

Firchow, Kevin

→ **From:** Rummel, Marsha
Sent: Sunday, March 14, 2010 1:47 AM
To: Statz, Ronda; Brist, Steven; Plominski, Katherine; Firchow, Kevin; sbthornton@goochpages.com
Cc: Bidar-Sielaff, Shiva; Verveer, Mike; Schumacher, Michael
Subject: Full of Bull LLC agenda item 30; assorted E21+ licenses; Revolution Cycles agenda item 26; Plan B change of licensed premises agenda item 6

1. Keith Doherty, the Full of Bull applicant has not contacted me in person to discuss the business plan. I agree with further review based on Capt. Gloede's comment -see below. I've followed ALRC's rejection of bartenders for alcohol related convictions but never noticed the standards applied for applicants so I'm not sure if the procedure is the same. But I know you will apply due diligence.
2. I have no concerns with any of the E+21 licenses for D6. I requested comments from MPD and have not heard of any issues of concern from them.
3. You already have a note from me about Revolution Cycles, in support.

4. Plan B owners Corey Greson and Rico Sabatini and Chuck Chvala, the property owner have had several meetings with affected neighbors and MNA President Scott Thornton since they opened. The fence design was reviewed by Planning and Zoning staff and I believe the proposal reflects their recommendations. This was one of the initial conditions for the license and the adjacent property owner and his tenants want this to be installed as soon as possible.

In regard to the increased capacity request, I think on balance, some capacity increase may help reduce the noise generated by patrons waiting outside to enter. I would support increasing capacity to 300 on weekends/Thurs-Sat. I would like ALRC to determine if additional capacity is really needed Sun-Wed. At some point the increase may trigger additional parking requirements and another variance may be needed.

Scott Thornton emailed notes to Ronda 3/11 describing the last neighborhood meeting. I assume these will be available for ALRC members to review, but they are not currently in legistar as I write this.

Plan B will be on the Plan Commission's agenda 3/22 for the smoking patio. I support enclosure of the smoking area if that will help the bar manage the smoking area, buffer patron noise and contain sound from the bass escaping when the doors open. I'm not sure I support outdoor seating if it results in a significant increase in noise levels but I'm willing to follow the ALRC's best judgement. But please insure that managing and reducing noise to the extent possible is a very important obligation of the owners and as part of the condition for any change of licensed premises that they engage the services and follow the recommendations of the sound engineer as discussed at the neighborhood meeting.

I have a UDC meeting at the same time and will not be able to attend.

Thanks all-
Marsha

From: Statz, Ronda
Sent: Thursday, March 04, 2010 3:37 PM
To: Brist, Steven; Rummel, Marsha; Plominski, Katherine
Subject: FW: Keith Doherty

This is the person listed as the agent on one of the applications going before the ALRC on the 17th (Full of Bull LLC). As you can see, Capt. Gloede recommends that the committee review him further. Also, he can't list his partner as agent because he lives out of state.

March 2, 2010, 4:00 p.m.
Neighborhood Group Meeting with Plan B
924 Williamson Street

Attendees: Steve Gallo, Greg Melde, Dick Guyot, Rico Sabatini, Corey Gresen, Chuck Chvala, Katherine Plominski, Scott Thornton

The group started the discussion with the letter from John Rolfsmeyer concerning placement of a fence along the property line. The neighborhood group decided that the placement of the fence was an issue to be worked out between the neighbors and the city. We did not take a position on its placement.

Next we talked about sound/noise and how things were going. Corey pointed out that additional speakers were added to one wall which meant that the overall volume could be turned down. More speakers meant that they could direct sound without turning the volume as high.

Dick had done some research on base sound and said that it can adversely affect your body. He said younger people like music louder because they have damaged their hearing.

Corey said that he would be installing base traps at the front of the building. The base traps are supposed to capture the base sound so it does not permeate the building where the wall meets the ceiling. We talked about the complaints from Andrea next door. She said in an e-mail that the sound had been much better, but suddenly worse some nights. Corey and Rico explained how the DJs bring in their own equipment and can override what they had set for the base. They will work to make sure that the DJs understand the acceptable base levels.

Sound from people seemed to be more of an issue this time than music. Dick said he walked down one night when he thought it the music was loud and found more noise coming from the Wisco. Greg said that he wasn't noticing the music. Thursday nights are especially louder with people outside smoking and yelling. Corey and Rico said that Thursdays was their 18+ night and the younger crowd is a little louder.

Next we talked about the smoking area they are proposing and taking to the city Plan Commission. The plans include the smoking area/patio and the property line fence to address issues with the immediate neighbors. Rico said that they would also like for people to be able to bring drinks outside. Katherine said they would need to go to the ALRC for that and would also need approval from the Plan Commission.

The neighbors talked about the pros and cons of the outdoor area. It would be good to corral the smokers and the fence could help the sound. It's important not to add an additional problem. We discussed that it would be best if there were not tables and chairs outside so people did not linger and no outdoor music. We talked about additional screening/sound muffling by using canvas along the side or overhead to direct sound back away from Willy Street. Someone asked Katherine about capacity of the outdoor space. She said generally they require 5 sq. ft. per person. The neighbors agreed they would be ok with the outdoor space and outdoor drinks.

We discussed the timing and whether or not they could wait a month. Rico felt it was very important to move ahead because the property fence was something they had promised the neighbors last fall and would like to start that work as soon as possible. It is supposed to keep people out of the neighbor's yard and help shield the house from headlights. The

smoking/patio area would also address the outdoor noise from smokers that will become worse without it as the weather warms. It was pointed out that the MNA board meets the night after the ALRC. Core and Rico agreed to come to the MNA meeting on the 18th and that if the ALRC approves that Marsha could pull it at the council meeting if there were concerns. Katherine confirmed.

We then talked more about people being outside and how to deal with that noise in general. For smokers, could Plan B change their bracelet policy so that smokers would need to go to the patio area to smoke and if they went out the front door could not get back in? We talked about the long lines that had been outside lately with people waiting to get in.

Rico said that they would like to ask for an increase in capacity. The building capacity is up to 400 and their current license is for 200 Sunday through Wednesday and 250 Thursday through Saturday. It would help them if they could have an increased capacity financially and it would help the neighborhood if people could get in instead of wait outside. Scott shared that he had been there the weekend with the long lines and was with friends from Middleton. One friend was waiting for her son and his girlfriend to get in and didn't understand why they couldn't come in because there was room inside.

Rico brought up, and Scott confirmed, that the MNA letter sent to the ALRC last summer supported a capacity of 300. Katherine advised Corey and Rico not to ask for something too big and that an additional 50 seemed reasonable. This would bring the capacity to 250 during the week and 300 on the weekend. Corey and Rico said this would be very helpful because it has become an issue with planning corporate parties and weddings.

The group talked more about the pros and cons of the capacity and after much consideration the neighbors decided that they were ok with the patio and the change in capacity if Plan B would promise, at Steve's suggestion, to bring in a sound engineer to evaluate how they could help control/contain the sound better and maybe zone it so the front was more quiet. Chuck suggested that the sound engineer should also look at their plans for the outdoor area to make sure that the sound is controlled and meets its intent of deflecting it from the neighbors.

Corey and Rico agreed to bring in the sound engineer and let Steve know when he would be on site. They will also attend the MNA board meeting on March 18th.

The meeting adjourned at 5:45 p.m. We will meet again in a couple of months.

Firchow, Kevin

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Monday, February 22, 2010 6:12 PM
To: Scott B. Thornton; Firchow, Kevin
Cc: gtipler@tds.net; titus@chorus.net; Plominski, Katherine; gmelde@charter.net; yulashoes_@hotmail.com; rico@planbmadison.com; groundzerocoffee@yahoo.com; corey@planbmadison.com; Hemming, Carrie; lwermt@library.wisc.edu; trgallo@hotmail.com; turtlelegg@yahoo.com; mnaboard@marquette-neighborhood.org; Rummel, Marsha
Subject: Re: Neighborhood Meeting with Plan B

Friends and Neighborhood Committee members,

I'm very sorry to be out of state till March 20th and will not make this meeting.

I own the two flat next to Plan B. The smoking area which will be fenced in is a VERY GOOD ADDITION. The side door to open with the hinges on the Williamson St side is also a VERY GOOD idea and both will help to contain the noise. NOISE IS THE BIGGEST ISSUE STILL. Plan B has agreed to put up a fence to provide much needed separation to keep their patrons off my property. However the proposed location of 2' 9" from the side of the house only nets a 23" actual clearance because of a furnace vent protrudes out that side of the wall. A fence in the proposed location will not allow access to the back entry of either flat to move in furniture, effectively putting me out of business for second floor tenants. The back entrance is the ONLY way to get these items to the second floor. There is a seasonal need do maintenance to clean windows and gutters using an extension ladder that this proposed location will NOT ALLOW. To service my second floor windows the extension ladder requires 8' 3" from the side of the house to be at a safe angle so a 9' space would allow needed work to get done. This would mean the placement of the fence would be about 4' 6" in from the property line to make this work. This spacing would serve to keep noisy bar patrons a short distance from the house when they wander about talking in loud voices depositing filthy condoms and urinating and throwing up on the house. Even though the code allows a fence to be installed inches inside the lot line, I believe the factors of the agitation and income loss due to tenant turnover from unrestrained noise coming from drunken patrons and base noise causing lost sleep until 2 AM needs to allow this concession. To pacify Chucks fears of "adverse possession", I will give Chuck a promise in writing to not challenge his ownership of all land beyond the lot line to the fence. And will offer to keep that portion mowed when we do our lawn at no charge. I ASK THE NEIGHBORHOOD COMMITTEE FOR THERE SUPPORT OF MY SUGGESTED FENCE LOCATION IN WRITING to present to the members of the Planning Review Board meeting on this issue on Mar 22nd , 6pm, City Co. Building. c/o Kevin Firchow kfirchow@cityofmadison.com

Needing your help and support, John Rolfsmeyer

On Sat, Feb 20, 2010 at 12:11 PM, Scott B. Thornton <sbthornton@goochpages.com> wrote:

It has been a few months since we have met and I'd like to set the next meeting for Tuesday, March 2, 4:00 p.m. at Plan B.

Main topic will be the parking lot and smoking area and review of the plans submitted to the city. Materials related to the request are available here:

<http://www.cityofmadison.com/planning/projects/conditional/924ws2.html>

Please let me know if this date is a problem.

Firchow, Kevin

From: John Rolfsmeyer [mailto:1st.john5.11@gmail.com]

Sent: Tuesday, December 29, 2009 7:02 AM

To: Tucker, Matthew

Cc: Rico Sabatini; Rummel, Marsha; Scott Thornton; corey@planbmadison.com; SBThornton@goochpages.com; Plominski, Katherine; Murphy, Brad

Subject: Re: proposed fencing location for parking lot @ 924 Williamson St.

Plan Commission,

There is three absolute needs to be dealt with by installing a solid 6' screening fence within 6' of the plan B parking lot. The first need is that all the cars in the lot face the two flat and the headlights glare into the windows as they park and move in and out of the lot until 2 am. By placing the fence next to the house you completely lose the headlight barrier effect. Also setting up ladders to service and clean the gutters, repair shingles, fix the second floor trim (which needs to be done as soon as the snow clears) would be impossible, there would not be room. There is a need for a space of 6' from the house to the fence to properly service and maintain the house. This lot is only 30' wide and the lot line comes only 2' from the house. The second need is the crowd that gathers outside to smoke wanders the whole area and gets close to the house on the grass drunkenly shouting to each other until 2 am wakening and disturbing both floors of tenants and I've heard them clearly way over on the East side of 940 Williamson as early as 11pm and it gets even louder as it gets later. The main problem is on Friday, Saturday and Sunday nights from 11 pm - 2am. I am getting constant complaints from my tenants. This fence needs to contain the people in the parking area to keep the sound away from the house as far as possible. There was a fence planned around the smoking area but that has been scuttled. I'm experiencing a financial impact in that I lost one set of very good tenants to this night club moving in. Now both sets of tenants are moving out as soon as their leases are up because of the headlights, lack of privacy in their back yard and the base noise is unbearable. The third need is to keep the people from the yard and side of the house. The city's ordinance requires a screening fence next to the parking lot when adjacent to residential property for very good reason and even though this two flat is on a C2 zoning the radical change of use and continued unreasonable noise and headlight problems is a very good reason to require the fence to be in a close proximity to the edge of the parking lot. The managers of the club and many of the neighborhood committee are in agreement to this requested fence location. Allowing an extremely loud dance club next to residential simply can not work unless the plan commission is willing to institute and enforce these requested changes to the plan.

Respectfully, John Rolfsmeyer
Owner and Manager of 936 + 940 Williamson St.

On Mon, Dec 28, 2009 at 12:58 PM, Tucker, Matthew <MTucker@cityofmadison.com> wrote:

Folks- As most of you are aware, a plan for fencing was submitted to our office for review. The plan generally proposed for the fence to be placed within 6" of the common property line between the subject property and the adjacent lot two-family residence. The fence will provide a physical barrier and visual separator between the two properties, in addition to the landscaping approved last fall.

The placement of the fence has been a point of concern, given the balance between to screening and securing the site, while also providing adequate buffering, setback and opportunities for maintenance of said fence. After close consideration, staff has determined that the Plan Commission should approve the location, design, and setback for the fence, given the sensitivity and context of this site to the surrounding properties. So, we will look to place this item on an upcoming Plan Commission agenda for consideration, likely one of the February

meetings. We request that a letter be prepared and submitted that outlines the request, which we will supplement to the materials that have been submitted for review.

Here is a link to the project on the Site plan review website:
<http://citypermits.cityofmadison.com/PL2/projects/1596,0>

I do not have an email address for Chuck Chvala (property owner) so please forward this message if you have his address.

Matt Tucker

Zoning Administrator

Department of Planning and Community and Economic Development

Building Inspection Division

215 Martin Luther King, Jr. Blvd.

PO Box 2984

Madison, WI 53701-2984

608/266-4569 PH

mtucker@cityofmadison.com

<http://www.cityofmadison.com>

Parks, Timothy

From: Murphy, Brad
Sent: Monday, January 04, 2010 8:17 AM
To: Firchow, Kevin; Parks, Timothy
Subject: FW: proposed fencing location for parking lot @ 924 Williamson St.

Another communication for the Plan Commission when this gets scheduled.

Brad Murphy
Planning Division Director
Dept. of Planning & Community & Economic Development
P.O. Box 2985
215 Martin Luther King Jr. Blvd
Madison, WI 53701
608 266 4635

From: Corey Gresen [mailto:corey@planbmadison.com]
Sent: Wednesday, December 30, 2009 12:54 AM
To: 'John Rolfsmeyer'; Tucker, Matthew
Cc: 'Rico Sabatini'; Rummel, Marsha; 'Scott Thornton'; SBThornton@goochpages.com; Plominski, Katherine; Murphy, Brad
Subject: RE: proposed fencing location for parking lot @ 924 Williamson St.

Dear Plan Commission & City Staff,

As regards to Mr. Rolfsmeyer's absolute 3 needs, Plan B is not only addressing all his concerns prescribed by the city, but we have gone and continue to go above and beyond the call of duty.

The first and main issue is the fence locations. The fence should be built on the property line. Our landlord owns that property and it's his decision and his right to place the fence on the property line. It's just how it works... when have you ever heard of a fence not being placed on the property line. Would you want your own backyards cut in half if you didn't like your neighbors? I don't think so... At this point it's almost absurd to keep talking about it going anywhere else. However, I myself, out of my own pocket, am willing to plant tall enough evergreens along the parking lot to cover the headlights even in the winter months. This idea was first generated by Scott Thornton at the last neighborhood meeting. I think it's a great compromise to the current dilemma. This way there are two barriers to Mr. Rolfsmeyer's two flat... a line of tall mature shrubs and the fences a few yards back at the property line.

Secondly, Plan B is currently having Matt Aro from Aro Eberle Architecture finish a smoking enclosure/area that would limit the number of smokers outside at any one time. This would help shield Mr. Rolfsmeyer's tenants from the noise of said smokers. In the design thus far, we are proposing to change the direction the back door opens to help cast sound away from Willy Street, and also 10 ft walls to help capture the noise up and not out. This outside area was an idea that Mr. Rolfsmeyer proposed creating at our last neighborhood meetings. We agreed and immediately called Mr. Aro to begin working on plans. By the time this letter is read by all committee members the smoking area might already be attached to this alteration to the conditional use, but as of now it is not.

Lastly, Mr. Rolfsmeyer bought his property knowing full well it was zoned C2. Even if it was many years ago before Plan B... the fact remains it's commercial not residential. Plan B has nothing to do with the lot size being only 30' wide or that his singles need replacing in the spring. It doesn't matter. What matters is that we build the fence, plant the evergreens, build the smoking enclosure to help alleviate any impact we are having on Willy Street. We continue to go above and beyond to show we are serious about being good neighbors to the Willy Street Community. Sponsoring events, donating time and energy to food drives for Willy street food pantries, and helping grow Willy Streets business community by cross promotions.

I ask you to consider these things when making your decisions about Mr. Rolfsmeyer's complaints and the fence location. Thanks for your guidance.

Sincerely,
Corey Gresen

**Correspondence related to the Original Complaint
(Action referred at the request of the complainant)**

Tucker, Matthew

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Tuesday, September 15, 2009 3:50 PM
To: Tucker, Matthew
Cc: e.todd@williamsonstreet.coop; Laura Jeske; John Chrejicek; Andrea Reter
Subject: Seconed Official complaint about Plan B, 924 Williamson St

Planning Dept, " I submit this for the continuing jurisdiction review concerning the conditional use permit."

I have two sets of tenants living at 936 Williamson St. who have repeatedly bitterly complained of the offensive base music noise particularly from 11:30 PM until two AM. It seems to increase in volume as the night go on. Several times the Police have been called and did not do anything to talk to the Club or correct the sound level. Also last week a drunk patron was wandering around in there back yard around one AM and went back to the Club when asked to leave. They are serving alcohol way beyond the patrons ability to hold it . On two separate occasions in last three weeks patrons have thrown up in the front terrace of 936 and on the side of the house. At midnight Sat 6 patrons were gathered on the side of the house and as they were being asked to leave one was peeing ON THE HOUSE. 936 Williamson is right on edge of the Plan B parking lot at 924 Williamson St. My first complaint, August 17th, covered the fact that Plan B is out of compliance because there is no screening installed at all to shield the light and noise from, this parking area. I ask again that: 1 The Zoning and the Planning Dept require that a minimum of a eight foot high privacy fence be installed the full length of the lot, with in two feet of the parking lot within one week! A barrier is needed to keep patrons out of our yard, it needs to be installed close to the parking lot so the headlight beams are blocked, and my tenants are sorely lacking privacy now. My tenants are threatening to break the lease and leave because of the intolerable living conditions of trespassing into the back yard, peeing on the house, noise, light and parking. 2. I am asking the Alcohol Review Board to enforced that a patron not be served more drinks than is reasonable. 3. The Zoning and Code enforcement require the base music volume be turned down, and if the back side door (smoking area) is kept shut it helps muffle the sound. My tenants parents tried to sleep with the shades pulled and the air conditioner on and the base music still kept them awake until two in the morning. This has got to be turned down. 4. Someone from the Club to patrol the parking lot to keep the patrons noise down. Sat night at 11:30 a large crowd was in the parking area yelling and shouting to each other with no respect for those trying to sleep. Rude remarks were issued when asked to keep it down. Also that the Police Dept be responsive to enforce the Noise Ordinance of this City when called. 5. Parking is almost impossible to find on Thursday, ,Fri, and Sat nights. Plan B has not arranged for any alternate parking and my tenants can't find parking on Thursday, Fri of Sat nights. If off street parking is not found I am requesting the Zoning Dept, Planning Dept, and the City Attorney. to adjust the seating capacity of the Club be reduced to no more than 150 patrons until more parking can be arranged for close by. The idea that "the Gateway" is an option is not working, there is no noticeable shuttle being used. To my knowledge only the lighting issues have been addressed since my first complaint on August 17th. Please keep me informed about your actions. 212-4702 cell

Respectfully Submitted, John A Rolfsmeyer
Owner of 936 Williamson St

INITIAL COMPLAINT

9/15/2009

Tucker, Matthew

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Wednesday, September 30, 2009 10:48 AM
To: Tucker, Matthew
Subject: Plan Dept Review complaint about Plan B, 924 Williamson St

Plan Dept,

As per MGO Sec28.12 (11) (h) 4. I request the following actions to correct the following complaints about the Plan B conditional use permit:

I have two sets of tenants living at 936 Williamson St. who have repeatedly bitterly complained of the offensive base music noise particularly from 11:30 PM until two AM. Several times the Police have been called and did not do anything to talk to the Club or correct the sound level. Also last week a drunk patron was wandering around in there back yard around one AM and went back to the Club when asked to leave. They are serving alcohol way beyond the patrons ability to hold it . On two separate occasions patrons have thrown up in the front terrace of 936 and on the side of the house. Three weeks ago at midnight, Sat, 6 patrons were gathered on the side of the house and as they were being asked to leave one was peeing ON THE HOUSE. 936 Williamson is right on edge of the Plan B parking lot at 924 Williamson St. My first complaint, August 17th, covered the fact that Plan B is out of compliance because there is no screening installed at all to shield the light and noise from, this parking area. I ask again that: 1 The Planning Dept require that a minimum of a eight foot high privacy fence be installed the full length of the lot, with in two feet of the parking lot. My tenants are threatening to break the lease and leave because of the intolerable living conditions of noise, light from the exterior lights and the car headlights and lack of street parking. 2. I am asking that a patron not be served more drinks than is reasonable. 3. The base music volume be turned down, My tenants parents tried to sleep with the shades pulled and the air conditioner on and the base music still kept them awake until two in the morning. Two other Jenifer St people have the same complaint. This has got to be turned down. Since our neighborhood meeting this continues to be a big problem. 4. Someone from the Club to patrol the parking lot from 11:30 to 2:30 to keep the patrons noise down. Sat night at 11:30 a large crowd was in the parking area yelling and shouting to each other with no respect for those trying to sleep. Rude remarks were issued when asked to keep it down. Also that the Police Dept be responsive to enforce the Noise Ordinance of this City when called. 5. Parking is almost impossible to find on Thursday, Fri, and Sat nights. Plan B has not arranged for the 40 spaces of additional parking just behind the club or made use of the 50 at the Gateway. My tenants can't find parking on Thursday, Fri of Sat nights. If off street parking is not found I am requesting the Planning Dept, to adjust the seating capacity of the Club be reduced to 200% of THE CITY CODE which would be 120 until additional off street parking is secured and in place. Seating capacity and parking issues directly relate to each other. Please keep me informed about your actions. 212-4702 cell

Respectfully Submitted, John A Rolfsmeyer
Owner of 936 Williamson St

REVISED COMPLAINT

9/30/2009

Firchow, Kevin

From: Rico [rico@planbmadison.com]
Sent: Monday, October 12, 2009 5:27 PM
To: Tucker, Matthew; 'John Rolfsmeyer'
Cc: Plominski, Katherine; corey@planbmadison.com; Rummel, Marsha; Firchow, Kevin; Murphy, Brad; 'Scott Thornton'
Subject: Plan B formal response to John Rolfsmeyer's complaint

Hi Kevin,

Thanks for your assistance over the past months. As new business owners we are indebted to you for helping us through the maze of City requirements for getting our new business up and running.

Since we have invested thousands of hours and hundreds of thousands of dollars in our new business we are committed to meeting the requirements for our parking reduction. We hope that you will submit a copy of this email to the Plan Commission when they consider Mr. Rolfsmeyer's complaint.

The Conditional Use

Several months ago the Plan Commission heard extensive public testimony on the issue of a parking reduction. We needed a conditional use since our parking lot wasn't big enough for our business. Many other businesses on Willy Street (like the Weary Traveler, Jolly Bob's, the Willy Street Pub and the Crystal Corner) don't have any off-street parking. In addition, The Brinks, The High Noon Saloon and The Brass Ring share a small parking lot. These clubs are not on Willy Street, but are close to it. Further, Mr. Rolfsmeyer (who filed the complaint) doesn't provide any off-street parking for La Roca's Pizza and Escape Coffee, which are tenants of his commercial properties. These businesses are two doors down from Plan B. Although it was possible to significantly increase the size of our parking lot Mr. Rolfsmeyer was opposed to that. We compromised on that issue and now Mr. Rolfsmeyer complains there is not enough parking.

Many factors contributed to the Plan Commission's decision to allow the parking reduction. Some of the more relevant factors were the availability of plentiful off-street parking and the easy access to our business by bus, bike, taxi and foot. We also secured additional off-street parking at the Gateway Mall, which is three blocks away. Also, the Comprehensive Plan recommends greater flexibility in parking requirements.

Before we talk specifically about Mr. Rolfsmeyer's complaint, we want to mention a couple of important things upfront. First, our business is permitted under the Zoning Code. As far as we can tell, there is no dispute about that. Second, Mr. Rolfsmeyer's two neighboring properties are zoned C-2 (general commercial). Third, we are in complete compliance with the conditions in our approval letter.

Mr. Rolfsmeyer's Complaint

We have reviewed Mr. Rolfsmeyer's complaint and have worked hard to resolve his concerns. We hoped that he would withdraw his complaint after we addressed the problems. Ninety percent of the complaint does not relate to the Plan Commission's decision to allow us to have a smaller parking lot than required. We take seriously his concerns about noise and patron misconduct. We have acted to solve those problems. But the issue before the Plan Commission is parking. Or more specifically--a parking reduction.

Although the Zoning Code does not require screening between our property and the two flat next door, we recently planted 28 cranberry bush viburnum. We also offered to build a six-foot high fence along the property line if Mr. Rolfsmeyer withdrew his complaint. But he refused. So if you pare down Mr. Rolfsmeyer's complaint to its relevant essence, all you have left is the following sentence: "My tenants can't find parking on Thursday, Fri or Sat nights."

**PLAN B RESPONSE
TO COMPLAINT**

More realistically, the sentence should read: "If my tenants are coming home between 11pm and 1 am Thursday, Friday and Saturday they may have to park a block or so away." Mr. Rolfsmeyer certainly could decide to buy off-street parking for his residential and commercial tenants. But he has chosen not to.

The Plan Commission's Role

According to the Zoning Code, the role of the Plan Commission is to determine if there is a reasonable probability that (1) we are violating a condition of our approval or (2) we are violating one of the standards the Plan Commission previously considered when the parking reduction was granted. (Zoning Code section 28.12(11)(h)(4)).

Plan B Is In Compliance

First, we have reviewed the 36 conditions of our approval set out in our approval letter. We have complied with all of them. And Mr. Rolfsmeyer does not claim otherwise.

Second, Mr Rolfsmeyer cannot (and does not) maintain that this reduction in off-street parking somehow violates the standards for a conditional use. Nowhere in his complaint does Mr. Rolfsmeyer claim that the reduction in parking is somehow responsible for the events he identifies. The fact that his tenants can no longer park in the old Star Photo parking lot is admittedly an inconvenience to them. But this certainly does not mean that we are violating the Zoning Code.

Additional Steps We Have Taken

We certainly want to be a good neighbor. We understand that even though this entire block is zoned commercial, there are some residential uses. We met recently with the alcohol policy coordinator, interested neighbors and representatives of the neighborhood association and the police department. As a result of that meeting, we took the following steps:

- Added additional staff for security to monitor parking lot noise, and patron misconduct
- Moved the main subwoofer away from the wall closest to Mr. Rolfsmeyer's property
- Added fire retardant noise dampening screening material to the parking lot exit corridor .
- Working with M.C. Audio to engineer a crisper, cleaner, sound without the low bass levels.

Conclusion

We will continue to work with all our neighbors to be a good neighbor. But it is important for our neighbors to recognize that this whole block is zoned commercial and that each of them chose to buy (or lease) property that is zoned commercial. As we continue to work with our neighbors, we expect our relationships will continue to flourish. But it is doubtful that we will ever have the support of everyone. The support we have received so far has been incredible.

To conclude, we don't believe this matter needs to be set for a formally noticed hearing with witnesses, testimony and attorneys. Accordingly, we ask the Plan Commission to determine that Mr. Rolfsmeyer has not shown with reasonable probability that we are violating the conditions of our parking reduction approval or the Zoning Code standards for a parking reduction.

PLAN B RESPONSE
P. 2

Firchow, Kevin

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Friday, October 16, 2009 9:43 PM
To: Firchow, Kevin
Subject: Referral of Plan B Complaint

City Planning and Review Board,

I request a referral of the complaint against Plan B until we have the parking and the fence installation completed to my satisfaction.

Respectfully submitted, John Rolfsmeyer

REQUEST TO REFER
COMPLAINT 10/16/2009

Firchow, Kevin

From: David Bridgeford [dbridgeford@mac.com]
Sent: Thursday, October 01, 2009 12:07 PM
To: Firchow, Kevin
Cc: Tucker, Matthew; Murphy, Brad; Rummel, Marsha; Plominski, Katherine; Corey Gresen; Rico Sabatini
Subject: Plan B Complaint--Another Perspective

Dear Mr. Firchow,

It is my understanding that the Zoning Office and the Plan Commission are in the process of determining whether Plan B is currently violating the terms of its conditional use for a parking reduction. I live a block away from Plan B and ask that you consider my point of view when investigating the complaint that has been filed.

Although Mr. Rolfsmeyer, Plan B's next door neighbor, has presented a litany of complaints and called the police on two occasions, the real issue here is a disgruntled neighbor who is now apparently having "buyer's remorse" that he bought a two-flat rental property that is zoned C-2 general commercial. It is beyond question that the new and vital business that now occupies the old Star Photo building is a permitted use under the zoning code.

I believe Mr. Rolfsmeyer is simply attempting to rehash issues that have already been considered by the Plan Commission rather than bringing attention to any violation of the terms of the conditional use. The fact that this is a clear cut case of harassment is further supported by the fact that Mr. Rolfsmeyer has apparently refused to withdraw his complaint despite the fact that Plan B has agreed to build an 8 foot fence along the property line. (This fence is not required under the Zoning Code since Mr. Rolfsmeyer's property is zoned C-2, general commercial.)

The heart of Mr. Rolfsmeyer's unrelenting complaints is that parking lot is now being used differently. Would he be happier if the parking lot were expanded to 70 spots, thus eliminating the need for a conditional use?

Mr. Rolfsmeyer's complaints have nothing to do with a parking reduction, which is the substance of this conditional use. I live a block away and I have no problem finding parking due to the presence of Plan B.

Thanks for your time,

David Bridgeford
808 Williamson Street, #309

Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Subdivision (g) above, a condition of approval or other requirement imposed hereunder.

Firchow, Kevin

From: John Rolfsmeyer [1st.john5.11@gmail.com]
Sent: Thursday, March 18, 2010 12:39 PM
To: Firchow, Kevin
Subject: Re: Plan B - March 22 Plan Commission

Dear Kevin and the ALRC,

I own the two flat next door, 936 Williamson St., and I strongly recommend the further reduction to the parking capacity of Plan B be tabled until the following items are corrected in full: 1. Additional off street parking is actually secured. My residents must currently park a full block away on weekends. 2. Current outside crowd shouting and noise is successfully corrected for six months to the satisfaction of the neighborhood residents. 3. The music noise is successfully reduced for six months. (they have had reasonable sound levels last month but now is unacceptable again) I have experienced a loss of current tenants and a refusal of new tenants to live here.

John Rolfsmeyer
Owner of 936 Williamson St.

On 3/8/10, **Firchow, Kevin** <KFirchow@cityofmadison.com> wrote:

John: Plan B is requesting a third alteration, a further parking reduction. The parking reduction will be considered by the Plan Commission on 3/22 along with the fence and smoking area.

I've attached a copy of Plan B's application to the Alcohol License Review Committee (ALRC). That explains the details regarding their proposed increase in capacity. If the ALRC grants the increase in capacity, the Plan Commission would need to grant a corresponding parking reduction before this could occur. Thanks-Please call if you have questions.

Kevin Firchow, AICP

Planner, Planning Division

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