

City of Madison, Wisconsin

REPORT OF: URBAN DESIGN COMMISSION **PRESENTED:** April 23, 2014

TITLE: 2046/2050 East Johnson Street – Rezoning from NMX to PD(GDP-SIP) for Occupy Madison, Inc.’s “Tiny Houses.” 12th Ald. Dist. (32965)

REFERRED:

REREFERRED:

REPORTED BACK:

AUTHOR: Jay Wendt, Acting Secretary

ADOPTED:

POF:

DATED: April 23, 2014

ID NUMBER:

Members present were: Richard Wagner, Chair; Dawn O’Kroley, Richard Slayton, John Harrington, Tom DeChant, Lauren Cnare and Cliff Goodhart.

SUMMARY:

At its meeting of April 23, 2014, the Urban Design Commission **GRANTED INITIAL APPROVAL** of a rezoning from NMX to PD(GDP-SIP) for Occupy Madison, Inc.’s “Tiny Houses” located at 2046/2050 East Johnson Street. Appearing on behalf of the project were Edward Kuharski, Brenda Konkol, Carol Weidel and Bruce Wallbaum, all representing Occupy Madison. Registered and speaking in opposition were Evan Weir, Morgan Aten, Don Irwin and Erin Sommerfeld.

Kuharski noted changes to the previous plans, including the removal of the sitting circle at the corner, relocation of the dumpster screening area and relocation of the greenhouse. The rest of the initial phase consists mostly of repairs/renovations to the building. The fence will be limited at 6-feet in height. A complete landscape plan was not provided at this time. Konkol noted there have been seven neighborhood meetings; the neighborhood association has submitted comments that they are basically in agreement with. There will be continuing jurisdiction on some of the uses on the property so if there are any issues, since this is a unique and unusual project, they will be able to address those. There will be contact information posted on the site. There will not be any composting toilets. Workshop hours would be 8:00 a.m. to 8:00 p.m. during weekdays with a 10:00 a.m. starting time on the weekends. Board meetings may be held after 8:00 p.m. inside the building. They have agreed not to park any of the tiny houses on the streets in the neighborhood and will work with the neighborhood on any noise issues. Design materials were shown and explained as mostly recycled materials; first is donated or reclaimed product, second is restored, third is purchased. Sherwin Williams has donated much of the paint for the houses.

Evan Weir spoke in opposition. His concerns include seven days a week of manufacturing on this site, the noise, the increased traffic, the lack of on-site parking, and only one point of access causing traffic being blocked on Third Street. These are non-code compliant dwellings without foundations or plumbing. They don’t conform with even minimum code requirements and are not appropriate for anyone to live in. This sets a double standard essentially, where the buildings are grossly non-complaint for habitation and does not set a good precedent in the city.

Morgan Aten spoke in opposition. This doesn't meet minimum building code standards, therefore this would be a denial of basic municipal service to not be held to the same standards as their homes; a denial of the ordinances that protect their investments in their homes as well as the safety and good housing standards for the whole city. She requested that the Commission consider the following:

- Any signage on the property should refer to OM Build, not Occupy Madison. The reason for that is because Occupy Madison has a well established reputation in the local press for disrupting neighborhoods, flouting the law and having encampments on East Washington Avenue/Portage Road that caused problems for the neighbors. Most Madisonians who have read a paper in the last several years probably wouldn't want Occupy Madison for a neighbor.
- She would like to see landscaping, accessory buildings, or maybe fencing to create more of a break in the site lines and something to maybe create more of a sound barrier on the East Johnson Street side of the property. They'd like to see more to create privacy for the existing homes as well as the new people moving to this lot.
- They appreciate the removal of the sitting circle.
- They would like to see trees planted along East Johnson Street.
- They would like to see normal fencing that is akin to fencing in the neighborhood. They do not want to see murals.
- They would like to see the same rigorous standards that they have seen from other projects before this board to be applied to this project because it's going to be very strongly associated with the Emerson East Neighborhood and is a very visible part of their neighborhood. They would like to see concrete plans for all aspects of the design including fencing and landscaping. While this is a relatively small project in size it will have a long-lasting effect on this neighborhood.
- Please withhold any decisions until concrete plans have been presented.

Don Irwin spoke in opposition. He echoed the sentiments of opposition. One thing that is missing on the diagram is at least 18 residents living on 1/3 of an acre, including volunteers that could be up to 20-25 people. Where are they all going to go?

Erin Sommerfeld spoke in opposition. Her concerns are zoning, the neighborhood plan and the Comprehensive Plan. This project is a departure from the direction their neighborhood had been looking at taking with an emphasis on lower density dwellings for single families or two-families. Up to 18 residents on this lot is clearly a departure from that. She appreciates the removal of the compost toilets. The concessions that have been made are better but there are still issues with compatibility with the neighborhood.

Comments and questions from the Commission were as follows:

- The staff report cites an issue with the entry, that it shall not be oriented toward the hitch side of the trailer, yet they're shown that way. Is that an issue that's been resolved?
 - The doors to the houses are on the same end of the hitches. Particularly Katherine Cornwell had wanted us to put the hitches toward the back. We've already built three houses so we can't change those. What we're working on is a design to make this into more like a porch that you pull your trailer hitch into so it'll be more like a front porch. The hitches on those first ones are kind of hard to change. We're going to work with staff on that.
- Had you looked at the alternatives to breaking up the Johnson Street frontage?
 - Originally we had a fence there and people didn't like it. They wanted it to be more open and inviting, so the fence went away. But you'll see the planters are quite tall.

(Chair) None of those design details are in the plans. Your comment that you only got these staff comments Thursday and you're reviewing them in your committee, doesn't seem to fit with this process where you're asking us to approve things you're still reviewing. As part of initial approval even a site plan is one of the things that's included in initial, and you don't have a site plan here with us, for this project as you're now describing it.

We worked with staff and they said that could be worked out later.

(Chair) What Al mentioned at the beginning of the meeting was that it could be subject to a plan approved later by staff, but that is an issue for us to decide.

- (Parks) You have a site plan but you don't have a great deal more than that.
 - (Chair) I don't think we have a site plan for what they're now talking for, if they're moving the greenhouse and they're moving the trash enclosure.
 - (Konkel) These changes are not reflected in the site plan.

(Parks) We had this discussion while the project was in review, versus having a plan that's a moving target. We felt it would be more appropriate that if it was the desire after hearing from the Urban Design Commission, Plan Commission, Common Council, neighborhood input, etc. that things were going to move around, that conditions of approval be recommended that they would essentially, prior to permit issuance, revise the plans to move the pieces as directed through the approval process. So a conscious decision was made not to revise the plans after the submittal in February so that we didn't have a lot of fluctuation going on during the process. Go with the plan that was submitted, make recommendations and conditions to move things around, and then implement those during the final sign-off process.

- (Chair) That could be one way we could go, it's not necessarily the way the Commission has to go.
- (Kuharski) We're not asking for detailed approval we're asking for initial approval. Adjustments to the site don't affect the core concepts.
- That hand-out that you provided tonight says you're only going to be providing three of the restrooms in the initial phase. One of the conditions of the staff report is that in order for all nine sites to be used, the residential cooperative village shall provide four toilet rooms.
 - By the time the ninth house is built we'll have the fourth restroom in place.So what's allowed in the first phase with three restrooms?
 - (Parks) I would say per condition #7, that's where we're going to mete that out. Six and seven sort of parlay into the phasing plan. In consultation with Building Inspection, the Fire Department, the Health Department, maybe the Police Department, we'll work out what the thresholds might be.

- How is maintenance on the houses and garden upkeep done?
 - It's a cooperative so the members do the maintenance. They build the houses themselves and will do the maintenance and work the gardens.

Is there anyone overseeing how that happens?

We have a board of directors and we're super sensitive to the neighborhood so we'll keep it looking as nice as possible.

- How many board members do you suspect could be there at one time?
 - Normally there's probably one board member there during the workshop hours. Some of the people that will be living in the houses are also on the board.
 - We're committed to having higher maintenance standards around the gardens.
- Sometimes for apartments we will ask, if there is a problem like something is broken, who do we call? So I'm still confused about the board of directors. Will Building Inspection have that person's name to call?
 - We'll have a number posted and that number will either be a cell phone that rotates or a Google phone number that gets forwarded to various phones. There will always be someone on call to

take those phone calls. It might be someone who lives there, or a board member. It will rotate to spread it out.

- There's places for parking for people who are working or shopping. What about residents?
 - As far as I know, three people may have vehicles. When all nine are completed they may get rid of their vehicles.
- You've got a 24-foot wide drive going in. Is that existing?
 - It's part of an existing.

If you could narrow the drive and create more green...

I'd love to but the trash people don't agree. The geometrics don't allow for it. I'm more comfortable leaving it wider, but we are looking into doing something other than the existing asphalt.

- Is there a way that the greenhouse and the trash could be brought closer to Third Street so you wouldn't need as much pavement back there, the garbage truck can limit itself to that entrance area, and you can have additional greenspace or a patio space. Think about those things.
- Is it the intent that these houses remain there indefinitely, or since they're on wheels are they going to move around town or around the site?
 - Eventually we hope to have another piece of property somewhere, so the exact nine houses that are here initially may not be the exact nine houses that are there at a different point because when we build the 10th it has to go somewhere. We're somewhat hopeful that churches or non-profits may host some of them.
- What is underneath them if they are going to sit there for maybe a full year?
 - We'll do a gravel mulch underneath.

They look nicely lined up, is there a curb or wheel stop to set them in place?

We're going to do a drainable layer, these will sit on blocks.

When you come back I'd like to see all that detail, the grading, how that gravel strip works and does it go past the house. Those are the kinds of details we need to see. Are there gutters on these?

No.

You definitely then don't want any dirt under there.

All of it is intended to be absorbent. We're looking for a ground cover that's not grass. It'll have to be suitable for foot traffic.

- If the sitting circle is going away, what's the intention for hanging out with your neighbors?
 - We've got a porch here, there's no cars here it's all a sociable patio. And this kitchen area will also be a natural place for people to gather.
 - It's well defined, this is the commercial frontage, so it's a classic mixed-use property that's divided laterally on the site.
- Clarification on the kitchen, it won't be there right away?
 - We're trying for it in the first phase.
- I would push for some more grass and less pavement.
 - We agree. We do think though that the pavement here is an asset to encapsulating any contaminated soil.
- The more that back area looks like a courtyard or a patio, the better it's going to feel as long as you meet the requirements of the Fire Department. I've had some good luck with using alternate materials in areas to break it up. That's something to look at.
- On your sidewalk you have a circular piece and a square piece. Might I suggest you look at opening that up by moving the planters. It might be a more effective greenspace. It's nothing to grind down a curb. That gives an opportunity to provide more green along Johnson.

- I like the idea of raising the planters, it's easier to work them. Maybe you'll find an opportunity for recycled terra cotta planters that would create a rhythm along that side. That's decoration though, not design.
 - The intent is to make an impression.
- We're accepting verbal representations, which are recorded, that the sitting circle is gone, that the greenhouse and waste holding areas are flipped, and it's our representation that the 12-foot sidewalk be reduced and that greenspace on the site be increased as a result.
- (Parks) Some of these things are in flux and it was represented in a discussion about three weeks ago between Brenda, Matt Tucker and myself, about some of these things that are being discussed. The site plan that was submitted we felt was sufficient for the purposes of building placement, use of the property, the general intentions and that it marginally met the Planned Development requirements. Whatever Al may have indicated as he was providing guidance to the Commission before this hearing tonight, I can't speak to. But basically we feel like we have a site plan that this body could give initial approval to, recommend that it go to the Plan Commission, encourage the Plan Commission to delete the sitting circle, and at final approval stage the Urban Design Commission would see a much more comprehensive and cohesive proposal. We certainly did not intend for the Urban Design Commission to grant final approval with what was before you tonight. There are a great many issues to work out including the management plan, the phasing plan, there are a lot of punch list items that are going to be created if this project gets approved through those conditions that they're going to have to work through to mete out. If this group is interested in the phasing of the project that would be something for the final approval package to come back after the May 6th Common Council meeting, should the project be approved. We try to limit the variations of a plan that get circulated to keep everybody sort of rowing in the same direction.
 - I'm talking about the experience of this Commission in terms of initial approval usually has a site plan that the applicant is submitting to us for approval and that's part of our initial approvals. We have a site plan that is not actually what they are asking approval for because they verbally represent that they are changing it. Whether those are of a significant level or not, I'm not so sure that's why we could maybe go ahead and approve it, but as it's going on through this process I would not like the Plan Commission to think that we were approving something which was this plan, which is not even what they're applying for at this point, and that we did not do some diligence in saying that a site plan we're approving is one of the things we do at initial level. That's the way we work. We heard from citizens that say they are held to certain standards, we hope that the applicants in this case are held to the same standards and I'm simply saying what our usual procedures are and what we usually hold applicants to, there can be times where we grant leeway but it's not necessarily just a trivial issue.

ACTION:

On a motion by Cnare, seconded by DeChant, the Urban Design Commission **GRANTED INITIAL APPROVAL**. The motion was passed on a vote of (4-2) with Harrington and Goodhart voting no. The motion provided for the following recommendations:

- The site plan presented to the Plan Commission shall reflect the changes discussed with neighbors, including the sitting circle, greenhouse and trash enclosure.
- At final approval, provide more details on landscaping, tiny house placement (including surface under, around and in front of houses).
- Submit a phasing plan with the plans submitted for final approval, including the site plan iterations for each phase.
- Explore reducing pavement in front of building and narrowing walk.

 **DRAFT**

After the Commission acts on an application, individual Commissioners rate the overall design on a scale of 1 to 10, including any changes required by the Commission. The ratings are for information only. They are not used to decide whether the project should be approved. The scale is 1 = complete failure; 2 = critically bad; 3 = very poor; 4 = poor; 5 = fair; 6 = good; 7 = very good; 8 = excellent; 9 = superior; and 10 = outstanding. The overall rating for this project is 5.

URBAN DESIGN COMMISSION PROJECT RATING FOR: 2046/2050 East Johnson Street

	Site Plan	Architecture	Landscape Plan	Site Amenities, Lighting, Etc.	Signs	Circulation (Pedestrian, Vehicular)	Urban Context	Overall Rating
Member Ratings	4	3	4	-	-	-	-	-
	5	5	-	-	-	6	5	5

Parks, Timothy

From: Evan Weir
Sent: Friday, April 25, 2014 8:31 AM
To: Parks, Timothy
Subject: Fwd: Concerns Regarding Occupy Madison "Tiny Homes" Proposal

Mr. Parks,

Please find the email I sent to the Plan Commission, below, for inclusion the formal record.

Please let me know if you need any additional information.

Thanks,
Evan

Begin forwarded message:

From: Maurice C Sheppard
Date: April 25, 2014 at 8:05:24 AM CDT
To: Evan Weir
Cc: "tparks@cityofmadison.com"
Subject: RE: Concerns Regarding Occupy Madison "Tiny Homes" Proposal

Hi Evan,
First, thank you for expressing your interest in this matter.

Second, please forward all correspondence to Tim Parks [tparks@cityofmadison.com] in City Planning to ensure your concerns are placed in the formal record.

Best regards,
Maurice Sheppard

From: Evan Weir
Sent: Friday, April 25, 2014 7:51 AM
To: _____, district8@cityofmadison.com; district7@cityofmadison.com
Subject: Concerns Regarding Occupy Madison "Tiny Homes" Proposal

To the Plan Commission:

I own (and reside in) a home on 3rd St, three doors down from the Sanchez Motors site (2046-2050 E Johnson St) that Occupy Madison wishes to rezone and develop as a "tiny homes" community. I oppose this project and zoning changes for the following reasons:

Failure to Comply with Building Code:

The "tiny homes" proposed by Occupy Madison do not comply with building codes, nor do they meet HUD standards. These "homes" do not have foundations, plumbing, sanitary, or hard-wired electrical connections. I believe that permitting habitation of these non-compliant dwellings sets

a double standard, as well as a dangerous precedent. The city should enforce building code equitably to ensure the safety and health of all citizens. These structures should be held to the same standards as all other buildings in the city. Lowering the standards set for the built environment are not in the best interests of anyone.

This property should not be rezoned to allow habitation of non-compliant structures.

Conflicting Uses Arising from Rezoning:

I do not believe it is appropriate to rezone this property to accommodate a manufacturing facility that operates seven days a week. According to Occupy Madison, work will frequently take place outdoors, and will not conclude until 8 pm. I believe that this will create noise levels that should not have to be tolerated in a residential neighborhood.

The plans submitted by Occupy Madison to date do not provide for any onsite parking for prospective residents, volunteers, or retail customers. The submitted site plan shows only one point of access to the outdoor shop area (from 3rd st), and I am concerned that this could cause traffic blockages on 3rd street as materials and goods are delivered to and removed from this site.

Lack of Logistics and Management Plan:

Occupy Madison has not provided adequate details regarding the management and logistics of this proposal. According to Occupy Madison, prospective residents will not be screened for sex offenses despite the fact that this property is near two schools (East High School and Emerson East Elementary School). This is unacceptable.

Because residents of this proposed development would not technically be tenants, Occupy Madison has indicated that problem residents cannot be evicted. Occupy Madison's previous encampments on East Washington and Portage Road had well-documented problems. By a representative of Occupy Madison's own admission at neighborhood meetings on 1/15/14 and 4/21/14, the encampments "were out of control". Occupy Madison's only proposed solutions are to "self-police" and to post a telephone number to report problems to the organization. I do not believe that these are adequate or realistic measures.

Occupy Madison has not provided any evidence that this project would be better managed than their previous encampments. It is worth noting that this development was opposed by a Madison Police Department representative (North District Captain Jay Lengfeld) at a neighborhood meeting held on 1/15/14.

Rezoning this property would allow this project and its developer to avoid regulations that aim to keep our communities strong, safe, and great places to live. I do not believe that this proposal provides enough detail or evidence-based data to warrant a zoning change. Furthermore, I believe that the city allowing construction that does not comply with building codes would set a dangerous precedent and grossly detract from the quality of the Emerson East neighborhood.

Thank you for your consideration.

Evan Weir