

**Ordinance No. 2007-O-08
Amending Planned Development District
General Implementation Plan and
Issuing Planned Development District
Specific Implementation Plan for
Office Building and Data Center.**

Zoning copy 8-27 ✓


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DANE COUNTY
REGISTER OF DEEDS

DOCUMENT #
4335532

07/19/2007 10:59AM

Exempt #:

Rec. Fee: 21.00
Pages: 6

Return to: City Clerk
5520 Lacy Road
Fitchburg, WI 52711

Parcel No.: 06091524312
06091524323
06091524334

Legal Description: Lots 22, 23 & 24 First Addition to Fitchburg Technology Campus

Plan Commission
Initiated By

Thomas D. Hovel
Drafted By

3/13/2007
Date

**ORDINANCE NO. 2007-O-08
ZONING ORDINANCE AMENDMENT
AMENDING GENERAL IMPLEMENTATION PLAN and ISSUING SPECIFIC
IMPLEMENTATION PLAN FOR ALL or PARTS OF LOTS 22, 23, & 24 FIRST
ADDITION TO FITCHBURG TECHNOLOGY CAMPUS,**

WHEREAS, pursuant to Fitchburg Ordinance No. 87-0-06, Section 3, Zoning District Maps were adopted within the corporate limits of the City of Fitchburg until expressly altered by the City Council, and

WHEREAS, Fitchburg Technology Campus LLC has submitted an application (RZ-1650-07) to amend the Planned Development District General Implementation Plan (PDD-GIP) and to issue Planned Development District Specific Implementation Plan (PDD-SIP) for all or parts of lots 22, 23, and 24 First Addition to Fitchburg Technology Campus to allow an office building and a data center, and

WHEREAS, this proposal (RZ-1650-07) requests an office building of approximately 43952 sq ft on one lot, and a data center on another lot to be constructed in up to three phases totaling approximately 51543 sq ft., and

WHEREAS, the Plan Commission considered the request to grant PDD-GIP zoning and issue the SIP on 3/20/2007, has reviewed the application according to the standards outlined in

6/21

the ordinance, and has determined that the request, in conjunction with the proposed conditions, meets said criteria, and the Plan Commission has recommended approval, with conditions.

NOW THEREFORE the Common Council of the City of Fitchburg, Dane County, Wisconsin does ordain that:

(A) PDD-GIP zoning, originally approved by Ordinance 2002-O-26 is hereby amended in accord with the submitted information dated 03/06/2007, letter of 3/12/2007 requesting amendments to the PDD-GIP, letter of 3/16/2007 and attachments for MGE, Cummins letter of 3/19/2007, and Cowan memorandum of 3/19/2007; (Note: Certified Survey Map request CS-1651-07, proposed CSM, is referred to in parts of this approval, but is subject to a separate approval.) subject to the following conditions:

1. Parking stalls for the data center parcel (lot 2 of the proposed CSM), as identified in the letter of 3/12/2007 is six total stalls. If there is a change in use of all or part of this site, then stalls shall be provided in accord with the 3.0 to 4.0 per 1,000 sq ft standard in place at the creation of the original General Implementation Plan which was approved by Ordinance 2002-O-26. The six stall requirement is only for the data center, and its additional two phases as identified in the submitted plans.
2. Lot 2 is hereby approved to have a one story structure, and lots 1 and 2 are hereby approved to be treated together as to Impervious Surface Ratio and Floor Area Ratio.

Lot	FAR	ISR
1	.364	.722
2	.293	.509
Combined	.322	.595

Applicant shall record restrictions on lots 1 and 2, and make clear to all potential lot purchasers and users that the impervious surface ratio is combined for both lots (proposed CSM lots 1 and 2) and no additional development is permissible in order to remain below the 60% maximum impervious surface level. A related open space ratio of .278 for lot 1 and .491 shall be established for proposed lots 1 and 2, respectively.

3. Applicant shall record, after this City approval, a restriction noting that the property lines associated with lots 1, 2 and 3 of the proposed CSM may have sound levels exceeding 65dB.
4. Applicants shall provide for the City approval, and then execute and record, a storm water maintenance agreement for the infiltration basins and private storm water facilities for lots 1 and 2 of the proposed CSM. Easements shall be put in place as necessary to accommodate the joint storm water system(s) proposed to serve proposed lots 1 and 2.

(B) PDD-SIP zoning is granted for lots 1 and 2 of the proposed Certified Survey Map, CS-1651-07, which is mainly, but not fully lots 23 and 24 of the First Addition to the Fitchburg Technology Campus, subject to the following conditions:

1. No other permit or approval is waived or deemed satisfied except for the approvals herein conditionally granted. Lot 1 of the proposed CSM is for an office building of approximately 43,252 total sq ft on two levels and 143 parking stalls. Lot 2 of the proposed CSM is for a data center (to be constructed in up to three phases), a NOC (operations center) and chiller buildings at a approximate total square footage of 51,543.

2. Approval is based on the submitted plans except as may be amended by the conditions that are placed by this action or under architectural and design review. Submitted plans and documents include the following: (A) Plans for the project dated 03/06/2007. (B) Information submitted with the application which includes: (a) Cover letter of 2/20/2007; (b) Environmental Sound Analysis dated 2/6/2007; (c) Memorandum from Hankard Environmental dated 2/20/2007. (d) 3/16/2007 letter from MGE and related attachments, (d) Cummins letter of 3/19/2007, and (e) Cowan memorandum of 3/19/2007.
3. Generators for the data center, to be located on lot 2 of the proposed CSM, if used at any time to feed into the electrical power grid, (that is not solely used for backup generation purposes), shall meet or exceed all air quality regulations that are in place by either the Wisconsin Department of Natural Resources (WIDNR), federal government or other government agency. Madison Gas and Electric (MGE) or their assign, shall use the model specified by WIDNR (currently AERMOD) in determining that National Ambient Air Quality Standards are met, and shall provide a letter or permit issued by the air quality section of the WIDNR that the generators, or combination of generators meets such National Ambient Air Quality Standards. The permit or letter shall be provided to the City Planning office prior to use of any generator(s) for non-building backup generation. The data center anticipates three (3) generators with phase 1, five (5) additional generators with phase 2, and an additional five (5) generators with phase 3 for a total of thirteen (13) generators. In no case shall the number of generators exceed 13 nor shall any one generator exceed a rating of 1500 Kw standby (with a rating of 1250 Kw prime) in size. A new letter or permit shall be required to show that the modeling and any and all applicable WIDNR and/or federal regulations will be met for each phase of the project, therefore separate modeling is required for each phase, and the modeling shall also use the current generator(s) or other air permit sources in place on site or in the general vicinity. General vicinity shall be determined by WIDNR in accord with standard rules of procedure for air quality analysis. If units are exchanged or replaced new modeling may be required. In no case shall any generator exhaust stack elevation be greater than the elevation at the top of the mechanical penthouse.
4. MGE shall prepare a plan of operation, for review and approval by the City Plan Commission. A revised plan shall be submitted prior to each phase of the data center. Such approval shall not be unreasonably withheld. For phase 1, the plan shall be approved prior to the generators being used for MGE grid operation, although the generators may be in place and used for building back up generation. For the two additional phases the revised plan shall be approved prior to any permit being issued to allow building construction for that phase. The plan of operation shall fully describe the expected timing, number, and operation of the generators, overall expected hours of operation in both normal years and catastrophic year (catastrophic is those infrequent years in which a natural event, such as an ice storm, or act of terrorism creates a catastrophic disruption to the power grid), emissions compliance, procedure for annual certification of compliance, five year WIDNR re-permitting process, and other factors related to generator operation. This is to assist MGE in meeting their statement that "MGE realizes the importance of addressing the concerns and needs of all parties and is committed to providing an acceptable and responsible option." (from undated information beginning with: "Subject: Response to question from Fitchburg Planning Staff on MGE operation of Back-Up Generator Service..."). Undated information (termed "Data Center Backup Generation and Use") supplied by Madison Gas and Electric indicates that the average annual hours of operation per generator is currently 17 hours annually. If Dane

County or any area containing the City of Fitchburg becomes an ozone regulation zone or any other special air quality designation, then MGE shall consider these generators in its compliance plan and make any necessary adjustments in the operating plan necessary to comply with changes in the air quality designation. In addition to the above, the plan of operation shall be reviewed and modified as necessary every five years, from the date of approval of the original operation plan. The City Plan Commission shall reserve the right to review and approve the plan, or ask for modifications to the plan of operation. However, nothing herein contained shall prevent the City in having a dialogue with MGE for MGE to resolve any complaints that may be received.

5. The overall General Implementation Plan requires that the full Fitchburg Technology Campus not exceed 697,347 sq ft of research use, and 324,586 of office uses. The data center's (to be located on proposed lot 2) 51,543 sq ft even though it is not a research use will, due to its low traffic generation expectations, be considered for overall square footage calculations a research use. The office building (to be considered on proposed lot 1) will tentatively have a allocation of 21,976 sq ft of office (proposed Berbee use) and 21,976 sq ft of potential future research in what is currently un-leased space. If research uses do not locate in the current un-leased space, then this space shall be calculated against the overall office calculation.
6. The air handlers and chillers shall be tested (and maintained) to assure that they meet the respective manufacturer specifications provided as a basis for the sound modeling in the Cowen memorandum of 3/19/2007. The applicant, or its assign, shall provide the testing by a recognized firm acceptable to the City Planning Staff. If the equipment does not meet manufacturer specifications, the applicant shall bring the equipment into compliance before being permitted to operate the equipment or facility. Applicant shall implement, and maintain, the measures for the air handlers and chillers in order to achieve sound attenuation as noted in the Cowan memorandum of 3/19/2007.
7. The proposed phase one generators (total of three) shall be tested (and maintained) to assure that they meet the MGE specified 60 dBA at 50 feet in any direction, under free field condition, from the source. The applicant, or its assign, shall provide the testing by a recognized firm acceptable to the City Planning Staff. If the equipment does not meet the MGE and manufacturer specifications (such as 60 dBA at 50' in any direction free field condition) the equipment shall be brought into compliance before being allowed to operate. The remaining ten generation units to be installed, beyond the first three for phase one, shall meet a 55dBA standard at 50' (free field condition) from the source.

(C) This approval shall not take effect until the certified survey map (CS-1651-07) is approved and recorded, and signatures provided on this document and the ordinance recorded, and published which ever occurs last. However, in accord with section 22.92 of the zoning code, the owner shall consent within 30 days of the date of adoption for the PDD-GIP and PDD-SIP zoning to take effect.

(D) Applicant shall pay cost of publication to avoid a two Council meeting approval process.

The above and foregoing ordinance was duly adopted by the Common Council of the City of Fitchburg, at a regular meeting held on the 27th day of March, 2007.

Tanya O'Malley
Tanya O'Malley, Acting City Clerk

Approved: 4-9-07

Thomas Clauder
Thomas Clauder, Mayor

STATE OF WISCONSIN)ss.
COUNTY OF DANE

Personally came before me this 9th day of April, 2007, the above named Tanya O'Malley, and Thomas Clauder to me known to be the Acting City Clerk and Mayor (respectively) of the City of Fitchburg, and the persons who executed the foregoing instrument and acknowledged the same.

Lisa M. Schulz
Notary Public, State of Wisconsin

Printed Name of Notary Public Lisa M Schulz
My Commission Expires: 4/26/2009

Consent of the Property Owner

Scott E. Kelly

Date: 4.19.07

Personally came before me this 19th day of April, 2007, the above named

Scott E. Kelly to me known to be President, of Fitchburg

Technology Campus, LLC and the person who executed the foregoing instrument and acknowledged the same.

Kaya Seidl
Notary Public, State of Wisconsin

Printed Name of Notary Public Kaya Seidl
My Commission Expires: 11.23.08

Consent of Mortgage Holder:

James H. Hegenbath
Mortgage Holder

Date: 4/20/07

Personally came before me this 20th day of April, 2007, the above named

James H. Hegenbath to me known to be the President

of Park Bank and the person who executed the foregoing instrument and acknowledged the same.

Lori B. Mahon
Notary Public, State of Wisconsin

Printed Name of Notary Public

Lori B. Mahon

My Commission Expires: 10-07-07

Capital Newspapers Proof of Publication Affidavit

Ad #: 742945

Price: \$347.35

Ad ID: GNRL IMP PLN

Retain this portion for your records.

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FITCHBURG, CITY OF
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TANYA O'MALLEY
MADISON, WI 53711

STATE OF WISCONSIN

Dane County

SS.

Daphne Haacker

being duly sworn, doth depose and say that
she (she) is an authorized representative of
Capital Newspapers, publishers of

The Capital Times,

at Madison, the seat of government of said State,
an advertisement of which the annexed is a true
copy taken from said paper, was published therein on

April 10th, 2007

Plan Commission
Initiated By

Thomas D. Hovel
Drafted By
3/13/2007
Date

ORDINANCE NO. 2007-O-08
ZONING ORDINANCE AMENDMENT
AMENDING GENERAL IMPLEMENTATION PLAN and ISSUING
SPECIFIC IMPLEMENTATION PLAN FOR ALL or PARTS OF LOTS 22, 23, & 24
FIRST ADDITION TO FITCHBURG TECHNOLOGY CAMPUS,

WHEREAS, pursuant to Fitchburg Ordinance No. 87-0-06, Section 3, Zoning District Maps were adopted within the corporate limits of the City of Fitchburg until expressly altered by the City Council, and WHEREAS, Fitchburg Technology Campus LLC has submitted an application (RZ-1650-07) to amend the Planned Development District General Implementation Plan (PDD-GIP) and to issue Planned Development District Specific Implementation Plan (PDD-SIP) for all or parts of lots 22, 23, and 24 First Addition to Fitchburg Technology Campus to allow an office building and a data center, and WHEREAS, this proposal (RZ-1650-07) requests an office building of approximately 43952 sq ft on one lot, and a data center on another lot to be constructed in up to three phases totaling approximately 51543 sq ft, and WHEREAS, the Plan Commission considered the request to grant PDD-GIP zoning and issue the SIP on 3/20/2007, has reviewed the application according to the standards outlined in the ordinance, and has determined that the request, in conjunction with the proposed conditions, meets said criteria, and the Plan Commission has recommended approval, with conditions, and NOW THEREFORE the Common Council of the City of Fitchburg, Dane County, Wisconsin does ordain that:

(A) PDD-GIP zoning, originally approved by Ordinance 2002-O-26 is hereby amended in accord with the submitted information dated 03/06/2007, letter of 3/12/2007 requesting amendments to the PDD-GIP, letter of 3/19/2007 and attachments for MGE, Cummins letter of 3/19/2007, and Cowan memorandum of 3/19/2007; (Note: Certified Survey Map request CS-1651-07, proposed CSM, is referred to in parts of this approval, but is subject to a separate approval.) subject to the following conditions:
1. Parking stalls for the data center parcel (lot 2 of the proposed CSM), as identified in the letter of 3/12/2007 is six total stalls. If there is a change in use of all or part of this site, then stalls shall be provided in accord with the 3.0 to 4.0 per 1,000 sq ft standard in place at the creation of the original General

Implementation Plan which was approved by Ordinance 2002-O-26. The six stall requirement is only for the data center, and its additional two phases as identified in the submitted plans.
2. Lot 2 is hereby approved to have a one story structure, and lots 1 and 2 are hereby approved to be treated together as to Impervious Surface Ratio and Floor Area Ratio.

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2	.293	.509
Combined	.322	.595

Applicant shall record restrictions on lots 1 and 2, and make clear to all potential lot purchasers and users that the impervious surface ratio is combined for both lots (proposed CSM lots 1 and 2) and no additional development is permissible in order to remain below the 60% maximum impervious surface level. A related open space ratio of .278 for lot 1 and .491 shall be established for proposed lots 1 and 2, respectively.

3. Applicant shall record, after this City approval, a restriction noting that the property lines associated with lots 1, 2 and 3 of the proposed CSM may have sound levels exceeding 65dB.

4. Applicants shall provide for the City approval, and then execute and record, a storm water maintenance agreement for the infiltration basins and private storm water facilities for lots 1 and 2 of the proposed CSM. Easements shall be put in place as necessary to accommodate the joint storm water system(s) proposed to serve proposed lots 1 and 2.

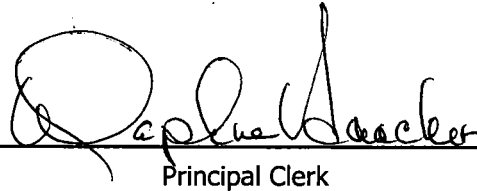
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2. Approval is based on the submitted plans except as may be amended by the conditions that are set forth in this action or under architectural and design review. Submitted plans and documents include the following: (A) Plans for the project dated 03/06/2007. (B) Information submitted with the application includes: (a) Cover letter of 2/20/2007; (b) Environmental Sound Analysis dated 2/6/2007; (c) Memorandum from Hankard Environmental dated 2/20/2007. (d) 3/16/2007 letter from MGE and related attachments.

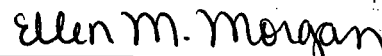
(d) Cummins letter of 3/19/2007, and (e) Cowan memorandum of 3/19/2007.

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Principal Clerk

Subscribed and sworn to before me on

4/10/07



Notary Public, Dane County, Wisconsin

My Commission expires May 24th, 2009

National Ambient Air Quality Standards are met, and shall provide a letter or permit issued by the air quality section of the WIDNR that the generators, or combination of generators meets such National Ambient Air Quality Standards. The permit or letter shall be provided to the City Planning office prior to use of any generator(s) for non-building backup generation. The data center anticipates three (3) generators with phase 1, five (5) additional generators with phase 2, and an additional five (5) generators with phase 3 for a total of thirteen (13) generators. In no case shall the number of generators exceed 13 nor shall any one generator exceed a rating of 1500 Kw standby (with a rating of 1250 Kw prime) in size. A new letter or permit shall be required to show that the modeling and any and all applicable WIDNR and/or federal regulations will be met for each phase of the project, therefore separate modeling is required for each phase, and the modeling shall also use the current generator(s) or other unit sources in place on site or in the general vicinity. General vicinity shall be determined by W. In accord with standard rules of procedure for air quality analysis. If units are exchanged or replaced new modeling may be required. In no case shall any generator exhaust stack elevation be greater than the elevation at the top of the mechanical penthouse.

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5. The overall General Implementation Plan requires that the full Fitchburg Technology Campus not exceed 697,347 sq ft of research use, and 324,586 of office uses. The data center's (to be located on proposed lot 2) 51,543 sq ft even though it is not a research use will, due to its low traffic generation expectations, be considered for overall square footage calculations a research use. The office building (to be considered on proposed lot 1) will tentatively have an allocation of 21,976 sq ft of office (proposed Berbee use) and 21,976 sq ft of potential future research in what is currently un-leased space. If research uses do not locate in the current un-leased space, then this space shall be calculated against the overall office calculation.

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7. The proposed phase one generators (total of three) shall be tested (and maintained) to assure that they meet the MGE specified 60 dBA at 50 feet in any direction, under free field condition, from the source. The applicant, or its assign, shall provide the testing by a recognized firm acceptable to the City Planning Staff. If the equipment does not meet the MGE and manufacturer specifications (such as 60 dBA at 50' in any direction free field condition) the equipment shall be brought into compliance before being allowed to operate. The remaining ten generation units to be installed, beyond the first three for phase one, shall meet a 55dBA standard at 50' (free field condition) from the source.

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(D) Applicant shall pay cost of publication to avoid a two Council meeting approval process.

The above and foregoing ordinance was duly adopted by the Common Council of the City of Fitchburg, regular meeting held on the 27th day of March, 2007.

/s/ Tanya O'Malley, Acting City Clerk
/s/ Thomas Clauder, Mayor

PUB. WSJ: April 10, 2007
(# 6742945)