



Department of Planning & Community & Economic Development

Planning Division

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TO: Mayor Paul R. Soglin
Madison Common Council

FROM: Natalie Erdman, Secretary of the Plan Commission

DATE: December 27, 2015

SUBJECT: Petition Objecting to Plan Commission Approval of Conditional Use for 820 S. Park Street et al (ID 40408)

On December 7, 2015, the Plan Commission found the standards for approval met and granted a conditional use to allow construction of a mixed-use building with 2,000 square feet of commercial space and approximately 103 apartments following demolition of a commercial building at 820 S. Park Street and demolition or removal/relocation of 10 residential buildings at 909-911 Delaplaine Court, 910-930 Haywood Drive & 825-831 S. Brooks Street. The conditional use was granted at the same meeting that the Plan Commission recommended approval of a zoning map amendment to rezone the site from TSS (Traditional Shopping Street) District and TR-V1 (Traditional Residential–Varied 1) District to TSS and TR-C3 (Traditional Residential–Consistent 3) (ID 40663) and a preliminary plat to create lots for the mixed-use development and 5 single-family residences (ID 40410). The Common Council is scheduled to consider the rezoning request and preliminary plat at its January 19, 2016 meeting.

Per Section 28.183(5)(b)1 of Madison General Ordinances, the Plan Commission’s decision to grant the conditional use is appealable to the Common Council. That section allows 20% or more of the property owners entitled to notice who object to the establishment of the conditional use to file an appeal with the Secretary of the Plan Commission within 10 days of the Plan Commission’s decision. Once an appeal is filed, the Secretary of the Plan Commission is required to send the appeal to the City Clerk, who is then responsible for filing it with the Common Council. If the appeal is valid, the Common Council must then set a date and time for hearing the appeal. Under the ordinance, the action of the Plan Commission shall be upheld unless it is reversed or modified by a favorable vote of two-thirds of the members of the Common Council.

On Thursday, December 17, 2015, an appeal was filed with the Secretary of the Plan Commission of the Plan Commission’s decision to grant the above-mentioned conditional use. However, the City Attorney’s Office and the Planning Division have reviewed the appeal petition and have determined that it is **invalid** because the required 20% of property owners entitled to notice did not sign the petition (M.G.O. 28.181(5) requires notice to owners of property within 200 feet of the properties affected). In this case, there are 39 parcels within 200 feet of the boundaries of the properties affected. However, the petition contains signatures of property owners from only 2 of those parcels. The rest of the signatures are from property owners whose parcels lie outside the 200 foot zone. Since the 20% threshold has not been met, there is no eligible applicant(s) to file an appeal. Therefore, no further action by the Common

Council on this matter is required. The petition for appeal and this memorandum will be placed in its own Legistar file (#41217) and linked to the main legislative file for the 820 South Park Project (#40408).

If anyone has questions regarding the proposed petition, please let me know.

cc: Michael May, City Attorney
John Strange, Assistant City Attorney
Maribeth Witzel-Behl, City Clerk
Heather Stouder, Planning Division
Tim Parks, Planning Division
Matt Tucker, Zoning Administrator
Near Neighbors of 8Twenty Park c/o Kitty Kocol