



December 6, 2016

Ken Opin, Chair
City of Madison Plan Commission
126 South Hamilton St.
Madison, WI 53703

Re: 134 S Fair Oaks Ave.; Application for conditional use permit to allow 80 residential units on a property zoned for File No. 44993

Dear Mr. Opin and Members of the Plan Commission,

I am writing to on behalf of Madison-Kipp Corporation (MKC) to express our opposition to the proposal by Stone House Development, Inc. to build 80 apartment homes right next to the 80,000 square foot manufacturing facility MKC has operated at this location for 30 years. MKC's facility operates 24 hours per day, five to six days per week, 52 weeks per year. From a land use perspective, it would be unwise to locate new homes just steps away from an existing industrial use. We would hope this is an obvious conclusion. It is precisely this type of land use conflict that led to the creation of zoning regulations in this country nearly a century ago.

Wrong location for housing; Right location for jobs

The subject property is zoned "Traditional Employment" (TE District), one of the city's three employment-based zoning districts. The City's zoning ordinance tells us that "Employment" zoning districts are primarily intended for economic development and job creation purposes:

Statement of Purpose. Employment districts are established to strengthen and diversify the local economy, expand the local tax base, cultivate an entrepreneurial culture and stimulate job creation.

The City's Comprehensive Plan, the primary document guiding decisions about the future growth and development of the City, lists the desired future land use of the subject property as "Employment." MKC's site is slated for continued "Industrial" use. The Comprehensive Plan says this about Industrial districts:

Industrial districts accommodate typical industrial and manufacturing uses, including some nuisance uses not appropriately located in proximity to residential or many types of nonresidential activities due to noise, odor, appearance or traffic impacts, for example... Industrial districts generally should be located away from, or adequately buffered from residential neighborhoods and mixed-use districts.

Although both the zoning code and the comprehensive plan acknowledge that residential uses should be located in proximity to employment opportunities, where appropriate, not every site—especially those adjacent to more intense manufacturing operations—will be a good candidate for housing. This is reflected in the zoning code, which lists *multifamily residential uses* as a conditional use in the TE District. The code defines a conditional use as "a use, which, because

of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district.” The plan commission engages in a case-by-case review to determine whether the proposed use is appropriate at a given location. In this particulate case, MKC believes that it would be wrong to build new homes right next to an industrial use that operates 24 hours per day, with noise, truck traffic and other impacts that are not compatible with residential living.

Finally, the Comprehensive Plan recommends that all significant changes in land use from existing conditions be consistent with the recommendations of an adopted neighborhood, neighborhood development, or special area plans. The City adopted the *Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan* in March 2000, which identifies the subject property as appropriate for “Limited Manufacturing,” not residential.

The proposal does not satisfy all conditional use standards

The zoning code directs that the Plan Commission shall not approve a conditional use “without due consideration of the recommendations in the City of Madison Comprehensive Plan and any applicable, neighborhood, neighborhood development, or special area plan...” As noted above, the applicable planning documents emphasize employment and manufacturing uses at this location, not residential. In addition to these general considerations, the zoning code also requires you to consider specific criteria. If you are unable to conclude that the proposed use satisfies all of the criteria, the code prohibits you from granting a conditional use permit. Several of the criteria, in particular, are problematic for the Stone House proposal:

“The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner”; and

“The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.”

“The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare”;

First and foremost, the proposed homes, if built, will undoubtedly impair MKC’s ability to continue operating its facility as it has for the past 30 years. New residents, bothered by truck traffic, noise or light from the neighboring factory, will ask MKC to scale back its operations. If the residents are not satisfied with MKC’s response, they will ask their alder or city staff to intervene. The outcome is predictable: the use that MKC is permitted to make of its property will diminish in order to accommodate the neighbors’ concerns.

For the same reasons, the proposed homes, if built, will impede the normal and orderly development and improvement of MKC’s property (and other property in the TE District) for permitted employment and manufacturing uses. To illustrate the point, let me pose a hypothetical. Imagine Stone House had built its development 30 years ago and it was MKC who came to the City today to propose an 80,000-square foot manufacturing facility right next door, operating 24 hours per day, with loading docks and all the attendant noise and traffic. Even though a manufacturing facility is a permitted use, MKC’s ability to develop such a facility would certainly be impeded by the existence of residential units so close by.

Finally, placing 80 new homes right next to a manufacturing facility, with 24-hour per day truck traffic, presents a safety concern. This is not to say that MKC's operation is inherently unsafe. Rather, land use planners have long recognized the need to provide some measure of separation between industrial and residential uses, precisely because risks increase when incompatible uses are located on top of each other.

Stone House is aware of these concerns

I expressed these concerns in direct conversation with Stone House's principals before this application was filed. Stone House chose to proceed with the application in spite of MKC's objections, which is their right. And now that they have applied for a permit, it is up to you to decide whether the project should move forward.

Please don't misunderstand my concerns. I support the expansion of affordable housing opportunities in the City. I also support living-wage jobs. You have an important and difficult job to do; you must balance these priorities. If you review the long-established land use pattern in the area, if you give weight to the concerns articulated above, if you look to the city's planning documents for guidance, and if you make your decision according to the standards it is my hope you come to the same conclusion I did: it's not a good idea to build 80 new homes at this location.

Conclusion

For all of these reasons, I ask that you make a finding that the proposal does not satisfy the criteria that must be met in order for a conditional use permit to be granted.

If this project receives city approval and moves forward despite MKC's objections, I would respectfully ask for documentation, as a condition of approval, that: (i) recites MKC's long history as a permitted use at this location; (ii) recites the concerns MKC raised in response to the application (iii) affirms that this project was well-considered by city decision-makers and was allowed to proceed in spite of MKC's concerns; and (iv) provides that MKC will not be required to modify its lawfully permitted use in response to the very predictable complaints that will be voiced by new residential neighbors.

Additionally, I would like some assurance that either the City or the residential developer/property manager will bear the cost of any expenditure necessary to resolve the situation when the inevitable conflicts do arise. MKC has no plans to move our operations from this site and we would expect that we will be allowed to continue operating our facility as we see fit, in compliance with all applicable laws, as we have for the past 30 years.

Respectfully submitted,



Tony Koblinski
President/CEO
Madison-Kipp Corporation