

**CITY OF MADISON  
INTERDEPARTMENTAL  
CORRESPONDENCE**

**Date: July 23, 2020**

**To: Plan Commission**  
**From: George Hank, Building Inspection Division Director**  
**Subject: 500 Block West Washington Keller Project**



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At its July 27, 2020 meeting, the Plan Commission will be asked to approve a mixed-use redevelopment project at the subject site. This project has been submitted by Keller Development LLC, and represented by developers David and Tom Keller.

The City's Zoning Ordinance includes certain provisions that allow conditions to be applied to projects, where applicants have demonstrated code compliance problems. Section 28.182(5)(a)3. of the City of Madison Zoning Ordinance states that in stipulating a recommendation on a Zoning Map Amendment, 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."*

Our office was involved in several code enforcement matters involving the property owned by Tom Keller at 1902 - 1910 Tennyson Lane in the recent past. These ranged from property maintenance citations to a Municipal Court prosecution to compel the buildings to be maintained, secured, and ultimately demolished.

These issues involved the ongoing maintenance and eventual demolition of structures to accommodate redevelopment of the site for future residential and institutional development. The property had been a source of multiple enforcement cases for property maintenance and unsecured buildings. Police reports and building inspector reports include cases of unsecure building, nuisance activity including graffiti, evidence that the buildings were being regularly entered because they were vacant and unsecured, unsafe conditions inside the building, basically consistent with the buildings falling apart from the inside and out. The owner of the property was well aware of the conditions and the required work, but chose not to resolve them, resulting in Municipal Court prosecutions.

Prosecutions began in September of 2014. The property owner was found guilty, but did not correct the violations. The property owner was prosecuted two additional times, because although high fines were levied, no improvement of the property occurred. This project required significant amount staff time related to issues of inspection, enforcement and prosecution.

Demolition permits were issued in April of 2016, but the property owner did not execute the demolition, and the buildings remained unsecured and in a state of significant disrepair. This resulted in extreme hazard in direct proximity to the adjacent elementary school and surrounding residences. Demolition finally commenced in October 2016, as part of the continued prosecution of the property. After demolition, the properties were sold to new developers.

The project site on West Washington is situated in a higher-density urban environment, with many residents and pedestrians that may encounter this site during the construction process, which will likely take over a year. The City cannot accept the building or site maintained in a unsecured or hazardous condition, like the Tennyson property was for years. Accordingly, staff recommends the following conditions be applied to the proposed project pursuant to the authority in Section 28.182(5)(a)3., in order to ensure that the developers does not repeat the problems of the past with this proposed project:

1. The developer shall enter into an agreement with the City of Madison, agreeing to complete the proposed project according to all zoning approvals and in compliance with all other city ordinances, including the zoning code and building code, and shall provide an irrevocable letter of credit in favor of the City of Madison in the amount of 5% of the project cost with terms allowing the city to call the letter if the developer fails to complete the proposed project as described in the Agreement with the City. Calling of the letter of credit acts as liquidated damages for the failure complete the proposed project. The developer will remain fully liable for any violations resulting from his failure to comply with the law, and for any corrections.
2. The developer shall provide proof of a construction management contract with a contractor who will be responsible for managing the construction of the project, including securing and safely maintaining the construction site.