



SMART GROWTH MADISON

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TO: Plan Commissioners
FROM: Delora Newton, Executive Director
RE: IZ substitute ordinance

Most of the changes contained in the substitute are supported by Smart Growth Madison, Inc. There is, however, one change we cannot support – adding the phrase, “subject to availability” in Section 28.04(25)(d)4.

The specific incentives subject to availability are already noted as such in the ordinance. Adding this blanket phrase to the overriding ordinance section would give staff and elected officials the ability to arbitrarily deny any incentive requested by the applicant.

It is imperative that at least one incentive is granted to an applicant in return for providing an affordable dwelling unit. Otherwise, the City may be accused of taking value away from a property owner without providing compensation. Therefore, the Section must read as follows:

28.04(25)(d)4. 5-4. Each of the incentives below has a value of 1 point. The applicant ~~may shall, subject to availability,~~ select an incentive, or combination of incentives, according to the points received for the development and the guidelines in Subparagraphs a. through j.k. below. If the Director of the Department of Planning and Development determines that any incentive(s) selected by the applicant should not be provided to the development, the reasons for such determination shall be provided to the Plan Commission in the report of the Planning Unit.

The following related section should also use the word “shall” instead of “may”

(25)(d)1. Incentives - The applicant ~~shall~~ may shall receive one or more incentives for providing inclusionary dwelling units or cash in lieu of inclusionary dwelling units. As set forth in ~~3-2.~~ below, each development will receive a number of points. The incentives available for a development shall be based on the number of points for the development and the incentive guidelines in ~~5-4.~~ below.

One additional agreed upon change was accidentally omitted from the substitute. The following change should be made to create consistency throughout the ordinance.

- (25)(g) Standards for Inclusionary Dwelling Units. The following standards shall apply to all inclusionary dwelling units except that par. 7 shall not apply to those units receiving Section 42 low income housing tax credit or qualified housing revenue bonds.

In addition, there are other changes desired by Smart Growth Madison that are not supported by Alder Konkel. I hope someone will offer them as amendments to the substitute.

Many of the amendments are related to life-lease units which the ordinance classifies as "Other Residential Occupancy Units". Therefore, I will list them as a group.

Smart Growth Madison believes that life-lease units are more similar to owner-occupied units than to rental units and so should share the AMI percentages affiliated with owner-occupied housing. Owners receive back 90% of the purchase price from the life-lease provider at time of sale. The owner occupant pays a share of the building's PMS (payment in lieu of property taxes paid by a non-profit) and is assessed a monthly fee for trash pickup, maintenance, snow removal, etc. just like those living in condominiums. But the biggest factor in recommending 80% AMI is that the senior citizens who chose this type of facility have almost always sold a home prior to purchase of a life-lease.

The following amendments should be offered:

- (25)(b) Definitions - Inclusionary Dwelling Unit. A dwelling unit for rental to a family with an annual median income at or below sixty percent (60%) of the Area Median Income (AMI), or for sale to a family with an annual median income at or below the income in (d)(3) eighty percent (80%) of the Area Median Income (AMI), or for other residential occupancy for a family with an annual median income at or below ~~sixty percent (60%)~~ eighty percent (80%) of the Area Median Income (AMI).

- (25)(c)4. AMI Levels. A development shall provide the required fifteen percent (15%) inclusionary dwelling units for income eligible families at one or more of the AMI levels in (d)2. No more than ten percent (10%) of all the dwelling units in the development shall be provided for income eligible families with an annual income at eighty percent (80%) AMI for owner-occupied inclusionary dwelling units or other residential occupancy dwelling units and sixty percent (60%) AMI for rental inclusionary dwelling units or other residential occupancy dwelling units, except that developments with forty-nine (49) or fewer detached dwelling units or four (4) or more stories and at least seventy-five percent (75%) of parking is provided underground may provide all inclusionary dwelling units at the above AMI levels.

- (25)(d)2.a. title of incentive points matrix – INCENTIVE POINTS FOR OWNER OCCUPIED AND OTHER RESIDENTIAL OCCUPANCY DWELLING UNITS

- (25)(d)2.b. title of incentive points matrix – INCENTIVE POINTS FOR RENTAL AND OTHER RESIDENTIAL OCCUPANCY DWELLING UNIT

(25)(e)6. ~~5-6.~~Failure to Rent or Sell During Marketing Period. If an inclusionary dwelling unit is not rented after having been marketed for ninety (90) days, or if there is no accepted offer to purchase after having been marketed for one hundred twenty (120) days, it may be marketed to a family with an AMI that is at or below the next greater ten percent (10%) increment of AMI than that specified in the restriction on the unit. For each additional consecutive ninety (90) or one hundred twenty (120) day period without a rental or sale, the inclusionary dwelling unit may be offered to a family with an AMI that is at or below an additional ten percent (10%) increment of AMI. ~~The owner or lessor shall provide the City with verification of the date on which marketing of a unit commences within ten (10) days of the beginning of the marketing period.~~ Marketing begins on the date the Director of the Department of Planning and Development receives notice that marketing of a unit has begun. The owner or lessor also shall provide the sale or rental price of the inclusionary dwelling unit and shall notify the City when the inclusionary dwelling unit is sold or rented. If the owner or lessor has provided notice of marketing as required in (e)6. and has ~~extended the marketing period two (2) times,~~ marketed a rental inclusionary dwelling unit for one hundred eighty (180) days or an owner occupied inclusionary dwelling unit for two hundred forty (240) days, the owner or lessor may rent or sell the inclusionary dwelling unit at market rate. ~~After a one-year period,~~ When a new family occupies the rental inclusionary dwelling unit, it shall be marketed to a family with an AMI at the level required for that unit. For purposes of this paragraph, other residential occupancy inclusionary dwelling units shall be treated in the same manner as rental-owner occupied inclusionary dwelling units.

Additional amendment needed but unrelated to other residential occupancy issue:

The following suggestion is a more realistic buyout provision and easier to calculate. Using the cost to produce the unit as the basis for a waiver fee may not accurately reflect the true costs of providing affordable housing. Some costs such as parking, elevators, landscaping, common areas, fire alarm/fire suppression systems, etc. benefit the entire building, not just affordable units. In addition, the buyout fee cannot be excessive as there is no way for the builder to recoup this expense except to split it between all market rate units. This only serves to increase the cost of housing and may then price potential renters out of those units.

(25)(c)8.h. ~~Payment to the Affordable Housing Trust Fund, or another fund designated by the Common Council~~ Inclusionary Zoning Special Revenue Fund, for a waiver of rental inclusionary dwelling units shall be ~~1.1 times the difference between the cost to provide a market rate rental dwelling unit and the cost to provide a rental inclusionary dwelling unit for an income eligible family at the specified AMI. twenty five percent (25%) of the cost to produce the unit~~ ten percent (10%) of the appraised value of the average unit times the number of units waived.

Thank you for consideration of these requests.