

June 28, 2010

Tim Cooley

Director, Economic Development Division

Department of Planning & Community & Economic Development

215 Martin Luther King, Jr., Blvd., Rm 312

Madison, WI 53703

**RE: City of Madison Approval Process**

Dear Tim:

On behalf of the Downtown Madison, Inc. (DMI) Board of Directors I am sending you the DMI recommendations for how Madison's development review procedures can be made more efficient. We would be happy to go over these ideas with the Economic Development Committee at a future meeting (if requested). We understand that what we are submitting will be merged with other submitted recommendations and will be sent to the Economic Development Committee for discussion, public comment, additional committee approvals and a final recommendation to the Common Council.

We look forward to working with you, the Economic Development Committee, the Common Council and all interested parties on this important issue. Thank you.

Sincerely,

Susan Schmitz

DMI President

# RECOMMENDED CHANGES TO CITY OF MADISON PROPERTY DEVELOPMENT APPROVAL PROCESS

PREPARED BY DOWNTOWN MADISON INC

JUNE 15, 2010

This report presents recommendations to improve the City of Madison's development approval process, which Downtown Madison Inc. (DMI), believes leaves our city at a disadvantage in the increasingly competitive market for investment, where cities compete with each other to attract *and retain* businesses and residents, and the economic and cultural vitality they provide.

Within DMI, the genesis of this report was increasing evidence that the current review process consumes an undue amount of scarce resources (time, money and mental energy) for all who participate, including City staff, Commissions, and the Council.

Unfortunately, the inefficiency is brutally egalitarian: it affects current property owners (residential and business) looking to improve a property, as well as outside investors (be they developers or businesses) who are thinking of moving into our community. Overall, the message being sent and the image created, is that Madison is hostile to development and investment; a city where much higher costs must be invested before you know if you can or can't build an economically viable project. There is anecdotal evidence that neighboring communities use this perception of our process in their increasingly successful efforts to attract important projects to their communities, and that some investors won't even look at Madison because they imagine, right or wrong, that it is just too hard to do business here.

Although it may be tempting to view past growth and successful projects as evidence that any problems created by the current development approval process are minor, there is real reason to be concerned. In particular, the current recession has had a profoundly negative impact on both residential and commercial real estate redevelopment and brought about likely permanent changes to financial markets. While almost all expect and hope that the country, and our region in particular, will return to an economic environment of jobs-creating growth, most economists expect that "debt markets," i.e., loans from banks and other financial institutions, have permanently tightened. This tightening has increased the percentage of equity that investors must contribute before they can get a loan. This, and related changes in finance markets, have made it much more difficult to undertake many projects that formerly would have been easy to finance.

In addition, Madison, especially downtown Madison, can generally only accommodate infill redevelopment projects, which are generally more complex and expensive to complete than development in more open suburban areas. As a result, Madison has

increasingly been losing attractive redevelopment opportunities to surrounding cities that have been aggressive and sophisticated in offering competitive land prices, a streamlined approval process, and public financial assistance to investors and businesses looking to expand.

DMI does not suggest that new projects or “normal” reinvestment will not occur in the future if the current development approval system is not improved. As we have seen, even in the current difficult economic conditions, new projects and reinvestment in existing properties continue, albeit at a much reduced rate compared with past years. Madison remains a special and vibrant community, with many unique advantages it can use to attract new investment. However, if action is not taken to improve the efficiency of our current development approval process, the pace of reinvestment and jobs growth will be significantly less than what is possible or desirable and we will lose more and more great projects to other communities.

To address these challenges, DMI’s Economic Development Committee worked between February and June 2010 to evaluate the City of Madison’s development approval process and make the following recommendations. It is our sincere desire that these recommendations prompt a healthy dialog and debate among all stakeholders, with the outcome being an improved development approval *system* that helps us secure new investment and new jobs in our community.

## Recommendations:

We have several recommendations to improve Madison's Development Approval Process. These are presented below in no particular order.

### 1. Project a Customer Engaging Attitude

- a. **Background:** City staff, alders, and the members of committee's commission's boards and agencies (committees) need to cultivate and project a customer-engaging attitude. Right or wrong, Madison is perceived by many to be hostile to development and investment. In order to compete effectively with surrounding communities, Madison must improve its reputation in the marketplace.
- b. **Recommendations**
  - i. **Committee Members:** Members of committees are part of the face of the City. Applications for seats on committees should include information that provides insight into both the abilities and attitudes of prospective committee members.
  - ii. **Annual Review:** Conduct an annual review of committees and staff to assure accountability for actions/conduct.
  - iii. **Promotion:** If (and only if) the City successfully revises its development approval process, consider conducting an outreach campaign to let the world know.

### 2. Appoint a Project Liaison for Important Projects

- a. **Background:** Larger projects can have a huge impact on the city as a whole and on the local neighborhoods. A project liaison for larger projects would present a welcoming attitude to investors *regardless* of the ultimate decision of the community to approve or deny the proposed project. The improved efficiency a liaison would present would likely be significant and essentially pay for the service.
- b. **Recommendations**
  - i. **Liaisons for Larger Projects:** Have one staff member of the planning or economic development teams assigned to shepherd important projects through the review/approval process. The project liaison would help educate applicants, emphasize early submittal of projects, help get ahead of inter-agency/inter-commission conflicts, and help applicants obtain timely feedback from various stakeholders.

### 3. Consider a Different Approval Process for Smaller Projects

a. **Background:** Larger projects typically require a longer, deeper, and more complicated approval processes. On the other hand, an approval process that provides a streamlined review process for smaller projects, which meet certain defined characteristics, might improve efficiency without risk of lax oversight or loss of input from stakeholders.

#### b. Recommendations

i. **Define a Simplified Process for “Small” Projects:** Staff should prepare a set of recommendations for a streamlined approval process for smaller projects, including a list of attributes that, if met, would qualify a project to be tracked into a simplified process.

### 4. Other Efficiency Improvements

a. **Background:** The development approval process can be made more efficient without losing any of the oversight or valued input that ensures the best possible outcomes. We have three specific recommendations on how this could be accomplished

#### b. Recommendations

i. **Neighborhood Notice:** Change notification of neighborhood groups to providing full information notice upon filing of the application, not preliminary notice 30 days before filing.

ii. **Discourage Multiple Referrals:** Committees should be limited in the number of referrals that can be required. Ideas to make this change include tracking the number of times that a project has been on previous agendas, evaluating the performance of committees annually on referrals, and limiting committee involvement to the committee’s mission.

iii. **Overlapping Jurisdictions:** Examine eliminating multiple bodies reviewing the same issue with different appeal routes and procedures (e.g., ZBA, Plan Commission) to eliminate overlap.

### 5. Improve the Functionality of Committees and Commissions

a. **Background:** An efficient development approval process requires that Boards, Committees, and Commissions (collectively referred to below as committees) themselves operate efficiently and effectively. Ideas to improve the functioning of committees include:

b. **Recommendations**

- i. **Leadership Training for Committee Chairs:** Committee chairs should be provided with leadership training including instruction on how to control meetings, how to keep discussion to germane matters, and how to prevent “mission creep” of the committee.
- ii. **Annual Review:** Provide all committees “360 performance review.” Use trained professionals (or internal supervisors trained in providing 360 review). Applicants, real estate professionals who interact regularly with staff and other stakeholders should be a vital component of these reviews. Provide for anonymous written comment/praise/complaints as part of the ongoing and annual “360 performance review” process. To aid in this review, the assigned staff should compile and annually review data regarding committee performance including identification of delays and causes thereof. A central goal of this review is to look for process improvements. Provide feedback to all committee members.
- iii. **Train Members in the Scope and Function of the Committee:** Provide committee members with training in the purpose, responsibilities, organization, reach, and limits of the committee.

6. **Decision Making Authority Should be Retained by the Council**

- a. **Background:** Development approval decisions require that many competing interests be weighed and considered. These include the concerns of neighbors vs. broader city interests, current vs. future generations, competing property owners, historic preservation vs. redevelopment, etc. Development approval decisions also require weighing different sets of *values* such as quiet enjoyment of one’s property vs. critical need for economic opportunity and jobs. The appropriate venue for the deliberation and weighing and judging of these competing interests and ideals is the Common Council.
- b. **Recommendations**
  - i. **Mission:** Review and clarify each committee’s mission statement and scope of authority.
  - ii. **Authority:** Make explicit that-except where state law provides otherwise-all City Boards, Committees, and Commissions are advisory to the Common Council. The Council could still delegate review of routine development matters to its Boards, Committees, and Commissions, but decisions by these bodies should be appealable to the full Council.

- iii. **Supermajority Requirement:** Whenever possible under state law, eliminate the requirement for supermajority votes to overturn decisions made by subordinate bodies (committees), which are “creatures of the Council.”
- iv. **Committee criteria:** For all committees, review/adopt applicable and appropriate approval criteria and standards.

## 7. City Staff

- a. **Background:** Staff participation on committees and staff reviews of development requests is absolutely critical element in the current development approval process. However, applicants sometimes receive conflicting requirements from various committees and staff and sometimes are presented with significant approval conditions from staff well *after* projects have been vetted and even approved by relevant committees. That can cause significant additional design fees that might have been avoided with earlier notice. In addition, there is a widely held opinion in the development community that some staff involved in the review and approval process are reluctant to make recommendations that might engender strong reactions from elected officials, applicants or neighborhood advocates. Finally, community planning and related disciplines are highly dynamic fields whose practitioners are expected to help communities meet current and future needs. To be successful as professionals, planners must have a working knowledge of land use regulations, architecture and landscape architecture, urban real estate economics, political science, etc. Ongoing training including exposure to the approaches other cities have employed to solve their problems is a critical element of a robust, healthy, efficient system of development approval and economic redevelopment.
- b. **Recommendations**
  - i. **360 Review:** Provide professional “360 performance review” of staff assigned to review development proposals. Applicants, real estate professionals who interact regularly with staff, Council members, and other stakeholders should be a vital component of these reviews. Provide for anonymous written comment/praise/complaints as part of the ongoing and annual staff review process.
  - ii. **Outside Training:** Staff should be expected to remain accountably current in their fields through self-directed study and regular attendance at national planning and related conferences.
  - iii. **Shift the Culture:** Staff should be expected to present facts to commissions and committees and applicants, but that is not enough: they also should be expected to make specific

recommendations. *Implementing this recommendation will require effective leadership to change a culture that does not currently reward staff for fully engaging as professionals in the review and approval/denial process.*

- iv. **Staff Knowledge:** Ensure staff know and understand the perspective of the applicants for project approval. Because citizen members of committees and alders often rely on staff, staff should be expected to hold a higher level of knowledge including the basics of project finance.
- v. **Broader Interests:** Establish policy and criteria which ensure that staff pay attention to and respond to neighborhood concerns AND the interests of the larger community. Reinforce this through leadership training directed at staff.
- vi. **Staff Input:** Take steps to ensure that all staff comments and concerns are raised well before final review so that developers can review and, as needed, redesign their projects. Provide for an appeal process for any additional requirements that are imposed by staff after plans have been approved by commissions and committees.
- vii. **Staff Reports:** Provide a process to assure accuracy and quality control of staff reports. In particular, drafts of staff comments on proposals should be provided to applicants to ensure mistakes and miscommunications are eliminated before such staff reports are submitted to committees.

## 8. Committee Members

- a. **Background:** Committee and commission members play key roles in the development approval process. However, knowledge of real estate development and real estate finance are not prerequisites for most seats on most boards, commissions or committees. In order to be effective and provide for the best possible dialog between stakeholders and applicants, new counsel members and members of subordinate bodies (and new staff) with direct and pertinent oversight over development proposals should have a basic understanding of the challenges and process of development and development economics. This can be accomplished through the selection process for committees and commissions and through various training activities, which could be offered, by city staff or others.
- b. **Recommendations**
  - i. **Accountability**
    - 1) The Mayor should appoint all chairs of all City Boards, Committees, and Commissions.

- 2) Implement a process to allow for a change in committee leadership based on results of annual evaluations.

ii. **Training**

- 1) Provide committee members with training that provides a sound understanding of the basics of project development including project economics and development fundamentals.
- 2) Educate committee members, alders, and staff on the costs and consequences of delay and multiple citizen and staff reviews.
- 3) Repeat training annually, making it available to committee chairs and members, and members of neighborhood associations.

9. **Neighborhood Plans**

a. **Background:** Confusion exists currently as to the relationships of the various plans that govern development. This seems particularly the case for neighborhood plans drawn up with local involvement and minimal staff involvement.

b. **Recommendations**

- i. **Plan authority:** Make clear the relationship between neighborhood plans and other plans. There is significant confusion, even among real estate and planning professionals, on the role of neighborhood plans in the approval process, especially when such plans conflict (or at least fail to mesh well) with other plans.
- ii. **Citywide Issues:** All citizens have some interest in all neighborhood plans, so the process of developing neighborhood plans must ensure that interests of the larger community, such as economic development, transportation, parks, etc., are represented. Examine how neighborhood plans are prepared to ensure this always happens by, for example, including review of draft neighborhood plans from citizens who reside outside of the neighborhood.
- iii. **Flexibility:** Neighborhood plans should include significant flexibility to accommodate changing conditions and unforeseen opportunities.

## 10. Neighborhood Associations

- a. **Background:** Neighborhood associations provide valuable input and help ensure a better outcome for development decisions. However, there is a great deal of variability in the way that such feedback is gathered, which is detrimental to a rational, efficient, and fair review process. Suggested changes include:
- b. **Recommendations**
  - i. **Membership:** Neighborhood groups of all kinds are free to form and participate in the neighborhood decision-making process. Such groups may determine their membership in any way they see fit. However, when the City permits neighborhood input in a formal process, such as a neighborhood plan that is incorporated into the Comprehensive Plan or during review of a project, it must do so in a way that is inclusive of all stakeholders (residents, owners, renters, businesses, etc.) The City should review the way it recognizes Neighborhood Associations and the way they participate in formal city processes in light of the previous item. “Neighborhood Associations” which restrict their membership to exclude certain stakeholders cannot fairly represent the interests of all neighborhood stakeholders.
  - ii. **Review Process:** Neighborhood review processes and required submittals should be standardized to provide consistency across the city.
  - iii. **Representing a neighborhood:** Comments submitted by bodies representing neighborhood opinion should in their submissions/ comments identify how neighborhood input was solicited, and the numbers of individuals who participated in the development of the neighborhood’s position. This will help the Council and City Boards and Commissions understand if the neighborhood association’s position is widely held or the opinion of the few. This will also help alders weigh the input of contrary opinions by other neighborhood residents.
  - iv. **Training:** Make annual training available to neighborhood associations.

## 11. Further Research

- a. **Background:** The City should conduct a review of best practices to identify further improvements in the development review process. Madison should look outside its own boundaries for examples of successful, robust development approval processes, and shamelessly borrow ideas that will further improve our own processes. It would be particularly helpful for the research effort took a “50,000-foot-view” and examine if our development approval process as refined and revised comprises a logical and efficient development approval system.

**b. Recommendations:**

- i. **System Analysis:** Evaluate if *in total* Madison's approach to review of development proposals, including recommendations in this report, comprises an efficient approach.
- ii. **Comparisons:** Examine other communities' approval processes.
  - 1) Neighboring cities (Middleton, Sun Prairie, Verona)
  - 2) Other Wisconsin cities (Milwaukee, cities in the Fox Valley)
  - 3) Cities we want to emulate (Austin, Minneapolis)
  - 4) International Downtown Association, trade groups
- iii. **Review of Available Existing Reports:** Examine existing reports for good ideas that have already been suggested.
  - 1) **LaFollette Report:** Review the 2005 evaluation and analysis of Madison's Development Review and Permitting Process prepared by the UW's Robert M. La Follette School of Public Affairs for additional ideas.
  - 2) **Best Practices Report:** Review the June 2005 Plan Commission report "Best Practices Guide for Developers, Neighborhoods & Policymakers."
  - 3) **EDC Report:** Review the December 2004 EDC report to the Mayor, "Opportunities to Make City Government More Business Friendly."