

**PLANNING UNIT REPORT  
DEPARTMENT OF PLANNING AND DEVELOPMENT  
February 21, 2005**

**RE: I.D. # 00229: Zoning Map Amendment I.D. 3062, to rezone 101 Morningside Avenue from R2 to R4**

1. Requested Action: Approval of a request to rezone a 7,750 square-foot zoning lot located at 101 Morningside Avenue from R2 (Single-Family Residence District) to R4 (General Residence District) to allow an existing two-family dwelling to remain.
2. Applicable Regulations: Section 28.12 (9) provides the process for zoning map amendments.
3. Report Drafted By: Timothy M. Parks, Planner

**GENERAL INFORMATION**

1. Applicant & Owner: Miguel and Donna Garcia; 3906 Jenna Drive; Madison, Wisconsin 53704
2. Development Schedule: The building is currently occupied; occupancy of the building will not change as a result of the rezoning.
3. Location: Approximately 0.18 acres located at the northeast corner of Morningside Avenue and Buckeye Road, Aldermanic District 15; Madison Metropolitan School District.
4. Existing Conditions: Two-family residence, zoned R2 (Single-Family Residence District).
5. Proposed Land Use: The existing use, which is nonconforming in R2 zoning, will remain.
6. Surrounding Land Use and Zoning: The larger area surrounding the subject site includes single-family residences in the R1 and R2 single-family districts.
7. Adopted Land Use Plan: This area is recommended for low-density single-family residential uses according to the 1988 Land Use Plan.
8. Environmental Corridor Status: The property is not located within a mapped environmental corridor.
9. Public Utilities & Services: The property is served by a full range of urban services.

**STANDARDS FOR REVIEW**

This application is subject to the standards for zoning map amendments.

## **ANALYSIS AND EVALUATION**

The subject site is a 0.18-acre parcel located at the northeast corner of Morningside Avenue and Buckeye Road in the R2 zoning district. The site is developed with a two-story residential building containing two residential units with an attached single-car garage with access from Morningside Avenue. The dwelling units are split between the upper level and the partially exposed lower level, with each unit containing two bedrooms, one kitchen and one bathroom. The front door of the residence faces Morningside Avenue and gives the outward impression of being a single-family residence.

The applicant is requesting to rezone the property from R2 to R4 to allow the two-family residence to remain. A two-family residence would not ordinarily be allowed in R2 zoning, but the previous property owners and current tenant of one of the units received approval of a dependency living arrangement as provided in the Zoning Ordinance and is defined as follows:

*A living arrangement which permits a person with a physical or mental disability to live in a temporary separate living area within a dwelling unit or permits a relative or paid attendant of a person with such a disability to live in a temporary separate living area within a dwelling unit. Such living area may include a separate bath and separate kitchen facilities which permit a degree of independence. Ingress and egress for such a living area shall be from within the principal dwelling unit. (Cr. by Ord. 6254, 5-18-78)*

The Zoning Administrator approved the dependency living arrangement for this zoning lot on March 30, 1990 to allow the previous owner of the property's mother (who originally built the house) and an aunt to reside in individual units within the residence. The building was constructed as a single-family residence. No information was provided to staff about when the building was converted into two units. Although the previous owner's aunt passed away in the intervening years, another relative was found to occupy the second unit, thus maintaining the dependency living arrangement. The new owner has attempted to maintain the arrangement, but due to exigent circumstances within the tenant's family, the current occupancy of the second unit by a relative cannot be maintained. The applicant has indicated that he would like to keep the dependant tenant (who receives rental assistance through the Community Development Authority (CDA)) in the house, but in order to do so, he needs to market the second unit as a typical market rate rental unit and void the dependency living arrangement.

Two-family residences are first permitted in R3 (Single and Two-Family Residence District) zoning, but this property does not comply with that district's lot area requirements, which require a minimum of 4,000 square feet of lot area per dwelling unit, or 8,000 square feet in the case of a two-unit building. The subject site contains 7,750 square feet and would not comply with the R3 lot area requirements, therefore requiring the rezoning of the site to R4, which requires 2,000

square feet of lot area per unit. In rezoning the property, the zoning map amendment cannot result in the creation of a nonconforming situation.

### **CONCLUSION**

The Planning Unit would ordinarily have reservations about rezoning the subject property to a residential zoning classification that would allow three units to be built on the property in an area that is overwhelmingly single-family in composition. Rezoning of the site will result in a "spot" R4 zoning that could be interpreted by some as a recommendation that this area is appropriate for multi-family development. Such development would be entirely out of character with the surrounding zoning and uses, and could set a negative precedent for the preservation of the single-family corridor along Buckeye Road between Stoughton Road and Monona Drive. However, staff acknowledges the extenuating circumstances that surround the occupancy of the subject property, and supports this rezoning subject to a condition requiring a deed restriction benefiting the City of Madison be executed that requires the property owner to submit an application to rezone the property back to the current R2 zoning at such time as the building is demolished or ceases to be a two-family use. The deed restriction shall also prohibit any modification of the existing building to provide for the additional dwelling unit that would otherwise be permitted as a conditional use in the R4 zoning.

Approval of this rezoning shall not be construed as consent for higher density or non-residential development on this property or elsewhere on this portion of Buckeye Road. Any such development in this area would first need to be evaluated in the context of a plan for the surrounding neighborhood.

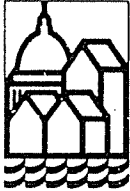
### **RECOMMENDATION**

The Planning Unit recommends that the Plan Commission forward Zoning Map Amendment 3062, rezoning 101 Morningside Avenue from R2 (Single-Family Residence District) to R4 (General Residence District) to the Common Council with a recommendation of **approval**, subject to input at the public hearing and the following conditions:

1. Comments from reviewing agencies.
2. That prior to the zoning map amendment becoming effective, the zoning lot shall be deed restricted to require the property owner of record to submit an application rezoning the property back to R2 (or comparable) single-family zoning at such time as the existing residence is demolished or ceases to be a two-family use. The deed restriction shall also prohibit any modification of the existing building to accommodate an additional dwelling unit. The Planning Unit and City Attorney's Office shall approve the deed restriction.

Department of Planning  
and Development  
Inspection Unit

City of  
Madison



March 30, 1990

Madison Municipal Building  
215 Martin Luther King, Jr. Boulevard  
P.O. Box 2984  
Madison, Wisconsin 53701-2984  
608 266 4551

Roger & Suzanne Hanson  
101 Morningside Avenue  
Madison, WI 53716

RE: 101 MORNINGSIDE AVENUE - DEPENDENCY LIVING ARRANGEMENT  
LOT 1, BLOCK 3, MORNINGSIDE HEIGHTS

Dear Mr. and Mrs. Hanson:

A dependency living arrangement is permitted in the R2 Residence District to allow your elderly mother and aunt to reside in their own units, provided:

1. That any use permit issued shall not be transferable to another holder or occupant.
2. That upon termination of the specific occupancy, all second kitchen facilities installed for this use shall be dismantled and removed from the premises within six (6) months.
3. That the letter of approval issued by the Zoning Administrator be recorded in the Register of Deeds Office.

Sincerely,

*George Carran*

George Carran  
Zoning Administrator

Subscribed and sworn before me this  
\_\_\_\_\_ day of \_\_\_\_\_,  
1990.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_

This instrument drafted by  
Kathy Voeck



Department of Public Works  
**Parks Division**

Madison Municipal Building, Room 120  
215 Martin Luther King, Jr. Boulevard  
P.O. Box 2987  
Madison, Wisconsin 53701-2987  
PH: 608 266 4711  
TDD: 608 267 4980  
FAX: 608 267 1162

February 14, 2005

TO: Plan Commission

FROM: Simon Widstrand, Parks Development Manager

*S.W.*

SUBJECT: **101 Morningside Avenue**

1. **Total Park Fees for one added unit = \$2,594.50.** (Fee in lieu of dedication = \$1815.  
Park Development Fee = \$779.50).

Please contact Simon Widstrand at 266-4714 or [awidstrand@cityofmadison.com](mailto:awidstrand@cityofmadison.com) if you have questions regarding the above items.

**CITY OF MADISON  
INTERDEPARTMENTAL  
CORRESPONDENCE**

**Date:** February 11, 2005

**To:** Bill Roberts, Planner III

**From:** Kathy Voeck, Assistant Zoning Administrator

**Subject:** 101 Morningside Ave

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**Present Zoning District:** R-2

**Proposed Use:** To convert an existing Dependency Living Arrangement into a legal two unit

**Requested Zoning District:** R-4

MAJOR OR NON-STANDARD REVIEW COMMENTS (Comments which are special to the project and/or may require additional work beyond a standard, more routine project).

**GENERAL OR STANDARD REVIEW COMMENTS**

1. Meet applicable building codes for a two unit. Obtain a certificate of occupancy prior to renting out the second unit.
2. Provide two legal parking stalls or obtain parking reduction approval for one parking stall.

**ZONING CRITERIA**

<b>Bulk Requirements</b>	<b>Required</b>	<b>Proposed</b>
Lot Area	6,000 sq. ft.	7,750 sq. ft.
Lot width	50'	65'
Usable open space	1,500 sq. ft.	adequate
Front yard	existing	existing
Side yards	existing	existing
Rear yard	existing	existing
Floor area ratio	n/a	n/a
Building height	2 stories	2 stories (split level)

<b>Site Design</b>	<b>Required</b>	<b>Proposed</b>
Number parking stalls	2	1 (2)

Other Critical Zoning Items	
Urban Design	No
Historic District	No
Landmark building	No
Flood plain	No
Utility easements	No
Water front development	No
Adjacent to park	No
Barrier free (ILHR 69)	No

With the above conditions, the proposed project **does** comply with all of the above requirements.