

M E M O R A N D U M

Date: June 8, 2025

To: City of Madison Plan Commission

From: Alex Saloutos

Re: Amending Section 28.183(9)(b) of the Madison General Ordinances related to conditional uses to clarify conditional use approval language, Legistar [88003](#)

This memo addresses an important issue regarding the proposed changes listed as item 4 on your June 9 agenda. This change could inadvertently grant staff authority to approve minor alterations without explicit alder approval after a CUP expires, contrary to MGO 28.183(8). This memo suggests a clear, simplified alternative that accomplishes the drafter's goal while maintaining the current process for approval of minor alterations.

Factual Background

Section 28.183 of the Madison General Ordinances addresses two distinct processes for conditional use permits: 1) approval of minor alterations, which is covered in MGO 28.183(8), and 2) administrative approval of extensions, which is covered in MGO 28.183(9)(b) and this legislation proposes to change.

MGO 28.183(8) requires that minor alterations are approved by both the Director of Planning and Community and Economic Development ("Director") and the district alder, and if both do not agree, the matter is referred to the Plan Commission for approval:

No alteration of a conditional use shall be permitted unless approved by the Plan Commission provided, however, the Zoning Administrator following consideration by the alderperson of the district, may approve minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the Plan Commission and the standards in sub. (6), above. If the alderperson of the district and the Director of Planning and Community and Economic Development do not agree that a request for minor alteration should be approved, then the request for minor alteration shall be decided by the Plan Commission after payment of the applicable minor alteration to a conditional use fee in Sec. 28.206, MGO.

This section also defines minor alterations as alterations compatible with the concept approved by the Plan Commission and the standards in sub. (6).

Currently MGO 28.183(9)(b) allows the Director, after consultation with the alderperson, to approve an extension if the original plans remain unchanged from Plan Commission approval:

Where the plans have *not been altered* [emphasis added] from the Plan Commission's approval and the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to one (1) year from the expiration date.

The proposed changes to MGO 28.183(9)(b) would allow the Director to approve extensions when plans have been altered after Plan Commission approval, provided the alterations remain compatible with the original concept and standards in sub. (6):

Where the plans are compatible with the concept approved by the Plan Commission and the standards in sub. (6) above and the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to one (1) year from the expiration date.

The drafter's analysis of this change states, "This proposed change to MGO Sec. 28.183(9)(b) makes the code language clear that conditional uses that are approved for alterations are also eligible for extensions."

Discussion and Analysis

I concur that the Director should be able to approve extensions if there have been minor alterations. However, the proposed language creates ambiguity about the approval of minor alterations after a CUP has expired. If minor alterations are made after the CUP expires, the proposed language appears to inadvertently authorize the Director to approve them without the approval of the alder, contrary to the requirements in MGO 28.183(8). The proposed language only requires the Director to "consult" with the alder on the approval of an extension for a CUP with minor alterations after it has expired. Combining language about approving CUP extensions with minor alterations after expiration creates confusion. In summary, changes to MGO 28.183(9)(b) must not create confusion or ambiguity about the approval of minor alterations.

Recommendation for Alternative Language

To accomplish the drafter's goal and maintain the current process for approval of minor alterations, I recommend simplifying the language in MGO 28.183(9)(b):

Where the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to one (1) year from the expiration date.

This revision clearly authorizes the Director to approve extensions for CUPs, including those with minor alterations, while preserving the existing requirement of alder approval for minor alterations and avoiding potential ambiguity.

Thank you for considering my comments.