

Tucker, Matthew

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Wednesday, September 30, 2009 10:48 AM
To: Tucker, Matthew
Subject: Plan Dept Review complaint about Plan B, 924 Williamson St

Plan Dept,

As per MGO Sec28.12 (11) (h) 4. I request the following actions to correct the following complaints about the Plan B conditional use permit:

I have two sets of tenants living at 936 Williamson St. who have repeatedly bitterly complained of the offensive base music noise particularly from 11:30 PM until two AM. Several times the Police have been called and did not do anything to talk to the Club or correct the sound level. Also last week a drunk patron was wandering around in there back yard around one AM and went back to the Club when asked to leave. They are serving alcohol way beyond the patrons ability to hold it . On two separate occasions patrons have thrown up in the front terrace of 936 and on the side of the house. Three weeks ago at midnight, Sat, 6 patrons were gathered on the side of the house and as they were being asked to leave one was peeing ON THE HOUSE. 936 Williamson is right on edge of the Plan B parking lot at 924 Williamson St. My first complaint, August 17th, covered the fact that Plan B is out of compliance because there is no screening installed at all to shield the light and noise from, this parking area. I ask again that: 1 The Planning Dept require that a minimum of a eight foot high privacy fence be installed the full length of the lot, with in two feet of the parking lot. My tenants are threatening to break the lease and leave because of the intolerable living conditions of noise, light from the exterior lights and the car headlights and lack of street parking. 2. I am asking that a patron not be served more drinks than is reasonable. 3. The base music volume be turned down, My tenants parents tried to sleep with the shades pulled and the air conditioner on and the base music still kept them awake until two in the morning. Two other Jenifer St people have the same complaint. This has got to be turned down. Since our neighborhood meeting this continues to be a big problem. 4. Someone from the Club to patrol the parking lot from 11:30 to 2:30 to keep the patrons noise down. Sat night at 11:30 a large crowd was in the parking area yelling and shouting to each other with no respect for those trying to sleep. Rude remarks were issued when asked to keep it down. Also that the Police Dept be responsive to enforce the Noise Ordinance of this City when called. 5. Parking is almost impossible to find on Thursday, ,Fri, and Sat nights. Plan B has not arranged for the 40 spaces of additional parking just behind the club or made use of the 50 at the Gateway. My tenants can't find parking on Thursday, Fri of Sat nights. If off street parking is not found I am requesting the Planning Dept, to adjust the seating capacity of the Club be reduced to 200% of THE CITY CODE which would be 120 until additional off street parking is secured and in place. Seating capacity and parking issues directly relate to each other. Please keep me informed about your actions. 212-4702 cell

Respectfully Submitted, John A Rolfsmeyer
Owner of 936 Williamson St

Tucker, Matthew

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Tuesday, September 15, 2009 3:50 PM
To: Tucker, Matthew
Cc: e.todd@williamsonstreet.coop; Laura Jeske; John Chrejcek; Andrea Reter
Subject: Seconed Official complaint about Plan B, 924 Williamson St

Planning Dept, " I submit this for the continuing jurisdiction review concerning the conditional use permit."

I have two sets of tenants living at 936 Williamson St. who have repeatedly bitterly complained of the offensive base music noise particularly from 11:30 PM until two AM. It seems to increase in volume as the night go on. Several times the Police have been called and did not do anything to talk to the Club or correct the sound level. Also last week a drunk patron was wandering around in there back yard around one AM and went back to the Club when asked to leave. They are serving alcohol way beyond the patrons ability to hold it . On two separate occasions in last three weeks patrons have thrown up in the front terrace of 936 and on the side of the house. At midnight Sat 6 patrons were gathered on the side of the house and as they were being asked to leave one was peeing ON THE HOUSE. 936 Williamson is right on edge of the Plan B parking lot at 924 Williamson St. My first complaint, August 17th, covered the fact that Plan B is out of compliance because there is no screening installed at all to shield the light and noise from, this parking area. I ask again that: 1 The Zoning and the Planning Dept require that a minimum of a eight foot high privacy fence be installed the full length of the lot, with in two feet of the parking lot within one week! A barrier is needed to keep patrons out of our yard, it needs to be installed close to the parking lot so the headlight beams are blocked, and my tenants are sorely lacking privacy now. My tenants are threatening to break the lease and leave because of the intolerable living conditions of trespassing into the back yard, peeing on the house,noise, light and parking. 2. I am asking the Alcohol Review Board to enforced that a patron not be served more drinks than is reasonable. 3. The Zoning and Code enforcement require the base music volume be turned down, and if the back side door (smoking area) is kept shut it helps muffle the sound. My tenants parents tried to sleep with the shades pulled and the air conditioner on and the base music still kept them awake until two in the morning. This has got to be turned down. 4. Someone from the Club to patrol the parking lot to keep the patrons noise down. Sat night at 11:30 a large crowd was in the parking area yelling and shouting to each other with no respect for those trying to sleep. Rude remarks were issued when asked to keep it down. Also that the Police Dept be responsive to enforce the Noise Ordinance of this City when called. 5. Parking is almost impossible to find on Thursday, ,Fri, and Sat nights. Plan B has not arranged for any alternate parking and my tenants can't find parking on Thursday, Fri of Sat nights. If off street parking is not found I am requesting the Zoning Dept, Planning Dept, and the City Attorney. to adjust the seating capacity of the Club be reduced to no more than 150 patrons until more parking can be arranged for close by. The idea that "the Gateway" is an option is not working, there is no noticeable shuttle being used.To my knowledge only the lighting issues have been addressed since my first complaint on August 17th. Please keep me informed about your actions. 212-4702 cell

Respectfully Submitted, John A Rolfsmeyer
Owner of 936 Williamson St

Firchow, Kevin

From: Rico [rico@planbmadison.com]
Sent: Monday, October 12, 2009 5:27 PM
To: Tucker, Matthew; 'John Rolfsmeyer'
Cc: Plominski, Katherine; corey@planbmadison.com; Rummel, Marsha; Firchow, Kevin; Murphy, Brad; 'Scott Thornton'
Subject: Plan B formal response to John Rolfsmeyer's complaint

Hi Kevin,

Thanks for your assistance over the past months. As new business owners we are indebted to you for helping us through the maze of City requirements for getting our new business up and running.

Since we have invested thousands of hours and hundreds of thousands of dollars in our new business we are committed to meeting the requirements for our parking reduction. We hope that you will submit a copy of this email to the Plan Commission when they consider Mr. Rolfsmeyer's complaint.

The Conditional Use

Several months ago the Plan Commission heard extensive public testimony on the issue of a parking reduction. We needed a conditional use since our parking lot wasn't big enough for our business. Many other businesses on Willy Street (like the Weary Traveler, Jolly Bob's, the Willy Street Pub and the Crystal Corner) don't have any off-street parking. In addition, The Brinks, The High Noon Saloon and The Brass Ring share a small parking lot. These clubs are not on Willy Street, but are close to it. Further, Mr. Rolfsmeyer (who filed the complaint) doesn't provide any off-street parking for La Roca's Pizza and Escape Coffee, which are tenants of his commercial properties. These businesses are two doors down from Plan B. Although it was possible to significantly increase the size of our parking lot Mr. Rolfsmeyer was opposed to that. We compromised on that issue and now Mr. Rolfsmeyer complains there is not enough parking.

Many factors contributed to the Plan Commission's decision to allow the parking reduction. Some of the more relevant factors were the availability of plentiful off-street parking and the easy access to our business by bus, bike, taxi and foot. We also secured additional off-street parking at the Gateway Mall, which is three blocks away. Also, the Comprehensive Plan recommends greater flexibility in parking requirements.

Before we talk specifically about Mr. Rolfsmeyer's complaint, we want to mention a couple of important things upfront. First, our business is permitted under the Zoning Code. As far as we can tell, there is no dispute about that. Second, Mr. Rolfsmeyer's two neighboring properties are zoned C-2 (general commercial). Third, we are in complete compliance with the conditions in our approval letter.

Mr. Rolfsmeyer's Complaint

We have reviewed Mr. Rolfsmeyer's complaint and have worked hard to resolve his concerns. We hoped that he would withdraw his complaint after we addressed the problems. Ninety percent of the complaint does not relate to the Plan Commission's decision to allow us to have a smaller parking lot than required. We take seriously his concerns about noise and patron misconduct. We have acted to solve those problems. But the issue before the Plan Commission is parking. Or more specifically--a parking reduction.

Although the Zoning Code does not require screening between our property and the two flat next door, we recently planted 28 cranberry bush viburnum. We also offered to build a six-foot high fence along the property line if Mr. Rolfsmeyer withdrew his complaint. But he refused. So if you pare down Mr. Rolfsmeyer's complaint to its relevant essence, all you have left is the following sentence: "My tenants can't find parking on Thursday, Fri or Sat nights."

More realistically, the sentence should read: "If my tenants are coming home between 11pm and 1 am Thursday, Friday and Saturday they may have to park a block or so away." Mr. Rolfsmeyer certainly could decide to buy off-street parking for his residential and commercial tenants. But he has chosen not to.

The Plan Commission's Role

According to the Zoning Code, the role of the Plan Commission is to determine if there is a reasonable probability that (1) we are violating a condition of our approval or (2) we are violating one of the standards the Plan Commission previously considered when the parking reduction was granted. (Zoning Code section 28.12(11)(h)(4)).

Plan B Is In Compliance

First, we have reviewed the 36 conditions of our approval set out in our approval letter. We have complied with all of them. And Mr. Rolfsmeyer does not claim otherwise.

Second, Mr Rolfsmeyer cannot (and does not) maintain that this reduction in off-street parking somehow violates the standards for a conditional use. Nowhere in his complaint does Mr. Rolfsmeyer claim that the reduction in parking is somehow responsible for the events he identifies. The fact that his tenants can no longer park in the old Star Photo parking lot is admittedly an inconvenience to them. But this certainly does not mean that we are violating the Zoning Code.

Additional Steps We Have Taken

We certainly want to be a good neighbor. We understand that even though this entire block is zoned commercial, there are some residential uses. We met recently with the alcohol policy coordinator, interested neighbors and representatives of the neighborhood association and the police department. As a result of that meeting, we took the following steps:

- Added additional staff for security to monitor parking lot noise, and patron misconduct
- Moved the main subwoofer away from the wall closest to Mr. Rolfsmeyer's property
- Added fire retardant noise dampening screening material to the parking lot exit corridor .
- Working with M.C. Audio to engineer a crisper, cleaner, sound without the low bass levels.

Conclusion

We will continue to work with all our neighbors to be a good neighbor. But it is important for our neighbors to recognize that this whole block is zoned commercial and that each of them chose to buy (or lease) property that is zoned commercial. As we continue to work with our neighbors, we expect our relationships will continue to flourish. But it is doubtful that we will ever have the support of everyone. The support we have received so far has been incredible.

To conclude, we don't believe this matter needs to be set for a formally noticed hearing with witnesses, testimony and attorneys. Accordingly, we ask the Plan Commission to determine that Mr. Rolfsmeyer has not shown with reasonable probability that we are violating the conditions of our parking reduction approval or the Zoning Code standards for a parking reduction.

Best Regards.

Corey Gresen and Rico Sabatini
Owners of Plan B

From: Tucker, Matthew [mailto:MTucker@cityofmadison.com]
Sent: Friday, September 25, 2009 11:27 AM
To: 'John Rolfsmeyer'
Cc: Plominski, Katherine; rico@planbmadison.com; corey@planbmadison.com; Rummel, Marsha; Firchow, Kevin; Murphy, Brad; Scott Thornton
Subject: RE: Plan B complaint

John- Thanks for calling me this morning. As I understand, you will be continuing with your complaint to the Plan Commission, under Continuing Jurisdiction. You had indicated that a revised letter outlining your objections or complaints will be forthcoming. We will wait to send the revised communication to the Plan Commission and will not send the earlier communications from you. Please advise if this is not accurate.

As you had requested, the following subsection of the Zoning Code relating to the Plan Commission's continuing jurisdiction over Conditional Uses.

MGO Sec. 28.12(11)(h)4.

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Subdivision (g) above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Subsection (f) above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Subdivision (g) or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards 1 and 2 in Subdivision (g) will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished the current owner of the conditional use in writing stating the reasons therefore. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by Subdivision (i) hereunder.

Matt Tucker

From: John Rolfsmeyer [mailto:1st.john5.11@gmail.com]
Sent: Friday, September 25, 2009 7:39 AM
To: Scott Thornton
Cc: Tucker, Matthew; Plominski, Katherine; rico@planbmadison.com; corey@planbmadison.com; Rummel, Marsha; Firchow, Kevin; Murphy, Brad
Subject: Re: Plan B complaint

Matt,

We are making progress for sure!! We did meet as stated. An 8' fence was agreed to be put up. Since all of the cars in the parking lot face the two flat, the headlights coming and going all night are a definite issue. I asked for the fence to be placed within two feet(I'd be OK with 4-6') of the parking lot to keep the headlights out of the second floor windows and block people from trespassing into the yard. There was definite debate as to the location of it. The owner seems to be the biggest obstacle who said "NO WAY" to this location. He insisted it be right close to the lot line location which is about two feet from the house. Blocking the people would happen, but do nothing to shield the headlights from the second floor.

The booming base and the open door were discussed. My tenant and two people from Jenifer Street were very concerned about how the volume of the sound was affecting them. Plan B said they would address it by turning down the sound, and putting a drape over an opening by the door. It is yet to be seen if there is enough adjustment to be effective. We will see and advise.

We talked about the need for Plan B's security people to keep the crowd in the parking lot by the smoking area and the rest of the lot from yelling and loud talking after 11:30 pm, but this was not addressed nor did there seem to be a willingness to address this issue. Time was also a factor. This issue sort of got lost but it is A BIG ISSUE after 11:30 on weekends. I think if there was good policing by the club security this could be handled to a satisfactory level. Can this be addressed?

HELP us resolve providing adequate parking...It is a big and complex issue that needs to be addressed. No effective off street parking has been found other than the twenty spaces next to the Club. The Gateway seemed to be a good thought but it is not being used. It must be too far for customers to consider as an option. Thurs, Fri and Sat are big parking problems. How can we address this? What about winter from Dec through March? Is the only viable option reducing the seating capacity? I recommend that there be an adjustment in seating capacity to be no more than 100% over the city code formula of 2/3 more than the off street parking both on sight (I'd be willing to add any off street parking found within two blocks to the formula) Now its 20 parking spaces x 3 = 60 X 100%= 120 max seating capacity. It would increase with rented additional off street parking. What about renting parking from the Coin Op Laundry place just in back and open up a walk through? It isn't much but it would help some. Parking affects my location and all the residential for several blocks in diameter and also affects the Willy St Grill.

Thank you team for all your time and input keeping Willy St a fun place for all who live and gather here!!

Respectfully submitted,
John Rolfsmeyer

On Thu, Sep 24, 2009 at 3:02 PM, Scott Thornton <sbthornton@gmail.com> wrote:
Matt -

Yes, my understanding was the agreement is to place an 8-foot fence on or near the property line. This would be in addition to the plant screening, which I think they will still need to help with the headlights.

It may be beneficial to both properties if the fence was not 8-foot the entire length of the lot, but just near the house. That is just my opinion.

Thanks,

Scott

On Thu, Sep 24, 2009 at 9:18 AM, Tucker, Matthew <MTucker@cityofmadison.com> wrote:

As some of you may be aware, Mr. Rolfsmeyer has submitted a complaint against this Conditional Use, for consideration by the Plan Commission. We are scheduled to provide this complaint to the Plan Commission at their October 4th meeting.

I stopped by the bar yesterday and spoke with Corey. Corey advised that a meeting took place a few days ago, and an arrangement has been made to see that an 8' tall fence gets installed along the joint property line. I was also advise that Mr. Rolfsmeyer and the Plan B folks are in agreement with this arrangement, and the fence is to be installed sometime in the next month or so.

If all of this is true, I'm expecting Mr. Rolfsmeyer to withdraw his complaint. I think we can all agree that if a solution is worked out, we would like to avoid taking this issue back to the Plan Commission.

City staff will need to approve the fence style, location and installation arrangement before the fence may be installed. We can process this as a request for "ALTERATION OF EXISTING CONDITIONAL USE", application here: <http://www.cityofmadison.com/BI/AltConduse.pdf> We can simply draw the fence on our approved site plan, but we would like to document the style of fencing and the installation timeframe.

Please respond to this message as soon as you can. We will accommodate schedules to memorialize an acceptable agreement that sees a fence ultimately installed at the site.

Matt Tucker

Zoning Administrator

Department of Planning and Community and Economic Development

Building Inspection Division

215 Martin Luther King, Jr. Blvd.

PO Box 2984

Madison, WI 53701-2984

608/266-4569 PH

mtucker@cityofmadison.com

<http://www.cityofmadison.com>

Firchow, Kevin

From: Scott B. Thornton [sbthornton@goochpages.com]
Sent: Wednesday, October 14, 2009 10:40 PM
To: Firchow, Kevin
Cc: Rummel, Marsha
Subject: RE: Plan B

Hi Kevin –

I'm sorry I didn't get this to you sooner. I was surprised to hear that John was pursuing the complaint. Our meeting last month went very well. Here are my notes:

Meeting with Plan B

September 22, 2009 3:00 p.m., 924 Williamson Street

Attendees: Gary Tipler
Steve Gallo
Katherine Plominski
Laura Jeske
Greg Melde
Dick Guyot
Rico Sabatini
Lindsey Lee
Corey Gresen
John Rolfsmeyer
Officer Hemming
Chuck Chvala
Scott Thornton

The group gave introductions and we began to talk about concerns that the neighbors were having.

Officer Hemming shared the complaints that the police had received. None of them resulted in citations. Later she shared that there had been no complaints since Labor Day weekend.

Laura Jeske lives next door (John Rolfsmeyer's property) and is concerned about noise and trespassers into their back yard. She said that the noise was bad even with the windows shut and the air conditioner going. Music and people talking. The car headlights from the parking lot are also an annoyance.

Rico explained that they have security patrolling the parking lot now and at bar time are getting people to move along so they are not outside her house talking. She said that the noise has improved over the past few weeks.

We talked about the noise escaping from the back door. The neighborhood association requested that the back door be used by smokers so that people weren't milling and talking at the entrance. We did not anticipate the volume of sound that would escape.

Chuck Chvala joined us briefly and talked about how much the owners (Corey and Rico) have invested in the building. He said they are great guys and are responsible. He would be interested in expanding the parking lot and adding more parking stalls.

We talked a little more about parking after Chuck left and agreed that we did not like the idea of expanding the parking lot. Scott shared his observations that on weekend nights he has seen parking on the street within a block of 924 Williamson. There may be a perception of a parking problem if someone was used to always parking in front of their apartment. We did not talk about parking further and will do so at the next meeting.

We talked about the need for a fence between the properties. It is not something the owners are thrilled about, but they are willing to put one up. John would like the fence next to the parking lot to screen out headlights. Rico said that if they put up a fence that it would be on or near the lot line and was concerned about the private sidewalk next to John R.'s property that may be on or crossing the lot line.

Lindsey gave them some advice from the perspective of another business owner (he owns Ground Zero coffee) and suggested they may need to do some things they wouldn't like, like put up a fence.

Everyone finally agreed that the fence was a good idea.

Then we talked more about the sound. Dick and Steve can hear the base beat in their houses on the 900 block of Jenifer Street. Greg also said that he hears the bass in his bedroom across the street on Williamson. Dick has walked the block late at night to observe from his block of Jenifer/Williamson.

Corey and Rico suggested that they turn the volume up and we could go outside. They turned on the sound system fully and we all went to the parking lot. There was little noticeable noise. Scott pointed out that when there is traffic on Willy Street it is not as noticeable. At night when there is little traffic noise it probably is more noticeable. Corey demonstrated the sound that you hear when the rear door is opened.

We moved to the front of the building and talked on the sidewalk. Scott asked if they could put something on with a lot of base. The traffic noise made it difficult to talk, but we could detect some base coming through the window. Rico explained the plans for the front windows. They will be adding some architectural features that may help diffuse the sound. Rico said that they would work with their sound guy to minimize the effect of the base.

Officer Hemming was asked if there was a problem with Plan B from her perspective or "the word on the street." She replied "No" there was no problem as far as she was concerned.

The rest of us returned inside and talked more about the sound. We suggested that they try to address the sound by the back door with sound absorption and perhaps drapery that could help contain the sound to the building as patrons exit to smoke. Corey and Rico are willing to look into that.

We talked about the sound at the front of the building. Most of the inside space is hard surface so there isn't anything to absorb sound. We discussed that they could consider something in the lounge area at the front. Corey and Rico said that they could consult with their sound guy and design consultant. Steve asked if he could be invited to their meeting with the sound guy to talk about the bass.

Everyone agreed that it was a good meeting. We agreed to meet again in 5-6 weeks. Scott will schedule the next meeting (November 10).

Scott B. Thornton
1104 Jenifer St
Madison, WI
H: 255-5969
C: 469-6833
T: <http://twitter.com/ScottBThornton>

Firchow, Kevin

From: David Bridgeford [dbridgeford@mac.com]
Sent: Thursday, October 01, 2009 12:07 PM
To: Firchow, Kevin
Cc: Tucker, Matthew; Murphy, Brad; Rummel, Marsha; Plominski, Katherine; Corey Gresen; Rico Sabatini
Subject: Plan B Complaint--Another Perspective

Dear Mr. Firchow,

It is my understanding that the Zoning Office and the Plan Commission are in the process of determining whether Plan B is currently violating the terms of its conditional use for a parking reduction. I live a block away from Plan B and ask that you consider my point of view when investigating the complaint that has been filed.

Although Mr. Rolfsmeyer, Plan B's next door neighbor, has presented a litany of complaints and called the police on two occasions, the real issue here is a disgruntled neighbor who is now apparently having "buyer's remorse" that he bought a two-flat rental property that is zoned C-2 general commercial. It is beyond question that the new and vital business that now occupies the old Star Photo building is a permitted use under the zoning code.

I believe Mr. Rolfsmeyer is simply attempting to rehash issues that have already been considered by the Plan Commission rather than bringing attention to any violation of the terms of the conditional use. The fact that this is a clear cut case of harassment is further supported by the fact that Mr. Rolfsmeyer has apparently refused to withdraw his complaint despite the fact that Plan B has agreed to build an 8 foot fence along the property line. (This fence is not required under the Zoning Code since Mr. Rolfsmeyer's property is zoned C-2, general commercial.)

The heart of Mr. Rolfsmeyer's unrelenting complaints is that parking lot is now being used differently. Would he be happier if the parking lot were expanded to 70 spots, thus eliminating the need for a conditional use?

Mr. Rolfsmeyer's complaints have nothing to do with a parking reduction, which is the substance of this conditional use. I live a block away and I have no problem finding parking due to the presence of Plan B.

Thanks for your time,

David Bridgeford
808 Williamson Street, #309

Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Subdivision (g) above, a condition of approval or other requirement imposed hereunder.