

Common Council
Tuesday, September 16, 2014
Agenda Item #1, Legistar #34903
Appeal of Plan Commission Decision on Conditional Use regarding 706 Williamson St.

I appreciate the opportunity to provide comments with respect to the appeal of the Plan Commission's approval of the conditional uses for the 706 Williamson project.

Though long, since the zoning code is all about details, I have tried to provide the information in a format which is easy to view. The first section has applicable Conditional Use Standards and a brief description of why the standards are not met. Then, for each of the various issues, there is a brief overview of the main points, with more detail following.

Some issues are clear violations of the Conditional Use Standards. For example, the Plan Commission must find the project "all conforms to all applicable regulations of the district in which it is located." This project did not so conform, for example: (1) parking does not meet the minimum required by ordinance, but was not addressed by the Plan Commission; (2) lot coverage is more than 85% (and though addressed in the zoning review section of the approval letter, the lot coverage is an applicable regulation of the TSS district and must be met before the Plan Commission can approve a conditional use); (3) design standards for TSS district were not met (TSS requires entries to be "clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, recessed entries, landscaping, or similar design features" but none of this was reflected on the site plans).

A few of the issues are judgment calls rather than unequivocal violations of a standard. For example, the project will impair the Capitol view down Jenifer Street (which is a protected view under the Comprehensive Plan). However, opinions may vary as to whether this impairment is significant enough to find that a standard is not.

Summary by Conditional Use requirements

Conditional Use Standard #1

The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

1. The project is not in the public interest/general welfare. As defined by law, historic preservation is in the public interest/general welfare. ("[P]rotection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people.") This project puts at risk the architectural and historical character of Williamson Street. [Page 28]

Conditional Use Standard #3

The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.

1. The project is not in the public interest/general welfare. Land speculation, loss of small business, gentrification are all risks, and were risks recognized by the American Planning Association, the organization that named Williamson-Marquette a Top 10 neighborhood. [Page 28]

Conditional Use Standard #4

The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

1. Density: approval of density of 153 dwelling units per acre, when only 60 is recommended by the Comprehensive plan, will, as seen by past practice, be used for justification of future very-high density projects. [Page 12]
2. The project is not in the public interest/general welfare. Other potential development sites on the north side of Williamson will be able to use this approval as a reason to have increased density and height, and a lack of architectural details that define Williamson as both a Traditional Shopping Street and a historic district street. [Page 28]

Conditional Use Standard #5

Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements have been or are being provided.

1. The parking supply does not meet Zoning Code requirements. [Page 6]

Conditional Use Standard #6

Measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.

1. The lack of a loading zone may result in vehicles loading and unloading from travel lanes on Williamson Street and Blount Street. [Page 33]
2. The building needs a significant design change to provide adequate ingress/egress. [Page 33]

Conditional Use Standard #7

The conditional use conforms to all applicable regulations of the district in which it is located.

1. Lot Coverage is not met (not 15% green space). [Page 5]
2. Parking requirements are not met (64% reduction in required parking was not addressed by the Plan Commission). [Page 6]
3. Building form and design requirements, including articulation, entry delineation, base of building relating to the human scale are not met. [Page 8]

Conditional Use Standard #9

When applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendations.

1. The project does not complement the surrounding historic structures. [Page 16]
2. Staff analysis was based on compatibility with potential future developments, developments that would require conditional use approval, not with “the existing or intended character of the area.” The “the existing or intended character of the area” is to remain a traditional shopping street, in a historic district. [Page 16]

Conditional Use Standard #12

When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.

1. The project exceeds adopted plan recommendations and Comprehensive Plan recommendations. [Page 20]
2. The project analysis was for an increase of one story (adopted plan recommendations on maximum height were treated as a guaranteed height), not on whether the TSS maximum 3 story/40 feet maximums should be exceeded. [Page 20]

3. At some point, height becomes inherently inconsistent with the TSS use classification (706 is double the number of stories and 80% again as high in terms of feet). [Page 20]
4. The project will impinge on the sky outlining the Capitol dome from a “protected view.” [Page 14]
5. The project is not in the public interest/general welfare. As defined by law, historic preservation is in the public interest/general welfare. (“[P]rotection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people.”) This project puts at risk the architectural and historical character of Williamson Street. [Page 28]

Due Consideration

The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. MGO 28.183(6)

1. Density is 2 ½ times greater than density recommended by the Comprehensive Plan. [Page 12]
2. Adopted neighborhood plans need, in general, to be followed, both under the Comprehensive plan and City Ordinances. [Page 34]
3. 706 does not implement many of the BUILD design guidelines. In particular, visual continuity with the rest of the 700 block is not maintained. [Page 34]
4. Height, side yard setback, minimum open space and façade detail criteria are not met. Visual compatibility does not appear to be met. [Page 34]

Summary by Topic

Lot Coverage

Conditional Use Standard #7 not met:

The conditional use conforms to all applicable regulations of the district in which it is located.

1. Maximum lot coverage 85% for TSS [MGO 28.065(3)]
2. Approval letter acknowledges that this standard is not met.
 45. Lot coverage information has not been provided for the development. Section 28.211 defines lot coverage: provide design detail of proposed permeable paving to determine qualification as part of lot coverage requirement. Provide final lot coverage calculations with final plan set. NOTE: maximum lot coverage is 85%. (page 5)
http://www.cityofmadison.com/planning/projects/conditional/documents/706Williamson_DispoLetter.pdf

Additional Details:

- Definition: “Lot Coverage as “The total area of all buildings, measured at grade, ...and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavements, green roofs and decks.” [MGO 28.211]
- Purpose: “Lot coverage requirement establishes a maximum percentage of impervious surfaces on a lot; the remainder must be green space.” Sustainability Aspects of the 2009 Draft Zoning Code,
<https://www.cityofmadison.com/neighborhoods/zoningrewrite/documents/SustainabilityReferences101409.pdf>
- Lot size is 15,840 square feet, per City assessor records; 15% is 2,376 square feet.
- Staff stated at the PC meeting that they would really like to see “...is “the incorporation of a usable rooftop patio, again, if that can be done in a way that the added height from the elevator access doesn’t impact from the Willy Street side. Also, we are encouraging them to incorporate green roof elements. Those can be the passive sort of sedum trays or other green roof elements which can help with storm water management to a slight extent ...” (minute 4:52)
- Since sustainability is a purpose of the lot coverage requirements, do sedum trays or other green roof “elements” that “help with stormwater management to a slight extent” meet sustainability needs such as: limiting runoff at the source; improving water quality by filtering pollutants in the substrata layers; or, reducing the “heat island” effect of impervious surfaces?
- The Plan Commission approved the project even though the lot coverage requirement remained unmet. Further, the applicant was “encouraged” in the approval letter to “incorporate green roof elements, but not required. Without the green roof, the possible pervious surface is the 1000 square foot alley (the back driveway and parking lot appear to require an impervious surface).

Parking

Conditional Use Standard #7 not met:

The conditional use conforms to all applicable regulations of the district in which it is located.

1. TSS requires parking for a mixed-use building exceeding twenty-five thousand (25,000) square feet gross floor area. [MGO Table 28I-2. Districts With No Minimum Automobile Parking Requirements; Exceptions.]
2. Requirement is, at a minimum, 118 stalls: (1) 1 stall per dwelling unit (55 units) plus 15% of the restaurant/tavern capacity for a 7,500 commercial space.
3. The developer did not make a parking reduction request, and the Plan Commission did not grant a conditional use. The project was approved with just 42 stalls.

Additional Details:

- Number of commercial stalls
 - When a use of the commercial space is not specified, as it is not for this project, “the use with the highest parking requirement among all uses specified for the zoning district where the site is located shall be used to calculate off-street parking requirements. [MGO 8.141(4)(f)]
 - Yet Staff noted this condition in the approval letter: “As the commercial tenant spaces are leased, the entire development must reflect compliance in the required amount, type and number of auto and bike parking spaces, to be reviewed prior to obtaining zoning approval for each use. Parking reductions maybe required pursuant Section 28.141(5).”
 - 15% of capacity is at least 63 stalls. (The 1419 Monroe project required 63 stalls for 5,887 square feet of unidentified commercial use, and this project is 1,316 square feet larger.)
- Provided is 42 stalls – a 76 parking stall decrease, or a 64% reduction.
- The potential for the applicant to use his Blount Street property, or his mid-block Willy Street parking lot, is not relevant. Neither was formally proposed, and staff acknowledges potential development could eliminate the Blount Street parking (Staff report, page 7), and the developer noted (minute 4:31) that this lot was being looked at for development. Even counting the Blount lot with 30 stalls, the parking reduction would be at least 46 stalls or a 49% reduction, still requiring conditional use approval.
- This reduction exceeds that which can be administratively approved. “A reduction of more than 20 spaces and 25% or more of the required parking requires conditional use approval.” [MGO28.141(5), Table 28I-4]

- Before a conditional use may be granted by the Plan Commission, the owner must submit information to support the argument for reducing the required number of spaces.
[MGO28.141(5), Table 28I-4]
- Conditional Use Standard #10 requires consideration of the following factors when approving a parking reduction:
 - the availability and accessibility of alternative parking;
 - impact on residential neighborhoods;
 - existing or potential shared parking arrangements;
 - number of residential parking permits issued for the area;
 - proximity to transit routes and/or bicycle paths and provision of bicycle racks;
 - the proportion of the total parking required that is represented by the requested reduction;
 - the proportion of the total parking required that is decreased by Sec. 28.141;
 - the characteristics of the use, including hours of operation and peak parking demand times , design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.

Traditional Shopping Street: Building Form and Design

Conditional Use Standard #7 not met:

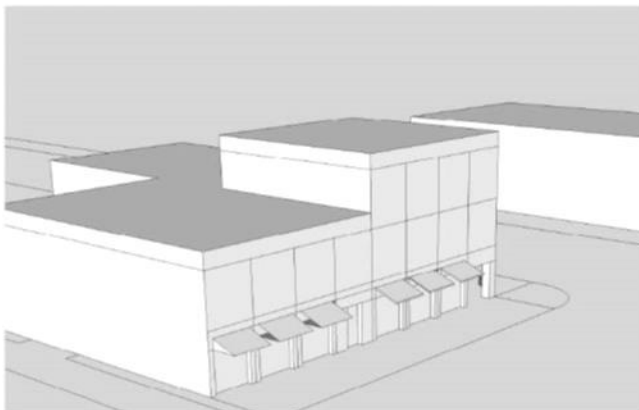
The conditional use conforms to all applicable regulations of the district in which it is located.

1. Permissible building forms in a TSS district include a free standing Commercial Block Building and a Podium Building. Flex Buildings are not permitted. [MGO 28.062 Table 28D-3.] Commercial Block Buildings need storefronts, stoops or patios and vertical articulation every 40 feet.
2. Entries must be clearly visible and identifiable from the street, and delineated. [MGO 28.060(2)(a)] The Plan Commission did require the addition of doors on Williamson (“Entrances to the building shall be provided at least every 40 feet”) but the design was not reviewed or required.
3. The base of the building shall relate to the human scale, including doors and windows, texture, projections, awnings, canopies, and similar features, and storefronts are required. [MGO 28.060(2)(j), 28.173(1)(a)]

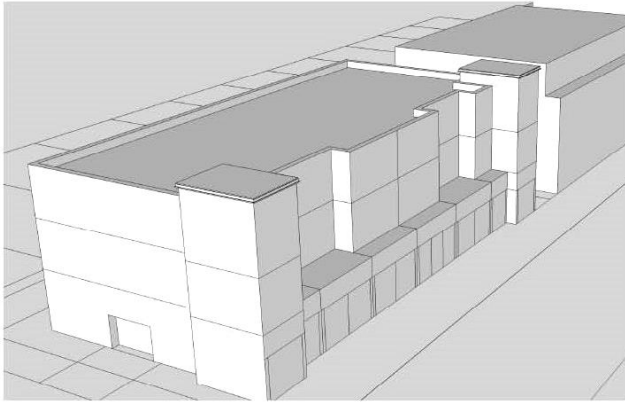
Additional Details:

A Commercial Block Building:

- ... is designed to support *a mix of commercial or office uses on the ground floor* with office, studio, lodging and/or residential units above. Buildings are typically designed with *storefronts or arcades at ground floor*. [MGO 28.173(1)(a)]
- Buildings shall be designed with *storefronts, stoops or patios along at least forty percent (40%) of the front ground floor facade along the primary abutting street*. [MGO 28.173(1)(a)]
- Facades facing a public street shall be *vertically articulated at a minimum interval of forty (40) feet*. Entrances shall be provided at least every forty (40) feet along the primary abutting street. [MGO 28.173(1)(c)]



Commercial Block Building, Figure K12, MGO 28.173



Flex Building, Figure K23, MGO 28.173

Mixed –Use and Commercial Districts design standards:

- Entries shall be clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, recessed entries, landscaping, or similar design features. Barrier-free entrances are encouraged. [MGO 28.060(2)(a)]
- Facade Articulation. Consistent with the design of traditional storefront buildings, new buildings of more than forty (40) feet in width shall be divided into smaller increments, through articulation of the facade. [MGO 28.060(2)(b)]
- The base of the building shall relate to the human scale, including doors and windows, texture, projections, awnings, canopies, and similar features. [MGO 28.060(2)(j)]



The 706 project is approximately 125 feet in length (site plans do not provide dimensions). The corner element is about 30 feet of glass, the step-back (street number) is about 10 feet, and the remaining approximate 85 feet is glass. The project lacks:

- storefronts, stoops or patios (unless 5 foot setback from the sidewalk counts as a patio);
- vertical articulation every 40 feet;
- clearly visible entries identifiable from the street;
- entries that are delineated with elements such as roof overhangs, recessed entries, landscaping;
- a building base that relates to the human scale, including doors and windows, texture, projections, awnings, canopies.

Examples of ground floors with articulation, visible entries that are delineated, storefronts, and a building base that relates to the human scale:



Figure K14: Typical Commercial Block Building Photo 2, MGO 28.173



Kennedy place, 2045 Atwood Avenue

Staff believes “Architectural features such as the sixth floor stepback and balconies along Williamson Street, the strong glass corner element, and French balconies along Blount Street help to break up the mass and volume of the building.” (Page 6, Staff report)

- The 6th floor stepback is 3 feet (compared to the 16-18 foot stepback for the 4th floor of 2620 Monroe). The stepback is only for about $\frac{3}{4}$ of the Williamson side and none of the Blount side. Of the portion that is stepped back, about half will have railings even with the façade.
- Balconies are not one of the articulating elements listed in MGO 28.060. Those elements are (1) façade modulation, (2) vertical divisions using different textures or materials, (3) storefronts, with separate display windows and entrances, (4) variation in roof lines, and (5) arcades, awnings or window bays at intervals equal to the articulation interval. Although this is not an exhaustive list since a new design element is always possible, balconies are a common element that could have been listed had that been

meant to be an articulating element. Further, for window bays to count as an articulating element, those bays must be “at intervals equal to the articulation interval”. Thus, there needs to be an underlying articulation element. In the downtown district, balconies can be used to “reinforce the vertical intervals” (e.g., vertical articulating divisions using different textures, materials, or colors of materials).

2620 Monroe is articulated.



The stepback for 2620 Monroe results in the 4th story barely being visible from across the street.



Density

Conditional Use Standard #4 not met:

The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Introduction to the standards:

The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. [MGO 28.183(6)]

1. Project's density is 2 ½ times greater than the recommended density in the Comprehensive Plan (706 has 153 dwelling units per acre, Comprehensive Plan has a recommended net density not in excess of 60 dwelling units per acre.)
2. Density of 153 dwelling units per acre, when only 60 is recommended by the Comprehensive plan, will, as seen by past practice, be used for justification of future very-high density projects.
3. Neighborhood has accepted increased density on past projects.
4. Density was mentioned by two Commissioners: both expressed an opinion that density is good at this location because it is (or close to) downtown. [Minutes 5:15 and 5:22] There was not discussion of Comprehensive Plan recommendations.

Additional details:

Comprehensive Plan Volume II-Recommendations:

- recommended net density not in excess of 60 dwelling units per acre for Community Mixed-Use [page 2-89];
- high-density residential is defined as greater than 60 dwelling units per acre [page 2-89];
- increased density is possible if the “development is compatible with the scale and character of the neighborhood” [page 2-89]; and,
- sites in the transit overlay district should have a “[h]igher net densities of 30 dwelling units per acre or more” but these “net densities may not always be feasible or desirable, especially in built up areas of the City where adjacent development is at a lower density.” [page 2-120]

Project's density is 153 dwelling units per acre (208 bedrooms per acre), per Staff report.

Project's density is 2 ½ times greater than the recommended density. Its density exceeds that of the Constellation (754 E Washington, 145 du/acre), and is about the same as that of the Ovation 309 (309 W Johnson, 156 du/acre).

<https://madison.legistar.com/View.ashx?M=F&ID=3064957&GUID=7BCDE245-D1F6-4E40-A556-C6B74D568F83>

Neighborhood has accepted increased density:

- 301 S Blount: 65 du/acre
- 306 S Livingston: 83 du/acre
- 740 Jenifer/Williamson: 118 du/acre

Once a very-high density project is approved, that approval forms the basis for future conditional use approvals. See, for example, the Staff report for 1419 Monroe, which had a density of 144 du/acre, in which staff justified the higher density by comparing densities of surrounding properties. <https://madison.legistar.com/View.ashx?M=F&ID=2405149&GUID=DD710558-4C0A-4D32-8FE7-B42948AE0FD4>

See also, 617 N Segoe, in which already increased density is used to support increased density of a proposed project: “The Planning Division believes that the subject site’s placement within a designated Transit Oriented Development overlay district and its location within a large and intensively-developed CMU district (that already includes some buildings exceeding the recommended density) provides policy guidance that supports additional density and relatively high-density residential development at this location.” <https://madison.legistar.com/View.ashx?M=F&ID=3064957&GUID=7BCDE245-D1F6-4E40-A556-C6B74D568F83>

View

Conditional Use Standard #12:

When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows *and view*; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.

1. Jenifer Street is a protected view. Although the 706 project will not block the Capitol view, it will impinge upon the sky outlining the dome.

Additional Details:

The Comprehensive Plan, though a supplement (Downtown Plan, adopted by the City of Madison Common Council as a supplement to the Comprehensive Plan, 7/17/2012, RES-12-00564), has protected views, one of which is the Jenifer Street view of the Capitol.

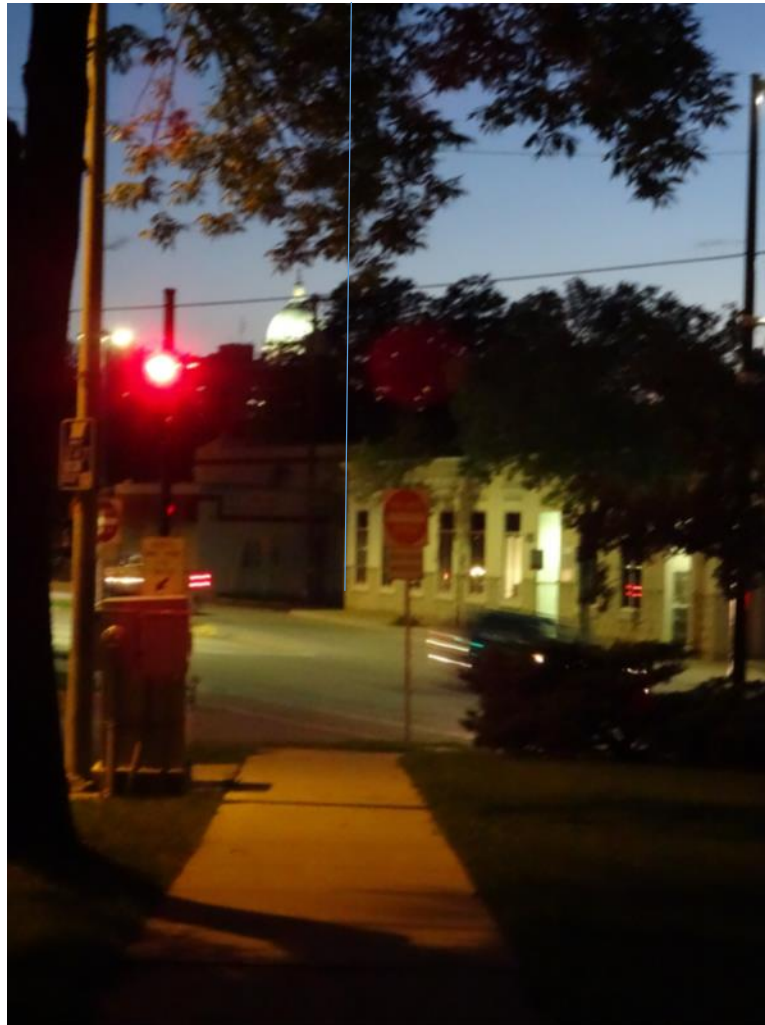


The importance of the view is explained Downtown Plan, Key #3:

- “Preserving Downtown’s unique identity and building on the qualities that make it special is critical in continuing to attract new jobs, residents, and visitors. This plan seeks to enhance these qualities and make recommendations on preserving important views ...” (page 5)

- “The dramatic views of Downtown’s skyline and the Capitol building ... are among Madison’s most engaging attributes.” (page 31)

The 700 block of Jenifer Street is extensively used by walkers and bikers. This is not a view that is merely appreciated by a few residents.



“Key views, from both near and far, are important contributors to the character of Downtown and once they are diminished or destroyed, it is unlikely that they will ever be reclaimed.”
Downtown Plan, page 32

Aesthetic Desirability

Conditional Use Standard #9 not met.

When applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability *compatible with the existing or intended character of the area* and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendations. (emphasis added)

1. The Staff report did not address compatibility with the existing or intended character of Williamson Street. Rather, it focused on the possible developments that could occur through conditional use approval and determined the 706 project would be compatible with those projects.
2. The height of 706 is 20 feet taller than its tallest neighbor (or more than a third taller than the Olds Building). (Height is separately discussed in more detail.) The building form is not compatible with existing historic buildings.

Additional Details:

“On balance, staff believes that since the proposed 6-story building generally complements surrounding properties, and since it is still not as tall as the heights that could be supported to the west of Blount Street and to the northeast of the subject site, it will be in scale with future redevelopment, and can serve the function of stepping down toward the neighborhood to the east and south.” (Staff report, page 9) “The use of brick, glass, storefront windows, and a rhythm of window openings similar to the surrounding buildings helps to maintain visual continuity.”

- Brick is used. It is a judgment call whether the color complements surrounding buildings, which are not as bright.
- Glass running the entire Williamson Street façade does not complement the existing historic buildings.
- The rhythm of window openings is not similar to surrounding buildings.

The building form/design is also not compatible with existing historic buildings.





722 Williamson



301 S Blount





744 Williamson



754 Williamson

The Staff report did not base its aesthetic desirability determination on the intended character of the area. The area's character is not expected to change according to the Comprehensive Plan, Zoning Code or neighborhood plan.

Rather, Staff based its aesthetic desirability determination on development potential. Since the project "is still not as tall as the heights that could be supported to the west of Blount Street and to the northeast of the subject site, it will be in scale with future redevelopment, and can serve

the function of stepping down toward the neighborhood to the east and south.” (Staff report, page 9)

- Redevelopment potential is not the standard required for conditional use approval.
- Staff analysis assumes those future projects will be built at those heights. This is purely speculation because a conditional use permit would be required to attain those heights.
- The east end of East Wilson is 6 stories, so allowing even the heights listed under the neighborhood plan would be a step-up.

Plan Commissioners also based their view of aesthetic desirability on future projects:

- Minute 5:14: “This is going to be part of that as perhaps another development or two may be in the near future.” “I am not sure how to reconcile one with the other [regarding a holistic vision of the block], or how that interplay works, or if we’re supposed to be addressing that interplay. So having them both come up at the same time might be unfair to both of them.” (The last sentence was in regard to delaying the 706 vote until the subsequent meeting, at which time the Baldwin proposal for the mid-700 block was expected to come before the Plan Commission.)
- Minute 5:16: “I think when you discuss the possibility as has been that the Gateway at some point will likely be replaced by a 7 story project, and I think that would probably be a desirable thing, I think we have a high quality project.”
- Minute 5:17: “The chair [minute 5:16] just made a good case for this which I agree with.” “Heather does a really good job of explaining why you could make the opposite case [600 block could be redeveloped as high as 7 stories and 85 feet, so we saw this as an opportunity to still say that it is meeting that general principle of stepping down as you head to the east, at minute 5:00], why it makes sense to make the opposite case”
- Minute 5:20: “When we have other developments in this area, it’s going to fit in. It’s going to be just like the Edgewater – that they’re going to say well what was the big deal, at least from my perspective.”

Height

Conditional Use Standard #12 not met.

When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.

1. Comprehensive Plan recommendations provides buildings should generally be two stories, with specific height standards established in neighborhood plans.
2. The building exceeds the Comprehensive Plan's height to street width ratio.
3. Staff determined that the TSS zoning was not appropriate for this site (3 stories would be an "underutilization"). The Staff report and the Plan Commission did not analyze the 706 project as going from 3 stories/40 feet to 6 stories/72' 4". Rather, the focus was only on the increase from 5 stories to 6 stories.
4. The neighborhood plan has a maximum height of the lesser of 5 stories/54 feet. (This means that the Olds Building, the highest historic structure on Williamson, would continue to be the tallest building.)
5. Staff supported the height with the argument that 6 stories would be a step-down from buildings to the west and northeast, but such uses would require conditional use approval. Plus, East Wilson is a maximum of 6 stories, so whether there should be a step-up on Williamson is questionable.
6. The mass of 706 may not be as large as the Olds Building, but it appears larger since it is the inside corner that is cut off – and this is not visible from either street.
7. At some point increased height is inherently inconsistent with the TSS use classification. When the height becomes inherently inconsistent, a conditional use permit is not appropriate. TSS has a maximum height of 3 stories/40 feet. 706 is 6 stories/72' 4" (not including parapet). Is a building double the number of stories and 80% again as high as what is permitted in TSS districts consistent with a TSS classification?
8. Addition of a rooftop patio would increase the height due to stairwells and, likely, a visible railing.
9. View is separately discussed.
10. Public interest is separately discussed.

Additional Details:

- Recommendations in Adopted Plans

Comprehensive Plan:

Height compatible with size/scale of the district and surrounding land uses/structures.

Buildings more than one story in height, with maximum building height compatible with the size of the district, surrounding structures and land uses. Specific height standards may be recommended in an adopted neighborhood or special area plan.

Comprehensive Plan, Volume II-Recommendations, page 2-89.

Generally, buildings should be at least two stories in height. Specific height standards should be established in neighborhood or special area plans and should be compatible with the scale and intensity of the district as a whole and the context of the surrounding neighborhood.

Comprehensive Plan, Volume II-Recommendations, page 2-89.

Require new development to establish effective levels of spatial enclosure. Spatial enclosure is created through the use of a height-to-width ratio (i.e. the relationship between a building's height and the width of the street on which it fronts).

Note: The optimum height-to-width ratio in Madison may be about 1:1, although ratios that are greater than 1:1 may be appropriate in certain locations in the city as identified in special area plans or neighborhood plans. Too small a ratio generally does not result in the creation of a sense of place.

Volume II-Recommendations, page 2-42, Policy 3.

Objectives and Policies for Planning the Built Environment, Objective 50, Policy 2: "Establish building height standards for the Downtown/Isthmus area that will result in a skyline that reflects and emphasizes the natural topography, with taller buildings on the high ground and lower buildings toward the lakeshores."



Skyline effect resulting from establishing maximum building heights relative to the natural topography of the Isthmus.

MGO:

Traditional Shopping Street: maximum height is 3 stories/40 feet. Sec. 28.065(3)

BUILD:

Lesser of 54 feet or 5 stories (page 32)

<http://www.cityofmadison.com/planning/DesignStandardsBookFinal%204.pdf>

Marquette-Schenk-Atwood Neighborhood Plan:

Require new and rehabilitated buildings to reflect the character, aesthetics and scale of the surrounding historic buildings. (Page 15, recommendations for north side of 600-900 blocks.)

<https://www.cityofmadison.com/planning/ndp/marquette.pdf>

- 706 Conflicts with Adopted Plans

Roof height at northwest corner (Blount Street) 78' 4", at Williamson Street 72' 4". At its highest point along Williamson, height of 75' (per Staff report) including the parapet, with the northwest corner at 81'.

According to the Fire Department in another development proposal, "if the roof elevation is more than 75 feet above grade, the building will be classified as a high rise building."

<https://madison.legistar.com/View.ashx?M=F&ID=3186953&GUID=8F67CA12-A341-4AC0-AD6E-F9BE5B4BBD97>

Comprehensive Plan: 706 is not "... compatible with ... surrounding structures ..."

Mass

(cubic feet calculations per James Brown of Engberg Anderson at the Landmarks Commission meeting)

<http://www.cityofmadison.com/planning/projects/conditional/documents/34335Comments.pdf>

722 Williamson (Olds Building): 806,000 cubic feet

301 S. Blount (Harvester Building): 420,000 cubic feet

706 project: 77,000 cubic feet (per Landmark notes, but should have been approximately 747,000 cubic feet)

- 706 is about 75% larger in mass than the Harvester Building.
- 706 has an actual smaller mass than the Olds Building.
- However, it is the north corner of 706 that is cut off and this corner is not visible from either Williamson or Blount Street. Thus, the project gives the appearance of a relatively square building with a mass of 893,926 cubic feet (12,359 square feet—square footage of current building which occupies the same frontage along Williamson and Blount as the proposed project -- times 72.33 feet), or 11% larger than the Olds Building.

Square Footage

722 Williamson (Olds Building): 58,500 square feet (per City Assessor record)
301 S. Blount (Harvester Building): 31,050 square feet
706 project: 75,770 square feet, per Staff report (approximately 63,400 excluding the basement)

- 706 is more than double the square footage of the Harvester Building and about has about 8% more square footage than the Olds Building.

Height

722 Williamson (Olds Building): approx. 55 feet (not including parapet)
301 S. Blount (Harvester Building): approx. 41 feet
706 project: 72' 4" (not including parapet) along Williamson, 78' 4" along Harvester Building

- 706 would be 17' 4" higher (or 31.6%) higher than the Olds Building.
- 706 would be 37' 4" higher (or 90%) higher than the Harvester Building.

Comprehensive Plan: 706 is not “compatible with the ... intensity of the district as a whole ...”

The Olds Building is the tallest historic structure on Williamson, and, I believe, the largest in terms of mass. 706 is almost a third again as high as the Olds Building, and appears to have more mass, so it cannot be compatible with the intensity of the district as a whole.

Comprehensive Plan: 706 is not “compatible with ... the context of the surrounding neighborhood.”

This is a historic neighborhood. A building of 72' 4" (not including parapet) is not compatible with a historic context.

Comprehensive Plan: 706 does not have an “effective level of spatial enclosure.”

The optimum height-to-width ratio in Madison may be about 1:1. Williamson Street is 44 feet wide, and 706 is 72' 4". This is a height to width ratio 1.64:1.

This is the ratio, not including rooftop mechanicals, or the staff-proposed rooftop garden (which would require a railing).

BUILD: exceeds the lesser of 54 feet or 5 stories

The maximum height of 54 feet preserves the historical preeminence of the Olds Building (which would remain the tallest building at 55 feet, not including the parapet).

706 exceeds this recommendation by 18' 4" or 33%.

Marquette-Schenk-Atwood Neighborhood Plan: 706 does not “reflect the character, aesthetics and scale of the surrounding historic buildings” as the scale exceeds historic building scale.

MGO 28.065(3): 3 stories/40 feet

Conditional uses are “flexibility devices, which are designed to cope with situations where a particular use, although not inherently inconsistent with the use classification of a particular zone, may well create special problems and hazards if allowed to develop and locate as a matter of right in [a] particular zone.” *State ex rel. Skelly Oil Co. v. Common Council*, 58 Wis.2d 695, 700, 700-701, 207 N.W.2d 585, 587 (1973), superseded on other grounds by WIS. STAT. § 62.23(7)(e). (emphasis added)

At what point does the height of a building become inconsistent with a Traditional Shopping Street designation? 706 is double the number of stories and 80% again as high as the maximum height for TSS.

- Impact on Surrounding Properties

706 would tower over the Harvester Building and would be a third again as tall as the Olds Building. The visibility and impact of these historical structures would be diminished.

The view down Jenifer Street would be negatively impacted (which is separately discussed).

- Architectural Quality and Amenities

Architectural amenities, such as the use of brick, are required by ordinance since the materials used in the street facade(s) of any new structure needs to be with those used in the buildings and environment within its visually related area. MGO 33.19(11)(f).

- Focus of Staff and Plan Commission was not on TSS Maximums

Staff determined that developing “the site with a three-story building and its related residential density would represent an underutilization of the property, which is just a few blocks from Downtown and the Capitol East District.” (Staff report, page 9) Thus, Staff outright rejected the TSS zoning.

The focus of Staff and the Plan Commission was on exceeding the BUILD maximum by one story. TSS was not considered and BUILD was treated as a guaranteed minimum.

“Aside from a one-story height discrepancy, the building proposed for the site is generally consistent with adopted plans, as detailed in the above section of the report.” (Staff report, page 7.)

“Staff does not believe that the additional story is significantly different from the design guidelines for the property, nor that the incremental difference between a five- and six-story building would have noticeable impacts on the adjoining streets or properties.” (Staff report, page 9.)

At minute 4:59, Staff replied to a question about height stating that a proposal at 7 stories would likely not have garnered staff support, but that the incremental change from 5 to 6 stories was supported by staff.

At minute 5:03 a Commissioner said the sixth story was a bonus story and asked what the developer has done to merit that story. Staff replied: “There is not a particular aspect of the building that we feel gives it a bonus, per se.”

At minute 5:23 a Commission stated “Having a site that is proposed for five be six, I don’t think that is an egregious deviation [from the neighborhood plan, which is only a guide].”

This is in contrast to other development projects where Staff analysis focused on whether the 3 story/40 feet for TSS zoned property should be exceeded.

2158 Atwood Avenue (8/11/14)

On balance, staff believes that while the 4-story building is taller than others in the area, it will fit appropriately in this location, due in large part to the significant fourth floor stepbacks on the western and southern sides of the building. When taking into account the surrounding properties and public rights of way, staff believes that the proposal meets this standard.

<http://www.cityofmadison.com/planning/projects/demo/documents/34633StaffComments.pdf>

2620 Monroe & 665 Knickerbocker (7/8/13)

The scale of building in neighborhood mixed-use areas should generally be between two and four stories in height, though building heights, as well as intensity of use and residential densities can vary as established in an adopted neighborhood or special area plan. ... Buildings in Area 25 [of the Monroe Street Commercial District Plan] are recommended to be 2-4 stories in height, with the third and/or fourth floors to be set back from the front façade line. (page 9)

Staff believes that the 2,457 square-foot loft level, which is considered a story and exceeds the 40-foot height threshold for permitted buildings, should be the primary consideration for the Plan Commission in determining if this standard [standard 12] is met. (page 11)

Many of the provisions of the TSS-Traditional Shopping Street zoning district were developed with the intention of having direct applicability along sections of Monroe Street, Williamson Street and Atwood Avenue, all of which abut lower-density residential areas. (page 11)

<http://www.cityofmadison.com/planning/projects/conditional/documents/30334StaffComments.pdf>

If TSS was developed with Williamson in mind, then the purposes of TSS should not be disregarded just because such a use would, in staff's opinion, be "underutilization."

If 706 had been analyzed the same as the Monroe Street project, the Plan Commission should have considered the effect of floors floor 4 through 6. (The height of the third floor is 36' 8".)

Staff for both the Monroe and Atwood projects believed that (1) setbacks allowed the 4 story buildings to fit into TSS zoning and (2) the height was allowed under neighborhood plans. In contrast, 706 is not really stepped back: the step back is only 3 feet for approximately $\frac{3}{4}$ of the Williamson façade with no setback on Blount Street. Additionally, about $\frac{1}{2}$ of the Williamson setback will have balcony rails to the façade edge. The neighborhood plan does not permit heights in excess of 54 feet, so the neighborhood plan was not followed.

If the issue had been properly framed, an increase of 3 stories and 32 feet, perhaps the Commissioner who said "I don't know if one less, or one more, story gets us over standard 4." (Plan Commission 7/7/21014, minute 5:13) would have found standard #4 was not met.

- BUILD Criteria, not the principles, embody the standards that must generally be met.

Staff found that 706, at 6 stories, generally met the guiding principles of BUILD.

Staff believes that these guiding principles are generally well-addressed with the proposal. Along the north side of Williamson Street, development of up to seven (7) stories (assuming bonus criteria are met) could be supported to the west of this site, which would result in a step down to the proposed six-story building moving east.

Under BUILD, principles are general design objectives while criteria are the details that implement those principles.

- Principles "are intended to provide an overall picture of design objectives for the neighborhood as a whole" (Page 8)
- Guidelines "summarize key preservation standards." (Page 16).
- Criteria are intended to promote construction that does not detract from the historic appearance of the neighborhood (page 31) and will be adopted as an ordinance amendment to the Third Lake Ridge Historic District and must be adhered to. (Page 5)

<http://www.cityofmadison.com/planning/DesignStandardsBookFinal%204.pdf>

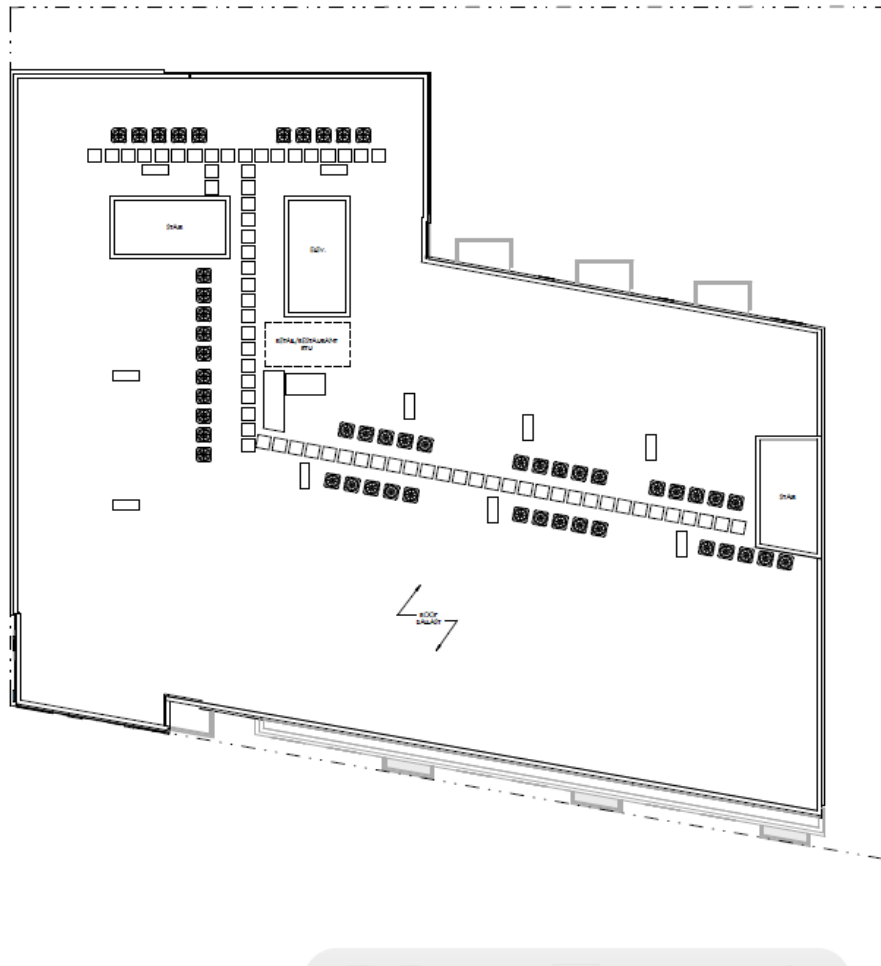
Rather than following the criteria in the adopted neighborhood plan, Staff has created new criteria for implementing BUILD principles.

- Rooftop patio increase height.

At the Plan Commission meeting, Staff discussed shared rooftop space as a way to get more open space if it could be done in a way that the elevator access would not be experienced from Williamson. (Minute 4:52) One Commissioner, in discussing whether this item should be referred to the next meeting, expressed concern that there was now an elevator and a railing -- a lot was being added that the Plan Commission couldn't view because it wasn't in front of them. (Minute 4:57)

In addition to the elevation, two stairwells were on the revised site plan. These stairwells would be visible from Williamson.

A visible rooftop patio/railing, is not compatible with a historic commercial mixed-use building.

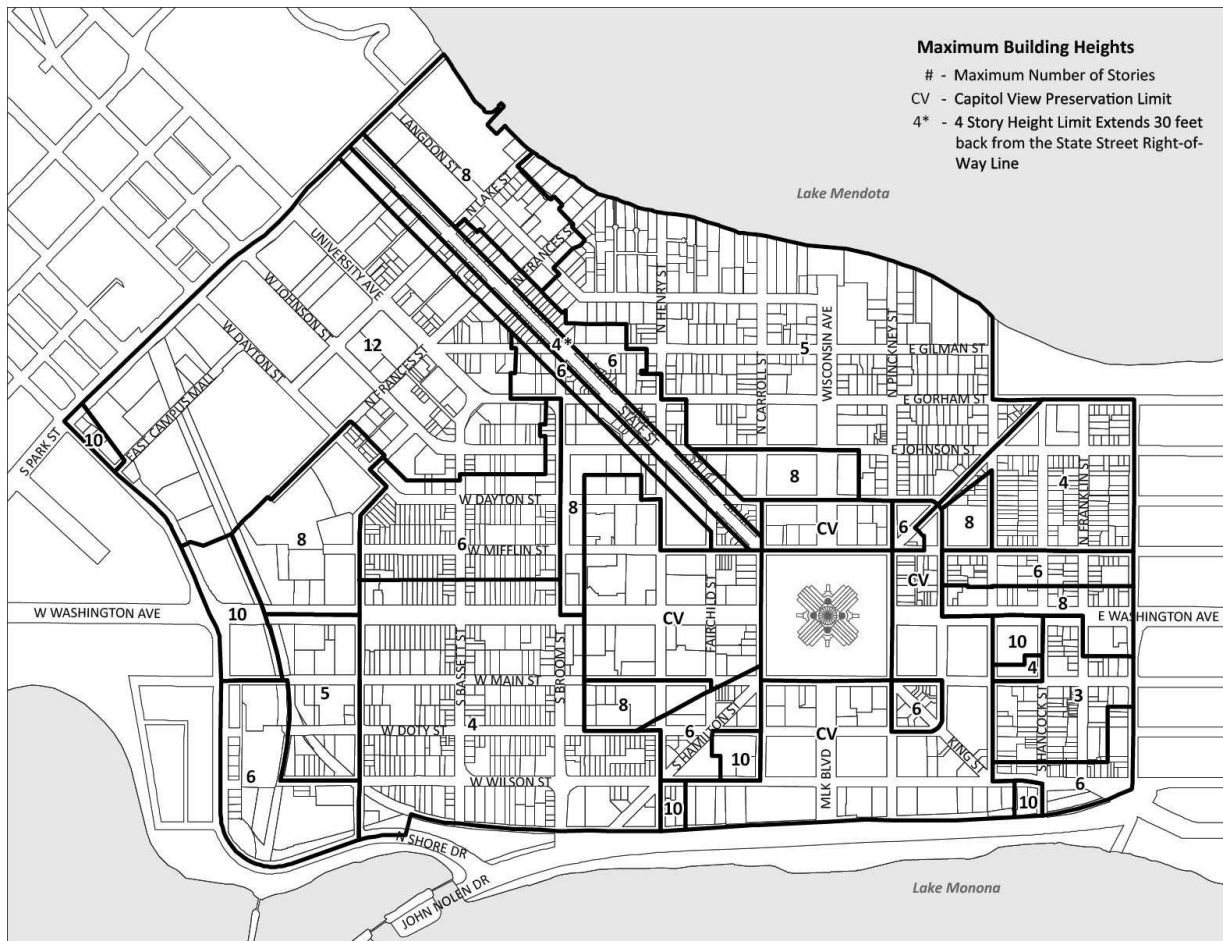


- Would 706 be a step-up?

Staff determined the “Preserve Transitional Neighborhood Scale” principle was met because “[a]long the north side of Williamson Street, development of up to seven (7) stories (assuming bonus criteria are met) could be supported to the west of this site, which would result in a step down to the proposed six-story building moving east.

However, the 500 block of East Wilson has a maximum height of 6 stories (and is not in the downtown Additional Height Area Map). Whether East Wilson remains as it is (3 stories, with the Hotel Ruby Marie in a historic district), or increases to 6 stories, allowing heights of 6 stories or greater would not comply with the Comprehensive Plan Policy of having “a skyline that reflects and emphasizes the natural topography, with taller buildings on the high ground and lower buildings toward the lakeshores.”

If the 600 block would ultimately be approved at 6 stories so as not to step up from East Wilson, 706 would not be a step down eastward from Blair Street.



Public Interest and General Welfare

Conditional Use Standard #12

When applying the above standards to an application for height in excess of that allowed in the district, the Plan Commission shall consider recommendations in adopted plans; the impact on surrounding properties, including height, mass, orientation, shadows and view; architectural quality and amenities; the relationship of the proposed building(s) with adjoining streets, alleys, and public rights of ways; and the public interest in exceeding the district height limits.

Conditional Use Standard #4

The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Conditional Use Standard #3

The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.

Conditional Use Standard #1

The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

1. The public interest and general welfare, as defined by law, is historic preservation.
2. Staff did not offer any statutorily defined public interest that would provide support for 706.
3. Staff determined (contrary to the Council's determination in adopting the Zoning Code) that a 3 story/40 foot high building would be flat out inappropriate for this site: developing "the site with a three-story building and its related residential density would represent an underutilization of the property, which is just a few blocks from Downtown and the Capitol East District." (Staff report, page 9)
4. 706, with its lack of storefronts and other design details, is not compatible with a historic street.
5. As recognized by the American Planning Council, which named Williamson-Marquette one of the 10 best neighborhoods, development and gentrification can harm the neighborhood's character and diverse population.

Additional Details:

Staff Report

"[S]taff believes that allowing for the additional height and related residential density is in the public interest at this underutilized corner site, where new opportunities for activity will be provided at this important corner." (Staff report, page 9.)

Saying that additional height is in the public interest when the condition for additional height requires consideration of the public interest is a circular argument.

Further, the “new opportunities for activity” are not explained. Outdoor restaurant seating was required to be taken off the plans since another conditional use permit would be required. Residential, bicycle and vehicle access are all on Blount Street, thus minimizing additional activity of residents on Williamson. The alley showed seating for a mere 8 people, and though there is a stair entry for residents, that seems unlikely to create a hub of activity.

Public Interest in Historic Preservation

What is in the public interest is historical preservation, under State law, court interpretation, and City ordinance.

State law:

Sec. 44.30: *Public policy.* The legislature finds that the historic, architectural, archaeological and cultural heritage of the state is among the most important assets of the state and furthermore that the social, economic and physical development of contemporary society threatens to destroy the remaining vestiges of this heritage. It is therefore declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation to promote the use and conservation of such property representative of both the rural and urban heritage of the state for education, inspiration, pleasure and enrichment of the citizens of this state. (emphasis added)

Sec. 62.23(7)(em). *Historic preservation.* A city, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance, or if a city contains any property that is listed on the national register of historic places in Wisconsin or the state register of historic places shall, not later than 1995, enact an ordinance to regulate, any place, structure or object with a special character, historic, archaeological or aesthetic interest, or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. A city may create a landmarks commission to designate historic or archaeological landmarks and establish historic districts. The city may regulate, or if the city contains any property that is listed on the national register of historic places in Wisconsin or the state register of historic places shall regulate, all historic or archaeological landmarks and all property within each historic district to preserve the historic or archaeological landmarks and property within the district and the character of the district. (emphasis added)

Courts:

The court was “persuaded that the general welfare is promoted by the preservation of historical sites and maintenance of museums to educate the public and to inspire patriotism and respect for our history. Since this is an aspect of general welfare, the

ordinance recognizes preservation or historic benefit as a valid criterion for evaluating a CUP application.” *Sills v. Walworth County Land Mgmt.*, 2002 WI App 111, ¶14.

Madison General Ordinances:

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. MGO 33.19(1)

Negative effects on the character of Williamson Street will include:

- a. Land Speculation: Developer’s Letter of Intent claims a \$900,000 land value, City Assessor value is \$396,000. Speculative land values due to the ability to construct high-rises will:
 - make rentals for small store-front businesses in old buildings increasingly expensive and could easily lead to displacement, either through inability to afford the rent or through construction of new developments;
 - result in a lower likelihood of locating affordable housing on Williamson, a neighborhood with a historic mix of income and occupations (BUILD supports affordable housing and it would be unfortunate if affordable housing would not be able to be sited in a willing neighborhood close to the downtown); and,
 - run the risk of further inflating residential assessments.
- b. Other potential development sites on the north side of Williamson will be able to use this approval as a reason to have increased density and height: the 600 block (Gateway Mall, owned by Gateway Associates); in the 800 block there is approximately 2.3 acres held by two owners, with 1.8 acres being the Struck & Irwin property; the 900 block, has .71 acres owned by Chvala Ventures LLC; and, the 1000 block has .25 acres next to the Willy Street Park owned by one person.
- c. Gentrification: 706 rents would be \$1045 for an efficiency, \$1295 for a one bedroom, and \$2101 for a two bedroom, according to the developer. The profit potential from these rents could encourage other developers to seek approval of mixed-use or residential buildings in excess of the height limits.

As said by one Commissioner (minute 5:13): “I don’t know if one less, or one more, story gets us over standard 4. . . . And the character of the neighborhood is changing, and has been changing, for at least in the last 10 years. This is going to be part of that as perhaps another development or two may be in the near future.” (This Commissioner did not make any comments with respect to historic preservation.)

State Street has a maximum 4 story height for 30 feet back from the State Street right-of-way line, maximum 6 stories if stepped-back. If State Street requires this level of protection to protect its character as a shopping street, Williamson deserves such protection not only as a shopping street but also as a historic district.

The Role of the Landmarks Commission

Preserving the character of Willy Street may, on first glance, seem to be an issue for the Landmarks Commission, not the Plan Commission. However, unlike Landmarks, the Plan Commission is charged with addressing the public interest. Also unlike Landmarks, the Plan Commission is required to review projects in light of neighborhood plans. Landmarks views its role as follows:

Levitan asked that staff provide clarification about the interface between the BUILD II plan, the TSS zoning district and the Third Lake Ridge historic district. Staff explained that the historic district was established in 1979 based on a historic preservation plan that is referenced in the Ordinance. The BUILD II plan was completed after the historic district was created. The Landmarks Commission, as part of a larger development review process, is aware of the neighborhood plan, but is only charged with interpreting the words of the Ordinance. The Plan Commission will review this project against the BUILD II plan. Staff explained that in the TSS zoning district there is a 3 story height limit with the option to request a conditional use for more height.

Gehrig explained that the other review bodies should review the BUILD II plan and note that the MNA opposes the project since the Landmarks Commission has a different charge. She requested that this language be reflected in the motion. Slattery suggested that the 54 foot height of the BUILD plan be in the motion also

The Commission discussed the importance of the review of the BUILD II plan including the 54 foot prescribed height and the MNA opposition in the approval process by bodies other than the Landmarks Commission.

<https://madison.legistar.com/View.ashx?M=F&ID=3184092&GUID=79FF587C-F383-4CFC-B667-2FF8AA0B7976>

Risk of Development and Gentrification

Last fall the American Planning Association (“APA”), a nonprofit education and membership organization committed to promoting good planning, named the Williamson-Marquette Neighborhood as one of the 2013 Top Ten Great Neighborhoods.

APA’s Great Places in America program recognizes and celebrates excellence in planning.

<https://www.planning.org/conference/previous/2011/pdf/aboutapa.pdf>

Or, as the Mayor’s office explained the purpose of this list, it highlights “the role planning plays in adding value to communities.”

The APA stated when “manufacturing industry and rail service ended, also in 1950s, neighborhood underwent a long period of decline; storefront vacancies and crime increased. Williamson Street was viewed as the "seedy" part of town. A period of neighborhood renewal and recovery began during 1970s.” <https://www.planning.org/greatplaces/neighborhoods/2013/>

The APA also recognized the risk of development to this Top Ten Neighborhood. “With renewal have come new challenges: pressure to redevelop, gentrify, and accommodate national chains. Residents remain vigilant, however, and are determined to protect Marquette's traditional character and diverse population.” <https://www.planning.org/greatplaces/neighborhoods/2013/>

When an organization devoted to good planning recognizes the Williamson-Marquette Neighborhood as a neighborhood to celebrate for excellence in planning and warns of the threat of development and gentrification to the neighborhood’s character and diverse population, that warning deserves careful consideration.

Traffic

Conditional Use Standard #6

Measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.

1. There is not an off-street loading zone. In the approval letter, Traffic Engineering noted: “This will place a heavy load on Blount Street for loading and unloading purposes and may result in vehicles loading and unloading from travel lanes on Williamson Street and Blount Street.”
2. In the approval letter, Traffic Engineering noted: “Applicant shall provide a 10’ vision clearance triangle along the sidewalk for vehicles exiting the garage entrance on Blount Street. The vision triangle shall be at a location prior to the vehicle entering the pedestrian way.”

It does not appear that the project, as approved, provided adequate ingress and egress. Since the effect on building design could possibly be significant, perhaps the Plan Commission should have reviewed the required changes.



BUILD

Due Consideration:

The City Plan Commission shall not approve a conditional use without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan, including design guidelines adopted as supplements to these plans. MGO 28.153(6)(a)

1. Adopted neighborhood plans need, in general, to be followed, both under the Comprehensive plan and City Ordinances.
2. 706 does not implement many of the BUILD design guidelines. In particular, visual continuity with the 700 block is not maintained.
3. Height, side yard setback, minimum open space and façade detail criteria are not met. Visual compatibility is questionable.

Additional Details:

- Adopted neighborhood plans should, in general, be followed.

Comprehensive Plan

Objective 59: Identify sites within the City and its planned urban expansion areas that are appropriate locations for mixed-use employment and commercial activity centers.

Policy 3: Ensure that future development and redevelopment activities in City planned mixed-use areas are **consistent with the recommendations** of the City of Madison's Comprehensive Plan, **adopted detailed neighborhood development plans**, and similar special area plans.

Note: These plans should identify general study area boundaries, establish an appropriate mix of uses and densities, integrate development proposals across property boundaries, establish a primary street network, identify appropriate design guidelines, and provide strategies for financing construction of public improvements.

Policy 5: **Require that individual development projects in mixed-use areas follow the design standards and criteria of the areas' adopted neighborhood or special area plans.**

Note: These standards and criteria should address street layouts (with minor variations allowed provided the basic street and block pattern is maintained), recommended development density/intensity, building placement, building scale, architectural character of the development and its surroundings, pedestrian access and site design.

Comprehensive Plan, page 2-50, Objectives and Policies for Mixed-Use, Employment and Commercial Activity Centers

Madison General Ordinances

Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail, unless an exception to this provision is specifically noted. MGO 28.004(2), emphasis added.

The Common Council passed the resolution adopting the “Design Guidelines and Criteria for Preservation: Williamson Street 600-1100 Blocks Plan” by acclamation on January 18, 2005. This resolution also resolved that:

“Planning Unit staff is hereby directed to prepare the necessary ordinance amendments to update the Third Lake Ridge Historic District Ordinance.”

Staff/Plan Commission have interpreted the Comprehensive Plan as requiring neighborhood plans to be followed

In 2006, after adoption of the new Comprehensive Plan, Staff believed projects needed to be consistent with the applicable recommendations in adopted neighborhood plans.

“Staff consider the recommendation that development approvals must be consistent with adopted City plans to be one of the most important recommendations in the new Comprehensive Plan, but it is also one of the most challenging.”

“Concerns that approval of this project might establish a precedent for not following adopted plan recommendations at other East Rail Corridor locations could be reduced by carefully crafting a revised plan recommendation that provides some limited flexibility while still maintaining the basic land use recommendation.”

“...Planning Staff ... are not comfortable recommending approval of a project that is not consistent with the applicable recommendations in adopted plans for the area.”

301 S Livingston, 2006, Mixed use development with 39 apartments & 6,600 sq. ft. retail space

<https://madison.legistar.com/View.ashx?M=F&ID=1749573&GUID=F4453471-DC77-431D-8652-A0169D4EA6F4>

The Plan Commission approved this project (11/6/2006), taking heed of the Staff’s concern by adding this condition:

“That approval of this project could still serve as a reaffirmation of the East Rail Corridor Plan land use recommendations for commercial uses on the western end of the corridor and residential uses on the eastern end.”

<https://madison.legistar.com/View.ashx?M=F&ID=1749888&GUID=D87CE2E4-B021-4F6C-9D71-85E3DF08A333> (Approval letter)

Times have changed. Now, as one Commissioner said (minute 5:23): “Plans are guides. And I think some individuals in the neighborhoods, when we develop a neighborhood plan, feel that they are law. But they’re guides for the Plan Commission, City Council members, and the neighborhood.”

- 706 does not implement many of the BUILD guidelines.

Design Guidelines & Criteria for New Construction

#1: Reflect local building traditions without being falsely historic. ... References to the historic pattern of neighborhood development should be reflected in the overall scale of construction as well as through the sensitive use of massing, articulation, materials, and structural forms.

Staff report: “While this is a contemporary design, the predominance of masonry and glass, and the rhythm of building openings reflects surrounding historic buildings.”

Although masonry and glass are also used in surrounding historic buildings, the scale, mass, articulation, and structural forms are not compatible. (See “Aesthetic Desirability” and “Height” sections for further details.)

#3: Incorporate design features that promote neighborhood interaction and connectivity. ... New buildings should continue this traditional neighborhood pattern by incorporating multiple “social” building features such as: ground level amenities, public gathering places, large windows, and recessed or covered entries.

Staff: The five-foot front setback at the ground level and the open space on the east side of the building promote interaction, and the storefront windows along Williamson and Blount Streets help to activate both streets, thus strengthening a connection between Williamson Street, the Capital City Trail, and the Capitol East District further to the northeast.

There are not multiple social building features. A five-foot setback gives a wider sidewalk. It does not, in itself, promote interaction. Nor does the alley, which leads nowhere and has no focus of interest (except for a potential 8 restaurant chairs).

#4: Modulate the scale and volume of larger buildings. ... The massing of larger buildings should be compartmentalized or broken up, to **preserve the spacing and “rhythm” of existing building groups. Such devices as piers, pilasters, bays and other interruptions (e.g. protrusions and recessions) in the façade plane should be used to help break-down the horizontal expanse of larger**

footprint buildings. The vertical dimension of taller buildings should conform to the traditional design elements of: base, middle and top (see preservation criteria for commercial and mixed-use buildings), and be accented with horizontal elements such as cornices, beltcourses, and spandrels, as well as variations in surface materials and rooflines. All auto related conveniences such as garage doors, driveways, and parking should be placed to the rear or the side of all new commercial buildings. **Building entrances should be emphasized with such features as recessed doorways, window signs and transoms.** (emphasis added)

Staff: The building is larger than but not out of context with the scale of adjacent buildings, both of which have a similar footprint. Architectural features such as the sixth floor stepback and balconies along Williamson Street, the strong glass corner element, and French balconies along Blount Street help to break up the mass and volume of the building

Scale and massing are out of context. Although the footprint may be similar, 706's height overpowers both historic buildings (with 706 being almost a third again as high as the Olds Building and almost double the height of the Harvester Building). 706 is about 75% larger in mass than the Harvester Building, and appears to be larger than the Olds Building. (See "Height" section for details.)

The 6th floor stepback is 3 feet from the main façade, and only approximately $\frac{3}{4}$ of the Williamson side is stepped back (and at least half of the stepback will have railings jutting out to the façade). There is not any stepback on Blount.

Balconies are not one of the articulating elements listed in MGO 28.060. In the downtown district, balconies can be used to "reinforce the vertical intervals" (e.g., vertical articulating divisions using different textures, materials, or colors of materials). (See "Traditional Shopping Street: Building Form and Design" section for details.)

"Devices as piers, pilasters, bays and other interruptions (e.g. protrusions and recessions) in the façade plane should be used to help break-down the horizontal expanse of larger footprint buildings." 706 contains none of these measures. The only interruptions are the balconies.

Buildings should be "accented with horizontal elements such as cornices, beltcourses, and spandrels, as well as variations in surface materials and rooflines." Although there might be a cornice above the brick, it is not identified as such in the site plans nor is the material identified.

Rhythm, design elements and entry design are separately discussed. (See "Aesthetic Desirability" and "Traditional Shopping Street: Building Form and Design")

#5: Preserve sense of physical/visual continuity throughout the neighborhood. A common palette of locally familiar materials, façade treatments, massing techniques and spacing patterns represent just a few devices that help unify blocks and individual building sites. The window/door openings, horizontally aligned banding, and a pattern of visual breaks also helps provide continuity for a block face.

#6: Use familiar proportions, dimensions, shapes and materials. Relate new buildings to older structures through the use of commonly sized, spaced, and shaped window and door openings. Exterior materials should consist primarily of traditional materials such as wood and masonry. Roof forms, and their directional emphasis, should reflect other neighborhood buildings of similar size, location, and use. Major design elements should draw from the vernacular traditions of the neighborhood and region.

The difference between 706 and its Williamson neighbor, the Olds Building, and with the Madison Candy Company a few doors down the block, is easily seen in photos on the following pages.

- 722 Williamson has pilasters which help break-down the horizontal expanse; it has a base/middle/top, cornice and beltcourse.
- 706 does not have commonly sized, spaced, and shaped window and door openings compared to 722.



And in comparison to the Madison Candy Company, 744 Williamson.

Some of the details from the Landmark's Nomination Form for the Madison Candy Company, design details which could have been incorporated, at least in part, into 706 to create compatibility.

- Vernacular commercial style.
- Stepped parapet, with rusticated concrete caps, 2 round windows and a date stone.
- 2 belt courses of concrete trim, providing window sills for the flat arched windows.
- The 4 windows on the upper story give the appearance of being separated by brick columns.

https://www.cityofmadison.com/planning/landmark/nominations/142_744WilliamosnStreet.pdf



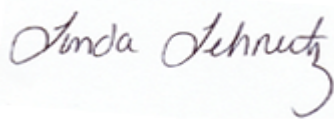
See the “Aesthetic Desirability” section for further photos of the 700 block.

- BUILD criteria are not met.
 - Criteria “are intended to promote construction that does not detract from the historic appearance of the neighborhood. It is not the intent of these criteria to create fake historic buildings, but to allow modern buildings to have their own style while still blending with the appearance of the historic buildings in the district.”
 - Zone III. The height of a new building shall not exceed 54 feet or five stories, whichever is less. Not met: See “Height” section.
 - New buildings shall be designed to reflect the patterns and rhythm of masses and spaces within the visually related area. The total mass of a new building shall be compatible with that of surrounding buildings. A building of larger than typical mass may be appropriate if it is broken into elements that are visually compatible with the mass of surrounding buildings. Not met. See “Height” and “Aesthetic Desirability” sections for details.
 - Side yard (Blount Street) setback of two (2) feet. Not met, and not discussed in the Staff report.
 - Minimum rear yard setback is ten (10) feet. Met (10 foot rear easement).
 - Seventy (70) square feet of open space is required for each bedroom in the new development. Balconies built to a minimum size of four (4) feet by eight (8) feet, common outdoor roof top space and half of any interior community space can be included as part of the open space requirement.
 - The Staff report said: “Balconies are not scaled, but seem to be 30-35 SF (total of 1600-1700 SF) plus 1100 of the alley, for a total open space of 2,800 SF, or approximately half of the BUILD recommendation.” Staff “encouraged” the developer to add a rooftop patio in order to meet the open space criteria (and to meet the MGO maximum lot coverage of 85%).
 - There are 36 balconies. At 30-35 SF each, this would be 1080-1260 SF. Adding the alley results in open space of 2180-2360 SF.
 - 75 bedrooms at 70 SF each equals 5,250 SF of open space.
 - This leaves 2,890 square feet (55%) of the open space requirement unmet.
 - Until any rooftop patio is designed, the criteria cannot be met.
 - Parking (structured parking, lots at the back of the property, bike parking to conform to City ordinance.) Also provides a minimum of .75/stalls per dwelling unit.
 - The Staff report said: “... it is unclear whether this recommendation is fully met.” The report also made note of the developer’s Blount Street lot, which would “work well, until such time as the property is redeveloped.” “...staff believes that in this area is so well-served by transit, bicycle, and pedestrian infrastructure that the proposed automobile parking ratio is sufficient for the residential portion ...”
 - Since the parking ordinance is more restrictive, it controls. MGO 28.004(2). Thus, this criteria may not be met, but it is not relevant.
 - Façades on Mixed-Use Buildings
 - First floor storefronts shall be broken into bays of a similar width to those on existing pre-1945 commercial buildings. (Not done.)
 - The general historic pattern of large storefront windows, low kick panels, transom windows, side pilasters and a cornice shall be used on new construction.

(Storefront windows are extremely large, kick panels may be too low, no transom windows or side pilasters.)

- The first floor window sill height shall be 18” to 36” above grade; recommended that kick panels utilize higher quality materials and design. (These elements were not specified in the plans or discussed,)
- For corner buildings, angled corner entrances are encouraged. (No angled entrance.)
- For buildings with multiple commercial tenants, a sign band should be included in the design to maintain consistency in the building design. (Not done.)
- Parapet caps or cornices should be incorporated to terminate the top of façade. (Perhaps done.)
- Upper floor window openings should be vertically oriented and regularly spaced. (Done, except for corner element.)
- First floor window patterns should reflect the typical proportions in the district. (Not done – no other 85 foot or 30 foot glass expanse.)
- Primary entranceways should be easily identifiable as a focal point of the building. Recessed entrances are encouraged. (Not done, developer told to add doors but design elements not addressed.)

Respectfully Submitted,

A handwritten signature in cursive script that reads "Linda Lehnertz". The signature is written in dark ink on a light-colored background.

Linda Lehnertz