

City of Madison, Wisconsin

REPORT OF: URBAN DESIGN COMMISSION

PRESENTED: January 11, 2017

TITLE: 801, 815 East Washington Avenue/802,  
806, 814 East Main Street – New  
Development of Retail and Office Space,  
and an Entertainment Venue Known as  
“The Cosmos” in UDD No. 8. 6<sup>th</sup> Ald.  
Dist. (44223)

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Alan J. Martin, Secretary

ADOPTED:

POF:

DATED: January 11, 2017

ID NUMBER:

Members present were: Richard Wagner, Chair; Dawn O’Kroley, John Harrington, Lois Braun-Oddo, Richard Slayton, Cliff Goodhart and Michael Rosenblum.

**SUMMARY:**

At its meeting of January 11, 2017, the Urban Design Commission **GRANTED INITIAL APPROVAL** of new development of retail and office space, and an entertainment venue known as “The Cosmos” in UDD No. 8. Appearing on behalf of the project were Jeff Vercauteren, Lee Christensen, Otto Gebhardt and Suzanne Vincent, all representing Gebhardt Development; Rick Gilbertsen and Jacob Ziomek, both representing Strang. Vercauteren and Gilbertsen reviewed changes and updates to the project, including the following:

- The Cosmos portion of the shared plaza includes 7,185 square feet of on-site plaza space providing seating and landscaping, allowing for up to 32,925 square feet of additional floor area. The revised plans include 20,100 square feet of bonus story floor area.
- Revised plans show the compliance with the maximum 85% lot coverage requirement through the utilization of additional green roof features including an expanded landscaped area on the fourth floor terrace and additional landscaping on the corner of East Main Street.
- A total of 226 bicycle stalls or spaces, exceeding the 181 required stalls, including 58 stalls on-site in traditional racks, 50 vertical stalls along a screening wall adjacent to the shared plaza area, 60 interior spaces on the fourth floor available to all tenants, 50 shared stalls in the plaza area, and 8 dispersed stalls in the City right-of-way.
- There are three loading berths, including two loading docks facing East Main Street with capacity to park two semi-trucks for concert venue events (and available for use by all tenants) and one dock facing East Livingston Street for use by retail and office tenants.
- The loading areas include improved screening and vegetative cover to be compatible with the adjacent plaza area and to integrate an efficient vertical bike parking area.
- The revised plans include screening below the fourth floor cantilever area provided by a metal grill and landscape features.
- The building includes a large green roof area on the fourth floor. The roof will be constructed with wiring pathways to potentially accommodate solar PV panels in the future. The project is seeking LEED

certification and is working to maximize the number of LEED equivalent features. The plans include window shading on south facing façades to assist with temperature control and reduce energy use.

Comments and questions from the Commission were as follows:

- Wagner noted issues with consideration of the bonus stories for the project, as noted in a correspondence to the Urban Design Commission from Linda Lehnertz, citing issues with it being “on-site” and “public.”
- Simplify the design by removing the terra cotta detail at the tower on the corner (East Washington Avenue and Livingston Street) element and also remove the additional dark details on the Livingston side to the upper left of the mechanical overhang.
- There are some elegant rhythms and geometries here and the additional elements are not needed.
- The terra cotta form at the second floor at the corner of Main and Livingston Streets could end where the windows stop extending to the floor.
- The façade feels applied rather than several masses.
- Review the applied vertical bands.
- Return the solid brick mass to support the cantilever tower, especially with reducing screening.
- Review the heavy cornice treatment to be lighter than the elevator override.
- I don’t know what that green roof is representing. Are you calculating your square footage with that green roof is exposed to the sky?
  - It will meet those requirements.
- Part of the green roof purpose is for stormwater capture underneath, so that should not count towards the bonus.
  - We’re including the green roof to satisfy the lot coverage requirement, and relying on the plaza for the bonus story requirement.
- On your street plantings on the Main Street side, I would ask that you find something besides your pyramidal trees and get shade trees in there. Specifically the Ginkgos on Main Street by the bike parking.
  - That is ultimately up to City Forestry.
- Investigate using ground cover on Livingston within the terrace; consult with City Engineering on plantings.
- I’m concerned that the plaza (at Livingston and Main Streets) is going to be very hot in the summertime without any trees. You’ve got a lot of grasses that are nice but I think the plaza could be much more.
  - This corner is going to be primarily for access to the venue and the office space in that corner. There probably won’t be any dining or outdoor seating. It’s also an easement area so there are a lot of restrictions to what we can do there. We’re limited to what we can do.
  - Essentially anything that would have a foundation or root mass of any size is basically prohibited.
- Maybe islands of plantings would work better than strip plantings; those will get trampled; look at opening up the placement of plantings.

The Chair noted that the Commission previously granted initial approval of the four-story version of the project. The Plan Commission has given approval for four stories as well. He recommended that any motion for approval of the project request that the City Attorney review and provide an opinion to the Plan Commission about the legalities of the bonus stories (Sec. 33.24(15)(e)12.a.i.c.) , and then return to the Urban Design Commission.

**ACTION:**

On a motion by Harrington, seconded by Slayton, the Urban Design Commission **GRANTED INITIAL APPROVAL**. The motion was passed on a vote of (6-0). The motion requested that the City Attorney review and advise the Plan Commission on the bonus stories request. The motion further provided for address of the treatment on Main Street, the screening and façade element, simplification on the banding on the building, and details of the plantings on the green roof, along with address of landscape comments.

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The applicant is seeking bonus stories based on a public plaza. The property does not qualify for bonus stories since the plaza is not an on-site plaza. Further, the plaza has not been shown to be a public plaza.

As reflected in applicant's materials, the maximum height in block 12.b. is 99 feet. At 116 feet in height, the building is 17 feet too high. Thus, applicant is seeking bonus square footage based on the plaza (7,185 sq. ft.) of up to 35,325 sq. ft. With square footage of each story at 16,084 sq. ft., and 2 stories, the proposed bonus area is approximately 32,168 sq. ft.

The applicant claims that providing the plaza satisfies (1) element from i. in Sec. 33.24(15)(e)12.a.i.c. "On-site, publicly accessible plazas and/or pocket parks that are visible from the street and provide seating, landscaping, public art and/or other public amenities. For each one (1) square foot of plaza or park that is provided, five (5) square feet of bonus area is available."

This all seems to make sense until one asks the questions of (1) whether this plaza is publically accessible and, if so, (2) how the applicant can claim half of the plaza.

#### Publicly accessible plaza?

Under the "Landscaping" section of the Letter of Intent dated 12/31/2016, applicant claims that the "shared plaza ... will be extensively landscaped to provide a unique experience for occupants and visitors of the two projects." (The Spark's 10/12/2016 Letter of Intent also used this language.)

The above is worth a careful read. The Spark representatives never provided a definite answer at neighborhood meetings when asked whether the plaza would be open to the public. Nor does the above language clearly state the plaza is publically accessible. In fact, it suggests otherwise by saying that plaza is for occupants and for visitors to the Spark and/or the Cosmos. This could easily be read to say that if you are a visitor to the building, you can access the plaza. A plaza for occupants and visitors is not public access.

If the Commission is told that the applicant, and/or American Family, will have the plaza open to the public, I urge the Commission to make that a clear condition of approval (should the Commission approved the bonus height) and require that such agreement be recorded.

#### Applicant's claim to half of the plaza.

Under the "Project Summary" section of the Letter of Intent, applicant states that the Cosmos and the Spark "will share a landscaped mid-block plaza." Pages C200, C300, C400 of 801EWashPlans011117.pdf, as identified in Legistar, reflects the property line between the Spark and the Cosmos. The property line essentially follows the contour of the Cosmos building shape. The Cosmos does not own any of the plaza. As such, the plaza is not an "on-site" plaza, as required by the ordinance.

The fact that the Cosmos and the Spark are two separate sites is reinforced in City staff materials.

The applicant shall provide for review a reciprocal easements/agreement between *this site* and the *proposed Cosmos site* to the west including, but not limited to, access, pedestrian access, fire lane, utilities, common areas, storm water drainage and management that are necessary to accomplish the development as proposed. The document(s) shall then be executed and recorded and copies provided prior to building permit issuance. (Italics added, condition #29 by the City Engineering Division-Mapping Section, for the approval of the Spark project)

<https://madison.legistar.com/View.ashx?M=F&ID=4878471&GUID=7A0056F0-5AE5-40B4-BA33-D7BE601BE4CC>

This project is a companion project for a nine-story, 158,000 square-foot office building proposed on the adjacent parcel, 819 E. Washington Avenue (ID 44826). ... However, the projects and required approvals are distinct and will be reviewed separately. (Document labeled 801 E Washington Avenue\_STAFFRPT\_12-12-16.pdf under Legistar 44223)

<https://madison.legistar.com/View.ashx?M=F&ID=4810796&GUID=0F9A81B1-A633-4569-865B-7C5BCD8769E1>

The fact that these are separate projects is also reflected in the Development Agreement by and among The City of Madison, Wisconsin, Gebhardt Development, LLC and American Family Mutual Insurance Company, when in Section 1.2, the two projects are described as "two Project Elements."

<https://madison.legistar.com/View.ashx?M=F&ID=4743995&GUID=B70AD9C8-6750-4329-9C88-993119586773>

Could this be viewed as a zoning lot? The ordinances define a zoning lot as:

A planned multi-use site or a lot or lots that comprise a single tract of land located within a single block which, at the time of filing for a building permit, is to be used, developed or built upon as a unit. Therefore, a zoning lot or lots may or may not coincide with a lot of record.

A Planned Multi-Use Site is a specified area of land comprised of one or more contiguous ownership parcels or building sites that share access and circulation or off-street parking. MGO 28.211. Although the Cosmos could potentially come within this definition, there has not been any compliance with planned multi-use site requirements. For example:

- A planned multi-use site is required to have a plan and reciprocal land use agreement approved by the Traffic Engineer, City Engineer and Director of Planning and Community and Economic Development recorded in the office of the Dane County Register of Deeds. . MGO 28.137(2)(a). The Spark approval letter only requires the stormwater agreement (condition #21) and the CSM (condition #30) to be recorded at the Dane County Register of Deeds.  
<https://madison.legistar.com/View.ashx?M=F&ID=4878471&GUID=7A0056F0-5AE5-40B4-BA33-D7BE601BE4CC>
- Any easement documents necessary to facilitate shared access must be submitted. MGO 28.137(2)(g). Legistar does not reflect any easements.

Nor are the two sites being built upon as a unit. Each owner has its own team of professionals and is separately seeking various City approvals.

Plus, if this were a single zoning lot, various requirements, such as lot coverage and usable open space, would be calculated based upon the entire property of 2.01 acres, or 51,123 sq. ft. The Letter of Intent states the property is approximately 1.17 acres, and the usable open space and lot coverage percentages are calculated based on 51,123 sq. ft.

I urge the Commission to deny the bonus stories. The applicant has not provided a valid reason to support the bonus footage pursuant to MGO 33.24(15)(e)12. There is not an on-site plaza, and these properties are two separate properties rather than a single zoning lot. An easement for Cosmos to access the Spark plaza has not been filed (and, even if one had been filed, an easement to access Spark's plaza does not make Cosmos a half-owner). Further, at best, it is questionable whether the plaza is publically accessible.

Respectfully Submitted,  
Linda Lehnertz

City of Madison, Wisconsin

REPORT OF: URBAN DESIGN COMMISSION

PRESENTED: November 30, 2016

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814 East Main Street – New Development  
of Retail and Office Space, and an  
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Members present were: Richard Wagner, Chair; Cliff Goodhart\*, Tom DeChant, Lois Braun-Oddo, John Harrington, Michael Rosenblum, Dawn O’Kroley, Rafeeq Asad, Richard Slayton and Sheri Carter.

\*Goodhart recused himself on this item.

**SUMMARY:**

At its meeting of November 30, 2016, the Urban Design Commission **GRANTED INITIAL APPROVAL** of new development located at 801, 815 East Washington Avenue/802, 814 East Main Street for “The Cosmos” located in UDD No. 8. Appearing on behalf of the project were Lee Christensen, representing Gebhardt Development; and Jacob Ziomek.

The overall site development hasn’t changed much. The plans provide for a four-story structure along with an option to add four additional stories for 8-stories in total. Additional office space at the fourth floor has been added to increase the massing of the building. The tower element fits within a smaller footprint and also meets the stepback requirements of UDD No. 8. They will be asking for bonus stories to meet the height requirements. Building materials include red brick to match brick in the neighborhood, rust color orange steel for the Frank Productions entertainment venue, darker metal composite material and fiber cement. Bicycle parking is provided near the park (on site), but the entertainment venue applicant cannot accommodate the necessary 125 stalls and is open to the possibility of some of the bike parking being placed in the parking ramp, or renting spots for those shows where larger crowds are anticipated.

Tim Parks of the Planning Division spoke to the staff report for the project. The building has a 45-degree stepback and is acceptable, but there needs to be clarification on the bonus stories for both projects. Regarding the bike parking, the Parking Utility is anticipating no more than 20 bike stalls in the parking structure; whether or not they would be amenable to allowing some of the public parking in the streets near the sites to be bagged may be a way to proceed. Planning and Zoning staff do not see 125 bike parking stalls as exorbitant. The Secretary noted that signage is being shown for illustrative purposes only and will have to return to the Commission for approval.

Comments and questions from the Commission were as follows:

- I don't think bike parking belongs in the terrace. The bike parking issue has to be resolved as it affects the project.
- We need a condition that the issue about canopy trees in the public right-of-way, as well as in the private property to be resolved with staff.
- Your public park space (corner of Livingston and Main Streets), considering the context of that corner, that's a really paved area you're calling a park; you would need substantially more features to consider that a park.
- Your loading zone will have to be reviewed to see that you're not essentially making 1/3 of that public internal street make it feel like you're in a parking loading zone-alley.
- I think we cause more problems when we approve something piece-by-piece (four-story vs. eight-story).

The Commission was uncomfortable with support for finding that the bonus stories for the eight-story version could be provided based on its design. In addition, concerns with the four-story option's façade in regard to its features as detailed by Parks with his staff report were as follows:

The four-story version of the project is seeking relief from the minimum façade height of three stories adjacent to East Main Street. The applicant suggests that the proposed 32-foot tall two-story portion of the building complies with the height in feet of that portion of the building if not the prescribed number of stories. Staff believes that the mass of that portion of the base is acceptable despite being technically deficient a story due to the height in feet and articulation of that portion of the building. However, for the four-story addition/ second phase of the building, which the applicant proposes to cantilever over the lower portion of the building, staff feels that the design appears incomplete and recommends that the area between the roof of the second floor and the base of the fifth floor be fully enclosed within the building mass with an exterior treatment consistent with the rest of the building (materials, openings, articulation, etc.).

In addition, the Commission noted concern for full address of the following, relative to the eight-story option, as noted by Parks in his report as follows:

The eight-story version of the building also does not appear to meet the 45-degree stepback requirement above five stories in Block 12b adjacent to E. Main Street. For new buildings on Blocks 2b, 2c, 3b, 4b, 10-16, and 17c, Section 33.24(15)(e)12a requires that any mass above five stories that exceeds a footprint of 130 feet on any side parallel to E. Washington Avenue and 200 feet on any side perpendicular to E. Washington Avenue shall have a stepback of 45 degrees, unless the Urban Design Commission approves a maximum of ten percent increase in the footprint due to structural or other constraints. The applicant should establish how the stepback affects the floor area of the portions of the building above the fifth floor adjacent to E. Main Street, and how the ten percent increase in footprint applies for the purposes of the Urban Design Commission making a finding on this provision.

Finally, the portion of the proposed eight-story building adjacent to E. Main Street will application of the bonus stories criteria for the additional feet above grade proposed. While an eight-story building is allowed in Block 12b per UDD 8, the ordinance limits the number of feet per story to an average of 9-12 per floor above the first, where an 11-15 foot story height is allowed. The proposed eight-story building will stand 116 feet tall, which will exceed the 99 feet allowed based on 12 feet per floor on floors 2-8, and 15 feet for the first floor. The project is eligible for up to two bonus stories and 123 feet of total height pursuant to the criteria in Section 33.24(15)(e)12c.i or c.ii. Of those, the project may be eligible for bonus stories under the LEED Gold certification or equivalent or on-site publicly accessible plaza/ pocket park (1 to 5 ratio) in subsection i., or some combination in subsection ii. sufficient to warrant additional height of: LEED Silver certification or equivalent; on-site publicly accessible plaza/ pocket park (1 to 10 ratio); a minimum of 50 percent vegetative

roof cover; through-block multi-modal connection; and adequately sized, publicly available community meeting room.

**ACTION:**

A motion was made by DeChant, seconded by Slayton, to grant initial approval with contingencies. Tim Parks noted that initial approval would apply to a four-story building effectively referring consideration of an 8-story building. It should be communicated clearly to the Plan Commission what will be before them on December 12, because there are many aspects of the approval the Plan Commission could consider (height and setback), certain aspects of that are set aside until there is resolution on the 8-story mass. It would be almost helpful that initial approval of the four-story and referral of the 8-story. Ald. Carter, as a member of the Plan Commission, noted that it is easier for the Plan Commission to decide on a whole, rather than piece-by-piece. The assembly hall/concert hall theater, the absolute parking waiver or reduction, and some specific uses being asked for such as general retail, restaurants, taverns are all conditional uses as well. There are elements of a four-story building that the Plan Commission could certainly deal with on December 12<sup>th</sup>, but the height would require another conditional use by the Plan Commission, but they wouldn't be able to grant that yet because it isn't resolved.

The Chair remarked that there are a lot of issues for the Plan Commission and the public to weigh in on. The sooner they can weigh in on this the better; this is an important and significant enough project that if we can help it move forward we ought to do that. Ald. Carter suggested that if Tim Parks were able to advise and guide the Plan Commission that they could consider the project. The Chair inquired about granting approval of 4-stories when an applicant may request 8-stories. Parks replied that the applicant is going with either four or eight; if there are concerns with the four-story building, recognizing that it is one project in two versions and they are going to build one or the other, if there's a concern with a four-story version, the Urban Design Commission needs to clarify that it is comfortable with it. The Plan Commission would need relative comfort and certainty on what they are looking at.

The Secretary noted that signage is being shown for illustrative purposes only and will have to return to the Commission for approval.

On a motion by DeChant, seconded by Slayton, the Urban Design Commission **GRANTED INITIAL APPROVAL** of the four-story version, noting three serious issues that need resolution. The motion was passed on a vote of (7-1) with Carter voting no.

The motion provided for the following:

- To move this forward doesn't to have the discussion about use doesn't necessarily approve the massing of the four-story piece. If there is a tower, that massing may be revised. The massing should return to this body.
- The corner of Livingston and Main Streets has to be more park-like.
- The bike parking has to be resolved.
- The appearance of the alley/loading dock needs revision.
- Resolution of the street tree issue.
- The standards for UDD No. 8 are being met.