

From: Jason Tish <jason.tish@gmail.com>
Sent: Monday, July 13, 2020 1:52 PM
To: Rummel, Marsha <district6@cityofmadison.com>
Cc: Stouder, Heather <HStouder@cityofmadison.com>
Subject: Item #9 - 1937-1949 Winnebago Street (316 Russell St.)

Hi Marsha and Heather-

The current proposal for the corner of Winnebago St. at Russell St. would entail the demolition of four commercial buildings that date to the pre-WWII heyday of the Schenk's Corners commercial district.

The Schenk's Corners area has been the commercial core of the SASY neighborhood for more than a century. It became the city's first suburban shopping and retail district in the very early part of the twentieth century when the streetcar line was extended up Winnebago St. and Atwood Ave.

This historic character, including the pedestrian-oriented nature of the area, is without argument, a primary draw of visitors and residents to Schenk's Corners, and what has fueled the rediscovery of our neighborhood in the 1980s, 90s, and 2000s. Also, the variety of spaces in these vintage buildings is a vital part of the connective tissue underlying the vibrant arts scene in our neighborhood and the broader east side.

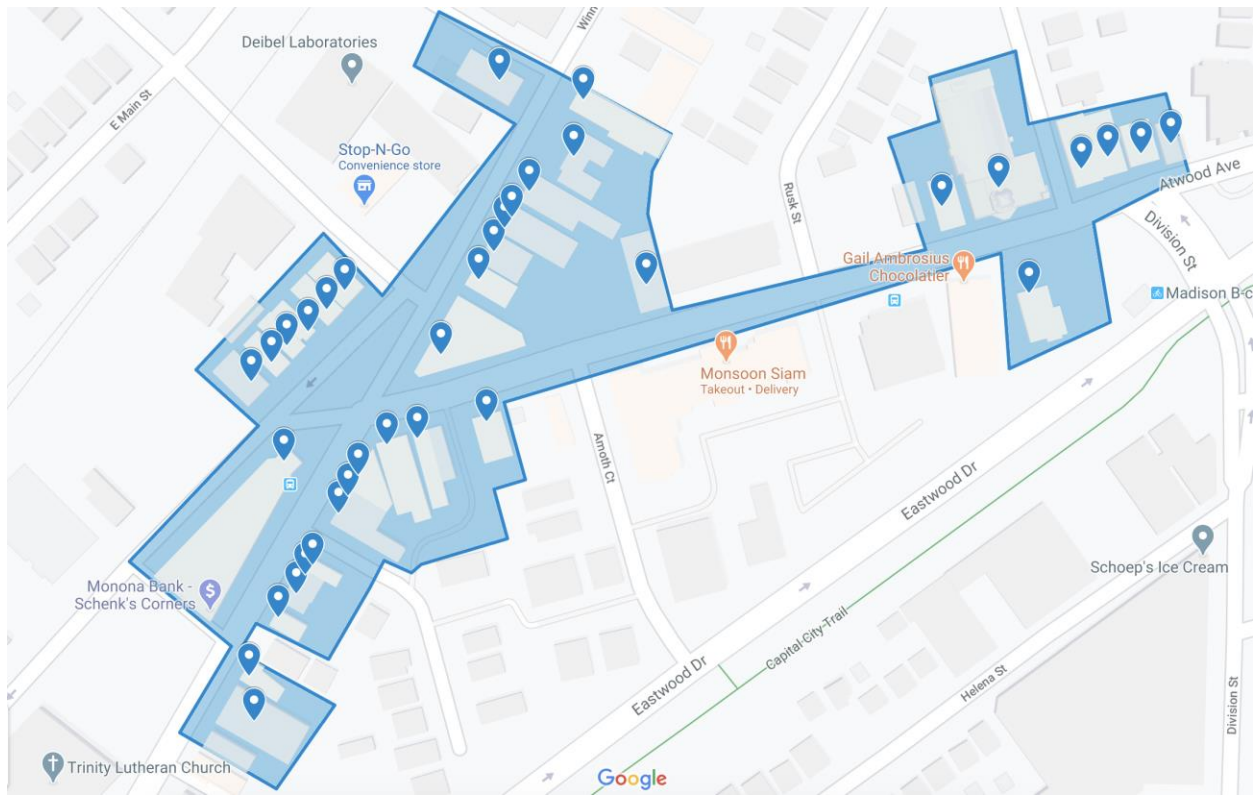
The proposed demolition of four vintage commercial buildings that contribute to the historic character of Schenk's Corners is being taken as a warning sign that the desirability of our neighborhood has reached the point where these vintage buildings have more economic value demolished, than they have standing. The proposal has focused SASY neighbors on the historic and cultural value of our little "downtown," and has ignited a desire among some SASY neighbors to protect what remains of the historic character of Schenk's Corners. We see the provisions of Chapter 41 (the Landmarks Ordinance) as an appropriate tool for this effort.

While we understand that historic designation of the Schenk's Corners area would not bear on this proposal, an initial attempt to draw the boundary of a historic district (see attached) takes in these four buildings because they contribute to the period of the district's significance.

Please be aware, as you evaluate this proposal, that it would entail the demolition of vintage commercial buildings that contribute to the historic character of Schenk's Corners.

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- Jason Tish



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July 13, 2020

VIA E-MAIL

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Madison Plan Commission
c/o Heather Stouder, Director
City of Madison Planning Division
Madison Municipal Building, Suite 017
215 Martin Luther King Jr. Blvd.
Madison, WI 53703

Re: 1937-1949 Winnebago Street and 316 Russell Street, demolition permit and conditional use

Dear Members of the Madison Plan Commission and Ms. Stouder:

This letter is submitted on behalf of Lynn Wimer and Fritz Hastreiter regarding Agenda Item 9 for today's Plan Commission meeting and public hearing. As close neighbors to this project, residing at 1933 Winnebago Street, Ms. Wimer and Mr. Hastreiter oppose the demolition and conditional use permits for a new, 4-story mixed use retail and apartment building ("project").

The proposed project is oversized for the location and neighborhood. It requires a conditional use permit ("CUP") because it is too big for the Traditional Shopping Street ("TSS") district in at least two respects: it will exceed 25,000 square feet of floor area, and exceed the vertical limit of three stories and forty feet. One of these exceedances alone would be significant for this neighborhood, and two is even more so.

To obtain a CUP, the "applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported substantial evidence." Wis. Stat. § 62.23(7)(de)(2)b.

The application here is striking because it does not attempt to present substantial evidence on each of the applicable standards in Ord. § 28.183(6); indeed, its application

is silent on many of them. (*See* Letter of Intent, page 4.) Other substantial evidence, including facts and information presented by neighbors, demonstrates that at least five of these standards cannot be met. The Plan Commission should deny the permits.

CUP Standard 1: The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

CUP Standard 3: The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.

CUP Standard 12: When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.

The Application generally fails to acknowledge the project's immediate surrounding uses are low-profile homes and small businesses, and the impact the project as designed will have on these uses. At most, the applicant states it has met with the SASY and adjusted the design somewhat as a result, but this does not demonstrate that the project satisfies CUP Standards 1, 3, or 12. Unlike other developments in the area, this project did not receive an endorsement letter from SASY.

Indeed, many of the public comments object to the project as "looming" over the neighborhood, obstructing light and changing views, and the cookie-cutter nature of the building design. (*E.g.*, Storck, Rogers Comments.) The increase in density and consequent increase in traffic and congestion will be detrimental to the public health, safety, or general welfare, as well as impair and diminish the use, value, and enjoyment of other property in the neighborhood, as further discussed below. Prior court decisions have upheld denials of CUPs for developments that are similarly incompatible with their surroundings. *E.g.*, *Eco-Site, LLC v. Town of Cedarburg*, 2019 WI App 42, ¶ 27, 388 Wis. 2d 375, 933 N.W.2d 179 (finding there was substantial evidence to support town's denial of cell tower in rural area due to incompatibility with neighboring residential uses).

Contrary to CUP Standard 12, adopted plans do not support the project. Design standards created to implement the [Schenk Atwood Business District Master Plan](#) only recommends buildings up to three stories in height. The project will exceed this height. The Plan further recommends "[r]ehabilitation of commercial and residential buildings

to enhance their traditional design features.” The project destroys these buildings instead of rehabilitating them. The Staff Report suggests that this Plan has exceeded its original 15-year duration, but the Plan has not been revoked or replaced.

The Staff Report also notes that there are at least three other four-story buildings within 400 feet of the site, implying that the project is consistent with other construction in the area. However, this may also suggest the area is reaching its saturation point for large buildings. Many of the public comments received to date describe the endless construction, traffic, and other burdens associated with these large buildings. (E.g., Syverud, Cohn comments.) The project will only exacerbate these issues.

CUP Standard 5: 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.

CUP Standard 6: 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.

The project cannot satisfy standards related to parking, ingress/egress, and traffic. The application states that retail space will be “increased,” and the project will add new office and residential uses to the site. Yet there will only be 25 new parking spots to support the project, 19 of these underground.

Parking: The applicant claims that “the parking provided will be adequate for the expected uses,” based on his ownership and management of other residential and commercial properties in the neighborhood. This conclusory statement is not “substantial evidence.” Meanwhile, comments from immediate neighbors demonstrate, with facts and information constituting substantial evidence, that parking is already in very short supply in the neighborhood, including for existing businesses. (See, e.g., Capellaro, Peckett comments.) This project will “increase” the area’s parking needs and make parking shortages worse.

Ingress/Egress: The project also lacks adequate ingress and egress. Project parking will be accessed through a driveway already shared, by easement, among several Winnebago and Russell Street neighbors. While it makes sense that Traffic Engineering determined that direct access on busy Winnebago Street was not preferred, the access on Russell Street is also inadequate. As the separate comments of Mr. Hastreiter and

his neighbors demonstrate, changing the use of the driveway from a few small businesses and homes to 25 spaces, including a below-grade basement driveway, creates unacceptable safety issues and is a “radical change from the existing use.” This radical change increases the intensity of the use and burden to other users of the shared driveway easement, without their permission. The Staff Report recognizes this problem in proposed condition #24, which states “adequacy of the current private common access right of way per Doc No 23874 . . . is solely the responsibility of the Owner/Developer.” Staff Report at 10; *see also* page 12 (Proposed Condition #38). The City should not defer this issue by making it a permit condition; the CUP should be denied unless and until the applicant can demonstrate adequate ingress/egress.

Traffic: The application does not discuss traffic in any significant detail, other than assuming that the project’s residential and commercial users may not access the building at the same time. This assumption does not hold up with the retail and office businesses currently unknown. Further, numerous neighbors have shown, through facts and information, that traffic in the area is already significant, especially for those attempting to turn right and, especially, left on to Winnebago. (*E.g.*, Luthin, Cohn/Johns comments.) The applicant has not provided substantial evidence of “adequate traffic flow, both on-site and on the public streets.” To the contrary, by increasing traffic from a dead-end street so significantly, substantial evidence shows the project cannot meet CUP standards 5 and 6.

In sum, the applicant has not met its burden to submit “substantial evidence” in support of the project, and other evidence of record shows the CUP standards cannot be met. The large size of the building compared to the default allowed in the TSS District, as well as the Schenck Atwood Business District Master Plan, is a red flag that further demonstrates the project should not be approved. Please deny the requested permits.

Thank you for your consideration.

Respectfully submitted,

PINES BACH LLP



Christa O. Westerberg

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