

From: [REDACTED]
To: [Plan Commission Comments](#); [Martinez-Rutherford, Dina Nina](#); [Wells, Chris](#); sasyneighborhood@gmail.com; [Tucker, Matthew](#); [REDACTED]
Cc: [REDACTED]
Subject: Appeal of the Plan Commission action on the conditional use request for 2927 East Washington Avenue, Legistar ID 91510.
Date: Monday, April 20, 2026 5:13:22 PM

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Members of the Council,

Please redact any address information and other named neighbors names when posting this to the public record.

My name is [REDACTED], and I live at [REDACTED]. My home is one of the closest houses to the outdoor area at 2927 East Washington Avenue, where Minocqua Brewing Company is seeking permission to play amplified music outdoors. I am writing to oppose the appeal in File 92339 and to ask the Council to uphold the Plan Commission's decision.

The Commission's March 2, 2026 decision was straightforward. They placed File 91510 on file without prejudice for one reason: Standard 3, specifically the proximity of the outdoor area to nearby homes like mine. The approved minutes state that clearly. The outdoor area is about forty feet from the nearest dwelling. Planning staff reviewed every prior Madison decision involving an outdoor eating area located forty feet or less from residential property and found twenty-nine comparable sites. One was approved, and that site was a newly built mixed-use building with no dwellings inside that distance band. Twenty-five were denied. On April 17, staff filed an addendum correcting a different precedent figure, revising the median approved distance for amplified sound from 175 feet to 98 feet. That correction did not change the fact that this site remains in the forty-foot range. The record before the Commission supported the finding it made.

I'd like to address the following arguments from the applicant's appeal letter below:

The statutory argument

The appeal relies on Wis. Stat. §62.23(7)(de)2.a, which says a city "may not deny the application for the conditional use" when the applicant agrees to the required conditions. But that sentence begins, "If the requirements under subd. 1. are met." Subdivision 1 requires a substantial-evidence review, meaning each approval standard must actually be satisfied on the record. The Plan Commission reviewed the record and found that Standard 3 was not met at this proximity. The statute does not override that finding. It depends on it.

The mitigation argument

The appeal argues that the Commission's findings were conclusory and did not engage with the proposed mitigations. The record shows otherwise. The mitigation measures actually in the file are limited to three items: sound-absorbing curtains the applicant proposed without a site plan showing where they would go or how they would be installed, a decibel meter that staff declined to recommend as a condition because it is not enforceable for live music, and acoustic panels the applicant described at the April 28, 2025 hearing.

Anything beyond that, including drape commitments the applicant has mentioned in public statements, is not part of the formal application. The applicant did not reduce those commitments to writing or submit them into the record. The Council should not be asked to rely on commitments the applicant chose not to include in the application materials.

Based on what is in the record, two neighbors addressed the limits of fence-level mitigation

at the April 28, 2025 hearing. [REDACTED] of the South Atwood neighborhood association said, "any of the sound mitigation measures that might be undertaken, the curtains on the fence or something like that, are not going to have any effect on second floors of any of the buildings, the houses around it" at 00:34:28 of the hearing recording. My neighbor [REDACTED], who lives at [REDACTED], testified that the site is "an acoustic marvel" whose cinder-block construction "manages to reflect and funnel clear conversations right into our kitchen and bedroom" at 00:28:39 and 00:28:44 of the same recording. The Plan Commission had that testimony before it when it made its Standard 3 finding and concluded that the recorded mitigation measures did not overcome the proximity issue. That was a reasoned evaluation of the mitigation evidence.

The compliance record

In October 2024, City of Madison Building Inspection issued this applicant an enforcement notice for an outdoor amplified music event that continued past 9:00 p.m. in the same beer garden. That notice came about two months after the applicant had represented, in the August 2024 project narrative used to approve this outdoor area in the first place, that "there will be no amplified music or audio in the beer garden." That 2024 representation appears in the Legistar file, and the enforcement notice appears in the staff report. If the appeal asks the Council to rely on the applicant's mitigation commitments, that history is relevant context.

The recusal question

The appeal also argues that a February 27, 2026 email from Alder Dina Nina Martinez-Rutherford shows Plan Commission pre-commitment. Two points matter here.

First, the March 2, 2026 Plan Commission minutes show that Alder Martinez-Rutherford was not a voting member of the Plan Commission on this matter. She is the District 15 alder. She did not sit on the Plan Commission that day and did not cast a vote on the motion to place File 91510 on file without prejudice. Whatever else may be said about her email, the claim of "Plan Commission pre-commitment" asks the Council to overturn a decision based on the statement of someone who was not part of that decision-making body.

Second, the framework for whether any individual alder should recuse from the Council's appellate review is set out in Madison City Attorney Opinion 07-003, dated September 14, 2007, and MGO §3.35, the Code of Ethics. That opinion explains a three-tier analysis for different types of Council action and states that "each situation must be judged on its facts." The Council's April 21 agenda includes a "Disclosures and Recusals" item for exactly that purpose. That is the proper mechanism for addressing any recusal issue.

Request

I respectfully ask the Common Council to uphold the Plan Commission's action on File 91510.

Thank you for your time and for your service.

Respectfully,

[REDACTED]