

City of Madison Plan Commission

Plan Commission Excerpt, 149 E. Wilson Street

January 27, 2014

1 **KEN OPIN:** Okay. We are going to reopen the public hearing on items #14 and #15. Staff
2 first.

3

4 **TIM PARKS:** Yes. Thank you, Mr. Chair. I just would like to briefly point out for the Plan
5 Commission that staff's recommendation that you had before you on January 13th is largely
6 unchanged. I do want to point out some additional information that you have received that
7 includes materials that are at your places this evening, as well as materials that were provided in
8 your printed packet that you received Friday afternoon.

9 Of note, we received, on Wednesday, some revised project plans that pull the top three
10 floors of the building back five feet along the western elevation closest to or facing the Marina
11 Condominiums. Additional information has also been provided about the bike parking for the
12 project, including the relocation of a number of the stalls within the development to the top level
13 of the under-building parking. There is a move-in/move-out plan. There are two versions.
14 There was the one that was provided in your materials on Friday afternoon, and then what I
15 understand from the applicant, as of this afternoon, to be a revised move-in/move-out plan that
16 addresses a concern that the Traffic Engineering Division had as they discussed the changes that
17 were made last week.

18 We also have a message from Ed Ruckriegel, the City's Fire Marshal, who could not be
19 here tonight, but he wanted to clarify that the proposal for 149 East Wilson Street does meet the

1 building and fire codes as it pertains to the fire lane, that the issues about the fire lane are driven
2 by the Marina Condominiums, but that the proposal for the 14-story building at 149 East Wilson
3 Street, that that does meet the building and fire codes as presented. So he's also included in that,
4 or with that memo, some e-mails clarifying questions that I believe were raised by a resident of
5 the Marina as well as by Alder Zellers in separate communications.

6 And then we also have some various items that have been submitted, excuse me,
7 submitted by residents of the Marina subsequent to the January 13th meeting. So with that, I
8 would be happy to answer any questions that the Plan Commission has following the conclusion
9 of the recessed public hearing for this project. Thank you.

10

11 **KEN OPIN:** I also have a couple of comments to make before we reopen the public hearing,
12 and, again, everyone should keep in mind this is a recessed public hearing. People who testified
13 previously will not testify again tonight.

14 Number two, I want to urge people who have submitted written statements not to come
15 up in front and read them. We take our jobs seriously. We read all the communications that are
16 submitted to us.

17 And, thirdly, because of the number of comments that we received about conditional use
18 standard #3, we had inquired of the City Attorney's office for an opinion on how to interpret it.
19 And we have gotten communications from both Maureen O'Brien and from Michael May, and I
20 want to read most of what they had to say. Ms. O'Brien said "...it is clear that some degree of
21 impairment of uses, value, and enjoyment due to new projects is just part of life in a city, and a
22 standard is not meant to prevent any impairment. It's meant to prevent substantial impairment
23 that is foreseeable." Now, Mr. May also pointed out, he says, "...I would argue that absent the

1 purchase of air rights, there is no right to continued views out of one's residence. The possibility
2 that another tall building might go up should've been factored into the value of the building.”

3 So with that, I will open the public hearing, and I will call on applicant...on registrants
4 who have not previously spoken. Then I will read all the names of the registrants who had
5 previously spoken, and, of course, questions can be asked of any of them as I read them. I then
6 may exercise my prerogative and call on one or more of these registrants to answer questions that
7 may have arisen in the interim between now and the end of the discussion. So with that, the first
8 registrant I will call upon is Michael Peters, 137 East Wilson #10, #12, or #13, in opposition
9 wishing, to speak. He will be followed by Jay Van Cleave. Mr. Peters?

10

11 **WOMAN:** Mr. Peters isn't here yet.

12

13 **KEN OPIN:** He's not here yet?

14

15 **WOMAN:** He's driving from out of town, so . . . didn't make it.

16

17 **KEN OPIN:** All right. I'll put him at the end of those eligible, and if he gets here in time, I'll
18 call on him again. If not, then Jay Van Cleave, 137 East Wilson, #611 to be followed by Linda
19 Greene, I believe it is, 137 East Wilson. Mr. or Ms... Mr. Van Cleave, in opposition, wishing to
20 speak. You've got three minutes, sir.

21

22 **JAY VAN CLEAVE:** Thank you. Good evening. My name is Jay Van Cleave at 137 East
23 Wilson. My wife and I have spent a lot of time recently studying the plan for downtown trying

1 to understand how this proposed apartment building on this tiny parcel fits into the puzzle. And I
2 see a number of compelling statements in the 2012 Downtown Master Plan, specifically,
3 downtown serves as Madison's signature. It is the geographic, economic, and civic heart of the
4 community. Also, it is the place where the community comes together, especially for the many
5 events that it hosts. Also, downtown belongs to all Madison residents, and all have a stake its
6 future because of an active and healthy downtown is important in ensuring the vitality and the
7 rest of the community and region.

8 This all sounds wonderful, as does the Master Plan Key #1, celebrate the lakes. The
9 number one priority during the planning process was to embrace the lakes and make them more
10 integral to downtown. And the accompanying objective 1.1, expand and enhance public access
11 and recreational opportunities to and along the downtown lakefronts. I'm hoping this isn't just a
12 dream on paper, and I know that a strong community like Madison has a long history of working
13 things out to the point of even having some notable protests and when things seem to be out of
14 balance.

15 I was born and raised here, and I've seen this firsthand many times. People love Madison
16 for its lakes, the beautiful Capitol Square, the campus. They love that this is Bike City USA.
17 People get less excited about apartment buildings on the lakes. In an extraordinary and bold
18 move, a group of neighbors, of which I am one, have put innumerable hours and resources
19 together to put in an offer to purchase 149 East Wilson to turn this .37 acres into what it should
20 be, a gateway to Lake Monona and Law Park. I think this is a first, as far as we know, in
21 Madison.

22 More, but back to more of an information from the Master Plan. King Street enjoys the
23 status as a premiere street, with the expectations of having the highest level of design and

1 amenity. From the square, King Street currently terminates at the defunct Department of
2 Corrections Building, and the proposal is for this terminus to become an apartment building.
3 Picture looking at this building in amass at the end of King Street, or even worse, from the lake.
4 Now picture the master plan, the enduring solution, the true century plan that a gateway
5 pedestrian bike bridge to Lake Monona shore would provide.

6 The other major topic here is pedestrian and bike safety. One goal in the plan is to create
7 an attractive, safe, and engaging downtown pedestrian realm. You've heard all the concerns
8 about the particular dangers of the Wilson, King and Butler intersections and streets with the
9 preexisting traffic conditions under review . . . [timer sounds]

10

11 **KEN OPIN:** Would...can you wrap in a minute, please?

12

13 **JAY VAN CLEAVE:** I may. Partner this with the fact highlighted in the plan that easy access
14 to the lakeshore from downtown is severely limited by John Nolen Drive and the parallel railroad
15 corridor. Now you have this unusual confluence of events that is highly unlikely to repeat itself.
16 Downtown neighbors willing to go the distance to secure the land, to help build the plan that was
17 visualized by city planners with great input from its citizens.

18 This is the best, and perhaps, only time to consider the option to have some pleasant
19 green space that can be a small echo of the Capitol Square with a beautiful plaza bridge to be
20 enjoyed by all. We all know that we have one scarce, that we only have a scarce amount of lake
21 facing property. This property has its highest and best use as a green space with access to Lake
22 Monona. We can have apartment buildings in plenty of other spaces. This is not just any semi-
23 vacant lot. I encourage you to put this all together, the master plan, our lakes, the vision, our

1 safety, this rare opportunity. Thank you. And I would encourage you to engage questions of
2 other members, core groups of the neighborhood plan, including my wife Julie, Steve Lesgold,
3 and Franco Scarano. Thank you.

4

5 **KEN OPIN:** Okay. Just hang on a second. Are there questions for the registrant? Ms.
6 Hamilton-Nisbet?

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8 **TONYA HAMILTON-NISBET:** The only question I have is that you had mentioned that you
9 and other neighbors have pulled together resources, and we've received some communication
10 about that as you talked about. Can I ask you why you guys didn't do this before a proposal
11 came? This property, I think, has been for sale for a long time, or at least I think I've seen signs
12 on the building for a long time.

13

14 **JAY VAN CLEAVE:** I just moved into the property a few months ago, so this is all new. And
15 I think all of this has been going along fairly, while this has been vacant. The proposed new
16 development has been on, what I believe, to be a fairly fast track, so we've been scrambling
17 trying to come up with an alternative.

18

19 **TONYA HAMILTON-NISBET:** Okay. Thank you.

20

21 **KEN OPIN:** Okay. Any additional questions for this registrant? Thank you, Mr. Van Cleave.
22 The next registrant is Linda Greene, I think, is that correct?

23

1 **LINDA GREENE:** Yes.

2

3 **KEN OPIN:** 137 East Wilson, opposed, wishing to speak. Is that correct?

4

5 **LINDA GREENE:** Yes, very briefly.

6

7 **KEN OPIN:** You've got three minutes.

8

9 **LINDA GREENE:** Thank you. I'm one of the original people Kenton Peters contacted when
10 the project was a gleam in his eye, and so I've been living there through the construction and
11 since then. I know that the Commission is looking to encourage development, and that whatever
12 you do today can't prohibit development. We certainly admire the people who are willing to
13 invest in our community. I don't live on the side affected by the view, but I share, with my
14 neighbors, a concern about our property values, and what may occur if their property values are
15 diminished. So, in that sense, we're completely in concert.

16 I wonder if you all have been to the site to see that there's pedestrian traffic in both
17 directions on Wilson on the Marina and the new building side of the street. And then also that
18 traffic that comes off Butler and also comes up Wilson and turns right on King, all coming to this
19 point. And then now we'll have two driveways where people will be turning left to go up the
20 street, and I'm thinking about what's going to happen to the pedestrians, all of that traffic coming
21 together?

22 Now maybe there is a way to ameliorate that concern. But I think that this project, as it's
23 currently configured, will make Wilson Street an extremely unsafe place for people to walk and

1 also create the risk of collisions as we have two sets of cars coming out of driveways. Many of
2 my neighbors are retired and don't drive as much. I don't know what the plan is for the people
3 who will live in the adjacent building, but I, and I hope your traffic engineers have paid some
4 attention to this confluence of traffic and people, which I believe will put many people at risk,
5 not simply the people who live there. So thank you.

6

7 **KEN OPIN:** Hang on just a second, please. Are there questions for Ms. Greene? Well, seeing
8 none, I'm sorry I dragged you back . . .

9

10 **LINDA GREENE:** A lawyer who spoke under three minutes.

11

12 **KEN OPIN:** Thank you very much. You're a model to be followed. One more time, is Michael
13 Peters here? No, he's not. Okay. Then the next registrant to speak is Alder Mike Verveer.
14 Would you prefer to speak now, or wait until I go through all the registrants who spoke last time
15 and see if there are questions of them? I mean, you could also speak now and then speak again if
16 you wish. What's your preference, Alder Verveer?

17

18 **MICHAEL VERVEER:** I'll hold off.

19

20 **KEN OPIN:** You'll hold off. Okay. Then what I'm going to do is I will read all of the
21 registrants, and then at the end, you, this is a suggestion, that let me read all of them, and then at
22 the end call on whomever you wish. Okay? So I'll start with the applicant, Lance McGrath, 222
23 South Bedford, in support. Obviously, if they say they're wishing to speak, they're wishing to

1 speak. Marc Schellpfeffer, 3414 Monroe Street, in support, representing Mr. McGrath. Paul
2 Cuta?

3

4 **PAUL CUTA:** Yep.

5

6 **KEN OPIN:** 3414 Monroe Street, in support, representing Lance McGrath. Julie Van Cleave,
7 137 East Wilson, opposed. Steve Lesgold, 137 East Wilson, opposed. Mary Waitrovich, 137
8 East Wilson, opposed. She represents the Marina Condo Board. You may want to consider
9 questioning her. Anita Peters, 137 East Wilson, opposed. Francisco Scarano, 137 East Wilson
10 Street, opposed. Michael Ertmer of 523 East Main Street, in support. Olga Scarano, opposed,
11 not wishing to speak.

12 The rest of these, as far as I can tell, did not speak last time. Abbie Hill, 137 East
13 Wilson, opposed, not wishing to speak. Janet Lesgold, 137 East Wilson Street, opposed, not
14 wishing to speak. Debra Calder, 137 East Wilson Street, opposed, not wishing to speak. Marie
15 Antoinette Cannarella, 137 East Wilson, opposed, available to answer questions. Florence
16 Deluca, 137 East Wilson, opposed, not wishing to speak. Paul M. Deluca, 137 East Wilson,
17 opposed, not wishing to speak, and one last time, Michael Peters, 137 East Wilson, opposed,
18 wishing to speak. Are there questions for any of these registrants? Mr. Rewey?

19

20 **MICHAEL REWEY:** Thank you. I've got a question of Mr. McGrath.

21

22 **KEN OPIN:** Mr. McGrath?

23

1 **MICHAEL REWEY:** What I heard, at least last time, was congestion on the sidewalk, and the
2 sidewalk's too narrow. And I guess with the Marina, that's a lesson learned. I...the Marina was
3 built right at the property line, and there's no vision at the garage door. You've created vision at
4 your entrance, but I'm wondering if you could open up the sidewalk area a little more than what
5 you have, such as taking out the planter?

6

7 **LANCE MCGRATH:** We could look at that. That is a low planter. It would not be
8 obstructing vision.

9

10 **MICHAEL REWEY:** I'm talking about horizontal, so that there's a little more pedestrian
11 movement room, not, not . . .

12

13 **LANCE MCGRATH:** Are you talking about the planter that is, runs parallel with the drive
14 aisle?

15

16 **MICHAEL REWEY:** It runs parallel with the sidewalk.

17

18 **LANCE MCGRATH:** That's back by the commercial space. It's also acting as a wall. There's
19 a handicap accessible ramp that goes up to that commercial space.

20

21 **MICHAEL REWEY:** Oh, there's a ramp behind there that's a different angle?

22

1 **LANCE MCGRATH:** Yeah. So that's getting you up for an accessible entrance. But that's
2 totally, that sits at the face of the building, it's not projected within the sidewalk at all.

3

4 **MICHAEL REWEY:** I understand that. But in many projects we've had, we've done some
5 setbacks to create a little more sidewalk space.

6

7 **LANCE MCGRATH:** Yeah. And we did create that at our main entry lobby.

8

9 **MICHAEL REWEY:** You did. Could you look at, perhaps, offsetting that planter a little bit
10 and make everything work?

11

12 **LANCE MCGRATH:** Are you talking about setting it back into the building a little further?

13

14 **MICHAEL REWEY:** Yeah.

15

16 **LANCE MCGRATH:** I would rather not do that, but it's really not a big issue as far as I'm
17 concerned. We would just lose a little bit of commercial space. I think as designed right now,
18 it's a nice prominent location for the type of user we want to have there, that's hopefully a nice
19 amenity for our building and for our neighbors, and visibility is important for a coffee shop or a
20 user like that.

21

22 **MICHAEL REWEY:** I don't think that suggestion would hurt the visibility. I'm just looking at
23 the Union Transfer is tight to the sidewalk. The Marina is tight to the sidewalk. And the

1 sidewalk, and considering increased pedestrian usage, just isn't quite wide enough. And you
2 have an opportunity at your location to make it a little better. I believe the credit union already
3 has the setback, and they've made their space better. And you have an opportunity to make yours
4 a little better except for your stairway well, which you can't do anything about, and I'd just
5 appreciate it if you'd take a look and see, if you set that back one or two feet even, that's all you'd
6 need to do.

7

8 **LANCE MCGRATH:** Sure, yeah. We can look at that.

9

10 **MICHAEL REWEY:** Okay. Thank you.

11

12 **KEN OPIN:** Ms. Berger?

13

14 **MELISSA BERGER:** Hi. I just wanted to bring up something quickly about your move-
15 in/move-out plan. It's actually specifically about the map, and I imagine that the icons, or the
16 legend that you got in the corner, that these are just kind of standard things that are in your
17 computer, or your architect's computer program. But I just noticed the truck that it's showing in
18 there, it says that it's plus or minus 30 feet in length, while your move-out plan in your building
19 talks about nothing more than 28 feet. So I just wanted to point that out.

20

21 **LANCE MCGRATH:** Yeah. And that was one of the changes we made today, so that's
22 corrected to 30 feet. And we also added a provision that if a truck is backing out, someone's
23 there to help them, assist them in, you know, making sure no one's coming down the sidewalk.

1 And then there was another item added at the last minute, if, and it has to deal with a truck
2 parked in our off-street loading zone down at the end of the drive aisle. Part of that, if it's a full-
3 size 30 foot truck, about 5 feet of it would be hanging into the fire lane or projecting into the fire
4 lane, it doesn't go all the way to the rear property line. So I talked to Ed Ruckriegel this morning
5 or today about that, and his requirement there is that that truck has to be attended to at all times.
6 So that was added to the move-in/move-out plan.

7
8 **MELISSA BERGER:** All right. Thank you. It sounds like you've addressed it.

9
10 **KEN OPIN:** Any questions, any further questions for Mr. McGrath? Seeing none, thank you.

11
12 **LANCE MCGRATH:** Thank you.

13
14 **KEN OPIN:** Any questions for any of the other registrants? Okay. Mr. Verveer, Alder
15 Verveer, would you, would you want to speak from there or come up here? Thank you. I'm
16 sorry. Alder Resnick, did I miss you?

17
18 **SCOTT RESNICK:** Yeah. I had a question before.

19
20 **KEN OPIN:** I'm sorry. Your question is to whom?

21
22 **SCOTT RESNICK:** The condo association . . .

23

1 **KEN OPIN:** Condo association? I think Mary Waitrovich, are you here? Could you come up
2 please and answer a question? Mike Peters has arrived. Okay. Well, after this question, then
3 we'll call on him.

4
5 **SCOTT RESNICK:** Thank you. We referred this project for two weeks for there to be
6 conversation, and I was just hoping to hear some insight to how the conversation progressed or
7 lack thereof, from your own perspective. What was used during this two-week window?

8
9 **MARY WAITROVICH:** Shortly after the meeting two weeks ago, we did have a meeting with
10 Mr. McGrath and one of his associates. And at that time, he made us an offer that, to have the
11 top three stories of the building set back five feet. Talked about a few other possibilities like
12 possibly, you know, maybe there could be some inches in the width of the driveway. And there
13 was some discussion about maybe moving some of the balconies on the East Wilson side of the
14 building to the corner.

15 Our response to that was that we didn't consider that to be a significant change based on,
16 you know, we'd been asking for an additional ten feet for the whole building to be moved away,
17 farther away from the Marina, and so that pretty much ended the discussion. We had the one
18 meeting, and we asked for the move-in plan to be provided to us. And we didn't get that until
19 today in its second iteration, so, in my opinion, the discussions were not really in depth or
20 profitable, really, in any way.

21
22 **SCOTT RESNICK:** Oh, okay. Do you have any comment on the move-in plan or have you
23 had time to review that?

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MARY WAITROVICH: Yes. I do. I have, I do have some comments on that. I really think it's quite an interesting fiction, the move-in plan, and the, for example, we've verified that Two Men and a Truck, their trucks are 35 feet long, so any move that would be done with Two Men and a Truck would be on the street.

And, in fact, I think, a lot more of these move-ins than you're being led to believe would be taking place from the street, and especially if you're aware of the South Capitol Planning Committee, whatever it was, their recommendations came out, and they're asking for a contraflow bike lane. And if that comes to pass, then all of the deliveries and UPS and mail and garbage, I mean, everything you can think of is going to be from the opposite side of the street., and it's going to, you know, just really create an impossible snarl in that location.

There's, the whole front of this proposed building is going to be yellow line. There's, you know, nothing is supposed to be parking there, but, you know, that's, you know, so either all the deliveries are going to happen from the opposite side of the street across two lanes of fast-moving traffic, or they're going to be parking illegally in front of the building in the intersection. So it, to us, the move-in plan represents an inadequate situation and creates a very dangerous situation for the, for pedestrians, for cars, for the people, you know, working in these moving vans and delivery vans to be having to move cargo across the street.

SCOTT RESNICK: Thank you.

KEN OPIN: Thank you. Any additional questions for Ms. Waitrovich? Then thank you very much. I think I should ask permission of the, I'm sorry, Alder Resnick?

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SCOTT RESNICK: I'm sorry. I was going to ask if, probably the question that you would follow-up with, if the developer could come back to talk about the move-in plans.

KEN OPIN: Before that, I wanted to ask if it was okay with people to allow Mr. Peters to testify. Apparently, he's arrived since, so if that's okay with everybody, and then we can bring up Mr. McGrath. So Michael Peters, opposed, wishing to speak.

MICHAEL PETERS: Thank you. I'll be very brief. I appreciate the opportunity to speak. My wife and I just got back from Detroit, Michigan, so a little bit of white-knuckle driving to get back in time, so I appreciate the, being able to speak out of turn. I'll comment, the only thing I want to bring up and comment on is move-in and move-out plan.

When I first read the plan, the first thing I thought of was the video game Frogger, especially if the South Capitol Planning District's plan of putting in a counterflow bike lane comes to pass, we're going to have all the move-ins take place across the street, not only from our building, which is, you know, one issue that's going to affect us, but from this building in particular, with the multiple move-in and move-outs that are going to occur plus deliveries, you're going to see a very interesting occurrence of couches going across that street, boxes going across that street, and you can just envision the traffic issues that that's going to cause.

So that's a real concern that we have for that area. If the bike lane doesn't come to pass, then the move-in/move-outs are going to probably, most likely take place in front of our building, which is interesting, because in one of the earlier meetings that we had with Mr. McGrath this year, when asked about the move-in/move-out plan and the fact that we believed

1 that there would be trucks parked in front of the Marina Condominiums for those move-ins, he
2 assured us that that was not going to be the case, that he had provided for adequate space for
3 move-in/move-out at the back of that fire lane, that driveway.

4 That's not the case, and we now know that has never been the case. One solution, it's just
5 screamingly obvious, the solution is for a wider drive to be put in that area, so that it can
6 accommodate adequately sized trucks. So it's either deliveries, whether it's FedEx, UPS, or
7 move-in and move-outs. That is the solution.

8 I would say you have an option of sending this back to the drawing board, having an
9 adequate plan put in place, which includes a better move-in/move-out plan. Deny the plan. As
10 you probably are aware, there has been a proposal to buy that property, and allow a pedestrian
11 bike and bike bridge to be built across John Nolen. That would be a fantastic option that would
12 be a much better fit for that property than what's being proposed. So, again, I thank you and
13 would ask that you deny this application. Thank you very much.

14

15 **KEN OPIN:** Questions for Mr. Peters? Then, thank you, sir. Mr. McGrath, you want to come
16 back up and address move-in/move-out, and I think you ought to address deliveries as well.

17

18 **LANCE MCGRATH:** [Inaudible]...Question?

19

20 **KEN OPIN:** Well, I think that you may wish to respond on the move-in/move-out and delivery
21 issues that have been addressed by the opponents.

22

1 **LANCE MCGRATH:** Yeah. We prepared, in my mind, what I thought was a very detailed
2 move-in/move-out plan. It addresses four different scenarios, one being the people that are doing
3 their own self moving using a van or a car or their truck, which happens very frequently with our
4 tenants.

5 Second would be for moving vehicles that are less than 30 feet. Those would be
6 accommodated at the end of the driveway on the off-street loading zone that we're providing,
7 which, by the way, isn't required for this type of project, but we did carve out space for it to
8 accommodate that.

9 And then thirdly would be off-street parking for trucks that are greater than 30 feet in
10 length. And that's where if the bigger moving vans and the question about Two Men and a
11 Truck, I haven't followed up on that, I'm not sure how long their trucks are, but I would assume
12 they have different size trucks like most movers do. So in our plan we told, it's very clear as far
13 as what the requirements are. The fourth item also is storage pods, so we can accommodate
14 those at the end of the driveway if they go that route.

15 But the, some of the key points to the move-in/move-out plan are that we are on site
16 property managers, so not only are we developing it, but we're going to manage it. And we're
17 going to do whatever we can to make sure that plan gets followed to the T. We know there's
18 going to be a lot of eyes watching it, and if we're not doing that, there's going to be some phone
19 calls. Also, we're going to attach it to our lease as a non-standard rental provision, so it'll be
20 clear within the lease as far as what expectations are for move-ins and move-outs. We'll be there
21 to help and assist if anything comes up. And like I said, I thought this was a pretty thorough
22 document that addressed things as best we can.

1 If the counterflow bike lane does show up, we do show on the figure two different street
2 locations, where if that happens, if a truck is too big for our driveway, they end up out on the
3 street, then they have to go through and bag meters through the City. There's a process laid out
4 for that. And there's also a path showing where the move-ins should occur. So we're not
5 showing people going across the street. They're going up the sidewalk and then across the
6 controlled intersection at the crosswalk.

7
8 **KEN OPIN:** Questions for Mr. McGrath? Okay. We've got plenty. Let's start with Alder
9 Resnick.

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11 **SCOTT RESNICK:** And then would that same on deliveries, in particular, can you just outline
12 FedEx trucks and similar vehicles?

13
14 **LANCE MCGRATH:** Yeah. You know, FedEx...I don't know how I can control those guys.
15 They stop, and they run into the building. We can say we're going to tell them to park down at
16 the end of the street, but in all reality, they're going to park right in front of the building. They'll
17 probably do deliveries in Marina or Union Transfer and our building at the same time if they
18 have that luxury.

19 But, yeah, if it's a furniture delivery or American TV, someone getting a TV, where
20 you've got directions on the move-out/move-out plan bottom of the second page on, where those
21 can go. And the typical furniture, appliance, or electronics delivery can happen down at the end
22 of the moving zone.

23

1 **SCOTT RESNICK:** All right. Thank you.

2

3 **KEN OPIN:** Mr. Cantrell?

4

5 **BRAD CANTRELL:** Thank you, Chair. Alder Verveer gave us some conditions of, or he
6 suggested proposed conditions that if your project would be approved would be placed on it.
7 Have you seen those conditions?

8

9 **LANCE MCGRATH:** Yes, I have.

10

11 **BRADLEY CANTRELL:** Do you agree with all of those, or can you meet all of those
12 conditions?

13

14 **LANCE MCGRATH:** Yeah. I think they're all very doable for us.

15

16 **BRADLEY CANTRELL:** Thank you.

17

18 **KEN OPIN:** Mr. Sheppard?

19

20 **MAURICE SHEPPARD:** Just a quick question. Would it be possible to, for residential moves,
21 people moving in and moving out, to, during Monday through Friday to maybe have a time
22 between 10:00 and 2:00 where there are no sort of residential move-ins and move-outs. I'm just
23 thinking because during the course of any day, it just goes from like very little traffic to sort of

1 really, once again, high traffic volume, you know, and then it goes back down. Is there a
2 possibility that during Monday through Friday, that there's a window there where there will not
3 be large, you know, sort of someone moving their other goods and services into the building and
4 then . . .

5
6 **LANCE MCGRATH:** Yeah. We would definitely be open to that. I don't know what those
7 hours should be, but.

8
9 **MAURICE SHEPPARD:** Yeah. There just seems, it just seems that sort of during the normal
10 business day . . .

11
12 **LANCE MCGRATH:** . . . peak.

13
14 **MAURICE SHEPPARD:** Yeah. Exactly. There's that peak where no matter how well-
15 intentioned, there's just going to be a lot of cars and a lot of people in that small area. So that
16 might be something to consider.

17
18 **LANCE MCGRATH:** Sure.

19
20 **KEN OPIN:** Mr. Heifetz?

21

1 **MICHAEL HEIFETZ:** Thank you, Mr. Chair. Mr. McGrath, Mr. Peters commented before
2 you, and this question is probably really obvious to you, but hopefully you can help us. So why
3 can't you simply make the drive wider per his suggestion?
4

5 **LANCE MCGRATH:** Yeah. It's purely a structural engineering issue. It's a concrete building.
6 We've got columns that come down that side of the building that have to carry through and the
7 column's got to stack on top of each other all the way up. So we can't step, widen the building
8 and then bring the building back again until because those columns need to transfer down. And
9 Marc Schellpfeffer might be able to give more, maybe a better, more clear, unless that's a good
10 answer.
11

12 **KEN OPIN:** You'll have to wait a second.
13

14 **LANCE MCGRATH:** But I would, it has, it's driven by the structural engineering, the concrete
15 columns. The parking down below is set up for the parking structure, and that carries all the way
16 up.
17

18 **KEN OPIN:** You can get yourself in position though.
19

20 **MICHAEL HEIFETZ:** And is that also connected with the size of the building itself and
21 where the building sits, and how much space, and?
22

1 **LANCE MCGRATH:** Yes. Correct. Yeah. We were able to do a little bit of reconfiguring
2 and pushing with the columns. So we picked up an additional foot, in effect, so now the drive
3 aisle, which was originally 18 feet, is 19 feet, but that's as far as we can push it with the face of
4 the wall at its current location.

5
6 **MICHAEL HEIFETZ:** Okay. I have another question for Mr. McGrath, but I'll defer to the
7 architect on the first question.

8
9 **KEN OPIN:** Well, why don't we take, can we take care of all the questions for Mr. McGrath
10 before we do that?

11
12 **MICHAEL HEIFETZ:** Sure. All right. Thank you. Second question, how did the last two
13 weeks go, and how did your discussions with the Marina go?

14
15 **LANCE MCGRATH:** Thank you for asking that. So after the Plan Commission meeting two
16 weeks ago, we came to the realization that we needed to make some tough decisions and try to
17 move towards finding a middle ground with Marina. So as Mary mentioned a little bit before,
18 we met a few days later. We also, as part of that meeting, our general contractor was there, and
19 we talked quite a bit about construction of the building and, you know, kind of a cradle-to-grave
20 process of how everything's going to happen reviewing that with them.

21 But then also talked in a somewhat of a working session on how, you know, what steps
22 we can, that we can take to try to address some of their concerns and try to find that happy
23 medium. There's no way we can do everything they asked for, the ten-foot setback, eroding

1 corners to open up view angles, and stepping back the top floors. We put out tracing paper over
2 the floor plans and elevations and showed how we could do, how we could address the corner
3 issue and eroding those corners, so to speak, moving balconies, primarily to the corners, which
4 would help open that up a little bit.

5 And from a financial perspective that had the least impact on us, we don't lose a lot of
6 square footage on that. One side of the building, yes, the other side not at all. You're just kind of
7 pushing stuff around. We felt both from an architectural perspective, and also from just more of
8 a benefit to the neighboring building, in our opinion, the best move was stepping back those
9 three stories, the five feet that we did. It opens up a little bit more of a view angle from above,
10 but also gives you a step back at the corners on those top three floors too.

11 The other thing to point out is our building, we start out about a half a floor staggered
12 with Marina, but as we move up, due to differences in floor-to-ceiling elevations on each floor,
13 we end up catching up to them. So by the top of the building we're basically in line with them
14 hitting the Capitol View Limit. So those step backs on those top three floors, I think, has the
15 biggest benefit as far as increasing the setback between the buildings when floor plates are
16 closely aligned. Lower levels are more of a half floor difference. That slowly catches up as you
17 move up the building.

18

19 **MICHAEL HEIFETZ:** Okay. Thank you, Mr. Chair.

20

21 **KEN OPIN:** Okay. Mr. Cantrell, you had more questions for Mr. McGrath? Just a second.

22

1 **BRAD CANTRELL:** And maybe this is an architect question, but my question was did you
2 look at the alignment of the floors and the direct line of sight? Because I think a lot of the
3 concerns that the Marina has is the loss of privacy. And, obviously, if you have a building next
4 door, there's going to be a line of sight even looking down and looking up. But, and I think that
5 you just addressed some of those, at least answered some of my question that the floors are
6 slightly offset. But could you maybe expound on that?

7

8 **LANCE MCGRATH:** Yeah. And Marc can talk to that also, but as I mentioned, we start off
9 on the lowest residential levels about a half a floor difference from them, and then either their
10 floor to ceiling is a half a foot bigger, I think six inches more than ours, so, or vice-versa, so as
11 we move up the building, that gap closes. But it's really driven by the Capitol View Limit. If that
12 wasn't an issue, you know, that's kind of our ceiling that we're working with. But, yeah, we, and
13 it was initially, you know, kind of designed with that in mind trying to do that, but there's a few
14 things that we just can't avoid.

15

16 **BRAD CANTRELL:** Okay. Thank you.

17

18 **KEN OPIN:** Ms. Hamilton-Nisbet?

19

20 **TONYA HAMILTON-NISBET:** I just have a, just kind of a management question. You
21 know, this, these are all rental units.

22

23 **LANCE MCGRATH:** Correct.

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TONYA HAMILTON-NISBET: Can you tell me, do you have any sort of anticipated turnover rate that you expect to come out of this building based on your prior experience? In the interest of the Marina next door, are owners, they are there, they will be there, this is, these are apartments, and there will be people moving in and out, hence, the concern about move-in, move-out. If there are less people moving in and moving out, then we don't have the congestion issue. Can you just address that?

LANCE MCGRATH: Sure. It's, typically on our, the other three buildings that we currently own and manage, it varies anywhere from 25% to 35% every year that turns over. This building, I'm expecting that when, it'd be on the lower end of that, so it's not going to be one-third, but I think a nice destination place like this, I think, will have more long-term tenants that will stay here, you know, more than what we see in some of our other buildings.

TONYA HAMILTON-NISBET: Okay. All right. Thanks.

KEN OPIN: Any other questions for Mr. McGrath? In that case, I have two. One is the presumption seems to be that you're going to have all your move-ins, like the students do, like, you know, at one peak time. Is that realistic, or were you planning to have move-ins all year long?

LANCE MCGRATH: It's, it is clustered in the summer months, so anywhere from beginning of May to the end of August, early September, that's when the bulk of ours happen. And the, all

1 of our, when we do our initial lease up for the building, the plans have the building ready by June
2 of 2015. We'll sign leases for June 1st, July 1st, into August 1st. And so it's spread out. It's not an
3 August 15th date. It's typically summer, but we do get sublet conditions or somebody gets a job
4 relocation.

5
6 **KEN OPIN:** My other question is, it's still not clear to me, what are you doing to do with 35-
7 foot trucks?

8
9 **LANCE MCGRATH:** A 35-foot truck would have to go on the street. It wouldn't, it would
10 block access to our parking structure at the end . . .

11
12 **KEN OPIN:** And, legally, where could that truck park?

13
14 **LANCE MCGRATH:** Currently, it could park on either side of East Wilson Street as shown on
15 the diagram. We've got two places where 35, or the larger, those are meant to be like a United
16 Van Lines type of truck, so it shows where those would park.

17
18 **KEN OPIN:** Thank you, Mr. McGrath. I believe we now would like Mr. Schellpfeffer, is that
19 correct, the architect, to answer some questions? Mr. Heifetz?

20
21 **MICHAEL HEIFETZ:** Thank you, Mr. Chair. Just the same question. It looked as if Mr.
22 McGrath was looking for further guidance from his architect.

23

1 **MARC SCHELLPFEFFER:** I think he handled it pretty well. What drives really that western
2 edge is when we get to the below-grade parking we need to maintain a drive aisle to service that
3 parking. So we've pushed that column as far to the edge of the parking stall, if you will, the front
4 edge of the parking stall as we can, to allow you to still drive down through the parking lot and
5 enter into those parking stalls that are essentially below the fire lane at that point, so that kind of
6 is setting that as far as we can push the western face of the building to the east, if you will. And
7 as Lance said, we were at 18 feet. We looked if we could get another foot out of it. We got it up
8 to 19 feet. But to get that column to go any further to the east away from Marina, it starts to fall
9 into the drive aisle of the parking lanes below them at this point, so.

10

11 **MICHAEL HEIFETZ:** Thank you, Mr. Chair.

12

13 **KEN OPIN:** Are there any other...Mr. Rewey?

14

15 **MICHAEL REWEY:** Yeah. I'm going to do a follow-up on the planter with Mr. Schellpfeffer.
16 I probably should've asked him in the first place. In regards to the planter and the handicap, is
17 there any way you can push that planter back to create a little more streetscape?

18

19 **MARC SCHELLPFEFFER:** You were referring, you're referring to the one that's along
20 Wilson?

21

22 **MICHAEL REWEY:** Yes.

23

1 **MARC SCHELLPFEFFER:** I think it, there's an ability to push it back to some extent. The
2 reason that it's there right now is really the column line, again, that's below that's pulling up
3 through the building and then getting a wide enough access ramp behind that planter wall to
4 bring the ramp up to the grade level of that commercial space. And then we started to look at
5 how wide is that planter to be able to actually get something to plant in it and be able to grow.

6 So from a width, I think we're at about 18 inches, which gives us when we pull things
7 down, that'd be about 12 inches of actual planter, so it's a tall wispiest grass that's going in there.
8 Can we look at pushing it back? Yeah. I don't know if it's going to be multiple feet or, but I
9 think there's an opportunity . . .

10

11 **MICHAEL REWEY:** Or I had a suggestion. Could you say it's not going to be a planter but
12 put in like a six-inch wall as a way...I'm looking at creating the streetscape that I heard that the
13 congestion on, and I recognize you can't change the stairwell.

14

15 **MARC SCHELLPFEFFER:** Yeah. That's certainly an opportunity. The planter came about
16 from a UDC (Urban Design Commission) recommendation to soften the face of that, to soften
17 the face of . . .

18

19 **MICHAEL REWEY:** But it's, it is a concern. I was looking at the Marina, and it looked like if
20 we had the choice to do on that again, we probably would've set back the Marina because of the
21 increased pedestrian usage that's occurring over time. Union Transfer, you can't do anything
22 about it. It's been there a long time. But we've talked about that in other projects where you look

1 at creating a wider sidewalk presence and it just, if you take a look at just even putting in a six-
2 foot wall of some architectural value, just the extra one foot would help a lot.

3

4 **KEN OPIN:** Anything...Mr. Sheppard?

5

6 **MAURICE SHEPPARD:** Just a quick question regarding the fire lane. How do you handle
7 snow removal there?

8

9 **MARC SCHELLPFEFFER:** Snow removal there is really getting pushed to the back end of
10 the loading zone. So at the end of, the end of the loading zone essentially it's what's the
11 condition that's there now. It's a, it's the end of the wall with a railing component that's open, so
12 as snow is removed, it's pushed to the end and kind of, it drops itself off.

13

14 **MAURICE SHEPPARD:** Thank you.

15

16 **KEN OPIN:** All right. Does that conclude the questions for this registrant? Thank you. Are
17 there questions remaining for any of the other registrants before I call Mr. Verveer? Alder
18 Verveer?

19

20 **MICHAEL VERVEER:** Thank you, Chairperson Opin. Good evening. I think consistent with
21 the way the Commission's treated those that had the opportunity to testify two weeks ago, I really
22 should likewise limit myself to having Commissioners ask me questions, though it's hard for me.
23 But I'm also a bit under the weather, so it might be best if I not, you know, speak for very long. I

1 should also point out that I realize that a couple of Commissioners were not able to be present at
2 the meeting two weeks ago, but I'm sure you don't want to hear what I have to say in total at that
3 meeting, those of you that weren't able to be here.

4 I further acknowledge that I was informed that my testimony two weeks ago pushed 30
5 minutes, so I really don't want to do that to all of you again and just repeat what the vast majority
6 of you heard at your last meeting. A couple of things that I do want to say though, and I, again,
7 really just want to make myself available to answer your questions. First, I do want to sincerely
8 thank you for the referral last time. I know that it really did not seem meaningful to my
9 constituents that are the most adversely impacted by this application, but I found the
10 improvements to be more than just, you know, mild gestures on the part of the applicant. I think
11 that they are meaningful, in many respects, and in the right direction.

12 I fully acknowledge that the dozens of my constituents that particularly live at the Marina
13 Condominiums still find the modifications made by the applicant in the last couple weeks to be
14 woefully inadequate from their perspective. And I acknowledge that it certainly is condition #3
15 that was referenced earlier that really speaks to, not condition, you know what I mean, the
16 conditional use standard #3 that really is the heart of the concerns from my constituents in terms
17 of concern about loss of air and privacy and loss of value.

18 And I fully have to acknowledge that it is, this has not been fun to work on. It's not been
19 fun to try to assist the neighborhood steering committee when there are such kind of opposed
20 positions as we find ourselves with this application tonight. The fact that the applicant has
21 agreed to lose six units with the, as a result of the proposed step pack on the top three floors, I
22 think, should not go unnoticed.

1 With that said, again, the concerns are there. They're justified. I did say last meeting that
2 I kind of took my breath away when I stood in some of the units of my directly affected
3 constituents and tried to visualize a wall of apartments so close to them across the fire lane. And
4 it's hard to take, you know, so I really have to acknowledge what many of my constituents are
5 going through. And I'm sure they've lost a lot of sleep over the last several months.

6 Further, I just want to point out that some of the constituents that have been so active in
7 trying to improve this application don't even live, don't even own units that are on the east side of
8 the Marina Condominium. So those that are most immediately affected certainly have been
9 involved to a great extent, but you heard from at least one tonight, Professor Green, and you've
10 heard from many last time, who don't even own units that are on that side of the building but are
11 justifiably concerned, which also speaks to conditional use standard #3 of the traffic impacts that
12 the new development might entail.

13 Since I've, you know, kind of said some of the, the concerns that are still out there, let me
14 acknowledge quickly that, as I've told many of my constituent, they couldn't ask for a better local
15 developer and property owner. The fact of the matter is, as was discussed in the earlier agenda
16 tonight relating to management of the Tennyson Lane Development, those concerns absolutely
17 should not be here with this applicant. As long as the McGrath Group owns and operates and
18 professionally manages the building, which I think will be for the long term, you really couldn't
19 ask for a better owner and operator.

20 That's why, in fact, in my opinion, it almost would be insulting to ask for a management
21 plan. It certainly entered my mind when I was thinking of potential conditions that were
22 appropriate to try to mitigate some of the concerns. However, there really are concerns out there

1 that I hope that we can try to get at through the proposed conditions that Vice Chairperson
2 Cantrell already referenced in one of his questions of the applicant.

3 So I did put at each of your places, six conditions that I drafted, admittedly today, and the
4 final condition, Mr. Parks has suggested some improved language for. So rather than try to
5 explain what Mr. Parks' suggestion is for condition #6 in terms of the new conditions, I'll let Mr.
6 Parks speak to that at the appropriate time.

7 I won't go through the six. I went through these in concept at the last meeting, also,
8 again, save the time and not go through each of them. I'd say that the most meaning, it's, again,
9 my attempt to try to get at the concerns that I've heard since October about this application from
10 my constituents, although I know it really doesn't fully address the concerns that they have. So I
11 think with that, again, I've probably gone over way more than I intended to. I really wanted to
12 make myself available to answer your questions about what's changed in the last two weeks or
13 beyond, you know, that as well.

14

15 **KEN OPIN:** Questions for Alder Verveer? Mr. Heifetz?

16

17 **MICHAEL HEIFETZ:** Thank you, Alder. Yeah. We discussed last time your inadmirable
18 position being in the middle of this one, I think that applies to us too, your list of conditions, the
19 six conditions, generally reasonable. Can you elaborate on #6, the no food or beverage
20 establishments, the particular concerns? That one stands out as one of these is not like the
21 others.

22

1 **MICHAEL VERVEER:** Sure. That's a good question. Thank you, Commissioner. So, and,
2 again, Mr. Parks, either now or perhaps after I first explain what I'm trying to get at, and then
3 Mr. Parks can share his suggested language. What I heard from constituents that live both at the
4 Marina and at Union Transfer Condominiums was a concern about the potential retail
5 commercial use of that first floor space.

6 As a reminder, we heard at the last hearing, or the first part of this recessed public
7 hearing, that the intent of the applicant is that the majority of that space will now be used for
8 office purposes, and, in fact, the applicants will not just, not just have an on-site management
9 office there, but they will actually move. The entire McGrath firm would be located on this first
10 floor if the project is approved and built. Lance himself would occupy that as his daily office.

11 So that, with that decision by the applicant, it did away with the primary concern about
12 this first floor commercial space, which was the rear patio, potential exterior outdoor food and
13 drink space, overlooking the lake. And that was a particular concern of the Union Transfer
14 residents, not just the Marina residents, that you've seen tonight and, again, certainly, at the last
15 meeting.

16 So although it, the main concerns have been allayed, I think it's important, as I said this
17 last meeting, these conditions largely are attempting in some way to get at the potential of the
18 change in ownership and codify these solutions to potential concerns with the continuing
19 jurisdiction of this august body. So through the Plan Commission's continuing jurisdiction, as
20 you all well know better than I, with these, the conditional uses running on the property despite
21 whoever the current owner happens to be, these would be codified. And so if something changes
22 on the first floor, I realize fully, Commissioner Heifetz, that you all have to grant approval for
23 any exterior food and drink on that rear patio.

1 Now, you know, under, as of tonight, that would be private use for the office uses, Mr.
2 McGrath and others, but I still think that there is enough of a concern out there that I would like
3 any food and drink establishment that goes in on that first floor to at least have a check-in, if you
4 will, with the neighborhood, the Alderperson, and City staff. So thus the, and, again, Mr. Parks
5 has proposed new language relating to the minor alteration process for an existing conditional
6 use. And I don't know if now would be the time to yield to Mr. Parks with this proposed
7 language.

8

9 **MICHAEL HEIFETZ:** Two quick questions before we get to that.

10

11 **KEN OPIN:** Okay.

12

13 **MICHAEL HEIFETZ:** Thanks. Did you participate in any of the discussions over the last two
14 weeks?

15

16 **MICHAEL VERVEER:** I did, except offline, no, I did not. So I was not, there was only one
17 meeting. I, you know, I don't want to overstate what was done in the last two weeks. I do, again,
18 thank you for the referral. I think it helped and made modifications and gave time that probably
19 should've happened as part of the neighborhood steering committee process, but, no, I was not
20 present.

21 There was one meeting of representatives of the Marina Condo Board, one face-to-face
22 meeting with the applicant and his team. There were representatives of his team and three
23 members of the Marina Condo Board. So I believe that, anyone can correct me if I'm wrong,

1 there was just one face-to-face meeting since we've, since your last meeting here, and I was not
2 present. I was not invited to that meeting.

3

4 **MICHAEL HEIFETZ:** Okay. Thank you. And, lastly, I don't recall two weeks ago if you
5 have a position on this, or if you're dividedly neutral, but . . .

6

7 **MICHAEL VERVEER:** Thanks for putting me on the spot, Michael. No. This really is . . .

8

9 **MICHAEL HEIFETZ:** Well, we have to vote one way or the other tonight or some other night.

10

11 **MICHAEL VERVEER:** . . . and I don't mean to make light of it, and, of course, assuming that,
12 you know, this goes to the Common Council, and someday it will, most likely at our next
13 meeting, you know, assuming that you're taking action tonight on a final recommendation to the
14 Common Council in terms of the rezoning piece of this from UMX to DC district, obviously, I'll
15 be voting as a member of the Council.

16 To me, this is obviously extremely tough. I, the people that are sitting here expect me to
17 be their representative, their voice in City Hall. That's what I'm supposed to be. That's what I'm
18 trying to do now, and I've tried to do since this proposal was brought forward in October, at least
19 made known to me in October, and I think that the adjacent neighborhood residents also found
20 out in October.

21 The reality is, and I've felt this way before in my years of service in this building, that a
22 lot of times my, you know, head says yes, and my heart says no. Again, I don't mean to be

1 overly repetitive, but standing in the units of particular constituents of mine was very difficult. It
2 was painful to try to envision how close that would be.

3 I really think that if, and I think he will, the applicant, follows through and has excellent
4 management that he's known to have in his other downtown properties, that the traffic issues
5 really can be mitigated in, you know, many ways. You know, I don't expect to have someone
6 standing out there trying to enforce with FedEx and UPS where they can park, but in terms of
7 their refuse and recycling collection vehicles, the contract that they'd have with the collector,
8 having this as a, the traffic, the delivery to the extent that they can be addressed, and moreover,
9 the move-in/move-out in the lease, I think, can make a big difference.

10 So to answer your question, I have continued to make this, I haven't come down yet
11 officially in checking the box, as Chairperson Opin will attest, saying either yes or no, because
12 this is so difficult. I mean, there's a lot to be said, as the staff report, does very good job of
13 arguing that this is an excellent project. But on the other hand, there are constituents, and I'll
14 say, I'll admit to, I'll say this and maybe get in trouble for it, as if I've not already offended a lot
15 of people what I've said so far in trying to be fair with everybody, but I have, one thing that I
16 think has, that I've learned in the two-week referral time is that there is support in the First
17 Settlement neighborhood and Union Transfer Condominium for this application.

18 The opposition that I have heard, especially in the last two weeks, continues to be those
19 directly affected because of the architecture, you know, largely of their, the building, the Marina
20 Condos. I have heard from folks at Union Transfer that are supportive of the application. I've
21 heard from folks in the First Settlement neighborhood, in essence, that live across the street in
22 the Historic District, that are supportive of the application. So there is no, there's absolutely no

1 consensus in the neighborhood on this, and it makes it all the more difficult for me. But, again,
2 thanks for kind of trying to pin me down. It's hard.

3

4 **MICHAEL HEIFETZ:** I apologize in that regard, because it wasn't really an effort to pin you
5 down. But you did provide helpful info in that discussion or in your response. And, yes, at some
6 point, if a project, this one or another one, goes to the City Council, presumably you'll be there. I
7 wouldn't ask every Alder, frankly, what their position is, because I wouldn't necessarily be that
8 interested in their answer. But I'm more curious... Yes, I said that out loud and for the record.

9 I routinely disagree with many elected officials at all levels of government, and I often
10 express it. So, but you have a lot of experience in being in the middle of these debates over the
11 years as Madison has evolved considerably in the last 10 or 15. So even when you're not
12 committing to a position, you're still giving us information on it, whereas, that isn't always the
13 case. Thank you, Alder, and thank you, Mr. Chair. I'll stop now before I insult anybody else this
14 evening. Thank you.

15

16 **MICHAEL VERVEER:** Thank you.

17

18 **KEN OPIN:** Ms. Hamilton-Nisbet?

19

20 **TONYA HAMILTON-NISBET:** The only question I have is on this condition #6 that you've
21 got written here with the food and beverage. Okay?

22

23 **MICHAEL VERVEER:** And, again, Mr. Parks has better language . . .

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TONYA HAMILTON-NISBET: And Mr. Parks has alternate wording. Why were, was there opposition to a food and beverage establishment there? Is it noise? Is it time of day? Is it type of cuisine? What is it that would make people say that they are not interested in having a food and beverage establishment there? Were you at those meetings? Can you speak to that?

MICHAEL VERVEER: Yes. Thank you for the question, Commissioner. The, I would say that of all of the, well, you know, the tenants that are living there and having their, the reasons for those that aren't clear on this, the recycling condition that I'm suggesting in #4, is because there's a refuse chute provided in the plans before you but not a recycling chute. And so I, you know, have experience with other downtown buildings where that's the case and wanted to require the recycling pickup to encourage recycling among the tenants.

So, anyway, aside from the recycling issue, I'd say that #6, the one you're asking about that's proposed here, was a concern that has largely gone away with the, again, the switch from 100% first floor being retail most likely, at least part if not all food drink establishment, to one where it's being now, at least majority, office, as we know it, you know, tonight, that's the plan.

So the concern was never that there not be a coffee shop there, or what kind of coffee beans are you roasted, or what kind of restaurant is there. The concern really was just from the impacts. For example, would there be an alcohol license? And, of course, that's, as we all know, a separate process that, you know, we're familiar with. So there is that safeguard, I'll admit, that if there was ever an alcohol license, they would have to go through a public hearing process at the ALRC (Alcohol License Review Committee) and the City Council for that.

1 The, and then the main concern was this exterior patio use. And, again, my thought or
2 concern is not, again, I think Mr. McGrath's word should totally be taken at that, you know, he's,
3 with his experience and certainly my personal experience working with him, he's not going to
4 mislead us, me, in particular. So I think that there will be office space there for the foreseeable
5 future. But, again, my concern is if the building is sold, if, you know, the office use doesn't work
6 out for whatever reason, that that exterior space not only be the subject of a Conditional Use
7 Permit under the Zoning Code as we all are familiar with and you see all the time here at the
8 Commission, but rather that the, just that the actual use at the outset including in that space off of
9 East Wilson Street, at least have some sort of process.

10 And, again, it does go to, the last thing I'll say on that is that it certainly was noise,
11 especially as it relates to that rear patio. But the issue of deliveries and all these traffic issues,
12 the fact that this intersection of South Butler, King, and East Wilson Streets is already such a
13 problem, is so congested, you know, that's what we're trying to get at obviously through half of
14 these conditions, that it would be, at least give me comfort level, I don't know about my
15 constituents, but me a comfort level.

16 If there's a minor alt process, I could sit down with that coffee shop or restaurant and say,
17 and instill in them how critical it is to get the deliveries worked out to not obstruct the sidewalk,
18 as Mr., Commissioner Rewey was, you know, had made points about earlier tonight. And so
19 that's what I'm trying to get at. And then I'll just, you know, lastly say that, you know, Mr.
20 McGrath is comfortable with the...each of these conditions, as he's stated earlier.

21

22 **TONYA HAMILTON-NISBET:** I mean, I'm fine with the condition being there, and I do
23 think that especially given the unique nature of the site, I guess my perspective is deliveries

1 would be an issue, time of day, hours of operation of an establishment would be an issue. But it
2 just struck me as odd that neighbors would be uninterested or concerned. And I know where
3 you're coming with it . . .

4

5 **MICHAEL VERVEER:** And they are, they absolutely . . .

6

7 **TONYA HAMILTON-NISBET:** And they are, and we're good, and I'm fine.

8

9 **MICHAEL VERVEER:** . . . I've not of heard of any . . .

10

11 **TONYA HAMILTON-NISBET:** I was just trying to understand a little more about that one.

12

13 **MICHAEL VERVEER:** That's a good question. They absolutely, I've not heard anyone say
14 we're opposed to a coffee shop there. Maybe someone is, but they haven't articulated that at a
15 meeting I've attended, or to me personally.

16

17 **KEN OPIN:** Any further questions for Mr. Verveer? Then do you want to explain the variation
18 on condition #6?

19

20 **TIM PARKS:** Certainly. I propose that condition #6 read as follows: A food or beverage
21 establishment shall only be allowed if approved, pursuant to Section 28.183(8) of the Zoning
22 Code, that's the alterations section, which basically says that the alteration be approved by the
23 Plan Commission, except minor alterations that are approved by the Director of the Planning and

1 Community in Economic Development Department, following consideration by the District
2 Alder.

3 The way the condition is worded here, it sort of assumes that it would just be the minor
4 alteration approved by the Director with the Alder's consent. And what (8) does is it allows that,
5 certainly, the language under (8) certainly allows that, but if one or both of those parties feels
6 that it rises to the level that this body needs to approve it, then that wording would allow that to
7 happen. So we can have it both ways.

8 In other words, the second part of that would be, comma, except any outdoor eating area
9 for a food and beverage establishment shall require a separate conditional use as approved by the
10 Plan Commission following a public hearing. Which is basically saying with the zoning code
11 already requires. That an outdoor eating area come back to this body for separate approval. And
12 I'd be happy to read that once again at such an appropriate time.

13

14 **KEN OPIN:** Okay. Before I close the public hearing then, are there any one last chance
15 questions for Alder Verveer? Seeing none, thank you. I'll close the public hearing. Questions of
16 staff? Mr. Rewey? No? No. Ms. Hamilton-Nisbet?

17

18 **TONYA HAMILTON-NISBET:** I guess I just want to ask the question, and I'm pretty sure I
19 know the answer, but it's been mentioned that there is a group that is looking to purchase the
20 property itself. There are some...we've got paperwork on this. I just want to make, I just want
21 to get, make sure I'm headed in the right direction. We don't have anything before us other than
22 what we see in front of us.

23

1 **TIM PARKS:** Exactly.

2

3 **TONYA HAMILTON-NISBET:** I mean, this is not an A or B. This is an A, yes, or no?

4 Correct?

5

6 **TIM PARKS:** Yes.

7

8 **TONYA HAMILTON-NISBET:** Thank you.

9

10 **KEN OPIN:** Any additional questions of staff? Then motion would be in order. Mr. Rewey?

11

12 **MICHAEL REWEY:** I'd like to move approval with the six conditions that Alder Verveer,
13 included with the modification by Mr. Parks on item #6, and that the one- to two-foot setback be
14 investigated on the parallel...planter parallel to the sidewalk but not required, just investigated.

15

16 **ERIC SUNDQUIST:** Second that.

17

18 **KEN OPIN:** Your second is including Mr. Rewey's addition? Okay.

19

20 **BRAD CANTRELL:** . . . separate out that issue . . .

21

1 **KEN OPIN:** Yeah. If there's no controversy about it, I'll just rule that it's separated out. Okay.
2 So then let's deal with, first, with Mr. Rewey's issue that is you want to restate it as an
3 amendment?

4

5 **MICHAEL REWEY:** Yeah. That the developer investigate a one- to two-foot setback on the
6 planter that's parallels the sidewalk. The reason for that is the street, the building . . .

7

8 **KEN OPIN:** Hang on a second. Let's make sure. Is there a second?

9

10 **MICHAEL REWEY:** I'm sorry. No second?

11

12 **KEN OPIN:** I don't know. I'm waiting.

13

14 **ERIC SUNDQUIST:** Second.

15

16 **KEN OPIN:** Okay. Go ahead, Mr. Rewey?

17

18 **MICHAEL REWEY:** I'm looking at the downtown being a pedestrian-friendly downtown and
19 it's obvious to me along the frontage of the Marina, the sidewalk is probably too narrow for the
20 long term of downtown. And I'd like to think that anytime we look at a building downtown, we
21 look at the adequacy of the sidewalk, just not is the street wide enough, but is the sidewalk wide
22 enough for the pedestrians that we want downtown?

1 In this case, I'm not requiring the developer to do it, but I'd like them to investigate the
2 possibility. I appreciate they opened up the area by the driveway and have adequate vision,
3 which we've learned a lesson on that for pedestrian safety, but I see another, a little opportunity
4 here to perhaps enhance the sidewalk experience just a little bit more.

5
6 **KEN OPIN:** Any further discussion on Mr. Rewey's amendment? Seeing none, then all those
7 in favor of Mr. Rewey's amendment signify by saying aye. Opposed no? Hands please, of the
8 ayes? Ayes? One, two, three, four, five. Passes 5 to 3.

9
10 **TIM PARKS:** And then the noes were Resnick, Cantrell, and Hamilton-Nisbet?

11
12 **SCOTT RESNICK:** [Inaudible]

13
14 **KEN OPIN:** You were an aye? Six, then six. Okay. Now we're six.

15
16 **MICHAEL HEIFETZ:** My apologies.

17
18 **KEN OPIN:** Okay. I didn't see that either. Sorry. Okay. So now we're back to the main
19 motion as amended. Any further discussion of the main motion? Then all those in favor signify
20 by saying aye. Opposed no. It passes unanimously. Thank you.