Department of Planning & Community & Economic Development
Planning Division

Website: www.cityofmadison.com

Madison Municipal Building, Suite LL100
215 Martin Luther King, Jr. Boulevard
P.O. Box 2985
Madison, Wisconsin 53701-2985
TTY/TEXTNET 866 704 2318
FAX 608 267 8739
PH 608 266 4635

TO: Tim Cooley, Economic Development Division, Director

FROM: Bradley J. Murphy, Planning Division Director

DATE: August 17, 2010

SUBJECT: Plan Commission Member Comments on the Development Review Process

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At the meeting of July 26, 2010, the Plan Commission discussed the Development Review Process, focusing on several questions staff posed to the Commission and the Mayor's goals for this process as outlined in your memo. The following comments were provided by individual Plan Commission members at the meeting. In addition, Commission members Lauren Cnare, Judy Bowser, and Nan Fey also provided written comments which are attached to this memo. It should also be noted that two members, Eric Sundquist and Anna Andrzejewski, were excused from the meeting.

Judy Bowser.

- Commission member Bowser provided written comments which are attached to this memo.
- Evaluate the use of web conferencing technology to save time and costs involved in project development meetings.
- In addition she stated that she has read a lot of generalized comments about the Development Review Process which are not specific enough to make any specific changes to the process.
- Checklists should be provided to applicants early in the process to ensure that they are aware of ordinance requirements and relevant recommendations from adopted plans.

Michael Schumacher.

- Commission member Schumacher indicated that he was not persuaded that the process is broken.
- The City should look for a few key leverage points which could make a difference.
- The Enterprise Land and Asset Management System which should go live in 2010 will significantly improve our ability to communicate among staff and with customers.
- We should focus on important symbolic elements including public relations.
- The current process serves us very well.

Judy Olson.

– Commission member Olson recommended that we consider setting a higher standard for making referrals such as requiring a super-majority vote to refer an item. This would encourage the Commission to more often to vote a project up or down rather than delaying it.
– Look for opportunities to standardize the preapproval process for neighborhoods.
– Developers could do more due diligence in the pre-application process.
– Neighborhood Association training on the preapproval process would help.
– Update the best practices manual entitled "Participating in the Development Process".
– After the Zoning Code is completed, staff should conduct a series of training sessions for neighborhood associations, developers, and commission members.

Tim Gruber.

– Responding to the question "What doesn't work well?" Commission member Gruber indicated that the Planned Unit Development Process does not work well.
– The staff reports provided by the Planning Division and other reviewing agencies work well.
– The Urban Design Commission, Plan Commission, and staff should work to clarify roles of each commission.
– Look for opportunities to move conditional uses to the permitted use list such as outdoor eating areas.
– The involvement of neighborhoods in the Development Review Process can result in a better project.
– The Commissions and staff should focus on sustainable development (broadly defined as environmentally, economically, and socially) and place-making.
– Gruber agreed with Commission member Olson's suggestion that there be a higher threshold set for referring projects to future meetings.

Michael Basford.

– Commission member Basford indicated that there is no crisis at the present time involving the Development Review Process.
– He recommended looking for opportunities for continuous improvement in the process.
– The process used to involve neighborhood associations generally works well.
– We should look for opportunities to standardize the processes used by neighborhood associations to work with developers since different neighborhoods have different processes.

Lauren Cnare.

– Provide training for alderpersons on how the development process should be managed.
– Establish a project manager before more complex projects.
– Greater use of the website to provide information (the Enterprise Land and Assessment Management System should help).
– Should clarify the process for developers to use when there is no neighborhood association present.

- Review the sufficiency of the 200-foot distance notification requirement for the notification of property owners and occupants.
- We can probably develop a better system for more efficiently dealing with uses such as outdoor eating areas.
- Update the "Best Practices Guide".
- Requested that the typical standards used in the review of development projects (the yellow packet) be provided to the Economic Development Committee.
- Suggested that the Planned Unit Development process could be reviewed to see if there are opportunities to streamline the process.
- Some additional thought should be given to the projects that must be reviewed by both the Alcohol License Review Committee and the Plan Commission and whether they need to go to both.

<u>Michael Heifetz</u>.

- Reduce the use of Planned Unit Developments.
- Can we broaden the use of the consent agenda?
- Who sanctions neighborhood associations and is there a way to establish a common set of expectations for how they operate?
- Shares the concerns of other Commission members.
- Provide information to the commissions on the role of the Urban Design Commission, the Plan Commission and alders in the process.
- Whether the Development Review Process needs significant changes or not, the perception that the process is cumbersome and time-consuming can be damaging.

<u>Julia Kerr</u>.

- Asked if staff would be making recommendations to improve the process.
- Recommended that any recommended changes to the process be referred back to the relevant boards and commissions for review.
- Suggested that some additional attention be provided on the role of alders in the process and how ensure that alders can be effective participants in the process.
- Requested that examples of typical plan submittal materials and the staff reports for projects be provided to the Economic Development Committee for their review.

The recommendations above and those that are attached represent the views and comments of individual Commission members rather than the Commission as a whole.

If you have any questions please let me know.

c: Madison Plan Commission

July 26, 2010

To: Interested Parties

From: Judy Bowser

First the responses to questions in Brad's Memo:

1. If the City has web-conferencing capabilities, this would make the process of getting City staff and developers together for pre-application conferences, and conferences deemed necessary during the entire process.

2. The Edgewater is the obvious choice of a project where the process did not work well, but not because of anything staff or commissions did or didn't do.

   a. According to information I received, the officially registered and recognized neighborhood groups became aware of the project after seeing a press conference.
   b. Changes to numerous ordinances and adopted plans were being requested (all of which take time to consider).
   c. Questions requiring new information or explanation resulted in information being submitted "at the 12th hour" when the project was to be discussed, leaving no time to study the information presented to determine whether the answer/explanation was adequate. Result: referral.

Random responses to questions/comments raised in the other resources references for this exercise.

We get conflicting information at various times.
--Developers have frequently said, "tell us what you want, and it will make it easier for us". So, we spend numerous hours developing plans (giving due concern to the interests all potential parties affected).

--Then a developer comes in and requests numerous changes.

The PC has sometimes believes it is doing developers a favor by approving a project contingent upon later approval by Staff. This has allowed approval(s) to go forward without having to come back to the PC. If agreement cannot be reached, then the project comes back to the PC.

I digress for a moment:

If you say that the President is not a US citizen often enough . . . it becomes reality in some people's minds. Is this part of the problem: The City of Madison is "hostile to development and investment"? Perhaps in order to compete effectively with surrounding we need more cheerleaders. DMI is well positioned to be one of the City's most credible cheerleaders.

Madison has forever suffered the problem of land prices being higher than in surrounding municipalities. Whose fault is this?

Potential committee members do need to submit resumes in order to be considered for membership. Doesn't the Mayor's office keep a close eye on which committees are functioning well and which aren't?

The question was asked, "what type of project can enjoy accelerated review?" I would suggest asking the following questions:

Does it comply with the underlying zoning?
Does it comply with the Comprehensive Plan?

C:\Documents and Settings\plbjm\My Documents\PlanCommissioncommentstoEDC 081710.doc

Does it comply with any neighborhood plan(s)?
Does it comply with any/all overlay plan(s)?

Once plans are adopted and parameters are set, comply with those and lead time can be significantly shortened.

For projects that require zoning changes or major changes to neighborhood plans, etc, -- those that have been discussed with officially registered neighborhood groups seem enjoy the smoothest sailing.

I read in Sunday's WSJ that Target will be coming to Manhattan – after 13 years of ground work. (I hope it never takes that long in Madison.)

How many developers have experienced difficulty with the permitting review process? Have their requests for assistance been ignored?

There were numerous comments implying that some staff members were not always helpful, knowledgeable and/or forthcoming. If these are REAL problems (not merely perceptions), someone needs to be enlightened. This is contrary to my understanding.

There were many generalized complaints made without any specific information both by EDC and DMI. **Documented complaints would be helpful**.

Who has been discourteous to "customers"?
Which projects have been prolonged due to ineptitude by City staff?

The LaFollette study indicated several ordinances that are in conflict with one another. It also suggested many changes that have been implemented by staff.

It has also been indicated that developers have experienced conflicts among the ordinances. PLEASE cite the ordinances that continue to be in conflict with one another so we can make corrections.

Doesn't the city already appoint an "ombudsman" (staff project manager) or liaison for larger development projects (for all projects for that matter)? Commissioners don't have a problem knowing who the point person is for a specific project.

Developers need to be provided the official "neighborhood association contacts." These are the people who are "invested in" the neighborhood on an ongoing basis. They put in numerous hours studying all projects affecting their neighborhood. There will be times when an official neighborhood group and other neighbors may have differing opinions regarding a development. That's when the Alderperson needs to take all those comments and make a cohesive case for policy-makers.

Legistar (though there seem to be some problems) has allowed departmental comments to be made available in a timely manner. The on-line posting of departmental conditions has allowed all interested parties to review them as they are posted.

Neighborhood notice:
It would seem that it's a favor to the developer to have a "session" or sessions with neighborhood groups prior to filing the official application – sometimes obvious concerns can easily be met and clarified and then not embodied (and then perpetuated) in official submittal documents.

That neighborhood review process will take place, whether the meeting(s) take place prior to OR after filing of the application. AFTER could result in a new set of new documents having to be provided for staff/committee/commission consideration.

Numerous referrals:
Referrals typically occur when important materials requested are not made available prior to the next scheduled meeting; or are provided five minutes before the proposal is to be considered, leaving commission members no time to review the documents.

Overlapping jurisdictions:

The missions of the ZBA and the Plan Commission are entirely different. As far as I know, we do not re-invent each other's wheels. UDC is advisory to the PC; seldom do we override their recommendations. Perhaps when we do make changes to UDC recommendations we don't make those changes clear enough.

Functionality of Committees:

There is no doubt that some commissions function more efficiently and effectively than others. The City should require that all bodies utilize Roberts Rules of Order, and Chairs be trained in the proper conduct of meetings.

As for "rogue" members, it is the responsibility of the chair to keep the committee "on track". I believe any "performance review" of unpaid commission members would be a formidable and fruitless process.

Project Finance knowledge:

Conflicting information: We're supposed to understand the financing of projects, but we're told it's none of our business how much lobbying costs.

A developer whom we used to see frequently once told me that it is not the City's place to consider how the financing of a project would "work" (unless they are requesting TIF dollars) or how many of his/her competitors would suffer if his/her development were to be approved. It is often difficult to NOT consider the latter concern, but I believe the City does an admirable job.

Mayoral appointment of Chairs:

What happens when you get a Mayor that you don't agree with, or who doesn't agree with you? This process has worked fairly well historically. We should emphasize training for chairs rather than hand-picking.

Neighborhood plans:

I can't remember a neighborhood plan whose development did not include a member of planning staff as well as paid planning consultants.

Don't our planners regularly attend trade association meetings to "keep current"? I know in the past funding for such meetings have sometimes been questioned.

Very seldom do we get an "equivocal" recommendation from staff.

Upon re-reading the "Best Practices" guide, it is apparent that all the steps in the process are well laid out for the development community. (And members of that community contributed to that process.) There are some obvious changes needing to be made, but in general it remains a very good roadmap.

TO: Tim Cooley, Director, Economic Development Division
    Brad Murphy, Director, Planning Division

FROM: Nan Fey, Plan Commission

RE: Development Review Initiative

DATE: August 4, 2010

Thanks for the opportunity to provide feedback on this process review in writing.
The following thoughts are based on my review of several City publications and reports, and the recommendations from Bill White's group and DMI; also included are my responses to staff's questions for the Plan Commission dated July 8th.

It is important to note at the outset that "Participating in the Development Process:
A Best Practices Guide for Developers, Neighborhoods and Policy Makers" (2005)
does a very good job of explaining the roles of various participants as well as the roles
of staff. When the recommendations contained in this award-winning handbook are followed, even complex projects can work their way through the entitlement process smoothly. A good recent example is the project on the corner of Park and Regent Streets which met the goals in the corridor plan (based on goals in the Comprehensive Plan),
had neighborhood support, and sailed through the approval process even though it is a complex, large, mixed-use project downtown.

Perception & Attitude
The perception that development is difficult in Madison can be addressed on a number of levels. The City could do more to promote its actual record on development review, and the development community could be more willing to acknowledge the facts.
(See staff's memo to the Plan Commission dated July 22, 2010 which contains interesting data as well as good information about what may have an impact on the time needed to review and process different types of development applications.)
Changing the attitudes that are based on this perception will take time, but better communication will help.

Different Processes for Different Projects
The real issue here is the relative complexity of projects. Consider establishing criteria that might distinguish among projects based on their size, consistency with adopted plans and underlying zoning district regulations, and/or number of approvals needed so that more routine projects might be able to follow a more streamlined process. See Staff Memo to the Plan Commission dated 7/22/10 which lists "primary factors that influence application review times". Assigning a staff member to complex projects is a good idea and it may already be happening.

- City staff play a complicated role in the development review process, navigating issues from developers, elected officials, neighborhoods as well as providing technical support to decision-making bodies. Their input throughout the process should be as timely as possible, and appropriate staff should be available for any meetings at which decision are being made about projects they are involved in. Staff should receive whatever training is needed to keep current in their area of expertise so they feel qualified to offer their professional recommendations (see Plan Commission staff reports as a good example that might be transferable to other committees in the process) and leadership training to inform their interactions in the community.

- Boards, committees & commissions are made up mostly of citizens who volunteer their time to bring the voice of the community to decision-making in the City. Training in appropriate procedures is very important and should be offered on a regular basis at convenient times so that everyone can participate. Those who chair these bodies should be chosen for their experience and leadership ability, whether by the body or the Mayor, and be offered additional training in how to run effective meetings. Quasi-judicial bodies, e.g. the Zoning Board of Appeals and the Plan Commission, should receive additional training in their legal responsibilities. Members who wish to pursue additional learning opportunities should be encouraged to do so, and perhaps supported in some way by the City (e.g. paying ½ of the registration fee for an appropriate conference once/year). Members should be reminded that their responsibility is to serve the entire community when deciding issues that come before their committee, and Alders reminded that the appropriate time to represent their district's particular interests is at the Council. Reviewing the effectiveness of boards and/or their members could be accomplished annually in a conversation between the Mayor and chair.

o Members of reviewing bodies should be chosen for their knowledge, expertise, experience and commitment to the community. While an understanding of the "basics of project development, including project economics and development fundamentals costs and consequences of delay" is essential for the Applicant
  (and should be an important part of the due diligence process), it may not be appropriate to require of citizens who serve on reviewing committees. Whether or not they have the expertise, it's not clear that review bodies have the authority to inquire into this kind of detail on a project -- when developers have been asked to share this information, e.g. for purposes of analyzing Inclusionary Zoning issues, there has been considerable resistance. When asked how/whether a City can assess the economics of projects proposed (either to facilitate the project or to guard against failure), an experienced developer who has done real estate projects all around the country answered with confidence that no community he knew of has found a way. Everyone involved in the development process is aware of the basic truth that delay costs money (see box at the bottom of page 8 in the 2005 Best Practices Guide which explains "holding costs").

- The mission, scope and standards of review bodies should be evaluated. Overlapping jurisdictions should be identified and, where possible, eliminated – keeping in mind that some review bodies get their authority from sources other than municipal ordinances and may not be subject to change by the City.
  The goal should be that the criteria and standards used by committees in making recommendations to the Plan Commission and Common Council are clear and easy to apply; then the recommendations of these advisory bodies will reflect their particular areas of expertise

and provide valuable input to the ultimate decision-makers. Consider reviewing the materials that govern the decision-making processes of the relevant committees and commissions to clarify their jurisdiction and applicable standards. See, e.g., "City of Madison Standards for Review of Certain Types of Development Proposals" provided by staff to all Plan Commission members at every meeting (March 2010 version on yellow sheets).

- Notice should be given as early as possible to maximize information to the community and minimize the likelihood of project delay. Standard procedures should be examined for ways to increase the period notice (e.g. to 10 business days) and its effectiveness (go beyond 200 feet where appropriate, insure adequate posting of signs). Alders and neighborhood associations should take advantage of whatever informal channels are available, e.g. newsletters, electronic mailing lists, etc.

- Initial presentations of projects to the Plan Commission that are broken into 3 minute chunks do not serve the goal of understanding. Consider establishing a procedure of "up to __ minutes" for the development team, and recognize that the same amount of time may be appropriate for the "organized opposition" in controversial cases. Consistency of speaking limits for the Plan Commission and the Common Council would be helpful to those who are preparing testimony before both bodies. The Plan Commission should maintain its 3-minute rule, which can be extended by 1 minute if there is no objection from any member of the body, which generally works very well.

- Referrals should be avoided whenever possible, but no absolute limit set.
  It is as important for the Applicant to come to committee review meetings prepared with responses to issues that have been previously identified as it is for committee members to refrain from raising issues outside the boundaries of their review. Clarifying the mission and standards of committees, as well as directing applicants to the plans intended to guide development of their project should help reduce the number of referrals and produce better projects overall.

- A supermajority vote should not be required to overturn the decision of an "advisory" body that was created by the Common Council, but the decisions of those bodies should be given appropriate respect and deference when they have reached a decision within their jurisdiction and according to their standards. Supermajority vote requirements may be appropriate where established by other authorities, or when deciding the appeal of a final decision by another body

- When making a "final" decision on a development proposal, the Common Council should be able to rely on the technical expertise of staff, prior decisions by review bodies based on clear standards (e.g. ZBA), and the recommendations of reviewing committees that have relevant expertise. Speaking as a Plan Commissioner, I appreciate the input of the Landmarks Commission on projects that have historic preservation aspects and the aesthetic judgment of the Urban Design Commission, but I recognize that these bodies are not making technical decisions – they are providing a voice of the community, weighing competing values and making recommendations that are appropriately considered "advisory" to the next decision-makers. The Plan Commission takes all of this feedback into consideration, applies its own standards, and forwards its recommendation on to the Common Council which, as the elected body, applies the ultimate policy perspective during its consideration of the issues.

Role of Neighborhoods

- Recommendations for the role of neighborhoods in the development process is included in every section of the Best Practices Guide. See pages 12-13, 18-19, 24-25, 28-31 and 33.

- Membership in neighborhood associations should be available to anyone who dwells, owns property or operates a business within its boundaries. It would be reasonable for the City to suggest that any neighborhood association that gets involved in a development review process be open to input from all stakeholders or risk a loss of credibility when/if it claims to speak for the community.

- Documenting the neighborhood's discussion process is a good idea and will help decision-makers keep the resulting input in perspective. The Best Practices Guide, page 13, suggests this but more detail or suggestions could be included. Speaking from experience, however, it's worth remembering that no matter how careful a neighborhood association is about communication and providing opportunities to participate in the process, there may still be voices at the last minute claiming not to have known about the process.

- Several neighborhood associations that regularly deal with these issues have developed very good tools for evaluating proposals, and processes for inviting neighborhood input. See examples from Marquette and Capitol Neighborhoods, and consider creating a template that could be used by other associations.

- Neighborhood Plans are advisory (see Best Practices Guide, page 6). It is the job of the reviewing committees and the Council to resolve conflicts among plans within the standards and policy issues that they bring to their decision-making processes.

- Since the adoption of the Comprehensive Plan in 2006, new neighborhood plans have been responding to the categories, goals and objectives found therein (e.g. Tenney-Lapham), but there are many older plans that need to be revised. Consider creating a template that would reflect the Comp Plan and provide a standard structure for neighborhood plans. Staff is actively involved in the drafting of plans for neighborhoods that qualify for their assistance, and could also review the final drafts of plans created by other neighborhoods following a template.

- Neighborhoods are aware of the fact that they cannot ultimately control what happens to property in their area because, in our free market system, it is the owner's prerogative to develop what they choose within the allowable options. Including a section in a standardized format for plans (see above) that asks neighborhoods to think about the limits to their flexibility in accommodating changing conditions and unforeseen opportunities could be valuable to both the neighborhood and potential developers.

- The City's Neighborhood Roundtable events are a very effective way of training neighborhood leaders, and these should be continued. If templates were developed for neighborhood plans and evaluating development proposals, as well as suggestions for collecting stakeholder input to the review process, these would all be good topics to offer at these gatherings.

Other Thoughts:

- Add to the list of resources included with the June 30th memo, the most recent edition of the City of Madison's *Development Guide*. www.cityofmadison.com/planning/2005devbook.pdf

- Best Practices of other communities are always worth researching, and borrowing ideas that might work for Madison. But we should be open to concluding that, compared with other communities, our process already works pretty well.
  See Staff Memo of 7/22/10.

Responses to Staff Memo Questions for PC dated July 8, 2010

1. Elements of the Current Process that do NOT work well:

- Projects that are not presented to interested parties early enough in the process are likely to be delayed overall. Suggest <u>requiring</u> some of the steps now considered "informal" involving neighborhood associations and/or the Alder very early in the process, especially for complicated projects needing multiple reviews.

- Input from staff and "neighbors" often comes too close to the Public Hearing for any meaningful response by the Developer, and this may lead to a referral for further discussion. Consider setting deadlines for input to provide incentives for all parties. For example, if neighborhood comments are not submitted on time, they need not be considered but, if the input deadline is met, and the developer fails to respond prior to the public hearing, consider a mandatory referral until responses have been provided.

- Reviewing bodies need to understand what aspects of a project have been studied and considered by other committees/commissions in the process. Define the subject areas for each, and provide clear standards to guide recommendations so that, by the time a project gets to the Council, the ultimate decision-makers can feel confident they are weighing well-considered recommendations by bodies with particular expertise along with any larger policy issues that might be relevant to the project.

- Some interested parties to the development process don't read the Best Practices Guide. If they did, they would discover "it's all there" for everyone to see the elements of the review and approval process, and how to make it work well even in a complex project.

- Some Alders allow projects to get to the Plan Commission for a Public Hearing before the project has been adequately discussed by the necessary parties. This nearly always results in a referral, which could probably have been avoided.

2. Elements of the Current Process that DO work well, and should not be changed:

- Concurrent review of projects by various agencies' staff and committees is appropriate, and probably saves time overall. Creating a standard procedure for projects, with steps that must be taken in a particular order, may seem logical but may not be as efficient in many cases.

- Notice to neighbors and interested parties should be given at the earliest possible time to enable meaningful input and feedback in the process when it can be best accommodated.   Early involvement usually improves the project, and may avoid delays in the approval process overall.

- The Best Practices Guide is a very useful document, spelling out clearly the roles and responsibilities of all participants in the Development Process. When the new Zoning Code has been adopted, this valuable resource should be updated.

3. Improvements to the Pre-Application Process:

- If there is no requirement that developers contact the Alder and neighborhood association in the "due diligence" phase, then the 30-day notice rule prior to Application should be maintained.

- Consider extending the time required for signs to be posted on the property to maximize the likelihood that "interested parties" will have reasonable notice, e.g. 10 business days.

4. The revised Zoning Code will make more types of development in the City of Madison permitted as of right, which should significantly reduce the number of projects requiring extensive review by City staff, boards and commissions, and the community. The addition of design guidelines and master plans should also provide more information to potential developers at beginning of their due diligence process. More detailed area plans, including Neighborhood Plans, will also provide better initial guidance to developers on the types of projects that could be done on a given property. As the Plan Commission works its way through the Staff Recommendations Memo (#2) this month, we will be looking for opportunities to make the process more efficient, predictable and uniform while maintaining the City of Madison's high development standards.

From: Cnare, Lauren
Sent: Monday, July 26, 2010 6:14 PM
To: Murphy, Brad; Cooley, Timothy
Subject: LC summary on development changes

1 - Formal alder training with a job description
2 - Establish thresholds for assigning proposals a project manager and a process that
requires heroic efforts to communicate and keep neighbors apprised of the process.
3 - Consider amplifying communication means. Mail to greater than the 200 feet
circumference, use project websites (help gather everything in one place for the
affected and the curious)
4 - Periodic reviews are fine and healthy. Love the "Participating in the Development
Process" book and it should be kept current and broadly distributed. I think most of
the very best ideas are already in there, it just needs a little updating.
5 - Try to get the PC out of decisions that other commissions can handle, esp. ALRC and
alcohol drinking areas.

Thanks
LC

Lauren Cnare
Alder, District 3
608-226-0987 (cell)
district3@cityofmadison.com (e-mail)