

BUILDING SAFETY & ZONING DIVISION
PLAN COMMISSION STAFF REPORT

TO: Plan Commission
DATE: September 8th, 2025
SUBJECT: 1300 Western Ave – CUP and Site Plan Review

A request by Jim Waack, agent for Luther Preparatory School, for a Conditional Use Permit (CUP) for 'Indoor Institutional' and a Site Plan Review. Parcel PIN(s): 291-0815-0323-071

SITE DETAILS:

Acres: 26.38 acres
Current Zoning: Planned Office and Institutional (PO) Zoning
Existing Land Use: Private School
Future Land Use Designation: Institutional

BACKGROUND & APPLICATION DESCRIPTION:

The applicant is proposing to construct a 36,00 SF Performing Art Center on the Luther Prep Campus. The 519 seat facility will be used to host numerous school events year-round and includes numerous practice and storage rooms as well as an event space. A landscaping and lighting plan are also part of the proposal. The project will add 45 new parking stalls to the existing 130 stalls to improve the overall parking availability on campus.

STAFF EVALUATION:

Site Plan Review Committee:
See Minutes of Aug 25th, 2025.

Land Use and Zoning:

1. Within the Planned Office and Institutional (PO) Zoning District, 'Indoor Institutional' is a principal land use permitted as a conditional use [per § 550-30B(2)(d)]. 'Indoor Institutional' includes schools and colleges among the allowed uses [per § 550-51C].

Applicable regulations for 'Indoor Institutional' land uses include the following:

- Shall be located with primary vehicular access on a collector or arterial street. [per § 550-51C(1)(a)].
- Shall provide off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library or similar land use). [per § 550-51C(1)(b)]
- All structures shall be located a minimum of 50 feet from any residentially zoned property. [per § 550-51C(1)(c)]
- Parking requirements: one space per three expected patrons at maximum capacity. [per § 550-51C(2)]

A Site Plan Review Committee recommendation and Plan Commission approval of the site plan is required pursuant to Sections 550-144 & 550-145 of the zoning code.

Site Layout and Design:

Within the Planned Office and Institutional (PO) Zoning District the minimum paved surface setback is 10 feet [per § 550-30G(2)(e)]. The proposed parking lot expansion meets the pavement setbacks for the Planned Office and Institutional (PO) Zoning District.

Vehicle Access and Circulation

The proposed parking lot meets the aisle width and parking stall dimension requirements specified in the Off-Street Parking and Traffic Circulation Standards [per § 550-107F].

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Landscaping:

The applicant has provided a landscaping plan that meets the required landscaping point totals.

Lighting:

The applicant has provided a lighting and photometric plan that meets ordinance requirements is required.

WISCONSIN STATUTES:

All Conditional Use Permits are subject to the requirements of Wisconsin Act 67.

Under 2017 Wisconsin Act 67: Section 16. 62.23 (7) (de) Conditional Use Permits.

1. 62.23 (7) (de)(1) In this paragraph:

a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2. 62.23 (7) (de)(2)

a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. 62.23 (7) (de)(3)

Upon receipt of a conditional use permit application and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. 62.23 (7) (de)(4)

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. 62.23 (7) (de)(5)

If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.

PLAN COMMISSION DECISION:

Indoor Institutional Land Use Criteria	Applicant Provided Substantial Evidence		Opponent Provided Substantial Evidence		PC Finds Standards Met	
	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
Shall be located with primary vehicular access on a collector or arterial street.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
Shall provide off-street passenger loading area if the majority of the users will be children (as in the case of a school, church, library or similar land use).	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
All structures shall be located a minimum of 50 feet from any residentially zoned property.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No
Parking requirements: one space per three expected patrons at maximum capacity.	<u>Yes</u>	No	Yes	<u>No</u>	<u>Yes</u>	No

If Plan Commission answers "no" to any of the questions, above, the CUP must be denied. Otherwise, proceed to the conditions of approval.

PLAN COMMISSION OPTIONS:

The following are possible options for the Plan Commission:

1. Deny the Conditional Use Permit and Site Plan, based on failure to provide substantial evidence to meet one or more of the regulatory standards.
2. Approve the Conditional Use Permit and Site Plan without conditions, based on successfully providing substantial evidence of regulatory compliance.
3. Approve the Conditional Use Permit and Site Plan with conditions as identified by the Plan Commission:

STAFF RECOMENDATION:

- Staff recommends approval of this Conditional Use Permit.

ATTACHMENTS:

- Application materials