

## Madison Zoning Code Rewrite Update 11/16/10

Last evening the Plan Commission made its final recommendations on the new zoning code draft text. The draft text will now go to the Common Council for its review. It is likely that some items will be referred back to the Plan Commission for further elaboration during the process. Mapping for the new zoning code is anticipated to begin in January. The mapping process will likely cause further revision to the draft text.

The Plan Commission and City Staff have done a tremendous job of sifting through a 250+ page zoning code in hopes of producing a new code that reduces the need for review or approval by the Plan Commission or Common Council for most development projects. I have been attending the Plan Commission meetings on the zoning code rewrite in person for the last couple of months. I have noted below five items of interest from the last four meetings of the Plan Commission.

1. Reduction in Maximum Surface Parking Allowed for General Office, Medical Office and Retail. Plan Commission approved a recommendation to decrease the maximum number of surface parking stalls allowed for general office, medical/dental office, and retail use from 1 per 200 sq. ft. of gross floor area to 1 per 250 sq. ft. of gross floor area. On a 10,000 square foot building, this would reduce the maximum allowable parking from 50 spaces to 40 spaces. A conditional use permit would be required to exceed this new maximum. Structured or underground parking would be excluded from this maximum.
2. Compliance with Comprehensive Plan *and* Neighborhood Plans as a requirement for a conditional use permit. The initial draft of the zoning text required an applicant's proposed conditional use to conform to the Comprehensive Plan and any applicable neighborhood plan. This requirement was troublesome as there can be conflicts between such plans making conformance with both an impossibility. The Plan Commission approved a staff recommendation to remove this requirement and revise the preamble to the conditional use section of the code to require the Plan Commission to instead give "due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans."
3. Quarries. The Plan Commission denied a recommendation to allow quarries as a conditional use in agricultural districts. The result is that quarries are no longer permitted under the new draft text. All current quarries will operate as permitted non-conforming uses. This has several consequences that were not addressed (i) increased future transportation costs (from quarries outside city limits) for infrastructure projects in the City; (ii) increased value of current

quarries already within City limits; (iii) urban sprawl as sites that could have been quarried and then redeveloped will now remain unbuildable (e.g. Target site in Fitchburg); and (iv) contemplated future annexations of surrounding towns will also not allow quarries once annexed.

4. Developer's History Part of Review Process. The Plan Commission approved a recommendation to allow consideration of an applicant's compliance or non-compliance with prior City permits (e.g. alcohol permits, building permits, etc.), rules and regulations (e.g zoning and building codes) and payment of City taxes before approving a conditional use permit, planned development or zoning amendment. The exact language will be drafted by the City attorney.

5. Vending Machines. The Plan Commission approved a recommendation to limit the number of vending machines allowed outside of buildings. Of particular note, is the requirement that individual tenants in a multi-tenant retail building that have at least 30 lineal feet of storefront can have a vending machine provided that no more than one (1) vending machine shall be located per retail building façade. Essentially, this new requirement allows only one tenant of a retail strip center to have an outdoor vending machine. (Note: there will be exceptions for auto service stations and convenience stores to allow more).

As noted above, the zoning code rewrite process is a significant undertaking and will impact land use in Madison for the foreseeable future. If you have particular questions related to how the zoning code may impact your present or future land use projects please feel free to contact me.

**Nathan J. Wautier**

Reinhart Boerner Van Deuren s.c.  
22 East Mifflin Street, Suite 600 | Madison, WI 53703  
Office: 608-229-2249 | Cell: 608-695-8731 | Fax: 608-229-2100  
[nwautier@reinhartlaw.com](mailto:nwautier@reinhartlaw.com)

Blog: <http://wisconsinrealestatelawblog.com>