



PREPARED FOR THE PLAN COMMISSION

Project Address: 425 West Washington Avenue (District 4 – Ald. Verveer)
Application Type: Conditional Use Alteration
Legistar File ID # [41146](#)
Prepared By: Kevin Firchow AICP, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Jay Wendt, Principal Planner

The applicant requests approval of multiple alterations to a completed mixed-use building at 425 West Washington Avenue. This request is subject to the approval standards for Conditional Uses [MGO Section 28.183] and the Downtown Design Standards of 28.07(3) and should also be reviewed against the advisory Downtown Urban Design Guidelines which apply to UMX (Urban Mixed Use) zoned properties.

Background and Project History

The project, “Washington Plaza,” was approved as a demolition permit, conditional use and zoning map amendment in September 2013. (Legistar Files [30899](#), [30974](#) and [29495](#)). The project is a five-story mixed-use building with 50 apartment units and approximately 7,700 square feet of commercial space. Commercial space includes a vision clinic and a fitness center. The project was originally reviewed by the Urban Design Commission, Plan Commission, and Common Council. The approved conditional use allowed for the development of an additional story beyond the “base height maximums” established in the Zoning Code [M.G.O. Section 28.071(2)]. One required finding for such an approval is that “The excess height allows for a demonstrated higher quality building than could be achieved without the additional stories.”

After the Common Council approval, staff worked closely with the applicant and is of the opinion that extensive coordinating efforts were provided to complete the sign-off process. Several modifications were discussed and approved as minor alterations, not including those requested with this application. Coordinating efforts also included multiple applicant meetings and other discussions with the District Alder and Neighborhood Association representatives. Among those that worked closely with the applicant was the Zoning Administrator who believes that it was clearly communicated to the applicant that plans be constructed in accordance to approved plans.

In April 2015, the applicant made a formal request for the Plan Commission to approve the as-built modifications. This request was placed on file without prejudice at their June 8, 2015 meeting. In making this motion the Plan Commission specified that the intent of this motion was to allow the applicant to work with staff on compliance issues and that “minor items” could be brought back to the Plan Commission after working with staff. These minor items included all specified alterations in the application with the exception of the relocated HVAC wall vents, the at-grade wooden privacy fence, and the roof-top fencing details.

The current application is a follow up and includes the same “minor items” that had been discussed over several meetings with staff from the Planning Division and Building Inspection. This application also includes revised versions of the at-grade wooden privacy fence and the roof-top fencing details, which have also been discussed. Prior to making an application, staff recommended that this request receive an advisory opinion from the Urban Design Commission prior to Plan Commission consideration.

Proposed Alterations

The proposed alterations are summarized and labeled as elements 1A-4A in the applicant's letter of intent.

- 1A. Rooftop Metal Railing (Required by MFD)
- 1B. Additional Equipment for back-up generator required by building code
- 1C. Building code limitation on openings allowed per floor
- ID. Fire Department required hose connection
- 2B. Additional HVAC Vent for Commercial Space
- 2C. Intake and exhaust required for design
- 2D. Dryer vents located where structure allowed access.
- 2E. Security cameras
- 2F. Relocated MG&E required transformer
- 3A. 6-foot wooden fence to screen headlights
- 3B. Replace ground cover plantings with paver terrace patio
- 3C. Add metal angles to project masonry at garage entrance
- 3D. Replace and add masonry retaining wall
- 4A. Window could not be installed due to structural column conflict

One other key alteration, the rooftop screening fence, is not labeled in the letter of intent, but is depicted in the plan set. This is a distinct element from the metal railing required by the Fire Department (Alteration 1A). Note, the relocated HVAC wall vents, which were not installed per the Plan Commission approved plans, are not included in this request and are part of ongoing legal proceedings.

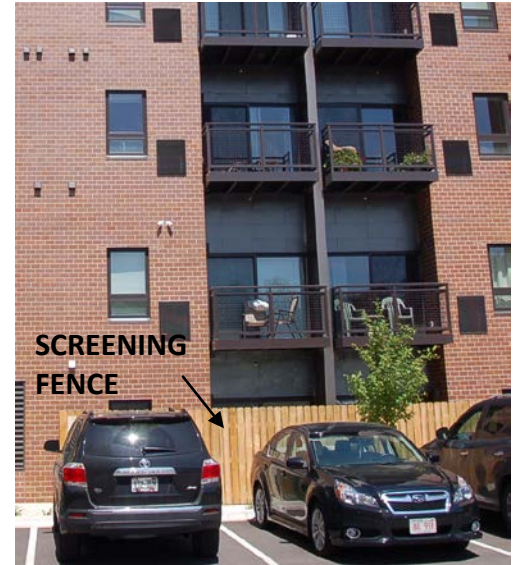
Analysis

This request is subject to the approval standards for Conditional Uses [MGO Section 28.183] and the Downtown Design Standards of 28.07(3) and should also be reviewed against the advisory Downtown Urban Design Guidelines which apply to UMX (Urban Mixed Use) zoned properties.

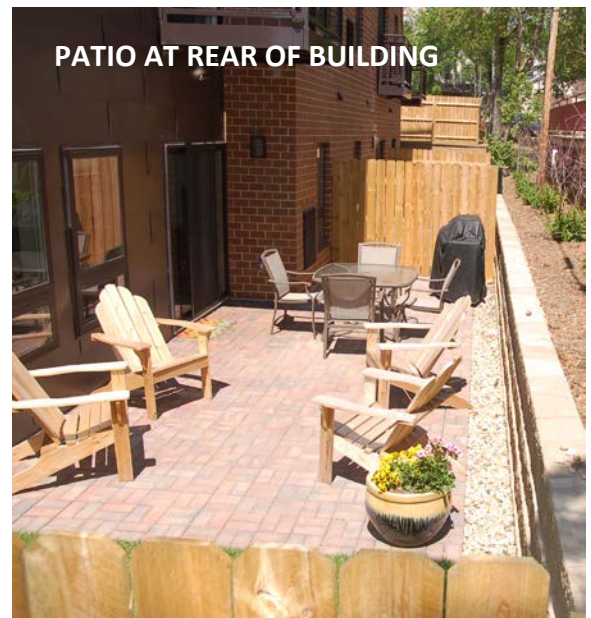
While the Planning Division remains very concerned that multiple items were not constructed in accordance with approved plans, the Planning Division believes many of the proposed alterations could have likely been approved administratively as design-progression modifications or minor alterations, should they have been previously identified and submitted as such prior to their installation. As directed by the Plan Commission, the applicant has met with Planning Division and Building Inspection staff who believes most of the above alterations can meet the approval standards.

Further analysis follows on three of the proposed alterations. Images of how these improvements were installed are located on the following page.

The Planning Division notes that the installation of the ground level wooden privacy fence is believed to be more of a suburban residential character and less appropriate in character for this site. The Planning Division had similar concerns on the appearance of the wooden roof-top fence, which is visible from West Washington Avenue.



- **Revised Rooftop Screening Fence.** As approved, this fence was intended to consist of dark-bronze metal fencing, which remains preferable to staff. The photo above-left shows the installed condition, which is proposed to be modified. As opposed to installing metal fencing consistent with the original approval, the applicant proposes to modify the installed feature by lowering the height of the wooden lattice work, painting it dark bronze and capping it with a 1.5 inch pipe rail, painted dark bronze. Supplemental exhibits provided by the applicant show that the height of revised exhibit would match the height of the approved detail. The overall visibility of this element will be reduced.
- **Ground Level Screening Fence.** The applicant proposes to modify the existing fence, photo above-right. The lower four feet of the fence will remain wood and a two-foot section of metal lattice, matching the balcony lattice, will be added. They will be painted dark bronze to match similar balcony details on the building. Staff has concerns on how integrated these two materials will ultimately appear.
- **Rear Patio Alterations.** Further analysis is also provided for proposed alteration 3B, which has been noted as an area of concern by some neighborhood residents. At the rear of the property (see right photo), a previously approved landscaped area has been constructed as a hard-scaped patio area for tenants. The area is covered with brick pavers. While this provides a nice tenant amenity, the Zoning Administrator has requested confirmation statistics that the project still can meet the required lot coverage requirements. The Zoning Code requires that lot coverage not exceed 90%. That includes buildings, accessory structures and all paved areas (with the exception of sidewalks no wider than five feet). The lot coverage requirement cannot be waived by the Plan Commission. A condition of approval is recommended that the applicant provides calculations showing code compliance. As noted in the previous staff report, most of this area sits above the subterranean parking garage.



Recommendation of the Urban Design Commission

The applicant has attended two Urban Design Commission (UDC) meetings to receive a non-binding, advisory recommendation. At their June 1, 2016 meeting, the UDC recommended that this item be referred in order to provide additional detail. The applicant returned to the UDC on July 13 and their advisory recommendation to the Plan Commission is included in the attached report. In summary, the UDC recommended approval of the alterations, including the revised rooftop fence detail, as depicted. The approval also included the rear patio modifications. However, the revised ground level screening fence was not recommended for approval. The UDC recommended that this feature be removed and that if a screening fence is desired, the applicant should work with the neighbors and return to the UDC. As the UDC was advisory to the Plan Commission, they would not automatically have review on future revisions. As part of their review, the Plan Commission could specify this detail be referred to the UDC prior to approval of a future minor alteration. The UDC recommendation also makes note of a rooftop trellis feature that was also not included on the approved plans. Adding this feature was not requested in this request and the Planning Division understands the applicant has agreed to remove this feature.

Public Input

The Planning Division is aware of neighborhood concerns regarding the rooftop screening fence, ground level fence, and the changes proposed to the rear patio.

Conclusion

Approved conditional uses are required to be constructed in accordance with approved plans. This is not just the expectation of staff, but also is a requirement of the Zoning Code. In this case, staff worked very closely with the applicant prior to the issuance of permits to help ensure building plans were consistent with Plans reviewed by the Urban Design Commission, Plan Commission, and Common Council. It is of significant concern that the project was not constructed in accordance with these plans. Further, as this project was granted conditional use approval for an additional story, close design consideration was given to this project to ensure it could meet the applicable standards.

Like with any conditional use or conditional use alteration, the role of the Plan Commission is to evaluate this request against the conditional use approval standards. As previously requested by the Plan Commission, the applicant has met with staff from Building Inspection and the Planning Division to discuss the proposed alterations. Most of the alterations are believed to be non-controversial and staff believes can be found to meet the standards. In regards to the alterations discussed in more detail, the Planning Division notes the recommendation of the Urban Design Commission (UDC) which recommends approval of the alterations to the rooftop screening fence, as proposed in this application. The height is consistent with what was originally approved and the UDC report notes the limited visibility of this feature. The UDC also recommended approval of the additional pavers in the rear patio. However, the UDC did not recommend approval of the ground level screening fence. Staff notes this relates to conditional use standard 9.

Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission find that the approval standards for conditional uses are met and **approve** the requested alterations for 425 West Washington Avenue subject to input at the public hearing and the conditions from reviewing agencies.

Recommended Conditions of Approval: Major/Non-Standard Conditions are Shaded

1. That this approval does not include the inclusion rooftop pergola feature or the ground level screening fence.
2. In the event that the Applicant requests approval of an alternate screening fence design, the Plan Commission requests this detail to be referred to the UDC prior to approval of a future minor alteration.

City Engineering Division (Contact Tim Troester, 267-1995)

3. The Applicant shall provide the City Engineer with a survey indicating the grade of the existing sidewalk and street. The Applicant shall hire a Professional Engineer to set the grade of the building entrances adjacent to the public right of way. The Applicant shall provide the City Engineer the proposed grade of the building entrances.
4. The City Engineer shall approve the grade of the entrances prior to signing off on this development. (POLICY)
5. The Applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction. (POLICY)
6. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
7. All damage to the pavement on W Washington Ave, adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link: <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)
8. Portions of new proposed retaining walls have been constructed immediately adjacent to exterior property lines of this site. An easement/agreement with the adjacent property owner(s) is recommended for future maintenance needs and conditions.

City Engineering Division – Mapping (Contact Jeff Quamme, 266-4097)

Traffic Engineering Division (Contact Eric Halvorson, 266-6527)

This agency did not submit a response to this request.

Zoning Administrator (Contact Matt Tucker, 266-4569)

9. That the applicant demonstrate compliance with the 90% maximum lot coverage requirement in the UMX district 28.06(3).

Fire Department (Contact Bill Sullivan, 261-9658)

This agency did not provide comments for this request.

Water Utility (Contact Dennis Cawley, 261-9243)

10. All operating private wells shall be identified and permitted by the Water Utility in accordance with MGO 13.21. All unused private wells shall be abandoned in accordance with MGO 13.21.

Parks Division (Contact Janet Schmidt, 261-9688)

This agency did not provide comments for this request.

Metro Transit (Contact Tim Sobota, 261-4289)

This agency did not provide comments for this request.