

Proposed language for section on housing cooperatives in draft Subchapter ##  
Supplemental Regulations, Jan Reek, ZCRAC member, June 23, 2009

E. Housing cooperative

~~1. Within the SR-V1, SR-V2, TR-C3 and TR-P districts, upon conditional use approval, a housing cooperative may be established in a dwelling unit, with a maximum occupancy of five (5) persons.~~

~~2.1. Within the SR V1, SR V2, TR C3, TR P, TR-V1, TR-V2, MNX, TSS and CC-T districts, a housing cooperative may be established in a dwelling unit as a permitted use if the occupancy is five (5) or fewer persons. Occupancy by more than five (5) persons per dwelling unit requires conditional use approval. Actual occupancy in any given unit is subject to the building code.~~

~~3.2. When housing cooperatives are established within single-family dwellings, the single-family appearance and function of the building shall not be altered through the addition of entrances or kitchens.~~

~~4.3. Two-family, three-family and multi-family buildings in the districts listed in E.1. above may be converted into cooperatives as a permitted use provided that the entire building is converted and must remain as a cooperative while so occupied. Occupancy by more than five (5) persons per original dwelling unit requires conditional use approval.~~

4. Within the TR-U1 and TR-U2 districts, a housing cooperative may be established in a dwelling unit as a permitted use. There is no maximum occupancy under the zoning code; maximum occupancy is regulated by the building code.

To: Zoning Code Rewrite Advisory Committee  
From: Jeff Rosenberg  
Date: Tuesday, June 16, 2009  
Re: Urgent Comments on Current Zoning Code Draft Residential Districts

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Last year when the City of Madison decided to take on the enormous task of re-writing our very complicated Zoning Codes, we at Veridian were very optimistic about the outcome. This process was undertaken with a stated goal of facilitating Traditional Neighborhood Design and sustainable urban infill while reducing the reliance on Planned Unit Development zoning. In the end, all of us including the future residents of the City would benefit by the improvements we could make in all our new neighborhoods.

Unfortunately, the current draft code does not achieve these goals. The following issues give us deep concerns that not only will the new process deter sustainable neighborhoods but will force us into a greater use of the PUD process. Please remember all the months of hard work we did together several years ago developing new residential districts based on real project data. With Madison hosting the Congress for New Urbanism convention in 2011, it would be quite embarrassing to take such a drastic step backwards.

**Issues:**

- 1. Traditional Neighborhood Development Disincentive**  
The proposed TRP process results in a more difficult process, borrowing heavily from the Planned Unit Development district, to implement TND projects creating a significant burden when compared against standard suburban districts.
- 2. No Urban Residential**  
There are not any districts that allow for the creation of urban residential with buildings greater than 5 stories or reduced side yard/front yard setbacks, resulting in continued reliance on Planned Unit Development zoning for urban projects.
- 3. Sustainability**  
The resulting process and standards for implementing higher density mixed residential create a significant incentive towards creating lower density sprawl development, counter to the sustainability initiatives supported by the City.
- 4. Non-Conforming Structures**  
The current residential districts will create a significant number of non-conforming structures throughout the city due to a variety of standards.

**Solutions:**

- 1. Three District TRP**  
The TRP district should be split to create standards that echo all of the other residential districts, including a single family only sub-district, a mixed residential sub-district, and a multi-family only sub-district. **Vitally important.**
- 2. Urban Residential**  
Additional Urban Residential districts should be added that allow conditional use approvals with minimal front and side yard setbacks, higher impervious surface ratios, and no height limit.
- 3. Simplified Process**  
The process for creating TND projects should be identical or easier than creating any other pattern.

# Herrick & Kasdorf, L.L.P.

Patricia Hammel  
Scott N. Herrick *Court Commissioner*  
Robert T. Kasdorf *Trustee in Bankruptcy*  
Juscha Robinson  
David R. Sparer

Robert L. Reynolds, Jr. (1930-1994)

## Law Offices

16 N. Carroll, Suite 500  
Madison WI 53703

Peter Zarov *of counsel*  
Gretchen Twietmeyer *of counsel*  
Roger Buffet *of counsel*

April 9, 2009

TO: Matt Tucker  
Rick Roll

Sent by e-mail only

RE: Concepts for new zoning code related to coop housing

Greetings:

While I am out of time to get you a professional complete suggestion of text language for the coop housing concepts, and I will be gone tomorrow, I do have enough time to get you this overview so that you can consider it at your meeting tomorrow. My plan would be to work together with MCC staff and officers and with the other coop representatives, over the coming week, and get you something more complete for Friday the 17<sup>th</sup>.

Here's what I think we need:

1. A clearly *permitted use*, in all the inner city neighborhoods and zones, for conversion of a multi-unit building into one larger unit operated as a cooperative. In order to be a permitted use, rather than a conditional use, the cooperative would need to establish the following things:
  - a. They would not be allowed to increase the overall occupancy of the building beyond what it had been in its multi-unit configuration.
  - b. That they do meet the definition of a cooperative used in this section of the code (more on that below).
  - c. Such permit for conversion would not remain with the building unless both requirements (a) and (b) above continued to be true. (Thus if a non - cooperative owner bought the building from the coop they would not be allowed to rely upon this conversion permit to continue to operate the building in this way. This would force the cooperative to only sell the building if funds were available from either the coop itself or the buyer to convert the property back to its former multi-unit configuration, or some totally different use was approved.)
2. If such permission is obtained by establishing compliance with these criteria, then all other zoning characteristics of the property continue in place. This would include any exceptions

(608) 257-1369  
fax (608) 250-4370

voicemail extension: 228  
sparer@herricklaw.net

for open space requirements, or off street parking, etc., whether grandfathered in or whether granted at some past time by the City, but in place prior to the conversion.

3. If the cooperative wants to get permission to increase the occupancy limits beyond what they were before any conversion, this would require going through a conditional use permit application and hearing process.
4. I think we want to keep the definition language currently in the "family" definition which explains how a coop housing unit may qualify as "owner-occupied" and be allowed, therefore, to have more unrelated people in a given housing unit. It may be more useful to future users of the zoning code to have that all be part of a detailed definition of cooperative housing, rather than leaving it in "family." However it DOES need to be somewhere.

This would only relate to smaller coops, since the maximum number would be small. Never the less, we need to include this somewhere.

5. The definition of cooperative. The current draft of the zoning code has a definition, which contains no problematic language. However, it probably needs more details for our purposes. The following is directly out of the current text, with one of the three options appearing there removed because it is no longer applicable. I am suggesting that the currently proposed definition just be expanded to include the follow as well as what is there now.

A qualifying cooperative housing unit is one where 100% interest in the fee simple is held by the following:

- i. a housing cooperative which has been organized under Chapter 185 of the Wisconsin Statutes to manage and control cooperative residential real estate, and which has qualified as an exempt organization under Section 501(c)(3) of the Internal Revenue Code, provided that all residents of the dwelling unit are members of the cooperative; or
- ii. a housing cooperative which has been organized under Chapter 185 of the Wisconsin Statutes to manage and control cooperative residential real estate provided, however, that all members of the cooperative are residents of the dwelling unit.

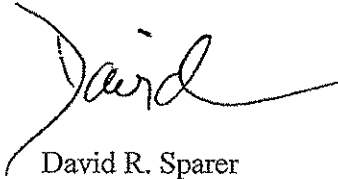
The second definition covers a single building owned by a coop that only owns that building. In that concept every member of the coop is a resident of the house. Thus there are no outside owners what so ever.

The first definition covers such things as MCC where the cooperative owns multiple buildings. In that case obviously not every member can live in any one house. However, it does require that all residents are members. Coops are unique as a type of corporation in that, by statute, every member has equal rights. It is not possible to have an outside owner who actually owns and runs things, but have resident members who are not eligible to become the board president, for example. One member one vote, every member has equal rights. It's set that way in the statute.

In addition, in the coop owns more than one building type case the extra protection is included that the coop be evaluated and certified by the IRS as a charitable entity qualified for 501(c)(3) tax status. That obligates them to have their housing be affordably priced for low income persons according to strict guidelines set out by the IRS. The single coop house option does not include that same condition since every resident is an owner at the one house.

I think these are the points to get included into the draft. I'll be back in touch with more detail next week for your 4/17 meeting.

Sincerely yours,



David R. Sparer

DRS/ms

cc: Gabriel Heck - MCC - by e-mail

## ZONING TEXT FOR COOPERATIVE HOUSING

Here's what I think we need to provide text to address cooperative housing in the new zoning code:

1. A clearly permitted use, in SR-C3, SR-V1, SR-V2, TR-C3, TR-V1, TR-V2, TR-U1, TR-U2, and TR-P (all the inner city neighborhoods and zones), for conversion of a multi-unit building into one integrated unit operated as a cooperative.

In order to be a permitted use, rather than a conditional use, the cooperative would need to establish the following things:

- a. They would not be allowed to increase the overall occupancy of the building beyond what it had been in its multi-unit configuration.
- b. That they do meet the definition of a cooperative used in this section of the code (more on that below).
- c. Such permit for conversion would not remain with the building unless both requirements (a) and (b) above continued to be true. (Thus if a non - cooperative owner bought the building from the coop they would not be allowed to rely upon this conversion permit to continue to operate the building in this way. This would force the cooperative to only sell the building if funds were available from either the coop itself or the buyer to convert the property back to its former multi-unit configuration, or some totally different use was approved.)

2. If such permission is obtained by establishing compliance with these criteria, then all other zoning characteristics of the property continue in place. This would include any exceptions for open space requirements, or off street parking, etc., whether grandfathered in or whether granted at some past time by the City, but in place prior to the conversion.
3. If the cooperative wants to get permission to increase the occupancy limits beyond what they were before any conversion, this would require going through a conditional use permit application and hearing process. Such coops, and the conversion without increasing the occupancy numbers, would be eligible as conditional uses in zones SR-C1, SR-C2, TR-C1, and TR-C2. In order to be accepted as a conditional use, either due to increased occupancy or to be accepted in one of these listed zones, they would need to establish the same three items as listed above, but also satisfy the requirements for getting a conditional use permit.
4. I think we want to keep the definition language currently in the "family" definition which explains how a coop housing unit may qualify as "owner-occupied" and be allowed, therefore, to have more unrelated people in a given housing unit. It may be more useful to future users of the zoning code to have that all be part of a detailed definition of cooperative housing, rather than leaving it in "family." However it DOES need to be somewhere.

This would only relate to smaller coops, since the maximum number would be small (five unrelated people). Never the less, we need to include this somewhere.

5. **The definition of cooperative.** The current draft of the zoning code has a definition, which contains no problematic language. However, it probably needs more details for our purposes. The following is our suggestion proposed in an effort to keep it simple and readable. I am suggesting that the currently proposed definition just be expanded to include the following as well as what is there now.

A qualifying cooperative housing unit is one where 100% interest in the fee simple is held by the following: a housing cooperative which has been organized under Chapter 185 of the Wisconsin Statutes to manage and control cooperative residential real estate provided, however, that all residents of the dwelling unit are members of the cooperative, and that all members of the cooperative are residents of one of the buildings (if there are more than one), owned by the cooperative.

This definition covers such things as MCC where the cooperative owns multiple buildings, and also covers single building independent cooperatives. It does require that all residents are members of the Coop. Coops are unique as a type of corporation in that, by statute, every member has equal rights. It is not possible, in a Coop, to have an outside owner who actually owns or runs everything, but have resident members who are not eligible to become the board president, for example. The statute does not permit that in a cooperative. One member one vote, every member has equal rights, regardless of unequal investment or owning more shares than another member. It's set that way in the statute, and is not allowed to be varied.

5. Sherman Hackbarth had spoken about the option of having coops own multi-unit buildings, where the units in question would NOT be larger than a typical housing unit. This is very similar to condominiums in many ways, but not in every way. There is a zoning definition change needed for these types of coops too. The reason is that under the Owner Occupied definition, the current language does not contemplate that "ownership" includes owning the coop share and occupancy interest for the rental unit. In these coops, what could be called full equity coops, instead of the condo owner owning the fee simple interest in their three dimensional unit, the coop owns all the units, and the resident of each individual residence (apartment) as a member of the coop, owns just their occupancy rights to that unit. (This is how all the Coops in New York City work.)

The current language in the current Family definition, in paragraph 2 includes the following: "For the purpose of this definition, an owner-occupied dwelling unit shall mean any dwelling unit where an individual or two or more persons who reside in such unit constitute one hundred percent (100%) of the owners of either the entire fee simple interest or the entire land contract vendee's interest in said dwelling unit." This needs to be modified by adding a third option of "or the occupancy rights to the unit pursuant to a cooperative membership agreement where the building as a whole is owned by a cooperative corporation organized under Chapter 185 WI Statutes, and the occupant(s) are members of the cooperative and own occupancy rights to their residential unit."

## **ZONING PROPOSALS ON BEHALF OF COOPERATIVE HOUSING**

- Coop housing IS NOT just a bunch of people all living together. It is housing owned by a corporation formed pursuant to Chapter 185 WI Statutes. The members of the corporation, the Cooperative, are then the residents of the dwelling. No outside owners.
- Coop housing IS NOT absentee owned housing where nobody cares about upkeep or the neighbors:
  - Chapter 185 requires that coops be run by the members, not investors. One member one vote. Only the members may be on the board of directors, and serve as officers.
  - The primary draw of coop housing is the environment - everybody working together to live in harmony and working together to make a better place to live. **The people drawn to coop living are great neighbors.**
- Our proposals DO NOT risk creating overcrowding - we seek Permitted Use to convert existing occupied housing into cooperative housing without any increase in the number of occupants. For example, a three unit building currently permitted to have 5 residents per apartment, would be converted into one cooperative permitted to have no more than 15 total residents. No change in the occupancy - just reconfiguration of the rooms.
- **Conditional Use status is a poor choice in many cases:**
  - Being required to go through the Conditional Use process puts Coops at a serious disadvantage when competing with other absentee landlord buyers who's only contingency is to secure financing. (A Coop would need to have a contingency, in their Offer to Purchase, for obtaining the conditional use - and a seller would have to hold the property off the market for the Coop during the whole process and accept that the Coop would just pull out if the Conditional Use process, in the end, did not work out.)
  - Where the criteria for Permitted Use are clear - staff can handle the evaluation rather than require a time consuming hearing process.



- For any coop conversions which do involve a request for an increase in occupancy - then the conditional use process would still be a requirement.



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Capitol Square Office  
Two East Mifflin Street  
Suite 600  
Madison, WI 53703-2865  
Tel 608-255-8891  
Fax 608-252-9243

Metro Milwaukee Office  
13935 Bishop's Drive  
Suite 300  
Brookfield, WI 53005-6605  
Tel 262-754-2840  
Fax 262-754-2845

Please respond to: Capitol Square Office  
Direct line: 608-252-9365  
Email: [mrc@dewitross.com](mailto:mrc@dewitross.com)

May 18, 2009

*Via e-mail at [rroll@cityofmadison.com](mailto:rroll@cityofmadison.com)*

Zoning Code Rewrite Advisory Committee  
C/o Rick Roll  
City of Madison  
215 Martin Luther King, Jr. Boulevard  
Madison, WI 53710

RE: Tilt-Up Concrete Panels

Dear Members:

I have shared with you in my April 27, 2009 letter and attachments the position of Newcomb Construction Company, Inc. ("Newcomb") regarding your April 20, 2009 draft regarding the tilt-up concrete panel process. Although the latest draft is an improvement from the earlier draft in some respects, it treats tilt-up and precast concrete panels differently when there is no rational basis to do so. Therefore, my client would propose the following changes to pages 4-5 of your May 12, 2009 draft:

1. **On page 4, paragraph (I), Requirement: Materials, add the word "inert" after "durable" on line 2.**

The reason for this requested language change is to make clear that concrete panels that use the tilt-up process are to be encouraged.

2. **On page 5, in the chart listing the allowable building materials, strike the terms "tilt-up" and "precast" from that list, thereby creating a single category of "concrete panels".**

There are two reasons for this suggested change. First, the terms "tilt-up" and "precast" are not building materials, but are instead building processes. Second, having distinct categories implies that the tilt-up process is somehow inferior to the precast process. As stated previously,

May 18, 2009  
Page 2

there are distinct advantages in terms of energy efficiency, reduced cost and greater aesthetic quality to the tilt-up process.

3. **In the column noting the footnotes for allowable standards, include "B" and "C" for the single category of concrete panels.**

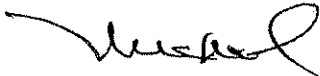
My client feels that the comments in footnotes B and C are equally applicable to concrete panels that use the tilt-up or the precast process.

The essence of these recommendations is to create a level playing field for concrete panels that use the tilt-up or the precast method of construction, as long as the materials include the articulation, modulation and horizontal reveals as stated in your draft standards.

Bret will briefly speak during your public comments section of your May 20, 2009 meeting to elaborate on these proposed changes.

Sincerely,

DEWITT ROSS & STEVENS s.c.



Michael R. Christopher

MRC:jch

## Roll, Rick

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**From:** Roll, Rick  
**Sent:** Monday, April 27, 2009 2:38 PM  
**Subject:** FW: Draft ADU standards

Hi,

I'm forwarding you this e-mail from Bob and Barbara Koechley, Joan Laurion and John Linck. Please let me know if you have any questions.

Thanks,

Rick Roll

-----Original Message-----

**From:** Barbara Koechley [mailto:barbara@koechley.com]  
**Sent:** Thursday, April 23, 2009 8:19 PM  
**To:** Roll, Rick  
**Cc:** Joan Laurion; John Linck; Tucker, Matthew; Suzanne Rhees; Bob Koechley  
**Subject:** Re: Draft ADU standards

Dear Rick,

Thank you for preparing the zoning draft to include accessory dwelling units. Our neighborhood group, who have been part of your focus group and have given comment at the zoning committee meetings, got together and went over the draft ADU proposal. We are pleased that the draft contains many of the general building standards we discussed. The suggested design standards would preserve the integrity of the neighborhood. We appreciate being part of the planning process for accessory dwelling units.

Are we correct in understanding the draft to say that Madison residents have the right to build an accessory dwelling unit on their property in residential areas?

We do have concerns about some of the items. To name a few, we would like some clarification about the "overlay district" and find the 40% in the maximum unit size to be problematic for smaller homes in our neighborhoods.

We would like to have the opportunity to make comments to this draft. What would be the best avenue for us to do this?

Thanks,

Bob and Barbara Koechley, Joan Laurion, and John Linck

## **Code Provisions to Accommodate Less Abundant, More Expensive Petroleum**

The Madison Peak Oil Group submits the following recommendations for modifying the draft codes to include energy and sustainability features that could help the City of Madison and its residents to transition from a society and economy in which petroleum and petroleum-products are plentiful and relatively inexpensive to a society and economy in which they are not.

### **Residential District Codes**

#### Table R.1. (p. 6-7)

##### Under "Other"

- Allow farmers' markets as a conditional use.

##### Under "Accessory Uses" add the following as conditional uses:

- Light manufacturing.
- Retail businesses to support a neighborhood, e.g., grocery stores and hardware stores.
- Agricultural accessory buildings to serve community and market gardens.

##### Under "Public Utility and Public Service Uses" add the following as conditional uses:

- District power generation facilities, e.g., solar, geothermal, biomass, in residential, commercial, industrial, and all other districts.
- Electric vehicle charging stations

#### Residential Design Standards (p. 25)

- Allow new buildings to be oriented non-parallel to the street if necessary to maximize solar capture in residential, commercial, industrial, and all other districts

### **Commercial and Mixed Use District Codes**

#### General Provisions of Mixed Use and Commercial Districts

##### Under "Screening of rooftop equipment" (p. 4)

- Solar installations should be exempt from screening requirements

##### Under "Parking Structure design" (p. 5)

- Parking structures should be designed to allow easy retrofit installation of electric vehicle charging stations
- Structure should reserve spaces for community cars
- Require bike racks

#### Table .1 Mixed Use and Commercial Districts (p. 6-11)

Require bike racks under the following categories:

- Medical Facilities
- Retail Sales and Services
- Food and Beverages
- Commercial Recreation, Entertainment, and Lodging
- Parking Facilities
- Transportation

Under "Accessory Uses" add the following as permitted uses:

- Light manufacturing
- Community and market gardens
- Agricultural accessory buildings to serve community and market gardens

Commercial Corridor – Transitional District (p. 23)

Allow community gardens and farmers' markets

All buildings and additions must provide the following:

- Bike racks
- Community car parking
- Electric vehicle charging station
- Surface parking lots must be paved with permeable materials
- Systems to capture rainwater that falls on the site
- Encourage green roofs

Under Frontage Requirements (p. 24)

- Allow new buildings to be oriented non-parallel to the street if necessary to maximize solar capture in residential, commercial, industrial, and all other districts.

Prepared by Ed Blume, Madison Peak Oil Group, eblume@renewwisconsin, 608.819.0748

Memorandum

To: Members of the Zoning Rewrite committee, Cunningham Group, Matt Tucker, Rick Roll  
 From: Eric Sundquist  
 RE: Parking standards in the zoning rewrite  
 Date: 2/1/2009

This note follows an Oct. 20, 2008, meeting that included Tim Gruber, Robbie Webber, Matt Tucker, Rick Roll, Suzanne Rhees, and myself, and several subsequent conversations. The meeting addressed two major concerns with regard to parking: 1) Snow removal in bike parking areas, and 2) car parking standards. The former was addressed at the meeting, while discussion on the second raised several questions, prompting this memo. Below I suggest: 1) a way to decouple car and bike parking, so that changing standards for one does not affect the other, 2) revision of car parking minimums and maximums, 3) a revision of shared car parking rules, and 4) a revision of car parking placement and materials standards.

**1. Bike and car parking.** Some current bike parking minimums are tied to the number of required car parking spaces, which prevents adjustments to one standard without affecting the other. A solution is to tie the bike requirement directly to the land use, removing the intervening calculation involving cars. For example, museums must provide one car space per 800 square feet of floor area, and one bike space for every 10 car spaces (with a minimum of two spaces). This requirement converts to one bike space for every 8,000 square feet of floor area (with a minimum of two spaces). Such conversions are shown in Table 1 below.

**Table 1. Converting current bike parking requirements directly to land use.**

Land use	Current bike*	Current auto	Converted bike*
Galleries/museums/libraries	1 per 10 auto	1 per 800 square feet	1 per 8,000 square feet
Places of assembly A (airports, small golf courses, fairgrounds, parks, etc.)	1 per 10 auto	As determined by Zoning Administrator	As determined by Zoning Administrator
Places of assembly B (bowling centers)	1 per 10 auto	5 per lane plus spaces for affiliated uses per relevant standards	1 per every 2 lanes plus spaces for affiliated uses per relevant standards
Places of assembly C (churches)	1 per 10 auto	1 per 10 seats, or per 180 lineal inches of pew, or per 70 square feet of floor area for seating	1 per 100 seats, or per 1,800 lineal inches of pew, or per 700 square feet of floor area for seating
Places of assembly D (amusement establishments, convention halls, swim/tennis clubs, community centers, non-school stadiums, etc.)	1 per 10 auto	10 percent of capacity	1 percent of capacity

Places of assembly E (school and college stadiums, auditoriums, etc.)	1 per 10 auto	1 per 6 seats, or per 108 lineal inches of pew, or per 42 square feet of floor area for seating	1 per 60 seats, or per 1,080 lineal inches of pew, or per 420 square feet of floor area for seating
Places of assembly F (indoor theaters)	1 per 10 auto	1 per 4 seats	1 per 40 seats
Places of assembly G (restaurants, taverns, meeting halls)	1 per 10 auto	30 percent of capacity	3 percent of capacity
Commercial/manufacturing A (agricultural, materials processing, construction offices, highway maintenance shops, junkyards, laboratories, truck terminals, printing establishments, rail yards, warehouses, weigh stations, wholesale establishments, etc.)	1 per 10 auto	1 per 2 employees	1 per 20 employees
Commercial/manufacturing B (automobile laundries)	1 per 10 auto	1 per 2 employees plus 1 for the manager, plus spaces for cars being washed	1 per 20 employees, counting the manager
Commercial/manufacturing C (auto repair shops)	1 per 10 auto	1 per 2 employees plus 1 for the manager, plus spaces for cars being repaired	1 per 20 employees, counting the manager
Commercial/manufacturing D (banks, medical clinics, retail stores, etc.)	1 per 10 auto	1 per 300 square feet of floor area	1 per 3,000 square feet of floor area
Commercial/manufacturing E (cartage and delivery)	1 per 10 auto	1 per 2 employees, plus spaces for vehicles housed on the premises	1 per 20 employees
Commercial/manufacturing F (schools of music, dance and trade)	1 per 10 auto	1 per 2 employees plus one per 5 students at maximum attendance	1 per 20 employees plus one per 50 students at maximum attendance
Commercial/manufacturing G (funeral parlors)	1 per 10 auto	8 per parlor, plus spaces for vehicles housed on the premises	2 per parlor*
Commercial/manufacturing H (business offices)	1 per 10 auto	1 per 400 square feet of floor area	1 per 4,000 square feet of floor area

\* Minimum number of bike spaces is 2, per Sec. 28.11(3)(l)1

**2. Car parking minimums and maximums.** As we discussed in October, cities around the country are revisiting parking standards in an attempt to reduce costs and move toward sustainability. Ideally, we would remove minimums and let the market dictate parking provision, using residential parking permits, meters, and other tools to avoid conflicts over street parking where needed. We might also ratchet down maximums. If a blanket no-minimum policy seems too great a change, however, another choice would be to find guidance in other cities' experience. Fortunately, Wisconsin offers an example of a city that has done quite well with relatively low minimums for many years – Milwaukee. While Milwaukee's land use classifications do not match Madison's exactly,



Table 2 shows our standards with the closest equivalents in Milwaukee. With only a few exceptions, Milwaukee's minimums improve on ours. (In some cases the metrics do not match and some further work would be needed to judge the two on a similar standard.) Milwaukee has tighter maximums on residential and retail, as well, but no maximums on office uses. A starting point then, would be to consider adopting Milwaukee's minimums and maximums where they improve on Madison's, and to retain existing minimums and maximums that are below Milwaukee's.

Table 2. Madison and Milwaukee parking standards compared.

Use	Current Madison		Milwaukee	
	Min	Max	Min	Max
DU -- efficiency detached/duplex	.5 - 1	None	0	4
DU -- efficiency multifamily	.5 - 1	None	.66-1	None
DU -- 1 BR detached/duplex	1 - 1.5	None	0	4
DU -- 1 BR multifamily	1 - 1.5	None	.66-1	None
DU -- 2 BR detached/duplex	1 - 1.75	None	0	4
DU -- 2 BR multifamily	1 - 1.75	None	.66-1	None
DU -- 3+ BR detached/duplex	1 - 2	None	0	4
DU -- 3+ BR multifamily	1 - 2	None	.66-1	None
DU in fraternity/sorority	1	None		
DU in hotel/motel	1	None		
LR	.33-1	None		
LR -- in private club	30 percent of capacity	None		
LR -- in fraternity/sorority	0.33	None	0.5	None
LR -- in hotel/motel	1	None	1 per 1,000 square feet	
Art galleries, museums, libraries	1 per 800 square feet	1 per 400 square feet*	None	None
Colleges, universities, day care centers, K-12 schools	1 per 2 employees	1 per 1 employee*	None	None
Convalescent/nursing homes, homes for aged and children, sanitariums	1 per 2 beds	1 per bed*	1 per 4 beds	None
Hospitals	1.5 per bed	3 per bed*	1 per 4 beds	None

Residential (subsection 2)

Community service and institutional (subsection 3)

Places of assembly, recreation, entertainment and amusement (subsection 4)		As determined by Zoning Administrator	As determined by Zoning Administrator	As determined by Zoning Administrator	As determined by Zoning Administrator	As determined by Zoning Administrator
Airports, fairgrounds, carnivals, athletic fields, land/water preserves, golf courses, parks, playgrounds		As determined by Zoning Administrator	As determined by Zoning Administrator	As determined by Zoning Administrator	As determined by Zoning Administrator	None
Bowling centers	5 per lane	5 per lane	10 per lane*	1 per 1,000 square feet	3.5 per 1,000 square feet	None
Bars, restaurants in bowling centers	As determined by Zoning Administrator, based on standards for similar uses	As determined by Zoning Administrator, based on standards for similar uses	As determined by Zoning Administrator, based on standards for similar uses	1 per 1,000 square feet	3.5 per 1,000 square feet	None
Churches	1 per 10 seats, or per 180 lineal inches of pew, or per 70 square feet of floor area for seating	1 per 5 seats, or per 90 lineal inches of pew, or per 35 square feet of floor area for seating*	1 per 5 seats, or per 90 lineal inches of pew, or per 35 square feet of floor area for seating*	1 per 6 seats	None	None
Misc. "amusement establishments," including dance halls, driving ranges, gymnasiums, skating rinks, convention halls, swim/tennis clubs, community centers, and non-school arenas	10 percent of capacity	20 percent of capacity	20 percent of capacity*	1 per 1,000 square feet for indoor; as required by board for outdoor	3.5 per 1,000 square feet for indoor; as required by board for outdoor	None
School stadiums, gyms, stands	1 per 6 seats, or per 108 lineal inches of seating, or per 42 square feet of floor area for seating	1 per 3 seats, or per 56 inches of seating, or per 42 square feet of floor area of seating*	1 per 3 seats, or per 56 inches of seating, or per 42 square feet of floor area of seating*	None	None	None

		Commercial and manufacturing (subsection 5)		
Indoor theaters	1 per 4 seats	1 per 2 seats	1 per 100 square feet in auditorium	None
Restaurants, taverns, meeting halls Agricultural, materials processing, construction offices, highway maintenance shops, junkyards, laboratories, truck terminals, printing establishments, rail yards, warehouses, weigh stations, wholesale establishments, etc.	30 percent of capacity	60 percent of capacity*	1 per 1,000 square feet	3.5 per 1,000 square feet
Automobile laundries	1 per 2 employees plus 1 for the manager, plus spaces for cars being washed	1 per employee* 1 per employee plus 2 for the manager, plus spaces for cars being washed*	None	None
Auto repair shops	1 per 2 employees plus 1 for the manager, plus spaces for cars being repaired	1 per employee plus 2 for the manager, plus spaces for cars being repaired*	None	None
Banks, retail stores, etc.	1 per 300 square feet of floor area	1 per 150 square feet of floor area*	1 per 1,000 square feet	3.5 per 1,000 square feet
Medical clinics	1 per 300 square feet of floor area	1 per 150 square feet of floor area*	1 for each 500 square feet of first 2,000, plus 1 for each additional 1,000 square feet	None

Cartage and delivery	1 per 2 employees, plus spaces for vehicles housed on the premises	1 per employee, plus space for vehicles housed on the premises*	None	None
Schools of music, dance and trade	1 per 2 employees plus one per 5 students at maximum attendance	1 per employee plus 1 per 2.5 students at maximum attendance*	None	None
Funeral parlors	8 per parlor, plus spaces for vehicles housed on the premises	16 per parlor, plus spaces for vehicles house on the premises	4, or 1 per 100 square feet of chapel	None
Business offices	1 per 400 square feet of floor area	1 per 200 square feet of floor area*	1 for each 500 square feet of first 2,000, plus 1 for each additional 1,000 square feet	None
Cemeteries	10 per interment per hour	20 per interment per hour*	None	None
Convents/monasteries	As determined by Zoning Administrator, based on standards for similar uses	As determined by Zoning Administrator, based on standards for similar uses	1	None
Fire stations, utility/public service, radar, sewage treatment plants	1 per 2 employees, plus space for the public as determined by the Zoning Administrator	1 per employee, plus space for the public as determined by the Zoning Administrator*	1 for each 500 square feet of first 2,000, plus 1 for each additional 1,000 square feet	None
Miscellaneous (subsection 6)				

	Bed and breakfasts	1 per guest room, plus spaces for family of owner	2 per guest room, plus spaces for family of owner* *Max as shown or 15, whichever is greater.	1 per room plus 1	None
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**3) Shared parking rules.** Though city staff laudably attempts to find shared-parking solutions in order to minimize the area devoted to parking, our current standards work against such arrangements by requiring that shared parking equal the sum of the requirements for each use (Sec. 28.11[3][d]). So if a church, which needed 100 spaces on Sundays, shared its lot with an office building, which needed 100 spaces on weekdays, the ordinance would require 200 spaces in the lot. Many cities have formal means of determining shared parking requirements that avoid this problem. An example is Minneapolis, whose ordinance follows:

#### ARTICLE IV. REDUCING OFF-STREET PARKING REQUIREMENTS

541.190. Shared parking. The zoning administrator may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing off-street parking when their respective hours of peak operation do not overlap. Shared parking shall be subject to the location requirements of section 541.250 and the following conditions:

- (1) *Computation.* The number of shared spaces for two (2) or more distinguishable land uses shall be determined by the following procedure:
  - a. Multiply the minimum parking required for each individual use, as set forth in Table 541-1, Specific Off-Street Parking Provisions, by the appropriate percentage indicated in Table 541-2, Shared Parking Calculations, for each of the six (6) designated time periods.
  - b. Add the resulting sums for each of the six (6) columns.
  - c. The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.
  - d. Select the time period with the highest total parking requirement and use that total as the shared parking requirement.
- (2) *Other uses.* If one (1) or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in Table 541-2, Shared Parking Calculations, as determined by the zoning administrator, then the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the zoning administrator shall determine the appropriate shared parking requirement, if any, for such uses.
- (3) *Process.* An application for shared parking shall be submitted on a form approved by the zoning administrator, as specified in Chapter 525, Administration and Enforcement.

Table 541-2 Shared Parking Calculations

TABLE INSET:

General Land Use Classification	Weekdays			Weekends		
	1:00 a.m.– 7:00 a.m.	7:00 a.m.– 6:00 p.m.	6:00 p.m.– 1:00 a.m.	1:00 a.m.– 7:00 a.m.	7:00 a.m.– 6:00 p.m.	6:00 p.m.– 1:00 a.m.
Office	5%	100%	5%	0%	15%	0%
Retail sales and services	0%	100%	80%	0%	100%	60%
Restaurant (not 24 hr)	20%	70%	100%	30%	75%	100%

Residential	100%	60%	100%	100%	75%	90%
Theater	0%	60%	100%	0%	80%	100%
Hotel						
Guest rooms	100%	55%	100%	100%	55%	100%
Restaurant/lounge	40%	60%	100%	50%	45%	100%
Conference rooms	0%	100%	100%	0%	100%	100%
Religious institution	0%	25%	50%	0%	100%	50%

**4) Placement and materials standards.** I understand from the briefing by Cunningham at the Jan. 26 Plan Commission meeting that the current draft of the code rewrite would require parking at the side or back of many or all retail and office buildings, a move that comports well with current thinking on sustainable infrastructure. I hope this provision is widely applied.

I also understand the Rewrite Committee is considering loosening Madison's ban on pervious pavements (Sec. 28.11[3][h]2). This would be another important reform to lessen runoff-borne pollution and the need for costly stormwater infrastructure.



5/19/2009

TO: The Zoning Code Rewrite Advisory Committee  
FROM: Peter Wolff, Preservation/Development Committee of the Marquette  
Neighborhood Association  
RE: Thoughts on the draft Transit Oriented Development TOD overlay.

I am glad to see that the TOD overlay is beginning to deal with the issue of parking as a key element of the application of transit development to the real world. Everyone I talk to about this matter, including a consultant from Cuningham very early in the process, sees control of parking availability as a key factor in influencing people to adopt transit as their major commuting vehicle. They assume that if parking is easily available at the workplace, most people will continue to drive, even at considerably higher than present gasoline prices.

But while the draft now defines the intent of the TOD district "...to support investment in and use of public transit." it then says that "The district is also intended to ... reduce parking requirements by encouraging shared parking and alternative modes of transportation." The idea that availability of transit will reduce the need for parking space, rather than the converse, unfortunately persists in this draft. No real solution to the problem of how people will ultimately be convinced to use transit (other than the ever-present "...will be encouraged to ...") is ever mentioned. A *reductio ad absurdum* – that support for public transit use will be realized by encouraging people to use public transit – is dangerously close at hand.

I have attempted to develop some language that I think comes closer to resolving this issue, using the existing structure of the draft:

"The TOD District is intended to support investment in and use of public transit in a given location. It does this in several ways:

- A. by fostering development that intensifies land use in the location;
- B. by limiting automobile parking options.
- C. by fostering high-quality buildings and public spaces that help create and sustain long-term economic vitality in the area."

And,

## **“(8) Parking Standards**

No minimum off-street parking is required, except where specified in a TOD plan for the area in question. Parking maximums shall apply. Every TOD proposal must include a maximum parking requirement that is below the maximum included in the base zoning category. The exact maximum figure should be based on the specific situation and needs of the area in which the proposed development is located, including existing road capacities, traffic patterns, possible and probable impact of additional auto traffic generated by the proposed development on surrounding neighborhoods, and other possible contingencies. These estimates may be determined with the help of the City planning and traffic engineering departments. The final parking standard for the proposed district must be approved by them, as well as by the relevant city commissions and council.”

A secondary concern I have is the inclusion of specific land use requirements in the TOD, as found in sections 5D and 6. It seems to me that, as an overlay, the TOD concept should be a limited concept that is able to be applied to a variety of land uses, both single and multiple. For example, TOD could be just as applicable in principle to a single-use office park or housing development as it is to a multi-use development. While multi-use development may be a favored land use at this point, it seems to me that encouragement, as well as standards, for this kind of development should be relegated to the base zoning categories, not the overlays.

There are one or two smaller comments I have about the draft. For some reason I found it easier to try to work on the entire draft first, before I conceptualized my comments. I am including the result of my rewrite attempt as a second attachment. I am sure there is a way to go in the process of developing the TOD, but I hope this will be helpful. As I am sure you know, this TOD category is extremely important to the Marquette and other Isthmus neighborhoods and we hope to be able to continue to participate in its formation.

Thanks,  
Peter

## 28.XXX. Transit Oriented Development Overlay District

### **(1) Intent and Purpose.**

The TOD District is intended to support investment in and use of public transit in a given location. It does this in a number of possible ways:

- A. by fostering development that intensifies land use in the location;
- B. by limiting automobile parking options.
- C. by fostering high-quality buildings and public spaces that help create and sustain long-term economic vitality in the area.

### **(2) Applicability**

The TOD District is an overlay district that can be applied to any zoning category - commercial, residential or mixed use - where there is a need or desire to limit automobile use. Examples of possible applications are

- A. proposed development that is immediately adjacent to, or surrounded by, existing development.
- B. proposed development in areas where existing major street access is limited, or at/near capacity.
- C. proposed mixed-use development in which live-work relationships are to be encouraged.

### **(3) Relationship to Other Regulations**

Properties located within a TOD overlay district are subject to the provisions of the primary zoning district and the TOD overlay district. Where the provisions of the overlay district conflict with the primary zoning district, the provisions of the overlay district shall apply.

#### **(4) Prohibited Uses**

The following uses are prohibited in the TOD district:

- A. Auto body shop
- B. Auto service station, convenience market
- C. Auto repair station
- D. Auto sales or rental
- E. Car wash
- F. Storage facility, personal indoor storage

#### **(5) Minimum Intensity and Frontage Use**

The following standards shall apply to new buildings and additions exceeding 50% of the original building's floor area. These standards may be modified or waived based on an adopted plan that establishes more specific requirements.

- A. New buildings shall be a minimum of two (2) stories in height.
- B. Floor area ratio for nonresidential and/or mixed-use buildings shall be a minimum of 1.0. Public gathering spaces, outdoor seating areas and areas for public art May 19, 2009 be counted towards building square footage in calculating the minimum FAR.

Individual phases of a phased development may be less than this minimum, provided the entire development meets the minimum requirement. This requirement shall not apply to the expansion of buildings existing on the effective date of this section.

- C. Where residential uses are proposed, minimum density is fifteen (15) units per acre. Density will be calculated based on the total area of the development site devoted to residential use, including residential units in mixed-use buildings.

A new building with less than the required FAR or residential density may be allowed on a developed zoning lot where an existing building will remain, provided that:

1. Total lot coverage and FAR for the zoning lot are not reduced; and

2. The new development provides enhanced landscaping, pedestrian realm enhancements, or building design elements that improve the aesthetic appeal of the site.

D. All parking structures shall be lined with other allowed uses at ground floor level along a minimum of seventy-five percent (75%) of the primary street frontage.

### **(6) Public Space Requirement**

Development proposals on sites of ten (10) or more acres must set aside a minimum of five percent (5%) of the project site as open space, which may be designed as a square, plaza, terrace or green, with a variety of landscaped and paved surfaces, public art, and seating areas. This requirement may be waived in cases where a master development plan already specifies the location and design of open space on the site.

### **(8) Parking Standards**

No minimum off-street parking is required, except where specified in a TOD plan for the area in question. Parking maximums shall apply. Every TOD proposal must include a maximum parking requirement that is below the maximum included in the base zoning category. The exact maximum figure should be based on the specific situation and needs of the area in which the proposed development is located, including existing road capacities, traffic patterns, possible and probable impact of additional auto traffic generated by the proposed development on surrounding neighborhoods, and other possible contingencies. These estimates may be determined with the help of the City planning and traffic engineering departments. The final parking standard for the proposed district must be approved by them, as well as by the relevant city commissions and council.

### **(9) Exemptions.**

Where an existing building or its accessory parking does not conform to the TOD overlay district requirements or serves an existing nonconforming use, the building may be expanded without fully meeting the requirements of this section as long as the expansion does not increase the nonconformity.