



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Meeting Minutes - Approved PLAN COMMISSION

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Monday, January 26, 2009

5:45 PM

210 Martin Luther King, Jr. Blvd.  
Room 201 (City-County Building)

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### CALL TO ORDER/ROLL CALL

**Present:** 10 -

Judy Bowser; Eric W. Sundquist; Tim Gruber; Lauren Cnare; Julia S. Kerr;  
Nan Fey; Judy K. Olson; Michael A. Basford; Beth A. Whitaker and  
Michael G. Heifetz

**Excused:** 1 -

James C. Boll

Fey was chair for the meeting.

Staff present: Mark A. Olinger, Secretary; Brad Murphy, Michael Waidelich, Kevin Firchow, and Heather Stouder, Planning Division; Matt Tucker, Zoning Administrator; Mike Dailey, City Engineering; Katherine Noonan, City Attorney's Office; and Katherine Plominski and Mario Mendoza, Mayor's Office.

### MINUTES OF THE January 12, 2009 MEETING

**A motion was made by Bowser, seconded by Whitaker, to Approve the Minutes. The motion passed by the following vote:**

**Excused:** 1 -

James C. Boll

**Ayes:** 6 -

Judy Bowser; Eric W. Sundquist; Tim Gruber; Julia S. Kerr; Michael A. Basford and Beth A. Whitaker

**Abstentions:** 2 -

Lauren Cnare and Judy K. Olson

**Non Voting:** 2 -

Michael G. Heifetz and Nan Fey

### SCHEDULE OF MEETINGS

February 9, 23 and March 9, 23, 2009

**ROUTINE BUSINESS**

- 1. [13081](#) Creating Section 20.08(9) of the Madison General Ordinances to establish the Northeast Neighborhood Sanitary Sewer Improvement Impact Fee and District.

**A motion was made by Bowser, seconded by Olson, to Return to Lead with the Recommendation for Approval to the BOARD OF PUBLIC WORKS. The motion passed by voice vote/other.**

- 2. [13258](#) Authorizing a declaration of change in use from City park land to public street right-of-way as part of the Hoepker Road reconstruction.

**A motion was made by Bowser, seconded by Olson, to Return to Lead with the Recommendation for Approval to the BOARD OF PARK COMMISSIONERS. The motion passed by the following vote:**

- Excused:** 1 - James C. Boll
- Ayes:** 6 - Tim Gruber; Lauren Cnare; Julia S. Kerr; Judy K. Olson; Beth A. Whitaker and Judy Bowser
- Noes:** 2 - Eric W. Sundquist and Michael A. Basford
- Non Voting:** 2 - Michael G. Heifetz and Nan Fey

**PUBLIC HEARING-6:00 p.m.**

Note: Public Hearing items may be called at any time after the beginning of the public hearing. Those wishing to speak on an item must fill out a registration slip and give it to the Secretary. The Plan Commission uses a consent agenda, which means that the Commission can consider any item at 6:00 p.m. where there are no registrants wishing to speak in opposition regardless of its placement on the agenda.

**Zoning Map Amendments/Subdivisions**

- 3. [12473](#) Creating Section 28.06(2)(a)3394 of the Madison General Ordinances rezoning property from R6 General Residence District to PUD(GDP) Planned Unit Development (General Development Plan) District and creating Section 28.06(2)(a)3395 of the Madison General Ordinances rezoning property from PUD(GDP) Planned Unit Development (General Development Plan) District to PUD(SIP) Planned Unit Development (Specific Implementation Plan) District. Proposed Use: Remodel Existing Apartment Building and Construct New 16-Unit Apartment Building; 2nd Aldermanic District: 201-229 West Lakelawn Place.

A motion to recommend approval of the project made by Ald. Gruber, seconded by Basford failed on the following tied vote 4:4 (AYE: Ald. Gruber, Basford, Sunquist, and Whitaker; NO: Ald. Cnare, Ald. Kerr, Olson, and Bowser; NON VOTING: Fey and Heifetz). Fey chose not to break the tie.

A substitute motion to refer the project to the February 9, 2009 Plan Commission meeting, moved by Basford and seconded by Olson, was withdrawn at the request of the applicant.

**A motion was made by Gruber, seconded by Basford, to RECOMMEND TO COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - RECESSED PUBLIC HEARING. The motion FAILED by the following vote:**

- Excused:** 1 -  
James C. Boll
- Ayes:** 4 -  
Eric W. Sundquist; Tim Gruber; Michael A. Basford and Beth A. Whitaker
- Noes:** 4 -  
Lauren Cnare; Julia S. Kerr; Judy K. Olson and Judy Bowser
- Non Voting:** 2 -  
Michael G. Heifetz and Nan Fey

Speaking in support of this item were David Kaul, The Alexander Company, 145 East Badger Road and Bill White, 2708 Lakeland Avenue, representing the Alexander Company.

Registered in support and available to answer questions was James McFarland, 1133 East Pleasant Street #206, representing the Acacia Foundation of WI; Joe Alexander, 309 West Washington Avenue #710, representing the Alexander Company; and Adam Winkler, 1626 Fordem Avenue, #103 representing the Alexander Company.

Speaking in neither support nor opposition was Ald. Marsha Rummel.

Speaking in opposition to this item were Ledell Zellers, 510 N. Carrol Street; Peter Ostlind, 533 W Main Street, representing the Capitol Neighborhoods Development Review Committee; and Ald. Brenda K. Konkell, 511 East Mifflin Street, representing District 2.

4. [12113](#)

Creating Section 28.06(2)(a)3390. of the Madison General Ordinances rezoning property from PUD(GDP) Planned Unit Development (General Development Plan) District to Amended PUD(GDP) Planned Unit Development (General Development Plan) District. Proposed Use: Mixed-Use Development with Theatre/Entertainment Complex; 17th Aldermanic District: 4021 Grand Crossing Road.

Approval recommended subject to the comments and conditions contained in the Plan Commission materials with the following modifications and additions:

- That condition one recommended in the City Traffic Engineer's report to the Plan Commission dated November 7, 2008 be amended to delete several referenced conditions. Conditions 37, 38, 41, and 43 contained in "The Crossing" GDP approval letter dated July 23, 2001 shall be removed and not included in this recommendation.
- That Madison Metro's recommended condition that facilities (concrete pad, waiting shelter with bench, and trash receptacle) be installed prior to the extension of services be deleted.
- That the seven mixed use buildings shown on the submitted plans dated November 12, 2008 shall be predominantly two stories in character.
- That on-street bike lanes shall be a minimum of five feet wide.
- That this recommendation include the alternative pedestrian and bicycle improvements proposed in Section O (sub sections i.- ix.) of the January 22, 2009 letter from Henry Gempler (the applicant's attorney) to the Plan Commission. These improvements shall be funded by the developer.

This motion passed by the following vote 6:2 (AYE: Ald. Cnare, Basford, Ald. Kerr, Ald. Gruber,

Olson, and Bowser; NO: Whitaker and Sundquist; NON VOTING: Fey and Heifetz)

This motion was a substitute motion, replacing the original motion by the following vote 6:2 (AYE: Ald. Cnare, Basford, Ald. Kerr, Ald. Gruber, Olson, and Bowser; NO Whitaker and Sundquist; NON VOTING: Fey/Heifetz). The original motion, moved by Whitaker and seconded by Sundquist was to refer this item to the Pedestrian, Bicycle, and Motor Vehicle Commission for a recommendation on removal of the overpass. An additional substitute motion, moved by Bowser and seconded by Olson, to approve this project with a condition requiring the pedestrian overpass be constructed unless eliminated during approval of the Specific Implementation Plan was withdrawn.

**A motion was made by Cnare, seconded by Heifetz, to RECOMMEND TO COUNCIL TO ADOPT - RECESSED PUBLIC HEARING. The motion passed by the following vote:**

**Excused:** 1 -

James C. Boll

**Ayes:** 6 -

Tim Gruber; Lauren Cnare; Julia S. Kerr; Judy K. Olson; Michael A. Basford and Judy Bowser

**Noes:** 2 -

Eric W. Sundquist and Beth A. Whitaker

**Non Voting:** 2 -

Michael G. Heifetz and Nan Fey

Speaking in support of this item was Henry A. Gempeler, Foley and Lardner, representing the applicant; Katie Falvey, 100 E Wisconsin Avenue, Milwaukee, representing the Applicant, Marcus Theatres Corp; Christopher Thiel and John Lichtenheld, Schreiber/Anderson Associates, Inc, 717 John Nolen Drive; Ald. Judy Compton, 6030 Fairfax Lane, representing District 3, and Ald. Joe Clausius, 18 Clarendon Court, representing District 17.

5. [13109](#)

Creating Section 28.06(2)(a)3401. of the Madison General Ordinances rezoning property from Temp A Agriculture District to R2T Single-Family Residence District, and creating Section 28.06(2)(a)3402. of the Madison General Ordinances rezoning property from Temp A Agriculture District to R2Y Single-Family Residence District, and creating Section 28.06(2)(a)3403. of the Madison General Ordinances rezoning property from Temp A Agriculture District to C Conservancy District, and creating Section 28.06(2)(a)3404. of the Madison General Ordinances rezoning property from Temp A Agriculture District to PUD(GDP) Planned Unit Development (General Development Plan) District. Proposed Use: 105 Residential Lots and 5 Outlots; 3rd Aldermanic District: 6001 Milwaukee Street.

Approval recommended subject to the comments and contained in the Plan Commission materials.

The motion passed unanimously.

**A motion was made by Cnare, seconded by Gruber, to RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING. The motion passed by voice vote/other.**

Registered in support and wishing to speak was Chris Landerud, Vandewalle and Associates, 120 East Lakeside Avenue, representing the applicant, Homburg Development.

Registered in support and available to answer questions was Andrew Homburg, 610, Clear Spring Court and Brian Munson, Vandewalle and Associates, 120 East Lakeside Street, representing the applicant.

6. [11310](#)

Approving the preliminary and final plat of Eastlawn located at 6001 Milwaukee Street. 3rd Ald. Dist.

Approval recommended subject to the comments and contained in the Plan Commission materials.

The motion passed unanimously.

**A motion was made by Cnare, seconded by Grube, to RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.05, 2.24, & 2.25 - REPORT OF OFFICER. The motion passed by voice vote/other.**

Registered in support and wishing to speak was Chris Landerud, Vandewalle and Associates, 120 East Lakeside Avenue, representing the applicant, Homburg Development.

Registered in support and available to answer questions was Andrew Homburg, 610, Clear Spring Court and Brian Munson, Vandewalle and Associates, 120 East Lakeside Street, representing the applicant.

**Land Division**

- 7. [13348](#) Approving a Certified Survey Map of property owned by Madison Joint Venture and CBL Madison I, LLC located at 448 South Gammon Road, 7357 West Towne Way, and 66 West Towne Mall. 9th Ald. Dist.

Approval recommended subject to the comments and contained in the Plan Commission materials.

The motion passed unanimously.

**A motion was made by Kerr, seconded by Cnare, to RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.05, 2.24, & 2.25 - REPORT OF OFFICER. The motion passed by voice vote/other.**

Registered in support and wishing to speak was Bill White, 2708 Lakeland Avenue, representing the applicant.

**Conditional Use/ Demolition Permits**

- 8. [11930](#) Consideration of a major alteration to an existing conditional use to allow expansion of a daycare at 5206 Siggelkow Road. 16th Ald. Dist.

The Commission found that the standards were met and granted approval subject to the comments and conditions contained in the Plan Commission materials and the following conditions:

- That children not be allowed to play outside before 8:00 am,
- That the applicant plant arbor vitae along the rear fence,
- That no more than 25 students be allowed outside at a time, and
- That the applicant contact City Engineering to determine if the location of snow storage on this site will impact run-off on adjacent properties.

**A motion was made by Sundquist, seconded by Cnare, to Approve. The motion passed by voice vote/other.**

Speaking in support of this item was Adam Hebgen, W6271 CTH DM, Deforest.

Registered in support and available to answer questions was the applicant, Fareed Syed, 5206 Siggelkow Road.

Speaking in neither support nor opposition was Ald. Judy Compton, 6030 Fairfax Lane, representing District 16.

Speaking in opposition was Jose Cantu, 27 Kanazawa Circle.

- 9. [12463](#) Consideration of a demolition permit to allow the former Royster-Clark fertilizer plant at 902 Dempsey Road to be partially demolished. 15th Ald.

Dist.

The Commission found that the standards were met and granted approval subject to the comments and conditions contained in the Plan Commission materials and the following clarification:

- That this approval is subject to the conditions recommended as "Alternative B," beginning on page 4 of the January 23, 2009 Planning Division Report.

A substitute motion made by Basford and seconded by Ald. Gruber, to place this item on file with prejudice failed by the following vote: 2:6 (AYE: Basford, Ald. Gruber; NO: Ald. Cnare, Olson, Heifetz, Bowser, Sundquist, and Whitaker; NON-VOTING: Fey; EXCUSED: Kerr)

**A motion was made by Cnare, seconded by Bowser, to Approve. The motion passed by voice vote/other.**

Speaking in neither support nor opposition to this item was Ald. Larry Palm, representing district 15.

Also registered in neither support nor opposition was Monty Clifcorn, 837 Royster Avenue.

10. [13349](#)

Continuing jurisdiction review by the Plan Commission of an approved conditional use for a beer garden for the Stadium Bar located at 1419 Monroe Street. 5th Ald. Dist.

The Plan Commission approved the following modifications and additional conditions determined necessary to bring the remaining aspects of this existing conditional use into compliance with the standards set forth in Section 28.12(11)(g) and previous conditions imposed by the Plan Commission.

- 1) That the Stadium Sports Bar and Eatery must comply with the June 1, 1998 Uniform Operating Conditions,
- 2) That the ornamental "Omega Fencing" indicated as part of the July 19, 2004 Conditional Use Alteration must be installed to replace the chain-link fence,
- 3) That the site plans and management plans shall be submitted for review by all relevant City agencies and approved by the Plan Commission,
- 4) That conditions 1-8 recommended in the January 26, 2009 Planning Division Report be met, with the following clarification. References that specified submittal of only the "Two-Volleyball Court Seasonal Outdoor Recreation Plan" should be amended to allow for submittal of two and/or three court plans. The Commission specified that they would consider an alternative Seasonal Recreational Plan with three volleyball courts, and
- 5) That this item return to the Plan Commission for the February 23, 2009 meeting for a decision to be made on points three and four above.

In a separate, preceding motion made by Ald. Cnare and seconded by Bowser, the Plan Commission found that ordinance standards number 1 and 3 relative to conditional uses were not met and denied approval to operate a beer garden for the events described in the January 20, 2009 letter from Attorney Temkin (representing McJingles/Stadium Bar) to Planning and Zoning Staff. These events are 1) The University of Wisconsin Spring Football Game, 2) The Crazy Legs Run, 3) The WIAA High School Football Championships, and 4) "Other similar events that may arise in the future." This motion passed by the following vote: 5:3 (AYE: Ald. Cnare; Olson, Bowser, Sundquist, and Whitaker; NO: Ald. Gruber, Heifetz, Basford; NON-VOTING: Fey; RECUSED: Ald. Kerr).

The motion to deny operation of a beer garden for the specified events noted in the paragraph above was an approved substitute motion. The original motion, moved by Olson and seconded by Ald. Cnare, to approve operation of the smaller proposed beer garden for the three specified events was withdrawn. Basford later moved to approve the beer garden operation with the staff recommendations which failed for lack of a second. Another motion, moved by Basford seconded by Olson, to refer this item for thirty days was replaced by the substitute motion, approved as described in the above paragraph.

**A motion was made by Bowser, seconded by Olson, to Approve. The motion passed by the following vote:**

- Excused:** 1 - James C. Boll
- Recused:** 1 - Julia S. Kerr

**Ayes:** 8 -

Tim Gruber; Lauren Cnare; Judy K. Olson; Michael A. Basford; Beth A. Whitaker; Michael G. Heifetz; Judy Bowser and Eric W. Sundquist

**Non Voting:** 1 -

Nan Fey

Speaking in support of this item was Harvey L. Temkin, 2313 Sugar River Road, representing the Stadium Bar/McJingles LLC. Also speaking in support were Tom Beach, 722 Wilder Drive and James Luedtke, 2614 Kendall Avenue all representing the Stadium Bar. Following the testimony of Captain Mary Schauf and Officer Carrie Hemming, Mr. Temkin requested the ability to ask questions of the officers. This request was denied by the Chair, noting that only Commissioners could ask questions of registrants, not other registrants.

Registered in support and available to answer questions was Daniel McCarty, 112 N Roby Road, representing the Stadium Bar.

Speaking in opposition to this item was Rosemary Bodolay, 1636 Adams Street, representing the Vilas Neighborhood Association.

Registered in opposition and not wishing to speak was Sherwood Malamud, 2259 West Lawn Avenue; Fraser Gurd, 1526 Jefferson Street; Hans Borcharding, 1524 Jefferson Street, and Richard Scott, 811 Oakland Avenue, representing the Vilas Neighborhood Association.

Speaking in neither support nor opposition to this item were Brad Ricker, 1815 Adams Street; Captain Mary Schauf, Madison Police, 211 S. Carroll Street; Officer Carrie Hemming, Madison Police, 211 S. Carroll Street; Ald. Julia Kerr, 1626 Madison Street, representing District 13; and Ald. Robbie Webber, 2613 Stevens Street, 2613 Stevens Street, representing District 5.

Registered in neither support nor opposition and available to answer questions was Katherine Plominsky, Mayor's Office, 210 Martin Luther King Jr. Blvd and Troy Rost, 2616 Kendall Avenue, representing the Regent Neighborhood Association.

Sarah Terry-Roast, 2616 Kendall Avenue turned in a registration form but did not indicate being in support, opposition, or neither support nor opposition.

**Zoning Text Amendments**

- 11. [13096](#) ALTERNATE - Creating Sec. 28.10(4)(c)68. of the Madison General Ordinances to make community gardens a permitted use in the M1 district.

The Plan Commission recommended approval of an alternate ordinance, making community gardens a permitted use in the M1 district. This would replace the original proposed text amendment making community gardens a conditional use in the M1 district.

This motion was a substitute motion, replacing the original motion to approve the proposed text amendment moved by Olson and seconded by Ald. Cnare. Both the substitute motion and the main motion to recommend approval of the alternate text amendment passed unanimously.

**A motion was made by Gruber, seconded by Basford, to RECOMMEND TO COUNCIL TO ADOPT AS AN ALTERNATE - PUBLIC HEARING. The motion passed by voice vote/other.**

There were no registrations on this item.

- 12. [13104](#) Repealing Section 28.085(d)4. and creating Section 28.085(c)8. of the Madison General Ordinances to change medical, dental and optical clinics from a conditional to a permitted use in the O-4 District.

The motion passed unanimously.

**A motion was made by Basford, seconded by Gruber, to RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING . The motion passed by voice vote/other.**

There were no registrations on this item.

**BUSINESS BY MEMBERS**

None.

**COMMUNICATIONS**

Nan Fey noted she had received an Environmental Impact Statement for the South Campus Union project.

**SECRETARY'S REPORT**

Brad Murphy noted the handout from the Assistant City Attorney regarding impacts on the sunset of the Inclusionary Zoning Ordinance and summarized the upcoming meeting matters.

**Upcoming Matters - February 9, 2009**

- 425 West Washington Avenue - R6 to PUD-GDP-SIP and a Demolition Permit to allow construction of a mixed-use building with 42 apartments, office/retail space and a health club
- 904-906 Regent Street et al - R5 & C2 to PUD-GDP-SIP and a Demolition Permit to allow construction of a mixed-use building with 65 apartments and 4,200 sq. ft of retail space
- 160 Westgate Mall (Odana Road & S. Whitney Way) - Conditional use/ revised planned commercial site to allow construction of a Hy-Vee grocery store at Westgate Mall
- 529 North Pinckney Street - Conditional use to allow an additional unit in an existing multi-family building

**Upcoming Matters - February 23, 2009**

- 542 Northport Drive - PUD-SIP to Amended PUD-GDP & SIP, revised GDP, first phase SIP and Final Plat of the Park Homes at Northport Commons
- 430 South Thornton Avenue - R4 to PUD-GDP-SIP to relocate an existing 2-unit building and construct underground parking and a new 2-unit building
- 1148 Jenifer Street - R4L to PUD-GDP-SIP to relocate 2-unit building from 430 S. Thornton Avenue onto vacant property
- 1045-1047 East Wilson Street - M1 to PUD-GDP-SIP to allow creation of two parcels for two existing residences

**ANNOUNCEMENTS**

None.

**ADJOURNMENT**

**A motion was made by Olson, seconded by Heifetz, to Adjourn at 12:29 am.  
The motion passed by voice vote/other.**