PLANNING UNIT REPORT
DEPARTMENT OF PLANNING AND DEVELOPMENT
of May 11, 2006

RE: Zoning Text Amendment I.D. #03343, 03470 and 03488

1. Requested Actions: Consideration of three revisions to the Zoning Ordinance as follows:

   - **#03343:** Amending Sections 28.10(4)(b) and (d) of the Madison General Ordinances to add outside production and processing of woodchips as a conditional use in the M1 (Limited Manufacturing) District;

   - **#03470:** SUBSTITUTE - Amending Sections 28.04(25)(b) and (h) of the Madison General Ordinances to delete several unnecessary definitions and modify the method of distribution of proceeds from sale of an owner-occupied inclusionary dwelling unit, and;

   - **#03488:** Amending Section 33.02(4)(f) to clarify requirements and Sections 28.085 (3)b.2., 28.09(3)(a), (b)4., (d)25., (4)(b)5. and Section 28.12(12)(a)4. to be consistent with Section 33.02(4)(f).

2. Applicable Regulations: Section 28.12 (10) provides the process for zoning text amendments.

3. Report Prepared By: Timothy M. Parks, Planner

DISCUSSION

I.D. #03343, M1 zoning amendment

The first Zoning Ordinance amendment before the Plan Commission would add the production and processing of woodchips to the Conditional Use category in the M1 (Limited Manufacturing) zoning district. The amendment would also add the production and processing of woodchips to the list of uses exempted from being conducted completely within enclosed buildings in the "General Regulations" section of the district.

The text amendment was sponsored by Ald. Judy Compton, District 16 in response to an existing wood chipping and processing business located in her district at 5701 Femrite Drive. The property is developed with a vacant single-family residence located on the northern third of the property in C3 zoning, while the rear two-thirds of the property is zoned M1. The wood chipping and processing occurs in the open on the rear, M1-zoned portion of the property. The Zoning Administrator has visited the site and issued orders to cease this use, which is currently not identified in the Zoning Ordinance. The proposed text amendment will allow the wood chipping and processing to resume following the approval of a conditional use permit. A demolition

permit for the vacant residence may also be desirable prior to the wood chipping and processing resuming.

The Planning Unit and Zoning Administrator have discussed the Femrite Drive property with the owner and district alder and feel that identifying this use in the Zoning Ordinance is a necessary first step in determining whether the wood chipping and processing business can resume on it in the future. In general, staff believes that adding production and processing of woodchips to the conditional use list in M1 will give the Plan Commission the ability to determine the appropriateness of a request for such a use on an individual basis using the conditional use standards found in Section 28.12 of the Zoning Ordinance. Staff believes that those standards give the Plan Commission sufficient flexibility to determine the location where wood chipping and processing may occur on a subject property, as well as any restrictions on hours of operation, screening and noise reduction that may be appropriate and recommends that the Commission recommend approval of the text amendment to the Common Council.

I.D. #03470, Inclusionary Zoning

The second amendment is sponsored by Ald. Brenda Konkel, District 2 to begin to implement some of the revisions to the Inclusionary Zoning section of the Zoning Ordinance discussed in recent months by the Plan Commission and the Mayor's Inclusionary Zoning working group. The analysis that follows is based on the fiscal note included with the ordinance with additional comments from the Planning Unit.

This ordinance amendment would modify the sharing of potential equity proceeds in owner occupied affordable housing units between the City and the income eligible owners. Under the current ordinance, any equity generated upon resale of an affordable unit would be shared between the City and the seller based on a complex scheduled calculation incorporating the number of years the owner has lived in the unit, the level of appreciation in each year and other factors including the value of improvements made by the owner. The current formula would result in the owner receiving from 0% to 50% of any equity appreciation that occurred during the period of ownership, with the City receiving the remaining portion. No owner occupied inclusionary zoning units have been sold to date, so there is no actual experience administering the details of this equity sharing formula.

The proposed ordinance amendment would replace this formula with a sharing arrangement where the City would receive a proportionate share of 95% of any appreciation based on the "discounted" price originally paid for the property by the income eligible buyer. For example, if the inclusionary zoning ordinance resulted in an initial purchase price of a unit that was calculated to be 80% of the appraised value, then the buyer would receive 81% of any appreciation and the City would receive the remaining 19%. This change in methodology would

simplify the reporting and calculation requirements of the current equity calculation formula, improve the ability of owners to understand the calculation, and would substantially increase the share of future equity accrued by the individual property owners while reducing the City's share by a corresponding amount.

It is difficult to predict, however, what impact this change might have on the total amount of equity appreciation returned to the City. Under the early operation of the existing ordinance, it has been reported that there is very little demand for the first available inclusionary units, perhaps because of the limited equity appreciation that potential owners could expect in the future and the complexity of the current formula. A change in this formula could increase the number of units sold to income eligible buyers, thus offsetting the significantly reduced share of equity that the City would receive from each unit sold. The actual result of either formula is highly dependent on a number of unknown market factors, however, including future rates of growth in housing values compared to median income levels, mortgage interest rates and the availability of reasonable housing financing alternatives. There is insufficient information available to predict with any accuracy how either the existing or proposed equity sharing arrangements will operate over time. However, based on our experience with the current ordinance, this amendment appears to be the one major change that would significantly improve the probability of existing available units being sold rather than having the marketing period expire and forever losing the affordable units.

The amendment also strikes three definitions from subdivision (b) of the section, investment equity, market equity and paid equity, which will no longer apply based on the proposed equity distribution process established with this amendment.

LD. #03488, Large Retail Establishments

The final amendment is sponsored by Ald. Ken Golden, District 10 to provide further refinement to the regulations on large retail establishments enacted by the Common Council in April 2005. The proposed text amendment affects Section 28, the Zoning Ordinance and Section 33.02, the Urban Design Commission ordinance. These amendments address some of the issues discussed by the Commission and Common Council at the time the original ordinance was adopted. At the time, Ald. Golden indicated that he would follow up on these issues with staff. Several amendments are proposed.

The amendments to the Zoning Ordinance are intended to bring the threshold for triggering a conditional use review by the Plan Commission of large retail establishments in line with the 40,000 square-foot threshold established in the Urban Design Commission ordinance when the "big box" standards were enacted. The text amendment will revise the threshold of 50,000 square feet in zoning districts C2, C3 and O2 in line with the 40,000 square-foot base line.

The amendments to Section 33.02 are twofold. The first revision will provide the Urban Design Commission (UDC) greater flexibility in their review of large retail establishments by granting them the ability to waive or broadly interpret specific aspects of these regulations. The current iteration of the ordinance only grants the Plan Commission this ability. The second amendment revises the maximum parking thresholds that trigger additional mitigation improvements. The big box guidelines currently provide mitigation requirements only for parking lots providing in excess of 60% of the minimum number of parking stalls required by the Zoning Ordinance. The amendment would provide mitigation benchmarks for a project based on the percentage of parking in excess of the zoning requirements at 30%, 45%, 60% and 80% above the minimum required. A menu of five mitigation practices are available for the developer to choose from, with the number of mitigation measures required based on the percentage above the minimum proposed. The developer would be required to implement one of the measures for parking up to 30%, with an additional measure required at each of the next three steps so that a parking lot providing 80% or more spaces than required by ordinance would be required to provide four of the five measures. The amendment provides that the Urban Design Commission and/or Plan Commission would approve the mitigation plan. The current iteration of the ordinance provides four measures– stormwater infiltration, additional landscaping, TDM/ TMA and structured parking. The amendment maintains these four (with enhanced language correlating the number of parking stalls to the amount of additional landscaping) also introduces the ability to provide a "green" or sustainably designed LEED-certified building.

The Planning Unit supports this proposed text amendment and feels that the revisions to Section 33.02 represent the continuing evolution of the large retail establishment regulations.

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