, especially those who use a wheelchair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.
36. City of Madison radio systems are microwave directional line of sight to remote towers citywide. The building elevation will need to be reviewed by Traffic Engineering to accommodate the microwave sight and building. The applicant shall submit grade and elevations plans if the building exceeds three stories prior to sign-off to be reviewed and approved by Andrew Oliver, ((608) 267-1979, aoliver@cityofmadison.com), Traffic Engineering Shop, 4151 Nakoosa Trail. The applicant shall return one signed approved building elevation copy to the City of Madison Traffic Engineering office with final plans for sign-off.
37. The developer shall work with the City to resolve any construction-related issues. A detailed construction plan shall be provided showing all access and staging areas.

Zoning Administrator (Contact Jacob Moskowitz, (608) 266-4560)

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| 38. There appears to be an architectural feature above the fourth story within 30 feet of the State Street right-of-way line. On the final plans, remove this feature or clarify that it is a permitted height limit exception under Sec. 28.134(2). Provide a measurement to the 30-foot line on final plans. |
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39. As each tenant space is leased, the entire development must reflect compliance in the required amount, type

and number of auto and bicycle parking spaces, to be reviewed prior to obtaining zoning approval for each use. Bicycle parking shall comply with MGO Sections 28.141(4)(g) Table 28I-3 and 28.141.11 and shall be designated as short-term or long-term bicycle parking. A minimum of 26 resident bicycle stalls are required plus a minimum of 5 short-term guest stalls. Up to 25% of bicycle parking may be structured parking, vertical parking or wall mount parking, provided there is a five (5) foot access aisle for wall mount parking. NOTE: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5)-foot wide access area. Submit a detail showing the model of bike rack to be installed. Bicycle parking within the adjacent right-of-way cannot be counted, except by a parking adjustment.

40. Section 28.185(9) 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) shall submit documents showing compliance with the plan within 60 days of completion of demolition. A demolition or removal permit is valid for two (2) years from the date of the Plan Commission.
41. Exterior lighting provided shall be in accordance with MGO Section 29.36. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.
42. Provide details demonstrating compliance with the bird-safe glass requirements in Section 28.129. For building façades where the first 60 feet from grade are comprised of greater than or equal to 50% glass, at least 85% of the glass must be treated. All glass within 15 feet of a building corner must be treated when see through or fly through conditions exist. For building façades where the first 60 feet from grade are comprised of less than 50% glass, at least 85% of the glass on glass areas 50 square feet or over must be treated. Of all glass areas over 50 square feet, any glass within 15 feet of a building corner must be treated. All glass railings must be treated. Identify which glass areas will be treated, and provide a detail of the specific treatment product that will be used.

Fire Department (Contact Matt Hamilton, (608) 266-4457)

This agency has reviewed this request and recommended no conditions of approval.

Parks Division (Contact Ann Freiwald, (608) 243-2848)

43. The developer shall enter into a Developer's Agreement with City of Madison Parks Division. The agreement shall include specific details related to the following, but not be limited to: A) The restoration of park land disturbed by the project, including grading and landscape plans; B) Removal of the Elizabeth Link Peace Park plaque during the construction phase, and the installation of said plaque after the construction phase at a site and in a manner approved by the Parks Division; C) Removal and restoration of existing light fixtures; D) Removal and restoration of the existing retaining wall; E) A construction staging plan; and F) A tree protection plan.
44. The City of Madison Parks Division shall review and approve a construction staging plan for the proposed development. In addition, the developer shall enter into a Temporary Land Use Agreement for any land disturbing activities within Elizabeth Link Peace Park, including those areas used for construction activities, including staging, storage, or any other construction activity.

45. The City of Madison Parks Division shall review and approve all of the plans for improvements on City of Madison property, including landscape, planting, grading plans, etc. prior to the issuance of any building permits.
 46. The developer shall follow the City of Madison Standard Specification for Tree Protection (Section 107.13), especially for any construction taking place on the land owned by Parks. Of specific concern are the five (5) oaks generally located north of the construction site and south of the existing concrete walk in Elizabeth Link Peace Park.
 47. The developer shall acquire a limited term Construction Easement from the City of Madison Parks Division. The Construction Easement shall include specifics as to the grading and restoration of the parkland effected by the project, which shall be the responsibility of the developer. Specifics of the final grading and restoration shall be determined by the Developer and the Parks Division.
48. Park Impact Fees (comprised of the Park Infrastructure Impact Fee, per MGO Sec. 20.08(2)), and Park-Land Impact Fees, per MGO Sec. 16.23(8)(f) and 20.08(2) will be required for all new residential development associated with this project. This development is within the Central Park-Infrastructure Impact Fee district. Please reference ID# 22004 when contacting Parks Division staff about this project.

Water Utility (Contact Jeff Belshaw, (608) 261-9835)

49. Private wells may have served the parcels associated with this project prior to municipal water service connections. The existing properties will require an internal and external survey for potential unabandoned private wells prior to proceeding with demolition. Any remaining unused/ unpermitted private wells existing on this parcel must be properly abandoned according to Wisconsin Administrative Code NR-812 and MGO Section 13.21 prior to the demolition of the property. Please contact Water Utility staff at (608) 266-4654 to schedule an on-site private well survey prior to demolition, otherwise for additional information regarding well abandonment procedures and potential well abandonment reimbursement programs. 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.
50. A Water Service Application Form and fees must be submitted before connecting to the existing water system. Provide at least two working days' notice between the application submittal and the requested installation or inspection appointment. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumbers-contractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Avenue. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to sign the application. A Water Meter Application Form will subsequently be required to size & obtain a water meter establish a Water Utility customer account and/or establish a Water Utility fire service account. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.

Forestry Section (Contact Bradley Hofmann, (608) 267-4908)

51. An existing inventory of street trees located within the right of way shall be included on the site, demo, utility, landscape, grading, fire aerial apparatus 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.

52. 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.
53. The contractor shall take precautions during construction to not disfigure, scar, or impair the health of any street tree. The 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.
54. 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.
55. Section 107.13(g) of *City of Madison Standard Specifications for Public Works Construction* addresses soil compaction near street trees and shall be followed by the 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.
56. 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 five (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.
57. 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.
58. The developer shall submit a Street Tree Report performed by International Society of Arboriculture Certified Arborist prior to the Plan Commission meeting for City Forestry's review of project. This report shall identify all street trees on proposed project site, species type, canopy spread, tree condition, proposed tree removals, the impacts of proposed construction, and any requested pruning.

59. The developer shall post a security deposit prior to the start of the development to be collected by the City Engineering Division as part of the Developers Agreement. In the event that street trees are damaged during the construction process, City Forestry will draw from this deposit for damages incurred.

Metro Transit (Contact Tim Sobota, (608) 261-4289)

60. The vehicle travel lanes on the State Street transit mall have been officially designated by the City of Madison as fixed guideway facilities for transit operations with the Federal Transit Administration. This official designation, and the associated travel restrictions against general traffic usage, allows the City of Madison to receive annual Federal funding that goes towards the operation and maintenance of these lane facilities for transit operations.

Parking Division (Contact Trent W. Schultz, (608) 246-5806)

61. The agency reviewed this project and determined a Transportation Demand Management (TDM) Plan is not required.