



Department of Planning & Community & Economic Development

## Planning Division

Heather Stouder, Director

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Madison Municipal Building, Suite 017  
215 Martin Luther King Jr. Boulevard  
Madison, Wisconsin 53703  
Phone: (608) 266-4635  
[www.cityofmadison.com](http://www.cityofmadison.com)

**TO:** Mayor Satya Rhodes-Conway  
Madison Common Council

**FROM:** Heather Stouder, Director, Planning Division

**DATE:** December 7, 2021

**SUBJECT:** Protest Petition Against Zoning Map Amendment File ID [67120](#), Creating Section 28.022-00515 of the Madison General Ordinances to rezone properties located at 341 State Street, 317-321 West Gorham Street and 322 West Johnson Street, 4th Aldermanic District, from UMX (Urban Mixed Use) and DC (Downtown Core) Districts to PD (GDP) Planned Development (General Development Plan) and creating Section 28.022-00516 to approve a Specific Implementation Plan

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On Monday, December 6, 2021, the City Clerk received a protest petition against zoning map amendment ID [67120](#) to rezone properties located at 341 State Street, 317-321 West Gorham Street and 322 West Johnson Street, 4th Aldermanic District, from UMX (Urban Mixed Use) and DC (Downtown Core) Districts to PD (GDP) Planned Development (General Development Plan) and creating Section 28.022-00516 to approve a Specific Implementation Plan. The petition has been added to the legislative file in two parts due to file size.

The petition was filed pursuant to MGO Sec. 28.182(5)(c)3.f. of the Zoning Code, which stipulates that, in the event that a written protest against the proposed map amendment is filed with the City Clerk and is duly signed and acknowledged by twenty percent (20%) or more of the registered electors residing within all buildings any part of which is on land directly opposite the subject property and extending one hundred (100) feet from the street frontage of the opposite land, such map amendment shall not become effective except by a favorable vote of three-fourths (3/4) of the members of the Common Council voting on the proposed change.

This protest petition has been reviewed by the City Attorney's Office, Clerk's Office, and Planning Division, and has been found to be **invalid** pursuant to the above section because it was not executed by 20% of the registered electors residing within all buildings any part of which is on land directly opposite the subject property and extending one hundred (100) feet from the street frontage of the opposite land. The Clerk's Office records show that the geographic area described above includes 640 registered electors, and there were twenty-seven (27) signatures included on the petition. If all 27 signatories were registered electors, this would equate to 4.2% of the eligible registered electors. However, staff from the Clerk's Office were only able to verify four (4) of the signatories as registered electors, which equates to 0.6%.

Further, the twenty-seven (27) signatories do not constitute any other group that would make the petition valid under MGO Secs. 28.182(5)(c)3.a.-f. Signatories do not include any owners of or registered electors residing in areas of land included in the proposed map amendment. **Therefore, no supermajority vote of the Common Council is required to pass this ordinance.**

Please note that MGO Sec. 28.182(5)(c)4.d. states that “If a protest petition is filed after noon on the Thursday before the proposed map amendment is initially set for final Council consideration, the matter shall be referred to the next Common Council meeting.” Based upon this language and guidance from the City, the petitioner was advised last week that the protest petition would be referred to the Common Council meeting of January 4, 2022.

Upon further review of the ordinance, this morning the City Attorney advised that the Council could act on the zoning map amendment today. The staff memorandum which accompanied the ordinance changes which, among other items, established the referral for late petitions, makes clear that the referral is for the benefit of Planning staff to process the petition and determine whether it is sufficient. In cases where the purported petition is so insufficient that staff can timely process a late petition, the City Attorney has advised that “shall be referred” is directory rather than mandatory language and a referral is not required. The petitioner has been advised that the Council may act on the zoning amendment at today’s Council meeting.

If anyone has questions regarding the petition, please let me know.

Cc (via e-mail):

Michael Haas, City Attorney  
Kate Smith, Assistant City Attorney  
Matt Wachter, Director, Dept. of Planning and Community and Economic Development  
Chris Wells, Planner, Planning Division  
Matt Tucker, Director, Building Inspection Division  
Brian Munson, Vandewalle & Associates  
Elisabeth McDonald