



## PLANNING AND DEVELOPMENT

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### Memorandum

To: Council Member Chris Kahlow  
From: Lewis Kuhlman, Environmental Planner  
CC: Mayor Kabat and Common Council Members  
Date: August 13, 2020  
Re: **Legislative File # 20-0916: Conditional Use Permit amendment at 226 and 232 Hood Street**

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This memo explains why an opinion on the best use of a site cannot be used to deny a conditional use permit (CUP). State statutes regulate how Cities can enforce land use and planning ordinances. Wis. Stat. [62.23\(7\)\(de\)](#) was created in 2017 by [Act 67](#) Section 16. Paragraph 2.b. requires that decisions to approve or deny a conditional use permit must be based on substantial evidence. Paragraph 1.b. defines substantial evidence as “facts and information, other than merely personal preference or speculation.” The best use of a site would be subjective and likely fall under personal preference. Therefore, a person’s preference for a site’s best use would not be substantial evidence and cannot be used in determining whether to approve or deny a CUP application.

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