

# APA - Wisconsin Newsletter



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## Madison Puts a Bow on Downtown Plan

By DAVID BOEHM  
ASSISTANT EDITOR  
UNIVERSITY OF WISCONSIN - MILWAUKEE

The City of Madison planning department has submitted the draft of a downtown plan to the common council. "Its been overdue, but we really needed to wrap-up some other projects before we tackled it," said Bill Fruhling, a design planner with the City of Madison. "As a planning staff, we considered using an outside consultant, but we really wanted to do it internally this time. Too often we act as project managers instead of getting into the fun stuff." Fruhling believes the importance of this plan required special care. "With it being such a critical area of the city and state, we really wanted to be involved in a hands on way."

City staff devoted extensive resources to creating their plan and getting various input.

Fruhling described, "At any public meeting, you're going to have certain citizens that are always active. Their opinions are very important and are considered, but we wanted as many new opinions as possible as well." The planning staff has conducted over 125 meetings concerning the downtown plan and has tried various alternative avenues to get input. "We had a website, literature, and even a downtown office. We had the office staffed so people in the area could pop in during their lunch break or while shopping to get information and give us input. We really wanted the public involved in the process."

Another helpful voice was a group of design professionals that created their own plan during the same time period. Madison planners, architects, and landscape designers volunteered their expertise toward helping build a plan for the downtown core. Susan Schmitz, President of

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The WAPA Newsletter is published electronically four times each year by the Wisconsin Chapter of the American Planning Association to facilitate discussion among its members of planning issues in Wisconsin. Correspondence should be sent to:

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Submission of Articles: WAPA News welcomes articles, letters to the editor, articles from the WAPA districts, calendar listings, etc. Please send anything that may be of interest to other professional planners in Wisconsin. Articles may be submitted by mail, fax, or email. Articles may be edited for readability and space limitations prior to publication. Content of articles does not necessarily represent the position of APA, the WAPA Executive Committee, or the editor.

Submit articles by email attachment. Graphics are encouraged

**Deadlines:**

Winter issue: submit by January 15.  
Spring issue: submit by March 15  
Summer issue: submit by June 15  
Fall issue: submit by September 15

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Downtown Madison Incorporated (DMI) worked extensively on the plan. Schmitz was very impressed with the expertise the group offered. “What was great about this group of professionals is their overall experience in Madison. Outside consultants are very helpful in many ways, but some of the architects working on this plan have been involved in Madison for decades.”

DMI commissioned the group as a subcommittee and worked extensively with other committees in DMI. “The whole process went very smoothly. There was very little disagreement, but rather a visionary overview of the direction of the downtown,” Schmitz said. “We have no official role in the planning process. But our hope is that we can have positive input to make the city plan as good as possible.”

After receiving feedback from various sources including DMI and the public, city planning staff finished the downtown plan and submitted it to the common council. “We tried to make a very comprehensive plan. Balancing historic landmarks, economic development, transportation, and public parks can be a real challenge,” Fruhling said. Asked about the best parts of the plan, Fruhling mentioned the establishment of a lake front trail. “A specific example, between James Madison Park and UW-Madison there is a 3 ½ mile trail that is a big asset. 75% of it is already in place; its a matter of connecting the last pieces.”

On a larger scale, Fruhling believes the identification of infill growth potential is critical. “We conservatively measured that on half acre parcels and bigger, there is space for more than 5,000 new housing units and 4 million square feet of commercial space. That is not a projection of new growth, but what is available.” To help

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achieve growth, the plan aims to streamline the administrative process to help eliminate uncertainty for everyone involved. “We want to be able to accommodate new growth and make the review of projects much smoother.”

When asked about the city plan, Schmitz saw an overall positive plan. “The plan does have many good components to it and does incorporate some of our ideas.” However, some are concerned about some of the differences in the plans. “The same overall vision was not offered in the city proposal. It reads more like a neighborhood plan than a downtown plan.”

Fruhling agrees that the city plan does differ in terms of vision. “The reasons our plans differ is because of public feedback. We had lots of it and wanted to make sure we incorporated their ideas.” The other issue was in terms of pragmatism. “Some of the ideas in DMI plan were fantastic, but we just didn’t think the resources available could realistically accomplish some of the proposals.”

Despite their differences, Fruhling remarked “the professional volunteers are a great asset. They spent many volunteer hours and we can’t thank them enough for their help. We were lucky

### APA-WI Endowment Gift Card

The APA-WI board established an endowment fund to support scholarships for students attending either of the accredited masters degree programs in planning in Wisconsin: UW - Madison and UW - Milwaukee.

APA-WI invites members to contribute to the endowment fund as a way to support the next generation of planners in Wisconsin. Just return this pledge form to APA-WI Treasurer Connie White with your contribution.

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to have such a concerned group of professionals willing to devote their time.”

Schmitz says DMI was glad to assist on such an important issue. “A decade ago, urban cores were abandoned all over the country. They were viewed as a scary place to be, perhaps rightly so. But today young people are moving back to our central cities. Downtown is no longer a liability but an asset.” When the plan is finalized by the city, the one true winner in this process will be downtown Madison.

For more information:

- City of Madison Downtown Plan - <http://www.cityofmadison.com/neighborhoods/downtownplan/>
- DMI Information about Downtown Plan - <http://downtownmadison.org/advocacy/downtownplan>



Trail proposal along Lake Monona s2012 APA National Conference

## Start Planning Now! 2012 APA National Conference

### Santa Catalina Island: A Microcosm of Small Town Planning Issues in the West Mobile Workshop (W045)

By DALE POWERS, AICP, IMMEDIATE PAST CHAIR

As many of you know, different parts of the country face unique planning challenges not experienced elsewhere. In the American West, there are several planning challenges:

- In resort communities with upscale housing, a struggle for affordable housing for residents who work at the resort exists.



- Transportation is a big issue for residents of island communities with limited opportunities to work and shop.
- Water is a BIG issue in the American West, with interstate compacts determining how much water each state can use, as well as controversy over agricultural vs. residential usage.
- Balancing good land stewardship with property rights and creating economic opportunities for residents.
- Accommodating growth in resort communities with geographic limitations for outward expansion.

Each one of those challenges would make a great topic for a mobile workshop – especially with the 2012 National Conference being held this coming April in Los Angeles. To have all of those topics covered in one mobile workshop is a good use of your agency’s training dollars.

“Santa Catalina Island: A Microcosm of Small Town Planning Issues in the West”, on Tuesday, April 17, does all of that and more! For much less than the cost of several mobile workshops, you will experience firsthand how Santa Catalina Island and the City of Avalon have addressed these issues. As well, your learning experience will be enhanced by the breathtaking beauty of Santa Catalina Island:

In addition to actually seeing how Santa Catalina Island addresses each of

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the five challenges listed above, you’ll also be intrigued by learning more about:

- Why there is freshwater and saltwater service to each structure serviced by City sewer and water.
- Why there is a 17-year wait to own a car on the island.
- Why the Casino is not a gambling casino and what it is used for.

This all-day mobile workshop is hosted by Siri Eggebraten, Associate Planner for the City of Big Bear Lake, California; Anne Krieg, STaR Vice Chair of Programs; and Dale Powers, STaR Immediate Past Chair.

Attendees will experience several learning modules during the workshop. En route to the island, Siri will give an overview of California planning law, including the California Environmental Quality Act (CEQA), and the role of the California Coastal Commission in land use decisions.

After landing at Avalon, attendees will be welcomed by Amanda Cook, Planning Director



Historic architecture of Catalina

for the City of Avalon. The group will be taking trolley cars up to Wrigley Memorial Gardens. During the trolley ride, Amanda will share with the group the historical context of Santa Catalina Island and how that has influenced land use planning. At the Memorial Gardens, Mel Dinkel of the Catalina Island Conservancy – which controls over 80% of the land area of the island – will present the Conservancy’s role as steward of the undeveloped land and the role of eco-tourism in business development.

Lunch will be at the beautiful Catalina Island Country Club. During lunch, a representative of Hamilton Pacific LLC will share with attendees the challenges of constructing affordable housing on the island, where the scarcity of available buildable land drives up housing costs; Audra McDonald of the City of Avalon will discuss transportation grants that help offset the high costs of travel to the mainland; Wayne Griffin of the Catalina Island Chamber of Commerce will talk about the impact of tourism on the local economy; and a representative of Southern California Edison will share with the group how saltwater is converted to freshwater, and a representative of Environ Strategy will present why saltwater is run into structures on the island.

Of course, it wouldn’t be a STaR mobile workshop without some interesting wrinkle. After the formal presentations, attendees will have 90 minutes to either partake in a special investigative exploration of Avalon (on foot or golf cart) based on what was presented at the workshop; visit the Casino with its unique architecture and history; visit the various tourist attractions of the area; or simply walk around and enjoy the beauty and unique archi-

tectural styles of the City of Avalon.

Finally, on the trip back to the Convention Center there will be a trivia contest based on a combination of learning experiences and just plain fun! Prizes will be awarded – and all attendees are guaranteed to win a memento of their experience on the island.

The all-day workshop begins at 7:00am from the Convention Center and arrives back at the Convention Center at 7:30pm. There is a fair amount of walking on this workshop, so bring good walking shoes!

While this mobile workshop is more expensive than others, the awarding of 8.0 AICP CM credits makes the experience well worth the expense. It’s like participating in 5 different workshops without paying for 5 different workshops.

If you have any questions about this mobile workshop, contact Dale Powers at 320-493-8930 or [dalepowers@ziaplanning.com](mailto:dalepowers@ziaplanning.com).

Thanks – and I look forward to seeing you in April!

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# Law Update

## Court Decisions

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LARA ROSEN, M.S. CANDIDATE IN URPL, CONTRIBUTED TO  
THIS SUMMARY.

### November Case Law Update November 30, 2011

No Wisconsin cases related to planning were published in November.

## News from other states

In the absence of any Wisconsin cases to report this month, here is an interesting case from California related to consistency and comprehensive plans for some enjoyable Holiday reading.

### Consistency in California

In a recent case decided by the Sixth Appellate District Court of Appeal of California entitled



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*Pfeiffer v. City of Sunnyvale City Council* (October 28, 2011), a group of property owners sued the city over a proposed expansion of a medical facility. The appellants, a group of property owners, argued that the city council abused its discretion in determining that the proposal to demolish three single-family residences and replace them with the medical facility is consistent with the City's general plan, since, in appellants' view, the general plan expressly provides that the property is to be used exclusively for single-family detached homes.

Under California law, every county and city is required to adopt "a comprehensive, long-

term general plan for the physical development of the county or city." A general plan provides a "charter for future development" and sets forth a city or county's fundamental policy decisions about such development. These policies "typically reflect a range of competing interests."

A city's land use decisions must be consistent with the policies expressed in the general plan. "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." The California courts do not require perfect conformity between a proposed project

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and the applicable general plan – “it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan. ... It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan.”

The California courts give “great deference” to the city’s determination. “This is because the body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity. Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes. A reviewing court’s role ‘is simply to decide whether the city officials considered the applicable policies and the extent to which the proposed project conforms with those policies.’”

According to the California courts, “[a] city’s findings that the project is consistent with its general plan can be reversed only if it is based on evidence from which no reasonable person could have reached the same conclusion.” As a result, “the party challenging a city’s determination of



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general plan consistency has the burden to show why, based on all of the evidence in the record, the determination was unreasonable.”

In the present case, the city council determined that the proposed project is consistent with the land use and transportation policies stated in the City’s general plan. Relevant to this appeal, the city council specifically determined that (1) the project is consistent with the community character goal C1 (“Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development”) because “the proposed redevelopment would be designed in accordance with the existing medical office buildings surrounding [the] site.” The city council also

determined that the project is consistent with neighborhood goal N1 (“preserve and enhance the quality character of Sunnyvale’s industrial, commercial and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of the neighborhood concept”) because “[t]he project proposes medical office uses on a site that is located near major roadways ... and served by regional transit.” Finally, the city council determined that the project was consistent with the land use goal 2.1C (“allow growth and change in the community which can be served within the capacities of existing and planned facilities”) because it “proposes to redevelop existing medical office uses.”

The Court determined that appellants did not meet their burden to show that the city council abused its discretion in finding that the project is consistent with the City’s general plan for three reasons. First, appellants’ inconsistency argument was based on an appendix to the general plan that stated, “The low density residential sub-category allows 0-7 dwelling units per acre. It is used exclusively for single family detached homes and is implemented by the R-0 and R-1 Zoning Districts.” While the general plan designated the property as “low density residential,” the property was zoned low-medium density residential with an office/planned development combining district, R-2/0/PD. Thus, the record did not reflect that the area has been used exclusively for single-family detached houses.

Second, appellants did not provided any authority for the proposition that a statement in an appendix to the general plan regarding the designation of low density residential constitutes a general plan mandate that property designated low density residential must be used exclusively for single-family detached houses. The Court stated that the low density residential designation in the general plan may be interpreted, at best, to limit land use exclusively to single-family detached houses only where the low density residential designation is, as stated in appendix A, “implemented by the R-0 and R-1 Zoning Districts.”

Finally, the Court found that appellants failed to show that the city council did not consider the applicable policies and the extent to which the proposed project conforms with those policies. The appellants made no showing that the city council’s determination of consistency with respect to these general plan goals was un-

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reasonable. Since appellants did not discuss all of the evidence in the record pertinent to the issue of general plan consistency, appellants failed to meet their burden to show that the determination of general plan consistency was unreason-

able. As a result, the court found no merit in the appellants' claim that the city council abused its discretion in finding that the project is consistent with the City's general plan.

## Legislative Update

By STEVE HINIKER, 1000 FRIENDS OF WISCONSIN APA - WI LEGISLATIVE ANALYST

See the APA - Wisconsin webpage for legislative updates. In the past month, Steve posted the following to the APA - Wisconsin member listserv.

- Assembly Substitute Amendment 1 to 2011 Assembly Bill 421, Relating to Permits for Activities Affecting Navigable Waters and Other Permits – which is the bill that replaces SS AB 24 abd SS SB 24.

See also this link to a Wisconsin Legislative Council report on the proposed changes to Chapter 30.

<http://www.thewheelerreport.com/releases/December11/1212/1212legcouncil.pdf>

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## II

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