



Economic Development Commission

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MEMBERS

Mark Bugher, Chair
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Ed Clarke
Jeff Erlanger
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Andrew Franken
Susan Gleason
Patricia Jenkins
Richard Slone
Tom Still

MEMO

DATE: August 11, 2004

TO: Urban Design Commission
Plan Commission
Common Council

FROM: Madison Economic Development Commission

SUBJECT: Proposed ordinance #33543 to create design standards for large retail establishments

At our August 4, 2004 meeting, the Commission approved a motion citing the following issues with the proposed ordinance and stating that we could not support the ordinance as drafted.

Issues

- There are already many rules/regulations governing business location in Madison. At a time when the Commission, on behalf of the Mayor and the City, is seeking to find ways to make the City more business friendly, this ordinance appears to be going in the opposite direction.
- As proposed, the ordinance goes beyond the provisions of other communities' ordinances that have been provided to us as examples. It feels like an experiment where the end result is not known.
- While many of us on the Commission could support the design and aesthetic standards in the ordinance, we do not agree with the 100,000 square foot footprint cap. There seems to be no basis for this and it fails to acknowledge how large size discounters operate. Several proponents of the ordinance have used the multi-story Ikea store in the suburbs of Chicago as an example of how a business can comply with a footprint cap. We do not find this a credible or comparable example- it is located in a much larger, and more dense regional retail market area.
- We think there is a lack of understanding of how retail in general, and large retail specifically, operate in terms of satisfying the convenience and preferences of their customers. As a result we think there are unrealistic assumptions regarding how big box companies would react to this proposal. We believe they would choose to locate in the surrounding areas and this would represent a loss of revenue for the city.
- The ordinance does not have a sunset clause or an evaluation component.

- At the Commission's July meeting, developers with many years of experience siting both small and larger retail establishments uniformly stated their concern that the ordinance is too prescriptive and fails to allow for new and innovative design and siting. The most recent draft of the ordinance has new language intended to provide flexibility. The language, which allows exemptions in "unique or unusual circumstances", however, does not apply to a really great design that people could choose. Rather the language mandates a preexisting "unique or unusual circumstance" to which a good design could be applied. The discussion from staff and supporters seemed to desire that any good design (in response to unique circumstances or otherwise) could be considered.
- We are unclear why the Urban Design Commission and Plan Commission, with clear direction to staff, are not now able to ask for many of the ordinance requirements as part of the current review process.
- We believe that the City should use incentives rather than prohibitions to encourage the type of development it would like to see.

During the discussion of this motion, several Commissioners noted that large retail establishments are under development in areas adjacent to but outside of Madison without being subject to the requirements of the proposed ordinance. Since these developments nonetheless affect communities both in and outside of Madison, it was recommended that a regional rather than "city only" approach be used; i.e. the Mayor and Common Council explore working with the surrounding municipalities on this ordinance and similar issues.

The Commission approved this motion on a vote of 4-3 [Clarke, Slone, Brandon and Gleason voting in favor; Erlanger, Still and Falk voting against]. It should be noted that those voting against felt strongly that the ordinance has so many problems that the Commission should vote against its adoption in its entirety.

Attached to this report is an excerpt from the minutes of the Commission's July meeting at which several developers appeared and commented on the proposed ordinance. In addition to their shared concern about the prescriptive nature of the ordinance and lack of flexibility to deal with unforeseen site issues, a common theme in their comments was how the development of city policy and regulation failed to include an assessment of economic feasibility. Additional regulation and requirements will usually mean additional costs to the developer, ultimately passed on to the consumer or taxpayer.

Thank you for considering our concerns and recommendations.

If you would like additional follow up to this report, please contact our staff person, Katherine Naherny, 267-8737.

Excerpts from the Minutes of the July 7, 2004 Economic Development Commission Meeting on the proposed ordinance re: large retail establishments

3. Special Presentation on Retailing Trends and the proposed design ordinance for large retail establishments.

The Commission heard the following comments from local professionals involved in retail developments.

Karyle Rice-Project Solutions

- Has significant experience in real estate development, urban infill with retail components. Currently working on vacant Kmart site on E. Washington.
- Defining a large retail establishment as a building 40,000 sq ft and over does not reflect what the marketplace considers large. Forty thousand square feet is small when looking at a single zoning lot. Most groceries are bigger than that 40,000 sq ft.
- Ordinance doesn't just address how building will look. It's very restrictive and dictates details. Will have a restrictive impact on UDC and thus restricts creativity. Section 2 of the proposed draft ordinance will limit UDC.
- Section 7 of the proposed ordinance gets into how retailers work and won't work.
 - 65% of every retail dollar is spent at discounter's location.
 - Not every retail site can look like State Street.
 - By restricting discounters too much, you drive discounters away, which will impact poor shopper options. Fifty percent of US population will shop at Wal-Mart in next week.
- Section 8d – Transportation Demand Management Plan requirement
 - Takes a lot of money to get a retail development plan approved; adding another layer of requirements
 - Madison is already on the upper end of time it takes to get a building permit from start to end
- Don't have any major concerns with pedestrian circulation issues outlined in draft ordinance.
 - Rather than one size fits all, why not identify areas that require/would benefit from pedestrian requirements.
- A lot of comments are a synopsis of other developers' feelings/thoughts that are afraid to provide public testimony.

- Anchors and National Retailers? What Works? Are they necessary? The following are normal sales breakdowns nationally.
 - \$110/square feet – Local retailer’s average sales with/out anchors/national retailers.
 - \$425/square feet – National retailer’s average sales.
 - Local entrepreneurs (in-line stores) double their sales (\$220/SF) if paired with national retailers.
- People won’t shop if the entrance door is in front and the parking is in rear.
- Bob Gibbs, a consultant in commercial development, states that about 25,000 cars a day are needed to keep street- oriented retail. [www.robertgibbs.com]
- Karyle distributed photos of tilt up construction provided by Brett Newcomb of Newcomb Construction. Below is a voice message Mr. Newcomb left with Office of Business resources staff.

“This is Brett Newcomb with Newcomb Construction. I just heard from Karyle Rice that there’s a meeting tonight at 5:00 with the City of Madison, that Madison is proposing some design guidelines for retail and one of those guidelines is to not allow tilt-up concrete wall panels for retail construction in Madison. I cannot be at this meeting, but we strongly oppose the idea that Madison can limit the design style and not recognize the potential of tilt-up construction. We have been doing tilt-up construction for the last 12 years. Just last year we built two office buildings in the Old Sauk Trails Business Park. One of them won the top design award in the State of Wisconsin. Only four design awards were given in the entire state and Newcomb tilt-up building was one of them. These are beautiful buildings and I’m sending pictures of our projects with Karyle Rice to tonight’s meeting and she said that she would speak on our behalf that tilt-ups should not be banned for retail buildings in Madison. I think that there is a misconception with people who are uneducated about tilt-up, that tilt-up is concrete and boxy and not very architecturally aesthetic, but when you see our pictures and you see what we do, we’ll change the opinions quickly. I encourage you to check out our website, newcombbuilds.com and take a look at the picture that Karyle is bringing tonight. If you have questions, contact me at the office, 833-5220. Thank you. “

Questions and Discussion

Ald Webber – Has she looked at other cities that have enacted similar ordinances like Ft. Collins?

Ald. Konkell and Ald. Brandon raised a concern about the City planning new areas for retail, e.g. Midtown Commons, and that the economic won’t result in retail.

Rob Zache, Central Place Real Estate

- Involved in 125 built projects, about \$1 billion in value

- Trend Perspective
 - Lifestyle Centers have replaced Regional Malls. Biggest Trend for next 20 years.
 - 355,000 square feet is the upper end Lifestyle Center.
 - Lifestyle Centers are more viable, 24-7 in operation, have food anchors, restaurants, other types of draws for the Center.
 - Some Centers have hotels, MF housing, entertainment components (theatres)
 - Some have a mixture of national and local retailers
 - Mixtures of big, small, medium box
- Driver of Retail.
 - Trying to satisfy or provide convenience for consumers. In and out, quick access for consumer. Consumers want to see the store.
 - Satisfying “business” needs of occupier is secondary priority.
- He would define “Big box” as 75-120,000 square feet. [Target] Big Box = Power Centers.
 - 30-50,000 square feet stores are space fillers, in line stores.
- Does not have a lot of problems with urban design requirements although it limits Urban Design flexibility and creativity in the future.
- Ordinance does not differentiate enough for site planning. One shoe does not fit all.
 - Site size, access, visibility are different on every parcel.
 - Need flexibility with site planning or you limit creativity.
 - Ordinance works well in densely populated residential districts, as it is not car friendly.
 - May work well on Monroe Street and pedestrian oriented parts of town.
- Good example of siting – Park East (Pick-N-Save) in Milwaukee.
- Lesser example– Hollywood Video at Woodman’s –economically compromised. Sat vacant for two to three years. Now has a secondary or tertiary tenant.

Questions and Discussion

M. Falk: If you are developing a commercial enterprise are there one or two deal breakers in this ordinance?

Answer: Requiring all parking in back

Having a front door and back door-security issue for retailers. Theft – would increase costs because have to hire more security

T. Still: Key issues seem to be size threshold; restrictions on creativity; and security

Discussion with Alders

One objective is to give developers more predictability by giving criteria.

Answer: Predictability of process not design

Zache suggest researching other communities with good processes – e.g. Skokie IL

John Flad, Flad Development

- 25-30 years of experience

Projects:

- Prairie Town Center – 300,000 square feet of retail (Target, 0 turnover in 7 years), very high sales/SF
- University Avenue/Midvale Area – Copps, Borders, Steve’s Liquor, Antique Store, etc.

Four Issues/Questions:

- 1) What message are we sending as a City with this ordinance?
 - a. More roadblocks?
 - b. Ask the business community for their perspective, not Fort Collins
 - What about asking the business and development community in Fort Collins rather than their city planners?
- 2) Is an ordinance needed? Enough checks and balances – alder, neighborhood, Plan Commission, Common Council – are already in place!
- 3) Flexibility – We need to be open-minded and entrepreneurial!
 - a. Very objective process.
 - b. This is a first where City actually asks about economic feasibility of a policy.
- 4) The ordinance has problems. Two-three items are very problematic.
 - a. No problem with design, aesthetics, landscaping of ordinance.
 - b. Operational issues are problematic. Don’t want ordinance placing door location in his building.
 - c. Parking placement mandate not good.

Dennis Harder, Joseph Freed

- Forty thousand square feet is too low a number for a threshold.
- Retailers want what customers want. As realities of retailers change, they will approach developers with prototypes – they will adjust but slowly.
- If public has to win on everything it will be long battle. Development will decrease.
- Process must have trade-offs.
- Process must have flexibility.
- Agrees in general with previous speakers.
- “We don’t like your project” without any direction from UDC is the developer’s worst nightmare. Give direction and focus on issues, priorities, and trade-offs.
- Auto vs. pedestrian does not always work.
- Aesthetics Issues.

Discussion

Bugher asked for a clarification of the problem that needs to be fixed by this ordinance. Slone suggested the ordinance be crafted as guidelines.

Bugher thanked the speakers. The Commission deferred further discussion and action to a subsequent meeting.