



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

Wells, Chris

From: Stouder, Heather
Sent: Saturday, December 10, 2016 10:42 AM
To: Wells, Chris; Parks, Timothy
Subject: Fw: 134 Fair Oaks

FYI

From: Belinda Prah1 <[REDACTED]>
Sent: Friday, December 9, 2016 10:13:20 PM
To: Stouder, Heather
Subject: 134 Fair Oaks

Dan Melton asked us to voice support or opposition to the 80 unit building at 134 Fair Oaks. I am a resident on Fair Oaks since 2007.

I oppose the apartments for the same reasons cited by Madison Kipp on the city's webpage. It is not a good location for people to live (next to manufacturing).

How about some artists studios in the building, and keep the landscaping place.

Belinda Prah1 (& family)
[REDACTED] S Fair Oaks Ave
Madison Wi



December 11, 2016

Dear Commissioners:

We strongly oppose the Stone House proposal for low-income housing at 134 S. Fair Oaks Ave.

We do support the building of low-income housing in Madison. In general, it is desperately needed, and is in line with the city's mission to reduce race and class inequities. However, putting low income housing at this particular location clearly counteracts this mission because it will directly expose vulnerable low income and minority citizens to noise and toxic pollution from an aluminum die casting factory, Madison-Kipp Corporation (MKC). In other words, it will intentionally create an environmental injustice situation. This is hardly the type of development that the city's nascent "equity lens" approach should support.

In its comments to you, Public Health Madison Dane County (PHMDC) proposed that MKC will not pose health risks to residents of the Fair Oaks housing. Oddly, PHMDC's document doesn't mention the hundreds of health complaints over the last 25 years from citizens in the Kipp neighborhood—it only mentions the many neighborhood complaints about "odors." Just as strangely, it argues that there are no health risks, citing lack of relevant exposure data and claiming that this data would be too difficult to gather. It further dismisses concerns about PCE and PCB emissions from the Fair Oaks plant simply because "there is no reason to expect" that MKC used these chemicals. Yet PHMDC did no evaluation of chemical releases from Kipp's Fair Oaks plant, only a hundred feet or so away from the proposed housing.

Assuring that there are no risks because nobody has collected data to assess exposures is not only irresponsible and unethical—it is unscientific. We expect more from our public health department. In the attached document, we respond in more detail to specific points in PHMDC's statement.

Even Madison-Kipp wrote that they hoped it would be an "obvious conclusion" that "it would be unwise to locate new homes just steps away from an existing industrial use." Kipp knows very well what will happen if people are living feet away from their Fair Oaks factory, because they have received countless noise, pollution, odor, truck traffic, and other complaints over several decades from the people living near their 201 Waubesa plant.

Please do not create another environmental injustice situation in Madison. Do the right thing, and do not approve this location for low income—or any— housing.

Sincerely,

/s/

Maria Powell, PhD
President



MEJO responses to statements in “Public Health Consideration of the Proposed Housing Development of 134 S. Fair Oaks Avenue” by John Hausbeck, Dec. 8 2016

PHMDC: *“Over the past 25 plus years, there have been many reports about bad odors coming from Madison-Kipp and the impact on outdoor air quality.”*

MEJO: Yes, this is correct. What PHMDC does not say, however, is that it has also received hundreds of **health complaints**, not just odor complaints, related to Kipp’s operations in the last 25 years. Odors, of course, are made of chemical substances released from Kipp—most commonly, the “waxy-metallic” scented die casting emissions, which are made up of toxic several toxic chemicals. Some of the most toxic chemicals Kipp emits do not have any odor.

PHMDC: *Public Health Madison and Dane County (PHMDC) has reviewed Madison-Kipp’s air emission and process information in consultation with Wisconsin Department of Natural Resources (WDNR) and Department of Health Services (WDHS) and have found Madison-Kipp air pollutant emissions do not create a human health hazard or exceed existing air quality standards.”*

MEJO:

1. Neither the public health agencies nor the DNR know what chemicals, or at what levels, are emitted unfiltered from the die casting stacks at MKC. Given this, to say these emissions “do not create a human health hazard” is disingenuous.
2. DNR and PHMDC’s evaluations of Kipp’s emissions rely on Kipp’s self-reported emission estimates. Madison-Kipp received a Notice of Violation from the EPA in 2012 (settled in 2014), for underestimating (from 2007 till 2012 if not longer) its emissions of toxic chemicals, sloppy recordkeeping related to hazardous chemical emissions, and sloppy processes in the factory that could increase its emissions of toxic chemicals.
3. An environmental engineer in the Kipp neighborhood (Steve Klafka) has done air modelling showing that Kipp is violating air standards for fine particulates (PM 2.5). Though PHMDC and DNR deny that such violations are occurring, this modeling shows clearly that levels of PM 2.5 near the factory are high enough to cause serious short and long-term health effects.
4. Madison Fire Department and EMS are called to both Kipp plants frequently for worker accidents, health problems, fires, and explosions. The types of worker health problems that typically prompt EMS calls include chest pains, difficulty breathing, dizziness, actual/ possible heart attacks, seizures, passing out, and fainting. Most of these health problems are likely related to workers’ exposures to small particulates, metal fumes, and other hazardous chemicals in the plant. At the Fair Oaks plant, large loading doors on the side toward the proposed housing development are nearly always open and it is common to see smoky air inside the plant through these doors; this air is released to outdoor air just feet from the proposed housing. The contents of these “fugitive emissions” are not monitored by PHMDC or DNR as far as we know.

PHMDC: *Since our evaluations, Madison-Kipp has made changes to reduce air emissions and improve air quality. Some of the primary changes include: changing air flow in the building, diluting the die lubricant, and eliminating chlorine from their process. As a result of these changes, reports of unpleasant odors have become less frequent.*

MEJO: We appreciate the steps Kipp has taken, after decades of citizen complaints, to reduce its air emissions

However, just because fewer people are currently reporting odors or health problems to PHMDC doesn’t necessarily mean these problems have decreased or disappeared. We still hear regularly from people in the Kipp neighborhood about bad odors and health effects related to Kipp’s operations. One reason complaints have become less frequent is that people are no longer contacting public health or other agencies with concerns. They know that their concerns will be downplayed or dismissed by government agency officials, so they don’t bother. They don’t trust that government officials are interested in protecting them from toxic industrial pollution.

Further, we and other citizens know from experience that in recent years when citizens contact PHMDC/DNR with complaints or questions about Kipp, they are often *told to contact Kipp directly for answers*. Kipp officials may or may not answer the person asking questions, depending on whether or not they like him/her—but if they do respond, their answers are incomplete or evasive. In any case, given this problematic government strategy for handling public questions/complaints, how does PHMDC even know how many Kipp neighbors complain?

PHMDC: *“The primary source of the odors is the vaporization of the lubricant that Madison-Kipp sprays on their machines to allow the metal parts to release from the molds. This lubricant is primarily water with a small amount of silicone wax.”*

MEJO: The MSDS for Kipp’s die casting lubricant lists residual oils, petroleum, and 1-dodecene. *Emissions* from the die casting process, which are what matter as far as assessing risks, consist of metal fume and organic combustion products produced when hot metal comes in contact with the lubricant, coolants, hydraulic fluids, or organic resins and binders. Die casting emissions typically include several polycyclic aromatic hydrocarbons, including known carcinogens such as benzo-(a)-pyrene, a variety of volatile organic chemicals, many toxic metals, small particulates, and more. They also can contain a variety of halogenated compounds, sometimes including PCBs.

In 1994, an OSHA inspector measured “oil mist” released from die casting machines at Kipp, which was found to contain numerous organic compounds: aliphatic hydrocarbons, aliphatic alcohols, acetic acid, organic acids, butyrate hydroxyl toluene, long chain aromatic compounds, fatty acid methyl esters, propylene glycol, hydroxytriethylamine, methyl styrene, 1-2-2—methoxy-1-methyl-ethoxy-1-methylethoxy-2- propanol and several “unidentified compounds.” The “condensate of mold release agent” was analyzed and found to contain “50% gray metallic flakes” made up of lead, aluminum, zinc, copper, and iron as well as “small particles, oily or greasy substances,” and “brown particles.”

The 2001 PHMDC “Madison Kipp Corp Exposure Assessment,” done after years of citizens’ health and odor complaints, listed the following emissions from Kipp’s die casting process: 1, 1, 1 trichloroethane, benzene, toluene, 1, 2 butadiene, hexane, ethanol, acetone, and several “unknown alkanes or alkenes.”

Emissions from Kipp’s stacks also include chemicals released from aluminum melting; aluminum melting emissions include aluminum salts, several other toxic metals, fluoridated compounds, and more. Kipp’s aluminum stacks have been tested a few times in the past and found to include chlorine, hydrochloric acid, aluminum salts, and dioxins/furans, but they have not been tested since chlorine use was eliminated, and it is unknown what chemicals Kipp is currently using in its aluminum melting processes.

PHMDC: *“Residents of the proposed development can also expect objectionable odors from the car and truck traffic at the nearby properties, on Gateway Place and on S. Fair Oaks Avenue. While gasoline and diesel exhaust fumes can be hazardous, determining the impact of these fumes on human health for the proposed development is difficult.”*

MEJO: Yes, “objectionable odors” from car and truck traffic are inevitable—and these “odors,” which are diesel fumes, not only “can” be hazardous—there is no scientific uncertainty that they **are** hazardous. Numerous scientific studies show that ongoing exposures to car and diesel fumes are connected to a myriad of short and long-term health effects, including cardiovascular, neurological, developmental and many other kinds of effects that have huge impacts on quality of life—and sometimes cause death.

Residents of 134 S. Fair Oaks will definitely be exposed to truck traffic and idling trucks spewing diesel fumes 24-7, 100 feet away from their homes. Saying that it “is difficult” to determine the impact of these fumes does not discount these risks.

PHMDC also explains that it is difficult to measure air pollutants near MKC and/or the housing site. Yes, it is challenging to do such studies appropriately, and requires scientific expertise and resources. The 2005-2006 Lowell School study referred to by PHMDC was inadequately designed in a number of ways—and its results did not, as PHMDC states show “that Madison-Kipp’s impact on local air quality could not be separated from other sources of PM.” The study was not sophisticated enough, or designed appropriately, to do so.

It is not impossible, as PHMDC suggests, to separate out particular sources of air pollution from “background”--and this has been done in numerous scientific studies across the country. This is Madison, Wisconsin, home of one of the top research universities in the world, with some of the world’s experts on air pollution monitoring. If the political will were there, air monitoring could be designed and carried out in partnership with university experts that would assess toxic chemicals and particulates emitted from Kipp (and other sources) and distinguish these emissions from background. First, we would have to know what is actually emitted from Kipp’s stacks and vents.

View of Kipp's Fair Oaks plant from proposed housing site:



Instead of doing appropriate studies, and therefore without adequate (or any) data to support these claims, PHMDC and DNR have argued for decades that air directly adjacent to Madison Kipp is no different than air anywhere else on the east side. If this is correct— if the air quality on all of Madison's east side is similar to the air quality directly adjacent to an aluminum die casting facility—then this is indeed a significant problem that PHMDC should address. But it is unlikely that all air on Madison's east side is as bad as that right next to an aluminum die casting factory.

Regardless, saying that an air quality study is too difficult to do does not support the statement that there are no health risks to residents of 134 S. Fair Oaks.

PHMDC: *“Initial environmental assessments of the property at 134 S. Fair Oaks Ave have found that soil contamination may exist from past activities of the site. Similar findings were made at the neighboring sites and recommendations have been given to the developers that remedial actions will need to be taken to fully investigate and remediate any soils contamination....We also expect that any potential for hazardous soil vapors will be eliminated through site clean up or installation of vapor mitigation systems.”*

MEJO: What chemicals were found in soils on the site? What types of chemicals were tested? Was groundwater tested? This is critical information. Why aren't the Phase I and Phase II site investigations posted on the docket for this meeting so the public could see this information?

PHMDC: *“This investigation has shown that 134 S. Fair Oaks Ave is not impacted by the chemical releases that occurred at the Main Plant.”* (referring to Kipp's 201 Waubesa plant—about 1000 feet away)

MEJO: It seems obvious that PHMDC's “investigation” should have focused on releases from 166 S. Fair Oaks Kipp plant, which is only about 100 feet (or less, in places) from the proposed housing. Although air stack releases from the Waubesa plant will also reach the housing site, this facility is about ten times further away. **Why didn't PHMDC investigate releases from the facility right next to the proposed housing?**

PHMDC: *“Tetrachloroethylene (PCE) was used by Madison-Kipp as a degreaser at the Main Plant and was discontinued in the 1970s. It was primarily released to the environment when vapors condensed (sic) on exhaust vents and dripped onto the ground outside the facility.”*

MEJO: These statements are incorrect:

1. Based on many documents produced during the lawsuit, Kipp used PCE till at least 1987 or 1989 and perhaps longer.

2. It is true that PCE was released from the vents—but this is only part of the story. PCE and other chemicals were spilled, leaked, and purposely dumped down storm and sanitary sewers, and sometimes directly on the ground, by Kipp employees for decades.
3. Documents in PHMDC and DNR files indicate that chlorinated compounds went down storm/sanitary drains from the facility well into the 1990s if not longer.

PHMDC: *“Groundwater testing has shown that the plume of contamination moved south of the facility towards Lake Monona and did not reach as far east as 134 S. Fair Oaks.”*

MEJO:

1. Based on available data to date, we know the plume originating from the Waubesa plant extends to north of Milwaukee St, east of Dixon St., and west of Corry St.—and its full extent has never been delineated.
2. As far as we know, there has been no groundwater testing anywhere close to 134 S. Fair Oaks. So PHMDC and other agencies do not know whether Kipp’s contaminant plume has reached that location.
3. Metal degreasing is done at 166 S. Fair Oaks. If the facility uses PCE, TCE or other halogenated solvents for degreasing, or has used them in the past, there could be a plume under that plant as well. But this has never been assessed as far as we know.

PHMDC: *“To remove contamination from the groundwater, Madison-Kipp is pumping contaminated groundwater at the 201 Waubesa St. property, removing the PCE, and discharging the treated water to Starkweather Creek.”*

MEJO: Yes. The highly contaminated groundwater under 201 Waubesa discharges to storm drains that run right next to the proposed housing site before they discharge to Starkweather Creek right across the street from the site. Though the water is treated before it is released, post-treatment water still contains levels of “volatile organic compounds” (VOCs), including PCE, many times over the enforcement standards. It is well documented that VOCs going through storm drains can leak into soils and groundwater beneath them. Government agencies have not assessed, as EPA technical guidances say they should as a critical component of site assessment, whether or not soils and groundwater along the routes of the storm drains discharging from Kipp are contaminated. So again, they do not know whether the soils and groundwater along storm drain areas near the housing site are contaminated with PCE, TCE and/or other VOCs.

PHMDC: *“Madison-Kipp’s facility at 166 S. Fair Oaks Ave first started operating in 1986, after the company discontinued use of PCE and PCB. There is no reason to expect that the Fair Oaks Plant has released either of these two chemicals to the environment.”*

MEJO:

1. Again, Kipp used PCE till at least 1987, if not later.
2. The Fair Oaks facility housed a trolley facility beginning in the early 1900s and then housed city bus operations until Kipp began operating there thirty years ago. It is quite possible, if not likely, that most if not all of these operations used solvents such as PCE, TCE, and/or other halogenated chemicals, and may have also used PCBs.
3. Based on city assessments in the 1990s, Kipp’s 166 Fair Oaks site is known to have extremely high levels of PAHs and other petroleum-based compounds in soils. PAHs are often mixed with PCBs, but PCBs were not measured then.
4. Again, metal degreasing is currently done at the Fair Oaks Kipp facility. After PCE was no longer used in 1987/1989, what solvents replaced them? What solvents are currently used? TCE—more toxic than PCE and a known carcinogen? Nobody knows, because government agencies will not investigate this question (or will not share information they have).
5. Therefore, agencies know nothing about whether or not these two chemicals—and/or other toxic chemicals---were released into the environment from this facility.

In sum, PHMDC and DNR know almost nothing about the chemicals used and/or released from Kipp’s 166 S. Fair Oaks facility just 100 feet from the proposed housing—or what is beneath it in groundwater. Given this, it is highly irresponsible and unscientific to conclude that there are no health risks at the housing site related to Kipp’s operations.

Wells, Chris

From: Stouder, Heather
Sent: Sunday, December 11, 2016 5:47 PM
To: Wells, Chris
Subject: Fw: Comments on Item 16, File 44993 for December 12th Plan Commission Meeting - Proposed Fair Oaks Apartments
Attachments: CAM - Recent Air Pollution Developments at Madison-Kipp - 26july16.pdf

FYI

From: Steven Klafka <[REDACTED]>
Sent: Sunday, December 11, 2016 1:27 PM
To: Stouder, Heather; Ken Opin
Cc: Rummel, Marsha
Subject: Comments on Item 16, File 44993 for December 12th Plan Commission Meeting - Proposed Fair Oaks Apartments

Heather Stouder and Ken Opin,

Please except my comments for the Plan Commission meeting on December 12th. Under Item 16, File #44993, the Plan Commission is considering a conditional use for dwelling units in a mixed-use building in TE (Traditional Employment District) zoning to allow construction of a residential addition to an existing commercial building at 134 S. Fair Oaks Avenue; 6th Ald. Dist. to contain 80 apartments and 2,500 square feet of commercial space.

My comments are provided as a licensed professional air pollution control engineer for 35 years and as an Atwood neighborhood resident for most of that time.

The Fair Oaks Apartments proposed by Stone House Development is not an appropriate location for residential housing. The project is across a narrow street from the Madison-Kipp Corporation aluminum foundry and die casting operations. The proposed apartments are directly across the street from four stacks on the Kipp roof that discharge fumes from the melting and die casting of aluminum. The discharges from the stacks include fine particles from melting aluminum which are capable of penetrating deep into our respiratory system where they are most dangerous to our health. In 2014, the USEPA, after discovering 5 years of air pollution permit violations by the company, required Kipp to test the Fair Oaks stack for its aluminum melting furnace. The measured particle emissions released from this stack were nearly 200 times the national air quality standard for fine particles.

Similarly the die casting fumes released from the other Fair Oaks stacks will be fine small sized aerosol particles. These die casting fumes are composed of a partially burned die lubricant. Despite repeated requests from neighbors, Kipp and the Department of Natural Resources (DNR) have never analyzed the chemical composition of the die fumes so their health effects are unknown.

Below is a picture of the proposed location of the Fair Oaks Apartments which will replace an existing garden center across from Kipp. The four Kipp stacks will be approximately 100 feet from the proposed 4-story apartments. It is simple common sense to not let people live so close to industrial stacks, especially those at a business which has repeatedly violated its air pollution control requirements.

In its December 7th memorandum, John Hausbeck from the health departments states he has reviewed Kipp's air emission and process information and has "found Madison-Kipp air pollutant emissions do not create a human health hazard or exceed existing air quality standards." This conclusion is not true, is based on false information and will lead to the exposure of residents in the surrounding neighborhood to unhealthy levels of air pollution.

In 2007, the Wisconsin DNR concluded the Kipp's Atwood and Fair Oaks operations were violating national air quality standards. It required Kipp to either eliminate or raise the height of the many stacks which exhaust uncontrolled air pollution into the surrounding neighborhood. Compliance with these standards and the height of the Fair Oaks stacks were based on air pollution concentrations at ground level. The residents of the proposed 4-story apartments will be closer to the stack outlets so will be exposed to higher air pollutant concentrations above air quality standards. It is worth noting that prior to the DNR determination in 2007 that Kipp was violating air quality standards, the health department responded to wide spread neighborhood health complaints at that time by publicly and incorrectly stating that Kipp complied with air quality standards.

In 2006, the EPA adopted more protective air quality standards for fine particles, less than 2.5 microns in size. The 24-hour standard for particles was reduced from a concentration of 150 ug/m³ to 35 ug/m³. When adopting this standard, USEPA noted that people most at risk from particle pollution exposure were those with asthma, and heart and lung disease, older adults, children, people of lower socioeconomic status, pregnant women, newborns, and people with health conditions such as obesity or diabetes. The proposed Fair Oaks Apartments will serve low-income residents which include those most affected by fine particle air pollution.

The current height of the stacks at Kipp, including the four stacks at the Fair Oaks plant, were designed to meet the older and higher 150 ug/m³ air quality standard. As a result, the neighborhood around Kipp does not comply with the new fine particle air quality standard of 35 ug/m³. At a neighborhood meeting this past summer to discuss environmental conditions, I prepared the attached analysis which shows the areas around Kipp that does not meet the new fine particle air quality standard. This is a routine analysis conducted in my field and similar to the analysis prepared by the DNR in 2007. The proposed Fair Oaks Apartments are located in the area which does not comply with new fine particle air quality standards. Pollutant concentrations will be even higher on the upper stories of the proposed apartments.

Earlier this year, in an effort to be more business friendly, our governor and legislature required the DNR to adopt a policy so the new air quality standards for fine particles would not be applied to industrial factories like Kipp. Numerous environmental professionals as well as the USEPA have recognized this policy as irresponsible and based on bad science. Some of the illogical reasoning used by the DNR to justify not enforcing the fine particle air quality standards have been repeated in the December 7th health department memorandum. Despite many requests from neighbors and our state representative, neither the DNR or Kipp have taken steps to comply with the new air quality standards. For the foreseeable future, Kipp will not be required to comply with the new air quality standards. New residential development in the neighborhood, such as the proposed Fair Oaks Apartments, should not be allowed until Kipp has been shown to comply with current air quality standards.

In its own comments on this project, Kipp has objected to the construction of the Fair Oaks Apartments, acknowledging that its industrial operations are not compatible with residential housing. Anyone familiar with the many years of conflict between Kipp and the surrounding neighborhood would agree this is true. As the Plan Commission discusses this project, perhaps it is time for the city to consider moving Kipp to a new location so our neighborhood can be safely developed.

Thank you for considering my comments on this project and please let me know if you have any questions.

Steven Klafka

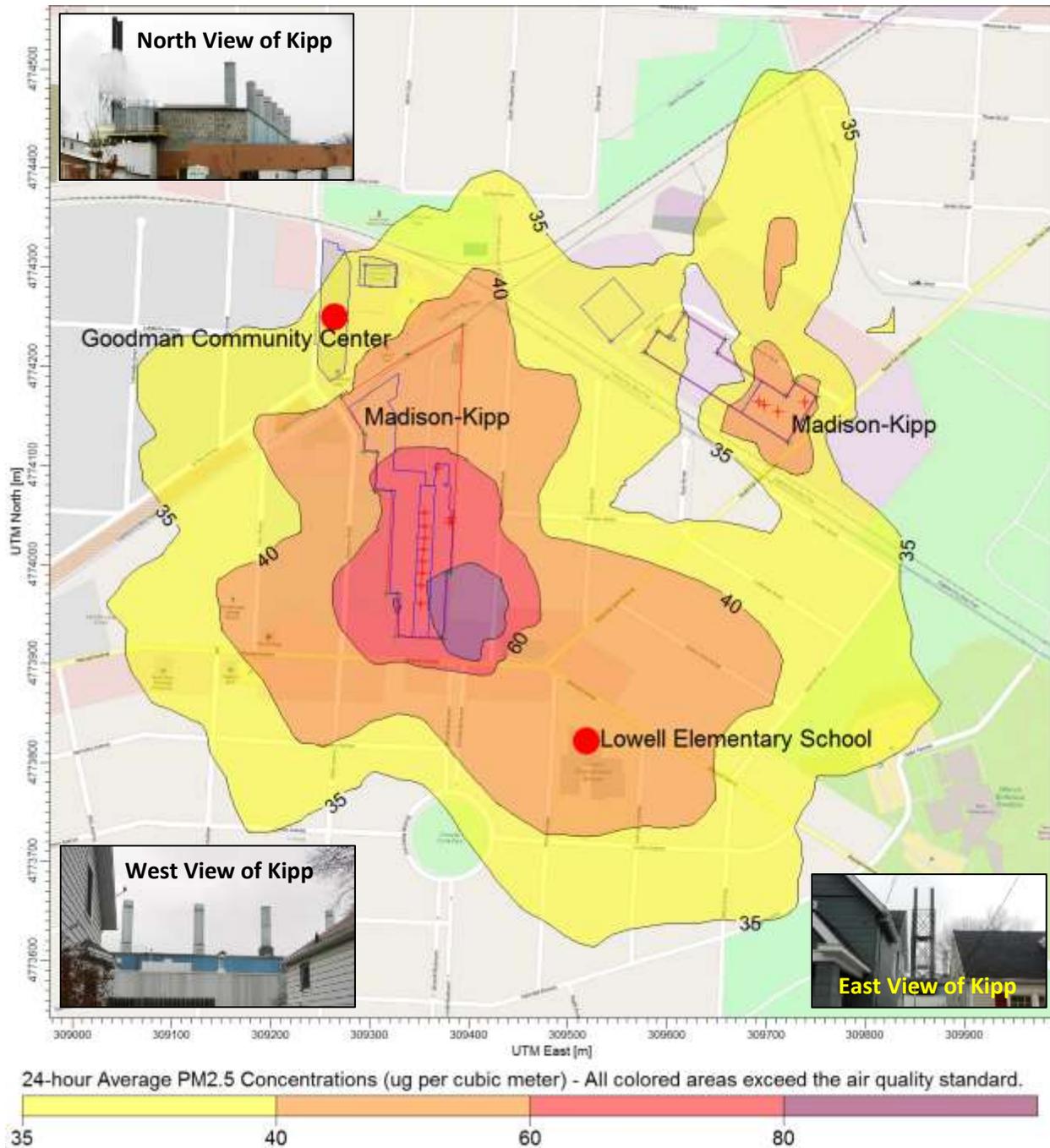
■ Elmside Boulevard
Madison, WI 53704



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Steven Klafka, P.E., BCEE
Environmental Engineer



Recent Air Pollution Developments at Madison-Kipp



The figure above shows areas surrounding Madison-Kipp which are predicted to exceed the national air quality standards for fine particles, referred to as PM_{2.5}, or particles less than 2.5 microns in size. In 2006, USEPA adopted this new national health standard of 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). When adopting this standard, EPA noted that people most at risk from particle pollution exposure were those with asthma, and heart and lung disease, older adults, children, people of lower socioeconomic status, pregnant women, newborns, and people with health conditions such as obesity or diabetes. This figure is based on the 2007 DNR analysis, which was used to require Kipp to install taller stacks (seen today): these were necessary for Kipp to comply with the old air quality standard for particles of $150 \mu\text{g}/\text{m}^3$ (a standard adopted by EPA in 1971).

Recent Air Pollution Developments at Madison-Kipp

2012 – On August 12th, DNR responds to State Representative Chris Taylor’s request to test the air pollution from the die casting operations at Kipp. These stacks were last tested in 1994. DNR tells Taylor that the Kipp air pollution permit has recordkeeping requirements that are superior to actual testing. On September 4th, USEPA issues a notice of violation to Kipp for failure to conduct the recordkeeping required by its air pollution permit for the period from 2007 to 2012.

2013 – On June 28th, Representative Taylor writes to the DNR and requests immediate renewal of Kipp’s expired air pollution permit to address the following issues: 1) compliance with the fine particle air quality standard, 2) environmental justice for children impacted by Kipp, 3) need for current air pollution tests, 4) use of continuous emissions measurement rather than paper records, 5) determining the chemical composition of stack emissions, 6) installation of fine particle monitors, and 7) evaluation of health effects of fine particle exposure. In its July 16th response, the DNR states that renewal of the Kipp permit is not a high priority. It further states that the fine particle monitor located at East High School (which is a mile away and located on the roof) proves there are no problems. The DNR dismisses each of Taylor’s remaining concerns. On July 17th, Kipp settles with neighbors for \$7.2 million over the failure to clean up its PCE solvent spills which contaminated soil and groundwater. The settlement requires installation of a vapor extraction system on each of 70 neighborhood homes to prevent PCE vapors from entering the homes. On September 13th, Representative Taylor and neighborhood representatives meet with DNR staff at the State Capitol to discuss Kipp violation of air quality standards. DNR staff state that it would set a bad precedent to first renew permits for factories that are violating air quality standards.

2014 – On June 24th, Representative Taylor writes to the DNR and requests the Department begin the renewal of Kipp’s expired air pollution permit and require the company to comply with current air quality standards. She provides DNR with a new engineering study of air monitoring and modeling studies showing Kipp’s violation of air quality standards. (The figure in this handout is taken from this study.) In its July 17th response, the DNR repeats its position that renewal of the Kipp’s permit is not a high priority and the fine particle monitor located a mile away on the roof of East High School shows there is no problem.

2015 - On April 6th, EPA fines Kipp for failing to maintain air pollution records from 2007 to 2012. To avoid some fines, Kipp is allowed to install new windows on its office. On August 21st, Representative Taylor and State Senator Fred Risser jointly write to EPA and ask that EPA intervene and require Kipp to comply with air quality standards. In its September 25th response, EPA refuses to take action and defers to the DNR.

2016 – On February 22nd, Representative Taylor writes to the DNR requesting removal of a Madison health department memorandum from the DNR web site. This memo falsely concludes that Kipp complies with air quality standards. DNR has not yet removed the memo from its web site. Later in the year, DNR adopts new business-friendly policies including: 1) air pollution permits (including the Kipp permit) no longer need to be renewed, 2) DNR staff no longer are required to verify if factories (including Kipp) comply with the current fine particle air quality standards, and 3) generic registration permits become available to more factories (including Kipp). These generic permits require few records and infrequent inspections, and do not require compliance with air quality standards or emissions testing.



Comments for the Fair Oaks proposal on the 12/12/16 Plan Commission agenda

Jim Powell, Midwest Environmental Justice Organization

We strongly oppose the Stone House proposal at 134 S. Fair Oaks Ave. because residential housing should not be placed immediately next to a factory whose pollution, noise and truck traffic will make residents' lives hell.

Putting low income housing at this particular location, next to the Madison-Kipp factory with its ongoing and historic pollution issues, is a mistake. It also is the classic definition of an environmental justice issue: putting low-income people next to a major polluter. This is hardly the type of development that the city's nascent "equity lens" approach should support, and I have not heard that the city's Racial Equity & Social Justice Tools Analysis was applied to this proposed project.

Additionally, the site is surrounded by properties that have had significant soil and groundwater contamination. Some have been remediated but only to industrial standards, nor residential standards. The reason is that the area is not residential—it's industrial.

Two Kipp factories (one on the site of the old city bus barn and one 900 feet away) and Kessenich's across the street, all are polluted sites that have undergone some type of remediation. But "remediation" is often just capping the contaminated soil. "Caps" included building and parking lots. So the pollution remains and only meets industrial standards. People should not live here.

The City owns the land under Kipp's Fair Oaks plant, and the parking lot at the Kipp Waubesa plant and the rain garden and the bike path, all of which have historic and ongoing pollution issues. The Kessenich property across the street, which also has developer looking at a mixed use development, also had petroleum remediation done decades ago—once again to industrial standards. This clearly is not a residential area.

In its comments to you, Public Health Madison Dane County (PHMDC) proposed that Kipp will not pose health risks to residents of the Fair Oaks housing. Oddly, PHMDC's document doesn't mention the hundreds of health complaints over the last 25 years from citizens in the Kipp neighborhood—it only mentions the many neighborhood complaints about "odors."

Just as strangely, it argues that there are no health risks, citing lack of relevant exposure data and claiming that this data would be too difficult to gather. It further dismisses concerns about PCE and PCB emissions from the Fair Oaks plant simply because "there is no reason to expect" that Kipp used these chemicals.

Yet PHMDC did no evaluation of chemical releases from Kipp's Fair Oaks plant, which is as close to the proposed housing as you can get.

Assuring you that there are no risks because nobody has collected data to assess exposures is not only irresponsible and unethical—it is unscientific. We expect more from our public health department.

Even Madison-Kipp wrote that it hoped it would be an “obvious conclusion” that “it would be unwise to locate new homes just steps away from an existing industrial use.” Kipp knows very well what will happen if people are living feet away from their Fair Oaks factory, because they have received countless noise, pollution, odor, truck traffic, and other complaints over several decades from the people living adjacent to its Waubesa plant.

So we have the Public Health Department uncritically downplaying complaints, saying they are not problems, while Kipp--the subject of the complaints--says they are a problem and will only increase. Common sense tell you that there clearly have been complaints about Kipp for decades and that putting more people next to Kipp will result in more complaints—and deservedly so.

Do the right thing, and do not approve this location for low income—or any— housing. Placing housing next to a major, active polluter is a bad precedent for new development and an environmental injustice to the low-income people who would be living there.