

CAPITOL

NEIGHBORHOODS, INC.
MADISON, WISCONSIN

August 6, 2010

Mr. Tim Cooley
Director, City of Madison Economic Development Division
Madison Municipal Building
P.O. Box 2983
Madison, WI 53701

Re: City Development Review Process

Dear Mr. Cooley,

Capitol Neighborhoods (CNI) has been involved in the review of development proposals for an extended period of time. In that time we have seen an evolution and improvement in the process. Over the past several years CNI has been continuously involved in review of proposals because of the number of developments that have occurred downtown. The vast majority of these proposals have been approved with support of the neighborhood.

CNI responded to the request of the City in *A Best Practices Guide for Developers, Neighborhoods & Policymakers* for neighborhoods to establish standards for review of proposals. To accomplish this task we engaged the help and input of residents, developers, business owners, city staff and city commission members. The result is a protocol, adopted by CNI in early 2007, which is used as the basis for neighborhood engagement in reviewing development proposals. We have published and shared this protocol with development teams, residents and other neighborhood associations.

In conjunction with the adoption of the protocol CNI established a Development Review Oversight Committee. This committee assists residents in implementing the protocol and evaluates the effectiveness of the review process. Our committee meets on a regular basis and has invited developers and their representatives, architects and city staff to provide feedback on the effectiveness of the process. The general response has been that neighborhood engagement has been effective and assisted the development team in preparing their formal application for the proposal.

Bassett • First Settlement • James Madison Park • Mansion Hill •
Mifflin West •

P.O. Box 2613 • Madison, WI 53701 • Capitolneighborhoods.org

In response to your request for input into consideration of the current City process we are submitting our comments. Please share these comments with the Economic Development Commission.

Thank you for your consideration,

Development Review Oversight Committee
Capitol Neighborhoods

Peter Ostlind – Chair

Ledell Zellers	Bert Stitt
Erik Paulson	Joe Schnick
Fred Mohs	Bill Patterson
Peter Herreid	Tom Geier
Brenda Konkel	Adam Plotkin

Cc: Economic Development Commission
Urban Design Commission
Plan Commission
Landmarks Commission
Alders
Mayor

Capitol Neighborhood's Review of the City's development proposal review process

General:

1. The City process and the CNI process have worked well for most proposals.
2. The City process has several steps and commissions to provide for consideration of immediate and long term values considered important in Madison.
3. Striving to consistently make improvements in the process is a reasonable goal.
4. While the review process can be involved, there are many other communities which have a much more challenging review process than Madison's.
5. In discussions with outside developers Alders, staff, neighborhood representatives and the development community will best serve the future health of development in Madison if all focus on the positive aspects of developing in Madison and the benefits derived from engaging the community in the review. We will do well to eschew perpetuating the image that Madison, as a community, makes development difficult.
6. There has been discussion that significant changes in the current process are required. The documents submitted to the EDC to date provide little if anything in regards to specific hindrances to development that need to be fixed. Before making recommendations the EDC will best serve this process by identifying a specific process that requires correction; and then assess it with full involvement of all interested parties rather than a unilateral 'economic' perspective.
7. The specific economics of any given development proposal are not currently part of the review process nor are they relevant to basic planning considerations. (The exception would be proposals requesting economic assistance from the City.) While neighborhood associations, Commissioners, staff and Alders will be cognizant of development economics, it is neither their role nor part of the City review process to ensure the economic vitality of any proposal.
8. If economic considerations are to be made part of the review process then it would make sense for the city to add one more appearance; that being before the Economic Development Commission, with full and auditable disclosure as to financial information being represented by the developer. The use of unsubstantiated claims of economic hardship has long been a matter of significant concern to neighborhoods. There have been occasions when developers claim economic hardship to justify their preferred approach to projects. These claims do not currently have any requirements for auditable substantiation.

Attitude:

1. All participants will better serve our city when they bring an open, constructive and receptive attitude to discussions.
2. City Staff, Commissions and Neighborhoods will enhance the ultimate well being of our community by welcoming development teams and maintaining a receptive stance in

considering proposals. At the same time development teams will better serve their own interests when they understand that existing zoning plans or districts have important functions in providing efficiency, predictability and uniformity.

3. A constructive attitude on the part of staff, commissions and neighborhoods does not equate with acceptance of every development proposal which may be brought forth. Questions intended to provide complete information and a full understanding of a proposal are both reasonable and important.
4. Neighborhoods are better served if they have prepared in advance for consideration of development proposals. (In some neighborhoods with very infrequent development proposals this is less likely to always be possible.)
5. Development teams get better results when they are open to discussions about the details of their proposal and expect that all aspects of a proposal may not receive universal support.
6. Development teams must prepare themselves by studying and getting clarification of neighborhood processes. They need to be prepared to engage the neighborhood, understanding the neighborhood structure, process for review of proposals and relevant plans for the development site.
7. All parties will better serve themselves and the community if they strive to maintain a civil dialogue that is considerate of all points of view. Understand that there will be differences of opinion and that it is counter productive to everyone's interests to attempt to silence objections or require unanimity.

Commissions:

1. Commissioners bring specific experience and expertise to Commissions which benefit the City as a whole.
2. Commissioners who are well informed on the development review process and the standards for their own Commission's decision making will be the most effective.
3. Commissioners do not serve the community well by only representing their own particular interests or those of other special interests. (except for appointments which are reserved to represent a particular group) The process is not well served by Commissioners who may have to recuse themselves on a regular basis or are not able to regularly attend meetings.
4. All parties of the review process are well served when the presentations and discussions at Commissions are well focused within the particular parameters and standards of the Commission. Commission Chairs play an important role in this regard to focus the discussion on issues that are germane to the Commission. Staff, development teams and neighborhoods are also responsible for keeping their input focused on the specifics of a given Commission.
5. Commission discussions which consider proposals in direct comparison to the given standards for review will enhance the review process. Commission decisions that are framed in the context of these standards establish a basis for the community to assess future proposals and aids in providing predictability.

6. In addition to the compilation of specific zoning text in 'Standards for Review of Certain Types of Development Proposals', that Planning Staff has prepared, a layman's version would be useful for speakers. This would be an aid to help focus the public's comments on the specific criteria to be used for Commission decisions.
7. Commissions inherently must make some subjective decisions. If the decisions were simply technical in nature following a specific list of readily defined standards there would be no role for Commissions.
8. Commissions will be well served to periodically look back at the results of the review process and "grade the paper". This would include the constructed result of approved proposals, examination of the process itself and considerations for insuring that review standards are clear and understood by all parties.
9. It will serve the development review process if each year the Chairs of Commissions related to development meet with key development staff and the mayor's office to assess information, strategies and plans for encouraging appropriate growth in line with city plans.
10. Commissioners, development teams and neighborhoods will be better served if the Staff reports to the Plan Commission are available several days earlier in the process than is currently the case.
11. All parties providing input to Commissions must be clear and transparent about who they represent and how the statements being made were formulated. Separate standards for neighborhood associations or any other organization related to justifying their integrity or ability to represent their chosen group will not serve the well-being of the community.
12. Referrals by Commissions have been noted as a possible problem. In many situations referrals occur because the applicant has not provided the specific information that is required for a commission to act on the proposal. A more rigorous screening of applications at the staff level to insure that all of the required information is in hand before a proposal is placed on an agenda will improve the efficiency of the overall process. A readily available list of information which is required to be submitted prior to scheduling a presentation to a commission will assist and expedite this process. It's worth noting that the 'referral' process also provides the developer with an opportunity to 'test' their proposal and make changes before it's voted up or down.
13. When proposals are asking for City financial assistance or 'higher zoning', such as additional floors for exceptional design within Design Districts, these proposals must be held to a higher standard. The standards must be articulated as clearly as possible to provide assistance to Commissions in considering each proposal.
14. Urban Design Commission speaking guidelines that allow the development team effectively unlimited time but restrict all other speakers to 3 minutes each is neither equitable nor effective.

Neighborhoods:

1. Neighborhoods include residents, both owner occupants and renters, businesses and other property owners.
2. Neighborhood Associations should strive to involve as many residents as possible in considering development proposals. Others need to recognize the voluntary nature of members of Neighborhood Associations and the limited number of people who choose to become involved. The absolute number of residents involved in a neighborhood's consideration of a development proposal does not inherently add to or subtract from the value of the input they bring to the process.
3. Neighborhoods are encouraged to welcome non-resident property owners and business owners in discussions, but may choose not to represent the views of these groups.
4. Neighborhood associations are generally organized around the interests and concerns of residents. While the interests of residents may sometimes blend with business interests this is not always the case.
5. It is possible to have a development review with alders engaging both residents and business interests at the same time. This is best done by the alder rather than by a neighborhood association or business organization and does require some modestly sophisticated facilitation skills such as taking pains to have the different 'interests' be transparent about their interests.
6. Neighborhood Association input into review of development proposals is important and can provide valuable information for development teams and Commissions.
7. Neighborhood Associations can most fully participate in the consideration of development proposals if they have an established and consistent process.
8. Neighborhood Associations play an advisory role to decision makers in the development review process.
9. Neighborhood organizations will do well to avoid taking 'positions' on development matters and rather offer "Advisory Statements" that reflect the range of thinking and preferences. This approach does not exclude the possibility for any 'contingent' to independently and aggressively represent their position(s) on a given development. It does ensure that the neighborhood organization fairly provides the spectrum of views of residents while allowing the same kind of 'lobbying' that the developer undertakes.
10. Costs of development review meetings requested of neighborhood organizations by developers must be borne by the developer making the request: Mailings, room rentals, audio/video equipment etc. Neighborhood organizations do not typically have large budgets and it doesn't make sense that they be required to underwrite the costs of activities they do not initiate.
11. Elected Alders have the responsibility to reach out to all interests in their district. The Neighborhood Association represents the interests of the resident neighbors and are organized and governed according to the wishes of their membership. The City should not infringe on the rights of the neighborhood organization to determine their self-governance.

Notification:

1. Notices provided prior to submission of an application for the formal City review process allow parties to more effectively engage in the process. The current notification requirements of 30 or 60 days to City recognized neighborhood and business associations work well.
2. Notices do not need to include all the final details of a proposal.
3. Development teams are encouraged to meet with Neighborhood Associations prior to submission of formal applications. A Developer's resources can be more effectively used if a conversation begins early. In the long term this early engagement can actually simplify the process and shorten the overall time frame.
4. The current notification requirements of 30 or 60 days to City recognized neighborhood and business associations have practical value and will best be maintained. These notices improve the efficiency and efficacy of the review process by providing interested parties advance notice of pending development proposals. Groups are able to adequately prepare and provide better input to decision makers with the time provided by these notices.
5. Any changes to notification requirements must first serve the long term interests of the community and only then consider current short term economic conditions. The results of the development review process, i.e. the buildings, will be part of our community for 75 -100 years and more. The review process will best serve the community when we maintain a long term outlook.

Supermajority:

1. Supermajority votes were established by ordinance because previous policy makers, in their wisdom, believed that it is necessary to assure that decisions are broadly supported. In addition, these decisions serve the community best if they are not primarily driven by consideration of the next election but rather that due consideration is given to long term values important not only to the current but also to the next generation. Additionally, supermajority votes also protect the rights of the minority.
2. Supermajority votes have been established in a number of circumstances; in some cases to assure that decisions are not primarily driven by consideration of the next election but rather that due consideration is given to long term values important not only to current citizens but also to the next generation. Any changes considered for supermajority votes should be done with an eye toward long term community values.
3. Supermajority votes are embodied in ordinance or statute and so changes in these laws would require careful balancing of the need to have predictability in governmental actions against the desire to make it easier for the Council to alter the decision of a Commission.

Plans

1. The Comprehensive Plan, Neighborhood Plans and other City Plans are intended to provide a guide to future development. Plans are the community's vision for the future.
2. Plans can provide development teams with information of what the community has decided it would like to see. Plans provide property owners, residents, business owners and developers with predictability.
3. Plans are not intended to be static or rigid documents. Plans often offer ranges within their guidelines to allow for variation of conditions and ideas. Flexibility for plans to adapt to changing conditions can be useful so long as it does not undermine the inherent intent of planning to provide guidance towards a predictable future.

Large vs. Small Proposals (complex vs. straightforward)

1. For large or complex proposals the City should consider assigning a project manager whose role would be to guide a proposal along the review process. The project manager would help to educate the development team on the City review process as well as the neighborhood processes and assist them in establishing a review schedule and determining the appropriate documents that are required. The project manager could also assist in engaging other interested parties including neighborhood associations and business groups.
2. We will do well to re-double our efforts to assist simpler proposals to move along the review process in a timely manner. The new zoning code is expected to help in this regard when it is adopted. The current option for neighborhoods to waive notice periods is a tool which can be used to shorten the process.

Miscellaneous Items

1. Commissions will better serve the community when they establish limits on presenters speaking times which allow for proposals to be holistically presented as well as for organized stakeholders to likewise present a cohesive version of their assessment of the proposal.
2. Current speaking guidelines do not always allow for this type of presentation. Breaking presentations up based on speaker time limits can be counter productive.
3. When a proposal is seeking multiple approvals which have different approval standards it will work better if the items are considered individually. This can focus the discussion on the review standards and allow speakers adequate time to speak to these specific issues.
4. Room 201 needs work, as does LL110 and Room 260. The audio in any room used for Commissions must be sufficient for all people in the room to hear the full discussion.
5. The broad use of PUD's seems to have given rise to an expectation that this provides the opportunity to "design your own zoning". This expectation has been at the center of many contentious development reviews. PUD's are intended to provide some flexibility in situations where the current zoning has not kept pace with more recent planning efforts. Current plans and zoning provide the starting point for PUD proposals. This provides

predictability and efficiency in consideration of development proposals. PUD's are not intended as opportunities for wholesale disregard of existing plans, ordinances, policies and zoning.