

PLANNING DIVISION STAFF REPORT

February 17, 2021



PREPARED FOR THE HOUSING STRATEGY COMMITTEE, PLAN COMMISSION, &
COMMON COUNCIL

Proposal: Zoning Text Amendment

Legistar File ID #: [63902](#) – Housing Density and Conditional Use Thresholds

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Introduction

As one part of the City of Madison’s efforts to address housing needs, this group of proposed ordinance changes includes modifications to existing multi-family and mixed-use zoning districts. The modifications would increase the allowable residential densities and also expand the types of multi-family housing that can be approved administratively, without additional discretionary review by the City’s Plan Commission. While many of these uses are currently allowed, they must receive “Conditional Use” approval by the Plan Commission prior to construction.

Modest increases to allowable density and adjustments to conditional use thresholds would apply to the following zoning districts: SR-V1, SR-V2, TR-V1, TR-V2, TR-U1, TR-U2, NMX, TSS, and CC-T Districts, which represent 7.3% of the land area and 8.6% of the parcels in the city. Different standards are proposed for each district, recognizing the range of appropriate scales and types of multi-family development already allowed.

The changes also include removal of a “dispersion requirement,” in the zoning ordinance which currently necessitates conditional use approval for two-unit and small multi-family residential buildings when they are proposed within 300 feet of an existing similar building. This proposed change applies to the SR-C3, SR-V1, TR-C4, and TR-V1 Districts, which comprise approximately 4% of the land area and 14% of the parcels in the city.

Policy Context

This particular set of proposed changes focuses on making it easier and more predictable to develop small and mid-scale multi-family housing, and supports easier transition of auto-oriented commercial corridors to mixed-use neighborhoods. The changes are not being newly considered. In fact, they would directly implement several specific and clear recommendations in the [City’s Comprehensive Plan \(2018\)](#), [Analysis of Impediments to Fair Housing Report \(2019\)](#) (AIFH), and [Equitable Development Report \(2019\)](#), all of which were approved by the Common Council in recent years to provide policy direction (see details in Table 1, p. 3).

Importantly, these amendments are just a part of a much broader package of City initiatives involving funding and regulatory changes to promote more housing, more housing affordable to households with low-incomes, and more housing choices. In recent months, the Common Council has acted to expand and

re-shape the use of the City's Affordable Housing and Land-Banking funds, created a new high-intensity, mixed-use zoning district, and changed zoning to broadly allow Housing Cooperatives across the city. In 2021, we anticipate that the Council will explore changes to ease the development of Accessory Dwelling Units across the city, changes to the demolition ordinance, and more to continue to better align the City's policies and regulatory environment with housing goals.

For many decades, the construction of multi-family housing at any scale in Madison (not unlike many other cities across the U.S.) has involved a high level of scrutiny before it can be constructed. While many land uses ranging from single-family homes to office and industrial buildings are reviewed administratively and constructed in areas zoned for those uses, multi-family housing, even on a small scale and in areas zoned to support it, has been subject to discretionary review as a conditional use. This often involves a lack of predictability that can make it difficult, particularly for new developers or developers of small-scale projects to choose to move forward with small and mid-scale housing development. While the "unknowns" during the process, which can differ significantly by neighborhood, are and would continue to be part of the cost of doing business for larger-scale development, these unknowns regarding timing and potential changes to the scope and design of housing can be too costly for smaller-scale developments to manage. Today, when more housing and more diverse housing options are so needed to provide more choices for Madison's existing and future residents, these proposed steps would start to standardize the regulatory process for one of Madison's greatest needs.

Table 1: Existing recommendations related to these amendments

Recommendation	Related Amendment Focus
<p>Comp Plan - Neighborhoods & Housing, Strategy 2: <i>Support development of a wider mix of housing types, sizes, and costs throughout the city.</i></p>	<p>In recent years, Madison has seen a lot of larger-scale multi-family housing and many single-family homes, but not a lot of small- and mid-scale multi-family housing. These amendments focus on easing barriers to development of small- and mid-scale multi-family housing.</p>
<p>Comp Plan - Neighborhoods & Housing, Strategy 3: <i>Increase the amount of available housing.</i></p> <p>Action B: <i>Explore adjustments to the number of dwelling units, building size, and height thresholds between permitted and conditional uses to increase the allowable density for residential buildings in mixed-use zoning districts and select residential zoning districts.</i></p>	<p>These amendments adjust the conditional use thresholds in multi-family and mixed-use districts by allowing more dwelling units by-right and eliminating the “building size” thresholds. Aside from slight adjustments in some cases to allowable height in feet, the number of stories allowable as a permitted use is unchanged. The amendments also reduce the amount of ground floor commercial space needed in order for a building to be approved as a permitted use.</p>
<p>AIFH - Rec 1.3: <i>Review current regulations within the zoning code and adjust as necessary to maximize potential for context-sensitive density increases in residential and mixed-use districts, supporting missing middle housing types (townhomes, small lots, etc.)</i></p>	<p>These amendments slightly increase allowable residential densities by reducing the lot area and usable open space required per dwelling in multi-family residential and mixed-use districts. Changes to allow for up to a 30 unit per acre density in the SR-V1, SR-V2, TR-V1, and TR-V2 districts most specifically address this recommendation.</p>
<p>AIFH - Rec 1.5: <i>Explore removal or modifications to City ordinance requiring conditional use for 2 or more unit structures within a set proximity in residential districts</i></p>	<p>The amendments include the removal of a “dispersion clause” in the SR-C3, SR-V1, TR-C4, and TR-V1 Districts, which currently necessitates conditional use review for new 2-unit and small multi-family buildings if they are within 300’ of another such building.</p>
<p>AIFH - Rec 1.7: <i>Explore adjustments to current zoning to be consistent with the Future Land Use Map and Comprehensive Plan, preemptively easing barriers to development of more affordable housing types in areas where diversification of housing stock would be beneficial.</i></p> <p>A. Adjusted Generalized Future Land Use Low-Medium Residential district allows missing middle and other higher-density structures, but zoning still may serve as impediment to affordable development (adjustments should be explored across all districts to maximize efficiency in development)</p>	<p>In all relevant zoning districts covered by this amendment, adjustments to the lot area and usable open space requirements are made to facilitate development in the density ranges outlined in corresponding future land use areas in the Comprehensive Plan.</p>
<p>AIFH - Rec 1.10: <i>Explore relaxing administrative barriers to development, promoting increased development at all rental and ownership levels</i></p>	<p>Proposed adjustments to conditional use thresholds represent a modest step toward this recommendation – focused on small and mid-scale development.</p>
<p>Equitable Development – p. 26: <i>Adjust thresholds (# dwelling units, building size, height, etc. between permitted and conditional uses to “relax” the zoning code and allow more “by-right” development.</i></p>	<p>These amendments adjust the conditional use thresholds in multi-family and mixed-use districts by allowing more dwelling units by-right and eliminating the “building size” thresholds. Aside from slight adjustments in some cases to allowable height in feet, the number of stories allowable as a permitted use is unchanged. The amendments also reduce the amount of ground floor commercial space needed in order for a building to be approved as a permitted use.</p>

Impacts on Development Review Processes

Allowed uses in the City's Zoning Code are classified as being either a "permitted" or "conditional" use. Conditional uses can only proceed if approved by the City's Plan Commission, which must make findings that certain standards are met in order to approve a given proposal. Such consideration is a layered process that includes review and input from City staff, Alders, nearby residents (often organized in neighborhood associations and their committees), the Plan Commission, and other entities. This review is in addition to various technical requirements (e.g., other zoning requirements, stormwater management, building codes, and fire codes) that apply. Conversely, when a development moves forward as a permitted use, it does not need to be approved by the City's Plan Commission following a public hearing, and there are no opportunities for discretionary review mentioned above. Unless a property owner/developer chose to involve them, there would be no informal review by residents or neighborhood associations, as is typical (though not required) for many development proposals today. However, "permitted uses" are still carefully reviewed administratively by Zoning, City Engineering, Traffic Engineering, and other agencies to ensure that all ordinance requirements are met.

The zoning code currently allows large office or industrial buildings to move forward as permitted uses, without any discretionary review in Employment and Industrial zoning districts. Regarding residential, while single-family homes are permitted uses in many zoning districts across the City, the construction of most multi-family housing requires discretionary consideration as a conditional use. This is true for most scales of multi-family development, including smaller developments in areas already zoned to support it.

Looking back on the roughly 10,000 housing units approved by the Plan Commission and Common Council over the past 5 years through rezoning requests, conditional use requests, and subdivisions, the proposed changes would have made approximately 400 housing units (4%) within a total of 15 approved developments a "permitted use" rather than a "conditional use." A few of the proposals that would become permitted uses with these changes garnered neighborhood attention and/or were controversial, and many approved recently have not yet been constructed, but all are generally consistent with plan recommendations and underlying zoning.

Importantly, the proposed amendments do not involve changes to requirements such as building placement on a given property, the amount of a site that can be covered by impervious surface, stormwater management requirements, automobile and bicycle parking requirements, and other elements in Madison General Ordinances. On top of this, the proposed changes have no impact on required reviews by the City's Landmarks Commission or Urban Design Commission.

While staff believes that the proposed changes only modestly impact the development review process (removing discretionary review and input by Planning staff, area residents, and the Plan Commission from small-scale and some mid-scale development), the hope is that by making it easier and more predictable for smaller-scale multi-family housing development, the City can remove barriers and thereby *encourage* more of the "missing-middle" housing we need throughout Madison, and also encourage new small-scale developers to invest in Madison's neighborhoods. Once adopted, staff will be able to monitor the effectiveness of these changes and report back to the Plan Commission and Common Council in future years, at which time policy-makers may wish to consider further changes to the zoning ordinance.

Description of Changes by Zoning District

Generally, the amendments include the following changes in Madison's multi-family residential and mixed-use zoning districts:

- Increase the number of dwelling unit threshold at which a new multi-family or mixed-use building becomes a Conditional Use.
- Reduce the amount of lot area and Usable Open Space (UOS) required per dwelling unit.
 - Note: Requirements related to lot coverage (the limit on the proportion of property that can be impervious surface) remains unchanged.
- Lower the amount of commercial space required in mixed-use buildings before a Conditional Use is triggered.
- Eliminate Conditional Use review based on building size in mixed-use districts.
- Eliminate the *dispersion requirement* for new development, which required Conditional Use approval for any new two-family or multi-family building proposed within 300' of an existing two-family or multi-family building in some districts.
- Increase the height of otherwise permissible 5-story buildings to 78' (up from 68', consistent with development over the past decade).

Here are a few relevant definitions to understand when reviewing these amendments:

Lot Area. The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any wetland area or any area dedicated or reserved by easement to the public for stormwater management.

Usable Open Space. That portion of a zoning lot, outside of a required front or corner side yard, as extended to the rear lot line, that is available to all occupants for outdoor use. Usable open space shall not include areas occupied by buildings, driveways, drive aisles, off-street parking, paving and sidewalks, except that paved paths no wider than five (5) feet, and pervious pavement may be included in usable open space. Usable open space may include balconies and roof decks where specified in this ordinance.

Also, a *mixed-use building* is a building comprised of commercial space on the first floor and residential space above.

Those interested in finding out more about where various zoning districts are located in the City can view this [Interactive Zoning Map](#) to explore the zoning in and around your neighborhood. The specific changes proposed by zoning district, including data reflecting the acreage and # parcels within each district as they relate to the City of Madison as a whole, are shown in Table 2, pp. 6-7:

Table 2: Specific Changes Proposed by Zoning District

Zoning District <i>(Land Coverage; # Parcels)</i>	Description of Changes
SR-C3 Suburban Residential Consistent 3 <i>(446 acres, 1.0%; 1441 parcels, 2.3%)</i>	<ul style="list-style-type: none"> ○ Eliminate <i>dispersion requirement</i> for new development, which required Conditional Use approval for a new two-family building proposed within 300’ of an existing two-family building
SR-V1 Suburban Residential- Varied 1 <i>(366 ac, 0.8%; 988 parcels, 1.6%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold to greater than 8 units (now greater than 4) ○ Lower lot area per dwelling unit for multi-family development and single family attached to 1500 sq ft, equating to ~29 units/acre density (now 2000 sq ft, ~22 units/acre) ○ Lower lot area per unit for two-family development to 3000 sq ft/unit (now 4000 sq ft/unit) ○ Lower multi-family development UOS per unit requirement to 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom (now 500 sq ft per unit) ○ Lower two-family development UOS per unit requirement to 500 sq ft/unit (now 750 sq ft per unit) ○ Eliminate <i>dispersion requirement</i> for new development, which required Conditional Use approval for a new two-family or multi-family building proposed within 300’ of an existing two-family, single family attached, or multi-family building
SR-V2 Suburban Residential- Varied 2 <i>(1,124 ac, 2.6%) 382 parcels, 0.6%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold to greater than 24 units (now greater than 8) ○ Lower lot area per unit for multi-family development and single family attached to 1500 sq ft equating to ~29 units/acre density (now 2000 sq ft, ~22 units/acre) ○ Lower lot area per unit for two family-twin to 3000 sq ft/unit (now 4000 sq ft/unit) ○ Lower multi-family development UOS per unit requirement to 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom (now 500 sq ft per unit)
TR-C4 Traditional Residential- Consistent 4 <i>(592 ac, 1.4%; 4077 parcels, 6.5%)</i>	<ul style="list-style-type: none"> ○ Eliminate <i>dispersion requirement</i> for new development, which required Conditional Use approval for a new two-family or three-unit building proposed within 300’ of an existing two-family or three-unit building
TR-V1 Traditional Residential- Varied 1 <i>(356 ac, 0.8%; 2294 parcels, 3.7%)</i>	<ul style="list-style-type: none"> ○ Lower lot area per unit for 2-unit, 3-4 unit multi-family, and single family attached to 1500 sq ft, equating to ~29 units/acre density (now 2000 sq ft, ~22 units/acre) ○ Lower multi-family development UOS per unit requirement to 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom (now 500 sq ft per unit) ○ Eliminate <i>dispersion requirement</i> for new development, which required an automatic Conditional Use if a new two-family or multi-family building is proposed within 300’ of existing two-family or multi-family building
TR-V2 Traditional Residential- Varied 2 <i>(121 ac, 0.3%; 263 parcels, 0.4%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold to greater than 12 units (now greater than 4) ○ Lower lot area per unit for 2-unit, multi-family, and single family attached development to 1500 sq ft equating to ~29 units/acre density (now 2000 sq ft, ~22 units/acre) ○ Lower UOS per unit requirement to 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom (now 500 sq ft per unit)
TR-U1 Traditional Residential- Urban 1 <i>(260 ac, 0.6%; 156 parcels, 0.2%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold to greater than 24 units (now greater than 8) ○ Lower lot area per unit for multi-family development to 750 sq ft/unit equating to ~58 units/acre density (now 1000 sq ft, ~43 units/acre) ○ Lower lot area requirement for two family development to 3000 sq ft (now 4000 sq ft for 2-unit, 6000 sq ft for two-family twin) ○ Lower lot area per unit for 3-4 unit to 3000 sq ft (now 4000 sq ft) ○ Lower lot width requirement for 3-4 unit to 40’ (now 50’) ○ Lower lot area per unit for single family attached to 1000 sq ft/unit (now 1200 sq ft/unit) ○ Lower multi-family development UOS per unit requirement to 160 sq ft/unit (now 320 sq ft/unit) ○ Increase by-right height for 5-24 unit multi-family building to 4 stories/52’ (now 3 stories/40’)

Table 2: Specific Changes Proposed by Zoning District (cont.)

Zoning District <i>(Land Coverage; # Parcels)</i>	Description of Changes
TR-U2 Traditional Residential-Urban 2 <i>(74 ac, 0.2%; 79 parcels, 0.1%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold to greater than 60 units (now greater than 8) ○ Lower lot area per unit for multi-family development to 350 sq ft/unit equating to ~124 units/acre density (now 500 sq ft, ~86 units/acre) ○ Lower lot area per unit for 3-4 unit to 3000 sq ft (now 4000 sq ft) ○ Lower lot width requirement for 3-4 unit to 40' (now 50') ○ Lower lot area requirement for two family development to 3000 sq ft (now 4000 sq ft for 2-unit, 6000 sq ft for two-family twin) ○ Lower lot area per unit for single family attached to 800 sq ft/unit (now 1200 sq ft/unit) ○ Lower multi-family development UOS per unit requirement to 40 sq ft/unit (now 140 sq ft/unit)
NMX Neighborhood Mixed-Use <i>(104 ac, 0.3%; 230 parcels, 0.4%)</i>	<ul style="list-style-type: none"> ○ Establish a maximum number of units for a multi-family building at 24 units (now greater than 8 triggers Conditional Use, 12 max) ○ Increase Conditional Use threshold for mixed-use buildings to greater than 24 units (now greater than 8) ○ Lower lot area per unit multi-family building to 500 sq ft equating to ~86 units/acre density (now 1000 sq ft, ~43 units/acre) ○ Lower UOS per unit requirement to 40 sq ft per unit (now 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom) ○ Eliminate maximum building size triggers automatic Conditional Use (Now 5,000 sq ft for a single occupancy, 10,000 sq ft for two or more occupancy buildings) ○ Reduces the required amount of commercial space on the first floor before a Conditional use is triggered to 50% of the street frontage (now 75% or 100% if lot is 40' or less)
TSS Traditional Shopping Street <i>(99 ac, 0.2%; 357 parcels, 0.6%)</i>	<ul style="list-style-type: none"> ○ Lower lot area per unit for a multi-family building to 350 sq ft equating to ~124 units/acre density (now 500 sq ft, ~86 units/acre) ○ Increase Conditional Use threshold for multi-family and mixed-use buildings to greater than 48 units (now greater than 24 for mixed use buildings, 4 for multi-family buildings) ○ Reduces the required amount of commercial space on the first floor before a Conditional Use is triggered to 50% of the street frontage (now 75% or 100% if lot is 40' or less)
CC-T Commercial Corridor Transitional <i>(685 ac, 1.6%; 667 parcels, 1.1%)</i>	<ul style="list-style-type: none"> ○ Increase Conditional Use threshold for multi-family and mixed-use buildings to greater than 60 units (now greater than 24 for mixed use, 4 for multi-family buildings) ○ Lower lot area per unit for a multi-family building to 500 sq equating to ~86 units/acre density (now 750 sq ft, ~78 units/acre) ○ Lower UOS per unit requirement to 40 sq ft per unit (now 160 sq ft 1 bedroom / 320 sq ft 2+ bedroom) ○ Eliminate maximum building size triggers automatic Conditional Use (Now 25,000 sq ft for a single occupancy, 40,000 sq ft for two or more occupancy buildings) ○ Reduces the required amount of commercial space on the first floor before a Conditional use is triggered to 25% of street frontage (now 75% or 100% if lot is 40' or less) ○ Increase by-right height to 78' for a 5-story building (now 68')
MXC Mixed-Use Center <i>(43 ac, 0.1%)</i>	<ul style="list-style-type: none"> ○ Increase by-right height to 78' for a 5-story building (now 68')
CC Commercial Center <i>(1109 ac, 2.5%; 434 parcels, 0.7%)</i>	<ul style="list-style-type: none"> ○ Increase by-right height to 78' for a 5-story building (now 68') ○ Increase Conditional Use threshold for multi-family and mixed-use buildings to greater than 60 units (now greater than 8)

Conclusion

In Madison, our plans and zoning code should support the development and redevelopment we want to see. While that is the goal, it is not how the process has played out for multi-family housing for many years. Despite the relatively recent adoption of a new zoning code in 2013, complexities in the code still ensure that nearly all multi-family housing must undergo discretionary and often unpredictable review processes. In many districts, the existing density limitations simply don't allow for even small changes to occur, and the tight conditional use thresholds related to number of units, building size, and proportion of ground floor commercial space present a "belt and suspenders" approach, creating a common occurrence where multiple conditional uses ensure discretionary reviews of nearly every multi-family housing proposal. As Madison continues to grow and change, careful examination of our planning and zoning systems through an equity lens is essential in order to foster support for the land uses we need.

The proposed amendments would modestly increase allowable residential densities and change conditional use thresholds in the City's multi-family and mixed-use districts in order to encourage the development of more housing, particularly small and medium-scale multi-family housing, as Madison's growth continues. The amendments closely follow recent and specific policy recommendations, particularly from the Comprehensive Plan (2018) and the Analysis of Impediments to Fair Housing Report (2019). Taken together, the amendments represent a modest change to Madison's Zoning Ordinance with a focus on making it easier to develop smaller-scale multi-family housing.

Staff supports this set of amendments, and, if approved, staff will prepare to monitor their effectiveness over time in order to report back to the Plan Commission and Common Council in future years.

Additional Resources (updated 2/24/21)

- [Video](#) of ~35 minute February 2021 presentation, providing an overview of proposed changes
- [Video](#) and [Materials](#) from a July 30, 2020 Plan Commission Work Session, where this set of changes was presented and discussed, among other ordinances related to housing
- [City of Madison Comprehensive Plan \(2018\)](#)
- City of Madison [Analysis of Impediments to Fair Housing Report \(2019\)](#)
- City of Madison [Equitable Development Report \(2019\)](#)
- [Interactive Zoning Map](#) – Use this tool to explore zoning in and around your neighborhood. If helpful, click this icon  to add "Aldermanic District" or "Neighborhood Association" boundaries and to see more clearly the zoning districts impacted by these proposed changes
- [Existing Parcel Information Map](#) - Use this tool to take a closer look at the characteristics of individual parcels (lot size, etc.)