



AXLEY BRYNELSON, LLP

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August 5, 2020

VIA EMAIL

Secretary of Plan Commission
Attn: Mathew Wachter
City of Madison
215 Martin Luther King Fr. Blvd, Suite 130
Madison, WI 53703
MWachter@cityofmadison.com

Zoning Administrator
Attn: Matthew Tucker
City of Madison
215 Martin Luther King Fr. Blvd, Suite 130
Madison, WI 53703
MTucker@cityofmadison.com

RE: Notice of Appeal of Denial of Conditional Use and Demolition Permit for 126
Langdon Street, Madison, Wisconsin
File Number # 58786
Our File: TBD

Dear Mr. Wachter and Mr. Tucker:

We represent the Rodney King and Core Campus Manager, LLC (the "Applicant") regarding its application for a Conditional Use Permits and Demolition Permit for the property located at 126 Langdon Street, Madison, Wisconsin.

Enclosed for filing is the Applicant's Notice of Appeal of the Plan Commission's decision to deny the Applicant's Conditional Use Permits and Demolition Permit.

Please notify us of the time, date and place that the Common Council will hear the appeals.

Thank you for your assistance.

Sincerely,

AXLEY BRYNELSON, LLP

Robert C. Procter
RCP:mma
Enclosure

cc: Heather Stouder (HStouder@cityofmadison.com)
George Hank (GHank@cityofmadison.com)
Sydney Prusak (SPrusak@cityofmadison.com)

NOTICE OF APPEAL

Pursuant to

City of Madison Ordinances § 28.183 and § 28.185

PLEASE TAKE NOTICE:

This is an appeal of the Plan Commission's denial of Rodney King's / Core Campus Manager, LLC's ("Applicant") application for a demolition permit – final plan approval, and the following conditional uses: (1) A multi-family dwelling with more than eight (8) dwelling units; (2) Outdoor Recreation (outdoor hot tub and amenity space); and (3) Two additional stories in Area F of the "Additional Heights Area Map" in MGO §28.0971(b), all to allow construction of a seven-story, 107-unit apartment building in the Downtown Residential – 2 (DR-2) Zoning District.

APPLICANT / PROJECT INFORMATION:

1. **Name of Applicant:** Rodney King; Core Campus Manager, LLC
2. **Address:** 1643 N. Milwaukee Street, Chicago, IL 60647
3. **Telephone Number:** (773) 969-5908
4. **Property:** 126 Langdon Street, Madison, WI 53703
5. **File #:** 58786

GROUNDINGS FOR APPEAL:

Conditional Use Permit

The denial of the Conditional Use Permits violated Wisconsin Stat. § 62.23(7)(de) and Madison Ordinance § 28.183 on the following grounds:

1. The Applicant met or agreed to meet all of the requirements and conditions specified in § 28.183, and those imposed by the city zoning board, and the Applicant demonstrated that the application and all requirements and conditions established related to the conditional uses are or shall be satisfied, both of which were supported by substantial evidence presented.
2. The requirements and conditions of § 28.183 on their face and as applied to the Applicant are not reasonable, and, to the extent practicable, measureable, including, but not limited to, the following requirements:

#1: "The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare;"

#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;"

#4: *“The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;”* and

#9: *“When applying the above standards to any new construction of a building or addition to an existing building the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendation.”*

3. The Plan Commission’s decision to deny the permit was not supported by substantial evidence, including, but not limited to, the Plan Commission’s finding that the application did not meet all of the requirements and conditions specified in items #1, #3, #4, and #9 listed in Section 2 above. Instead, the Plan Commission based its decision on personal preferences and speculation including, without limitation, “findings” that the project did not meet the requirements and conditions of the Ordinance because of its “façade”, “mass”, “context”, “rhythm”, “scale”, “function”, “density”, and “circulation”.
4. The conditions imposed by the Ordinance and the Plan Commission are not related to the purpose of the ordinance including, but not limited to, the findings related to “circulation” since there is no requirement in the zoning ordinances to provide parking for ride sharing and deliveries, and there is no parking requirement for this project.
5. The Plan Commission did not keep within its jurisdiction; did not proceed on a correct theory of law; its action was arbitrary, oppressive, and unreasonable and represented its will and not its judgment; and its determination was not based on the evidence.

Demolition Permit.

The Applicant appeals the denial of the Demolition Permit on the following grounds:

1. The Application for the permit met all of the standards set forth in Madison Ordinance § 28.185.
2. The Plan Commission’s “finding” that the permit would violate the statement of purpose at § 28.185(1) was not based on any evidence or facts.
3. The Plan Commission’s “finding” that the application did not meet the standard at § 28.185(7)(a)(2)a was not based on any evidence or facts.
4. The Plan Commission did not keep within its jurisdiction; did not proceed on a correct theory of law; its action was arbitrary, oppressive, and unreasonable and represented its will and not its judgment; and its determination was not based on the evidence.

Therefore, the Applicant requests the following relief:

1. That the City Council reverse the action of the Plan Commission and grant the Applicant the Conditional Use Permits.

2. That the City Council reverse the action of the Plan Commission and grant the Demolition Permit.

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Robert C. Procter

Danielle Baudhuin Tierney

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