

256 Waubesa St. Attachment 2

From: [Tucker, Matthew](#)
To: [Rummel, Marsha](#); [Jen Ahlstrom](#); [REDACTED]@gmail.com; [Punt, Colin](#); [Bunnow, Kyle](#); [bbemmis@cityofmadison.com](#); [Stouder, Heather](#)
Cc: [Johanna Oosterwyk](#); [Benedict, Jeffrey](#); [Hausbeck, John](#)
Subject: RE: 256 Waubesa Demolition and new structure concerns
Date: Monday, July 10, 2017 4:25:26 PM
Attachments: [madisonrebuild_v3.pdf](#)
[Renderings binder.pdf](#)
[Site Plan Layout 06262017.pdf](#)

Hello Jen Ahlstrom and Alder Rummel- Thank you Jen for you very thorough review of the project and thoughts on the project.

Here is my initial response to Jen's comments. We have not completed our zoning review and comments on the project yet, but we will have some comments that will result in some minor changes, which is common.

This request is for the demolition of the existing single family home and the construct of a new single family home, which is a *Permitted Use* in the TR-V1 zoning district. The only discretionary review is *Demolition*, so the project must be found to meet the standards of approval for demolition as outlined in Sec. 28.185, *Approval of Demolition (razing, wrecking) and removal*.

Attached is a copy of the latest plans that have been submitted as part of the request for Demolition approval. Please work from these and do not reference any other plans, as that is the only plan set the City will be looking at to review the project. Other plans, or what you might have otherwise seen but have not been formally submitted, are not relevant to this matter from the City's perspective.

Additional comments:

- This is considered a new home, and it must comply with setback requirements per the zoning ordinance or obtain zoning variances. There is no "grandfathering" or other legal nonconforming condition that may be continued on this lot with the construction of a new home. It is treated as if it is a new development.
- *Use of existing foundation and setback measurement.* If the existing foundation is to be used, any new construction must be placed at the required minimum setback. Since the foundation is too close on the right side, they will need to figure out how to design the foundation to place the house on the on the foundation where the walls meet the side setback requirement. Note: we typically measure setback to the foundation where the walls meet the foundation above-grade, and allow the typical width for siding and insulation to project into the setback slightly.
- *Zoning requirements for this project.* The zoning ordinance requirements for TR-V1 establish the bulk requirement for the new home (height, setback) lot coverage, and open space requirements for the new home. The project must be found to comply with these requirements. Any areas where we see noncompliance will result in a condition of approval for modification of the final plan set. Typically these are minor changes that do not fundamentally change the project.
- *Eave and gutter projection into setbacks.* The zoning ordinance allows for a 2' projection into a side setback and a 3' projection into a front setback for an eave and gutter. Submitted plans appear to show a larger projection than is allowed, add a condition will be applied

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thereto. The final plans must show compliance with this requirement. There is no setback required for roof overhangs, only an *allowed projection* into the setbacks.

- *The zoning ordinance and the “statement of purpose.”* The communication includes reference to the *statement of purpose* for the Traditional Residential-Variied districts. The statement of purpose heads up each of the groupings of residential districts and all of the groups of residential districts include an identical statement in their *statement of purpose*. It simply speaks to a very high level of legislative intent of the groups of districts. A *statement of purpose* is not a regulation in and of itself, it cannot be violated. The *statement of purpose* does not dictate design. If there are design requirements, they will be imbedded in the zoning ordinance requirements or building forms standards. Sometimes the Plan Commission wades into design matters, but this is a very difficult area to navigate. Typically zoning requirements alone establish parameters by which residential sides are developed (height, setback, lot coverage, etc.) and design is not the critical concern. You will find the perspective of *good or bad design, fitting in or not fitting in* to be in the eye of the beholder.
- *Drainage issues between single family homes.* This lot is in an area of the City where there is no direct control of drainage from property to property. Generally, the building code requires positive drainage form the building, but otherwise the drainage condition is as it pre-exists. There is one exception: the City does have regulation of the direct discharge of a sump pump or downspout. City engineering is periodically brought in to advise on matters of drainage, primarily when neighbors question the drainage impacts of development adjacent to their property. City Engineering does not have authority over drainage on this lot and cannot establish regulation above/beyond the building code for one and two family structures, but they can provide technical advice in regard to drainage to neighbors and the Plan Commission.
- *Driveway issues and 8’ driveway width.* The zoning ordinance requires one legal parking space for a single-family home. The property includes a carport, which provides the legal parking for the subject property. a driveway (actually two wheel strips) provide access to the carport. The distance between the outer edge of the wheel strips exceeds 8’. So this driveway is considered legal. There is paving to the left side of the home, which can provide access to the accessory structure at the rear, but this is not required. No driveway is required to this structure. The property could pave the area in the front yard to allow for the “driveway extension” as allowed per Sec. 28.141(9)(b)2. The remainder of the paving is not considered a driveway, and could remain as paving, such as a path, so long as lot coverage requirements continue to be met. All driveway and driveway extension is on this property only, not adjacent properties, but provides a zero setback, which is acceptable.
- *Driveway “hump” at curb and utility pole in front of home.* I am checking with City Engineering, it looks like they have some policy for the humps for driveways that abut with a zero setback, either allowing or not allowing the humps at the curb. Most people do not like them, as they are an annoyance for maintenance and a vehicle/tripping hazard. Engineering will not allow the utility pole in the middle of the driveway, so they will have to work with the utility to have it moved. I do not know how they propose to deal with the utility pole.
- *Updated/revise plan progression.* It is not unusual for plans to be submitted that get revised as part of the review process. Often changes come forward, either by requirement of the City or recommendations from neighbors or neighborhood associates. Final plan sign-off ensures the new home complies with the zoning ordinance requirements, any conditions

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applied during the review process, and to account for any changes made at the request of the homeowner as final plans are prepared.

- *Accuracy of drawings.* The submission includes an survey of existing conditions and a site plan based upon the survey. Both of these documents are acceptable. There is no requirement to show improvements on adjacent property. I simply cannot see where the submitted drawings show a lot that is 5' wider, and this projects 5' onto 262 Waubesa. I did not check the math on Jen's calculations, but we will check the plans for accuracy.
- *Current applicants vs future owners or occupants of the structure.* Zoning ordinance requirements do not apply to individual people, they apply to a property regardless of the occupant tenant, be it the current applicant or a future owner. The regulations do not predict desirability of use by future owners. Any future owner must choose to use a property as it is developed or as the zoning ordinance will allow it to be modified.
- *Environmental concerns during soil excavation for new home.* I forwarded the email on to John Hausbeck at Madison/Dane County Public Health. He is at a conference this week. I will look to get a response from him before the Plan Commission meeting.

Let me know if you have any questions.

FYI- Jen and I are meeting at 1p this Friday here in my office to discuss the project.



Matt Tucker

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The Planning and Building Inspection Division office has relocated to our temporary location at 126 S. Hamilton St. We move for the rehabilitation of the Madison Municipal Building, with an anticipated return November 2018.

In compliance with State public records law, the City of Madison retains copies of ALL email messages to and from this mailbox. Email messages may be released in response to appropriate open record requests.

From: Rummel, Marsha
Sent: Sunday, July 09, 2017 1:18 PM
To: Jen Ahlstrom; [REDACTED]@gmail.com; Punt, Colin; Tucker, Matthew; Bunnow, Kyle; bbenmmis@cityofmadison.com; Stouder, Heather
Cc: Johanna Oosterwyk; Benedict, Jeffrey
Subject: Re: 256 Waubesa Demolition and new structure concerns

Hi Jen-

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Thanks for your detailed email. I am adding Planning Division Director Heather Stouder to ask her to consider your comments on the zoning district statement and requirements in relation to the proposed project. I'd like to hear a response to your concerns.

Marsha

From: Jen Ahlstrom [REDACTED]@gmail.com>

Sent: Sunday, July 9, 2017 10:35 AM

To: Rummel, Marsha; [REDACTED]@gmail.com; Punt, Colin; Tucker, Matthew; Bunnow, Kyle; bbemmis@cityofmadison.com

Cc: Johanna Oosterwyk; Benedict, Jeffrey

Subject: 256 Waubesa Demolition and new structure concerns

I'm writing to let you all know my concerns with the proposed demolition and rebuild at 256 Waubesa St which is adjacent to my property, located at 262 Waubesa St. For reference, both properties are located in TR VI (Traditional Residential Varied 1 District.) On the advise of Colin Punt, the Planning Unit contact on this project, who is also included in this email, I spoke to the department of Public Works regarding my concerns with drainage, only to find out from Jeffrey Benedict in that department that they do not handle water/drainage issues for private homes. If I haven't spoken to you previously about this project, or you are not included on the permit application or involved in the project, then you were either recommended by Colin or Jeffrey that I reach out to you as well with my concerns.

Regarding the proposed structure, while I think the overall modern design of the proposal is striking, I feel that the design falls a little short a currently proposed when considering the zoning district Statement of Purpose that reads that the districts are intended to:

28.04(b) Ensure that new buildings and additions to existing buildings are designed with sensitivity to their context in terms of building placement, facade width, height and proportions, garage and driveway placement, landscaping, and similar design features.

I simply do not see how this structure can reasonably fit on the property as currently proposed, while following the rules regarding side set backs and maintaining the current already-very-narrow driveway proportions. I should state now, that some of my complaints outlined below may not be very clear or detailed, as the renderings and site plan provided to the city are an older version than the current version provided to me by the design firm, and I am unclear on what the final proposal is, as well as both versions lack some dimensions of the design, so if my numbers vary in my points below, that is partially why. For reference, at the bottom of this email I've included the link to the paperwork provided to the city, as well as the other version of the drawings provided to me by the design firm directly, as well as PDFs showing how I came up with my numbers for dimensions that were not noted in any version of the drawings.

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Specifically my complaints with the design are:

Neither version of the renderings (V2 as provided to the city, or V3 provided to me by the design firm) of the proposed structure accurately shows where the property line between my property (262 Waubesa) and the property in question is actually located. In the renderings showing the driveway/garage of 256 showing a dividing "line" between driveways, it falls 5'+ on my property and is drawn as going into my garage, when the property line is in reality 3' 6" from the edge of my garage (based on the recent survey of our shared property line). Having the "line" drawn further over appears to make the proposed design fit better/appear more proportional and is misleading. I understand that these are renderings and as such are not required to be completely accurate, but by being so far off I think it is a misrepresentation of the scale of the project as related to the lot size.

While using the same footprint of the existing structure foundation, the design has a much larger impact (beyond height) with the roof overhang, both on each adjacent property (N/S) as well as over the front and rear (E/W) of the proposed structure. I should note that I had to estimate the amount of overhang, as no drawing has dimensions of the total roof or length of the overhang - using the scale provided in the drawings, my best estimate is that the roof overhangs approximately 4' from the foundation on each side (N/S) with approximately a 4'6" -5'6" (depending on which version of the design referenced) overhang at the front and rear (E/W) of the property. In a conversation via phone with the design firm, they claim it is in reality closer to 3' on the N/S overhangs, but again, no dimensions are included in any version of the documents provided, either to me or to the city.

While I believe that while the current structure is "grandfathered" in, in regards to zoning rules regarding set backs, and the driveway being narrower than current code permits, I believe the demolition and subsequent new build should be held to the current side yard set back regulations. The design firm is under the belief per our last conversation (Friday 7/7) that the same "grandfathering" will apply to the new structure as it is using the same foundation and that they will not need to meet the current rules regarding side yard set backs. The required side yard set backs would be 4' (10% of the lot as it is <40' wide -39'11" by the survey). The current side yard set back on the N side of the property is 3'8" at its narrowest point to the foundation. *When I spoke to Andy of the design firm, he/they had no plans for, and was unaware of any requirements for side set backs from the overhang of the roof of the proposed structure.* Again, no where is are the dimensions of the roof overhangs included in any documentation so using my estimates based on the scale provided in the documents submitted, if the design is to be built on the current foundation with the roof overhang as drawn, estimated by me at 4' , the roof/structure would hang at/over the property line on the north side of the property. If roof overhangs are only 3', as verbally claimed by the design firm (but again, not noted in any plan or drawing provided) the side set back from the roof to the property line will only be 8" if using the current foundation, not the 2' as required. The design

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firm seemed unaware of ANY requirement relating to a side set back as measured from the roof overhang in our conversation and due to the lack of any dimensions on any documents I believe may have been planning to ask for forgiveness instead of permission/ or a variance on the side setbacks, similar to how the recently built condo downtown did with the "extra" floor added.

If the foundation of the proposed structure is moved, to accommodate a larger side yard setback on the N side of the property, when the additional 8' of the roof overhang is added to the 28'9" width of the proposed structure foundation, the total width of the proposed structure is then 36'9" leaving just 3'2" in total side set backs, if split evenly on the N/S sides of the house, which would reduce the existing driveway to an unusable width. If the roof overhang is instead 3', then the proposed structure could meet the required 2' side yard set backs, as the total width of the structure would be 34'9" leaving 5'2" to split for both side yard set backs. I would request the design firm be required to submit updated drawings with dimensions of ALL roof overhangs for clarification prior to the upcoming meeting, and that they include the proper set backs in their site plans, both in consideration to the foundation as well as to edge of the roof overhang, noting if the proposed structure needs to shift S of the current foundation into the existing driveway to accommodate these set backs.

The current driveway at 256 Waubesa measures 7'3" at it's narrowest point adjacent to the foundation of the existing structure to the property line, which is less than current code requires (City code states that Driveways shall be a minimum of eight (8) feet in width, except where otherwise specified in Sec. 10.08 MGO.) The existing driveway is usable, but is a very tight fit, with the last 3 tenants, including the current residents/tenants, often parking their vehicles either past the current structure (near the garage), or prior to it (in front of the house near to the sidewalk), to allow for access to their vehicles (opening of doors) while staying on their property. Any increase in width of the structure or shift of the foundation to accommodate the roof overhang on the north side of the property will shrink the driveway to an unusable width for a vehicle to park adjacent to or to pass by the house solely on their side of the property line. I understand that the thinking behind the carport in the design is that it would essentially replace the daily use of the driveway, which may be fine for the current owners, as it is their design. I worry that the too narrow driveway may be problematic if the property is ever to be sold in the future, as I cannot see future owners having and maintaining a garage that is not accessible to vehicles. If any shifting of the structure is done to accommodate required side yard set backs on the N side of the property or otherwise for the design of the proposed structure I would like to see the curb cut out for the former driveway removed and replaced with a curb, as the driveway will then be too narrow to be functional as a driveway. If the driveway is narrowed by ANY amount, and the curb cut out not replaced with a curb, my fear is that it assumes the owners (and all future owners of this property) will have full access to my driveway to access their garage, as my driveway also runs adjacent to the property line, and as such, I worry about future claims of adverse possession of my

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property/driveway with this proposed design. The driveways are not, nor have they previously been shared, and there are currently no grounds for any claims of adverse possession of my driveway and I would like to keep it this way.

The design also calls for a dramatic change in the slope of the roof. The existing structure's roof slants so that excess water runs off the E/W sides of the structure but the new design would rotate the slope of the roof so that water run off would run off N/S instead. With such narrow/non-existent side yard set backs on the N/S sides of the property, I worry that this would essentially dump all water run off/snow drifts/ice flows/etc. directly onto the adjacent properties. The modern design, with such large overhangs of the roof, does not appear to lend itself well to, or to include any sort of gutters or water management in the design, at least in the renderings or other drawings. I fear that this will cause damage to my property, specifically my vehicle(s) and driveway from falling snow drifts and freezing water, limiting my use of my property. If approved, I would ask that gutters or other water management plans be included in the finalized design, approved by building inspection/city engineering/city planning and be required for any side setback variance request approval.

Lastly, while the proposal talks in depth of the ecological concerns regarding salvaging materials as part of the demolition of the existing structure, no mention is made of any plans to mitigate exposure Tetracholorethene (PCE), tricholorethene and cis - and trans-1, 2-dichloroethene and vinyl chloride soil contamination during the demolition or construction process. Houses on this side of the street within 40' of this property have had some of the highest levels of soil contamination with soil test as high as 3.97 ppb for PCE as recently as June 2012. These contaminants can bind to soil/dust particles, which while not often small enough to be inhaled, may be, and as such I would like to see a mitigation plan in place prior to demolition/construction to control/limit exposure or a plan to do soil and/or sub slab testing (if any portion of the foundation/driveway is to be removed) with a mitigation plan put in place if current contamination levels are higher than the allowable residential exposure limits.

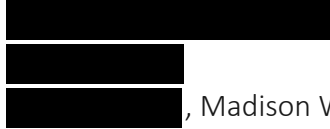
I would like to see the city planning and other divisions address my concerns in their report on the proposal at the upcoming (7/24) planning meeting, as given the 3 minute time limit for me to speak at the meeting, I do not feel that I can adequately address all of the concerns I've outlined in this email, and given that a number of them are related to city regulations, I feel that the planning and zoning staffs should have a better understanding of those regulations and can speak more accurately to them.

Please feel free to reach out to me either here, or via phone at [REDACTED]. Otherwise I'll follow up with you, in person, in your offices as my schedule allows this week.

Thank you,

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Jen L. Ahlstrom



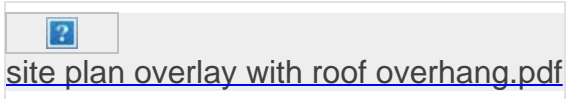
, Madison WI 53704

<http://www.cityofmadison.com/dpced/planning/256-waubesa-street/2463/>

Site plan and survey overlaid:



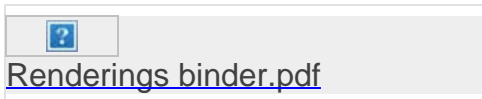
Site plan and survey overlaid with estimated 4' roof overhang on all sides (my marks, in red):



Wall section - dark thick line added at 4' foundation marking and copy/pasted/rotated and placed under roof overhang to determine scale of overhang:



Version of renderings and drawings I was provided by design firm - different than versions provided to city as part of the request as of Friday 7/7.



From the zoning code:

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28.04 Statement of Purpose

The TR-V Districts are established to stabilize, protect and encourage throughout the City the essential characteristics of mature residential areas and to accommodate a full range of life-cycle housing while encouraging a suitable environment for family life. The districts are also intended to:

- (a) Promote the preservation, development and redevelopment of traditional residential neighborhoods in a manner consistent with their distinct form and residential character.

- (b) Ensure that new buildings and additions to existing buildings are designed with sensitivity to their context in terms of building placement, facade width, height and proportions, garage and driveway placement, landscaping, and similar design features.

- (c) Maintain and improve the viability of existing housing of all types, while providing for updating of older housing in a context-sensitive manner.

- (d) Maintain or increase compatibility between residential and other allowed uses, and between different housing types, where permitted, by maintaining consistent building orientation and parking placement and screening.

- (e) Facilitate the preservation, development or redevelopment goals of the comprehensive plan and of adopted neighborhood, corridor or special area plans.