

## Lee, Chris

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**From:** Crump, Lafayette  
**Sent:** Friday, October 21, 2022 11:18 AM  
**To:** Leichtling, Samuel; Lee, Chris  
**Subject:** Fwd: Proposed Music Venues Project - Modified Plan  
**Attachments:** Memo - Revised Plan (01312340-3xC3B04).pdf

Lafayette L. Crump (he/him), Commissioner  
Department of City Development  
809 North Broadway  
Milwaukee, WI 53202-3617  
Ph: (414) 286-5800 / Fax: (414) 286-5467  
lafayette.crump@milwaukee.gov  
DCD website: [www.milwaukee.gov/dcd](http://www.milwaukee.gov/dcd)  
Business info: [www.choosemilwaukee.com](http://www.choosemilwaukee.com)

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**From:** John M. Wirth <jwirth@mallerysc.com>  
**Sent:** Friday, October 21, 2022 10:59:47 AM  
**To:** Murphy, Michael (Alderman) <mmurph@milwaukee.gov>  
**Cc:** Bauman, Robert <rjbauma@milwaukee.gov>; Dodd, Nikiya <ALD05@milwaukee.gov>; Coggs, Milele <mcoggs@milwaukee.gov>; Rainey, Khalif <Khalif.Rainey@milwaukee.gov>; Zamarripa, JoCasta <JoCasta@milwaukee.gov>; Borkowski, Mark <Mark.Borkowski@milwaukee.gov>; Perez, Jose <JoseG.Perez@milwaukee.gov>; Spiker, Scott <Scott.Spiker@milwaukee.gov>; Dimitrijevic, Marina <Marina@milwaukee.gov>; Stamper II, Russell <Russell.StamperII@milwaukee.gov>; Crump, Lafayette <Lafayette.Crump@milwaukee.gov>  
**Subject:** Proposed Music Venues Project - Modified Plan

Some people who received this message don't often get email from jwirth@mallerysc.com. [Learn why this is important](#)

Alderman Murphy:

I am writing to you again in your capacity as the Chair of the Zoning, Neighborhoods, and Development Committee.

We understand that the developer has substantially changed both its proposed Certified Survey Map and building configuration. Under state law, this must go back to the Plan Commission. I attach a memorandum explaining the reasons why. Moreover, the new plan remains fatally flawed.

I urge you and your colleagues to take this item off of Tuesday's agenda and have the Plan Commission review this proposal as required.

John

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**John M. Wirth**

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731 North Jackson Street, Suite 900 | Milwaukee, Wisconsin 53202-4697

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MEMORANDUM

SUBJECT: The Application for the Concert Venues Building Proposed by Live Nation/Frank Productions Must Go Back to the Plan Commission under State Law; Moreover, the Application Remains Fatally Flawed

FROM: Save MKE's Music Scene LLC

DATE: October 20, 2022

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The developer has made such a substantial change to its application that the application and the proposed Certified Survey Map must be sent back to the Plan Commission. The developer's changes are not cosmetic or minor adjustments to accommodate a few technical concerns; instead, the developer now proposes to build an entire structure of many thousands of square feet in an area previously designated and reviewed as a standalone parcel that, for now, was to remain vacant.

Although conceptually these changes are an improvement, they involve many elements that have not been reviewed (a new roofline and facade, new setbacks from the street frontage, a new plaza, changes supposedly sympathetic to Turner Hall, etc.).

Moreover, by sending this to the zoning committee on a few days' notice, the public is being denied the opportunity to fully review the changes. Interested parties and the press are unlikely to even know about these changes. Even as this memorandum is being written four days before the hearing, there are no staff memos on the City's website reflecting staff's review of the changes.

**The zoning committee should hold over this proposal** until the Plan Commission has reviewed and reported on it.

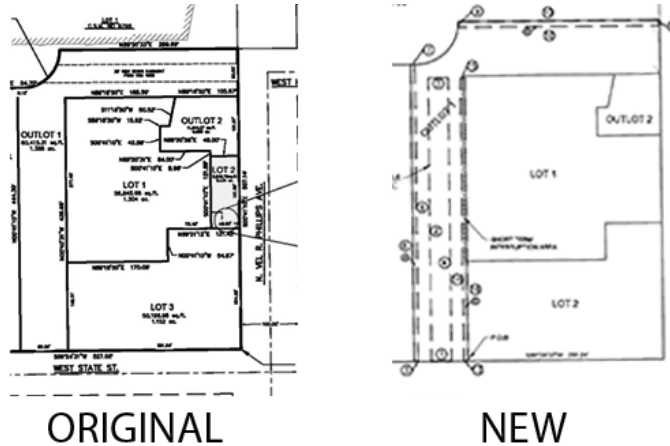
**I. TO IMPLEMENT THE LAST-MINUTE CHANGES, THE DEVELOPER IS NEEDS A MATERIALLY DIFFERENT CERTIFIED SURVEY MAP, AND STATE LAW REQUIRES THE PLAN COMMISSION TO REVIEW ANY PROPOSED CERTIFIED SURVEY MAP PRIOR TO ACTION BY THE COMMON COUNCIL.**

Wisconsin Statutes Section 62.23(5) provides:

The council ... shall refer to the city plan commission, for its consideration and report before final action is taken by the council ... all plats of lands in the city or within the territory over which the city is given platting jurisdiction by ch. [236](#).

The review by the Plan Commission is not optional or a procedural nicety. It is a mandate by statute. It must precede Common Council review.

The following shows both the originally proposed layout and the newly revised layout:



This is not a minor change. An entire Lot has been removed and apparently other lines have been redrawn. By definition, it is a new plat and as not been reviewed by the Plan Commission. The City is obligated to have the Plan Commission consider and report on it.

If a developer can make significant changes after review by the Plan Commission and not have the Plan Commission review those changes, the entire requirement becomes superfluous and open to abuse. Under that interpretation a developer could propose in the first instance a map that it believes the Plan Commission would accept and then change it before going to the Common Council to avoid a negative recommendation from the Plan Commission.

The Plan Commission requirement allows a second set of policy-maker eyes to review the map. Moreover, this requirement allows the interested public the procedural safeguards of notice and additional time for review and comment.

**II. SIMILARLY, TO IMPLEMENT SIGNIFICANT ZONING CHANGES, THE PLAN COMMISSION MUST REVIEW THOSE CHANGES.**

The prior plan was fatally flawed as described in a prior memorandum dated October 12, 2022, that we submitted. The developer apparently recognized that flaw and redesigned its submission.

The most significant change in the submission is the elimination of Lot 2 as a standalone parcel and the construction of 10,000 to 20,000 square feet of improvements on that land. If the original proposal had been accepted by the Common Council, the public would have had an opportunity to respond to any future application for construction on Lot 2 at both the Plan Commission and the Common Council, including its zoning committee. Now, by making this

change after the Plan Commission meeting, the Plan Commission are deprived of their right to review and comment on the improvements to be made to the land previously part of Lot 2.

Perhaps as or more importantly, the interested public is deprived of its rights to make their opinions known to the Plan Commission.

Wisconsin Statutes Section 62.23(7)(d)(2) provides:

The council may adopt amendments to an existing zoning ordinance after first submitting the proposed amendments to the city plan commission ... for recommendation and report and after providing the notices as required in subd. 1.b. of the proposed amendments and hearings thereon.

If the revised application is allowed to proceed to the Common Council without Plan Commission review, the Plan Commission will be deprived of an opportunity to review some of the most significant elements of the proposal. The GPD and its specific requirements for this Block have many requirements. The Plan Commission is entitled to answer these questions and determine if the new structure satisfies these requirements of the GPD, among others:

- Whether the improvements in the expanded area are “sympathetic to Turner Hall.”
- Whether the improvements in the expanded area adequately “enhance the street experience.”
- Whether the improvements in the expanded area adequately “ensure continuity of the social street front.”
- Whether the East elevation satisfies the requirements of 50% glazing on the ground floor. The elevation is required to have “clear, non-tinted glazing between 2 feet above grade to at least 8 feet above grade’ on at least 50% of this elevation.
- Whether there are “activating uses” behind the glazing.
- Whether “the building base [is] distinctly noticeable from the middle portion of the building.”
- Whether the structure exceeds the 12-foot maximum setback for this Block.
- Whether the structure should be required to be mixed-use.

The structure proposed for the land that was previously Lot 2 does not appear to satisfy any of these requirements.

The Plan Commission requirement allows a second set of policy-maker eyes to review the proposal. The Plan Commission is appointed for their expertise. Moreover, this requirement allows the interested public the procedural safeguards of notice and additional time for review and comment.

**III. EACH OF THE QUESTIONS SET FORTH ABOVE SHOULD BE ANSWERED IN THE NEGATIVE, AND THE DEVELOPER SHOULD BE REQUIRED TO AGAIN REDESIGN THE BUILDING.**

The revised plan is a step toward meeting the requirements of the GPD. However, for the reasons set forth in our prior memorandum, this application should still be denied by the Plan Commission and the Common Council. This is not the mixed-use, street activated structure envisioned by the GPD. Each of the questions set forth above should be answered in the negative.

**IV. THE DEVELOPER'S PLAN FAILS TO SATISFY NEEDS OF THE NEIGHBORHOOD, AND THIS PROJECT WILL DEVELOP INTO A NUISANCE.**

Apparently, the developer has submitted a safety plan. However, almost all substance has been redacted. It is unreasonable to expect surrounding property owners and the public to accept that plan without disclosure of the plan. Additionally, while police safety plans are, under some circumstances, exempt from public disclosure, we know of no similar exemption of a private security plan submitted to the City. It must be a Public Record.

If the safety plan is as deficient in protecting the surrounding neighborhood as the supposed plan for the Fiserv Forum, the City will be compounding a severe current problem.

Moreover, although the developer provided a place for loading of some equipment and parking of the associated vehicles, and the Code does not mandate specific parking for customers, the developer's operational plan is flawed.

First, if they have two shows, they will need space for 14 to 18 semis and buses. There is nothing in their submissions that accountants for the unloading, parking and loading of those large vehicles.

Second, they will need secured or close parking for performers. Performers will insist on that parking. A simple show could require parking for four or five vehicles with trailers. Two shows would double that number.

The developer or promoter will either park those vehicles illegally or will come back to the City for further accommodations. We fully expect the promoter to park those vehicles illegally on the new Lot 3 or on one of the plazas.

**V. THE CITY SHOULD INSIST ON MORE.**

Rather than developing a new, vibrant, mixed-use urban neighborhood like The Brewery District or the Third Ward, the developer wants the City to accept a suburban-like, single-use building when this could be a tall, mixed-use building that activates Vel Phillips.

**The City is seeking density and tax revenues. The Mayor has a goal of a million residents. To achieve these goals, the City should be insisting on more, not accepting less.** The past teaches us that, when we expect more, we will get it. If the City accepts less, then that will be the benchmark.