



Department of Planning & Community & Economic Development
Planning Division

Website: www.cityofmadison.com

Madison Municipal Building, Suite LL100
215 Martin Luther King, Jr. Boulevard
P.O. Box 2985
Madison, Wisconsin 53701-2985
TTY/TEXTNET 866 704 2318
FAX 608 266-8739
PH 608 266-4635

MEMORANDUM

TO: Madison Plan Commission
FROM: Planning Division Staff
DATE: November 15, 2010
SUBJECT: Relationships between the Comprehensive Plan, Neighborhood Plans and the Zoning Code

At the September 29th working session, the Plan Commission requested further information and clarification on conditional use standard No. 8 (page 222) and the role and status different adopted plans have in relationship to this standard. This memorandum provides a brief overview of the relationship between the Comprehensive Plan and neighborhood plans¹, and the role of adopted plans in the conditional use review process.

Comprehensive Plan

The goals, objectives and recommendations in the Comprehensive Plan provide the basic policy framework for land use and development in the City of Madison. The Land Use chapter of the Comprehensive Plan comprises a significant portion of the total plan document, and includes extensive narrative describing the planning and design issues that are addressed through the plan's recommendations. The Comprehensive Plan uses the Generalized Future Land Use Plan Map and the concept of land use districts to describe the physical form that the community should take over the long term. Each land use district includes a description of the location and design characteristics for the district, recommended land uses, and recommended development intensity. Virtually all land use district descriptions acknowledge that there may be small areas of other uses within the broader mapped district that do not appear at the broad scale of the Comprehensive Plan, and further specify that the locations of these other uses should be identified in more-detailed neighborhood plans. Similarly, the Comprehensive Plan notes that the broad development intensity and design parameters recommended for each land use district are intended to apply generally but might be modified by the more-detailed recommendations in an adopted neighborhood plan.

Neighborhood Plans

Because the Comprehensive Plan covers the entire City of Madison and its potential future growth areas it is necessarily the broadest, most general, and longest-term of all the City's land use plans despite its relatively high level of detail. The City's adopted neighborhood plans often provide more-detailed land use and design recommendations at a much finer geographic scale than is provided by the Comprehensive Plan's broader recommendations. It is intended that the detailed and mapped recommendations in a neighborhood plan be generally consistent with the broader recommendations in the Comprehensive Plan, and where this is not the case, that one or both plans be amended so

¹ To avoid unnecessary repetition, the term "neighborhood plan" also encompasses neighborhood development plans, special area plans, design guidelines and other similar documents adopted as supplements to the Comprehensive Plan.

they are consistent. Neighborhood Plans adopted since 2006 maintain this consistency, and efforts are ongoing to update earlier plans as necessary to become consistent where they may not be currently² Since 2006, neighborhood, neighborhood development, and special area plans have been adopted as supplements to the Comprehensive Plan³.

Because it does not, and cannot, include the more-detailed and nuanced recommendations that often are included in neighborhood plan, the Comprehensive Plan includes multiple policies throughout the Land Use chapter addressing the importance of preparing neighborhood or special area plans for locations where development or redevelopment is occurring or expected. These locations include established neighborhoods where some level of redevelopment is planned, future new neighborhoods at the periphery of the city, and larger infill sites, such as Royster-Clark. The recommendations in neighborhood plans specifically may include design as well as land use. The Comprehensive Plan specifically recommends that significant changes in land use and the intensity of development must be consistent with the detailed recommendations in a detailed City-adopted neighborhood or special area plan.

Zoning Code

The Madison Zoning Code is an important tool for implementing the land use recommendations in the City's adopted plans, and one of the primary reasons for the current Zoning Code rewrite is to make it a more effective instrument for doing this. The new Zoning Code seeks as much as possible to create a regulatory framework that allows developments consistent with the recommendations in adopted plans to be approved as permitted uses---with key design parameters, such as building form, size, setback, or height, included as required standards that must be complied with. In essence, these consistent projects will be allowed to proceed without the need for review or approval by the Plan Commission or Common Council. In general, the bulk and design standards for permitted uses have been set so that most projects meeting the district standards will fall within the parameters recommended for the location in adopted City plans, including the Comprehensive Plan and the more-detailed neighborhood plans. Many potential developments that do not meet all of the required standards for the zoning districts as a permitted use may still be allowed as conditional uses within those districts. In addition to certain potentially-problematic uses, developments beyond a certain size, or beyond a certain number of dwelling units, for example, are typically those that will need conditional use approve by the Plan Commission.

As recommended in the Comprehensive Plan, it is intended that developments be consistent both with its recommendations, and with the recommendations in adopted neighborhood plans. The district regulations in the new Zoning Code largely reflect the underlying plan recommendations and will allow many developments to occur as permitted uses. Conditional use review provides the opportunity for other developments that don't meet all the standards established for the zoning district to be evaluated against the criteria for approval of conditional uses. In order for this review to be an effective means of implementing the City's adopted plans, it is important that the recommendations in both the Comprehensive Plan and in any applicable neighborhood plan be considered among the review criteria. Land use and design recommendations are largely implemented through the review of specific development proposals, and only if these recommendations are considered and used in evaluating the proposal can the plans be implemented.

² While some older neighborhood plans may be substantively different from the Comprehensive Plan, most of the inconsistency between plans results from using detailed land use categories that do not telescope neatly into the Comprehensive Plan's broader land use categories, or from including land use recommendations without providing a meaningfully specific geographic context. These inconsistencies are avoided in more-recent neighborhood plans.

³ Prior to 2006, these plans typically were adopted as "elements of the Master Plan." Because the neighborhood plans can be much more detailed than the Comprehensive Plan and are adopted through a different procedure, they are adopted as supplements to the Comprehensive Plan rather than as a part of it.

Because the new zoning code often provides no defined limits upper limits to what may be considered as part of a conditional use approval, the recommendations in adopted plans also provide the most valid basis for evaluating a proposal. For example, several zoning district allow a building of up to three stories as a permitted use, with taller buildings possible if approved as a conditional use. Some neighborhood plans specify recommended building heights at various locations, sometimes with qualifying conditions. The recommendation might be a maximum of three stories, or four stories if stepped back above the third story, or perhaps up to five stories but only if underground parking is provided. Conditional use review can implement these plan nuances only if the plan is considered among the review criteria.

It is also important that consideration of adopted plans be a review criterion if the new Zoning Code is to accomplish another of its objectives---that of reducing uncertainty in the development process. If they are generally followed, adopted plans can help create certainty by clearly describing the types of developments that will be supported. With a new Zoning Code that facilitates many recommended projects as permitted uses prospective developers should have a greater level of comfort regarding what can readily be approved. Similarly, if a conditional use approval is required, basing the review partly on consideration of the recommendations in an adopted plan should provide greater assurance that proposals consistent with those recommendations may be approved, provided other criteria are also met. For residents of the neighborhood, knowing that the adopted plan will be considered in the review provides a level of comfort that their plan is being followed. The ability to effectively implement an adopted neighborhood plan would be greatly reduced if these plans are not given very serious consideration in the review of conditional uses within the planning area.

Recommendation for Including Plans in the Conditional Use Review Criteria

As currently presented in the Red-Lined Draft Zoning Code, the approval standards for conditional uses (Section 28.138 (6) state:

- (a) The City Plan Commission shall not approve a conditional use without due consideration of the City of Madison Comprehensive Plan. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the following conditions are present:

and among the listed conditions is Number 8:

8. The proposed conditional use conforms to the Comprehensive Plan and any applicable neighborhood plan.

The intent of these provisions was to make it clear that adopted City plans are important guides for development of the community, and that it is generally intended that development approvals should seek to implement the recommendations in those plans. Indeed ,a major reason for revising the Zoning Code has been to make it a more effective tool for implementing the City's adopted plans, as described above.

As currently drafted, however, the exact meaning of "conforms to" in provision No. 8 may not be clear. While it is generally intended that adopted plans be followed, it has been noted that strict adherence to the precise recommendations made in an plan may not always be appropriate. Situations where the plan is very outdated and no longer reflects community objectives, or where there appears to be an inconsistency between the Comprehensive Plan and a neighborhood plan, are possible examples. While best practice would be to keep plans current and/or to consider amendments to the plan if required to address changed conditions or unanticipated development opportunities, there still is a need to retain some flexibility in interpreting a plans recommendations---particularly in situations that are not clearly addressed in the plan.

In addition, the City Attorney has advised that the Zoning Code should not include standards that are not contained within the Code itself. So while, it may not have been the intended meaning of “conforms to,” it would be best if the Zoning Code did not include a conditional use standard that could be interpreted to require a project to comply with the detailed recommendations in an adopted City plan.

In order to address this concern, the Planning staff recommend that the conditional use standards be revised to include the reference to neighborhood plans within the general statement that begins the Approval Standards section. As revised, paragraph (a) would read,

- (a) The City 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, including design guidelines adopted as supplements to these plans. No application for a condition use shall be granted by the Plan Commission unless it finds that all of the following conditions are present:

Delete condition No. 8 from the list of conditions that follows and renumber as required.