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MEMORANDUM 2



TO: Plan Commission
FROM: Planning, Zoning, and Attorney’s Office Staff
DATE: May 24, 2010
SUBJECT: Staff Recommended Changes and Considerations to the City of Madison draft zoning code

Over the past several weeks, staff from City Zoning, the Planning Division, and the City Attorney’s office have performed a technical review of the August 2009 draft Zoning Ordinance. This review has resulted in several recommendations in addition to the comments provided by the Plan Commission at their work sessions and the formal recommendations from other boards and commissions.

At the suggestion of the Chair of the Zoning Code Rewrite Advisory Committee, the recommendations have been classified into three broad categories: “Corrections”, “Consent Changes”, and “Other Considerations.” Generally, changes assumed to be technical corrections (e.g. definitions, section organization, correction of typos) are included in the red-lined ordinance prepared by the City Attorney’s office. They are generally not repeated in this document, except where staff believes further discussion or clarification may be necessary.

This memorandum consists primarily of “Consent Changes” and “Other Considerations.” The former includes amendments that staff believe to be non-controversial, though they may have small implications on policy. As an example, the consent changes include the addition of some text from the current code that was originally omitted but believed to be important. Another example would be small technical adjustments. The “Other Considerations” are potential modifications that may result in more significant changes to policy. Examples of these changes include revisions to the lists of permitted and conditional uses as well as changes to some procedures.

The following is a key to these recommendations:

- Corrections 
- Consent Changes 
- Other Considerations **3** (Not Otherwise Identified)

While staff has attempted to classify its recommendations into these categories to aid in the review of this document, the Plan Commission should identify any and all points that it believes warrants additional group discussion.

The page numbers for the original draft are in **Black Bold**. Page numbers in the corrected “red-lined” draft prepared by the City Attorney’s Office are listed in **Red Bold**.

Residential Districts

1. **Page 10 , Section 28.031(4) Nonresidential Buildings in Residential Districts: Parking Location**
Page 10

Staff recommend that the Plan Commission discuss this requirement further. Staff notes that it would make many existing non-residential sites (schools, churches, etc.) non-conforming. As staff is recommending the removal of the opportunity to waive or modify this type of requirement through the conditional use process, staff suggests that it might be best to apply this requirement only to new construction, rather than to additions. Depending on the Plan Commission discussion of this item, staff suggests that it could be reworded as follows:

~~“For new nonresidential buildings in residential districts or additions that exceed the original building’s gross floor area by more than fifty percent (50%) constructed after the effective date of this zoning code, surface parking shall not be permitted between the front façade of the building and the abutting street. This standard may be waived or modified through a conditional use process. In the case of a building addition, this standard applies to the addition, not to the original building.”~~

2. **Page 11 [Table 28C-1] Residential Districts Table (Three Unit)**
Page 11 [Table 28C-1]

Staff recommend that the “three-family dwelling- three-unit” use should be permitted in the TR-V2, TR-U1, and TR-U2 districts.

3. **Page 11 [Table 28C-1] Residential Districts Table (Offices for Human Service Programs; Counseling and Community Services; and Recreational/Community Centers)**
Page 11 [Table 28C-1]

Staff recommend the following changes for these uses:

- a) *Offices for Human Service Programs* should be listed as a conditional use in all residential districts. Supplemental standards should be included stating: 1) It is operated by a governmental entity; 2) It is not located in a single-family detached dwelling; and 3) It serves the neighborhood(s) where it is located.
 - b) *Recreational and Community Centers* should be added as conditional uses in all residential districts.
 - c) *Counseling and Community Services* should be listed as conditional uses in the SRV2 and TRV2 districts.
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4. Page 11 [Table 28C-1] Residential Districts Table (Multi-Family Dwellings)
Page 11 [Table 28C-1]

Staff recommend making multi-family dwellings with >8 units and multi-family complexes conditional uses in the TR-V2 District. These uses are conditional in the SR-V2 district. This would bring the allowable uses consistent with the allowable building forms, which includes large multi-family buildings. A related change is amending the dimensional requirements table to reflect the additional uses.

5. Pages 13-34 [Multiple Sections] Dimensional Standard Table Revisions
Pages 14-32

As discussed in the memo dated October 9, 2009 **staff recommend** the following changes to the minimum lot sizes, lot widths, and setbacks. These changes would be incorporated in to the various Dimensional Standard tables located within districts.

Recommended changes are **bolded** and in non-shaded boxes. New recommended uses within districts are marked with an asterisk (*).

Revised Minimum Lot Sizes (in Square Feet)

DISTRICT	Number of Dwelling Units								
	1	2 Flat	Twin	3	4	5	6	7	8
SRC1	8,000	-	-	-	-	-	-	-	-
SRC2	6,000	-	-	-	-	-	-	-	-
SRC3	6,000	8,000	8,000	-	-	-	-	-	-
SRV1	6,000	8,000	8,000	8,000	8,000	-	-	-	-
SRV2	6,000	6,000	8,000	8,000	8,000	10,000	12,000	14,000	16,000
TRC1	6,000	-	-	-	-	-	-	-	-
TRC2	4,000	-	-	-	-	-	-	-	-
TRC3	4,000	4,000	-	6,000*	-	-	-	-	-
TRC4	3,000	6,000*	-	-	-	-	-	-	-
TRV1	3,000	4,000	6,000	6,000	8,000	-	-	-	-
TRV2	3,000	4,000	6,000	6,000	8,000	10,000	12,000	14,000	16,000
TRU1	3,000	4,000	4,000	4,000	4,000	5,000	6,000	7,000	8,000
TRU2	3,000	4,000	4,000	4,000	4,000	5,000	5,500	6,000	6,500

Revised Minimum Lot Widths (in feet)

DISTRICT	Number of Dwelling Units						
	1	2 Flat	Twin	3	4	5-8	>8
SRC1	60	-	-	-	-	-	-
SRC2	50	-	-	-	-	-	-
SRC3	50	50	50	-	-	-	-
SRV1	50	50	50	60	60	60	-
SRV2	50	50	50	60	60	60	60
TRC1	50	-	-	-	-	-	-
TRC2	40	-	-	-	-	-	-
TRC3	40	40	-	40 *	-	-	-
TRC4	30	40 *	-	-	-	-	-
TRV1	30	40	50	50	50	-	-
TRV2	30	40	40	50	50	60	-
TRU1	30	40	40	50	50	50	50
TRU2	30	40	40	50	50	50	50

Revised Minimum Setbacks and Lot Coverage (in feet unless otherwise noted)

	Number of Dwelling Units			
	Front	Side	Rear	Lot Coverage
SRC1	30	6-7	30% \geq 35	50%
SRC2	30	6-7	30% \geq 35	50%
SRC3	25	5-6	30% \geq 35	60%
SRV1	25	5-6	25% \geq 30	60%
SRV2	25	5-6	25% \geq 30	65%
TRC1	20	6-7	30% \geq 35	50%
TRC2	20	5-6 or 10%**	30% \geq 30	65%
TRC3	20	5-6 or 10%**	30% \geq 30	65%
TRC4	15	5 or 10%**	20 (or 2)	75%
TRV1	20	5-6 or 10%**	25% \geq 25	70%
TRV2	20	5-6 or 10%**	25% \geq 25	70%
TRU1	15	5-6 or 10%**	25% \geq 20	75%
TRU2	15	5-6 or 10%**	25% \geq 20	75%

** For lots 40 feet wide or less, 10% of the lot width can be used for each side yard, where indicated above.

6. **Page 12 [Table 28C-1] Residential Districts Table (Lift Stations)**
Page 12 [Table 28C-1]

Staff recommend that sewerage lift stations are added as permitted uses in all residential districts. Supplemental regulations require the submittal and approval of a landscape plan.

7. **Page 12 [Table 28C-1] Residential Districts Table (Mixed Use Buildings at Corners)**
Page 12 [Table 28C-1]

Staff recommend that corners that would be appropriate for mixed-use buildings should be allowed where identified on adopted neighborhood, special area plans. These locations should then be zoned to accommodate mixed-use buildings. This approach would establish lists of uses and bulk standards for this type of development. Staff recommends that mixed-use buildings at corner locations be removed for the use list table.

This is an ongoing policy discussion at the Plan Commission. The recommendation to the Common Council should clarify the recommended policy.

8. **Pages 13, 14 [Sections 28.034 (2) & 28.035(2)] Lot Coverage Standards for Non Residential Development in SR-C1 & SR-C2**
Page s 14, 15

Staff recommend that the maximum lot coverage standards for non-residential development be increased for SR-C1 and SR-C2 from 50% to 60%. Identical lot and building coverage is potentially problematic, especially for non-residential buildings (schools, places of worship) in which there may be additional surface parking. This change would be similar to how the maximum building and lot standards relate to each other in the TR-C2 residential district.

9. **Pages 13 & 15 [Sections 28.033 (1) & 28.037(1)] Additions to Statements of Purpose (SR Districts)**
Pages 13 & 17

Staff recommend that the “Statements of Purpose” for the Suburban Residential (SR) Districts be revised to include the statement “accommodating a full range of lifecycle housing,” similar to what is proposed for the Traditional Residential (TR) Districts.

10. Pages 14, 17, 24 [Sections 28.037(2)(a), 28.038(2)(a), 28.046(2)(a)] Add Conditional Use Provision to Dispersion Requirements
Pages 16, 18, & 26

The “Dispersion Requirement” requires that certain multi-unit building types are not concentrated in one area in select mixed-density residential districts.

Staff recommend the following changes to clarify the language and add a conditional use option:

For the SR-C3 district, staff recommend this provision be revised to state that no new two-unit shall be constructed or converted within 300 feet of a zoning lot containing any other two-unit building, as measured from the perimeter of each zoning lot, except by conditional use.

For the SR-V1 and TR-V1 districts, staff recommend that this provision be revised to state that no new two-unit, three-unit or multi-unit building shall be constructed or converted within 300 feet of a zoning lot containing any other two-unit, three-unit, attached or multi-unit building, as measured from the perimeter of each zoning lot, except by conditional use.

11. Pages 18, 26, 29, 31, & 34 [Sections 28.039, 28.047, 28.049, 28.050, & 28.052] Courtyard Apartments
Pages 22, 28, 30, 32, & 36

Staff recommend that “Courtyard” buildings be added as an allowable building forms in the SR-V2, TR-V2, TR-U1, TR-U2, and TR-P districts.

12. Pages 19 & 23 [Sections 28.040(1) & 28.045(1)] Additions to Statements of Purpose
Pages 20 & 24

Staff recommend the statement of purpose should be expanded to indicate that "TR" districts can also be applied to other areas of the City, including newly developing neighborhoods.

13. Page 20 [Sections 28.041(2)] Lot Coverage Standards for Non Residential Development in TR-C1
Page 21

Staff recommend that the maximum lot coverage standards for non-residential development be increased in the TR-C1 district from 50% to 65%. Identical lot and building coverage is potentially problematic, especially for non-residential buildings (schools, places of worship) in which there may be additional surface parking. This revision would make this standard consistent with the percentages required in the TR-C2 residential district.

14. Page 24 [Section 28.046(2)] Add Dimensional Requirements for Three-Four Unit Building in TR-V1
Page 25

Staff recommend that this table be amended to add dimensional requirements for “Three-Four Unit” buildings. These are permitted in the use table and therefore, additional dimensional standards are necessary. Staff recommend utilizing the proposed dimensional requirements previously recommended in this memorandum. For requirements not addressed included in that recommendation, the TR-V1 requirements for three-unit buildings should be used.

15. Page 25 [Section 28.047(2)] Add Dimensional Requirements for Three-Unit Building in TR-V2
Page 27

Staff recommend that this table be amended to add dimensional requirements for Three-Unit buildings. These are permitted in the use table and therefore, additional dimensional standards are necessary. Staff recommend utilizing the proposed dimensional requirements previously recommended in this memorandum. For requirements not addressed included in that recommendation, TR-V2 requirements for Three-Four Unit buildings should be used.

16. Page 27 [Sections 28.048] Expand Geography for TR-U Districts Statement of Purpose
Page 28

Staff recommend that the statement of purpose be amended to remove the geographic reference that states this use is located “typically located near Downtown and near the University of Wisconsin.” There may be instances that TR-U districts should be mapped outside of the Campus and Downtown area.

17. Page 33 [Sections 28.052(3)(b)] TR-P Minimum Percentage of Residential Units
Page 34

Staff recommend that the minimum threshold be reduced from 20% to 10% in the code, noting that any individual TR-P Master Plan may exceed this threshold. Also, TR-P Master Plans should be consistent with adopted plans, which may recommend a higher threshold than 10%.

Mixed-Use and Commercial Districts

18. Lot Area, Lot Width and Side Yard Requirements for Residential Buildings in Non-Residential Districts

Staff recommend adding minimum lot area, minimum lot width, and minimum side yard requirements from the TRV2 District for purely residential buildings (not mixed-use buildings) in commercial, mixed-use, & employment districts. This can be added as a reference note following the dimensional requirements within each commercial, mixed-use, and employment district where residential buildings are listed as a permitted or conditional use.

19. Page 37 [Section 28.060 (2)] Mixed-Use/Commercial Design Standards and Waiver

Page 39

Please see the memorandum from the Assistant City Attorney's office regarding legal concerns with the number of waivers proposed in the draft code, including the mixed-use/commercial design standards waiver proposed in this chapter.

Staff recommend revising some of the most prescriptive standards within this section and removing the two-step Plan Commission and UDC waiver process. Specific changes are noted in subsequent recommendations. As noted in the City Attorney's memo, "waivers" here would likely be variances, considered by the Zoning Board of Appeals.

Staff have also considered changing the standards to reduce the number of proposals that may be subject to the provisions. At this time, staff are not recommending either of the below options, but wish to note them for Commission consideration. One alternative approach would be to only require design compliance for new buildings and not for additions. Another approach would be to increase the compliance "trigger" from buildings increasing in floor area by 50% expansions to 100% expansions. The Zoning Administrator indicates that there are actually very few additions or expansions that are 50% or greater, so the increased trigger is not anticipated to have a significant impact on reducing the number of projects subject to these standards.

20. Page 37 [Section 28.060 (2)(b)] Façade Articulation

Page 39

Staff recommend the text be revised to state: "New buildings of more than 40 feet in width shall be divided into smaller increments through articulation of the façade. This can be achieved..." This would simplify the standard by removing the specific dimensional standard requiring buildings greater than 40 feet in width to be divided into increments between 20 and 40 feet in width.

21. Page 38 [Section 28.060 (2)(d)] Door and Window Openings

Page 40

Staff recommend that the minimum "ground-floor / side and rear façade" opening standard be reduced from 20% to 15% of the ground level of residential facades or side and rear facades.

22. Page 39 [Section 28.060(3)] Convert Design Guidelines into Standards

Page 41

A policy decision for the Plan Commission is whether the existing design guidelines should be applied as standards. While guidelines could be considered when there is a discretionary review (e.g. for a conditional use), they could not be applied for other “by-right” uses. Please see the supplemental memo provided by the City Attorney’s Office for further information. The red-lined draft shows the guidelines, with technical corrections. That draft has moved the guidelines into the standards section.

23. Page 41, Section 28.061, Table 28D-2

Page 45

Staff recommend adding as a conditional use to the Commercial Center (CC) District, “Stadiums, auditoriums and arenas, open or enclosed”.

24. Page 42 [Table 28D-2] Creation of “Temporary Outdoor Uses and Events”

Page 44

The current use table includes “Outdoor Use” as a conditional use in the CC-T and CC districts. This use is not further defined nor are there any supplemental standards. There are already several more clearly defined outdoor uses (e.g. outdoor eating, display, storage, and recreation) elsewhere in the ordinance. This use has been deleted in the corrected red-lined draft.

Staff recommend the creation of a new category “Temporary Outdoor Uses and Events.” The intent would be to allow select accessory and non-accessory activities on a property with a temporary use permit (see recommendation 82). The new category would be listed as P/C (permitted/conditional) in all mixed-use and commercial districts.

One consideration is defining the allowable outdoor events and creating supplemental regulations. Staff recommend the allowable uses would last for a maximum of 180 days per calendar year and would not involve a permanent alteration to the site or the construction or alteration of any permanent structure. Specific uses would include a) Christmas tree sales, b) pumpkin sales, c) church, neighborhood , or community event, d) temporary tents or temporary construction buildings, e) traveling/temporary carnivals and similar events, f) temporary promotional events, and g) seasonal outdoor eating areas. Staff note that “outdoor sales” is a permitted use in all Employment Districts and recommend that this use also be folded into this category. Also, staff recommend that in residential districts, these uses be allowed to take place when accessory to a non-residential use. **NOTE:** “Football Saturday” beer gardens are distinct conditional uses with their own standards not intended to be included in this category.

A related consideration is considering whether or not the establishment of these temporary outdoor events would require a site to be brought up to compliance. In summary, staff recommend that such uses would not be such a “trigger.” More discussion on this aspect is included under the procedures section, under site plan review.

25. Page 43 [Table 28D-2] Outdoor Storage and Display in NMX District & Clarifications in Other Districts
Page 47

The text in the NMX district provides standards for outdoor storage and display, however, it is not listed in the use table.

Staff recommend that outdoor display be added as a permitted accessory use with supplemental requirements. Further, the list of outdoor display and storage standards, repeated in the TSS, MXC, TW, SE should be added to the CC and CC-T district and moved to the supplemental regulations chapter to avoid unnecessary duplication in the text. In addition, staff recommend the following modifications.

- (c)1. Strike “Outdoor dining accessory to restaurants and coffee shops” (This is not outdoor storage or display, so the standard here is unnecessary. This is noted in the red-lined draft).
- (c)2. Amend as noted: “Incidental accessory ~~structures~~ items at ~~automotive service and repair establishments~~ retail and service establishments, such as ~~donation drop-off boxes~~, ice machines, and vending machines.” (Staff recommend donation drop boxes be excluded from the list of potential items due to enforcement problems).
- (c)4. Rewrite this sentence to read “Products or merchandise associated with an approved principal use at the site may be displayed outside during business hours.”

26. Page 44 [Section 28.061, Table 28D-2] Mixed-Use and Commercial District Use Table: (8+ Units)
Page 46

Staff recommend that “more than 8 dwelling units in a mixed-use building” is specified as a conditional use in the TSS, MXC, CC-T, and CC districts, consistent with the densities of stand-alone multi-family buildings exceeding eight (8) units.

27. Page 44 [Section 28.061, Table 28D-2] Mixed-Use and Commercial District Use Table: Adult Family Homes and Community Living Arrangements.
Page 46

Staff note that the proposed code expands the areas where Adult Family Homes and Community Living Arrangements are permitted. The current zoning ordinance permits them in residential districts, consistent with state statutes. The current ordinance also permits them in commercial districts, on upper floors districts as permitted uses, and on the first floor of buildings as a Conditional Use. State statute does not have siting requirements including AFH’s in non-residential (including mixed-use) districts.

As proposed, these are listed as permitted or conditional uses, based on size, in the mixed-use and commercial districts. The Plan Commission should confirm this policy.

28. Page 44 [Section 28.061, Table 28D-2] Mixed-Use Commercial District Table: Residential Uses in TSS

Page 46

Staff recommend that single-family detached, two-unit/flat, three-unit/flat should be listed as conditional uses, matching the uses in the NMX district.

29. Page 44 [Section 28.061, Table 28D-2] Mixed-Use Commercial District Table: Mixed Use Building Clarification

Page 46

Staff recommend this use be renamed “Mixed-Use Buildings with Dwelling Units” striking the language in parentheses after “Dwelling units in mixed-use buildings” stating “(retail or other nonres. Required at corners).”

30. Page 44 [Section 28.061, Table 28D-2] Mixed-Use and Commercial District Use Table: (Agricultural Uses)

Page 46

Staff recommend that the agricultural uses within this chapter be revised as follows:

- a) Community Garden – Permitted Use
- b) Cultivation- Permitted Use
- c) Market Garden- Conditional Use
- d) Animal Husbandry- Conditional Use.

Staff further recommend that a supplemental regulation be added noting that Animal Husbandry within the mixed-use and commercial districts shall occur within an enclosed building. This would allow operations such as the recently approved fish-farm at the Northgate Shopping center while discouraging more intensive outdoor activities that should occur in areas zoned for Urban Agriculture or Agriculture.

31. Page 44 [Section 28.061, Table 28D-2] Mixed-Use and Commercial District Use Table: (Adding Walk-Up Service Windows)

Page 48

Staff recommend that the walk-up service window standards in the current code be transferred to the new document and listed under the newly proposed “Accessory Uses and Structures” category (as included in the “red-lined draft”). This should be P/C (permitted/conditional) with the supplemental regulation stating: Walk-up service windows located within ten (10) feet of the right of way of a public street are a conditional use.

32. Page 44 [Section 28.061, Table 28D-2] Add Live-Work Unit as a Permitted Use

Page 46

Staff recommend that live-work units be added as a permitted use in all Mixed-Use and Commercial Districts.

33. Page 45 [Section 28.061, Table 28D-2] Mixed-Use Commercial District Table: Lift Stations

Page 47

Staff recommend that Lift Stations be listed as permitted uses in the mixed-residential districts. The current draft before the Plan Commission lists those as conditional uses in both the residential and the mixed-use and commercial districts.

34. Page 42 [Table 28D-2] Add "Beer Garden" as Conditional Use in Mixed-Use/Commercial Districts

Page 47

Staff recommend that "Beer Gardens" be added as a conditional use in the Mixed-Use and Commercial Districts. The following supplemental regulations should be added from the existing code: "Non-accessory uses associated with events taking place within Camp Randall Stadium limited to the sale of food and beverages to the public, and including the offering of live or amplified music. The Plan Commission shall have the right to waive or modify the off-street parking requirements for the principal use on the zoning lot and for the non-accessory use."

35. Page 45 [Section 28.061, Table 28D-2] Mixed-Use Commercial District Table: Emergency Electric Generator

Page 47

Staff recommend that Emergency Electric Generators, as defined on p. 228 (p. 252 Red-lined Draft), be listed as conditional uses in all mixed-use and commercial district due to potential noise and other conflicts when located in close proximity to residential uses. This is more consistent with the current code. Supplemental regulations the current code should be included to distinguish this use from larger generators that would be classified as a different use. These standards are:

Emergency electric generator which serves a principal use located on the zoning lot and is capable of providing electricity for off-site use provided:

- a) The electric output is less than 3,000 kilowatts and said generator is operated no more than 200 hours per year;
- b) The location of every generator shall not be less than 20 feet from any zoning lot which permits residential uses; and
- c) Said generator shall be located and screened so as to reduce the visual impact of the generator from neighboring property and to be compatible with neighboring structures and the character

of the community. This may include screening with materials similar in appearance to those used for the principal structure on the zoning lot, landscaping or fencing as approved by the Plan Commission.

36. Pages 46, 49, & 53 [Section 28.062(1)(b), 28.063(1)(b), and 28.064(1)(b)] Clarification to Statements of Purpose
Pages 48, 52, & 56

Staff recommend that the statements of purpose for NMX, TSS, and MXC districts be revised to read (change underlined): “Encourage diversification of uses, including residential, commercial, and civic uses in order to enhance the vitality and appeal of these areas”.

37. Page 47 [Section 28.062(5)] NMX Maximum Building Height
Page 50

Staff believe the maximum building height in the NMX district should be reduced. As staff “tested” these heights, a four-story height limit did not appear compatible in some of the areas that are otherwise believed to be appropriate for NMX zoning.

Staff recommend that the height limit in this district be reduced to 3 Stories/ 40 feet. Greater height could be allowed as a conditional use. Staff further recommend that a new conditional standard be added referencing consideration of the adopted Comprehensive, neighborhood, neighborhood development, corridor, or special area plan.

38. Pages 49, 51, 56, 58 & 60 [Sections 28.062(6), 28.063(6), & 28.064(9), 28.065(6), 28.066(5)] Frontage Requirements – Multiple Considerations
Pages 52, 54, 59, 61, & 63

Staff recommend the following regarding the general frontage requirements:

- a) Add a new category “Prescribed Frontage” to allow mapping of a specific frontage (e.g. 0’, 5’, 20’) to all districts. This would provide an opportunity to map a specific frontage in areas where the City has detailed plans or otherwise desires such specificity.
- b) Increase the “Fixed Frontage” requirement to state that buildings shall be placed within 10 feet of the sidewalk (the current draft states 5 feet) in the NMX & TSS districts.
- c) Increase the “Fixed Frontage” requirement to state that buildings shall be placed within 15 feet of the sidewalk (the current draft states 10 feet) in the CC-T district.
- d) Consider an alternative “Flexible Frontage” requirement in the CC-T District. Staff have identified two alternatives:
 1. OPTION 1: Language as written
 2. OPTION 2: Use the existing Large Format Frontage Standards (MGO- Chapter 33)

- e) Revise the CC frontage requirement to be consistent with the large format retail standards in Chapter 33 (MGO). The frontage requirements in subsection (5) would be reworded to state that new buildings shall be placed in accordance to the requirements of 33.24(4)(f). That frontage standard is somewhat more flexible than the proposed language.
- f) Remove the “Frontage Not Defined” category in all districts. Staff believe that this is redundant and this standard can be incorporated directly into the “Flexible Frontage” requirement. The Flexible Frontage standard would begin, “Where not mapped as fixed frontage, buildings shall be placed between...”

Staff further recommend that the “parking standards” contained in the Building Form sub-chapter be moved into the various frontage requirement sections. As those standards relate to frontage, staff believe it is confusing to have the frontage requirements in two places in the ordinance.

39. Page 51 [Section 28.063(5)] Maximum Height in TSS District

Page 54

Staff recommend the maximum permitted building height be reduced to 3 stories/40 feet, similar to the recommendation for the NMX district, with additional height allowed if approved as a Conditional Use.

40. Page 53 [Section 28.064(1)] Mixed-Use Center District Statement of Purpose

Page 56

Staff recommend the addition of a new subsection (d) stating “Encouraging the development of mixed use buildings.”

41. Page , Section 28.065 and Page 58, Section 28.066, Commercial Districts:

Page 59 and Page 62

The existing code states that in commercial districts **all business, servicing or processing shall be conducted within completely enclosed buildings**, with some exceptions. This provision is not included in the new code. The new code states that no outdoor storage or display of goods shall be allowed, except for a limited number of items. In both the existing and new codes, the list of exceptions varies depending on the zoning district requirements. **28.09(2)(b)3.**

Staff recommend a provision be added to the CC-T and CC Districts to state that all business, servicing or processing shall be conducted within completely enclosed buildings, except for the following:

- a) Off-street parking and off-street loading;
 - b) Display of merchandise such as garden, lawn or recreational supplies and equipment for sale to the public;
 - c) Vending machines;
 - d) Automobile service stations; and
 - e) Outdoor eating areas of restaurants.
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42. Page 56 [Section 28.065 (1) and (3)] Parking Edits in the CC-T District

Pages 59-60

Staff recommend that the sentence (3)(d) “Structured parking is encouraged” should be moved from the building standard and moved into the statement of purpose. The second sentence should be revised to note that surface parking shall also be consistent with the standards of section (6) “Frontage Requirements.”

43. Pages 58 & 60 [Section 28.065(5) & 28.066(5)] Building Height Clarifications (CC-T and CC Districts)
Pages 59-60

There is a discrepancy in the processes described in (5)(a and b) for both sections. **Staff recommend** the process be the same. Both sections should indicate that additional height could be added as a conditional use.

Employment Districts

44. Lot Area, Lot Width and Side Yard Requirements for Residential Buildings in Non-Residential Districts

Staff recommend adding minimum lot area, minimum lot width, and minimum side yard requirements from the TRV2 District for purely residential buildings (not mixed-use buildings) in commercial, mixed-use, & employment districts. This can be added as a reference note following the dimensional requirements within each commercial, mixed-use, and employment district where residential buildings are listed as a permitted or conditional use.

45. Page 64 [Section 28.082 Employment District Use Table] Landfills and Waste Transfer Stations
Page 68

Staff recommend that the uses "landfill" and “waste transfer station" are added to the list of uses. The waste transfer station should be conditional in both districts and landfills should be conditional in only the IG district.

46. Page 64 [Section 28.082 Employment District Use Table] Concrete, Asphalt, and Rock Crushing
Page 68

Staff recommend that the following supplemental standards be added for concrete, asphalt, and rock crushing uses:

All buildings, structures, and activity areas shall be located a minimum of 300 feet from all lot lines. The facility shall meet the following submittal requirements and standards as part of the conditional use application:

- a) A site and vicinity plan that includes the following shall be provided:

1. A description of natural features, including wetlands, water bodies and major topographic features located on the property and within three hundred fifty (350) feet of the site.
 2. A description of the proposal including type and amount of material to be removed, overview of planned daily operations including equipment and vehicles, and discussion of how the proposed operations compare to land uses within one thousand (1000) feet of the site
 3. A description of any potential environmental hazard due to existing or proposed land uses, including soil, water and air contamination.
- b) A dust management plan. Access drives and roads within the property shall be sprayed with dust suppressants as needed to control fugitive dust. The streets used for access into the mine shall also be cleaned at appropriate intervals consistent with City standards, or as otherwise determined through the conditional use permit.
 - c) A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations.
 - d) A vibration-dampening plan describing sources of vibration and indicating conformance with all applicable vibration regulations.
 - e) A drainage plan for storm water management and runoff.
 - f) A traffic plan describing the number of daily truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area.
 - g) Detailed site restoration plans, which shall include at minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration.

47. Page 64 [Section 28.082 Employment District Use Table] Electric Power and Gas Regulator Stations Production
Page 68

Staff recommend that Electric Substations and Gas Regulator Stations be made consistent with each other (These are permitted uses in the TW, IL, and IG districts and conditional in other districts). Supplemental regulations should require approval of landscape plan.

48. Page 64 [Section 28.082 Employment District Use Table] Towing and Wrecker Service Businesses
Page 70

Staff recommend that towing and wrecker service businesses should be changed from conditional uses to accessory to certain uses within the IG and IL districts.

49. Page 67 [Section 28.082 Employment District Use Table] Correctional Facility Revision

Page 71

Staff recommend removing correctional facility from the use table in the Employment Campus District. It should be added as a use in the CI (Campus Institutional) District.

50. Page 64 [Section 28.082 Employment District Use Table] Home Occupations

Page 71

Staff recommend that the home occupations are listed as P/C (Permitted/Conditional) in the SE, EC, and SEC districts, subject to the applicable supplemental regulations. P. 167 “yellow draft”

51. Page 65 [Section 28.082 Employment District Use Table] Catering in the SEC District

Page 69

Staff recommend that catering be listed as a permitted use in the SEC District.

52. Page 68 [Section 28.083(4)(b)] Drive-In / Drive-Through Uses in Employment Districts

Page 73

Staff recommend that standard (4)(b) prohibiting drive-in and drive-through uses in the TW district be revised to make them conditional uses.

53. Pages 70 & 76 [Sections 28.084(3)(a) & 28.087(3)(a)] Parking Clarification

Pages 75 & 81

Staff recommend that this standard be clarified. Staff understands the intent in of this statement is to allow one drive aisle with bays of parking on either side. Two full rows of parking (with four bays of parking) would not fit within the 70 feet prescribed. A diagram should be added to further depict this standard.

54. Page 73 [Section 28.085(5)] Design Review

Page 77

Staff recommend this section be revised to read as follows:

All buildings constructed within an SEC district must be reviewed and approved by an architectural review committee. The committee shall be established by the developer of the district and shall meet the following criteria:

- a) The building design review criteria, design standards and guidelines, review procedures, categories of membership, and the language of any deed or plat restriction must be approved by the Plan Commission. Design review shall not include Dimensional Requirements in (6) below

- b) Until an architectural review committee is established, all building and site plans shall be reviewed and approved by the Urban Design Commission.
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55. Page 74 [Section 28.086(1) Employment Campus Statement of Purpose]
Page 78

Staff recommend the statement of purpose be amended to include the following additional reference: "Facilitate developments with multiple buildings."

56. Page 76 [Section 28.087(1)] IL – Statement of Purpose]
Page 81

Staff recommend that the phrase "relatively high-value" be removed.

57. Page 78 [Section 28.088(3)(a)] Industrial-General (IG) Parking Requirements]
Page 83

Staff recommend these standards be removed. Staff believe that the parking development standards in (a) and (b) may not be appropriate, feasible, or desirable in all instances considering the intensity of some of the uses that are permitted within this district.

58. Page 78 [Section 28.088(4)(b &(c))] Industrial-General (IG) Outdoor Storage Requirements]
Page 83

Staff recommend the outdoor storage requirement be removed as it could likely be inconsistent with many operations that would be zoned IG.

Special Districts

59. Page 80, Section 28.091, Table 28G-1]
Page 85

Staff recommend adding as a conditional use to the Campus Institutional (CI) District, "Stadiums, auditoriums and arenas, open or enclosed".

60. Page 80 [Section 28.091 Table 28G-1] Quarries as Conditional Use in Agriculture District]
Page 86

Staff recommend that quarries be allowed as a conditional use in the Agriculture District.

61. Page 82 [Section 28.091] Special Districts Use Table – Automobile Rental in Airport District
Page 87

Staff recommend that “Automobile Rental Facilities” are listed as a permitted use for the Airport District.

62. Page 90 [Section 28.097(2)] Planned Development Standards
Page 96

Staff recommend that the existing PUD “implementation schedule” standard (28.07(6)(4) of the existing code) be added to this section.

Overlay Districts

63. Page 101 [Section 28.104(2)] Transit Oriented Developments – Station Area Plan
Page 111

Staff recommend that clarification on a “Station Area Plan” be added to this section. This section should specify that this is a plan that will be prepared by staff and approved by the Plan Commission and Common Council (similar to a special area plan). The purpose of this plan is to establish overlay standards (similar to the relationship between design guidelines and Urban Design Districts).

64. Page 102 [Section 28.104(6)] Transit Oriented Development - Multi Use Requirements
Page 112

Staff recommend that this section be reworded as an advisory guideline, not a standard. Staff recommend that the guideline states that sites over five (5) acres should include a mix of uses. The list of uses should be consistent with the subheadings in other use tables.

65. Pages 105 & 106 [Sections 28.106 & 28.107] Landmark and Urban Design Overlay Districts
Pages 115 & 116

Staff recommend that these overlay districts remain located in Chapter 33 (MGO), where they are currently located. The City Attorney’s office has advised that any variances currently determined by Landmarks Commission would be heard by the Zoning Board of Appeals.

To clarify, the landmark and design districts can be labeled on the zoning map. (Example, NMX-MHHD-UDD 7)

66. Page 108 [Sections 28.108] Accessory Dwelling Unit Overlay Clarifications

Page 116

Staff recommend the following technical modifications to sections (5), (6), and (7) to the Accessory Dwelling Unit standards.

(5) ADU Requirements.

The following requirements shall apply within all ADU Overlay Districts.

- a) The principal dwelling or the accessory dwelling unit must be owner-occupied (temporary absences of up to six (6) months may be allowed).
- b) The principal dwelling must be a single-family detached dwelling.
- c) The number of occupants of the accessory dwelling unit shall not exceed one (1) family or two (2) unrelated individuals.
- d) The accessory dwelling unit shall not be sold separately from the principal dwelling.

(6) Suggested Design Requirements.

- a) The maximum height of a detached accessory dwelling unit , including one built above a garage, shall be twenty-five (25) feet .
- b) The maximum size of an accessory dwelling unit shall be seventy-five percent (75%) of the principal dwelling's floor area, up to a maximum size of seven hundred (700) square feet.
- c) The setback requirements shall be those of the zoning district.
- d) No additional usable open space shall be required for an accessory dwelling unit.
- e) On corner lots, primary entrances to accessory dwelling units shall be placed on the facade parallel to the side street.
- f) Accessory dwelling unit entryways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway.
- g) The appearance or character of the principal building shall not be significantly altered so that its appearance is no longer that of a single-family dwelling.
- h) (h) Entrances for attached accessory dwelling units, shall not be added to the front elevation of an existing building, but may be added to side or rear elevations.
- i) The exterior finish material of an accessory dwelling unit shall match the type, size and placement of exterior finish material of the principal dwelling .
- j) The roof pitch shall match the predominant roof pitch of the principal dwelling .
- k) Trim and projecting eaves shall match those of the principal dwelling and .
- l) Windows shall match those in the principal dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical).

Staff also recommends that the section (7) be removed as it is not necessary.

General Regulations

67. Page 123-124 Section 28.131 Accessory Buildings and Structures
Page 135-136

Staff recommend adding provisions from current code so that new garages may be rebuilt within the same footprint and at a similar height as existing garages, as follows:

- New garage height not to exceed 2' above that of the existing garage
- New garage may be placed at the specified setbacks for the district, or no closer to the property lines than the existing building.

68. Page 123, Section 28.131, Accessory Buildings and Structures
Page 135

Staff recommend incorporating from the current code a specification that for shared garages, the maximum sizes allowed in the district are allowed on either side of the property line. (Shared garages can be up to twice as large as other garages).

69. Page 146 [Section 28J(10)(b) Parking/Storing of Limousines in Residential Districts
Page 158

Staff recommend that "Limousines" be added to the list of vehicles/equipment not normally associated with a residential use that are prohibited from being parked or stored outdoors on a residential property. A definition of limousine should be added.

70. Page 149 [Section 28.142(3)(c)] Stone Mulch and Weed Barriers
Page 162

Staff recommend that the Plan Commission clarify whether stone mulch and weed barriers are allowed. There is a discrepancy in the draft code. They are prohibited on page 149 (Section (3)(c)) but required on page 150 (Section (5)(f)) Further discussion on this topic and UDC recommendations are included in the "Committee and Commission Recommendation" memorandum.

Supplemental Regulations

71. Page 164, Section 28.153(5) Housing Cooperatives
Page 177

Staff recommend clarifying the supplemental regulations for housing cooperatives (a) and (b) to read as follows:

(a) In the SR-V1, SR-V2, TR-C3, and TR-P districts, the maximum occupancy is five (5) persons per dwelling unit.

(b) In the TR-V1, TR-V2, TR-U1, TR-U2, NMX, TSS, and CC-T districts, the maximum occupancy is five (5) persons per dwelling unit. Occupancy by more than five (5) persons per dwelling unit requires conditional use approval.

72. Page 169 [Section 28.156(1)] Hospital Clarification

Page 183

Staff recommend rewording the last sentence under "c" to read: "The campus shall be a minimum of three (3) acres." This would remove the requirement that the campus boundaries must be contiguous. Staff believe the contiguous requirement may be problematic for several campuses that would likely utilize this district. Further, staff recommend the process from the campus institution district be cited for revising the master plan.

73. Page 170 & 171 [Sections 28.157(1) & 28.157(8)] General Retail / Service Business in Employment Districts

Page 183 & 185

Please note that on pages 183 and 185 of the red-lined draft, clarified language has been provided by the City Attorney's office. Without these corrections, the supplemental regulations would be in conflict with the district regulations in the TW and SE districts in regards to maximum allowable size.

74. Page 171 [Section 28.157(8)] Service Businesses in SEC District

Page 185

Staff recommend that the SEC district be added to the list of districts (EC, IL, and IG) that requires service business may only be located within a mixed-use building.

75. Page 171 [Section 28.158] Brewpub Clarification

Page 185

Staff recommend that supplemental condition (2) regarding "brewpub" be removed.

76. Page 176 [Section 28.164(2)] Revisions to Community and Market Garden Supplemental Regulations
Page 190

Staff recommend that “Animal Husbandry” be removed as an allowable use under the “Community and Market Gardens” supplemental regulations. This activity is also identified as a distinct use in other districts, and as such, the code becomes inconsistent as to where animal husbandry is permitted, conditional, or not allowed at all. Currently, it is permitted in the Agriculture and Industrial (IL & IG) Districts and is conditional in the other employment districts, as well as the Urban Agriculture District. Staff have also previously recommended “Animal Husbandry” also be a conditional use in the Mixed-use and Commercial districts, subject to additional standards. An additional recommended change is that spreading of manure should be revised to state the spreading of “composted” manure.

77. Page 178 [Section 28.167] Outdoor Sales Events
Page 193

Staff recommend this use be folded into “Temporary Outdoor Uses and events, as noted in a previous recommendation. It should be eliminated as a stand-alone use.

78. Page 178 [Section 28.167(5)] Portable Storage Units
Page 193 [Section 28.167(7)]

Staff recommend that the supplemental standards be revised to read as follows:

- a) A maximum of two (2) portable storage units, not exceeding a cumulative gross floor area of 250 square feet shall be a permitted accessory use for up to 90 consecutive days within a calendar year when part of an active building permit.
- b) When not part of an active building permit, such a use shall be permitted on a lot for no more than thirty (30) days per calendar year.
- c) The portable storage unit(s) may not be located within a front or side yard setback, unless located in a driveway.
- d) A temporary use permit is required

The definition should be clarify that these uses are for the temporary storage of household goods associated with residential uses. Additionally, **staff recommend** this use should also be added to the commercial/mixed-use districts and in any district where residential uses are allowed.

Building Form Standards

79. Page 186 [Section 28.172(8)(a)] Clarification on Courtyard Apartments
Page 204

Staff recommend that section (a) be revised under “building type” to indicate: “A multi-story building OR BUILDINGS designed around an open courtyard abutting a primary street or through block development on two streets, surrounded by building walls (on three sides).”

80. Page 187 [Section 28.172(9)] Carriage House Buildings
Page 205

Staff recommend that this section be removed. The other building forms listed in this section are principal structures. Carriage houses are accessory structures and staff note that other accessory structures are not included in the building forms section. Additionally, the code does not identify any districts in which, “carriage houses” are an allowed building form. Thus removing this section would not result in a policy change from what is in the current draft. Leaving this section in may provide some confusion and potential conflict with the more detailed accessory dwelling unit standards found in a different section. **Note:** the code includes a replacement provision for historic carriage houses.

81. Page 188 [Section 28.173(2)] Revised Liner Building Language
Page 206

Staff recommend that the phrase “While liner buildings may include commercial or residential uses, their limited depth (from front to back) makes them more disposed to residential use. Liner buildings may have a small common front yard, but do not include individual private outdoor spaces” be removed. Staff does not believe this language, largely pertaining to use and open space, is appropriate as part of the building form standards.

82. Page 189 [Section 28.173(3)(a)] Parking Building Clarification
Page 207

Staff recommend this section be reworded to state “A multi-story building specifically designed for parking. Other uses may be allowed above or below the parking level. Such a building may be developed with a liner building along the street frontage.” This change removes discussion of allowable uses which is included in previous section.

83. Page 191 [Section 28.173(5)] Residential/Commercial Conversion
Page 208

Staff recommend that the building type be revised to state “A former residential building converted in whole or in part to commercial and office uses. The building form remains residential in character...” This revision would clarify that this building type includes a range of conversions and eliminates language regarding landscaping and parking, which is covered in other sections.

84. Page 192 [Section 28.173(6)] Clarification to Podium Building
Page 210

Staff recommend that the phrase "mixed-use" be removed. Use regulations are included in previous sections of the code.

85. Page 194 [Section 28.172 x) Additional Building Form Category Standards
Page 212

Staff recommend the following standards be included for additional building forms not included in the current draft:

Free-Standing Commercial Buildings:

- a) Building Type. A free-standing building of one or more stories designed to support a mix of commercial, retail, restaurant, service, office, or similar uses. The building may include multiple tenants.
- b) Access and Entry. Buildings shall have a clearly defined, highly visible customer entrance or entrances, marked through canopies, porticos, overhangs, arcades, façade recesses or projections or similar features.
- c) Parking. Parking requirements shall be consistent with other applicable standards of this ordinance.
- d) Massing and Articulation. Massing and articulation requirements shall be consistent with other applicable standards in this ordinance.

Staff recommend that this building form be added as an allowed building form in the MXC, CC-T, CC and all employment districts. The Plan Commission should decide if it is also allowed in NMX or TSS districts.

Civic and Institutional Building:

- a) Building Types. This category includes a variety of building types and sizes ranging from buildings with large floor plates and multiple levels to smaller-scaled structures. Civic buildings can accommodate a variety of arts, culture, education, recreation, government, and public assembly purposes. A variety of architectural styles is acceptable.

- b) Access and Entry. Buildings shall have at least one entrance to a public street, courtyard, lawn or other common open space.
- c) Parking. Parking requirements shall be consistent with other applicable standards of this ordinance.
- d) Massing and Articulation. Facades facing a public street or public space shall be vertically articulated at a minimum interval of every 40 feet. Street-facing facades shall be positioned to accentuate vistas or directed views such as terminal views at the end of streets or adjacent to public spaces such as parks.

Staff recommend that this building form be added as an allowed building form in all districts where civic and institutional uses are permitted or conditional.

Subchapter 28M: Procedures

 **86. Page 197 [Section 28.181 Table 28M-2] Notice Clarification**
Page 213

Staff recommend that under “Prior to Filing Application,” expand the final sentence (new language underlined) to note that failure to provide the mailed OR EMAILED notification does not invalidate any action taken by the Plan Commission or Common Council.

 **87. Page 197 [Section 28.181 Table 28M-2] Notice Clarification**
Page 213

Staff recommend that the option to have the applicant mail public hearing notices be removed. In almost all instances, the applicant has paid the additional fee to have the city prepare and mail the notice. Staff recommend this become a requirement.

88. Page 203 [Section 28.183(6)(b)1] Establish Additional Conditions for Conditional Uses
Page 221

Staff recommend that the following additional condition be established “Before granting a conditional use, the Plan Commission may stipulate conditions and restrictions on the establishment, location, construction, maintenance and operation of the conditional use, including proof of financing, payment of all City taxes due, and property management practices.”

89. Page 205 [Section 28.183(10)] Proposed Exemptions not Requiring Sites be Brought Up to Compliance
Page 224

The current zoning code requires most land use changes to bring a site up to compliance. Staff believe that there are a limited number of instances for which exemptions should be created so as not to require an entire site be brought up to compliance. These are offered for consideration of the Plan Commission. Changes may still require site plan review.

Staff recommend consideration of the following exemptions:

- a) Meeting building code required pedestrian connections and accessibility accommodations
- b) Providing new/additional bicycle parking
- c) Providing new/additional refuse enclosure areas
- d) Resurfacing/reconstruction (maintenance) of parking facilities, no change to layout, entrances or circulation,
- e) Replacing dead/undesirable, non-functional landscaping with new/different species of tree/shrub. A minor alteration process could be created to approve changes to plantings.
- f) Eliminating parking stalls by administrative approval, for purpose of adding landscaping only
- g) An additional exemption could be added for phased developments in Planned Multi-use sites.

90. Page 209 [Section 28.185] UDC Referral for Demolition Permits
Page 230

Staff recommend adding the option for the Plan Commission to refer demolition permits where the proposed alternative use is non-residential to the Urban Design Commission for an advisory recommendation, much the way the ordinance currently allows with conditional uses.

91. GENERAL RECOMMENDATION: Establish Provision for Temporary Use Permit

Staff recommend that a new permit type, a Temporary Use Permit, be added to the Procedures section, along with a corresponding fee and fee schedule. A temporary use could be defined as a use for a maximum of 180 days per calendar year that does not involve a permanent alteration to the site or the construction or alteration of any permanent structure. Staff believe that issuance of a temporary use permit would not require a site to be brought up to compliance with all regulations. Staff anticipate this would be an administrative approval.

92. GENERAL RECOMMENDATION: Add Prohibition of Negative Use Restrictions

Staff recommend that the section prohibiting Negative Use Restrictions (Section 28.13 in the Existing Zoning Code) found in the existing zoning code, be added to this draft.

93. GENERAL RECOMMENDATION: Comprehensive Plan References

Staff recommend that the references to the Comprehensive Plan noted in the statement of purpose of zoning districts be expanded beyond the current language as follows: “Facilitate the preservation, development or redevelopment consistent with the adopted goals, objectives, policies, and recommendations of the Comprehensive Plan and of adopted neighborhood, corridor or special area plans. “

94. GENERAL COMMENT: Omission of Small Lot Penalty Provision

Discussion Item The current draft ordinance does not include the small lot penalty provisions in the current zoning code, which increase lot size requirements per dwelling unit for lots smaller than 6,000 sq. ft. or 50’ wide. The language as written in the *current* zoning code is as follows:

28.08(1)(c)4. For any lot of record which is less than fifty (50) feet in width or less than six thousand (6,000) square feet in area on the effective date of this ordinance and located in the R3, R4, R4A, R4L, R5, R6, and R6H districts, the following lot area requirement, whichever is greater, shall apply:

a. For each one foot that such lot is less than fifty (50) feet wide, the lot area requirements per dwelling unit and lodging room for the district in which such lot is located shall be increased by five percent (5%).

b. For each one hundred twenty-five (125) square feet of lot area that such lot is less than six thousand (6,000) square feet, the lot area requirements per dwelling unit and lodging room for the district in which such lot is located shall be increased by five percent (5%).

Staff agrees with the omission of the small lot penalty in the draft code, and simply wanted to bring it to the attention of the Plan Commission.