

CITY OF MADISON  
**CITY ATTORNEY'S OFFICE**  
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**MEMORANDUM**

TO: Plan Commission

FROM: John Strange, Assistant City Attorney

DATE: August 26, 2019

RE: Effects of Plan Commission Action on Legistar Items 56981 and 56839 – August 26, 2019 Plan Commission Meeting

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Some Plan Commissioners have asked for clarification related to the impact taking action on the above noted Legistar items.

**Legistar Item 56839 (Map Amendment)**

Legistar Item 56839 is an ordinance that, if approved by the Common Council, would terminate Edgewood's Campus Master Plan in the Campus Institutional District (CI-District). The impact of approving this ordinance is that Edgewood would no longer have a Master Plan and would therefore be subject to the same regulations as other CI-District Institution's without Campus Master Plans.<sup>1</sup>

As a result of terminating the Master Plan, Edgewood would lose any remaining rights under the Master Plan. Going forward, allowed uses would be governed by M.G.O. § 28.097(3)(list of allowed primary and secondary uses) and M.G.O. § 28.097(2)(c), which provides:

“[i]n a Campus Institutional District without a Campus Master Plan, individual development proposals and changes that exceed four thousand (4,000) square feet in floor area within any five (5) year period shall require conditional use approval.”

M.G.O. § 28.211 defines floor area as “the sum of all gross horizontal areas under the roof of a building.” Thus, any uses or changes to uses involving

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<sup>1</sup> Note that as an institution created prior to the effective date of the CI District Ordinance, M.G.O. § 28.097(2) does not require Edgewood have a Campus Master Plan. For such institutions, Master Plans are “encouraged” but not required.

more than 4,000 square feet in floor area would require conditional use approval. Any uses or changes involving less than 4,000 square feet of floor area, including, of course, uses or changes to uses requiring no change in floor area, would not require conditional use approval.

**Legistar Item 56981 (Text Amendment)**

Legistar item 56981 is a text amendment that would change the reliance on “floor area” as a trigger for the conditional use requirement. If approved, this amendment would require CI-District institutions without a Campus Master Plan to get conditional use approval for all primary uses where development proposals, improvements or modifications exceed 4,000 square feet *in area on a zoning lot*. By substituting “area on a zoning lot” for “floor area”, this amendment would trigger a conditional use requirement for primary uses whether the use or use modification involves the construction of a building (i.e., under the roof of a building). Primary uses under the proposed amendment are:

1. Educational uses associated with colleges, universities, and secondary and primary schools, including classroom buildings, libraries, and offices.
2. Medical facilities, including hospitals, clinics, laboratories and related facilities.
3. Dormitories, student and/or faculty housing.
4. Community Center.
5. Places of worship.
6. Agricultural uses.
7. Veterinary clinics.

The proposed amendment also changes the requirement for conditional use approval for secondary uses. Under this amendment, all secondary uses require conditional use approval regardless of whether there is an increase in floor or zoning lot area. Following is a list of secondary uses under M.G.O. § 28.097(2), if Legistar Item 56981 is approved:

1. Day Care Facilities.
2. Eating places within mixed-use buildings such as dormitories or student unions.
3. Fraternities and sororities.
4. General retail, financial and personal service uses within mixed-use buildings such as student unions.
5. Indoor and outdoor sports and recreational facilities.
6. Lodging facilities.
7. Museums and art galleries.
9. Performing arts centers.

10. Utilities and transportation facilities related to the primary use.
11. Public utility and service uses.
12. Other uses related to the institution's primary mission.
13. Correctional Facility.
14. Stadiums, auditoriums, and arenas, open or enclosed.

Thus, if this ordinance is adopted, any CI-District Institution without a master plan will be required to get conditional use approval to establish, modify, or improve a primary use if that use involves more than 4,000 square feet of area on a zoning lot. Moreover, the ordinance would require conditional use approval to establish, modify, or improve all secondary uses, regardless of whether such action will increase floor or zoning lot area.

### **Impact of passing both Legistar items**

If both Legistar items are approved by the Common Council on September 3, the practical impact on the ongoing athletic field issue is that Edgewood would be allowed to play games on its existing field, but any improvement or modification to that field will require conditional use approval, regardless of whether such improvement or modification requires the construction of a building or increase in zoning lot area.