

**From:** [Pilar Gomez-Ibanez](#)  
**To:** [Plan Commission Comments](#); [Rummel, Marsha](#)  
**Subject:** Legistar 85637, 306 S. Brearly St (11-18-24 Plan Commission)  
**Date:** Monday, November 18, 2024 2:33:27 PM

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Dear Plan Commissioners and Alder Rummel,

I am writing regarding Legistar 85637, a proposed six-story building at 306 S. Brearly Street, adjacent to the Capital City Trail bike path.

#### Trees and wildlife corridor

Residents raised concerns about the protection of trees during Alder Rummel's neighborhood meeting in October, and again at the Marquette Neighborhood Association's Preservation & Development Committee meeting (P&D) on November 12.

A strip of public land runs along this section of the Cap City Trail for several blocks, containing native plants and trees, and functioning as a valuable wildlife corridor that continues along the railroad to the Yahara River and Lake Monona. It supports many species of birds, pollinators, mammals including foxes, and other urban wildlife. The trees and green space absorb stormwater in a flood-prone area. The beauty is enjoyed by bikers and pedestrians on the trail.

A large, beautiful cottonwood tree stands on the corner of this public land where the bike trail crosses Brearly. It is connected to a second large cottonwood by a line of smaller trees that meanders along the property line between 306 S. Brearly and the public land. At the P&D meeting, the developers stated that they would not be removing these trees. However, their plans call for the removal of many trees on their property, and it seemed in the meeting there was some uncertainty as to the location of the property line in relation to these trees. **I am asking the Plan Commission to make the preservation of the large cottonwood at the Brearly/bike path corner, and all trees on the public land, a condition of approval for this project.**

The developers also stated at the P&D meeting that all construction staging would take place on their own property, not on the public land by the bike path. **I am asking the Plan Commission to ensure that construction staging will not take place on the public land, as a condition of approval.**

Lastly, MNA requested that the developer explore planting canopy trees in the terrace along S. Brearly. At the P&D meeting, the developer indicated that S. Brearly would serve as the fire lane access for the building. If this is accurate, and if this makes canopy trees impossible in the terrace, then preservation of any existing trees on the public land by the bike path will be even more important.

#### Size of the building

I support adding housing (though, as always, I wish it were affordable) and this is a good spot for it. I do not support this proposal's six-story height, which exceeds the four-story limit in both the Comprehensive Plan and the BUILD II plan. The proposed building is extremely oversized in comparison to everything else on the block, and too big for something this far

east along Willy Street. Those plans gave careful thought to how to increase density in context-appropriate ways, and I hope they will not be ignored. I am also concerned about the building's enormous footprint, which reduces the property's permeable surface from 21,151 sf to 4,065 sf in a flood-prone area. I know the city is trying to balance many needs at once, but I ask the Plan Commission to keep looking at the bigger picture: we can't keep building without acknowledging the limits of our warming, flood-prone isthmus. Keeping space for trees and green space is crucial. A slightly smaller four-story building would be great in this space.

Finally, though affordable units seem to be off the table, I hope the developer will consider including some family-friendly three bedrooms -- another request that was made at P&D. It would make the building more flexible to welcome a variety of occupants into the future.

Thank you for considering these comments, and for all your work.

Sincerely,  
Pilar Gomez-Ibanez  
1326 Dewey Court

**From:** [judith strand](#)  
**To:** [Plan Commission Comments](#)  
**Cc:** [Rummel, Marsha](#)  
**Subject:** Item 85637 306 S Brearly St  
**Date:** Monday, November 18, 2024 1:57:12 PM

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Plan Commission members,

The master plan for our city is a critical guide in assessing what to preserve and where to adapt the plan given new pressures and emerging needs. I appreciate that this is your constant mindset. As a long term resident of the Willy St neighborhood (38 years), I marvel at the positive changes over the decades, yet treasure and are amazed at what we've hold on to. The site at 306 S Brearly presents to you a typical challenge. It is one of the spots in need of better use - but for what. Our city's Comprehensive Plan and the Williamson St. Build Plan reflect how you and others have imagined up to a 4 story building on this spot. It is 1/2 block off of Willy St, with a clear view of it across the bank parking lot. It is viewed daily by people on bike or on foot using the Capital City Trail, enjoying the Willy St. Park across the block, or on our way to McPike Park. It has a strong presence. The first proposal (to my knowledge) is a building at odds with any of our plans. The building completely fills the property lines and at a height of 6 feet. The massing and the height will be stunning on this spot - and not in a good way. One has to stand on Willy St,- on the porches on the south side houses or walk the sidewalk and imagine the impact of the 6 story wall. Nothing nearby at the height. No green space to soften it. Recently a number of projects to the west were approved that exceed the planned preference of 4 stories. The 5 story height was allowed, but with setbacks and design to reduce the sense of scale beyond the residences and buildings that make our neighborhood in that area.

The pressure for housing is great and adding such residences at this location is positive. It makes sense. But what's the justification to allow 6 stories? In addition to the vision of 4 stories here, the Build Plan also calls for affordable housing. So neither is being met. If the height goal is exceeded, should the public interest of affordable housing at least be included in any proposal? What's the benefit if you budge the planning goals? What's gained and what's lost?

Recognizing a goal of more housing units and the precedence of what has been allowed to the west in the area, I urge you to only adopt a plan that holds the height limit to 5 stories maximum. Even that will have a great impact on the neighborhood. Also, I ask that the guideline of affordable housing is addressed in any plan of this scale. Finally, given the proposed footprint, I hope assurances will be made that the buffer of vegetation and trees along the Capital City Trail is not disturbed - as has been the practice of those developing buildings to the west. That experience on that highly used bike path begins and ends the day for so many people, which needs to be acknowledged and valued too.

Thank you for your time and consideration.  
Judith Strand

Plan Commission  
Meeting of November 18, 2024  
Agenda item #5, Legistar 85637

In my comment letter I wrote about the potential for the bike path to be used as a fire access lane.

I spoke with the Fire Protection Engineer this morning. The developer is able to take other action(s) in lieu of having the fire lane cover 25% of the building's perimeter. The fire access plans are still under review. In the unlikely event that the developer wanted to use the bike path as a fire lane, an easement from the City may be required.

Although it does not appear there is any intent to use the bike path at this time, adding a condition of approval could regulate such use should it arise. The condition of approval could be something like:

"Any use of the E Wilson right-of-way (bike path) for fire access purposes would be a major alteration to the conditional use and require Plan Commission approval.

If the issue does not arise, there is no harm in having such a condition. If the issue does arise, the issue is important enough to merit Plan Commission's consideration rather than having it administratively handled.

Respectfully Submitted,  
Linda Lehnertz

Plan Commission  
Meeting of November 18, 2024  
Agenda item #5, Legistar 85637

### **SUMMARY**

Due consideration of the Comprehensive Plan and neighborhood plan shows that the proposal has two stories of excess height. In 2018 the desired density of the back half of the 900 block of Williamson was intentionally reduced to NMU.

Approval standard #6 is not met as the applicant's materials do not show the fire lane/aerial access lanes and dimensions from the fire truck to all exterior portions of the building. Details below provide substantial evidence that fire access requirements cannot be met without use of the public right-of-way (bike path), a use that requires Plan Commission consideration. The applicant has not submitted substantial evidence that fire access requirements are met.\*

\* "The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." Wis. Stats. §62.23(7)(de)2.b.

Approval standard #8 requires a finding that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area. It may be difficult to find that a 74.5-foot tall building with a length of 239 feet is compatible with a block where other properties are 1-2 stories and where redevelopment is not promoted since the rest of the block is a historic district.

Approval standard #11 requires the Plan Commission to consider a number of factors in granting excess height. The staff report provides other examples of recent redevelopments along the bike path as precedence to support the excess height. However, these examples are in areas designated Community Mixed-use, not Neighborhood Mixed-Use. Also, those buildings are 5 stories, not 6 stories. Also, the proposed building would be the tallest building in the neighborhood.

### **Due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood plan.**

The GFLU map identifies this site as Neighborhood Mixed Use. In 2018, when the Comprehensive Plan was being updated, staff originally proposed that the north side of the 900 block of Williamson be Community Mixed-Use. The Marquette Neighborhood Association asked that it be changed to Neighborhood Mixed-Use. Staff continued to recommend CMU, but the Plan Commission changed it to NMU. Neighborhood Mixed-Use provides for 2-4 stories, and for a general residential density range of 70 units/acre or less (this project is at 149 units/acre). Clearly, the intent was to bring down the intensity of redevelopment.

The GFLU has three map notes where additional height may be considered (notes 9, 17, and 18). This site is not an area where additional height is encouraged.

The neighborhood plan, Design Guidelines and Criteria for Preservation Williamson Street 600-1100 Blocks, provides for 3 stories with a fourth bonus story (for which this project qualifies). However, the neighborhood plan speaks to a setback of the fourth story "to ensure that a fourth story does not dominate the Williamson Street streetscape." The plan goes on to say: "The fourth story must be stepped back from the street such that it cannot be seen at sidewalk level from the opposite side of the street." A 30-foot setback for a mixed-use flat roof structure is merely the minimum setback. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> stories of this project would be visible from the opposite side of Williamson.

**Standard #6: The conditional use conforms to all applicable regulations of the district in which it is located**

There are many applicable regulations that often are left for staff to handle after approval (e.g., landscape plan by a registered landscape architect, stormwater management). One item that is almost always included in the materials for Plan Commission approval is the fire access plan.

This project's submitted materials do not indicate where the fire lane will be nor where the aerial apparatus fire lane will be. Condition #61 in the staff report states: "Document the fire access in plan set including aerial access, hose lays, etc showing compliance with the 2024 IFC and MGO requirements."

Use of this condition is not standard procedure. In 2024, 9 conditional use requests have been approved for similar projects (4-5 stories, 30-136 units). Of those, 8 projects identified fire lanes and aerial apparatus lanes on the plans, and 6 included the fire department's worksheet. Only one project, 1202 S Park, did not include the fire lanes in the plans and had the same condition as proposed for this project.

1202 S Park, however, is at the corner of S Park and High Street, clearly having room on two sides of the building for the required fire lanes in the street(s). This project only has access on one street, S Brearly. The building's frontage on S Brearly is 122 feet, the building's frontage along the bike path is 239 feet and the building's perimeter is 722 feet.

One of the questions on the fire department worksheet is: "Is the aerial apparatus fire lane parallel to one entire side of the building and covering at least 25% of the perimeter?" (The fire department's equivalency guide does offer the possibility to split this requirement along two sides of the building.) With a 722 foot perimeter, 25% is 180.5 feet. The developer told the MNA P&D committee that S Brearly would be the aerial apparatus lane. However, with only 122 feet of building frontage along S Brearly, that means the lane would only cover 17% of the perimeter. Also, the fire lane needs to be within 250 feet of all portions of the exterior wall. Since the proposed building is about 21 feet from the S Brearly curb, about the last 10 feet of the sides of the building and none of the back of the building would be within the 250 foot maximum.

When this same developer proposed the 826 Williamson/302 S Paterson project, the plans reflected 3 aerial apparatus fire lanes and included the calculations for the percentage of the perimeter that was covered. Yet these plans contain no such calculations.

So how could the developer meet fire lane requirements? There is not any room on the sides of the building (5-6 foot setbacks), so that leaves using the bike path for the fire lane/aerial apparatus lane. There are a number of concerns that could be raised about using the bike path.

- How far would this fire lane extend along the bike path? The whole length of the building (239 feet)? If the fire lane is longer than 150', then there needs to be a turn-around (or the fire lane needs to extend for the whole block so that there is no dead-end).
- Most of the existing trees/brush are on the 306 property and those will all be gone (including all those between the tobacco warehouse and 306). Would an aerial apparatus fire lane require removal of the trees remaining in the public right-of-way (since those trees look to be taller than 20')?
- How long would construction take? The bike path would not be usable during construction.
- To what extent should public property be modified to meet the wants of a developer?
- The bike path right-of-way is used by a lot of various wildlife. Should that play into a decision to convert the bike path to a fire lane? The Comprehensive Plan seems to argue against the addition of more concrete (see page 93).
  - Many species of wildlife can coexist successfully within and on the fringes of cities if community plans recognize and maintain the necessary habitats and conditions. It is also important to reduce conflict between the built environment and the natural environment. For example, birds can collide with glass clad buildings. As the city becomes more developed, preservation of urban biodiversity is not only essential for protecting wildlife and the natural environment, but it also adds richness to urban life.
  - Greenways that do not have a current or planned multi-use path should be kept as "natural" as possible.
  - There are ways the City and the community can improve the built environment to enhance urban biodiversity. The City should seek opportunities for greenspace in intensively developed areas and encourage trees and native plantings in terraces and along transportation corridors, which are often dominated by pavement. Urban life is significantly enhanced with the addition of shade-providing trees and water filtering vegetation.

The Land Use Application requires the plan sheets to have the fire lane/aerial access lanes and dimensions from the fire truck to all exterior portions of the building following a walkable path. Without this, the plan is incomplete. I urge the Plan Commission to require submittal of this information prior to approval, should all of the other conditions of approval be deemed to be met. The bike path is a public asset and Plan Commission should be deciding whether, if needed, the bike path can be used to meet fire access requirements. (Also, approval standard #11 requires the Plan Commission to consider the relationship of the proposed building with the adjoining public rights-of-way.)

**Standard # 8: When applying the above standards to any new construction of a building or an 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.**

The existing and intended character of this block, other than for this parcel, is a historic district. That is not to say a building would be limited to 1-2 stories like the other buildings on the block, but rather that redevelopment potential on this block is limited. While 5-story buildings along the bike path have been approved in the 700 and 800 blocks, those sites also had larger buildings along Williamson. (And perhaps a 5 story building with a maximum height of 60 feet could work on this site if it wasn't just repetitive tan segments with interspersed balconies for 239 feet.)

The neighborhood plan contains both design guidelines and criteria for the review of new construction. The criteria for the review of new construction begins with: "All new construction must be compatible with the historic character of the Third Lake Ridge Historic District. The criteria listed below are intended to promote construction that does not detract from the historic appearance of the neighborhood."

From that basis springs, as discussed above, the need for a 4<sup>th</sup> story to not be visible from the opposite side of Williamson (with 30 feet as the minimum setback for a 4<sup>th</sup> story). The staff report claims the proposal exceeds the setback from Williamson Street as recommended in the neighborhood plan, but it does not. The 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> stories will be visible from across the street. With the 1-2 stories along Williamson, what would be viewable from along Williamson is a wall almost 75 feet in height and 239 feet in length.

The Comprehensive Plan recognizes that neighborhood plans may include more detailed land use categories that generally fit within the Comprehensive Plan's broad categories "as well as design guidelines that respond to the specific surrounding context." The height limit in the neighborhood plan is a design parameter to respond to the historic context.

**Standard #11: When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.**

*Recommendations in adopted plans*

The staff report acknowledges that the height exceeds TSS permitted uses and exceeds the neighborhood plan – both are 4 stories. The staff report lists three other properties along the bike path that are at 5 stories: 302 S Livingston, 302 S Paterson, and 722 Williamson.

What the staff report does not acknowledge is that those three properties differ in important respects. (1) Those three buildings are in areas designed Community Mixed-Use by the GFLU map, while the present site is designated Neighborhood Mixed-Use. (2) Those three 5-story



buildings are all at a height of 55-59 feet, while the present site would be 74.5 feet to the top of the building (31% taller than the average height of those three buildings).

The height of the proposed building would be comparable to 706 Williamson which is 72.5 feet in height along Williamson. Staff found that height to be okay because of the scale of the neighboring buildings (Harvester and Old's) and that 706 would step down to the neighborhood from buildings to the west.

- The building is larger than but not out of context with the scale of adjacent buildings, both of which have a similar footprint. (Staff report, page 6.)
- As mentioned earlier, heights of up to seven stories and 85 feet could be supported in Zone 4 to the west and to the northeast, which would still allow this building to step down to the neighborhood to the east and south. (Staff report page 6.)
- On balance, staff believes that since the proposed 6-story building generally complements surrounding properties, and since it is still not as tall as the heights that could be supported to the west of Blount Street and to the northeast of the subject site, it will be in scale with future redevelopment, and can serve the function of stepping down toward the neighborhood to the east and south. (Staff report page 9.)
- At the 7.7.2014 Plan Commission meeting, staff said that one of the principles in the neighborhood plan is that, from the west to southeast, the height will step down toward the more residential neighborhood. That since the back of the 600 block could be developed at 7 stories and 85 feet, 706 Willy would be stepping down to the neighborhood, and that the building would likely not have had staff support if the proposal had been for 7 stories. (Beginning at minute 4:59 of the meeting).

Certainly the proposed 306 building would not complement existing nearby buildings. The block, except for this parcel, is part of the Third Lake Ridge Historic District. All the other buildings on the block are 1-2 stories, except for one building that is 4 stories. If one compares this proposed building to the 4-story building on the far southwest corner, one find that this proposed building has about 5½ times the mass and has a building footprint that is 3.25 times the size of the 4-story building.

And, unlike 706 Williamson, the 306 S Brearly building would not be stepping down to the neighborhood. 306 is almost 3 blocks away from 706 Willy, yet it would be taller than 706, and it would be taller than any other recent redevelopment along the bike path.

#### *Impact on surrounding properties*

Little information is provided with respect in impact on surrounding properties. One specific impact that should be considered is the shadow this building would cast upon the bike path. Since the building is almost 75 feet in height and 239 feet long, how much of a shadow will be cast upon the bike path – particularly in winter when the sun can help keep the path clear of snow and ice?

Staff requested information on shadow impacts for 302 S Paterson (though none was provided for the Plan Commission meeting). For this project, staff notes that the building would have some shadow impacts on the bike path, however is does not appear any information was requested of the applicant.

### *Public interest in exceeding the height limits*

The public interest is a need for more housing. However, that is what the Comprehensive Plan addresses. From a general perspective, that is what the GFLU map does. From a more specific perspective, the Comp Plan speaks to "the importance of ensuring redevelopment can integrate well with its surroundings through context-sensitive design and scale" under the strategy of "increase the amount of available housing." (page 50) This integration is particularly important for historic districts: "Context-sensitive design is particularly important in neighborhoods with an established character and where redevelopment or infill is occurring in close proximity to buildings of historic or architectural value." (page 75)

### **Additional conditions of approval**

When 302 S Paterson was approved, Plan Commission added conditions to protect the right-of-way. Some of those conditions can carry over to this project.

- There will be no staging or parking of equipment north of the property line.
- A low fence or other mutually agreed upon landscape feature will be established at the property boundary to indicate the line between public and private property.
- There will be a minimum of 3-4 pet waste disposal station in the project.
- Efforts will be made to give residents access to the 20 foot green space setback on the south-west end of the property for pet exercise.
- Lighting and security cameras will not impinge on the public right-of-way.

These conditions let the public know what portion of the land is public property, encourage the residents to pick up after their pets and give them a place to exercise their pets other than the bike path, and offer some degree of protection to the wildlife by not allowing spillover of building lighting.

Another condition of approval should be protection of the trees in the bike path right-of-way. These trees do not seem to qualify as "street trees" since they are not on a terrace and, thus, are not protected. But the bike path, like a terrace, is part of the right-of-way. Some of the protective measures provided to street trees that could also be added as conditions of approval for this project include:

- No excavation is permitted within 5 feet of the trunk of the street tree or when cutting roots over 3 inches in diameter.
- The contractor is required to take precautions during construction to not disfigure, scar, or impair the health of any tree and to operate equipment in a manner as to not damage the branches of the tree.
- No storage of parked vehicles, construction equipment, building materials, refuse, excavated spoils or dumping of poisonous materials on or around trees and roots within five (5) feet of the tree or within the protection zone.
- Require fencing around the trees being protected.

Many trees are on the project site and those are all marked for removed. The trees on City property should be protected. In particular, there is a cottonwood with a beautiful canopy located within feet of the underground electric cabinet (northeast corner).

Respectfully Submitted,  
Linda Lehnertz