



## Office of the Mayor

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### MAYOR'S INCLUSIONARY ZONING (IZ) WORK GROUP

#### SUMMARY AND CONCLUSIONS

June 26, 2006

The Madison Common Council adopted inclusionary zoning on January 31, 2004. Since that date, the Common Council has also adopted three amendments to the ordinance. These amendments are as follows:

- #36510, allowing for the sales price of an IZ unit to be set at the time the developer notifies the City that the marketing has begun
- #02363, allowing a developer to lease individually to each tenant in a dwelling unit
- #00428, allowing a non-profit to continue to control the IZ unit using a City-approved buy-back program and creating a category for "life lease" residential facilities

When IZ was adopted, the Madison Common Council also requested a staff report on how IZ was working. That report was presented to the Madison Common Council on January 19, 2006. The report is available upon request. The report concluded that many goals of inclusionary zoning are being reached, including the number of IZ units being produced and that IZ units are being dispersed throughout the City. The report concluded the development process did not take longer because of IZ, and developers were not leaving the City of Madison because of IZ.

The report did suggest that developers were not able to utilize a number of incentives or developers did not recognize incentives if they were provided (e.g., density bonus). The report suggested the process of approving projects could be reviewed and that policymakers could look specifically at issues of dispersion throughout a development.

The report also acknowledged the increased complexity of developing a project in the downtown and how the use of TIF complicates a project further. The report also noted that the equity model is complex and is probably turning potential buyers away. The report also noted that the marketing of the IZ units really relies on the developer to adequately market the unit. Finally, the report suggested that if changes were made to the ordinance, that increased flexibility to allow the developers and staff to work out issues would help make the ordinance work better.

Prior to release of the staff report, two IZ related ordinances had been introduced to the Council. Legistar #02320 proposed full repeal of the ordinance, while Legistar #02363

put forward a number of changes to the ordinance in an attempt to improve the ordinance based on comments and observations over the past year and a half.

The staff report, introduction of repeal, and proposed changes to the ordinance all pointed to the need to do something. The current IZ ordinance, while working to produce IZ units and achieve the goal of creating more affordable units throughout Madison, needs to be improved. Very quickly after the formal introduction of the repeal ordinance and proposed changes to the ordinance, it became clear that the formal nature of discussions about IZ at the Housing Committee, Economic Development Commission (EDC), and Plan Commission would not allow for the much needed informal discussions with all stakeholder groups. Inclusionary zoning is a complex ordinance with a number of issues that all relate to one another. Having a process where everyone could come to the table and share their experiences, suggest changes, and better understand all aspects of the ordinance was needed.

On February 7, 2006, Mayor Cieslewicz suggested the idea of an IZ Work Group to the chairs of the Housing Committee, EDC, and Plan Commission. On February 21, 2006, a group of Common Council members met with the mayor to discuss this idea further and to determine what this group would look like, how the group would function, and what its purpose would be. At the meeting on February 21, 2006, it was agreed that the group would consist of Common Council members and the chairs of the Housing Committee, EDC, and Plan Commission, and they would meet on a regular basis over the course of the next several months. The meetings would be noticed as open to the public and also noticed as possible quorums of the above committees and the Common Council. The meetings would encourage open dialogue with all present, including representatives from the development community and neighborhood associations.

Over the course of the next four months, 10 meetings were held to discuss inclusionary zoning. These 10 meetings represented approximately 16 hours. A number of issues were discussed at these meetings, which can roughly be broken down into the following categories.

- General Goals of IZ
- Equity Model
- Incentives
- Process for Incentives/Waiver Process
- Determining the Base Density

### **General Goals of IZ**

Throughout these 10 meetings, there was discussion about the overall goals of inclusionary zoning. The most over-arching goals of inclusionary zoning are to providing more affordable housing and to do this throughout the City of Madison. It is a known fact that in the City of Madison housing values are increasing at a greater rate than wages. It is likely that this trend will continue.

## Equity Model

There was considerable discussion regarding the equity model. Overall goals for the equity model include: affordability, gain in equity, simplicity, ability to function in the marketplace, and fairness. It was acknowledged that some of these goals conflict with one another and that the idea is to find the right balance.

Much of the discussion regarding equity models dealt with looking at this from a debt or equity perspective. One model, which treats the City's share as debt, would set a dollar amount with an index or interest rate tied to it. The City's amount would then be paid to the City at the time the house is sold. There was a lot of discussion regarding the type of index or interest rate that would be fair. It was also observed that if this model was chosen, that even in a down-turning market, the seller would owe the City a certain amount plus interest. In other words, this model does not have the City's share ride with the market. On the other hand, it was generally thought that improvements to the home would be easier to recoup through this model.

Another model that was considered specified that a percentage share of the home's market/appraised value would be the City's share. Under this model, if the home is worth \$200,000 on the market, but sells as an IZ unit for \$180,000, then the City's share is \$20,000, or 10%. Over time, the market/appraised price of the house increases, but the City always owns 10% of the house. So if in ten years the house's market value is \$300,000, then the City's share is 10% or \$30,000.

There was considerable discussion surrounding this type of equity model, which centered on how to deal with improvements to the home. It was thought that under this model the homeowner would have no incentive to improve the home because he/she would be "sharing" that improvement with the City. It was also acknowledged that with many new homes, significant improvements could be seen relatively soon, such as landscaping. Generally, the group liked this equity model better, but wanted to find a way to allow for some improvement equity.

Ald. Jed Sanborn provided a method that the group accepted that would allow the homeowner to take some additional equity out of the home for "improvements." This equity model is based on the model above. However, at the time of sale, the homeowner is allowed to take an additional 5% from the market rate price and not have that be calculated in how the equity is split. In other words, the homeowner can discount the market price by 5% for the equity calculation.

Using the example above, at the time of sale, if the market price for the home is \$300,000, the homeowner can discount this amount by 5% or \$15,000. The equity calculation is then based on \$300,000 minus \$15,000, or \$285,000. This is then the amount that the City uses to calculate how much equity the City gets back or 10% of \$285,000, which is \$28,500 instead \$30,000. In essence the homeowner gets to "keep" the City's 10% share of the "improvement equity" or \$1,500.

For more detailed information on this equity model, please refer to the minutes from the March 29, 2006 IZ Work Group meeting and Attachment I and Additional Information K1.

## **Incentives**

Throughout the 10 IZ Work Group meetings, there was a lot of discussion and ideas generated about the types and kinds of incentives there are and could be provided. Below is a list of all of the incentives discussed at the IZ Work Group meetings.

### **Incentives Discussed:**

- IZ Free Zones, allowing for less dispersion, up to 25% of the area
- Allow an extra floor in Downtown Design Zones, except Design Zone 1 (State Street)
- Allow, with staff approval, a change in a neighborhood plan to allow for residential in an area currently zoned as something else
- Use the top end of the density ranges to determine base density from which a density bonus would be given
- Change some of the base densities for certain zoning districts such as commercial; change C zoning districts to allow for an R6 base density
- Allow for attached IZ units in single-family dwelling unit areas; duplexes (4, 6, and 8 units)
- Allow for off-site units to be current housing (this is when a waiver is given)
- Cash and TIF
- Reduction in fees such as impact or park fees
- Base density bonus on simple ratio (for every 1 IZ unit, you get "X" number of extra market rate units; Highland Park gives 1.5 extra units for every IZ unit)
- Allowed to put off-site units anywhere
- Projects of 4-stories or more are exempt
- Allow a cash buy-out
- 180 day approvals
- Lower amount of time required to market IZ units

For additional information, please refer to Attachments B & C and also Additional Information P1 and S1.

## **Process for Incentives/Wavier Process**

There was significant discussion on how the incentives and waiver process work. Generally, these discussions break down into three main areas:

- General goals regarding incentives
- Process for developers, staff, and policymakers.
- Analysis of cost or sales gap

### General Goals Regarding Incentives

There was a lot of discussion about the incentives and how the development community wants the incentives provided to completely offset the cost of providing IZ units. There was general agreement with the group regarding this goal. However, it was pointed out on more than one occasion that how this is calculated is a major issue.

### Process for Developers, Staff and Policymakers

These issues include who values the incentives: developers or staff? It was acknowledged that all development projects are different and that incentives have different values depending on the project. Another issue brought up was that the incentives should be automatic; however, what happens if the incentive is not available, such as cash from the IZ Reserve Fund? Does that mean the developer doesn't have to do the IZ units, or does that mean that staff and the developer must try to find another incentive that works?

Finally, there was general agreement that the points system does not work because the incentives and points are not calibrated to any sort of value. There was general agreement to get rid of the points system, with the idea that developers would come forward with a plan on how to do IZ and ask for the incentives the developer needs to make the project work. The problem for staff and the policymakers is how do they evaluate whether what the developer proposes is fair?

Downtown Madison, Inc. (DMI) put forward a proposal in which the developer comes forward with a plan to provide 15% IZ units and asks for a number of incentives to make IZ work. If not all incentives were available, then the developer and staff would negotiate to see if there are other incentives to close the "gap." If the developers and staff could not come up with a list of incentives to close the gap, the number of IZ units would be lowered. To review DMI's proposal, please refer to Attachment O.

Staff and the policymakers, however, were concerned with this proposal because there was nothing provided by the developer to assist staff and the policymakers in making a sound decision regarding the number of incentives provided or whether the "gap" was really closed. The developers indicated that it was in their best interest to be fair because if they were not, the Plan Commission and Common Council could reject their project. Staff and policymakers felt that this was heavy-handed and would prefer a way to analyze the project when it goes to the Plan Commission.

The development community does not want to provide the City with project costs. They contend that this is a competitive market, and they feel nervous providing this type of information to the City. They added that projects asking for TIF are different in that (1) the developer is asking for something; and (2) the developer is asking for cash, which necessitates a through analysis of cost numbers.

### Analysis of Cost or Sales Gap

There was also a proposal to look at the project as a whole in terms of cost and using industry standards to determine profitability. This gross project cost analysis was an attempt to get overall cost numbers, but not require the developers to provide detailed cost information to the City. For more information on this proposal, please refer to Additional Information M1.

Tom Hirsch, Chair of the Housing Committee, and Hickory Hurie, Community Development Block Grants Supervisor, upon listening to this discussion, proposed a simple analysis based on the difference in sales revenue. This analysis would determine the amount of forgone sales revenue the developer does not realize because he/she must sell IZ units for under market rate. This amount determines the "sales gap" that then must be filled by incentives provided. It is important to note that with this type of analysis, there are two main ways to lower the "sales gap": one is by lowering costs or increasing sales revenues; the other is by providing incentives from the City. For more information on this method of determine "sales gap," please refer to Additional Information L1 and O1.

### **Determining the Base Density**

In discussing incentives, one of the most significant incentives that the City can provide is increased density. The benefit of increased density is that if developers can build more units (market and IZ units), they will be able to sell some of these extra units at market rate, thereby making more profit. The key for the City of Madison is, what determines the base density from which to calculate an increase?

After a lot of discussion on this issue, several conclusions were reached. There are many times that a developer is receiving a density bonus, however, the developer does not ask for it as an incentive *per se*. However, the development community made the point that there are times when a density bonus is not what the developer wants and does not provide any incentive to the project.

Finally, with regard to setting the base density, it was discussed that the areas where this is a problem are in the downtown area and on the edge of the City. Downtown is a problem because current zoning in many areas is seen as not workable. Also, there are some areas that don't have a neighborhood plan or where the neighborhood plan is outdated. On the City periphery, most of the land is zoned Agricultural and must be rezoned based on the neighborhood plans. Currently, the IZ ordinance states that the density bonus will be based on the mid-point of the density range. It was pointed out that mid-point for the lowest density range in a neighborhood plan is less than an R1 zoning and that generally using the mid-point of the low density range is not considered a bonus by the developers.

Developers, staff, and policymakers came to the conclusion that in the downtown, setting the base density will be subjective and that the best thing to do would be to have someone (presumably the Director of Planning and Development or his designee) make

a determination of what the base density would be ONLY for determining a density bonus. Three criteria could be used to consider what the base density should be:

1) Current Zoning

It was felt that with the exception of downtown and the edge of the City, current zoning is the best way to determine base density. Current zoning should also be taken into consideration when determining the base density for the downtown and in other areas of the City that have existing permanent zoning that permits residential development.

2) Neighborhood Plans

While not all areas of the downtown have neighborhood plans (and some of them are out of date), using the neighborhood plan to help inform the Director of Planning and Development when determining the base density may be useful. Staff felt strongly that in light of the recent passage of the Comprehensive Plan, City Staff should take into consideration neighborhood plans when determining base density. On the edge of the City, where permanent zoning does not exist, the neighborhood development plans would be used to determine the density base.

3) Surrounding Development

Within the downtown, staff should also consider development in the surrounding area. This speaks specifically to the nature of in-fill development in the downtown area and recognition that there are times when the underlying zoning is not workable in the downtown and that there may be areas where there is no neighborhood plan or places where a neighborhood plan is outdated.

Staff would also consider other factors such as Historic Districts, areas where because of main arterials or other factors, there is a transition in scale, density, or land use, and other zoning factors such as Downtown Design Zones and the Capitol Height Preservation Limit.

For more information and background on base density, please refer to the minutes of the April 19, 2006 IZ Work Group, Attachments K, L, M & N, and Additional Information T1.

**Additional Information and Discussions**

Since the May 9, 2006 IZ Work Group meeting, there have been a number of additional discussions and conversations about IZ. The Plan Commission has had several IZ Working Sessions, and there have been smaller meetings with individual developers to further discuss incentives/waiver/"gap" analysis. The materials in the Additional Information section of this report provides a sense of what has been discussed, including some specific ideas on marketing and some suggested ordinance language.

## **In Conclusion**

The IZ Work Group meetings helped policymakers and stakeholders make significant progress towards a number of issues related to IZ. While this report may not include every issue of interest to every stakeholder, Mayor Cieslewicz believes these meetings were effective in providing a forum for interested parties to come to the table and discuss all aspects of the IZ ordinance. Everyone was welcomed to participate and hopefully everyone involved increased their knowledge and understanding of IZ and how different stakeholders view various aspects of IZ. It is Mayor Cieslewicz's hope that this report provides stakeholders, the Plan Commission, and members of the Common Council with a useful summary of the IZ Work Group's discussions and provides a direction by which the Plan Commission and Common Council can make improvements to the ordinance.

### **The major results coming from these meetings are as follows:**

- A broad consensus to revise the equity model, which is easy for the buyer to understand and provides a way to allow the buyer to keep equity gained from improvements.
- A general consensus to get rid of the points system and have incentives that offset the cost of complying with IZ. However, there are still discussions happening as to exactly how the "gap" will be determined and who will determine the value of incentives.
- A proposal from developers and DMI that developers would provide a plan for providing IZ units and stating what incentives they need to make IZ work; if these incentives were not provided, then the number of IZ units would decrease.
- A number of suggestions from various parties suggesting ways to determine "gap" based on gross project costs or forgone sales revenue.
- A proposal that as yet unspecified staff at Planning and Development would help calculate density bonuses by determining base density. This would be done by using current zoning (for areas other than downtown and the periphery), neighborhood development plans (for the edge recognizing that the mid-point of the low density range should be changed from 4 to 5 dwelling units per acre), and several factors including existing zoning and plans and the surrounding developments, within the downtown area.
- A number of additional proposed incentives such as IZ free zones, attached IZ product in single-family areas, and more cash through the IZ Revenue Fund.

### **Ideas for the Future**

Mayor Cieslewicz would like to suggest to policymakers a couple of ideas that he would like to move forward with once the improvements to the IZ ordinance have been made.

- Create a standing committee made up of developers, Plan Commissioners, Housing Committee members, and the real estate industry. The goal of this committee would be to evaluate how IZ is working on an on-going basis and be able to bring forward improvements to the ordinance in a more timely matter.



The committee would also address issues such as reviewing the policy and procedure document, marketing, and providing educational opportunities for stakeholder groups.

- Better marketing and providing funding in the 2007 budget to provide additional marketing materials for IZ. This could include a market analysis of who is an IZ buyer, materials created for buyers, developers, financial institutions, and the real estate industry.

Mayor Cieslewicz hopes that this report and the attachments and addition information are useful as we move towards the Plan Commission's conclusion of this work and the Common Council discussion on July 10-11, 2006.

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## Additional Information A-1



**To:** Plan Commissioners  
**From:** Thomas Hirsch, Chair, Housing Committee  
**xc:** Mayor Dave Cieslewicz  
**Re:** Inclusion Zoning Amendments  
**Date:** 4 January 2006

I am pleased to transmit the Housing Committee's recommendations on amendments to the Inclusionary Zoning Ordinance, referral 02363 which the Committee reported out unanimously ~~among the attendees~~ tonight after serious consideration of a number of alternatives. This effort involved a number of extra meetings.

The Committee rejected repeal of the ordinance, in large part because there is no market mechanism to assure economic integration in new developments, and also because of the conviction that these changes will remedy nearly all the shortcomings that have come to our attention.

The recommendations are summarized in table format in the accompanying chart, prepared by the CDBG office, and address basic features of ordinance administration, including

- simplifying equity recapture,
- creating additional opportunities for developers to increase the value of market units,
- making dispersion requirements more practical, allowing existing dwellings units to be utilized in off-site waivers,
- strengthening marketing provisions by increasing Plan Commission approval, and using the date of the Certificate of Occupancy to assure that potential occupants can actually walk through the IZ units,
- creating a mechanism to allow IZ to be leased on a bedroom basis,
- reducing conflicts with certain financing by exempting all developments that by virtue of their financing exceed IZ performance in affordability and dispersion, from the administrative responsibilities of IZ.

In addition, the Committee heard concerns over dispersion of IZ units within a development; in its deliberations there was overwhelming support for dispersion horizontally, so no concentration of units occurs in a floor plan, as well as allowing IZ units to be "stacked" vertically, permitting plumbing and HVAC runs to run vertically without offsets to achieve economies. These, the Housing Committee felt, were not suitable items for the ordinance but, rather, for operating policies.

Finally, additional effort needs to put towards expanding the range and depth of incentives the City can offer in order to reduce requests for Waivers, and we hope that this will be accomplished in the coming year.

**February 7, 2006**

**TO: The Plan Commission**

**cc: Brad Murphy  
The Housing Committee  
The Economic Development Commission  
The Common Council**

**FR: Mayor Dave Cieslewicz**

**RE: IZ Process**

I understand that there may have been some confusion at last night's Plan Commission meeting about my intended process for consideration of changes to the inclusionary zoning ordinance. My apologies for that. I should have conveyed my thoughts to you earlier and in more detail. The exact process is still evolving, but here are my latest thoughts.

- I am putting together a meeting of the alders who have been most interested in this issue. It has been difficult to coordinate schedules, but I believe a date later on this month is shaping up. The purpose of the meeting will be to try to come to some consensus on the rest of the process: what issues need to be discussed, who should be at the table, what a reasonable time table might be to complete the process, etc. I'm sure that alders will also want to discuss some specific proposals for changes at that meeting as well.
- After that meeting I hope to be able to form an ad hoc group including alders, representatives (probably the chairs) from the Plan Commission, Housing Committee, Economic Development Commission, for profit and not-for-profit developers and neighborhoods. My only parameters for that group are that it has to: 1. be manageable in size; 2. consist of individuals who come to the table in good faith to improve the ordinance, not to repeal it; 3. commit to completing its work in a reasonably short time frame. I had hoped to get a product to the Council by the second meeting in March, though that might be a little ambitious at this point.
- The Plan Commission is still and will continue to be the lead committee on IZ. The purpose of the ad hoc committee is to provide a less formal environment where ideas can be discussed and vetted. My thought is that ideas can be tossed around at the ad hoc committee than discussed at Plan. And while I wouldn't expect Nan Fey to speak for the Plan Commission, she can certainly bring the Plan Commission perspective to the ad hoc committee. In this way, my hope is that we can toggle back and forth between the ad hoc committee and Plan and

arrive at a consensus package sooner than we might have had we just had a number of disjointed conversations among various groups of individuals off-line.

Obviously there are still details to be worked out in this process, but I hope that you agree with me that this outline stands some chance of being inclusive, productive and timely while respecting the lead role of the Plan Commission. I would be happy to hear your thoughts. Feel free to contact me via email or by phone.

**HIRSCH  
GROUP, LLC**

**Additional Information C-1**

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**Memorandum**

**To:** Mayor Dave Cieslewicz

**xc:** Jeanne Hoffman  
Enis Ragland

**Re:** ***Inclusionary Zoning***

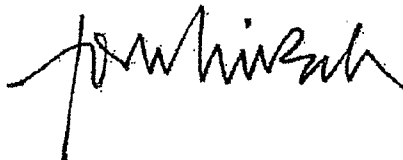
**Date:** 19 February 2006

Having studied and ruminated on the 7 November draft of revised zoning text and the Housing Committee's January 6 recommendations, I want to endorse both documents as substantial and far-reaching reforms which will greatly enhance the work-ability of the ordinance.

I also suggest additional considerations:

1. Equity Model – in addition to going to a simple ratio of initial cash positions (public:private) for re-capture, set aside whatever *value* of improvements that the homeowner makes, allowing them 100% recapture on such initiatives. "Value" would be determined by the City assessor on the year-following property tax assessment; "improvements" would be defined by current IRS practice.
2. Equity Model – allow reforms to apply to all existing dwelling units, in other words, retroactively to date of first development covered by IZ.
3. Marketing – retain the Housing Committee's recommendation of *no less than 30 days after Certificate of Occupancy for the first marketing period unless a comparable model unit is available* so that there is opportunity for a prospective buyer to "kick the tires" on an actual unit, not just paper or computer presentations.

I hope you will lend your support to these suggestions.



## **IZ Ordinance Revisions Marketing**

**Ability to View** – prospective buyers shall be able to walk through the IZ dwelling before making an Offer to Purchase; the first marketing period shall end no sooner than 30 days after the Certificate of Occupancy for the IZ dwelling OR a comparable model unit is available for viewing for the same time.

**Recapture of Incentives' Value** – if an IZ dwelling can not be sold/rented during the second marketing period, then before the dwelling is made available as a market-rate dwelling, the developer shall pay to the City a cash amount equal to the value of the incentives.

## Additional Information D-1



TO: Members of the Plan Commission  
FROM: Hickory R Hurie  
SUBJECT: Synopsis of Policy Options for various presenting issues in the revision of the inclusionary zoning ordinance  
DATE: February 26, 2006

### Issue: Homebuyer Terms

A. The current ordinance includes a series of requirements intended to provide a sufficiently low affordable price to the first buyer while retaining some level of affordability to the next generation of iz unit buyers

The current ordinance sets an initial iz price (based on area median income levels) and gives the City a first option to purchase an iz unit at its assessed value when the homebuyer decides to sell. If the City decides not to exercise its option, then the owner/seller may sell the iz unit on the market and shares a portion of the market appreciation with the City so that the City can invest in alternative affordable units. The current ordinance uses a depreciation formula for owner improvements to the property. It requires City approval for certain improvements that would shift the inherent value above the 'affordable' range, such as major expansions.

There appears to be general agreement that the current ordinance is too complex, appears to discourage the initial homebuyer, and runs counter to widely shared realtor views about what are appropriate home financing terms (too little homeowner control, too small a share of appreciation).

B. In terms of potential revision policy options, the City could choose to place **no resale or recapture** requirements on the purchase of iz units. Or the City could require that the iz homebuyer sell **only to income eligible** households. Or the City could treat the City 'assistance' to the developer as a form of City-created value to the development, and require first time iz buyer to preserve some level of affordability for future generation buyers and require some form of **repayment**.

The first alternative (**no resale or recapture**) focuses all of the City-provided off-sets (incentives) to the first time buyer of an iz unit; it provides a 'windfall' to the first-time buyer and none to the second-generation buyer of the iz unit. In analytical terms, this method is ineffective in meeting the long-term iz goals.

The second alternative (**resale to another income eligible buyer**) assures continued affordability for that iz unit, but places all of the burden of meeting the resale requirement on the first time iz unit buyer. While this method is 'efficient' for the public, it is viewed as placing a larger burden on the iz user.

The third alternative (**City-created iz value as a financial obligation**) includes several variants, based upon the valuation of City assistance ('gap' between market and iz price, or the difference between assessed and market values), and the market trend of housing prices and incomes.

Lets examine briefly the major variants:

a) Fixed formula: The current ordinance essentially establishes a fixed formula to calculate the iz owner's share and the public's share of the 'market' appreciation of the iz home.

b) Fixed ratio: The ordinance revision proposed by the Housing Committee is based on the difference between the market value of the iz unit and the iz price. The ratio of the difference compared to the market value (appraised value becomes the public's share of the sales price when the iz owner sells the iz unit on the market (or to the City, if the City exercises its option). The advantage of this ratio is that it tends to track the price of homes. In an 'up' market, the ratio

keeps pace with the increase in housing prices, making it easier to retain affordability for the second generation iz buyers. In a 'down' market, while the ratio remains the same, the dollar amount owed by the homeowner to the City actually decreases!

c) Fixed amount: Some have suggested that, in the name of simplicity of interpretation and calculation, the amount owed by the buyer to the City for the public share should be expressed as a fixed amount, with some form of 'interest'. This is the variant closest to the standard market mortgage instrument, and hence probably more acceptable to the many realtors and lenders involved in standard sale transactions. Depending on the choice of 'interest', this method is least likely to move with the trend-line for housing prices, and hence somewhat disconnected directly from one of the iz goals of maintaining affordability in mix income neighborhoods. On the other hand, an 'interest' rate tied to a benchmark like inflation would track the 'up' market, but would add complexity to the repayment calculation.

C. Other considerations in examining homebuyer terms for inclusionary units:

How does the arrangement encourage or discourage maintenance of the iz unit?

How does the arrangement encourage owner 'additions' that move the unit above the affordable range?

How does the arrangement fit with current market practice? Does the arrangement exacerbate the tendencies of current financial instruments that by some accounts have lead to segmented 'market failure', and shut some people out of the ownership market?

How does the arrangement enhance 'predictability' for the buyer, the seller, the industry, and the City?

What are the advantages overall to the iz buyer compared to the 'average' homebuyer, compared to the position of the iz buyer before purchasing the iz unit?

For instance, some have suggested that the City deduct the full amount of any repairs or improvements provided by the iz owner to the unit. Yet some 'improvements', like roof replacements, do not add to market 'value' but merely maintain the current value.

The two major methods of calculating the 'value' of 'improvements' involve the IRS tax codes. The current ordinance suggests the adaptation of the rental property 'depreciation' schedules. An iz owner makes an 'eligible' improvement; the owner gets to deduct the 'value of the improvement from the base of the sales amount, prior to sharing the appreciation of the home with the City. Others have suggested the use of the 'basis' method used by the IRS to calculate the amount of owner equity that can be deducted from appreciation in a capital gains formula.

What are the benefits to the Developer of the (incentives) off-sets and the costs of holding iz units available for a sufficient marketing period to insure their retention within the affordable housing market; .

Core question: Are the Terms of the iz purchase/sale attractive enough to the first generation buyer to purchase the iz unit, yet generate a level of 'recapture or resale effective enough to retain some affordability for future generations?



TABLE OF DIFFERENT TERMS FOR CITY OF MADISON HOMEBUYER ASSISTANCE PROGRAMS draft						
POLICY COMPONENT > AGENCY	Household Eligibility	Maximum Amount	Repayment Due	Repayment Amount	Treatment of Owner Improvements	Other Notes
Supply-side programs Operation Fresh Start, Madison Development Corporation, C-CAP	80% of Area Median Income or less	Up to CDBG maximum amount (currently \$37,825)	At point of sale by buyer	Fixed ratio, value of assistance compared to value of unit	Incorporated into housing value; no deductions for owner improvements.	
Habitat	Generally 50% and below	Up to CDBG maximum amount (currently \$37,825)	At point of sale by buyer	Fixed ratio, value of assistance compared to value of unit	Incorporated into housing value; no deductions for owner improvements.	Habitat generally offers a first mortgage principal- only loan, with a third or fourth 0% interest loan due on sale of property.
Movin' Out	Generally 60% or less	Up to CDBG maximum amount (currently \$37,825)	At point of sale by buyer	Fixed ratio, value of assistance compared to value of unit, with agency buy-back provision	Incorporated into housing value; no deductions for owner improvements.	
Madison Area CLT	80% of Area Median Income or less	Up to CDBG maximum amount (currently \$37,825)	At point of sale by buyer	Original Price of dwelling unit, plus 25% of appreciation of housing.	Incorporated into housing value; no deductions for owner improvements.	Buyer purchases 'dwelling unit' not the land, and leases the land from the CLT.
Common Wealth	80% of Area Median Income or less	Up to CDBG maximum amount (currently \$37,825)	At point of sale by buyer	Amount of loan plus 50% of the appreciation of housing.	Formula for consideration of value of improvement.	Lease to purchase program, with portion of rent going toward downpayment.
Demand-side programs American Dream Downpayment Initiative	80% of Area Median Income or less	Up to \$10,000 or 6% of housing value	At point of sale by buyer	Fixed ratio, value of assistance compared to value of unit	Incorporated into housing value; no deductions for owner improvements.	Early pay-out possible after initial period of affordability
HOME-BUY	80% of Area Median Income or less	Up to \$3,100	At point of sale by buyer	Amount of loan	Ignores improvements since payment is fixed amount	No period of affordability
Homebuyers Assistance Program	110% of Area Median Income	Up to \$20,000 for first unit, no more than 95% of value, and no more than 30% of total cost of acquisition and rehab.	At point of sale by buyer	Amount of loan, plus interest fixed by Council (currently 4.75%, based on City borrowing rate)	Ignores improvements since payment is fixed amount, plus index	No period of affordability
						Prepared by Hickory Hume and Barb Constans of the CD Offices, 22/March/2006

## **Downtown Madison, Inc. (DMI) recommendations for IZ Ordinance**

March, 2006

DMI promotes the economic vitality of downtown by advocating for policies and projects that encourage downtown investment in retail/commercial and residential.

**We need an agreement that the application of the IZ Ordinance to a developer is “cost neutral”.**

- Cost neutrality can be achieved by an combination of the following:
  1. Exemption of the IZ Ordinance for the project
  2. TIF or site specific TIF proceeds (if the project is not in a current TID)
  3. Community Development Block grants.
  4. Reduction in City Fees.
- If cost neutrality can be agreed upon, then we need to discuss appropriate incentives—for example—if a “density bonus” (as has been suggested) is an appropriate incentive and the calculations are based on the zoning code, we need to address and update the current zoning code.
- Since the City of Madison zoning code has not been updated since \_\_\_\_\_, densities set forth in the current zoning code provide an unrealistic base as confirmed by the fact that virtually all high density infill housing in the past twenty years have been handled as PUD zoning.
- **The solution to this issue is to update the zoning code and until that is done, the calculation of density as an incentive is impossible.**
- Therefore, until the zoning code is updated, the density bonus should be eliminated from the formula from which incentives are calculated and other options need to be looked at as stated above.

Additional Information F-1

**HIRSCH  
GROUP, LLC**

Tel: 608.233.7797  
Fax: 608.231.3533  
Cell: 608.332.7797

Thomas Hirsch, AIA

14 North Allen Street  
Madison, WI 53726-3924  
email: [thirsch@chorus.net](mailto:thirsch@chorus.net)

**Memorandum**

**To:** Member, IZ Workgroup

**xc:** Mayor Dave Cieslewicz  
Jeanne Hoffman

**Re:** ***Inclusionary Zoning Revisions***

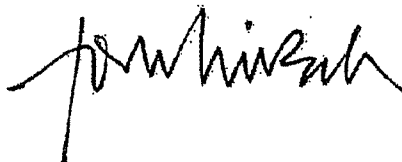
**Date:** 22 March 2006

Having studied and ruminated on the 7 November draft of revised zoning text and the Housing Committee's January 6 recommendations, I want to endorse both documents as substantial and far-reaching reforms which will greatly enhance the work-ability of the ordinance.

I also suggest additional considerations:

1. Equity Model – in addition to going to a simple ratio of initial cash positions (public:private) for re-capture, set aside whatever *value* of improvements that the homeowner makes, allowing them 100% recapture on such initiatives. "Value" would be determined by the City assessor on the year-following property tax assessment; "improvements" would be defined by current IRS practice.
2. Equity Model – allow reforms to apply to all existing dwelling units, in other words, retroactively to date of first development covered by IZ.

I hope you will lend your support to these suggestions.





April 3, 2006

Dear Editor,

In February of 2004, the Madison City Council passed the Inclusionary Zoning ordinance, which mandates every new development in Madison to sell 15% of its housing units at an "affordable" price.

While lofty in its goals, the fact of the matter is that the program in its current form is a failure. Advocates point to the number of units "approved," but the bottom line is that not one single family has purchased an IZ home under the current ordinance without the help of other subsidies.

The Mayor himself, as well as many of the original advocates of the ordinance, has admitted that the program has serious flaws.

During the original discussions about establishing an IZ ordinance, the Madison Area Builders Association (MABA) pointed out that for Inclusionary Zoning to work in Madison, several key issues must be addressed. These issues are simple, clear, and fair. Even the self-proclaimed leader of the IZ movement, David Rusk, agrees with these points:

- **IZ must be a "win-win."** The current IZ program is like an unfair tax. It allows a person to buy a home at a reduced price by increasing the price that the rest of the homebuyers in that same development must pay for theirs. A reasonable way to eliminate this cost shifting is for the city to provide incentives, such as a reduction in fees that the city would normally require of a new development. These incentives would be equal to the amount that would have been "cost shifted"—in other words, the cost of IZ would be offset.

Furthermore, these incentives must be automatically administered — without haggling between and among the various departments of the city. Without offsetting—administrative, automatic incentives--85% of the homebuyers in a new development will subsidize the remaining 15%.

- **IZ Homeowners must not be punished for owning a home.** Under the current complex equity scale in the ordinance, IZ home owners would never receive more than 50% of the equity gained in their home when they sell it. With the amount of existing housing that is currently available at or below the IZ home price (approximately \$200,000), why would anyone buy an IZ home,

which limits the amount of equity they can gain when they can buy an existing home in the same city with no equity restrictions?

So is IZ beyond help? Not if all of the following changes are made to the ordinance.

- The equity limits currently in place must be replaced with a reasonable and simple method that allows the homeowner to keep as much equity as possible.
- There must be an automatic, administrative method that eliminates cost shifting to the other 85% of homebuyers. And, the percentage of IZ units must be reduced in cases where the automatic incentives are not sufficient to eliminate the cost shift altogether.
- The city must not mandate the marketing methods or process for IZ units. Let those who build IZ homes market them using their own business judgment and plan from the day they start construction. Some on the Council want to require a builder to wait until the home is completed to start the marketing period, increasing the builder's holding costs associated with that unit. There is also discussion of mandating the methods of marketing the units. City government has no place in the day-to-day operations of private business.
- Finally, the city must give the business owner who creates a new community the latitude to make the best decisions on where IZ homes should fit within the layout of that community. Under the current ordinance IZ units must be dispersed uniformly throughout the development. That means, for example, that in a 10-story condominium, the IZ units would need to be included even on the upper levels. Those upper levels, the most valued real estate in a high-rise, would have to be sold for the IZ price. This would increase the loss of potential sales revenue even further, requiring even more cost shifting to the other homeowners in the project.

The bottom line for the Madison Area Builders Association is the belief that if all of these common sense changes are made, Inclusionary Zoning could work in Madison. If all of these changes are not made, however, not only will IZ not succeed, but also our Association will push for the outright repeal of the ordinance.

It is our sincere hope that the Mayor, the IZ task force, and the Madison City Council will solve the problems in this ordinance not only with common sense but also with a sense of fairness to business owners and homebuyers.



Chad Wuebben, President  
Madison Area Builders Association



2810 Crossroads Drive • Suite 1900L • Madison, WI 53718  
(608) 663-2005 phone • (608) 663-2008 fax

April 17, 2006

Dear Editor,

David Rusk, considered “the father of Inclusionary Zoning (IZ)” said a successful IZ ordinance must be a win for all parties. Under the current Madison IZ ordinance, no one is winning. Consumers are not buying IZ units, and developers are losing thousands of dollars per IZ unit; costs ultimately borne by consumers. Home building permits in Madison continue to drop; this March the number of permits was 58, down from 73 in March of 2005.

Several key changes are necessary for IZ to work in Madison. These include a revised equity model, real and tangible incentives, flexibility in creating dispersion, keeping marketing in the hands of private business, eliminating the rental provision, treating for-profit and nonprofit entities equally, and eliminating the City’s option to purchase.

- The equity plan must be straightforward, simple to understand, and maximize consumer equity. Unlike other affordable housing programs, IZ is not for the indigent; buyers in the IZ income bracket have other options. A recent MLS search for housing under \$200,000 listed 897 available properties with no IZ strings attached.
- Incentives must be real, measurable and tangible. City staff and developers agree IZ costs developers between \$20,000 and \$60,000 per unit, despite “incentives.” Without offsetting IZ costs, IZ becomes a tax on consumers. Incentives must be automatic; if it is on the menu, the developer can use it. If cost neutrality is not possible at the 15 percent IZ set-aside, the number must be automatically reduced until neutrality is achieved.
- Developers need maximum flexibility in determining where IZ units are located. A ten-story condo project downtown faces different dispersion issues than new developments on Madison’s periphery. Allowing developers flexibility in dispersion of IZ units accomplishes the goal of more affordable housing, while minimizing economic loss.

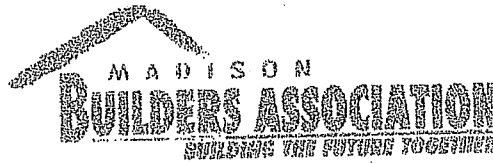
- City government must not mandate IZ marketing methods. Marketing should be left in the hands of private business. Over 40 units went off IZ without a buyer, and only units subsidized by IZ-exempt nonprofits have sold at all. Lack of marketing is not why these units do not sell. The current model lacks appeal to homebuyers given the complexity, restrictions, and equity loss of IZ.
- Eliminate the rental provision from the ordinance. The private market provides ample moderately priced rental units.
- Treat for-profits and nonprofit entities equally. Once a nonprofit organization purchases an IZ unit, all restrictions are lifted. Only nonprofits are purchasing IZ units. This disparate treatment should be eliminated.
- Eliminate the City's option to purchase. Homebuyers with options in Madison are deterred by the uncertainty and confusion of this provision.

Smart Growth Madison (SGM) urges the Mayor and City Council to pass an ordinance with all of these positive changes. Without them, the ordinance cannot work in Madison and SGM will support repeal.

Sincerely,

Carole Schaeffer  
Executive Director, Smart Growth Madison, Inc.

Additional Information I-1



April 18, 2006

Mayor Dave Cieslewicz  
210 Martin Luther King, Jr. Boulevard, Room 403  
Madison, Wisconsin 53703

Dear Mayor Cieslewicz;

The Madison Area Builders Association has been monitoring and contributing to the discussions of the Inclusionary Zoning Task Force that is looking for a "fix" to the problems associated with the current ordinance.

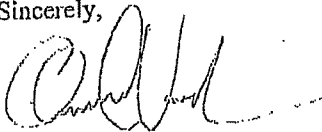
The Association remains firm in its stance that, for IZ to work,

1. The ordinance must be completely offsetting, so as to prevent cost shifting to the surrounding non-IZ homes. It is simply not acceptable to require 85% of homebuyers to subsidize the cost of producing \$200,000 homes for the other 15%.
2. Incentives must be automatically administered, not subject to political whims.
3. The equity limits currently in place must be replaced with a reasonable and simple method that allows the homeowner to keep as much equity as possible
4. The city must not mandate the marketing methods or process for IZ units.
5. The business owner who creates a new community must be given the latitude to make the best decisions on where IZ homes should fit within the layout of that community.

While the Association had been hopeful that there might be a reasonable "fix" to the current ordinance, in recent Task Force meetings, it has become clear that the most fundamental of these issues--that there be no cost-shifting--is not shared by the majority of the members of the IZ Task Force. Rather, the weight of sacrifice is placed unfairly on the shoulders of homebuyers and builders.

While we recognize and appreciate your leadership in attempting to solve the flaws of the current ordinance, it is clear that the Task Force does not have the political will to make IZ a truly cost-neutral ordinance. Consequently, the Madison Area Builders Association will not only disengage from the discussions of the IZ Task Force but we will also actively work to have the ordinance repealed.

Sincerely,



Chad Wuebben  
President

cc: Mayor's IZ Task Force  
Madison Common Council



## Additional Information J-1

May 18, 2006

Mayor David J. Cieslewicz  
Office of the Mayor  
Room 403  
210 Martin Luther King Jr., Blvd.  
Madison, WI 53703

Dear Mayor Cieslewicz:

Downtown Madison, Inc. (DMI) understands that the working group that you assembled to address changes to the Inclusionary Zoning (IZ) Ordinance has completed its work and that City staff and the Plan Commission will be proceeding to develop an amendment to the IZ Ordinance. DMI believes that it is in the City's best interest that the proposed changes to (or repeal of) the IZ Ordinance be addressed and resolved as quickly as possible.

DMI continues to believe that the IZ Ordinance has consumed substantial private and City resources (time, money and opportunity cost) while providing little, if any, additional affordable housing. The current IZ Ordinance shifts the risk and costs, of the City's desire to provide affordable units, to the developer and ultimately to the owners or renters of new housing developments. More important, the intrusiveness and complexity of the current Ordinance discourages builders and owners to build and buy housing in Madison to the detriment of the City's tax base. The current IZ Ordinance is particularly difficult and costly to apply in downtown Madison. DMI believes that there are far more fair and equitable means to increase the availability of affordable housing than is provided by the current IZ Ordinance.

In an effort to mitigate the most negative and onerous aspects of the Ordinance (its complexity and cost to developers, owners and tenants of new housing), DMI has presented practical/workable suggestions to the IZ working group as to how to improve the Ordinance and enhance the likelihood of providing affordable housing units in the City of Madison, particularly in downtown Madison. The next step is for the proponents of IZ to include the concepts proposed by DMI in an amendment that will address the problems with the Ordinance.

As you know, it is DMI's position that any amendatory Ordinance must be comprehensive and must be based on the central premise that the application of the IZ Ordinance will be cost neutral to the developer. DMI opposes any effort to make piecemeal changes to the Ordinance. While DMI continues to be committed to fixing the Ordinance, the process to date raises serious concerns that the Ordinance is unfixable and

the only reasonable approach is to repeal the Ordinance before it further harms the Madison housing market. If repeal does occur, DMI would support starting over with a different approach to advancing the City's affordable housing goals.

In the interim, DMI proposes that a moratorium on application of the IZ Ordinance be put in place until the Common Council has had an opportunity to vote on amending or repealing the Ordinance.

Thank you for considering our position. We look forward to continuing to work with your office, the Common Council, City staff and interested parties to achieve a responsible and effective solution to this difficult and challenging problem.

Sincerely,

Susan Schmitz  
DMI President

Cc: Nan Fey/Plan Commission Chair  
Tom Hirsch/Housing Committee Chair  
Hickory Hurrie/City of Madison CDBG office  
Brad Murphy/City of Madison Dept. of Planning & Development  
Jeanne Hoffman/Assistant to the Mayor  
City of Madison Common Council



**City of Madison**  
**Master**

Madison WI 53703  
www.cityofmadison.com

**File Number: 03470**

**File Number:** 03470                      **File Type:** Ordinance                      **Status:** Council New Business  
**Version:** 1                      **Reference:**                      **Controlling Body:** Attorney's Office  
**Requester:** PLAN COMMISSION                      **Cost:**                      **Introduced:** 04/18/2006  
**File Name:** inclusionary zoning - distribution of proceeds                      **Final Action:**

**Title:** Amending Section 28 04(25)(h) of the Madison General Ordinances to modify the method of distribution of proceeds from sale of an owner-occupied inclusionary dwelling unit

**Notes:** 3911izdistribution/KCN

INTRO FROM FLOOR

**Code Sections:**

**Agenda Date:** 04/18/2006

**Indexes:**

**Agenda Number:**

**Sponsors:** Brenda K Konkol

**Enactment Date:**

**Attachments:**

**Enactment Number:**

**History of Legislative File**

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office/Approval Group	04/18/2006	Approved As To Form				
1	Attorney's Office	04/18/2006	Fiscal Note Required / Approval	Comptroller's Office/Approval Group			
1	Comptroller's Office/Approval Group Notes: Bohrod	04/18/2006	Fiscal Note Pending	Attorney's Office		04/18/2006	
1	Attorney's Office Notes: Plan Commission; Public Hearings May 15 PC, June 6 CC	04/18/2006	Refer for Introduction				

**Text of Legislative File 03470**

**..Fiscal Note**

[enter Fiscal Note here]

**..Title**

Amending Section 28.04(25)(h) of the Madison General Ordinances to modify the method of distribution of proceeds from sale of an owner-occupied inclusionary dwelling unit

**..Body**

DRAFTER'S ANALYSIS: This amendment changes the equity formula that determines how the proceeds from the sale of an inclusionary zoning unit are distributed. The City will receive an amount that represents the seller's note amount to the city plus a small portion of the market appreciation of the unit.

\*\*\*\*\*

The Common Council of the City of Madison do hereby ordain as follows:

Subdivision (h) entitled "Distribution of Proceeds from Sale of an Owner-Occupied Inclusionary Dwelling Unit" of Subsection (25) entitled "Inclusionary Housing" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is amended to read as follows:

"(h) Distribution of Proceeds from Sale of an Owner-Occupied Inclusionary Dwelling Unit.

1 ~~After the initial sale of an owner-occupied inclusionary dwelling unit, the proceeds from additional sales that will accrue to the seller shall be an amount that represents the seller's paid equity, plus the seller's market equity plus any applicable improvement equity. At the time of the initial sale of an owner-occupied inclusionary dwelling unit, the income eligible family shall provide the City with a promissory note, secured by a second mortgage, for an amount that is the difference between the appraised value of the unit, determined within thirty(30) days prior to the sale, and the sales price of the unit. The City's percentage share of the value of the inclusionary dwelling unit shall be the percentage of the total value represented by the difference between the appraised value and the sales price~~

2. At the time of a sale of an inclusionary dwelling unit, the amount of the sale proceeds paid to the city shall be the amount of the City's note plus the product of the City's percentage share of the value of the inclusionary dwelling unit and ninety-five percent (95%) of the appreciation of the inclusionary dwelling. The appreciation is determined by the difference between the appraised value at the time of the initial sale and the appraised value of the inclusionary dwelling unit within sixty (60) days of offering the inclusionary dwelling unit for sale. This provision applies to all inclusionary dwelling units sold by income eligible families before or after the effective date of this subdivision (h). The seller's market equity is a percentage of the total market equity and is dependant on the length of the seller's ownership. No market equity is available to the seller until the end of two (2) years. The percentage of market equity available to the seller increases at the end of each subsequent calendar year as follows:

<u>Length of Ownership</u>	<u>Seller's Market Equity</u>
Less than 1 year	0%
1 Year	0%
2 Years	5%
3 Years	10%
4 Years	15%
5 Years	20%
6 Years	25%
7 Years	30%
8 Years	35%
9 Years	40%
10 Years	45%
11 Years	50%
12 Years	45%
13 Years	40%
14 Years	35%
15 Years	30%
16 Years	25%
17 Years	20%
18 Years	15%
All following years	15%

3. ~~The seller's improvement equity is the total improvement equity adjusted for the age of the improvement. The age adjustment shall be calculated using the depreciation schedules in the Internal Revenue Code.~~

4. ~~3.~~ Any proceeds of a sale that are remaining after the seller's share shall be deposited in the Affordable Housing Trust Inclusionary Zoning Special Reserve Fund, or another fund designated by the Common Council

5. ~~4.~~ The Director of the Department of Planning and Development shall be notified before significant improvements, as set forth in the Inclusionary Zoning Program Policies and Protocols, are made to an

inclusionary dwelling unit

~~6-5.~~ The seller cannot offer the inclusionary dwelling unit for sale at a price below the assessed value unless approved by the Director of the Department of Planning and Development

~~7-6.~~ The Director of the Department of Planning and Development shall be notified before an inclusionary dwelling unit is refinanced "

MEMORANDUM

DATE: May 24, 2006

TO: Tom Hirsch

FROM: Downtown Madison, Inc. (DMI)

RE: Inclusionary Zoning (IZ) Amendments

Tom, in responding to your IZ recommendations on GAP evaluation, DMI has taken a close look at your suggestions. We have solicited the opinions of Matt Meier, Kevin O'Driscoll and Paul Muench. Below find our response:

1. We agree with your goal of creating a simple quantitative tool to evaluate relative values (not costs) to the IZ dwelling units versus incentives on a project-specific basis.
2. We agree with the implicit goal (indicated by your "scale" balancing the costs versus the incentives) that the additional cost of complying with IZ requirements must be fully offset by city-supplied incentives ("cost neutrality").
3. We think that the IZ GAP calculation is too complex. We do not think that land costs should be part of the cost side of the equation. The land price would be one of many factors in determining if additional density would add "value" overall. It should be based on the specific IZ units proposed within the specific development—anything less is too arbitrary. The gap is simply the difference in revenue between all market rate housing and IZ units.—total revenue with all market; less total revenue of combined market and IZ units.
4. Two of the suggested "incentives"—dispersions and off-site IZ—belong on the left side of the scale. If the developer can minimize the gap by how IZ units are located within the project, or providing affordable housing off-site, then the gap is smaller and the project requires less City incentives. Staff (or policymakers with the advice of staff) can decide if the manner in which the IZ units are proposed to be provided is consistent with City affordable housing goals.
5. Other "incentives" such as narrow streets (and perhaps additional density) are not true incentives if they would likely be provided in the absence of the IZ Ordinance as serving City policy and planning goals.
6. We agree with your proposal that a process by which lost revenue from IZ and City-supplied incentives are repetitively addressed until there is a balance. We disagree with your proposal that disputes over the cost of IZ, the value of incentives or whether the two sides balance would be resolved by assuming the current waiver process. First, that process evaluates feasibility, not cost neutrality. More fundamentally, this process assumes a level of distrust between the project developer and the City, with disputes decided by City staff auditing or underwriting the financial aspects of a project. Central to our proposal is that these numbers used are those proposed by the project developer. They may be tweaked in discussion with staff, and staff may end up presenting a report disagreeing with the numbers to the policymakers, but there is no auditing or underwriting.
7. Finally, while DMI has not taken a position on marketing requirements, it seems that if the inability to market IZ units requires that incentives be repaid, that the holding costs of those units during the marketing period would be recognized as a partial offset of that payback requirement.

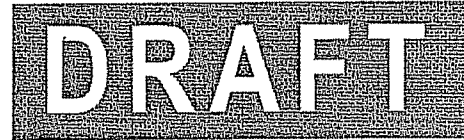
**M E M O R A N D U M**

Date: June 1, 2006

To: Hickory Hurie  
Jeanne Hoffman

From: Alex Saloutos

Re.: A new concept for funding affordable housing through inclusionary zoning



The purpose of this memo is to present a new concept for funding affordable housing through inclusionary zoning that is simple, fair, easy to administer, is predictable and delivers consistent results.

**Current Situation**

Inclusionary zoning is a City of Madison ordinance whose goal is to 1) provide affordable housing and 2) create economically diverse neighborhoods in order to improve the quality of the public schools. Research has shown that all students in schools with high percentages of low-income students have markedly lower performance. The current inclusionary zoning ordinance funds affordable housing through a menu of incentives to builders and developers that include, but are not limited to, density bonuses, waiver of park fees, expedited approvals, cash, reduced parking requirements and narrower streets.

While the ordinance requires that 15% of homes in a new development be affordable, a developer can seek a waiver and, based on the cost estimates in their business plan and their negotiating skills, receive incentives with significant value and produce no affordable housing. Stakeholders have a variety of issues with the funding process in the current ordinance.

Briefly, based on my understanding of the current situation, the following table includes the pros and cons of the current funding method. This list may not be inclusive or accurate. A survey or structured process with a professional facilitator can be used to better define these.

Pros	Cons
<ul style="list-style-type: none"><li>• Sufficient incentives to fund a large number of affordable homes</li><li>• Incentives are project specific.</li><li>• Affordable housing is being built in many new neighborhoods</li><li>• Cost neutral</li><li>• Builders and developers can achieve normal profits on affordable housing</li></ul>	<ul style="list-style-type: none"><li>• Inconsistent output—number of affordable homes in a new development is based to a significant degree on the developer's business plan and negotiating skills</li><li>• Some new developments may receive a high level of incentives and have no affordable housing.</li><li>• Waiver process is confidential—no accountability for taxpayers and affordable housing advocates</li><li>• Incentives and waivers are granted based on a builder's estimates not their actual costs.</li><li>• Builder's actual costs are confidential.</li><li>• Waiver process gives advantage to builders who are</li></ul>

**Memorandum**

June 2, 2006

Pros	Cons
	willing and able negotiators <ul style="list-style-type: none"> <li>• No financial measures of costs to fund an affordable home</li> <li>• Defining "cost"</li> <li>• Administration, waiver and approval processes are burdensome, time consuming and do not add value</li> <li>• Dispersion may not occur, depending on the developer's business plans and negating skills.</li> <li>• "Costs" for affordable homes may vary significantly from project to project.</li> <li>• Does not fund affordable housing where need is greatest</li> <li>• Supply and demand for affordable homes that receive funding are not aligned</li> <li>• Waiver process relies on stakeholders to trust builders and developers</li> </ul>

**A Vision For Success—What Do Stakeholders Want In A Winning Solution?**

The primary stakeholders who have an interest in how affordable housing is funded are: 1) affordable housing advocates, 2) builders and developers, 3) realtors, 4) taxpayers, 5) elected officials, 6) planning commission members and 7) city staff. The following table is my understanding of what the stakeholders would like in a solution. This list may not be inclusive or accurate. A survey or structured process with a professional facilitator can be used to better define these.

Vision Statement	Housing Advocates	Builder Developer	Realtor	Taxpayer	City Staff	Elected Officials & Planning Comm.
• Builders and developers are able to reliably predict actual program costs at the earliest stage of financial planning and analysis		Yes				
• Project specific incentives		Yes				
• Fair and reasonable	Yes	Yes	Yes	Yes	Yes	Yes
• Simple to administer		Yes		Yes	Yes	Yes
• No underwriting					Yes	



**Memorandum**  
June 2, 2006

Vision Statement	Housing Advocates	Builder Developer	Realtor	Taxpayer	City Staff	Elected Officials & Planning Comm.
• Affordable homes in every development	Yes					
• Affordable homes in every neighborhood (elementary school area)		Yes	Yes	Yes	Yes	Yes

**Changing Paradigms—Value Incentives Not Costs**

- Change focus from determining and funding “cost” of affordable housing to the establishing a fair and reasonable value for the incentives.
- Values for incentives are based on principals that 1) a builder or developer shall receive a fair and reasonable profit on all of their homes, including the affordable homes and 2) they pay fair and reasonable price for the land based on the current zoning, not a speculative price based on additional entitlements.
- Value of density bonus set in ordinance based on shared profits from bonus units and savings in land costs for bonus units.
- Specific values for the incentives—density bonuses—can be set fairly and in written into the ordinance.
- Eliminates hassle to determine “cost” of affordable housing.
- Incentives are not based on estimates from builders and developers.
- Voluntary for builder/developers. If they get bonus, they build affordable homes or pay fee. Their choice.
- Predictable system for developers to evaluate financial feasibility upfront for any project.
- Significant reductions in the time and effort to administrate ordinance.
- Eliminates need to look at builder or developers books.
- Eliminates confidential waiver process.
- Does not rely on stakeholders trusting estimates from builders and developers.
- Eliminates process variables from willingness and ability of builder or developer to negotiate a better deal.
- Does not rely on stakeholders trusting builders or developers.

## Memorandum

June 2, 2006

### How Will It Work—The Details

- Two values go into the ordinance: 1) ratio of affordable homes to bonus homes and 2) fee for buyout or waiver as a percent of actual sales price for bonus units.
- Builders/developers have a choice if they want density bonuses: 1) build affordable housing based on ratio or affordable units to bonus units they receive as determined in the ordinance or 2) pay a fee that is determined using a value that is a percentage of the actual sales price for the bonus units as set in the ordinance
- Developer selects location of affordable homes.
- Buyout fee or waiver fee is paid as bonus units close.
- Current proposals focus on “cost” of affordable housing.

**INCLUSIONARY ZONING FOR SALE PROPERTY BUYOUT FEES**

	<u>Example 1</u>	<u>Example 2</u>
Maximum number of units in project based on current zoning	240	60
Density bonus	20%	30%
Bonus units	48	18
Total units	288	78
Affordable units as a percent of total units	15%	15%
Affordable units	43	12
Average sale price for all units	\$250,000	\$400,000
Gross sales on project	\$72,000,000	\$31,200,000
Gross sales from bonus units	\$12,000,000	\$7,200,000
Net profit as a percent of gross sales	7.30%	7.30%
Net profit from bonus units	\$876,000	\$525,600
Land cost as a percentage of sale price	16.90%	16.90%
Land costs saved on bonus units	\$2,028,000	\$1,216,800
Total net profits and land savings on bonus units	\$2,904,000	\$1,742,400
Buyout (waiver) fee as a percent of net profits on bonus units and land savings	50%	50%
<b>Affordable housing fee as a percent of net profits on bonus units and land savings</b>	<b>\$1,452,000</b>	<b>\$871,200</b>
<b>Affordable housing fee as a percent of gross sales for bonus units</b>	<b>12.10%</b>	<b>12.10%</b>
Affordable housing fee as a percent of gross sales for the project	2.02%	2.79%

Net profits and land costs are from the Cost of Doing Business Study, 2004 Edition, National Association of Homebuilders.

**PROJECT SPECIFIC INCLUSIONARY ZONING CALCULATION**

	<u>Example 1</u>	<u>Example 2</u>
Maximum number of units in project based on current zoning	240	60
Density bonus	20%	30%
Bonus units	48	18
Total units	288	78
Affordable units	32	12
Gross sales on project	\$72,000,000	\$31,200,000
Average sale price	\$250,000	\$400,000
Gross sales from bonus units	\$12,000,000	\$7,200,000
Affordable housing fee as a percent of gross sales for bonus units	12.00%	12.00%
Affordable housing fee	\$ 1,440,000	\$ - 864,000

Determined by current zoning or some other agreed method  
 Project specific requested by developer, approved by City, may be negotiated  
 Project specific  
 Project specific  
 Ratio of affordable units to bonus units fixed in ordinance  
 Project specific, actual gross sales  
 Project specific, actual gross sales divided by total number of units in project  
 Project specific, average sales price times total number of bonus units  
 Fixed in ordinance  
 Project specific



TO: Housing Committee  
FROM: Tom Hirsch  
DATE: June 5, 2006  
SUBJECT: **IZ Fix-it Items**

Here is a summary of current issues in the discussions of the IZ revisions.

**GAP**

Current Ord	Cost neutrality intended. Waiver process allows adjusting number IZ DU's.
Hsng Comm Rec's	Off-site existing DU's allowed; IZ-free zones...
AH SubComm	Gap evaluation based on <i>surrogate \$</i> (revenues foregone cf. value of incentives).

**Marketing**

Current Ord	2 120 day periods AMI 10% in second one; then Opt-out starts with marketing.
Cnare	City promotes IZ (website, training for RE professionals, media ads, etc.). Do <i>not</i> require submission of a Plan for City approval.  Allow a Model DU to qualify as "walk-through".
Hsng Comm Rec's	2 120 day periods; increase AMI 10% in second one which ends no sooner than 30 days after Cert of Occupancy unless comparable Model is available; then Opt-out.

**Opt-out/Recapture**

Plan Comm Discussion	No Opt-out; IZ DU stays a IZ DU through first sale.
Hirsch	Hsng Comm rec on Marketing/Opt-out adding <i>recapture of value incentives</i> (using gap evaluation process from above.)



TO: Nan Fey, Chair  
Plan Commission

FROM: Thomas Hirsch, AIA, Chair  
Housing Committee

DATE: June 8, 2006

SUBJECT: IZ Fix-it Items

At its meeting last night, the Housing Committee recommended adoption of the methodology of a simple gap evaluation based on revenues foregone cf. value of incentives ("*surrogate values method*"). Ten members were present (Brink, Hirsch, King, LeTourneau, Mandeville, Sparer, Verveer, Villacrez, Wilcox, Zmudzinski) and 9 voted in favor, the chair not voting.

The intention was to create a three tiered process of application processing, the developer determining which would apply: the first tier: developments (both for-profits and not-for-profits) exceeding IZ minimums would not need analysis; for the second tier, the surrogate values method, with the developer and City agreeing on values of incentives; for the third tier, where agreement under the simple method can not be achieved, the existing Waiver methodology, based on detailed costs, would be used.

The CDBG Office has produced a spreadsheet to implement this methodology, and while it needs public comment and, inevitably, fine tuning, the Committee was satisfied that in concept at least, it should be considered and wanted to advance its thoughts to the Plan Commission. A copy of that spreadsheet is attached.

We are available for further exploration and analyses of matters relating to the reform of Inclusionary Zoning.

Enclosure

c: Mayor Dave Cieslewicz  
Plan Commission Members  
IZ Workgroup members

STREAMLINED EVALUATION MODEL TO ASSESS IZ 'GAP' VS BENEFITS draft draft 7/june/2006					
Developer-provided Independent variables =			City-provided Independent variables =		
PROJECT DESCRIPTION	Number of Dwelling units	Bedroom Count	Unit Sales Price	Unit's Net Square footage	Notes specific to particular project
Market	5	2	\$240,000	1200	
	10	3	\$280,000	1400	
	15	4	\$320,000	1600	
Inclusionary	1	2	\$150,000	1050	Note: City to limit size of iz units
	2	3	\$180,000	1150	
	3	4	\$200,000	1250	
Total Project	36	na	na	na	
Bonus units above base density (provided by Planning Unit)					Assumes density bonus of 10/26 or 38%
Bonus units that are iz units					
Net market rate bonus units				4	
Median Price of market rate units			\$250,000		
<b>Optional Information related to specific incentives, if requested:</b>					
Number if s-f iz units substituted for stacked flats				2	
Monthly holding costs on land, pre-approval			\$1,000		
Value of Developer tree planting			\$500		
Value of help in securing other funds			\$0		
<b>I. CALCULATION OF 'GAP'</b>					
	Explanation or formula:	Market Rate units		Inclusionary Units	
Net Square footage		44000		7100	Finished living space, not halls
Number of units		30		6	
Average Per Net Square Foot price		\$200		\$158	Average is easier to calculate than median from inputs
Aggregate Sales price of IZ units (average sq ft price times iz area)				\$1,119,645	
Gap is					
1. Sum of iz area times median market sales price/sq ft				\$1,420,000	Assumes developer would sell at per/ft price similar to market rate
2. Less iz sales				\$1,119,645	
3. Less presumed land costs of iz units	Local standard: land is this % of iz units sales that are bonus units				This standard could be also set by project type (downtown condo, edge development)
		25.00%		\$279,911	
<b>TOTAL GAP</b>				<b>\$20,444</b>	
Note: If 'gap' is negative, then costs of iz are covered by density bonus					

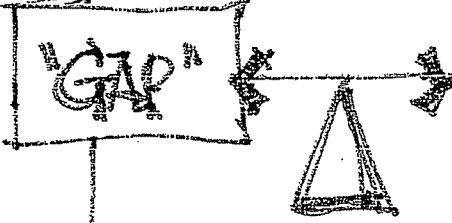
<b>II. INCENTIVES CALCULATION:</b>				
<b>A. Incentives Related to Density Opportunities include:</b>				
		City share	Portion of Market unit price	
Land costs of market rate bonus units covered in price	Percentage of bonus market unit margin land share for City	50.00%	25.00%	\$140,000
Opportunity for greater margin provided in bonus market rate units. shared with developer	Percentage of bonus market rate units margin shared with City (first is share, second figure is average margin on hsg)	50.00%	7.30%	\$40,880
Value of extra floor in downtown design zone	Incorporated into other calculations (land and opportunity costs share)			
<b>B. Incentives easily tied to direct financial reductions/subsidies</b>				
Park Fee	Amount of Reduction	Hypothetical Example		\$5,000
Parkland Dedication	Value of Reduction	Hypothetical Example		\$0
Cash subsidy to lower income iz units	Amount of Subsidy	Hypothetical Example		\$5,000
Cash subsidy to lower income iz units in special projects: <49 s-f or >4 stories w/ underground parking	Amount of Subsidy	Hypothetical Example		\$5,000
Value of TIF applied to iz units				\$5,000
<b>C. Incentives Related to Inclusionary Unit Placement include:</b>				
Iz placement flexibility: 20% exclusion zone	Differential between iz unit and replacement market prices in 'excluded zone' times City share	50.00%	7.30%	\$6,818
Exchange of s-f iz units for stacked flats	Savings in percent attributable to substitution of 2 iz stacked flat to s-f home unit (Percentage of land value of s-f iz units substituted for stacked flats)	50.00%	25.00%	\$70,000
Other:				
<b>D. Other Incentives include:</b>				
Arrangements for Advance neighborhood plan	Months saved times holding costs of property	City average months saved	5	\$5,000
Simultaneous decision on GDP and SIP	Average # of Months saved times holding costs of property	City average months saved	4	\$4,000
Tree planting	Developer estimate			\$500
Help in obtaining other funds	Developer estimate			\$0
Other:				
<b>SUM TOTAL OF VALUE OF INCENTIVES</b>				<b>\$287,198</b>
<b>IZ EVALUATION SUMMARY</b>				
'Gap'				\$20,444
Incentives				-\$287,198
Difference				-\$266,754
<b>(Note: Negative number indicates value of incentives outweighs calculated costs.)</b>				



Mkt Price:

= SF x MEDIAN SALES \$/SF MET

LOSS  
IZ PRICE  
= AGR - FLOOR  
=> AIAI x .30



LOSS LAND  
1/10 of sales price OR  
site specific calc.

Menu of Incentives:

1. opp. costs of Bonus Net DU's  
C 9-6% & IZ DU's
2. Dispersion (IZ-free zones, turning...)
3. Cash (TIF)
4. Cash (AHTF/IZ Fund)
5. Cash (Fees)
6. Reduced Infrastructure, e.g. skinny streets
7. Additional height
8. Reduced costs of IZ by using off-site, existing DU's
9. ...

Mktng

A) 1st marketing period ends no sooner than 30 days after DU's cert. of occupancy (unless a comparable model is available for viewing)

Cash

B) Recapture 10% of Incentives value when out of IZ

**GOALS:** create a simple quantitative tool to evaluate relative values (net costs) of the IZ dwelling units (DUs) versus INCENTIVES on a project-specific basis.

1. Calculate "Gap"
2. Quantify incentives for the specific site.
3. Adjust IZ # + IZ Incentive to reach balance.

**"MARKET PRICE"**

$$= \text{Sum Area}_{IZ} \times \text{Median Mkt sales } \$/\text{sq}$$

**less "IZ Price"**

$$= \text{sum}(\# \text{ IZ} \times \text{IEM. SIZE} \rightarrow \text{AM I} \times 30 \text{ sq.})$$

**less LAND**

$$= 25\% \text{ SALES PRICE OR}$$

$$= \frac{\text{Total IZ area} \times \text{land costs}}{\text{Total Budget}}$$

**"GAP"**

**INCENTIVES**

1. opportunity costs of BONUS MARKET DUs
2. Dispersion, e.g. IZ-free zone, "trimming"
3. Reduced infrastructure e.g. skimming streets
4. Reduced costs by providing IZ DUs off-site
5. G-SEN (AMTFF IZ bond TFF-fees...)
6. other

To: Brad Murphy  
Cc: Plan Commission

From: Brenda Konkel

Re: Revision of potential substitute language for the 10% set aside and Twin Homes,  
*presuming we eliminate the point system*

Date: June 12, 2006

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With some additional thought and conversations, here's a second version.

### MODIFIED COMMENTS

#### "IZ-FREE ZONE"

The language regarding the "IZ-free" zones remains the same, but we need a way to calculate what we consider an IZ-free zone and/or we need to agree that there is some staff interpretation that will have to occur.

i. Reservation of up to 20% of the total floor area within an attached-unit development for non-inclusionary dwelling unit designation. Any floor area reserved shall be for contiguous dwelling units and may include dwelling units on more than one floor. *(This provision is intended to provide for a 20% "IZ-free" zone for attached housing. It allows the "IZ-free" zone to be on multiple floors.)*

j. Reservation of up to 20% of the developable residential area within a development of single-family homes for non-inclusionary dwelling unit designation. *(This provision is intended to provide for a 20% "IZ-free" zone for projects that have only detached/single-family housing. At this point, I have not included language about the units having to be contiguous or if all 20% has to be in one area.)*

### ATTACHED IZ UNITS FOR SINGLE FAMILY HOME REQUIREMENTS

k. In single family detached housing developments, up to 50% of the inclusionary zoning units may be attached housing—but no more than x% of the developable residential area may be designated to be a non-inclusionary dwelling unit area. If attached units are provided in buildings with 5 - 8 units

a. ~~No more than half of the units in any one building may be designated to be inclusionary dwelling units.~~

b. ~~No more than 50% of the overall single-family to multi-family shift shall be accommodated in these units.~~

~~If the attached units are provided in building with more than 8 units, no more than 25% of the units in any one building may be designated to be inclusionary dwelling units. (This provision is intended to allow that in detached/single-~~

*family projects, up to half of the required IZ units can be in attached housing instead of single family homes. I have put language in to limit how large the "IZ-free" zones will be, but need further information to provide a recommendation for the specific percentage. This provision does not indicate how many units the buildings with the IZ units may have, except that it limits larger buildings from being 100% IZ projects.)*

Note: Need to change (g)3, as follows:

Notwithstanding incentives provided through 28.04(25)(d)4 k. F the proportion of attached and detached units shall be similar for inclusionary and market rate dwelling units and shall be consistent with the Inclusionary Dwelling Unit Plan (This provision allows for an exception to the requirement in the ordinance that says that detached and attached housing must be proportional. This exception is only for single family projects that choose to have attached housing under the new language allowing them to provide up to 50% units in attached housing instead of single family homes.)

#### EXTERIOR APPEARANCE OF BUILDINGS

To address concerns about what the attached units look like, remember that the provision in (g)2, remains and requires that:

The exterior appearance of the inclusionary dwelling units shall be similar in general style to the market rate dwelling units, consistent with the Inclusionary Dwelling Unit Plan. For units provided under (c) in buildings that contain more than three units the exterior appearance of the inclusionary dwelling units shall be complementary in general style and character to the market rate dwelling units.

#### ADDITIONAL RANDOM THOUGHTS

##### BEDROOM SIZE MIXTURE

(g)4 requires the following:

The mix of dwelling units, based on the number of bedrooms, shall be similar for inclusionary and market rate dwelling units and shall be consistent with the Inclusionary Dwelling Unit Plan.

We may want to consider allowing IZ units with a lesser number of bedrooms in the attached units, but we have to find a way to make sure this is included in the gap analysis.

##### NEIGHBORHOOD DENSITY

A note about density and neighborhood plans.

We may want to consider the current midpoint of a neighborhood plan when determining if we would use the mid-point or high point of a plan. For example, the ordinance could be written as follows:

For neighborhood plans where the mid-point of the neighborhood plan is less than  $x$ , we use the high point of the neighborhood plan to calculate the density bonus.

For neighborhood plans where the mid-point of the neighborhood plan is greater than  $y$ , we use the mid-point of the neighborhood plan to calculate the density bonus.

And we might even consider, an additional level calculation point with language such as:

For neighborhood plans where the mid-point of the neighborhood plan is  $x - y$ , we use  $\frac{1}{4}$  of the density of the neighborhood plan to calculate the density bonus.

P+D Staff  
Comments

Possible revisions to June 6 draft:

i. ~~Reservation of up to 20% of the total floor area within an attached multiple-unit development building for non-inclusionary dwelling unit designation. Any floor area reserved for non-inclusionary units shall be for contiguous dwelling units and may include dwelling units on more than one floor.~~

j. ~~Reservation of up to 20% of the developable net residential lot area within a development of single-family homes for non-inclusionary dwelling unit designation.~~

k. ~~In~~ Within the portion of a residential development primarily devoted to single family detached housing developments, up to 50% of the inclusionary zoning units that would be allocated to the single-family detached units may be provided as an alternative within multiple-unit attached housing located within or immediately adjacent to the single-family portion of the development but no more than x% of the developable residential area may be designated to be a non-inclusionary dwelling unit area. If attached these inclusionary units are provided in buildings with 5-8 units, no more than one-half of the units in any one building may be designated to be as inclusionary dwelling units. If the attached inclusionary units are provided in buildings with more than 8 units, no more than 25% of the units in any one building may be designated to be as inclusionary dwelling units. If the inclusionary units are provided in two-unit or three-unit buildings, up to 100% of the units in any building may be designated as inclusionary dwelling units, but the buildings with inclusionary units must be distributed within the single-family portion of the development and not grouped all together.

LIMIT  
TO 3  
MAX

Note: Need to change (g)3 as follows:

Notwithstanding Aside from the additional inclusionary dwelling units provided in multiple-unit buildings in order to utilize the incentives provided through 28.04(25)(d)4.k. 1, the proportion of attached multiple-unit and single-family detached units within the residential development as a whole shall be similar for inclusionary and market rate dwelling units and shall be consistent with the Inclusionary Dwelling Unit Plan.

**Inclusionary Zoning**  
**Plan Commission Pre-drafting Decisions**  
**Already Made , Partially Made   and To Be Made**

**1. Simplification of the Equity Model**

Background Information:

Notes on Ordinance: Page 1, Note 1 (1.1) – Page 2, Note 1 (2.1) – Page 8, Note 3 (8.3) –  
Page 9, Note 1 (9.1)

Ordinance Passed by Plan Commission

Issues: None, plan commission passed ordinance resolving this issue.

**2. Marketing**

Background Information:

Notes on Ordinance: Page 2, Note 2 (2.2) – Page 7, Note 3 – (7.3)

Alder Cnare's Marketing Memo

Issues:

- a. Should there be a marketing period?
- b. If no, how can/should we assist with ensuring eventual sale of IZ units (e.g. IZ homes cannot age out of program (discussed at 6/1 special meeting)
- c. If yes, when should the marketing period begin for owner-occupied homebuilders?
- d. When should the marketing period begin for a person who sells a lot?
- e. Do we agree with the Hirsch language (in Note 2.2) ?

**Items 3-5 Possible Exemptions if City Funded Non-profit (or For-Profit) and "Meet or Exceed" Ordinance:**

**3. City Funded Non-profit Rental Exemption if 15% at 50% AMI or below**

Background Information: Page 2, Note 4 (2.4)

Salkin REALTORS memo

Issues:

- a. Should for-profits be included?
- b. Should dispersion be a requirement for the exemption?

**4. City Funded Non-profit Ownership exemption if 15% at 70% AMI or below**

Background Information: Page 2, Note 5 (2.5)

Salkin REALTORS memo

Issues:

- a. Should for-profits be included?
- b. Should dispersion be a requirement for the exemption?

**5. City Funded Non-profit Ownership exemption if 75% affordable at 80% AMI or below**

Background Information: Page 2, Note 6 (2.6)

Salkin REALTORS memo

Issues:

- a. Should for-profits be included?
- b. Should dispersion be a requirement for the exemption?

**6. Existing Units for Off-Site Waiver Option**

Background Information: Page 3, Note 1 (3.1)

Issues:

- a. Should existing units (vs. new construction) be included in the Off-Site Waiver Option?
- b. Should we have minimal standards for rehab of existing units?

**7. City Approval of Buy-Back Provisions**

Background Information: Page 4, Note 1 (4.1)

Issues:

- a. Who in the City does the approval? Director of Planning and Development or their designee?

**Items 8 – 9 deal with DMI proposal to remove incentive program and make sure incentives cover the revenues expected on a non-IZ project. Hopefully the Mayor’s workgroup will have a recommendation.**

**8. Removal of point system for incentives**

Background Information: Page 4, Note 3 (4.1)

DMI documents and proposals

Forthcoming information from Mayor’s workgroup

Issues:

On-going discussion so issues vary from day to day – requires more background information for plan commission.

**9. System to check if incentives off-set potential revenue**

Background Information: Page 4, Note 4 (4.4)

Hickory’s formula sheet

Hirsch methodology to calculate “gap” costs

Information that comes from Mayor’s workgroup

Issues:

On-going discussion so issues vary from day to day – requires more background information for plan commission.

**Items 10 – 12 Add Incentives to the IZ Program**

**10. Add Incentive: 10% IZ Free Zone**

Background Information: Page 6, Note 1 (6.1)

Issues: None? Previously discussed by plan commission, drafted separately and will be discussed during a separate agenda item on June 5<sup>th</sup>.



**11. Add Incentive: Twin Homes**

Background Information: Page 6, Note 2 (6.2) – Page 8, Note 2 (8.2)

Issues:

- a. Should we allow more than just duplex/twin units? Should we allow 4, 6 or 8 unit buildings?
- b. What, if any, limitations should be put on how many units can be attached if the market rate units are detached?
- c. Do we need to modify “dispersion” language to accommodate these changes?

**12. Add Incentive: Change in Use in Neighborhood Plan**

Background Information: Page 6, Note 3 (6.3)

Issues:

- a. Do we need criteria to determine when this is possible, how much residential, or do we leave it up to staff?  
Note: Previous plan commission discussion involved modifying language to ensure that only “some” residential allowed in commercial areas (e.g. become mixed use) vs. changing to 100% residential. How much is “some?” Who decides?
- b. If so, does the criteria go in the ordinance or policy?

**13. Density Bonus**

Background Information: Page 6, Note 4 (6.4)

Multiple handouts from Brad

Brad’s Memo

Salkin REALTORS memo

Issues:

- a. How do we determine the base density for periphery neighborhoods?
- b. How do we determine the base density for downtown projects?

**14. Clarifying City Calculates IZ Sales Price**

Background Information: Page 7, Note 2 (7.2)

Issues: None? Simple clarification

**15. Marketing Plan required in the Inclusionary Dwelling United Plan (“IDUP”)**

Background Information: Page 8, Note 1 (8.1)

Alder Cnare’s Memo

Issues:

- a. What are minimum requirements of a marketing plan, if any?
- b. If no marketing plan, how ensure eventual sale of IZ units (e.g. IZ homes cannot age out of program - discussed at 6/1 special meeting)
- c. What if the marketing plan is not followed?
- d. *See related issues #1 in “Additional Issues” below*

**16. Elimination of requirement of City Notification of Improvements**

Background Information: Page 9, Note 3 (9.3)

Issues: None?

**17. Elimination of requirement of City Notification of Refinancing**

Background Information: Page 9, Note 4 (9.4)

Issues: None?

**Drafting Notes:**

See notes: Page 2, Note 3 - Page 3, Note 2 – Page 4, Note 2 – Page 7, Note 1 – Page 9, Note 2

**Additional Issues:**

1. Hirsch Proposal on Recapture of Incentives' Value – if an IZ dwelling cannot be sold/rented during the second marketing period, then before the dwelling is made available as a market-rate dwelling, the developer shall pay to the City a cash amount equal to the value of incentives. (Assumes: (1) is a marketing period, (2) dwellings age out of IZ at end of marketing period)
2. How do the incentives provided to the developer of a lot get passed along to the homebuilder if the lot developer is not the homebuilder?
3. Add sections of IZ Policy to Ordinance?
4. Other items brought up by the public or plan commission members?
  - a. Alder Golden's memo

*Additional Info R 1*

**TO: Plan Commissioners**

Jeanne Hoffman  
Ald. Larry Palm  
Ald. Zach Brandon  
Ald. Judy Compton  
Ald. Jed Sanborn

**FR: Ald. Lauren Cnare**

**Suggested Revisions to IZ Ordinance: Marketing**

As we begin this discussion, I am whipping out my expertise in this subject to offer this conceptual framework – with a bit ‘o detail – to work out this next topic.

**Marketing the IZ Program: The City of Madison’s Role**

As a city program, we have a powerful role in determining its success through awareness building promotional and educational activities that convey the details and benefits of this program to its many market segments. These include:

Potential buyers  
Developers (new ones join the field all the time)  
Lenders  
Others in the business of helping people acquire a home

Activities include:

- Develop a yearlong promotional plan to be administered by a city department
- Assign funds to adequately support paid advertising, presentations, and materials
- Sunday Wisconsin State Journal Home Section and rental tabloids display ads. Consider other outlets, e.g., the cable real estate channel.
- Create and distribute the IZ Info Packet for developers, real estate professionals, lenders and NFPs assisting homebuyers
- Participate in homebuyer events to promote the program and report on progress or changes
- Hold or participate in professional training venues to educate how IZ operates, and finding and connecting with eligible buyers/renters.
- Make a special effort to train on-site reps, those often likely to encounter the weekend home shopper, with IZ answers and a resource to send people to with in-depth questions.
- Revise, for a period of time, the City of Madison website to make the IZ section easier to find – instead of Homebuyers Assistance, try something more interesting – 101 Ways to Buy a Home in Madison (okay, we have to think up a few more . . .) Put IZ right on that first link and move to the top on the linked page. Then, make an easier to understand, just the facts, ma’am overview, in addition to the dreary ordinance language. Keep a running count of units built, just approved, sold.

**Developer Responsibilities**

*Marketing Plan*

- Require the developer/sellers to promote IZ units no differently than other units, except,
- Require a standard tagline on ads, perhaps other materials, a la Equal Housing Lender, noting “We participate in Madison’s Inclusionary Zoning Program. Ask about our currently available affordable homes/apartments.”
- *Do not require developers/sellers to file a marketing plan with the city.*
- Until we as a city are willing to hire the expertise and devote the staff resources to measuring effectiveness and evaluating investment in marketing plans, we should not be involved at this level.

*On the Market*

Just think about . . .

If an IZ purchase program is no more onerous than any other available mortgage, or at least the benefits outweigh the costs, consider no dictates on marketing time period. If we've done our job right – created a home and a program that matches our customer, it should sell quickly.

Or, at least tie the marketing at affordability levels to a norm derived from local experience, e.g. if a \$150,000 home typically sits for 8 weeks, then an IZ home offered at that price will be slated for an equivalent marketing period. Tier up or down based on the price of the home; adjust at some regular period of time, annually, perhaps.

Accept an equivalent model home as sufficient to meet IZ buyers' needs to do a walkthrough. Very rarely does a buyer walk into a model and say I'll take one just like it. Every mass market home buyer either knows or quickly learns about upgrades and the choices available in interior finishes, floor plan changes or the fact that the price doesn't include the bar and pool table in the basement. As long as the sales staff can explain how the IZ home will be different using a floor plan, photos, 3D rendering or animated walkthrough, there is no need to perfectly reproduce the IZ home. If we must require the IZ model, we have not met our goal of providing equivalent housing to people in different income brackets.



To: David Simon  
Jeff Rosenberg  
Cc:  
From: Brian Munson  
Date: Saturday, June 24, 2006  
Re: Inclusionary Zoning Text Options

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The incorporation of attached housing as part of the goal of creating a cost neutral Inclusionary Zoning (IZ) ordinance represents a significant opportunity to create market feasible IZ units within the city; thereby reducing the need for waivers while fostering mixed residential and mixed income neighborhoods. The incorporation of attached product as an option within the ordinance addresses several points of concern within the current ordinance while addressing overall growth issues within the City:

- 1.) The incorporation of attached product will significantly reduce the City's cost share or incentives required to offset the cost of supplying IZ units within neighborhoods. This is crucial as it reduces the cost burden on the City and helps reduce any cost gap issues that have been leading to waiver request. In essence the City reduces cost, the developer is made whole, and the IZ units are created.
- 2.) If the goal of the Inclusionary Zoning Ordinance is to increase homeownership opportunities within the City and foster economic diversity within neighborhoods, the format change does not represent an altering of course; rather it helps assure that the number of units will continue to be available and prevalent within each new neighborhood or project.
- 3.) The use of attached product within new neighborhoods fits within the City's stated goals for higher density mixed residential projects; as well as, increasing opportunities for transit supportive neighborhood density and design throughout the City.

The following draft language was created to incorporate attached housing as part of the Inclusionary Zoning Ordinance and is presented in reference to Brenda Konkel's draft proposal:

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**IZ FREE ZONE:**

**Konkel Proposal:**

- i. Reservation of up to 20% of the total floor area within an attached-unit development for non-inclusionary dwelling unit designation. Any floor area reserved shall be for contiguous dwelling units and may include dwelling units on more than one floor.*
- j. Reservation of up to 20% of the developable residential area within a development of single-family homes for non-inclusionary dwelling unit designation.*

**Proposed Text:**

No Change

**Comment:**

- Clearly defining what makes up a IZ free area will be nearly impossible to pin down and will have to be defined on a site by site basis. This item will be a point of negotiation on every project. The phasing and distribution impacts of this option will mean that the language addressing phasing will need to be changed as well.

**ATTACHED PRODUCT:**

**Konkel Proposal:**

- k. In single family detached housing developments, up to 50% of the inclusionary zoning units may be attached housing but no more than x% of the developable residential area may be designated to be a non-inclusionary dwelling unit area. If attached units are provided in buildings with 5 - 8 units, no more than half of the units in any one building may be designated to be inclusionary dwelling units. If the attached units are provided in building with more than 8 units, no more than 25% of the units in any one building may be designated to be inclusionary dwelling units.*

**Proposed Text:**

- ~~k. In single family detached housing developments, up to 75% of the inclusionary zoning units may be attached housing but no more than x% of the developable residential area may be designated to be a non-inclusionary dwelling unit area. If attached units are provided in buildings with 5 - 8 units, no more than half of the units in any one building may be designated to be inclusionary dwelling units. If attached units are provided in buildings with 5-8 units, no more than 50% of the overall single-family to multi-family shift shall be accommodated in this format. If the attached units are provided in building with more than 8 units, no more than 25% of the units in any one building may be designated to be inclusionary dwelling units.~~

**Comment:**

- The 75% ratio should accommodate efficiency in land development, yet still allow enough dispersion of units to overcome the issues of too many "IZ free" areas.
- The maximum IZ free area should tie to item i. for consistency and should be removed from this item.

- The number of units limit at 50% will actual create a greater massing impact than allowing the same number of units in all of a building (ie. the impact of a 10 unit townhome with 50% IZ is significantly greater than a 5 unit IZ Townhome). Unit types of up to 6-8 unit IZ buildings can be accommodated in a single family neighborhood and as such should be allowed. Language limiting the overall % of buildings to create a blend of approaches could be added if the concern is that all of the IZ will be placed into 8 unit buildings:

- The use of buildings greater than 8 units should be removed as it quickly gets complicated in that the presence of the multi-family non-IZ will generate some additional units (ties back to the overall unit type proportion) and the question of which allocation these buildings will satisfy will become hard to define. This revision does not preclude the use of larger buildings as this will still be an approach that can be used to satisfy the multi-family allocation.

Notwithstanding incentives provided through 28.04(25)(d)4.k. If the proportion of attached and detached units shall be similar for inclusionary and market rate dwelling units and shall be consistent with the Inclusionary Dwelling Unit Plan

**Clarification:**

The IZ unit proportion would still be calculated so that the base count matches the proportion of multi-family to single family. Once this is determined, the single family is then eligible to switch up to 75% to multi-family.

Example:	Original Plat:	100 units single family 100 units multi-family
	Total IZ:	15 single family (50%) 15 multi-family (50%)
	SF switch:	4 single-family IZ 11 multi-family IZ
	Final Total:	4 single family IZ 26 multi-family IZ

**CHARACTER:**

Konkel Proposal:

*(g)2. The exterior appearance of the inclusionary dwelling units shall be similar in general style to the market rate dwelling units, consistent with the Inclusionary Dwelling Unit Plan.*

Proposed Text:

(g)2. The exterior appearance of the inclusionary dwelling units shall be ~~similar~~ complimentary in general style, and character to the market rate dwelling units, consistent with the Inclusionary Dwelling Unit Plan.

Comment:

- This language was revised to allow for the use of similar style and character to the market rate units so as to allow some flexibility in creating appropriate architectural treatments for the larger unit buildings (ie. it is not appropriate to make all townhomes look like single family)

## DENSITY BONUS CALCULATIONS

Current Language:

*Density Bonus. The density of dwelling units/acre that will be used to calculate the bonus density shall be based on the existing zoning. Notwithstanding the above; however, if the existing zoning is agricultural or for lands to be annexed to the City of Madison and a Neighborhood Plan exists for the area, the density of dwelling units/acre that will be used to calculate the bonus density shall be the midpoint of the density ranges recommended in the Neighborhood Development Plan.*

Proposed Language:

Density Bonus. The density of dwelling units/acre that will be used to calculate the bonus density shall be based on the existing zoning. Notwithstanding the above; however, if the existing zoning is agricultural or for lands to be annexed to the City of Madison and a Neighborhood Plan exists for the area, the density of dwelling units/acre that will be used to calculate the bonus density shall be the ~~midpoint~~ highpoint of the density ranges recommended in the Neighborhood Development Plan.

Comment:

This revision places the upper end of the range as the threshold as a mechanism to tie the plat back to the ranges in place within the neighborhood. In theory the ranges allow the low and high density for each district, which both fits well with the definition of "bonus" units and encourages higher density neighborhoods.





Department of Planning & Development  
**Planning Unit**

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**Additional Information T-1**

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**TO:** Madison Plan Commission

**FROM:** Bradley J. Murphy, Planning Unit Director

**DATE:** June 1, 2006

**SUBJECT:** Density Bonus System for the Inclusionary Zoning Ordinance

The Plan Commission asked staff to write up a possible change to the density bonus system currently included in the inclusionary zoning ordinance.

The Commission has previously discussed the use of a combination of tools to establish the base density for lands within the City. The Commission and the Mayor's Inclusionary Zoning Work Group have generally discussed distinctions between various locations in the City which can generally be grouped into three categories:

1. Lands on the edge of the City where greenfield development will be occurring in areas which have been relatively recently annexed and where existing and future neighborhood development plans will guide the location and magnitude of residential development. These lands are generally zoned Agriculture currently, or will be zoned Agriculture upon their annexation.
2. Lands within the downtown where existing zoning may, in some cases, not reflect the development densities which are recommended in more recently adopted neighborhood plans, the Downtown Plan, or corridor or special area plans.
3. Lands between the undeveloped land on the edge of the City, and lands within the downtown where development has occurred in conformance with the existing Zoning Code.

**Land at the Edge of the City**

For lands at the edge of the City which are currently undeveloped, Planning staff continue to recommend the use of the neighborhood development plans as a basis for establishing the base net density to apply a density bonus. Planning staff recommend that, for the most part, the inclusionary zoning ordinance should continue to use the mid-point of the density ranges recommended within the neighborhood development plans, with the exception of the low density range which is generally recommended as densities less than 8 units per acre. For this density range, Planning staff recommend the use of five dwelling units per acre as the density base. Using the mid-point of this density range results in a density base of four units per acre. Staff believe that it would be appropriate to use five units per acre as the base as this density is more similar to the zoning which would result from applying the minimum lot size allowed in the largest lot zoning district in the Zoning Code (the R1 Single-Family

Residence District). Using five as a density base would allow a substantial density bonus to be granted and still result in densities which would be within the low density range recommended in most neighborhood development plans.

Staff recommend no changes to the other density ranges.

### Areas Between the Edge and the Downtown

For areas of the City which are currently zoned to a district other than Agriculture and are outside of the Downtown, Planning staff recommend the continued use of the maximum densities allowed within the existing zoning districts as the appropriate basis for calculating a density bonus. Using the existing zoning to establish the base makes sense because it is the existing zoning that defines the actual density which can be achieved on an existing zoned property within the City.

### Downtown Areas

Within the downtown, staff suggest that the Plan Commission consider the possible use of three methods to establish the base density. The ordinance could be amended to allow the Director of the Department of Planning & Development or his/her designee to establish the base density in the downtown based on consideration of the following factors. We are not yet comfortable with this approach but would like the commission to discuss it and while staff continue to look for a workable solution.

1. Consideration of the existing zoning. In some areas within the downtown, the continued use of the existing zoning may be appropriate to establish the density base. For example, within the existing local historic districts within the downtown, staff believe that it is appropriate to use the existing zoning as the base density. Within these areas, staff believe that it continues to be appropriate to use the existing zoning to establish the base density.
2. Neighborhood and special area plans. In some areas of the Downtown existing adopted neighborhood plans have provided recommendations which would result in densities which are different than the existing zoning district would allow. Where the existing adopted plan recommends densities lower than the existing zoning would allow, staff recommend the continued use of the zoning district to provide the base density. Where densities are recommended higher than the existing zoning would allow, staff recommend using the adopted neighborhood development plan density mid-points as a base.
3. No Plan. In areas where there is no adopted neighborhood plan, the Director of the Department of Planning & Development or his designee could establish the base density for the development proposal based on consideration being given to the existing zoning, existing Comprehensive Plan and the existing development pattern within the area, and any relevant plan recommendations which would effect the densities which could be achieved on the proposed development site.

Within the downtown, the establishment of the density base could be appealed to the City's Plan Commission as part of the development review process. The Downtown boundaries are as described in the Comprehensive Plan. Staff are not totally comfortable with the suggested approach for the downtown, but do not have another suggested approach at the present time which would address the concerns which have been expressed.