

M E M O R A N D U M

Date: June 29, 2026

To: Plan Commission

From: Alex Saloutos

RE: **Legistar 93403 and 93404. Recommendation that the Common Council not approve these files**

This memo submits public comments on Legistar 93403 and 93404. File 93403 permits access from a local street to an assisted living facility, congregate care facility, or skilled nursing facility; a covenant, monastery, or similar residential group; a farmers market; a hospital; a library or museum; mission house; outdoor recreation; a place of worship; a school, arts, technical, or trade; and schools, public or private. File 93404 allows commercial and institutional buildings up to 50 feet in height as a conditional use in all 15 residential zoning districts. Both were introduced on June 9, both carry a staff recommendation to approve, and both are set to reach the Common Council on July 7.^{1,2}

SUMMARY

I ask the Commission to recommend that the Common Council not approve File 93403 or File 93404. There is almost nothing in the staff reports to support either one. Each is a fraction of a page that states a conclusion and skips the analysis: no problem is defined, no effect is shown, and no comparison to any other city is made. And 93404 moves a major height decision, from about 35 feet to 50 feet, out of the rezoning process and into a case-by-case conditional use granted by an appointed body. If the Commission is not prepared to recommend denial, it should at least refuse to make a recommendation on an empty record. The alternative is to direct staff to provide the information described in this memo and to recommend that the Council re-refer both files so the Commission can act on a complete record.

THE STANDARD FOR A STAFF REPORT

The American Planning Association has written for decades about what a staff report should contain, and the right contents depend on the decision before the body. These two files are not development proposals tied to a single site. These are changes to the zoning ordinance that apply citywide. A report on a citywide change like this should state the problem the amendment is meant to solve. It should explain how the change fits the Comprehensive Plan and the city's adopted policies. It should describe the full scope of the change, where it applies, and what it affects. It should weigh the likely consequences and the alternatives, not only the benefits. Where it helps, it should show the effect with examples or drawings, and it should compare the approach to how peer communities handle the same question. In every case, it should separate fact from analysis and give reasons for its recommendation. The 2016 study, *The Unexamined Staff Report*, published in the *Journal of the*

¹ City of Madison, Planning Division Staff Report, Legistar File ID 93403, Vehicular Access to Collector or Higher Classified Street, June 29, 2026, <https://madison.legistar.com/LegislationDetail.aspx?ID=8055512&GUID=BD09AC7C-7427-4725-B934-313B59AB5C9F&Options=ID|Text|&Search=93403>.

² City of Madison, Planning Division Staff Report, Legistar File ID 93404, Non-Residential in Residential Districts Height Conditional Use, June 29, 2026, <https://madison.legistar.com/LegislationDetail.aspx?ID=8055513&GUID=FF551B5D-C80C-4396-828E-18A23F3AB876&Options=ID|Text|&Search=93404>.

American Planning Association, found that the most common failures are reports that supply background but no analysis, mix fact with opinion, and give no rationale for the recommendation.^{3,4,5}

Neither report before you tonight fills a page. The report on 93404 is a single paragraph that describes the change, notes that the current height limit is sometimes too low, and recommends approval:

The proposed code change would allow additional height, up to 50', to be allowed for nonresidential uses in these residential districts as a conditional use. Our mixed-use and commercial zoning districts already have a provision for conditional uses for height, and these requests would follow the same standards and process.

The report on 93403 consists of two paragraphs, the first of which is mostly a list of the ten affected uses before it reaches the same recommendation. After the description, it states:

What we have found is that this requirement can be overly restrictive. There are sites and uses where Traffic Engineering does not want vehicular access to be taken from a higher classified street due to various site and surrounding conditions like slope and safety considerations, but the zoning code requires it. The proposed code change removes the zoning code requirement and allows Traffic Engineering to use their tools and expertise to manage vehicular access to sites.

Both close with the same sentence: "Staff supports this amendment." Neither separates fact from advocacy. Neither documents the problem it claims to solve. Neither contains a map, a table, a drawing, or a single example. Neither relates the change to an adopted plan. Neither compares the proposal to how other cities handle the same question. That is advocacy. It is not an analysis.

This is not only an academic standard. Many members of the City's planning staff are Certified Planners, and the Director of Planning, Meagan Tuttle, is among them.⁶ Their professional code, the AICP Code of Ethics and Professional Conduct, asks more of a planning report than these two deliver. It states that a planner should:⁷

- "Provide timely, adequate, clear, accessible, and accurate information on planning issues to all affected persons, to governmental bodies, to the public, to clients and to decision makers."
- "Identify the human and environmental consequences of alternative actions including the short and long-term costs and benefits."

³ Bonnie J. Johnson and Ward Lyles, The Unexamined Staff Report: Results from an Evaluation of a National Sample, Journal of the American Planning Association 82(1), 2016.

⁴ Bonnie J. Johnson, The Better Staff Report, Planning, American Planning Association, March 2017, <https://www.planning.org/planning/2017/mar/betterstaffreport/>.

⁵ Stuart Meck and Marya Morris, Formatting and Writing the Staff Report, Zoning Practice, American Planning Association, November 2004, <https://www.planning.org/publications/document/9027979/>.

⁶ Meagan Tuttle, AICP, Director, City of Madison Planning Division. See <https://www.linkedin.com/in/tuttlemeagan/>.

⁷ American Planning Association, AICP Code of Ethics and Professional Conduct, Section A, Principles 2.1, 2.4, 4.8, and 5.2, <https://www.planning.org/media/document/9227582/>.

- “Examine the applicability of planning theories, methods, research, and standards to the facts and analysis of each particular situation and do not accept the applicability of a customary solution without first establishing its appropriateness to the situation.”
- “Do not participate in any matter unless adequately prepared and able to render thorough and diligent services.”

The Code makes these duties an enforceable rule of conduct.⁸ A one-paragraph report that states a conclusion and skips the analysis meets none of these.

LEGISTAR 93404: 50-FOOT INSTITUTIONAL BUILDINGS IN RESIDENTIAL DISTRICTS

A change like this belongs in a rezoning

There is a more basic reason to recommend against 93404, and it is not about the record. Madison already has a way for property owners to build taller in residential districts. They can ask the Council to rezone the property. Rezoning is a legislative act. It comes with notice, a public hearing, and a vote by the elected body that answers to residents. 93404 sees a significant increase, from about 35 feet to 50 feet, and that decision moves from rezoning to a conditional use granted by an appointed commission, one application at a time. The height limit printed in the base district remains on the books, but it no longer means what it says.

Zoning districts differ for a reason. Their limits are a promise to property owners and neighbors about what can be built next door, and the place to change that promise is the process built to change it. Moving a major height decision to conditional use affects more than one project. It shifts who decides, from the elected Council through a rezoning to staff and an appointed body through a permit, and it narrows the Council’s role in deciding when taller buildings belong in residential neighborhoods.

The law says as much. Wisconsin’s zoning enabling statute, the source of the City’s authority, requires that zoning be made “in accordance with a comprehensive plan” and “with reasonable consideration ... of the character of the district and its peculiar suitability for particular uses.”⁹ The City’s own districts carry that duty to the ground, directing that new buildings be “designed with sensitivity to their context,” including their height and proportions.¹⁰ A 50-foot nonresidential building among single-story homes is not peculiarly suited to the block. It is the opposite of what the district is meant to protect, and it would stand well above the height limits these districts impose on the homes themselves.

It is also how a zoning code loses its shape over time. As more decisions migrate into conditional use, the standards that define each district mean less, and a property owner can no longer read the zoning and know what may be built nearby. Each change of this kind looks small on its own. Together, they make the code less predictable and the districts less distinct, which is the opposite of what zoning is meant to do.

Why the staff’s case for approval fails

The report on 93404 contains a single sentence of analysis. It says that the mixed-use and commercial districts already allow added height through a conditional use, and that requests in residential districts would “follow the same standards and process.” That is an argument from administrative consistency, and it does not establish that the height belongs in a residential setting.

⁸ American Planning Association, AICP Code of Ethics and Professional Conduct, Section B, Rule 1, <https://www.planning.org/media/document/9227582/>.

⁹ Wisconsin Statutes sec. 62.23(7)(c), Purposes in view.

¹⁰ Madison General Ordinances, sec. 28.034(1)(a), Suburban Residential-Consistent Districts, Statement of Purpose.

Zoning districts exist to set different expectations by context. Residential height limits are calibrated to protect adjacent homes from shadow, overlook, and out-of-scale bulk, and a 50-foot building reads very differently next to single-story houses than next to other commercial buildings. That another district already allows something makes it administratively familiar. It does not make it appropriate for a residential block.

For 93404, the report leans on the conditional use as its safeguard, the step where added height is reviewed one application at a time. That safeguard is thinner than it sounds. The conditional use standards are general. They are not written for building height, and none of them fixes a point at which a building is too tall for the homes around it. Whether 50 feet is approved next to single-story bungalows turns on the staff's recommendation and the Commission's judgment at the hearing, not on a standard the public can hold up in advance. It is fair to ask when staff would recommend denying the height that the ordinance now invites, and because this rests on practice rather than law or policy, a position that supports added height today can change tomorrow.

Wisconsin law tilts the outcome further toward approval. A conditional use that meets the standards must be granted, and a denial must rest on substantial evidence in the record. When the standards are general, and the harm from extra height is the kind that resists easy measurement, that is a bar opponents rarely clear.¹¹

What the 93404 report leaves out

The record on 93404 is just as thin. Before a vote, staff should provide the following:

- Scaled elevation drawings of streetscapes with entire blocks showing a 50-foot nonresidential building next to the homes it would stand beside. In a TR-C2 neighborhood like Eastmorland, where the blocks are small single-story post-war bungalows with low-pitched roofs that stand 15 to 18 feet tall, a 50-foot building is close to three times their height. Residents should be able to see that before the Commission votes.
- Documentation of where the current limit, which the report calls "too constraining," has actually constrained a project.
- Identification of any specific project or applicant the change is meant to accommodate.
- An objective list of the benefits and the costs, not a single sentence of benefits.
- Any review of how peer communities handle nonresidential building height in residential neighborhoods.

LEGISTAR 93403: COMMERCIAL AND INSTITUTIONAL ACCESS ON LOCAL STREETS

What the 93403 report leaves out

The staff report on 93403 does not give the Commission what it needs to evaluate the change. Before a vote, staff should provide the following:

- Any data or examples showing that the current rule is, in the report's words, "overly restrictive."
- A list of the sites or situations where the requirement has been a problem.

¹¹ Wisconsin Statutes sec. 62.23(7)(de), conditional uses.

- What will access from a local street look like for a hospital, a school, or a place of worship sitting next to homes?
- The central question is not answered in the report. Once the collector requirement is gone, a property owner may seek access from a local residential street. If Traffic Engineering wants to keep access on the busier street, what authority lets it refuse the owner's choice, and what happens when the two disagree?
- Any review of how peer communities regulate vehicular access for these uses.

Process

Staff making a presentation or answering questions for the Commission after the public hearing closes is not a substitute for a written record that the public can read in advance. The public cannot respond to information it has not seen or heard, and the Commission cannot weigh testimony against facts that arrive after testimony ends. A vote taken on that basis treats public comment as a formality to clear before approving what has already been decided.

It is also worth asking whether the Commission is confident it knows what the affected public thinks. The hearing tonight was noticed in the ordinary way, but a notice in the agenda is not outreach, and nothing in the record shows that staff asked the neighborhoods about these changes that affect their homes. The timeline makes the gap worse. The files were introduced on June 9; they are up for a vote tonight, and the Common Council takes them up on July 7. In a neighborhood like Eastmorland, few residents have any idea that a 50-foot allowance for their block is moving through City Hall, or that it could be settled within weeks of being introduced. A change to the rules that govern people's homes and neighborhoods should rest on more than the silence of neighbors who never heard it was coming.

The schedule compounds the problem. These files were sent here for a single hearing so a recommendation can be on the Council's desk by July 7. That pace might suit routine housekeeping, but these are not housekeeping changes, and the Commission is not required to move at the speed the calendar sets. If the record is not ready, the Commission can recommend that the Council re-refer these files back to the Commission.

Conclusion and recommendation

For the reasons above, I ask that the Plan Commission vote to recommend that the Council not approve 93403 and 93404.

If the Commission is not prepared to make this recommendation, I ask that you approve a resolution that 1) directs staff to return with reports that document the problem, separate fact from analysis, show what the changes look like on the ground, relate them to the city's adopted plans, and compare them to practice in peer communities, and 2) recommends that the Council re-refer both files to the Commission so it can consider them once that record exists.

What the Commission should not do is approve a resolution recommending approval to the Council based on the record currently before you.

Setting expectations of what is in a staff report and legislation file is the Commission's job. The public, the Commission, and the Council all rely on the staff report and legislative file to decide. The quality of that record is the Commission's responsibility, not the staff's alone. A report this brief, asking you to trust its conclusion without the facts and analysis behind it, does not meet the standard the work deserves.

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Thank you for your consideration.