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Sent: Monday, December 13, 2021 3:32 PM
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Subject: Comments on PC Agenda Item 18 tonight - #68194 Edgewood Commons Addition

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My name is Ethan Brodsky and I live on Woodrow Street.

I am writing regarding Legistar File #68194, which is agenda item #18 at the Plan Commision meeting tonight.

This item is the Conditional Use Permit application for an addition to a building on the Edgewood campus, commonly referred to as the "Edgewood Commons".

While I am generally supportive of the proposed development, I have two concerns about the proposal and two concerns about the process which I feel I must raise.

Regarding the proposal itself, my two concerns revolve around light and noise.

LIGHT
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On the issue of light, I note that the description and renderings of the building include large "curtain wall" window" on the sides of the building facing Monroe Street and Woodrow Street. Estimating from the dimensions on the plans, the building appears to have ~2500 square feet of new windows on the elevation facing Woodrow Street and ~1300 square feet of new windows on the Monroe-facing elevation, plus some additional floor-to-ceiling windows in the angled walls. These windows open into a large (~2.5 story) open space that the "lighting concept" drawing shows to have 27 "loop pendant lights" installed. Light spill from this space out the windows has the potential to be a substantial source of nighttime light pollution in the area. This proposed "curtain of light" would be directly visible from the windows of homes on Monroe and Woodrow. On top of this, the renderings show 25 recessed can lights on the soffits overhanging the Monroe-facing and Woodrow-facing sides of the building, which will put substantial light on the outside wall and ground 40-60 feet below. All of this will result in light spilling over a large area and being brightly visible from neighboring homes. The main Monroe-facing facade of Edgewood High School is already brightly lit and is already one of the largest sources of light pollution in what is otherwise a generally-dark neighborhood, and the theater addition several years ago substantially added to that spill.

While I have no objection to reasonable interior lighting being used when buildings are actively in use, and no objection to reasonable outdoor lighting needed to ensure access and safety, I would like to see some conditions on lighting set to avoid unnecessary light pollution when it does not benefit anyone.

I propose the following conditions on lighting:

1. "Indoor lighting in any room with substantial exterior glass shall be limited to avoid unnecessary glare and spillage. Lighting in all such rooms will be controlled by timers and/or occupancy sensors to ensure it is consistently turned off at night and when the rooms are not in use."
2. "Between the hours of 10 PM and 7 AM, exterior lighting other than that required for safety and reasonable illumination of entrances and signage is prohibited. There shall be no new accent lighting, facade lighting, or other upwards-facing lighting that is illuminated during these hours. All such exterior lighting must be on timers to ensure that it is shut off during the prohibited hours."
3. "All outdoor lighting shall comply with the standards in MGO 10.085."
4. "No acorn-type, sphere-type, or other non-shielded outdoor lighting will be used."
5. "Lighting for the entranceway and 'vestibule' will be on separate circuits using small lighting fixtures that are physically proximate to those spaces and proportionate to the area they are illuminating, so that those areas can be lit for safety/security without illuminating the entire room and facade using the high-bay and soffit lights."

While I understand that some of these conditions are stricter than the basic standard in MGO 10.085, I point out that this is a Conditional Use Permit in which the applicant is requesting an exception to the ordinarily permitted use for this parcel. If the minimum standards in the city's ordinances were adequate to regulate this development, then it would be permitted by right and not require a CUP.

It is entirely reasonable for the PC to set conditions that may be stricter than those in MGO 10.085 if that is what is required to ensure that the CUP standards for approval are met. In particular, substantial sources of lighting in a residential neighborhood violate the following conditions in 28.183(6)(a): "(1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare", "(3) 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 (9) "When applying the above standards to any new construction of a building or an addition to an existing building the Plan Commission shall find that the project creates an environment of sustained aesthetic desirability compatible with the existing or intended character of the area and the statement of purpose for the zoning district. In order to find that this standard is met, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comment and recommendation.".

The suggested conditions relate to the " establishment, location, construction, maintenance and operation of the conditional use" and thus may be stipulated by the PC according to 28.183(6)(b)(1) and the procedures for continuing jurisdiction are described in 28.183(9)(d).

I should also point out that the Edgewood parcel already contains a number of lighting fixtures that appear to violate existing city ordinances, so it would be advantageous for the applicant to avoid installing additional non-compliant lighting in this new development.

I understand that these limitations on lighting may pose some cost and inconvenience to the applicant, but they are proposing a development with enormous amounts of exterior glass that would become one of the largest sources of nighttime light spill in the neighborhood. I have no objections to normal amounts of light spillage associated with normally-sized windows

- if there's a small room (e.g. a hallway, office, or bathroom) that has typical residentially-sized windows (e.g. 2-3 feet by 5-8 feet) and is lit to typical indoor light working levels, then I have no desire to force them to do anything complicated or expensive (though I wish they would still use occupancy sensors), but for a large room with huge windows facing out towards homes, it is important to ensure that measures are taken to avoid negative impact to neighbors except in situations where the benefit to the applicant warrants that impact. Having the lights on when the room is occupied and in use is understandable and unobjectionable, but the benefits of unnecessarily leaving the lights on late at night unnecessarily or lighting the entire room and facade (convenience? branding presence?) instead of just lighting the entranceway and vestibule for safety and security does not warrant the large negative impact to neighbors.

Advances in LED lighting have removed financial barriers to lighting spaces far in excess of that required for reasonable use, and the PC should discourage such unnecessary lighting in situations where it creates harm to others.

NOISE

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My second concern regards noise associated with this use. While indoor events are to be expected and unobjectionable, the Edgewood campus already hosts numerous outdoor nighttime and early-morning events (conducted by both the high school and the college) that generate disruptive levels of noise through the use of electrical amplification of sound, and any *new* construction should carry with it conditions that prohibit the permanent establishment of additional disruptive noise associated with their use.

I propose the following condition on noise:

"Any mechanically generated or electrical amplified sound, including that from portable public address systems, shall not exceed the levels specified in 24.08(6). This specifically means that the level shall be below 65

dB(A)(slow) for non-impulsive noise and 60 dB(A)(fast) for impulse noise, as measured at neighboring residentially-zoned property lines. Amplified sound is prohibited between 9 PM - 7 AM in all circumstances."

Such a condition is important for ensuring that the development is consistent with 28.183(6) and may be stipulated by the PC according to that ordinance.

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Provided that conditions similar to those proposed are included, I am supportive of this development.

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I would, however, like to raise two procedural concerns, which have unfortunately resulted in many in the neighborhood being unaware of this proposed development and/or having minimal time to review and comment on this proposal.

I do not believe that this application, as posted, complies with the "completeness" requirement in MGO 28.181(4) or the signage requirement in MGO 28.181(5).

The Legistar file #68194 is here:

https://urldefense.proofpoint.com/v2/url?u=https-3A_madison.legistar.com_LegislationDetail.aspx-3FID-3D5202893-26GUID-3D76B45B07-2D7A20-2D43B1-2D91DA-2D34B110F3D954-26Options-3DID-257CText-257C-26Search-3Dedgewood&d=DwIDaQ&c=byefhD2ZumMFFQYPZBagUCDuBiM9Q9twmxaBM0hCgII&r=2MtVRMew_bchyGAP7ZqJik2RkvN6isg5tYWi4sfcfw0&m=HJWC8VAFjmrAfdLQEZGrkrLEVjuW1BOnJCbYB33ODAc&s=go gd3W5qBbRDg850eQbmMocff6BrMQBC_iSCRn6awg&e=

and contains a filled-out "Land Use Application - Instructions and Form"

LND-A:

https://urldefense.proofpoint.com/v2/url?u=https-3A_madison.legistar.com_View.ashx-3FM-3DF-26ID-3D9930996-26GUID-3D824789DD-2D6EED-2D4ECA-2DB172-2D442103B5970A&d=DwIDaQ&c=byefhD2ZumMFFQYPZBagUCDuBiM9Q9twmxaBM0hCgII&r=2MtVRMew_bchyGAP7ZqJik2RkvN6isg5tYWi4sfcfw0&m=HJWC8VAFjmrAfdLQEZGrkrLEVjuW1BOnJCbYB33ODAc&s=B4jRuaZ8Fve-3WccIXYJ_ighTEqh8TW-il5hgbGdEcY&e=

LND-A is a standard city form, which can be found here:

<https://www.cityofmadison.com/dpced/bi/documents/LandUseApplication.pdf>

and reads: "A copy of the pre-application notification letters and, if applicable, any correspondence granting a waiver or reduction of the 30 days, is required to be submitted as part of the application materials."

This is reiterated in this document here:

"7. Completeness Review. Per Section 28.181(4), MGO, the Zoning Administrator may refuse to accept an application, if it is determined to be incomplete. A "complete" application includes a completed Land Use Application Form (Pages 5-8) and the submission of all required application materials as indicated on its Submittal Checklist (Page 6)."

The "Submittal Checklist" of required application materials is on page 6 of LND-A, and one of the items in the list is:

"Pre-Application Notification Proof of written 30-day notification to alder, neighborhood association, and business associations. In addition, Demolitions require posting notice of the requested demolition to the City's Demolition Listserv at least 30 days prior to submitting an application. For more information, see Page 1 of this document"

I've looked through all of the documents in the Legistar file and I don't see any of those letters or notifications or proof that they have been submitted in the application, letter of intent, or project plans.

Again, there is language specifically requires it to be "submitted as part of the application materials" and I do not see it in the application materials.

While I do note that other recent CUP applications have the same deficiency, that this application itself includes an attestation that such contact occurred on 9/27 and 9/29, and that I have no reason to doubt the veracity of that attestation or that such materials were in fact submitted but not posted, it is disappointing that the required documentation has not been posted on Legistar where it can be reviewed by the public.

Second, regarding the posting of a sign giving notice of the public hearings, MGO 28.181(5) requires the following forms of notice:

"Signage (Applicant)

...

The sign shall be posted at least twenty-one (21) days prior to the public hearing and shall be located in a position on the property so that it can be read from the sidewalk or other public right-of-way. If a property abuts more than one (1) public right-of-way, a sign shall be placed facing each public right-of-way."

I have seen no sign posted on the Woodrow Street right-of-way or the Edgewood Avenue right-of-way, both public streets. Instead Edgewood appears to have posted two signs on the Monroe Street side of the property, one immediately on each side of their driveway entrance. Considering the size of the property, the signs are almost adjacent to each other, and there are no signs facing two out of the three (perhaps three out of the four?) public right-of-ways?

DCIMap shows the property as being a single parcel, 251/0709-272-0106-5, which abuts Woodrow Street and Edgewood Avenue. For a hearing on Dec 13, such signage was required to have been posted by Nov 21 in order to give the required notice.

Many people I have spoken to are entirely unaware that this development has been proposed.

While I understand that the ordinance specifically states that "Failure to post the sign shall not invalidate any action taken on the application by the Plan Commission or Common Council", it is frustrating to see the city repeatedly bend over backwards to ignore or accomodate Edgewood's violations of city ordinances. This type of conduct would not be permitted by another party, and I have seen other applications delayed or rejected based on minor omissions or technical violations of the regulation.

Edgewood's neighbors wish that the city would hold Edgewood to the same standard as the they do the rest of us.

I hope that my comments will be considered.

Best wishes and thanks for all you do,

Ethan Brodsky