

**PLANNING DIVISION REPORT
DEPARTMENT OF PLANNING AND COMMUNITY
AND ECONOMIC DEVELOPMENT
Of September 12, 2007**

RE: LD. # 06074, Alteration to Planned Unit Development – 804 Williamson Street

1. Requested Action: Approval of a minor alteration to an existing planned unit development located at 804 Williamson Street that includes façade changes and an outdoor eating area for a retail establishment, the addition of a balcony to a residential unit and clarification of the zoning text governing the project.
2. Applicable Regulations: Section 28.07 (6)(9)4.d. provides the Plan Commission with the authority to approve alterations to planned unit developments if the changes are compatible with the plans approved by the Common Council.
3. Report Prepared By: Timothy M. Parks, Planner

GENERAL INFORMATION

1. Applicant: Megan Ramey, MoCo Market, LLC; 1023 Williamson Street, Unit 1; Madison.

Note: The president of the Livingston Condominium Association, Inc., which owns the common areas located within the condominium project, has co-signed the application.
2. Development Schedule: The applicant wishes to proceed with the outdoor eating area as soon as all necessary approvals have been granted.
3. Location: The retail market occupies a 1,470 square-foot space located on the first floor of a 36-unit residential condominium building located at the northeast corner of S. Livingston and Williamson streets; Aldermanic District 6; Madison Metropolitan School District. The proposed outdoor eating area will be located on a portion of a plaza located adjacent to the market space. The entire mixed-use project is zoned PUD-SIP.
4. Surrounding Land Use and Zoning: The subject property is located west of the new Renaissance multi-family buildings at 824 Williamson Street and across S. Livingston Street from various office and service commercial uses in the 700-block of Williamson. The property borders a future 39-unit residential/ commercial building approved last year at 301 S. Livingston Street and across Williamson Street from single, two and multi-family residential buildings in C2 (General Commercial District) zoning.

STANDARDS FOR REVIEW

Section 28.07 (6)(9)4.d. provides the Plan Commission with the authority to approve alterations to planned unit developments if the changes are compatible with the plans approved by the Common Council.

ANALYSIS, EVALUATION, CONCLUSION

This application was originally scheduled for review in April but was referred pending the submittal of additional information demonstrating that the applicant had the right to apply. Since that time, the applicant has obtained the proper authorization from the condominium association to apply. We have been advised by the City Attorney's Office that this application can proceed.

The application before the Plan Commission requests consideration of various alterations to the approved specific implementation plan for The Renaissance mixed residential and commercial condominium project located at the northeasterly corner of S. Livingston and Williamson streets. The planned unit development was approved by the Common Council on June 1, 2004 and was received for recording in advance of construction on December 1, 2004. The project was approved with 36 condominium units and two first-floor commercial spaces containing a total of 2,400 square feet. The smaller of the two commercial spaces occupies the front third of the renovated former Schlitz Brewery on the corner. The larger space faces Williamson Street and is separated from the first commercial space by a small courtyard/ plaza area that also includes a ramp into three first floor units in the Schlitz building and the project's under-building parking garage. The project was constructed with a larger courtyard in the southeasterly corner of the building adjacent to Williamson Street.

The entire Renaissance project is located in the Third Lake Ridge Historic District, though none of the structures in the project, including the former Schlitz Brewery, are contributing structures. The planned unit development was reviewed by the Landmarks Commission as part of the approval process for the project.

The alterations before the Plan Commission for consideration include:

- façade changes and an outdoor eating area for "MoCo Market," a retail establishment which occupies the larger, 1,470 square-foot first-floor commercial space addressed as 804 Williamson Street;
- the addition of a balcony to a residential unit;
- clarification of the zoning text governing the project, and;
- the addition of doors leading to private patios adjacent to a larger common courtyard.

MoCo Market

Regarding the alterations related to MoCo Market, the applicant is requesting approval of an outdoor eating area. The market currently sells convenience groceries, sundries, beer and wine, and fresh prepared foods intended primarily for carryout. The market includes seating for 15 people inside. The outdoor eating area will provide seating for 12 on a portion of the raised courtyard/ plaza that occupies the space between the two commercial spaces. The proposed outdoor eating area will be located below residential units located on the second through fourth floors of the project. The applicant indicates that the outdoor space is intended for patrons who have purchased items in the store to take them to four tables on the patio to consume. No table service is proposed. The applicant does not indicate in her application whether outdoor amplified sound is proposed. Access to the outdoor eating area will be provided through three French doors that open onto the plaza from the retail space.

The two commercial spaces were generally identified in the application materials for limited, neighborhood-scale uses such as the market the applicant operates. The zoning text initially submitted with the planned unit development rezoning identified C1 limited commercial uses for the two first floor commercial spaces. Outdoor eating areas were identified in the text as permitted accessory uses for the permitted commercial uses. However, the zoning text was modified without staff approval prior to recording to change the list of permitted uses for the residential-commercial project to those as permitted in R6 zoning. Outdoor eating areas continued to be listed as permitted accessory uses.

Outdoor eating areas, however, are conditional uses in R6 zoning, which allows retail spaces such as the MoCo Market as part of residential buildings. Staff felt that the conflicting language in the recorded zoning text and the fact that the approved plans for the courtyard did not specifically identify the space as an outdoor eating area complicated the granting of a staff-approved alteration for the specific plans for the outdoor area. Staff believes that the use of a portion of the courtyard for an outdoor eating area is generally compatible with the intended uses for the space when the planned unit development was initially approved.

A concern has been brought to staff's attention that the French doors that provide access to the requested outdoor eating area were not shown on the specific implementation plans reviewed by the Landmarks Commission, Urban Design Commission and Plan Commission and approved by the Common Council. In reviewing the plans in the 2004 Planning Division file, it appears that the wall openings along the western side of the 1,470 square-foot commercial space are windows and not French doors as currently exists. The openings continue to appear as windows in the set of drawings that were recorded later in 2004. However, a copy of the construction drawings provided by the project architect and dated November 10, 2004 show French doors in that area of the building. The project architect indicates in a letter dated September 7, 2007 that it was the developer's intent to provide a connection between the 1,470 square-foot commercial space and plaza and that the doors provided the best connection.

The Planning Division has reviewed this unapproved change in plans to add the French doors and believes that an alteration should be approved to codify their existence. While the doors were not added with staff approval, the doors represent a logical connection between the commercial space and plaza. In reviewing the final recorded plans for the project, it is clear that the plaza and tenant space are located at the same level, suggesting that a link between the two existed back in 2004. A recent review by staff of the plan set reviewed by the Plan Commission less clearly suggests this connection, though the plaza and commercial space (which includes interior steps to account for a change in grade) are still shown at the same level, with a staircase up from the sidewalk adjacent to the space now occupied by MoCo Market. Staff believes that if the doors were shown on the plans reviewed in 2004 that staff would have approved of their location then, and that little would be gained from requiring the removal of the French doors at this time.

Second floor balcony addition

It has also been brought to staff's attention that a balcony was added to the two-bedroom unit on the second floor of the renovated Schlitz Building, which was not shown on the approved plans. The deck, which is shown on the November 10, 2004 construction drawings for the project, is located along the eastern side wall of the two-story building overlooking the courtyard/ plaza that abuts the MoCo Market discussed previously. The project architect indicates that the balcony was a replacement for an old metal deck that existed prior to the renovation that the developer desired to replace to provide open space for the two-bedroom unit.

The Planning Division has no objection to the retention of this balcony, which provides an additional open space opportunity for this rather compact urban infill development. As noted earlier, the planned unit development is located within the Third Lake Ridge Historic District and is therefore subject to review by the Landmarks Commission. The Landmarks Commission will be reviewing the addition of this balcony at a future meeting, and staff recommends that the Plan Commission accept the addition of the balcony subject to Landmarks Commission approval.

Zoning text clarifications

As noted earlier in the report, the zoning text for the project was revised prior to recording without staff approval to allow uses as permitted in the R6 zone. The Common Council approved the project with uses for the commercial spaces following those uses permitted in the C1 zoning district. Staff recommends that a zoning text revision be recorded for the overall project to restore the zoning for the commercial spaces as those listed as permitted in the C1 limited commercial district as originally approved by the Plan Commission and Common Council.

Patio door addition

It has also come to staff's attention that doors were added to two units along the eastern wall of the four-story portion of the development abutting a landscaped courtyard intended for use by the residents of the 36-unit development. In reviewing both the set of plans submitted for approval and the plans submitted prior to recording, the open space abutting the southeasterly portion of the building at Williamson Street is shown as being divided between ground level patios for three units and the larger courtyard for use by the entire development. Building elevations reviewed in the spring of 2004 did not show two of the doors leading to the three patios, though the Planning Division staff report alluded to the three patios existing for individual use and not as part of the adjacent larger open space. The pre-recording plan set showed a sliding glass door for the first floor unit closest to Williamson Street and a patio door for the northern of the three units. The elevations do not show the middle unit's patio access, which is somewhat recessed behind the easternmost portion of the building. However, staff feels it is reasonable to assume that a patio door was planned to serve the middle of the three units, as the first floor plan in both the recorded plan set and construction drawings show patio spaces separate from the rest of the open space, and doors to the other two patios were depicted.

RECOMMENDATIONS

Staff recommends that the Plan Commission carefully consider the testimony at the public hearing and the materials submitted in determining whether the standards for altering the planned unit development can be met. The Plan Commission can approve all of the alterations, none of the alterations or only certain alterations. The Commission may apply conditions if it deems them necessary. If it decides to approve the alterations outlined in this report for The Renaissance planned unit development at 802-808 Williamson Street, including the outdoor eating area for the MoCo Market located in the commercial space at 804 Williamson Street, the following minimum conditions should be applied:

1. That no outdoor amplified sound be permitted for the proposed outdoor eating area.
2. That operation of the outdoor eating area cease at 9:00 P.M. Monday through Sunday.
3. That approval of the balcony on the second floor of the former Schlitz Brewery is subject to the approval of the Landmarks Commission.

Parks, Timothy

From: Firchow, Kevin
Sent: Monday, September 10, 2007 9:41 AM
To: Parks, Timothy
Subject: FW:

Please include in your PC materials.

From: Fountain, Kevin [mailto:KevinFountain@alliantenergy.com]
Sent: Monday, September 10, 2007 9:39 AM
To: Firchow, Kevin
Subject:

Kevin –

My name is Kevin Fountain and I have been a resident of 824 Williamson Street for the past 2 ½ years. In that time I have seen many changes to the neighborhood. Some have been better than others but none have been better than the addition of MoCo Market. MoCo has benefited me personally in many ways and I am happy to frequent it. The staff is very friendly and is very conscientious of neighborhood issues and history. I feel that an outdoor eating area would be a further benefit to both MoCo and the neighborhood and I believe the staff of MoCo would act responsibly and with consideration in managing the new area. As a neighbor and friend of MoCo I strongly encourage the Plan Commission to approve the PUD alteration.

Sincerely,

Kevin Fountain

September 10, 2007

City of Madison Planning Commission
215 Martin Luther King Jr. Blvd.
Madison, WI 53703

Re: MoCo Market, LLC – Land Use Application

I am writing on behalf of Livingston Development Inc. the developer of the Livingston Condominiums. We had many meetings with the residents of the neighborhood and the neighborhood steering committee. Throughout this process it was very clear to us that an important part of this project was the commercial space fronting Livingston St. What we heard continuously was that the neighborhood would like to see commercial use that interacts with and provides amenities to the neighborhood as well as the condominiums units. The tenant space between the old Schlitz building and the new project was specifically designed for this purpose. I know that when First Weber marketed the residential units they expressed this as a project benefit. We believe that Moco Market is a great fit for this commercial space. In fact I cannot imagine a better one. It is clear that the consensus of the condominium owners feel the same.

I am also owner of the Williamson place apartments next door to this project. Our residents also appreciate what Moco Market adds to this great neighborhood.

I hope that you approve Megan Rameys' application for an outside seating area.

Sincerely,

Scott Lewis

c/o WILLIAMSON STREET GROCERY CO-OP
1221 WILLIAMSON STREET
MADISON, WI 53703
www.williamsonst.com



PRESIDENT
ANYA FIRSZT
(608) 251-0884
a.firszt@willystreet.coop

June 22, 2007

Ms. Megan Ramey
MOCO Market
804 Williamson St.
Madison, WI 53703

Dear Megan,

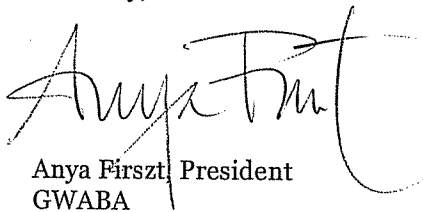
I am writing you on behalf of the Greater Williamson Area Business Association (GWABA) to offer our support for your desire to have outdoor seating on the patio that is adjacent to your business. It was our understanding that the patio (seating area) was included in the original design of the project.

We appreciate the work that you have done in bringing another vibrant and interesting independent small business to Williamson Street. In other locations along Williamson Street outdoor seating has brought life to the street and has made it feel safer, especially for pedestrians. We are unaware of any outdoor seating arrangements on Williamson Street that has been in anyway disruptive. We are sure your outdoor seating will also have these positive effects on the 800 block of Williamson Street.

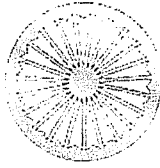
Please feel free to share this letter of support. We would also be happy to send a representative of GWABA to any meeting to speak of our support for your outdoor seating plans.

Thank you for bringing a great business to Willy Street!

Sincerely,



Anya Firszt, President
GWABA



David Bridgeford

808 Williamson St., Unit 309
Madison, WI 53703
608-251-7068
email: dbridgeford@mac.com



Alder Marsha Rummel
1339 Rutledge St., #2
Madison, WI 53703

Re: 800 to 808 Williamson Street (The Livingston)

Dear Alder Rummel,

It has recently come to the attention of the owners at the Livingston that certain construction changes were made by the Developer at the Livingston that were never approved by the City. The area is zoned PUD-SIP and the Plans were reviewed extensively by the Landmarks Commission, The Urban Design Commission, The Plan Commission and ultimately the Common Council before being recorded with the Dane County Register of Deeds on December 15, 2004.

Specifically, the changes include a deck of approximately 4' by 6' that juts out into the open space between 802 and 808 for Unit 802-4. Patio doors that were added to two units instead of windows and gates that now close off parts of a common courtyard. And, most significantly, three sets of double doors that open out onto a common plaza area from the commercial space at 804. These three sets of double doors were identified as windows in the plans approved by Commissions mentioned above. Addition of these three sets of double doors significantly changes the character and intended use of this common patio area. The architect submitted certificates of compliance stating that the building was built in substantial compliance with the approved and recorded plans. It appears that these changes were made to make certain units more marketable at the expense of other use and aesthetic considerations.

The recorded Plat for the condominium identifies this plaza area between 802 and 808 as a common element. The Developer however has stated that this was a mistake and that the area was always intended to be for the exclusive use for the owner of 804. The Developer has suggested that if the owners of the Livingston do not agree to amend the Plat, litigation against the owners at the Livingston may be necessary to "clarify" it. As of now, the Developer has not been able to get the required two-thirds of all owners to agree to this amendment.

You should also know that the Developer apparently promised the buyer of Unit 804 (Moco Market) exclusive use of the patio between 802 and 808 despite the fact that it was approved as a "plaza" by the relevant Commissions and shown graphically as a common element on the Plat. As of now, Moco Market has been unable to get its application to have outdoor food and

beverages in front of the Plan Commission due to an opinion from the City Attorney's office that there is an unresolved dispute regarding the ownership of the patio. Prior to this opinion from the City Attorney's office, the City stated in a Planning Division Report on April 4, 2007 that the "proposed outdoor eating area will be located on a portion of a common patio located adjacent to the proposed market space." Moco Market is also seeking a Class B combination liquor license for this common area.


I have two reasons for writing this letter. The first is to simply give you a heads up on this issue. The second is to advise you that all Units have been sold and the Developer turned over control of the Condominium Association to the owners in June 2006.

Any application submitted for changes to the PUD-SIP that affect the exterior of the building (which includes all exterior walls and surfaces) must be submitted by the owners. They own these areas in common according to the Declaration of the Livingston. This would include all exterior doors, including patio doors. In addition the Declaration provides that any alterations that change the dimensions or exterior appearance of any individual unit must be approved by two-thirds of all owners.

Simply stated: the Board of Directors of the Association or an individual Unit Owner cannot submit an application to seek City approval of these unauthorized changes in construction without approval of two thirds of all Unit Owners. The Condominium Association does not own any property but simply is charged with managing it. Thus, any alteration of the PUD-SIP in this regard (whether minor or otherwise) requires two-thirds approval of all owners.

I am hopeful that this issue can be resolved privately without further involvement of the City. Nevertheless, if that is not the case I wanted you to be aware of these issues. If you would like to discuss this matter with me, please contact me.

Sincerely,



David Bridgeford

Cc: Brad Murphy, Planning Division Director
George Hank III, Inspection Unit Director