

SUBJECT TO APPROVAL

**MADISON PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
Mar. 16, 2017**

The regular planning meeting of the Madison Planning and Zoning Commission was conducted Thursday, Mar. 16, 2017, at 7 p.m., in Meeting Room A at Madison Town Campus.

MEMBERS PRESENT

Chairman Ronald Clark, Vice Chairman Francine Larson, Amanda Mitchell, James Matteson, and Brian Richardson.

MEMBERS ABSENT

Secretary Thomas Burland, John K. Mathers, Joseph Bunovsky, Jr., and Joel Miller

ALTERNATES PRESENT

Elliott Hitchcock and Madhavan Parthasarthy

OTHERS PRESENT

Director of Planning and Economic Development David Anderson; MCTV videotaped the meeting.

The regular meeting of the Madison Planning and Zoning Commission was called to order at approximately 7:02 p.m. by Chairman Ronald Clark, who seated Alternate Commissioner Elliott Hitchcock for absent Commissioner Joel Miller and Alternate Commissioner Madhavan Parthasarthy for absent Commissioner Joseph Bunovsky, Jr.

17-07 CSP. 89 Stone Road. Map 12, Lot 95. Owner/Applicant: Sea Clearly, LLC. Coastal Site Plan Review to demolish existing dwelling and construct a single-family dwelling and pool house within 100 feet of a coastal resource. **Tabled.**

ACCA Appointments. Advisory Committee on Community Appearance (ACCA) reappointments of: Ron Zollshan, term expires 2019; Fred Murphy, term expires 2019; and Peter Clement, term expires 2018.

Commissioner James Matteson made the motion to reappoint Ron Zollshan, Fred Murphy, and Peter Clement to ACCA; it was seconded by Commissioner Madhavan Parthasarthy and unanimously approved.

Vote to make ACCA reappointments passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Francine Larson, and Commissioners Amanda Mitchell, Hitchcock, Parthasarthy, James Matteson, and Brian Richardson.

OPPOSED: None.

ABSTAINED: None.

Approval of Minutes: Planning Meeting ~ February 16, 2017
Regular Meeting – March 2, 2017

Vice Chairman Larson questioned whether a change in wording should be made on the third page to remarks attributed to Secretary Thomas Burland, in the Feb. 16, 2017 minutes. Director of Planning and Economic Development David Anderson suggested tabling action on that, in Secretary Burland's absence.

Commissioner Matteson made the motion to accept the March 2, 2017 minutes, as submitted; it was seconded by Commissioner Hitchcock and unanimously approved.

Vote to accept the Mar. 2, 2017 minutes, as submitted, passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, and Commissioners Mitchell, Hitchcock, Parthasarthy, Matteson, and Richardson.

OPPOSED: None.

ABSTAINED: None.

Remarks: ACCA Liaison Report ~ Meeting was canceled, due to snowstorm.

Commission Chair ~ None.

Director of Planning and Economic Development ~ Mr. Anderson stated that the public workshop on the Academy School has been rescheduled to March 28, 2017 at Poulson Middle School, due to the snowstorm cancelation of March 14, 2017.

The regular meeting was closed at 7:11 p.m. and reopened at 7:30 p.m. for the Public Hearing Items.

PUBLIC HEARING ITEMS

17-05. 2076 Durham Road. Map 160, Lot 33. RU-1 District. Owner/Applicant: 2076 Durham Road LLC. Special Exception Permit Modification to construct a 120 ft. by 80 ft. barn to be used as an indoor riding rink for equestrian exercise.

Director of Planning and Economic Development David Anderson stated that there were technical flaws in the public notification; therefore, the commission can open the public hearing on the application, listen to the presentation, keep the public hearing open, and return to the application to continue the public hearing and act on the item at its April 6, 2017 meeting.

William G. Butterly III stated that a Special Exception Permit Modification is being requested to build a 120 foot by 80 foot barn for use as an indoor riding rink for equestrian exercise. A number of riders did not want to ride in the cold, rain or snow, so plans are to construct a wooden frame structure with a metal exterior that will go over two-thirds of the ring and provide shelter, according to Mr. Butterly. The sheet metal color will be stone, and the interior will be white, he stated. Todd Anderson of Anderson Associates and Engineers has had several discussions with the Inland Wetlands and Water Courses Agency, Mr. Butterly stated. Mr. Anderson, in presenting the plans, stated that the property is located at the corner of County Road and Durham Road; there is an existing horse riding rink, and the proposed structure will be 60 feet away from wetlands. Roof drainage will be collected by gutters, piped down, and routed into the spillway; manure will be trucked off the site. The Conservation Commission reviewed the plans and asked about the feasibility of turning the building perpendicular 90 degrees, but Mr. Anderson stated that the property falls off steeply, and to make the 90-degree turn would mean substantial site work and filling; therefore, it is not viable. Electricity is the only utility going into the

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structure, and there is a possibility the existing barn, which is red, will be painted a different color, since the stable manager has said the horses do not like the red, according to Mr. Butterly.

There were no questions from the public. Director of Planning and Economic Development David Anderson stated that ACCA was scheduled to review the plans at its last meeting, which was canceled due to snow, and while the Special Exception Permit Modification requires the structure to be architecturally in character with the neighborhood, ACCA is not required to review it, unless the Planning and Zoning Commission desires that the application be heard before ACCA. He stated that the Planning and Zoning Commission will be able to act on the application April 6th, without the ACCA review.

No one from the public spoke in favor of or in opposition to the application. Planning and Zoning Commissioners expressed favorable comments to the application.

Commissioner Matteson made the motion to continue the public hearing to April 6, 2017; it was seconded by Commissioner Richardson and unanimously approved.

Vote to continue the public hearing to April 6, 2017 passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, and Commissioners Mitchell, Hitchcock, Parthasarthy, Matteson, and Richardson.

OPPOSED: None.

17-06. 82 Wall Street. Map 38, Lot 30. D/DVD District. Owner/Applicant: MAS Property Holdings, LLC. Site Plan Review Application and Downtown Village District Major Alteration to demolish the existing structure on the property and construct a new 2-1/2 story building with restaurant use on first floor and two dwelling units above.

Attorney Christopher McKeon, representing MAS Property Holdings, LLC, stated that the new building will notably bring a vibrant use to the downtown, in terms of a restaurant and apartment living, and it does so in a new structure. Being a Site Plan Review Application, the public hearing is triggered only because this is a major alternation in the Downtown Village District, Mr. McKeon stated, adding that, from a site plan perspective, the plans comply completely with all of the zoning regulations, and there are really no issues. The criteria on which public input can be given is limited by Sec. 30.9 in Madison's Planning and Zoning Regulations, Mr. McKeon stated. Those involved in the project are Architect Duo Dickinson, Professional Engineer Michael Harkin, and Landscape Architect John Cunningham. Mr. Dickinson submitted **EXHIBIT 1**, colored site plans of 82 Wall Street, with additional information within. ACCA reviewed the project and gave its approval, according to Mr. Dickinson. The new building will be 6,000 square feet, with 3,000 square feet on the first floor and each of two two-bedroom apartments on the second floor being 1,500 square feet; the restaurant will seat 40 patrons, and the bar has seating for 15; there is a porch out front and two entries, according to Mr. Dickinson. He showed enlarged photographs of a building just north of the new structure, as an example of how the new structure will look, when finished. ACCA had questions about the venting, according to Mr. Dickinson. The restaurant venting is quite diminished and set to the center of the property; there is an enclosed maintenance area, all of which ACCA approved remotely, according to Mr. Dickinson. Director of Planning and Economic Development David Anderson stated that a letter went out to ACCA with the information the committee desired, and four ACCA member approved the plans, one recused himself, and one member was out of town. Mr.

Dickinson stated that the septic system complies with the health department requirements. The garbage enclosure is being placed next to the kitchen and away from residents to the east of the new building; uses for the structure are completely as of right, Mr. Dickinson stated.

Commissioner Matteson asked if the design is consistent with the design elements in Sec. 2.4 of the town planning and zoning regulations, and Mr. Dickinson stated that they are completely consistent—the roof mimics roof patterns in the neighborhood, and the design of the building, including windows, have all been deemed consistent. No outdoor dining is being requested, since state codes for septic systems bind the new building to 40 seats in the restaurant's dining room and 15 seats at the bar, according to Mr. Dickinson. Additional seats would require additional Planning and Zoning Commission approvals, Mr. Anderson stated. While the septic system has not yet been approved by the health department, no deficiencies in it have been noted, and the proposed system meets the requirements necessary for 40 seats, 15 seats, and two two-bedroom apartments, Mr. Anderson stated. Professional Engineer Michael Harkin stated that the septic system will be at the rear of the proposed building, in the parking lot, and it is code compliant for 40 sit-down dinner seats, at 30 gallons a day for each seat, and 15 bar seats, where food could also be served, at 15 gallons a day, per seat. This septic system can handle 2,000 gallons a day; there is also a 2,000-gallon a day grease tank, according to Mr. Harkin. There is beautiful sand and gravel on the site to support the septic system, according to Mr. Harkin; the structure will use city water. Septic system flow will be monitored for a year, Mr. Harkin stated. Landscape Architect John Cunningham discussed the landscape and lighting plans; trees will be added, there will be juniper ground cover, a main walkway, and a front terrace. Lighting consists of removing 10 light posts currently on site and replacing them with six new light fixtures, which are expected to reduce the illumination outward toward neighbors.

Chairman Clark asked the public for questions. There were questions on whether the number of parking spaces would be sufficient, and Mr. Dickinson stated that the application complies with the town parking requirements, without having to use street parking; there are enough spaces in the parking lot for 40 restaurant patrons, 15 seated at the bar, the apartment dwellers, plus 10 for employees. There is no on-street parking reliance whatsoever, Mr. Dickinson stated. There are 12 extra parking spots, and the parking requirements of the town are based on maximum usage, according to Mr. McKeon. Questions rose about the septic system and future safety of well water, but Chairman Clark stated that the Planning and Zoning Commission is not equipped or able to address those issues. Regarding questions on whether the restaurant might increase its seating beyond 40, Mr. Dickinson stated that to go over the 40 and 15 seats would be illegal and would result in a cease and desist order, and the property owner would be required to either expand the septic system or change the use of the building. The septic system requirements have all been met, and installation of the system is a lot farther away from drinking wells than what is required, according to Mr. Harkin. The overall southerly border is about 370 feet, Mr. Dickinson stated. It is 210 feet from the edge of the septic system to the property line, Mr. Harkin stated. This plan is for dinner-only serving at the restaurant, and septic system requirements would have to change, if breakfast and lunch were also served, according to Mr. Harkin. Any concerns about water quality would have to be addressed to the Water Pollution Control Authority, Chairman Clark stated, in response to a water quality question. Regarding lighting and whether it would shine into neighboring houses, Mr. Dickinson stated that requests for shields on lighting would be accommodated. In response to a question regarding how long the lights would be on, Mr. McKeon stated the proposal is to have the lights on for as long as the restaurant is open, which is governed by state liquor licenses.

Chairman Clark asked whether anyone in the public wanted to speak in favor of the application. No one did. He asked for comments in opposition to the application. Samuel DeBurra stated that he felt that if this application goes through, he is getting forced out of his home; he expressed concerns about parking and the septic system; he urged the Planning and Zoning Commission to send the application back and have it returned with a plan that is not a restaurant. The use being proposed does not reflect the neighborhood, Mr. DeBurra stated. Katherine DeBurra stated that Wall Street is very congested, and their property values have decreased. In addition, she expressed a concern about the future safety of their wells, with the addition of the septic system at the new restaurant. Madison's Plan of Conservation and Development says that Wall Street would be a street that people could stroll along, and Ms. DeBurra stated that a restaurant does not create a place to stroll—people drive to restaurants, park, leave, and drive away, when they are finished.

Mr. Anderson stated that the Planning and Zoning Commission received five letters in opposition to the application, all of which he stated he shared with the applicant. Chairman Clark summarized the correspondence. Concerns expressed included: traffic concerns in living so close to the restaurant; there is no need for another restaurant in town; negative affect on the quality of life; opposition to another bar on Wall Street; speeding traffic, traffic safety; well water concerns; and the undesirability of having a bar at this location. In addition, an email was received in opposition, which Commissioner Richardson stated included these concerns: congestion in the area; lighting at night; lighting at the back of the restaurant; and the affect on the quality of life in having another restaurant on Wall Street.

Mr. McKeon asked for permission to respond to the opposition, which was granted. He stated that he is not unsympathetic to people living near places they do not want to have near them. However, the public hearing for this application is about the Downtown Village District and the aesthetics of this building, and that is its focus, according to Mr. McKeon. The biggest concern is people who do not want a restaurant near them, and that restaurant issue has been resolved a long, long time ago; restaurants have been allowed for 50 years, Mr. McKeon stated. In creating Madison's Plan of Conservation and Development, there was a large amount of public input, and 65 percent of respondents felt the town should have more restaurants, according to Mr. McKeon. In terms of the aesthetic issue for this public hearing, it has been addressed and maintained as being a part of the characteristic of the neighborhood's aesthetics, according to Mr. McKeon. A court has ruled that a designation as a permitted use ensures that it does not adversely affect the district, and this precludes considerations of property values, quality of life, or traffic congestion, according to Mr. McKeon. This use is permitted, he stated. What is being proposed is a use and a structure that more than complies with the regulations; it is not the applicant's role to invent new regulations to comply with others' wishes, according to Mr. McKeon.

Vice Chairman Larson made the motion to close the public hearing; it was seconded by Commissioner Matteson and unanimously approved.

Vote to close the public hearing passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, and Commissioners Mitchell, Hitchcock, Parthasarthy, Matteson, and Richardson.

OPPOSED: None.

ABSTAINED: None.

In addressing the parking issues, Mr. Anderson stated that this application meets town planning
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and zoning regulations; the regulations allow for shared use and interconnections of parking. An office building located at 90 Wall Street has an agreement to share parking with the restaurant at 82 Wall Street, according to Mr. Anderson. Chairman Clark stated that the requirements the Planning and Zoning Commission set for parking are being adhered to in the application. Concerns about water quality and lighting that the residents expressed should be brought to the proper authorities in town, Commissioner Richardson stated. Commissioner Parthasarthy began to address the appearance of Wall Street and whether its characteristics had been retained through the years, but Mr. Anderson stated that because the public hearing is closed, the applicant does not now have the opportunity to respond to the aesthetic issues being mentioned. Furthermore, Mr. Anderson reminded the commissioners that Mr. Dickinson stated that this building is similar in design to the one at 90 Wall Street. This application and the building design also went through ACCA and was found to be consistent with the design of Wall Street; the 3,000 square foot maximum footprint, in the Madison Planning and Zoning Regulations, is being met under this project, Mr. Anderson stated. Vice Chairman Larson stated that she is sympathetic to the people who live there, and she understands their concerns. She stated that she has been on the board for 10 years, and it is no secret that the desire has been to increase development along Wall Street. However, everything this applicant has presented is permitted, Vice Chairman Larson stated; there is nothing about this application that does not meet the regulations or the goals for this district. Commissioner Hitchcock stated that the application seems to fall within the permitted use. Chairman Clark stated that he hears what the residents are saying, however the application complies with the regulations; it is a permitted use and the style of architecture is compatible. Commissioner Matteson stated that from a planning and zoning perspective, it appears there are no violations of regulations in this application. Commissioner Parthasarthy stated that within the purview of what the applicant has requested, it meets zoning regulations. Commissioner Mitchell stated that she agrees the application is in compliance; she just has concerns with what has been said.

Vice Chairman Larson made the motion to accept the application as presented; it was seconded by Commissioner Hitchcock and unanimously approved.

Vote to close the public hearing passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, and Commissioners Mitchell, Hitchcock, Parthasarthy, Matteson, and Richardson.

OPPOSED: None.

ABSTAINED: None.

Commissioner Larson made the motion to adjourn at 9:45 p.m.; it was seconded by Commissioner Matteson and unanimously approved.

Vote to adjourn passed, 7-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Larson, and Commissioners Mitchell, Hitchcock, Parthasarthy, Matteson, and Richardson.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy, clerk