

Peter Ostlind

### PUD Standards

The PUD standards require a number of criteria to be met for a proposal to be deemed acceptable. The ordinance states that the criteria must be met with due consideration that the PUD "is consistent with the spirit and intent of the ordinance".

Criteria #1 speaks to the Character and Intensity of Land Use noting that the uses, intensity and appearance of the proposal shall be compatible with the physical nature of the area.

For months this debate has been over the height and mass of the proposed hotel tower. The current proposal is taller, wider and longer than the prior proposal. In fact the new proposal includes an additional 15,000 sf of building area in addition to the expanded parking area. This is equivalent to more than one full floor of the tower. (typically 13,000 sf) The current proposal also has an additional 5400 sf of guest room space though the number of rooms has not changed. This is equivalent to over half a floor of guest rooms. This certainly suggests that there must be options to reduce the size of the building.

One should not lose sight of the fact that this proposed project is located in the middle of a residential historic district...and that the Landmarks Commission found after 7 hours of intense review that a hotel tower with less height and mass is incompatible with the area.

First, the tower is too tall to be compatible. The building will be 112' high at the hotel entrance, 123' above the plaza and a towering 15 stories above Lake Mendota. The visual impact is informed by height as perceived by a person standing in the general vicinity of the building. The height of the proposed tower taken at the front entrance of the building is approximately **triple** that of three of the four buildings in the immediate area and is about double that of the fourth building, Kennedy Manor. This is a site where the underlying zoning in the historic district has a 50' height limit.

In addition the MASS of the tower is out of scale with its surroundings. It is 3 to 16 times the size of adjacent structures as noted in the staff report to the Landmarks Commission. In fact all of these structures would fit within the new tower and only take up 60% of the total volume.

These two measures...height and mass both shout out that the proposed tower is wildly visually incompatible with the site and area. The tower simply does not fit into its surroundings.

## Car Parking

Currently there are 190 rooms and 355 parking stalls. In addition to guests there will need to be parking for employees. The times with the largest number of guests will also be the times with the largest number of employees. Unlike other downtown hotels there are no adjacent public parking ramps to accommodate overflow during large events. The applicant has stated that during large events employees will be directed to park in public ramps. This is an unmanageable concept and the lack of adequate employee parking will adversely impact the neighborhood.

Parking also needs to be provided for the general public who wish to come and enjoy the plaza and public amenities.

Current zoning standards would require over 500 parking stalls for this proposal.

28.11(3)	Guest Room 1.0/room	190 rooms	190
	Spa 1.0/ 300 sf	5400 sf	18
	Restaurant: 30% capacity	11,976 sf @ 1.0/15 sf x 0.3	239
	Ball Room: 10% capacity	6500 sf @ 1.0/15 sf x 0.1	<u>81</u>
	Total Required		528
	Total Proposed		355

The proposal indicates that NGL will be using 120 of the parking spaces during the daytime so some type of connection is envisioned. With NGL using spaces during the daytime this leaves only 235 stalls for the 190 rooms, daytime hotel activities and public parking. Any large conference or meeting will quickly overwhelm the available daytime parking.

The parking issue could be somewhat ameliorated if access to the current underground NGL parking was made available during peak times. This would add about 140 spaces.

## Loading Areas

Provision of off street areas for deliveries and for bus parking and loading are particularly important for this proposal given the congested nature of the location. This includes making provisions for staging buses overnight so that they are not running at the curb in front of residential buildings.

The current proposal is improving in this regard though even two vehicles could over tax the loading area given that all of the private drive area must remain open to allow for an adequate turning radius. Also, buses parked in the loading dock and deliveries are an obvious conflict that

would take particularly aggressive management to avoid. The proposal should be designed to function because of the design and not rely on full time management of deliveries and buses to succeed.

The loading area along the private drive is also part of the fire department access path. If this is a fire lane will it preclude the use as a loading area? Certainly this would be the case for any overnight parking.

## **Comprehensive Plan**

As the Staff Report notes state law now requires zoning changes to be consistent with the City's adopted Comprehensive Plan. There are a number of *Key Recommendations, Objectives* and *Policies* in the plan that aim to ensure new development enhances and is compatible with the established neighborhood character. (A copy of a review of the Comprehensive Plan I prepared in January is attached for your information.)

In the Comprehensive Plan the downtown is divided into a number of sub-districts. The site of this proposal straddles two sub-districts, Mansion Hill and Langdon. The Mansion Hill sub-district calls for a maximum height established by the underlying zoning which in this case is 50'. The Langdon sub-district calls for buildings of "2-8 stories with the tallest buildings in the State St. transition zone". The proposed site is as far from the State St. area as one can get within this sub-district and as Staff notes at 9 or 10 stories exceeds the criteria in any case.

The Staff Report includes some discussion that the portions of the Comprehensive Plan relating to the downtown were considered to be preliminary pending the completion of the downtown plan. The completion of the downtown plan may lead to changes or more specificity for the various sub-districts. However, those decisions have not been made yet and the Comprehensive Plan is the current adopted land use plan for the City. Decisions about proposed zoning map amendments cannot be made based on speculation as to what future developments in the Comprehensive Plan might be. Decisions must be based on the current standards and in this regard the proposal is inconsistent with many provisions of the Comprehensive Plan, as outlined in my prior review, in addition to those noted above.

## **1965 Ordinance Changes:**

The 1965 ordinance vacating the public right of way for use by the Edgewater provided an easement to the City "for the permanent benefit of the general public". Included in the

easement was the “substantial preservation and reasonably feasible improvement of the visual outlook ...over Lake Mendota”.

To accomplish this view preservation the ordinance also requires that any new construction on the land adjacent to the vacated right of way must have a setback of at least 10’ along Wisconsin Ave. The proposed changes to the ordinance will remove the 10’ setback requirement. Some will argue that the ordinance only applies to the land adjacent to the right of way vacated in 1965. Though certainly to affect the spirit and intent of the original ordinance the setback requirement must apply as a minimum for all lands along the street end of Wisconsin Ave. There is no other way to permanently preserve the visual outlook over Lake Mendota.

The first three stories of the proposed tower above the plaza sit directly on the property line along the Wisconsin Ave. right of way. The canopies of the main hotel entrance and the café extend out over the right of way. Likewise the exit structure from the new parking garage is setback just a few feet from the right of way. (No dimension is provided on the plans.)

Making changes to this ordinance should not be taken lightly. The intent of the original ordinance must be honored and the commitment to the community of the permanent benefits conveyed by the ordinance must be kept. The right of way was exchanged for something Madison never really got. Part of the current proposal gets Madison what was originally expected. We should not make further concessions in those permanent benefits to simply gain some of them back. To do so would in essence privatize the lake view which is a public asset so that it can be resold as hotel rooms.

What value can the public expect from agreements the City makes if future decision makers are not willing to preserve in perpetuity the benefits gained in exchange for public property?

### **Conditional Use Permit:**

As the Staff report notes all of the Conditional Use Standards must be met before an approval can be granted. Criteria 3, 4 and 9 are probably the most relevant to this discussion.

3. That the uses, values and enjoyment of other property in the neighborhood for purposes already established shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

This proposal is a significant change to the neighborhood and will certainly impact the surrounding properties. In documents submitted to you concerns regarding the adequacy of the parking, provisions for bus staging and truck deliveries as well as loss of the view corridor

have been raised. The proposal is located within a Historic District which provides property owners with certain expectations regarding the scale and mass of buildings that might be constructed within the district. The use and enjoyment of their properties will be substantially affected by the inappropriate scale and mass of the proposed hotel tower. This is clearly reflected in the Landmarks Commissions refusal to grant a Certificate of Appropriateness.

I'm sure others will testify in more depth on these issues.

4. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

All of the adjacent properties, both developed and undeveloped, are currently zoned residential. These properties are all bound by the waterfront setback requirements as well as the R6-H zoning requirements. Allowing one exception in the middle of this district will impact the visual enjoyment of the lake view for the neighbors.

It will also impede the orderly development of a relatively consistent setback for new construction particularly on the adjacent undeveloped land. Construction on the adjacent residentially zoned land would require a setback from the water around 120' and a maximum height of 50'. Compare this to the 35' setback and 112' height of the new construction in the current proposal. Likewise the FAR zoning requirement for the adjacent property is 2.0 while the current hotel proposal has an FAR of 2.72.

If approved this proposal will also serve as a precedent which will be cited by proponents of future developments in the area just as the current applicant focuses on the few other outsized buildings as justification for this proposal.

I disagree with the staff conclusion that you might find that the criteria can be met. They suggest that other properties are protected because they are already developed or are within the Historic District. Clearly this proposal is within the Historic District but the blatant disregard for the criteria of the district is doing little to protect the orderly development of the area. Just as clearly properties are often redeveloped. Langdon St. has seen much of this type of activity. To suggest that a proposal such as this which requires so many exceptions to the rules and changes of existing ordinances will not affect the normal and orderly development and improvement of surrounding properties is very short term thinking at best.

9. That when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission:

a. Shall bear in mind the statement of purpose for the zoning district, such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district;

The statement of purpose for the R6H district reads as follows:

“The R6H district is established for the same purposes as the R6 general residence district, except that in addition its purpose is to limit the height of structures and provide side yards in areas to preserve the historic and architectural character of a neighborhood.” 28.08 (14) (a)

The statement of purpose for the R6H district could not be clearer that it is intended to restrict the height of buildings to insure compatibility with the historic character of the district. In this case the R6H district has an overall height limitation of 50'. The hotel tower of the current proposal has a height of 107' just as clearly defeating the purpose of the R6H district. The current proposal is actually taller and more massive than the prior proposal that the Landmarks Commission found to be incompatible with the historic context of the surrounding area.

### **Waterfront Setback Ordinance**

The Waterfront Setback Ordinance was recently changed, essentially to exempt this proposal from the setback requirements that have applied to all new development along the lakeshores. Rather than simply exempting the Edgewater by name the change allows existing non residential buildings to build as close to the water as the current building.

The language provides this change for “additions, alterations, or expansions of an existing principal building”. The zoning code defines a principal building as “a nonaccessory building in which is conducted the principal use of the lot on which it is located”.

The zoning code also defines a ‘building’. This definition includes the statement “When any portion thereof is separated from every other portion by masonry or firewall without any window, which wall extends from the ground to the roof, then such portion shall be deemed to be a separate building.” By this definition the Edgewater proposal is actually several separate buildings. The proposal is not an “addition, alteration, or expansion of an existing principal building” and therefore does not fit the parameters of the revised ordinance.

In the alternative, if this reasoning is not deemed appropriate, the NGL building is now connected to Edgewater Hotel as a principal building and could expand to within 10' of the lake shore using the existing setback.

### Conclusion

Finally, while there are aspects of the proposal which have merit and would be an improvement over the existing facility the proposal simply fails to meet or comply with too many of our land use conditions. If this were as great proposal for the city as some proponents suggest it would not be as difficult to move through the approval process and would not require wholesale modifications of our land use ordinances and review process. A truly great proposal would have broad support and would not find commissions struggling to find a way to endorse approval.

To: Plan Commission Members

From: Peter Ostlind

Re: Edgewater Redevelopment Proposal

Date: February 4, 2010

Attached you will find a review of the Madison Comprehensive Plan in relation to the current proposal for the Edgewater redevelopment. The review presents relevant portions of the Comprehensive Plan. The review was not intended to be an exhaustive listing of every part of the Comprehensive Plan that might be applicable but rather a compilation of a number of the significant statements in the plan that relate to the current proposal. My understanding is that beginning in 2010 State law requires that development approvals be consistent with adopted comprehensive plans. I hope you will find this informative as you consider the proposal before you.



**Review of the Madison Comprehensive Plan as it relates to the Edgewater redevelopment proposal.**

The following review of the Madison Comprehensive Plan was completed to identify those portions of the plan which specifically relate to the current Edgewater proposal. The intent is to aid the reader in reviewing the current proposal in relation to the adopted comprehensive plan.

The Introduction to the Comprehensive Plan includes a list of **Key Recommendations**. The first recommendation listed notes that new developments should be compatible with the existing neighborhood.

“Balance redevelopment and infill development with the preservation of the unique character of Madison’s existing neighborhoods, focusing on such issues as requiring that the size and scale of new development enhances and is compatible with the established planned neighborhood character and density.” Vol. I page Intro – 6, (emphasis added)

This recommendation is further defined in the section on **Historic and Cultural Resources**. The intent is to recognize and protect the architectural character within Historic Districts.

“Each district has a specific set of criteria against which all new construction, alterations and demolitions are reviewed to ensure that the essential character of these districts and the significant structures within them is maintained.” Vol. I page 8-2

These criteria are the specifics of the Mansion Hill Historic District that the Landmarks Commission found that the Edgewater proposal failed to meet when the Commission denied a Certificate of Appropriateness.

The chapter on **Land Use** states that Madison will encourage infill and higher density redevelopments and establishes policies to guide this redevelopment. Policy 4 identifies principles to guide all infill and redevelopment within the older neighborhoods.

“Redevelopment scale and density should be appropriate to redevelopment objectives defined in the applicable City plans and reasonably compatible with established neighborhood character ...” Vol. II page 2-22

The value of historic preservation is cited numerous times in the Comprehensive Plan. In particular the chapter on **Land Use** has a section on the Downtown noting this interest and citing historic preservation as a desirable downtown characteristic.

“The recent increased pace of redevelopment has created a corresponding interest in historic preservation and neighborhood conservation in at least portions of Madison’s oldest neighborhoods, such as Bassett, Mansion Hill, Old Market Place and First Settlement.”

Vol. II page 2-105

“Emphasis on historic preservation and neighborhood conservation as defined in City-adopted neighborhood, special area, and other special plans, such as historic preservation plans, and/or City zoning regulations and historic and urban design guidelines.” Vol. II page 2-106

The plan notes that the downtown area has a mix of uses and densities but identifies characteristics that unite certain sub districts of the Downtown.

“Although the range of uses and densities within the Downtown as a whole is very wide, it is made up of numerous relatively compact sub areas characterized by shared predominant land uses; development density; building height; scale and urban design; special amenity features; historic character; or other distinguishing attributes.” Vol. II page 2-107

The plan groups these downtown sub-districts into two categories; Mixed Use and Residential. Both the Langdon and the Mansion Hill sub-districts are classified as Residential. (Vol. II page 2-107) The Edgewater site is located at the east end of the Langdon sub-district boarding the Mansion Hill sub-district.

In the specific comments on the Langdon sub-district the plan notes that preservation and neighborhood conservation are issues that must be addressed as properties are redeveloped. There is also a specific section on **Building Height**.

“Two to 8 stories, with the tallest buildings in the State St. transition zone.” Vol. II page 2-114

The current Edgewater proposal is a 14 story building above the lake or a 10 story building above the plaza. The proposal tower extends more than 40’ above the 1940’s building.

The specific comments on the Mansion Hill sub-district reiterate that “because of the historic significance of this sub-district” historic preservation and consistency with established City plans and special area plans is required for any development or redevelopment. Regarding building height there is this specific statement:

“2 stories minimum, maximum established by underlying zoning” Vol. II page 2-115

The Comprehensive Plan includes **Objectives** and **Policies** that “provide the basic framework on which on which all land-use decisions, whether public or private, shall be based.” “An **objective** is a statement that describes a specific future condition to be attained. A **policy** is defined as a course of action or rule of conduct to be used to achieve the goals and objectives of the plan.”

**Objective 51:** Protect and enhance features and places within the community that are of architectural and historic significance.

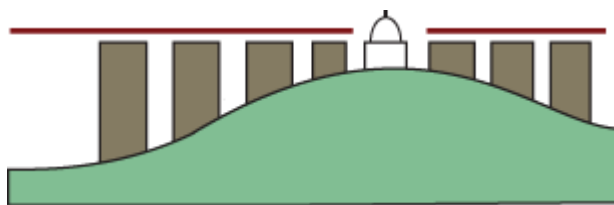
**Policy 3:** New development should create harmonious design relationships between older and newer buildings, particularly in older neighborhoods with an established character and buildings of historic or architectural interest and value. Vol. II page 2-45

It's interesting to note that the photo adjacent to Policy 3 in the plan is of the Quisling Clinic Apartments, a recent infill and redevelopment that enhanced the integrity of the Mansion Hill Historic District.

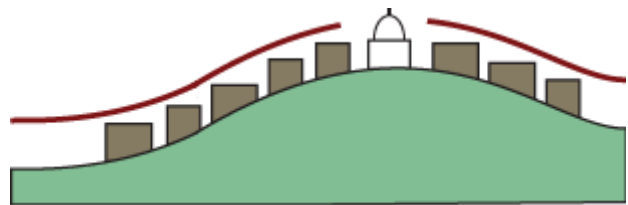
The plan also includes objectives relating to the form and height of buildings constructed within the Downtown.

**Objective 50:** Create a visually striking and dramatic Isthmus skyline, while at the same time protecting views of the Capitol.

**Policy 2:** Establish building height standards for the Downtown/Isthmus area that will result in a skyline that reflects and emphasizes the natural topography, with taller buildings on the high ground and lower buildings toward the lakeshores. Vol. II page 2-44



*Skyline effect resulting from establishing maximum building heights relative to the base of the Capitol dome.*



*Skyline effect resulting from establishing maximum building heights relative to the natural topography of the Isthmus*

There are a series of Objectives and Policies for Established Neighborhoods. Objective 42 is to ensure that new development is compatible with the existing characteristics of the neighborhood. The policy is quite clear that the means to accomplish this do not include every proposal which might come forward.

**Policy 2:** Recognize that infill development is not inherently “good” simply because it is infill, or higher density because it is higher density. Where increased density is recommended, it is always only one among many community and neighborhood objectives, and other factors such as architectural character and scale (including building height, size, placement and spacing) block and street patterns, landscaping and traffic generation are also important.  
Vol. II page 2-35

Included in the plan are a series of *Objectives and Policies for the Natural Environment*. This section relates our built environment to the natural assets of the city, in particular to our lakes.

**Objective 56:** Ensure that views and vistas of significant value, such as views of the lakes, open space or the Capitol, are treated sensitively by new structures or potential visual obstructions.

**Policy 2:** Protect Madison's shorelines from incursions by overly dense development that will degrade views to and from the lakes, rivers and creeks.

**Objective 57:** Preserve natural areas with outstanding ecological and aesthetic qualities.

**Policy 1:** Adopt and enforce zoning code, land division ordinance and other regulations that protect from development environmental corridors and the natural resource features of which they are comprised, such as lakeshores, hilltops, and significant wooded areas, for example.