

Rick,

It has taken me longer than I hoped to prepare my comments regarding unresolved issues in the draft zoning code. I realize that others' comments have already been assembled into a summary document (7/13/09) that has been distributed. Hopefully, my comments may still be of use to the process.

My comments are grouped into three categories: unresolved major issues that are not included in the July 13 document; comments on issues discussed in the 7/13 document; and other issues/concerns.

Other unresolved major issues

1. Codifying low-density, single-use districts.

The issue of codifying low-density, single-use districts has been raised at previous ZCRAC meetings. The intent is understandable: to protect existing such areas from development that conflicts with the existing character. However, such areas also tend to require higher energy consumption for transportation, use land less efficiently and have less diversity of households. Recognizing this, the City's Comprehensive Plan encourages more compact, diverse development patterns.

The current draft rewrite recognizes the importance of planning a transition to higher density, mixed-use pattern for commercial areas. It applies new standards to existing auto-oriented commercial areas, but not for auto-oriented residential areas.

While it may be undesirable to impose new standards on residential districts, it may also be less than desirable to prevent transitions in the future, if the residents desire such changes. Why not include provisions that would enable neighborhoods in the future to adopt measures allowing some additional housing types and some greater mix of uses? The adoption of greater variability could follow a process similar to the neighborhood conservation district. Such flexibility would acknowledge that some neighborhoods may wish to transition to an area with greater transportation and nearby destination choices in the future. Why preclude (or make next to impossible) this option?

2. Lack of direction regarding street design.

This concern – the separation of street design from regulations governing private lots – has also been raised at a number of previous ZCRAC meetings. The concern is that the intent and purpose of the zoning districts cannot be fully met absent consideration of street design. Building and lots exist in relationship to the public rights-of-way. Circulation, mobility, access, walkability, safety, neighborhood character and environmental issues (impact of street trees, infiltration, etc.) are impacted by standards governing sidewalks, street terraces, street widths, bicycle accommodations, and landscaping.

As a practical matter, I understand that street design is regulated by the subdivision ordinances, and that the scope of this rewrite must be limited to the zoning ordinance. However, it seems possible to provide greater guidance in the zoning code regarding street

design than is in the current draft. I was pleased to see that the TR-P district addresses street design. Street design could also be addressed in other districts. While the zoning code will not include street design standards, they could provide some guidance regarding the types of streets and designs that are appropriate for the different districts.

For example, the code could state that residential districts should be served primarily by streets designed for slow automobile speeds of less than 25 mph with on street parking, terraces wide enough for large street trees, sidewalks on both sides of the street wide enough to accommodate two people walking side by side, friendly to bicyclists and that facilitate safe pedestrian crossings. Guidance for the Traditional Shopping Street district might describe street designs that facilitate such areas (on-street parking, two-way traffic, on-street bicycle parking amenities, wider sidewalks, etc.). Such guidance in the zoning code could aid future revisions to the subdivision ordinance.

3. Coordinate planned districts with transit.

Too often transit is considered after new developments are already complete. New developments should be planned to encourage the use of transit. TR-P and PDD should include provisions to encourage transit use. They should require densities that enable transit. The master plans/GDPs should describe how the developments would accommodate transit usage. Perhaps a review by Madison Metro should be required.

Major Issues Addressed in the 7-13-09 Document

Housing Coops. I support the Cooperative's proposals to allow coops as permitted uses in a greater number of districts. I understand the concern that coops may convert to SRO housing upon dissolution of a coop and sale of the building to another owner. However, it seems this concern could be addressed through other requirements: for example, that building occupants have some measure of ownership in the property, and/or through the definitions of coops and SROs which prohibit SRO uses.

ADUs. I support ADUs as permitted uses in TR-Variied and TR-Urban districts. I think this use and building type is consistent with and meets the intent of these districts. These districts typically have fewer cars per resident and are well served by transit and bicycle paths and routes; minimizing the impact of additional parking demand. These districts also have a mix of rental and owner-occupied already. Adding an ADU could, in fact, reduce rental conversions by allowing more affordable ownership in the primary residential building, making it easier for an owner to buy into the neighborhood; perhaps even converting a rental to owner-occupied. (Our family was able to buy a former rental building in an older neighborhood because it included a rental unit). I think ADUs should be allowed as conditional uses or through an overlay district in other districts (both options available).

Building Form and Compliance with New Standards. I support the new proposed form-based standards. I may be missing something, but I don't understand the political risk to which Mike Slavney refers (what, specifically is at risk?). Some language to address the type of situation described in 7/13 document makes sense but I am concerned that the

proposed language “Any design standard may be waived by the Plan Commission, following review by the Urban Design Commission, if the constraints of the existing sites and structure(s) make compliance infeasible.” is overly broad and could be interpreted to allow a wider range of waivers than intended. I suggest strengthening it with perhaps a reference to the intent of the building standards, a requirement to document how the site constraints prevent compliance with standards, and/or a statement that the waiver provision is meant to be used infrequently for special circumstances.

TRP-District, Integration vs. Separation. I support the integration of the districts. I think they allow greater flexibility to mix housing types within smaller areas. Some great old neighborhoods mix a range of housing types within a single block. Separation of housing types by district, even if fine-grained, prevents this and leads to greater grouping of units by socio-economic strata. I understand the concern that political pressure from single-family owners will effectively push down density. This could be addressed with minimum density requirements for the TR-P district that are incorporated into the Master Plan.

Parking Requirements.

- Why is a reduction in bicycle parking allowed (p. 177 of 7-15 General Regulations) for site constraints when no such reduction is allowed for automobile parking?
- Parking design and location (P. 176 of 6-15 draft) – why is permeable paving encouraged for “all parking spaces provided *above the minimum*,” (italics mine) instead of for all parking spaces? I suggest deleting “above the minimum.”
- Parking reductions – I think the code should allow reductions for Transportation Demand Management programs, especially those that provide transit passes and parking “cash-out” (cash in lieu of a parking space that can be applied to any transportation mode)?
- Interior Parking Lot Standards (p. 184 of 6/15 draft). I think the lots should require or create strong incentives for stormwater infiltration. Consider changing “may” in paragraph C to “shall” or at least “should.”

Other Issues/Concerns

These comments will refer to the 6-15 draft code.

- Dimensional standards that do not reflect older buildings on the Isthmus.
TR-V1 – The minimum lot size of 8,000 square feet for a 3-flat building seems too large. Many 3-unit buildings in the Isthmus exist on smaller lots. Also, the TR-V2 requirements for 4,800 s.f./d.u for 2-family twin and 3,000 s.f./d.u. for 3-4 unit buildings seems significantly greater than what exists in much of the Isthmus neighborhoods. Similarly, side yard requirements of 6’ to 12’ are larger than many existing on the Isthmus.
- Limited types of uses.
The 3-flat building is allowed in only the TR-V1 and TR-P districts according to the use table. The SR-V1 and SR-V2 districts, however, allows 3-flats (pp. 24, 26)-an inconsistency. I think they should be allowed in more districts, including TR-V and TR-U districts?

- Why are non-residential building heights in TR-U2 limited to 35 feet (perhaps this was already addressed)? This seems too low.
- TR-P – Proximity to and inter-connectedness with a TSS and/or an Employment district should be encouraged, perhaps in the Standards for Approval of Master Plan. This would encourage greater proximity of residential to commercial and employment and enable more walking and biking.
- General Provisions for Commercial and Mixed-Use Districts.
Section E. Parking structure design (p.51). The building form standards are more stringent. Which take precedence?

For NMX and TSS, since residential is allowed, should a minimum percentage of the district be required to be commercial – in order to maintain the integrity of the commercial area?

Traditional Workplace District – I suggest there should there be a limit to the percentage of area that can be residential (to prevent loss of employment due to conversion to residential).

Building height for TWD of 5 stories. This seems too low. In fact, it conflicts with heights proposed for the East Washington Gateway Plan. I suggest higher limits up to 12 stories with accompanying requirements for step-backs.

- Subchapter 28L Building Form Standards.
Single-family attached - Par. E. (p. 220) Requirement for façade articulation variation after 160 feet. This seems too long of a frontage to allow without articulation. This comment applies to similar provisions elsewhere in the code.

Podium building. I would like to see the code encourage this type of building. It reduces the massing of buildings along the street level. I think a taller narrower building of the same bulk is nicer than a longer shorter building. They allow more light and are not as monolithic. I suggest allowing greater height for podium buildings (with some requirements for specifically how much the building must be stepped back).

Yours,

Steve Steinhoff

SMART GROWTH GREATER MADISON

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(608) 663-2005 phone • (608) 663-2008 fax

July 28, 2009

Dear Zoning Code Advisory Members,

Smart Growth Greater Madison is an organization that represents the interests of the development community in Dane County. The current Zoning Code rewrite effort expands beyond the confines of one organization, so we have asked other landowners and residential developers to sign on to this letter as a demonstration of the vast impact that the new Zoning Code will have on the future of housing in Madison.

As you know, the task of overhauling the City of Madison's 1966 zoning code is a daunting one. According to the City of Madison Zoning Code project page, the current code "does not always reflect best zoning and practices." It is also noted that a side effect of the inability of the current code to implement elements of the Comprehensive and neighborhood plans leads to "excessive use of planned unit development (PUD) zoning and excess conditions for conditional uses." The existence of excessive nonconforming properties in older neighborhoods exacerbates these issues.

Ensuring that the new Code will enable implementation of the Comprehensive plan, reduce reliance on PUD zoning, and simplify the process of development were stated goals of the rewrite effort. The City also indicated a desire for a Zoning Code that includes a traditional neighborhood development zoning district.

We are concerned that the current draft makes it more difficult to do the type of traditional neighborhood development that the City says it wants to encourage. The proposed Traditional Neighborhood Planned (TRP) district essentially creates a process similar to the current PUD district, thereby creating a significant burden for doing anything beyond standard suburban districts.

Another concern is the focus on suburban districts without allowing for true urban residential districts. The current zoning code accommodates districts with both single and multi-family units without necessarily going through the PUD process. It seems counterintuitive to create a zoning code that will almost always require a PUD-like process to create the urban residential neighborhoods that are critical to supporting other City policy goals, including sustainability and transit-oriented neighborhoods.

It is our request that the ZCRAC consider a process for TRP districts that is at the very least equal to the process for standard suburban districts. Additionally we request that the TRP districts be further split to accommodate neighborhoods that include a variety of residential options, including single and multi-family scenarios. Finally, give consideration to urban residential as a district with conditional use approvals that would allow higher impervious surface ratios, removal of height limits and other considerations pertaining to setbacks.

We have an opportunity before us to enable true urban residential and to create the desired traditional neighborhoods. We can make it more difficult to get what the City wants and lose opportunity, or we can embrace the chance to improve the process for everyone.

Thank you for your consideration.

Sincerely,

Carole

Carole Schaeffer, Executive Director
Smart Growth Greater Madison

John DeWitt
Wood Madison Corp.

Bruce Harms
Wood Madison Corp.

Ron Smith
Wood Madison Corp.

David Roark
Cornwallis, LLC

Peter Frautschi
Community By Design, Inc.

Roll, Rick

From: Tim Gruber [timothy_gruber@yahoo.com]
Sent: Tuesday, May 05, 2009 2:09 PM
To: Roll, Rick
Subject: PLanned Development District

Rick:

Please forward these comments to the Zoning Code Rewrite Committee. Thanks. Also, note my email to use now that I am no longer on the Council.

Tim

Please forward these comments to the members of the Plan Commission.

Planned Development District (PDD)

INTENT

We may want to include more in the intent statement. Ideas that come to mind include, "outstanding design" and "pedestrian oriented."

OPEN SPACE

I question the 20% open space requirement. The Plan Commission and Council rejected Acacia house on Langdon, which had 28% open space, and approved the development at Park and Regent, which had very little open space.

It may be worth a discussion of why open space is important:

1. Outdoor space for enjoyment of people.
2. Green space and landscaping to add beauty.
3. Environmental reasons (green roofs).
4. Storm water infiltration.
5. Space between buildings.
6. Place making. PDD should be creating great places, not just buildings.

AUTO ACCESS

We may want to add something about auto access and where garage doors should go. A recent PUD (W. Wash) had a garage door on the front facade. In that case, it was probably the only place the garage door could have gone, but in general, garage doors should not go on the front facade of a PDD.

STREET LAYOUT

We should include something to the effect of, "All streets, including private streets, shall have sidewalks." Bike lanes and bike paths should be encouraged as well.

To: City of Madison Zoning Rewrite Advisory Committee 4-28-2009

Re: ADU Standards

From: Bob Koechley; Barbara Koechley; John Linck; Joan Laurion

Thanks you for allowing us the opportunity to comment on the proposed ADU language in the new City of Madison Zoning Ordinance.

Here are the questions/comments we have about the current draft:

- 1- Does the current draft mean to say that homeowners in residential districts in the City of Madison have the right to build an ADU as long as they comply with the minimum standards outlined in the document? If this is the case, we think it needs to be stated more clearly.
- 2- We don't understand what an overlay district is. Does current draft mean to say that in order to get permission to build any ADU, a homeowner in any non-R2T, R2Y and R2Z district will need to first meet with his/her neighbors on 8 face blocks, create an overlay district, and come to agreement with them about the specifics of any proposed ADU?
- 3- We think that all homeowners should have permission to build an ADU to the minimum standards. If they wish an amendment to those standards, we suggest that they be expected to meet with their neighbors and the city to present their proposed design and come up with guidelines that are appropriate for the neighborhood.
- 4- In regards to the standards:
 - a) The 40% for the square footage figure will be very limiting for homeowners who already live in small homes. We suggest just sticking with a maximum 700 sq feet and if someone wants to build a bigger ADU, he/she will need to create an overlay district.
 - b) We suggest sticking with 3 person occupancy and not specify a "family"

Thanks again.

Roll, Rick

From: Ledell Zellers [lzellers@mailbag.com]
Sent: Wednesday, April 22, 2009 6:04 AM
To: Roll, Rick
Cc: 'satya rhodes-conway'; 'Gary Tipler'
Subject: FW: Urban Community Gardens and the zoning rewrite

Rick,
Please forward to other members of ZCRAC.
Thanks.
Ledell

From: gtipler@tds.net [mailto:gtipler@tds.net]
Sent: Tuesday, April 21, 2009 10:41 PM
To: lzellers@mailbag.com; 'satya rhodes-conway'
Subject: Urban Community Gardens and the zoning rewrite

Ledell and Satya,

I've been involved recently in helping to establish a group to discuss, evaluate, and work to support developing community gardens on the near-east side. We started meeting in February, and have over 40 very involved and skilled people from 6 neighborhoods involved or subscribing to our emails and yahoo news-list. We've been addressing a number of other things, largely, sharing information about experiences and sites. The prospect of the zoning aspects of community gardens was raised recently, and I'm pleased to learn that some standards for zoning are being considered.

Thanks for sending the Urban Gardens part of the proposed Zoning text. I have a couple comments and questions.

If I'm reading it correctly, gardens with an area of less than 15,000 square feet are all permitted, though with Conditional Uses. That's a bit of extra work for gardening.

Another item i think can be changed is the minimum width of 50 feet. It's possible that some could have 33-foot-wide lots on the isthmus, such as the Reynolds Community Garden on E. Mifflin.

I'd suggest removing barriers to creating and managing urban gardens where possible, yet still have some level of understanding and control, as in acquiring permits over the counter at zoning, or such, instead of applying for Conditional Use permits. A Conditional Use permit takes weeks to schedule and costs several hundred dollars, doesn't it? Whereas, a permit still requires adherence to laws and has some level of accountability and policeability, with fines as a deterrent to bad behavior.

I'm interested in hearing what other community gardeners have to say about it. Have any been involved in the zoning questions? I can forward it to some and see what additional thoughts they may have.

Thank you for working on it. It's more than timely, it's essential.

Gary

Gary Tipler
Eastside Community Gardens
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"Community gardening is 50% gardening and 100% grassroots political organizing". Adam Honigman

Roll, Rick

From: BROWN, Gary [GBROWN@fpm.wisc.edu]
Sent: Friday, March 13, 2009 11:31 AM
To: Roll, Rick
Subject: FW: Campus Institutional Zoning District Draft

Hi, Rick.. please pass along these comments to the consultant and the committee. My thought is that all of Edgewood be treated as one "educational institution" campus and included within the proposed "Campus Institutional" district.

Thanks,

Gary

=====
Gary A. Brown, FASLA
ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture Facilities Planning & Management
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=====

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

From: JUDD SCHEMMELE [mailto:SCHEJUD@edgewood.k12.wi.us]
Sent: Thursday, March 12, 2009 9:57 AM
To: BROWN, Gary
Subject: Re: Campus Institutional Zoning District Draft

Gary:

On behalf of EHS I would simply reiterate the point made during our joint meeting at Edgewood College. As currently defined, a Campus-Institutional District contemplates a university or college campus. It does not contemplate a situation such as the one that exists at Edgewood with three academic institutions of differing levels (grade school, high school and college) all existing on the same campus.

If the new zoning category includes specific parcels, and Edgewood is specifically named, we would ask that clarification be provided that the parcel of Edgewood includes all three institutions. If specific parcels are not identified and more general classifications are utilized, we would ask that some reference be included to cover a campus with multiple institutions of like purpose, e.g., education, as qualifying for the Campus-Institutional District designation.

Gary, we may have additional input to share in the future, but I would say the question of clear inclusion within the new category is the immediate matter for response.

Thanks for all your work and your willingness to work with us and other institutions on this key addition.



Office of the Common Council

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March 12, 2009

Mr. Mark Olinger, Director
City of Madison
Department of Planning, Community, and Economic Development
Madison Municipal Building
215 Martin Luther King Boulevard, Room LL-110
Madison, WI 53703

Dear Mr. Olinger:

I am writing to request that the department consider using an intern this summer to thoroughly research and document the allowable occupancy of houses in the Greenbush and Vilas neighborhoods.

As I know you are aware, the city downzoned these neighborhoods many years ago in order to encourage single-family occupancy. As part of that process, many properties were 'grandfathered-in' which allows them to be occupied by a specified number of unrelated individuals based on the occupancy by parcel at the time of the down zoning.

I know you are also aware that this information has not been collected in one readily accessible place and in my experience has been shrouded in mystery. I am hoping that the department will consider this request especially timely given the zoning code rewrite effort and the on-going Greenbush-Vilas Workforce Housing Initiative, both of which have been among my highest priorities. Having a fact-based understanding of the 'grandfathered' properties is extremely important considering the new zoning classifications for these areas and to advancing the work of the housing initiative now underway and jointly undertaken by the neighborhood associations, UW-Madison, Meriter, and St. Mary's with support from a city planning grant.

I would appreciate having the opportunity to sit down with you and any staff members you feel appropriate to discuss this request in the near future.

Sincerely yours,

Julia S. Kerr
Aldersperson
District 13

cc: Mayor Dave Cieslewicz
Members of the Greenbush-Vilas Workforce Housing Initiative
Members of the Zoning Code Rewrite Committee
President, Vilas Neighborhood Association

Roll, Rick

From: BROWN, Gary [GBROWN@fpm.wisc.edu]
Sent: Tuesday, March 10, 2009 4:34 PM
To: Roll, Rick
Cc: Maggie Balistreri-Clarke; Cristie Jacobs; richard_stoughton@ssmhc.com; steve_sparks@ssmhc.com; mhuggins@meriter.com; CRIM, DAWN BRYANT; Nan Fey; mmstark@matcmadison.edu; Kathleen Malone; Dick Keintz; Scott Flanagan; Daniel Carey; Doug Hursh; schejud@edgewood.k12.wi.us; FISH, Alan; OKOLI, Daniel; Murphy, Brad; Tucker, Matthew
Subject: Campus Institutional Zoning District Draft
Attachments: zoning code CI comments.pdf

Hi, Rick... attached are our comments from the University of Wisconsin on the draft language for the Campus Institutional District as part of the city's zoning code rewrite committee. These comments are similar to what we discussed at the January 27th meeting of the Zoning Code Rewrite Committee. Please note that I have not received any specific written comments from others in the ad hoc "campus" group but when received, I will forward those along for your use. When a subsequent draft is available for the consultants, I will call another meeting of the ad hoc group to review that draft.

Let me know if you have any questions.

Thanks,

Gary

<<zoning code CI comments.pdf>>

Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

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Roll, Rick

From: k McBride [k2berly2@hotmail.com]
Sent: Monday, March 09, 2009 3:52 PM
To: Roll, Rick; Alice Erickson; Sally Miley
Subject: zoning rewrite concerns

Hi Rick, I spoke to you and the committee on February 26th with concerns about the lakefront building bulk limitation. In our neighborhood along Lake Mendota several houses have already managed to over build on small lots in the last few years. I am concerned that the Building Bulk Limitation, paragraph B in the Zoning Rewrite document will continue this trend for houses on our street (Spring Ct) and other small lake front lots on Lake Mendota Dr. to expand beyond a reasonable size. The 5 developed lots or 300' on either side will affect many of the small lots on our street. I feel lot size has to be addressed in this issue.

I am also concerned about the height of these new homes which are often 30 to 35 feet tall. They are creating a walled in effect. Many have raised the houses up due to the high water table to create exposed basements or the desire for soaring ceilings or additional attic storage.

I would like to see a real building bulk limitation that welcomes growth but at a reasonable width, depth and height for the lot size. This would greatly diminish the need in our neighborhood for uncomfortable Zoning Board meetings that pit neighbor against neighbor and maintain our neighborhood character. Thanks for listening! I would welcome any information that you could pass along on this topic in the Zoning Rewrite process. Kim

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Roll, Rick

From: Mike Slavney [MSlavney@vandewalle.com]
Sent: Tuesday, February 03, 2009 9:04 AM
To: Roll, Rick
Subject: RE: Zoning Rewrite -- Parking Standards / Sustainability

Thanks Rick

Please distribute these thoughts to Cunningham, City Staff, the ZCRAC and others on the list.

I support the shared parking approach -- we need a few more typical land use types listed.

I would also be interested in a maximum parking limit and other ways to get infiltration.

The Village of Oregon requires a conditional use permit to exceed the calculated number of spaces by more than 20%.

The Village of Oregon also allows a reduction in the minimum number of required parking spaces of up to 25% where a site is within 500 feet of a transit stop.

Finally, most of my client communities allow the developer to only improve that portion of the total parking approved/required for the site that is actually needed -- leaving the rest as sod or treeless landscaped area. Where this approach is proposed from the start, the site plan shows the initially unimproved parking spaces as dashed in.

The developer / property owner must demonstrate that the stormwater management system works with the partial improvement approach. Parking on the grass or gravel is not permitted.

Finally, in dealing with local public works directors and consulting and on-staff civil engineers in my client communities, I see a uniform reluctance to accept pervious pavement (due to winter sanding and compaction concerns), I see much broader acceptance of depressed parking lot landscaped areas -- islands, peninsulas and medians -- as "bio-retention" and infiltration basins and swales. The ability to maintain these areas over time must be demonstrated to allow them to count toward the stormwater management calculations. Where proposed as part of the calculations, we are requiring the submittal and staff approval of a long-term maintenance program / commitment for these areas that runs with the property and is recorded.

Finally -- although more of a subdivision ordinance issue, the Village of Cross Plains, and particularly Village Public Works Director Jerry Gray and consulting Engineer Warren Myers seem to be very happy with the combination urban/rural cross section along Gil's Way on the south side of the Village. This street uses curbs and storm inlets feeding into a swale on one side of the road, with a sidewalk on the other side. I believe a 66 foot right-of-way is used, with the road centerline slightly off-set. I think Ron Klaus of D-Kottke did the design. I have been told that DNR or USGS is monitoring water quality at the low end of the system (just a couple of hundred feet from Black Earth Creek) and that to-date the approach is exceeding expectations.

Thanks

Mike

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

From: Roll, Rick [mailto:RRoll@cityofmadison.com]
Sent: Tuesday, February 03, 2009 8:21 AM
Subject: FW: Zoning Rewrite -- Parking Standards



DATE: March 10, 2009

TO: Rick Roll, Senior Planner
City of Madison, Dept of Planning & Community and Economic Development

FROM: Gary A. Brown, FASLA
Director, Campus Planning & Landscape Architecture

RE: Zoning Code Rewrite – Campus Institutional Zoning District Proposal

Hi, Rick... below are my comments on the draft Campus Institutional Zoning District for the Zoning Code Rewrite. FYI – I have yet to receive any written comments from the ad hoc campus district group. I will forward when received. Please share with the consultants and the zoning code committee.

1. As discussed at our meeting on January 27, 2009, there was a concern raised about the need to include medical campuses within the definition of the Campus Institutional districts. Clearly, the UW Hospital campus is part of the University of Wisconsin campus. The Meriter and St. Mary's facilities also constitute a "campus" with a group of buildings, parking, etc. all under a single ownership identity with interrelated functions. We need to decide if the other hospital complexes are part of this discussion or not and thereby considered a permit use under a different zoning district.
2. It seems to make some sense to add the "CI" district on the chart on pages 2-5 to be consistent with the other districts. Strangely enough, some campus (UW in particular) actually do have animal husbandry, animal boarding, community gardens, religious communities, electric substations, etc. all within our borders. It would help if all these elements were noted as permitted uses, conditional uses and if there are standards or not for each.
3. Page 8, under Statement of Purpose, it seems like we need to define what a "large" educational institution is and if Edgewood and MATC are "large" or not. Is it by land area, enrollment, etc?
4. Page 8, Similar to comment #1 above, second line under Statement of Purpose, should this read "... other large educational and medical institutions...?"
5. Page 8, under Master Plan Requirement, it seems to me the master plan should be required as all "good" campuses and institutions should be doing a campus master plan on a regular (10 year) basis. The University of Wisconsin actually does it master planning on a 10 year cycle already.

Facilities Planning & Management

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6. Page 9, under Uses within a CI District – it’s always hard to create a list like this and not forget something. Here are some suggested edits/additions:
 - a. Under item D, Eating places... add “including outdoor eating areas.”
 - b. Add Day Care/Preschool Centers
 - c. Add Police & Security facilities or Public Safety facilities
 - d. Add Baking & Financial institutions as part of a mixed use development
 - e. Add Parks & Playgrounds
 - f. Add Temporary Uses, ie. outdoor sales events, portable storage, temporary buildings for construction, etc.
 - g. Add Libraries
 - h. Add Veterinary Clinics
 - i. Add Accessory Structures ie. emergency generators, solar or wind energy systems

7. Page 9, same list – it would make some sense to figure out how to accommodate mixed use private retail (either leased or owned) within the boundary of campus. The city and neighborhoods have recently championed the idea of having mixed use retail within University of Wisconsin campus buildings and we support that concept for building south of University Avenue.

8. How are animal care/research facilities handled (ie vivariums, etc.)?

9. Page 10, under “design guidelines” – we’ll need a clear understanding of what is required (or not) as part of design guidelines. Are they to be prescriptive or more general in nature? Who reviews and approves the design guidelines? What standards are being set with these design guidelines?

10. The university would like to be a player in the discussions related to standards for “transitional areas” as discussed on Page 10, item C, 4 and on page 10 under Design Standards.

11. Page 11, under Final Building Design Review – it is the University of Wisconsin’s desire to utilize our campus Design Review Board as opposed to the Urban Design Commission for final building design review. This would echo what is suggested on Page 15 of the Employment District draft that provides for an “architectural review committee”. These types of review committees are already in place for other large “campus” like developments including the American Center, Old Sauk Trails, the University Research Park, etc. We feel a similar type of arrangement should be made available for the University of Wisconsin as well as other “campuses” that have a design review board. For those that do not, the UDC review would be appropriate. We agree that the Plan Commission should review the building design review criteria, the design standards and guidelines for review.

12. Page 11, under Changes to the Master Plan, section A – would it make sense to have the alder notified of minor modifications to the master plan rather than just have the zoning administrator review and approve?

13. Page 11, under Changes to the Master Plan, section B. 1. a. – last line, should read “... apply for a major modification.”

14. Page 11, under Changes to the Master Plan, section B. 1. b. – it's unclear in what instance the Plan Commission or Common Council would apply a major modification to the Master Plan. What would be an example of this? Are they apply to the city for a master plan change or requesting that the campus make a change in their plan? Seems confusing.

xc: Dawn Crim, UW-Madison Chancellor's Office
Alan Fish, UW-Madison Associate Vice Chancellor
Dan Okoli, UW-Madison University Architect
Maggie Balistreri-Clarke, Edgewood
Judd Schemmel, Edgewood
Melissa Huggins, Meriter Hospital
Richard Stoughton, St. Mary's Hospital
Steve Sparks, St. Mary's Hospital
Michael Stark, Madison Area Technical College
Doug Hursch, Potter Lawson Architects



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Email: mrc@dewittross.com

January 27, 2009

VIA EMAIL – [RROLL@CITYOFMADISON.COM](mailto:rroll@cityofmadison.com)
AND FIRST-CLASS MAIL

Rick Roll
City of Madison
Department of Planning and Development
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

RE: Additional Dwelling Units

Dear Rick:

I am submitting this letter to the members of the Zoning Code Rewrite Advisory Committee (the "Committee") as an individual and not on behalf of any client.

I applaud the work of the Committee and based on the fact that I deal with the Zoning Code on a weekly basis, I know that the Code is out-of-date, cumbersome and inflexible. It does not reflect the progressive land use policies of the City and it certainly is not in keeping with our aspirations to live in a sustainable community.

I encourage the Committee to include in the revised Code, an ordinance that specifically permits Additional Dwelling Units ("ADU") (which is also sometimes referred to as "granny-flats" or "carriage houses") in single-family zoning districts. In the scope of adopting a new Zoning Code, I recognize that an ADU ordinance would represent a very small part of the overall Zoning Code. On the other hand, I understand that there may be some controversy regarding the specifics of the ordinance, the temptation might be to put this aside and to address it at a later date. I feel this would be a mistake since the policy reasons to allow for an ADU are so overwhelming, but at the same time, I believe the concerns raised can be easily met.

There are many reasons why an ADU ordinance for Madison makes perfect sense. Among the reasons are as follows:

Rick Roll
January 27, 2009
Page 2

- It would allow for a much smarter use of land.
- It would encourage sustainability.
- It will improve environmental quality and the implementation of best practices.
- It reduces the pressure for additional urban sprawl.
- It encourages the development of affordable housing options.
- It encourages family stability.
- It allows the elderly to stay in their homes for a longer period of time.
- It helps to make neighborhoods more lively, but at the same time, more safe.
- It increases the tax base.

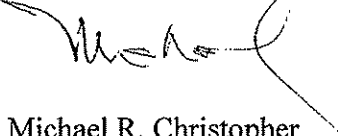
At the same time the concerns raised can be easily addressed. I would suggest the following:

- The primary residence needs to be owner-occupied.
- The appearance of the ADU needs to be consistent with the primary residence and with the immediate neighborhood. I realize that this is somewhat subjective, but one possibility would be to require that an ADU be reviewed by the Urban Design Commission.
- As to any size limitation, it is my understanding that other ADU ordinances have a benchmark of 900 square feet. However, I do not believe that a hard and fast size limitation makes sense. One alternative would be to allow for a 900 square foot limit by right, but to allow for a greater size depending on the particular circumstances.
- Even though the ordinance could not legally preclude student rentals, it could limit the ADU to no more than two unrelated people.

Please share these comments with the Committee and with any other City Staff.

Sincerely,

DEWITT ROSS & STEVENS s.c.



Michael R. Christopher

MRC:dso

Roll, Rick

From: BROWN, Gary [GBROWN@fpm.wisc.edu]
Sent: Tuesday, January 27, 2009 9:04 AM
To: Roll, Rick
Subject: RE: another item for zoning?

Hi, Rick... I'm not aware of any existing zoning ordinances that prohibit or otherwise restrict backyard composting, are you? There is a section under "Public Health" in the MGO that reads:

7.361 COMPOSTING.

(1) Purpose and Intent. The purpose of this section is to promote the recycling of yard wastes through composting, and to establish minimum standards for proper compost maintenance.

(2) Definitions. Composting shall mean a controlled biological reduction of organic wastes to humus. Yard waste shall mean leaves, grass clippings, garden debris and brush.

(3) Maintenance. All compost piles shall be maintained using approved composting procedures to comply with the following requirements:

(a) All compost piles other than compost piles consisting solely of yard waste, excluding fruit, shall be enclosed in a free standing compost bin. Each compost bin shall be no larger in volume than one hundred twenty-five (125) cubic feet, and shall be no taller than five (5) feet.

(b) All compost piles and bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost pile or bin shall be cause for the Health Department to proceed under Section 7.05(4).

(c) All compost piles and bins shall be so maintained as to prevent unpleasant odors. Compost bins containing horse manure or fruits shall be kept covered, except when turning. All compost piles or bins shall be located not less than three feet from a property line or building.

(d) No compost pile or bin shall be located in any yard except a rear yard. All piles or bins shall be placed between the rear building wall, excluding all portions of a building which are occupied seasonally, and the rear lot line extended to the side lot line.

(e) On a reverse corner lot, no compost pile or bin shall be located less than ten (10) feet from the rear property line.

(f) Subdivisions (d) and (e) shall not apply to a compost pile or bin located in a side yard substantially screened from view from the street and from the ground level of the adjacent residences by shrubs and other plantings or by fencing, provided that such plantings or fencing shall at all times exceed the height of the compost bin or pile by no less than one foot.

(4) Ingredients.

(a) No compost bin shall contain any of the following:

1. Lakeweeds;
2. Cooked food scraps, except coffee grounds and tea leaves;
3. Fish, meat or other animal products;
4. Manures other than horse manure;
5. Large items that will impede the composting process.

(b) Permitted ingredients in a compost bin shall include:

1. Yard waste;
2. Raw vegetables and fruit scraps that are suitable for composting;
3. Horse manure;
4. Commercial compost additives.

(5) Owner Responsibility. Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this subsection.

(6) Penalty. Any person violating Section 7.361 shall be subject to a forfeiture of not less than ten dollars (\$10) or more than two hundred dollars (\$200). Each day such violation continues shall be considered a separate offense.

(Cr. by Ord. 9747, Adopted 4-4-89)

You might want to send this back to Satya and the other committee members.

Gary

Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
Madison, WI 53726-2397
E-MAIL: gbrown@fpm.wisc.edu
TEL: 608-263-3023
CELL: 608-334-2417
FAX: 608-265-3139

From: Roll, Rick [<mailto:RRoll@cityofmadison.com>]
Sent: Tuesday, January 27, 2009 8:44 AM
Subject: FW: another item for zoning?

Hi,

I'm sending this at the request of Alder Rhodes-Conway.

Rick

From: Rhodes-Conway,Satya
Sent: Monday, January 26, 2009 10:42 PM
To: Roll, Rick
Subject: FW: another item for zoning?

Please add into the comment bin.

SRC

From: David Williams [<mailto:dvdwilliams51@yahoo.com>]
Sent: Monday, December 08, 2008 9:56 AM
To: Rhodes-Conway,Satya
Subject: another item for zoning?

Several weekends ago I attended the Family Farm Expo with John Peck in Chicago--there was a big workshop there on urban ag and one of the issues emphasized was the huge obstacle posed in many cities by zoning and other restrictions on composting--you have probably already thought of this (maybe it was on one of those lists we compiled--I can't recall) but I just thought I'd mention it--DLW

Roll, Rick

From: Rhodes-Conway, Satya
Sent: Monday, January 26, 2009 10:42 PM
To: Roll, Rick
Subject: FW: another item for zoning?

Please add into the comment bin.

SRC

From: David Williams [mailto:dvdwilliams51@yahoo.com]
Sent: Monday, December 08, 2008 9:56 AM
To: Rhodes-Conway, Satya
Subject: another item for zoning?

Several weekends ago I attended the Family Farm Expo with John Peck in Chicago--there was a big workshop there on urban ag and one of the issues emphasized was the huge obstacle posed in many cities by zoning and other restrictions on composting--you have probably already thought of this (maybe it was on one of those lists we compiled--I can't recall) but I just thought I'd mention it--DLW

Roll, Rick

From: Av8r1@charter.net
Sent: Tuesday, January 13, 2009 8:15 PM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : William Vogel

Business :

Address :

City :

State :

ZIP :

Email : Av8r1@charter.net

Message :

The Zoning plans and proposed new plans are hideous and appalling as to how you want to spend our money for your agendas! Stop trying to control our lives...its our money not yours!

Roll, Rick

From: roxane21@hotmail.com
Sent: Thursday, January 15, 2009 7:34 AM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Cindi
Business :
Address :
City :
State :
ZIP :
Email : roxane21@hotmail.com

Message :

First of all, no new business will EVER come to Madison to build. This new zoning will create job losses with no job growth. Too many restrictions on personal freedom and way to many liberal ideas that have no conclusive scientific backing. You're all a bunch of liberal environmentalist wackos with no respect for the superior species, humans. Watch your ideas fail as people loose their jobs, homes or business because they cannot afford these Draconian implemeted ideas.

Roll, Rick

From: sksloan@charter.net
Sent: Thursday, January 15, 2009 2:20 PM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Steve Sloan
Business :
Address : 14 E Newhaven Circle
City : Madison
State : WI
ZIP : 53717
Email : sksloan@charter.net

Message :

Your new zoning ideas are insane!
Anthroprogenic man made Global Warming is a HOAX!
Leave the zoning rules and my property rights alone!

<http://wattsupwiththat.com/>

Read this site nominated for best science weblog site 2008 and shut up with your loony zoning rewrite.

January 14, 2009

To: Zoning Code Rewrite Committee

From: John Coleman and Peter Wolff, for the Marquette Neighborhood Association (MNA) Preservation and Development Committee

We have two concerns we would like to bring to the attention of the committee. First, the MNA Preservation and Development Committee has been reviewing the preliminary draft of the consultant's proposal for zoning of mixed-use areas in traditional neighborhoods, particularly as it applies to Williamson Street. We have found a number of instances in which the relevant zoning code description differs significantly from both our neighborhood plans and BUILD plans that were developed with neighborhood participation and have been approved and adopted by the City.

On January 27th we will be meeting with the consultant, along with City Planning staff, to discuss our specific case, as well as the more general question of how the new zoning code will interact with existing neighborhood plans and other planning documents, such as BUILD plans to insure that the information in these plans is preserved in the planning and development process of the city, and how the zoning code should reflect this function. We assume you will agree that this is an important concern, and hope you will support our efforts to deal with this issue.

Second, in our initial discussions with the committee and city staff concerning adequate opportunity for neighborhood input into the rewrite process, it appeared that there would be a two month period at the end of each of the two major phases of the process that would be available as a public review period prior to the sending of drafts to the City Council for referral to City committees. While we understand that a number of delays in the process have eaten significantly into this potential review time, we still think that some period of public review before the official approval process begins is important. Rick Roll has informed us that he is trying to find a way to include a reasonable review period, and we ask for your support in this effort.

Thank you,

John Coleman and Peter Wolff for the MNA P/D Committee

Roll, Rick

From: JUDD SCHEMMEL [SCHEJUD@edgewood.k12.wi.us]
Sent: Thursday, March 12, 2009 9:57 AM
To: Gary BROWN
Subject: Re: Campus Institutional Zoning District Draft

Gary:

On behalf of EHS I would simply reiterate the point made during our joint meeting at Edgewood College. As currently defined, a Campus-Institutional District contemplates a university or college campus. It does not contemplate a situation such as the one that exists at Edgewood with three academic institutions of differing levels (grade school, high school and college) all existing on the same campus.

If the new zoning category includes specific parcels, and Edgewood is specifically named, we would ask that clarification be provided that the parcel of Edgewood includes all three institutions. If specific parcels are not identified and more general classifications are utilized, we would ask that some reference be included to cover a campus with multiple institutions of like purpose, e.g., education, as qualifying for the Campus-Institutional District designation.

Gary, we may have additional input to share in the future, but I would say the question of clear inclusion within the new category is the immediate matter for response.

Thanks for all your work and your willingness to work with us and other institutions on this key addition.

Judd Schemmel
President, Edgewood High School
Phone: (608) 257-1023, ext. 141
Email: schejud@edgewood.k12.wi.us
Website: www.edgewoodhs.org

>>> "BROWN, Gary" <GBROWN@fpm.wisc.edu> 03/10/09 4:34 PM >>>

Hi, Rick... attached are our comments from the University of Wisconsin on the draft language for the Campus Institutional District as part of the city's zoning code rewrite committee. These comments are similar to what we discussed at the January 27th meeting of the Zoning Code Rewrite Committee.

Please note that I have not received any specific written comments from others in the ad hoc "campus" group but when received, I will forward those along for your use. When a subsequent draft is available for the consultants, I will call another meeting of the ad hoc group to review that draft.

Let me know if you have any questions.

Thanks,

Gary

<<zoning code CI comments.pdf>>

=====
Gary A. Brown, FASLA

Roll, Rick

From: danandjen@tds.net
Sent: Monday, June 22, 2009 11:16 AM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Danile R. McFarlin
Business :
Address :
City :
State :
ZIP :
Email : danandjen@tds.net

Message :

There isn't a map.

"28B Zoning Districts and Maps0020
7-12"

Without a map to where the rules will apply there is no way for a citizen to give feedback about changes to their neighborhood.

Roll, Rick

From: Diane Milligan [diane.milligan@gmail.com]
Sent: Wednesday, June 10, 2009 8:56 AM
To: Roll, Rick
Subject: Re: FW: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi Rick,
Can you please forward this comment to the group?

While I think that the process that Gary discusses may work well when projects in the heart of a campus are developed, I still think that it does not provide an adequate opportunity for directly affected neighbors to comment on (or object to) a project next door to, across the street, or down the road from their property. While a neighborhood can address general neighborhood concerns, and a campus entity can hold a hearing and "hear" general neighborhood concerns, city government may be a better neutral arbiter/decisionmaker with regard to the appropriateness of proposed campus projects that will have direct impacts on the use and enjoyment of individual citizens' properties.

Thanks,
Diane

On Tue, Jun 9, 2009 at 10:29 AM, Roll, Rick <RRoll@cityofmadison.com> wrote:

Hi,

Gary Brown asked me to forward this e-mail to you. Please let me know if you have any questions.

Rick

From: BROWN, Gary [mailto:GBROWN@fpm.wisc.edu]
Sent: Wednesday, May 27, 2009 11:39 AM
To: Roll, Rick
Cc: STEELE, Dorothy; OKOLI, Daniel; FISH, Alan; CRIM, DAWN BRYANT; Nan Fey
Subject: RE: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi, Rick... I don't want to get into an e-mail conversation on this and create any quorum issues but I do want to follow-up with more information on how the Joint Campus Area Committee's work.

Both the Joint West and Joint South East Campus Area Committee's were established to provide a forum for dialogue between the university, local municipalities (City of Madison & Village of Shorewood Hills) and the local neighborhood associations that surround the UW-Madison campus. Their mission of these committees are to...

"Facilitate participation in planning activities affecting the campus community, the City of Madison, the Village of Shorewood Hills and surrounding neighborhoods of the campus; identify community-wide and neighborhood impact of campus-initiated, city/village-related and private sector development projects; discuss and summarize comments on university, city/village and private development plans, environmental impact/assessment statements and traffic analysis; summarize city/village, campus and neighborhood comments that enhance existing commercial, university and residents areas and street, transit and bike/pedestrian systems."

The master plan development process as well as any updates to the plan will continue to be discussed in detail at both joint committees as well as in targeted neighborhood outreach meetings. Capital improvement projects that are included in the campus master plan will be introduced to each committee early and discussed often, well before the project designs are completed. Typically when a project impacts a specific neighborhood(s), the campus will hold additional public meetings with those neighborhoods to discuss in more detail the project at hand (examples: Kohl Center, Engineering Centers Building, Camp Randall Improvements, Co-Gen facility, University Houses Preschool, etc).

The detailed design review process will be handled by the campus Design Review Board (DRB) which will now include a city/neighborhood representative. In virtually all cases, the plans being presented to the DRB will be the same plans shared with the Joint West and Joint South East committees as the design teams work through design process. We want and need neighborhood input early in the design process and that will happen through Joint West and Joint South East.

We believe this process can work without having our projects go to the Urban Design Commission and the Plan Commission. If projects are outside the approved campus master plan, or are not part of the plan, those projects then would have to go through a more rigorous review as outlined in the draft C-I zoning district. These types of projects would also go to the joint committees and the neighborhoods for review.

Please forward on to the ZCRAC committee for their consideration.

Thanks,

Gary

=====
Gary A. Brown, FASLA
ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
Madison, WI 53726-2397
E-MAIL: gbrown@fpm.wisc.edu
TEL: 608-263-3023
CELL: 608-334-2417
FAX: 608-265-3139
=====

From: Roll, Rick [<mailto:RRoll@cityofmadison.com>]
Sent: Tuesday, May 26, 2009 9:38 AM
Subject: FW: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi,

I'm forwarding this e-mail per Ledell's request.

Rick Roll

From: Ledell Zellers [mailto:lzellers@mailbag.com]
Sent: Monday, May 25, 2009 12:45 PM
To: Roll, Rick
Subject: RE: FW: Campus Institutional Zoning District Draft #2 - Comments

As you know, unfortunately I was out of town for the last meeting and couldn't share these comments prior to whatever discussion you were able to have. Please pass on to committee members.

I share Diane's concern. Currently, while the Joint Committees may have a neighborhood "representative" on them, there is little outreach or communication to neighborhoods to allow for a robust conversation around development issues that can hugely impact adjacent neighbors/neighborhoods. There needs to be a clear city process that includes considerable outreach/information as currently happens with UDC and Plan Commission. University Research Park is substantially different from development within/directly abutting a neighborhood so not a very good model.

Ledell

From: Roll, Rick [mailto:RRoll@cityofmadison.com]
Sent: Wednesday, May 20, 2009 10:42 AM
To: undisclosed-recipients:
Subject: FW: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi,

Diane asked that I forward her comments to you. Please let me know if you have any questions.

Rick

From: Diane Milligan [mailto:diane.milligan@gmail.com]
Sent: Wednesday, May 20, 2009 10:07 AM
To: Roll, Rick
Subject: Re: FW: Campus Institutional Zoning District Draft #2 - Comments

I have a comment that I hope you can share, as I can't make tonight's meeting:

I think that where campuses plan significant changes adjacent to residences, a bit more process may be in order. Neighborhoods represent broad neighborhood interests, and may not adequately reflect the interests (or understand the concerns) of an immediately adjacent neighbor. I remain concerned that it would be little comfort to a homeowner to learn that if he or she had wanted to have input in the decision to build a dorm, office building or some other non-residential-scale structure next to his or her house, the opportunity to do so was 5 years earlier during a master planning approval process.

Thanks,

Diane

On Tue, May 19, 2009 at 11:18 AM, Roll, Rick <RRoll@cityofmadison.com> wrote:

Hi,

Gary Brown asked me to forward this to you. Please let me know if you have any questions.

Rick

From: BROWN, Gary [mailto:GBROWN@fpm.wisc.edu]
Sent: Monday, May 18, 2009 5:17 PM
To: Roll, Rick
Cc: CRIM, DAWN BRYANT; OKOLI, Daniel; STEELE, Dorothy; FISH, Alan
Subject: Campus Institutional Zoning District Draft #2 - Comments

Hi, Rick... please forward these comments on to the Zoning Code Rewrite Committee. Unfortunately, I'll be out of town again (on vacation this time) and will miss this week's meeting. Let me know if any questions come up from the committee or if city staff have any questions on our comments.

1. Page 13 – under “Final Building Design Review”, item B – we would prefer that the city provide a representative(s) to the university’s Design Review Board to act on their behalf. The Plan Commission would approve those nominees as city representatives on the DRB. This is true for other similar architectural review bodies in existence at this time

(American Center, University Research Park, etc.). The members of the university Design Review Board are currently approved by our Campus Planning Committee and the Chancellor's office.

2. Neighborhood representation and input on projects will continue to be through the Joint West and Joint Southeast Campus Area Committees. All local neighborhood associations have representatives that participate in the planning process for all major projects on campus. This will continue to provide the public input into campus projects. Recommendations coming out of those two groups will then be provided to the university's Design Review Board for consideration.

3. Page 13 – under "Final Building Design Review", item C – we would prefer that until the architectural review committee is approved by the Plan Commission, that all projects follow existing current review standards.

4. It is our preference that the university's Design Review Board should have complete authority to approve, reject, or require modification to any plan, or design proposal for development or construction; and to establish the conditions upon which design proposal will be evaluated; and to allow variations to standards and design criteria where such variations will assist in carrying out the intent and spirit of the campus master plan. This is the current authority of the University Research Park architectural review committee and we would expect the same for the campus review process.

5. I have not received any comments from the ad hoc Campus-Institutional zoning group (Edgewood College, MATC, St. Mary's, Meriter, etc.). We probably should continue to touch base with them to make sure they are all comfortable with the current draft language.

Thanks,

Gary

=====
Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
Madison, WI 53726-2397
E-MAIL: gbrown@fpm.wisc.edu
TEL: 608-263-3023
CELL: 608-334-2417
FAX: 608-265-3139
=====

Roll, Rick

From: David Sparer [sparer@herricklaw.net]
Sent: Tuesday, June 02, 2009 5:22 PM
To: Roll, Rick
Cc: Murphy, Brad; Rhodes-Conway, Satya; Tucker, Matthew; jeffbessmer@gmail.com; services@madisoncommunity.coop
Subject: Re: Co-op draft text
Attachments: co-op_cohousing - our draft 0905.doc

Greetings Rick:

As you and I and Alder Satya Rhodes Conway, and the committee chair discussed at the end of the May 20th meeting, I have taken the Word document which stated the Coop and Co-Housing language and made the modifications which addressed the concerns of the coop representatives. As you may remember Alder Rhodes Conway requested that the Committee start working from a draft which reflected the desires of the coop representatives, and the committee chair agreed with this plan as well.

You sent me the Word document last week so that I could produce such a version for the Committee. Please find that attached. I have shared this with Alder Rhodes Conway already, and she has authorized me to indicate to you that she wants to have the committee work from this draft. (I would copy the committee chair on this e-mail, but I don't have his e-mail address.)

Obviously the committee may discuss its terms and vote to make many changes to it. However, this is the place to start.

On her behalf, I ask that you send this around to the members of the committee, and put it up on the web site, and any other distribution that you believe is appropriate.

Any questions, certainly let me or Alder Rhodes Conway know.

Thanks very much.

Attorney David R. Sparer
Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
phone: 608-257-1369
fax: 608-250-4370

>>> "Roll, Rick" <RRoll@cityofmadison.com> 05/26/09 09:36AM >>>
Hi David,

Attached is the Word version of the Co-op draft. Please let me know if you have any questions.

Rick Roll

From: Tucker, Matthew
Sent: Tuesday, May 26, 2009 9:16 AM

To: Roll, Rick
Subject:

Matt Tucker
Zoning Administrator
Department of Planning and Community and Economic Development Building Inspection Division
215 Martin Luther King, Jr. Blvd.
PO Box 2984
Madison, WI 53701-2984
608/266-4569 PH
mtucker@cityofmadison.com<blocked::mailto:mtucker@cityofmadison.com>
<http://www.cityofmadison.com><blocked::http://www.cityofmadison.com/>

Suggested standards and requirements for cooperative housing and cohousing

Cooperative housing

Suggested definition: A dwelling unit where 100% of ownership is held by a Cooperative Corporation incorporated under Chapter 185 Wisconsin Statutes, in which all the residents are members of the Cooperative, as that term is used in Chapter 185. In such housing all residents have private bedrooms, but share cooking, dining and common areas and share some household maintenance and cooking duties. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Suggested locations and conditions for permitted and conditional use:

1. Permitted use in the TR-V2, TR-U1 and TR-U2 districts. The number of people who may live in a cooperative house is not an issue in these districts.
2. Permitted use in SR-C3, SR-V1, SR-V2, TR-C3 and TR-V1, under the condition that the Cooperative may reconfigure where in the building bedrooms and kitchens and other rooms are located, however, the Cooperative may not increase the number of permitted occupants above the number previously permitted before the conversion for the building as a whole. Within these districts, a Cooperative may be established in a dwelling unit, with occupancy consistent with the requirements of the family definition.
3. Conditional use status in the SR-C3, SR-V1, SR-V2, TR-C3, TR-V1 and TR-P districts, when a Cooperative wants to obtain permission to increase the number of occupants over the number permitted prior to a conversion, for the building as a whole.

	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P
Cooperative housing	-	-	P/ C	P/ C	P/ C	-	-	P/ C	P/ C	P	P	P		C

Whether permitted or conditional, co-ops would still need to meet the standards below.

Suggested standards:

Cooperatives may be established within single-family dwellings, meeting occupancy limits and parking requirements. The single-family appearance or function of the building must not be altered through addition of entrances, kitchens, etc. Any additions must meet dimensional requirements of the zoning district.

Two-family, three-family and multi-family dwellings may be converted into cooperatives provided that:

- the entire building is converted, and must remain as a single co-operative while occupied as such;
- building code standards are met. (All the normal building permits would still be required for the construction work involved in performing the relocation of rooms including removal of kitchens.)

Parking and open space requirement: When a Cooperative is established under the Permitted Use standard, the parking and open space requirements applicable to the building shall remain the same as they were before the conversion. When a Cooperative is seeking Conditional Use, then the following standards for parking shall be met unless a lesser standard is shown to be justified: 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.

Cohousing community

Suggested definition: A living arrangement that has private living quarters and often combines this with common dining and activity areas in a community whose residents share in tasks such as childcare. Living quarters can range from detached units to townhouses or multifamily units. (This definition does not include commercial uses that serve a larger public.) Ownership of all the real estate may be by one Cooperative in which the residents, or owners, of each individual dwelling unit have a membership and occupancy interest in the Cooperative, or it may be set up as a condominium where each individual dwelling unit is owned by one or more individuals.

Suggested locations: The many different types of cohousing make it difficult to confine it to specific zoning districts. Cohousing can occur in single-family dwellings, townhouses, apartments, or other configurations, at any density. Therefore we suggest the following standard:

- Cohousing would be a permitted use within those housing types that are already permitted within the primary zoning district.
- Other housing types that are conditional within that district could be used for cohousing under conditional use requirements. This would make cohousing a **"P/C" use in all residential districts**.
- Cohousing would not include individual lodging rooms (like group living co-ops) except in those districts where those uses are allowed.
- Other cohousing provisions might include:
 - Required open space per unit per unit may be combined as shared open space.
 - For new housing, allow housing to be clustered on smaller lots without changing the underlying density (a “conservation design” type provision).

Occupancy limits: Same as for other dwelling units.

Parking requirement: 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.

Roll, Rick

From: Roll, Rick
Sent: Tuesday, June 09, 2009 10:30 AM
Subject: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi,

Gary Brown asked me to forward this e-mail to you. Please let me know if you have any questions.

Rick

From: BROWN, Gary [mailto:GBROWN@fpm.wisc.edu]
Sent: Wednesday, May 27, 2009 11:39 AM
To: Roll, Rick
Cc: STEELE, Dorothy; OKOLI, Daniel; FISH, Alan; CRIM, DAWN BRYANT; Nan Fey
Subject: RE: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi, Rick... I don't want to get into an e-mail conversation on this and create any quorum issues but I do want to follow-up with more information on how the Joint Campus Area Committee's work.

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"Facilitate participation in planning activities affecting the campus community, the City of Madison, the Village of Shorewood Hills and surrounding neighborhoods of the campus; identify community-wide and neighborhood impact of campus-initiated, city/village-related and private sector development projects; discuss and summarize comments on university, city/village and private development plans, environmental impact/assessment statements and traffic analysis; summarize city/village, campus and neighborhood comments that enhance existing commercial, university and residents areas and street, transit and bike/pedestrian systems."

The master plan development process as well as any updates to the plan will continue to be discussed in detail at both joint committees as well as in targeted neighborhood outreach meetings. Capital improvement projects that are included in the campus master plan will be introduced to each committee early and discussed often, well before the project designs are completed. Typically when a project impacts a specific neighborhood(s), the campus will hold additional public meetings with those neighborhoods to discuss in more detail the project at hand (examples: Kohl Center, Engineering Centers Building, Camp Randall Improvements, Co-Gen facility, University Houses Preschool, etc).

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We believe this process can work without having our projects go to the Urban Design Commission and the Plan Commission. If projects are outside the approved campus master plan, or are not part of the plan, those projects then would have to go through a more rigorous review as outlined in the draft C-I zoning district. These types of projects would also go to the joint committees and the neighborhoods for review.

Please forward on to the ZCRAC committee for their consideration.

Thanks,

Gary

Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
Madison, WI 53726-2397
E-MAIL: gbrown@fpm.wisc.edu
TEL: 608-263-3023
CELL: 608-334-2417
FAX: 608-265-3139

From: Roll, Rick [mailto:RRoll@cityofmadison.com]
Sent: Tuesday, May 26, 2009 9:38 AM
Subject: FW: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi,

I'm forwarding this e-mail per Ledell's request.

Rick Roll

From: Ledell Zellers [mailto:lzellers@mailbag.com]
Sent: Monday, May 25, 2009 12:45 PM
To: Roll, Rick
Subject: RE: FW: Campus Institutional Zoning District Draft #2 - Comments

As you know, unfortunately I was out of town for the last meeting and couldn't share these comments prior to whatever discussion you were able to have. Please pass on to committee members.

I share Diane's concern. Currently, while the Joint Committees may have a neighborhood "representative" on them, there is little outreach or communication to neighborhoods to allow for a robust conversation around development issues that can hugely impact adjacent neighbors/neighborhoods. There needs to be a clear city process that includes considerable outreach/information as currently happens with UDC and Plan Commission. University Research Park is substantially different from development within/directly abutting a neighborhood so not a very good model.

Ledell

From: Roll, Rick [mailto:RRoll@cityofmadison.com]
Sent: Wednesday, May 20, 2009 10:42 AM
To: undisclosed-recipients:
Subject: FW: FW: Campus Institutional Zoning District Draft #2 - Comments

Hi,

Diane asked that I forward her comments to you. Please let me know if you have any questions.

Rick

From: Diane Milligan [mailto:diane.milligan@gmail.com]
Sent: Wednesday, May 20, 2009 10:07 AM
To: Roll, Rick
Subject: Re: FW: Campus Institutional Zoning District Draft #2 - Comments

I have a comment that I hope you can share, as I can't make tonight's meeting:

I think that where campuses plan significant changes adjacent to residences, a bit more process may be in order. Neighborhoods represent broad neighborhood interests, and may not adequately reflect the interests (or understand the concerns) of an immediately adjacent neighbor. I remain concerned that it would be little comfort to a homeowner to learn that if he or she had wanted to have input in the decision to build a dorm, office building or some other non-residential-scale structure next to his or her house, the opportunity to do so was 5 years earlier during a master planning approval process.

Thanks,
Diane

On Tue, May 19, 2009 at 11:18 AM, Roll, Rick <RRoll@cityofmadison.com> wrote:
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From: BROWN, Gary [mailto:GBROWN@fpm.wisc.edu]
Sent: Monday, May 18, 2009 5:17 PM
To: Roll, Rick
Cc: CRIM, DAWN BRYANT; OKOLI, Daniel; STEELE, Dorothy; FISH, Alan
Subject: Campus Institutional Zoning District Draft #2 - Comments

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Roll, Rick

From: kara@tilsenroofing.com
Sent: Thursday, June 04, 2009 10:56 AM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Kara Houck
Business : Tilsen Roofing Co.
Address :
City :
State :
ZIP :
Email : kara@tilsenroofing.com

Message :

Hello,

I am looking for a map of the capital fire district. In the building code section 29.37 c, it says "an official map of the Capitol Fire District is on file in the City Department of Planning and Community and Economic Development." I called the department last week and was referred to the local fire department as the person I spoke with did not know anything about it. The fire department did not have a map. I wanted to try once more as it specifically says the map is on file. Please let me know!

Thanks,
Kara

Suggested Standards and Requirements for Accessory Dwelling Units (ADUs).

We have reviewed the language suggested by the participants in the recent focus groups and the notes from those meetings, and suggest the following as a basis for discussion, understanding that many of the issues raised will need further discussion and public input. The suggested language draws from many of the sources suggested by focus group participants and examples provided by Advisory Committee members.

The ADU standards need to address strongly held and often conflicting concerns:

- The desire to provide housing opportunities for elderly or other family members, provide affordable housing opportunities, and achieve sustainability goals;
- The desire to protect traditional residential neighborhoods from excessive parking or rental conversions;
- The desire to protect the private environment of rear yards.

Definition:

A second dwelling unit contained within a single-family dwelling or within a detached building located on the same lot as a single-family dwelling. This definition includes accessory buildings constructed in connection with a private garage or a private garage converted into a dwelling unit.

(The definition would not include dwelling units above garages that are separately owned condominiums or that are the principal use on a separate lot.)

Where Permitted:

The current Zoning Code allows accessory dwelling units within newly developed subdivision plats zoned R2T, R2Y and R2Z where the lots accommodating accessory dwelling units are identified at the time of platting. This provision will be carried over to the new Zoning Code. The code also allows dependency living arrangements in all residential districts.

The new code will also establish minimum standards for accessory dwelling units within new and existing neighborhoods. Those standards are found in the last section of this paper. Because there is significant variation in the built condition from neighborhood to neighborhood throughout the City and across many zoning districts, it will be extremely difficult to establish one set of locational criteria for accessory dwelling units which will work for all residential districts. Given the significant variation in building form, lot sizes, yards, amount of usable open space from neighborhood to neighborhood, we believe that the standards for establishing accessory dwelling units should be based on detailed studies of the neighborhoods where accessory dwelling units are to be located and where the neighborhoods find the addition of accessory dwelling units desirable.

The intent of the new Zoning Code will be to enable the establishment of accessory dwelling units as an overlay district within all residential districts. Prior to the establishment of the overlay

- Maximum unit size: 700 square feet and less than 40% of the principal dwelling's floor area, whichever is less.
- Setback requirements: accessory building standards or as prescribed in the ADU overlay district.
- Usable open space: allow usable open space to be shared between units (i.e., no additional open space required).
- The ADU shall not be sold separately from the principal dwelling.
- Maximum occupancy: 3 people (enforcement and legal questions remain regarding family definitions).
- On corner lots, primary entrances to ADUs shall be placed on the façade parallel to the side street.
- Accessory residential unit entryways shall be connected to a street frontage by a paved walkway.

Suggested Design Standards:

- The appearance or character of the principal building must not be significantly altered so that its appearance is no longer that of a single-family dwelling.
- For ADUs within a principal building, additional entrances shall not be added to the front elevation of an existing building, but may be added to side or rear or streetside elevations.
- Exterior finish materials. The exterior finish material must match in type, size and placement, the exterior finish material of the principal dwelling unit.
- Roof pitch. The roof pitch must match the predominant roof pitch of the principal dwelling unit.
- Detailing. Trim must match the trim used on the principal dwelling unit. Projecting eaves must match those of the principal dwelling unit.
- Windows. Windows must match those in the principal dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

Roll, Rick

From: BROWN, Gary [GBROWN@fpm.wisc.edu]
Sent: Wednesday, May 27, 2009 11:39 AM
To: Roll, Rick
Cc: STEELE, Dorothy; OKOLI, Daniel; FISH, Alan; CRIM, DAWN BRYANT; Nan Fey
Subject: RE: FW: Campus Institutional Zoning District Draft #2 - Comments

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Thanks,

Gary

=====
Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
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E-MAIL: gbrown@fpm.wisc.edu
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Thanks,
Diane

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Sent: Monday, May 18, 2009 5:17 PM
To: Roll, Rick
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5. I have not received any comments from the ad hoc Campus-Institutional zoning group (Edgewood College, MATC, St. Mary's, Meriter, etc.). We probably should continue to touch base with them to make sure they are all comfortable with the current draft language.

Thanks,

Gary

=====
Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison

Roll, Rick

From: Tim Gruber [timothy_gruber@yahoo.com]
Sent: Friday, May 22, 2009 11:42 AM
To: Roll, Rick
Subject: Windows

Rick:

Please forward this to the consultants and the ZCRAC.

Windows

Under Commercial and Mixed Use Districts, Design Standards and Guidelines, H, Requirement: Door and Window Openings.

1. A suggestion was made at a meeting some time ago that we include a definition of storefront.
2. In the current requirement, "Window openings shall be located between two (2) and eight (8) feet from ground level." This is good, except that the windows should be allowed to exceed those dimensions, for example when a storefront is 100% glass (I think this should be allowed). I'm not sure how to word this.
3. For storefronts, I suggest that windows and doors comprise at least 65% of the area of the ground floor (currently 40%). This percentage is suggested by new urbanist planners. For other ground floor uses, such as offices and restaurants, 40% is probably OK.

Under general requirements, I suggest that there be a requirement for windows on all sides of buildings (except where not possible, such as shared walls). The intent is to provide surveillance of all public and private areas ("eyes on the street") and to provide daylighting of buildings.

Front Yard Fences

I support the requirement that fences in front yard be four (4) feet or less. I would suggest that all fences in front yards be such that it is possible to see through. The intent is to provide surveillance of public areas from the building ("eyes on the street"), to provide for interaction between the sidewalk and buildings, and to provide for an interesting pedestrian realm (sense of place).

(I have travelled to places overseas where residences are surrounded by high concrete wall fences. While providing for security of the residence, it detracts from the security of the street and city because there are no eyes on the street. It is also hideous from the perspective of a pedestrian.)

Roll, Rick

From: stebnitz@sbcglobal.net
Sent: Wednesday, May 20, 2009 8:56 PM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Gary Stebnitz
Business :
Address : 915 Waban Hill
City : Madison
State : WI
ZIP : 53711
Email : stebnitz@sbcglobal.net

Message :

I am troubled by the tone and lack of direction that this process is taking. I urge the advisory committee to remember the property rights of Madison's citizens.

May 20, 2009

Dear Members of the Madison Zoning Advisory Committee,

We are a group of citizens interested in changing the zoning ordinance to more easily allow construction of ADU's or "granny flats" in residential districts in Madison. Following are our reactions to the ADU section of the current draft zoning rules:

1- We were happy to see the square footage limits changed.

2- The language about the number of people allowed in an ADU is unclear. It sounds like a family of four with an additional roomer would be acceptable.

3- The proposed process seems to require as much if not more participation from different city employees and departments than the current "provisional use" process.

We understood that the original goal was to streamline the process so that each ADU would not require "provisional use" designation and so much work for builders and city employees. The proposed process would require 5 distinct steps – a neighborhood meeting called by the City, a neighborhood survey conducted by the City, a report by the Department of Planning and Community and Economic Development, a study by the Plan Commission, and the vote of the Common Council. This seems contrary to the original goal.

4- It is still not entirely clear in this proposal if homeowners have the right to build an ADU.

Would the required steps be about the specifics of *how* the ADU would be built in that particular overlay district? Or would the conversations be about *whether* the ADU should be built at all?

It seems that the proposed ordinance does NOT give homeowners this right and instead gives neighbors, folks in different City offices, and the Common Council the power to say yes or no. It seems that the homeowner can only ask permission. Again, this does not seem different than what we have now.

5- We are skeptical that the ordinance as proposed will encourage people to build ADU's.

The process is lengthy, complicated, and has the potential of creating unhappiness between neighbors. It is likely that the current proposal will discourage most potential builders and will drive ADU construction underground as has happened in Chicago.

We wish that the proposal encouraged construction of ADU's more strongly and put fewer barriers in the way of bringing this potentially powerful vehicle for infill, creation of affordable housing and support for a variety of family needs to our city. We strongly urge you to reconsider the current proposed ADU rules.

Thank you for your attention and consideration.

Barb Koechley
Bob Koechley

Joan Laurion
John Linck

Roll, Rick

From: Diane Milligan [diane.milligan@gmail.com]
Sent: Wednesday, May 20, 2009 10:07 AM
To: Roll, Rick
Subject: Re: FW: Campus Institutional Zoning District Draft #2 - Comments

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Diane

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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,

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.

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.

Roll, Rick

From: BROWN, Gary [GBROWN@fpm.wisc.edu]
Sent: Monday, May 18, 2009 5:17 PM
To: Roll, Rick
Cc: CRIM, DAWN BRYANT; OKOLI, Daniel; STEELE, Dorothy; FISH, Alan
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2. Neighborhood representation and input on projects will continue to be through the Joint West and Joint Southeast Campus Area Committees. All local neighborhood associations have representatives that participate in the planning process for all major projects on campus. This will continue to provide the public input into campus projects. Recommendations coming out of those two groups will then be provided to the university's Design Review Board for consideration.
3. Page 13 – under "Final Building Design Review", item C – we would prefer that until the architectural review committee is approved by the Plan Commission, that all projects follow existing current review standards.
4. It is our preference that the university's Design Review Board should have complete authority to approve, reject, or require modification to any plan, or design proposal for development or construction; and to establish the conditions upon which design proposal will be evaluated; and to allow variations to standards and design criteria where such variations will assist in carrying out the intent and spirit of the campus master plan. This is the current authority of the University Research Park architectural review committee and we would expect the same for the campus review process.
5. I have not received any comments from the ad hoc Campus-Institutional zoning group (Edgewood College, MATC, St. Mary's, Meriter, etc.). We probably should continue to touch base with them to make sure they are all comfortable with the current draft language.

Thanks,

Gary

=====
Gary A. Brown, FASLA

ASLA Vice President, Professional Practice

Director, Campus Planning & Landscape Architecture
Facilities Planning & Management
University of Wisconsin - Madison
610 Walnut Street 9th Floor
Madison, WI 53726-2397
E-MAIL: gbrown@fpm.wisc.edu
TEL: 608-263-3023
CELL: 608-334-2417
FAX: 608-265-3139
=====

Roll, Rick

From: Roll, Rick
Sent: Wednesday, August 13, 2008 1:10 PM
Subject: FW: Granny flat info for committee members

Hi,

I'm forwarding this message to you for your information.

Rick

From: John Michael Linck [mailto:john@woodentoy.com]
Sent: Wednesday, August 13, 2008 12:21 PM
To: Roll, Rick
Subject: Granny flat info for committee members

Rick,

I thought the info on this site <<http://www.woodentoy.com/ADU/Adu.html>> would be helpful for your committee members to learn about ADUs or Granny flats. And, if you know of any other resources I could include on the site please pass them on to me. Thanks

And thanks for keeping us up to date.

john

--

John Michael Linck
2550 Van Hise Avenue
Madison Wisconsin 53705
telephone 608-231-2808
john@woodentoy.com
<<http://www.woodentoy.com>>

Roll, Rick

From: Gruber, Timothy
Sent: Tuesday, November 18, 2008 8:11 PM
To: Roll, Rick
Subject: Proposal for mixed use in residential districts
Attachments: Mixed Use in Residential Districts.doc

Rick:
Here is a proposal I have for allowing limited mixed-use in residential districts. Please share with the consultants and the Zoning Rewrite Committee. If time, the committee can discuss it at the meeting tomorrow. As I mentioned, I will be unable to attend the meeting.
Tim

Proposal to Incorporate Mixed-use into Residential Districts

- Mixed-use buildings would be a Conditional Use in Residential Districts at certain locations.
- Mixed-use buildings would be Conditional Uses only on corner lots, with any or all of the four lots at the intersection being possible locations. They would not be Permitted Uses anywhere in the residential districts, and would not be Conditional Uses at other locations other than the corner lots. There would be a distance requirement, possibly one-half mile, between these nodes of mixed-use. The distance requirement could sunset after 20 years. The idea is to create limited, well designed nodes of mixed use within residential districts, which would provide amenities for neighborhoods, increase density, and allow people to walk to shops or offices in their neighborhoods. Ideally, these mixed-use nodes would be located at a bus stop.
- As part of the Conditional Use process, Plan Commission could set standards regarding hours of operation and other matters, and would have continuing jurisdiction. As with Conditional Use review presently, Plan Commission could refer the application to the Urban Design Commission.
- There would be very specific bulk and design standards required. Minimum of 2 stories. Limit of 2 stories, with a 1-story bonus to increase building size to 3 stories for underground parking, outstanding design features, or green features. Buildings placed close to sidewalk. Main entrances must be from the sidewalk. A minimum of 65% of the ground floor along the sidewalk would have to be glass. No parking allowed between the building and the sidewalk. Parking located at the rear of the lot. Low or no parking minimum, low parking maximum, and bike parking required. Limit building footprint and size of retail establishments.
- Uses allowed would include retail or office on the ground floor, and residential above. A list of uses would have to be developed. Gas stations and other uses (to be determined) would not be allowed.

Tim Gruber, District 11 Alder, City of Madison
Email: district11@cityofmadison.com
Home phone: 608-663-5264
Cell phone: 608-217-3390

Proposal to Incorporate Mixed-use into Residential Districts

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- Uses allowed would include retail or office on the ground floor, and residential above. A list of uses would have to be developed. Gas stations and other uses (to be determined) would not be allowed.

Roll, Rick

From: Ledell Zellers [lzellers@mailbag.com]
Sent: Friday, November 07, 2008 6:24 PM
To: Roll, Rick
Subject: New Study: More Parking=More Driving

Interesting study.....please forward to Zoning Rewrite Committee members.

<http://www.planetizen.com/node/35753>

New Study: More Parking=More Driving

25 October 2008 - 10:00am

A new U of PA study, 'Guaranteed Parking, Guaranteed Driving' compares two NYC neighborhoods, showing decisively that providing off-street parking is a sure way to guarantee more driving.

"The study (by University of Pennsylvania planning professor Rachel Weinberger), "Guaranteed Parking, Guaranteed Driving", compares parking and commuting habits in Park Slope, Brooklyn and Jackson Heights, Queens. The study finds that despite having the same car ownership and very similar access to public transit to the Central Business District, Jackson Heights residents are 45% more likely to drive to work in the Central Business District and 28% more likely to drive to work in general.

The study concludes that Jackson Heights car owners are more likely to drive to work because of guaranteed, off-street parking spots to return to at the end of the day."

From Steetsblog: Study - City Residential Parking Requirements Lead to More Driving: "In August, Weinberger teamed with Transportation Alternatives and other groups concerned about parking reform to issue "Suburbanizing the City". [See related link] That study estimated that the city's parking requirement would generate a billion miles of new traffic a year by 2030. "Guaranteed Parking" substantiates that finding, and provides more evidence that New York City zoning regulations promote driving to work, even when viable transit options are available."

Full Story: [STUDY: New Yorkers Are More Likely to Drive Because of City Parking Requirement.](#)

Source: Transportation Alternatives, October 15, 2008

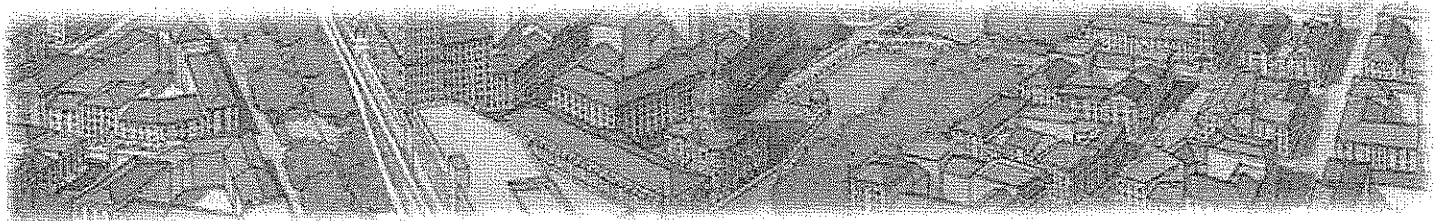
Ledell Zellers
510 N Carroll Street, Madison, WI., 53703

Roll, Rick

From: Ledell Zellers [lzellers@mailbag.com]
Sent: Friday, November 07, 2008 5:35 PM
To: Roll, Rick
Subject: FW: Form-Based Codes Introductory Course - November 20-21, 2008 - Oak Park, IL

Could you please share with the Zoning Committee?

From: Midwest Office [mailto:Midwest_Office@nthp.org]
Sent: Friday, November 07, 2008 11:34 AM
Subject: Form-Based Codes Introductory Course - November 20-21, 2008 - Oak Park, IL



Form-Based Codes: An Introductory Course
Oak Park, Illinois, November 20-21, 2008
Given by the
Form-Based Codes Institute

FBCI is offering the first in its 3-course series of courses at Pleasant Home in Oak Park November 20th and 21st. This overview course is the prerequisite for the other two courses in the series: *Preparing the Code: Design Considerations* and *Completing, Adopting and Implementing the Code*.

FBCI offers courses across the United States in partnership with leading academic institutions such as Arizona State University, Rutgers University (New Jersey) and Virginia Tech. It also creates and administers courses and special programs tailored to the needs of municipalities, public agencies and private organizations.

Course activities include lectures by faculty, group discussions and hands on team exercises. This introductory course, also known as FBC 101, covers the principles and components of Form-Based Codes; a brief history of zoning and planning practice; the legal basis for Form-Based Coding; a comparison of the tools available to shape community form and character provided by Euclidean zoning versus Form-Based Codes; a field exercise to increase participant understanding of the components of good urbanism and how they can be incorporated into a Form-Based Code; a review of the kinds of FBCs, FBC case studies, and an introduction to how a FBC is prepared.

Faculty for FBCI courses include FBCI board members and other national practitioners-urban designers, planners and land-use attorneys-in the field of Form-Based Coding. This Oak Park course will be taught by design professional Karen Parolek (Opticos Design and author of the recent book *Form-Based Codes*), attorney and AICP Planner Sam Poole (Berger Singerman), design professional Geoffrey Ferrell (Ferrell Madden Lewis), design professional Kevin Klinkenberg (Principal, 180 Degrees Design Studio) and Sandy Sorlien, a principal author of the SmartCode & Manual, the coordinator of SmartCodeCentral.com, and the founding teacher of the SmartCode Local master classes.

Registration for FBC 101 in Oak Park is available now on the FBCI website: www.formbasedcodes.org. A limited number of scholarships are available.

The Form-Based Codes Institute is a nonprofit corporation engaged in research, standards setting, outreach and education related to its mission of advancing the use and acceptance of form-based codes.

Roll, Rick

From: Carole Schaeffer [cjschaeff@hotmail.com]
Sent: Wednesday, October 22, 2008 4:49 PM
To: Roll, Rick
Subject: FW: Scanned from EST-DESIGN 10/22/2008 06:03
Attachments: DOC102208.pdf

Please forward to the group.

Thank you!

Carole

> Subject: FW: Scanned from EST-DESIGN 10/22/2008 06:03
> Date: Wed, 22 Oct 2008 07:11:24 -0500
> From: rquest@veridianhomes.com
> To: cjschaeff@hotmail.com
>
> Good morning Carole, attached is the digital version of my comments from
> last evening. Please forward them to the committee members per their
> request. Thank you, Roger
>
> -----Original Message-----
> From: 600_Veridian Homes_26863 [mailto:est_design@veridianhomes.com]
> Sent: Wednesday, October 22, 2008 7:03 AM
> To: Roger Guest
> Subject: Scanned from EST-DESIGN 10/22/2008 06:03
>
>
> Scanned from EST-DESIGN.
> Date: 10/22/2008 06:03
> Pages:3
> Resolution:200x200 DPI
> -----

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Zoning Code Rewrite Draft – Residential Districts

1. General Provisions

a. Permitted Yard Encroachments

- i. Don't understand eaves and gutters 3' all yards but 2' front yard note
- ii. Is there a maximum projection of uncovered decks above 3' into rear yard, used to be 6' maximum
- iii. Is a 74' high communication tower really allowed in side yards, and if so why not in rear also?
- iv. Should some of these permitted encroachments have standards associated with them similar to Residential Use District Chart? For example would a "Bilco" egress window permitted in front yard require screening?

b. Accessory Buildings

- i. Is there a maximum number of accessory buildings allowed as well as maximum area and percentage of yard covered?

c. Front Yard Averaging

- i. No comments

d. Design Standards

- i. These appear now to apply to all residential districts as opposed to originally applying to the R2-S,T,Y and Z districts as tradeoffs for increased density. I will discuss the sidewall offset and garage setback requirements in review of specific zoning districts to follow, and while I agree from a design standpoint with the garage requirement there may need to be the possibility of exceptions due to site conditions and/or a phase in time for districts where they do not currently apply. This will likely be addressed by builders of this plan type.
- ii. The nonresidential long façade articulation might better address street facades over 40' in length with plane break requirements rather than increased setbacks

2. Specific Zoning District Review

a. I have not compared conditional and permitted uses on a line by line format with those in existing code but these are some general comments

- i. Is there a way to highlight changes (if any) from existing code?
- ii. The articulation of applicable standards for the permitted uses will be important here – I know that's yet another level of detail but I want to mention it, for example, limits on day care occupancy, location of setbacks for certain building types or uses, etc. I'll review this more specifically in zoning district review to follow.

3. Residential District Uses

a. For this I'm going to comment on three of the districts; SR-C2 as compared to old R2, SR-V2 as typical of multi-family though I'm sure there will be more comments from builders of predominantly these building types, and TR-P as replacement for R2S, T, Y and Z.

b. SR-C2

- i. This seems comparable to R2 as intended with a slightly reduced rear yard requirement except that the garage setback design standard is introduced to this zoning district which may cause some resistance. Also if this district replaces the current R2, what happens when someone wishes to substantially remodel what is now a non-complying structure due to garage location?
- ii. Should there be a height limit on civic/institutional buildings when located in this district further than that created by increased setback requirement?

c. SR-V2

- i. No height limit on civic/institutional buildings other than dictated by increased setbacks

- ii. General definition of how building height is determined would be helpful – does one element of structure (ie: church steeple) determine height, how is height of pitched roof building determined?
 - iii. Why is single-family attached (rowhouse) setback less than detached single family and multi-family? The difference in setback from multi-family is interesting in that a design requirement for multi-family is that 1st floor units have direct street access creating a building likely very similar in appearance to rowhomes. Also single family front setback in presumably less dense TR-P district is only 15' vs. the 25' required here.
 - iv. If this is the district alley access rowhomes are most likely to be built in, there needs to be some way to address the rear yard setback to allow this configuration as part of standard zoning.
- d. TR-P
- i. This district as a replacement for R2-S, T, Y and Z, which recently have been used frequently to create well designed, higher density single family neighborhoods, seems to have the most differences from the districts combined.
 - ii. The R2-Z district has been eliminated. As noted in the draft, the 3500sf site minimum has been increased to 4000sf minimum. From our development standpoint this eliminates two alley access site types, 37'x95' (3515sf) and 45'x80' (3600sf) which currently comply with existing R2-Z standards. These smaller site sizes seem appropriate to the alley access sites where more people are looking for reduced home and yard maintenance but preferring a single family home. This difference in site size was one reason the existing ordinance separated alley access and street access districts, having previously been shown one size did not fit all very well. Additionally, the smaller alley access sites helped create more affordability in market rate housing. Finally, would both alley and street access sites in the same zoning district create a possible streetscape scenario of mixed garage forward and garage rear within the same block if sites were individually sold?
 - iii. The addition of the sidewall offset standard in this district – it was not applicable in the replaced districts – creates more inefficient construction and land use particularly on 1 story street access and all alley access homes. With respect to alley access neighborhood and home planning the zero lot line concept has been widely used with a variety of interpretations but the focus was to create usable sideyard space by giving one home land rights up to the wall of the adjacent home. The home with land rights would have a courtyard space with deck or patio and the adjacent home deliberately had a flat neutral wall with minimum and/or high windows to preserve outdoor privacy for the neighboring courtyard. Offsetting this neutral wall reduces courtyard space by forcing rear portion of home into it and complicates descriptions of land use rights; currently a simple straight front to rear sideyard use easement. On single story street access homes, the footprint usually is greater than 40' in depth, in part due to the rear wall of the home ending up further back because of recessed garage facade requirement, this was one of the trade-offs for the improved garage design – in short the design emphasis was placed on an attractive streetscape as well as efficient land use and construction.
 - iv. This district, replacing those originally all single family, would appear to include twin homes by right on any lot greater than 44' wide. It would be interesting to hear the rationale that 22' of site width works for a twin home, add a second side yard of minimum 5' for a total of 27', but a 37' single family site doesn't. Further, if this zoning replaces current exclusively single family zoning, how does it relate to existing neighborhoods built under the old ordinance in which there are plenty of sites wider than 44'?
 - v. I don't understand the 60' minimum site width for accessory dwelling unit – is this another example of how requirements don't work well when applied to both street and alley access sites? On an alley site, you may want a bit more usable open

space, but a "granny flat" over the garage does not add width to the structure. Also the height of an accessory structure should be limited to the lesser of height of principal building or 2 stories/35' – a flat over garage of a 1 story structure would just look bad! Finally, why a 1' difference in rear setback if unit over garage.

- vi. As mentioned in previous districts, height limit for civic/institutional uses? Also greater side yard might be desirable depending on use or size of structure.
- vii. Why is 2' rear yard setback limited to attached garage, I know it's Wisconsin but if someone wanted I would think detached should also be allowable with same setback. I am of the opinion that too much is being attempted in one district here. We went down that route with R2-S, which was not widely used in part due to issues reoccurring here. Further, in districts that have the best possibility of achieving market rate affordable housing, we should be careful in adding zoning requirements that translate rather directly into construction dollars, more wall offsets, roof breaks, increased site size, etc.

4. Definitions and General Questions

- a. Seems to be some gray area in pervious pavement and parking – pervious pavement can be included in usable open space, but usable open space really isn't intended for parking. Also, is gravel pervious pavement?
- b. Does usable open space area still have same dimensional requirements as in old ordinance? Are decks and patios usable open space? Which of these definitions are additions and which replacements – if something not here is it as it was? How will these new requirements relate to current zoning requirements in areas of existing construction, are some of the new districts intended only for new construction and others for primarily existing areas.

Roll, Rick

From: Carole Schaeffer [cjschaeff@hotmail.com]
Sent: Wednesday, October 22, 2008 4:48 PM
To: Roll, Rick
Subject: FW: ZCRAC comments

Could you please send this to the group? Thank you!

Carole

Subject: FW: ZCRAC comments
Date: Wed, 22 Oct 2008 10:22:34 -0500
From: rguest@veridianhomes.com
To: cjschaeff@hotmail.com

Some thoughts from last evenings discussions. Roger

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

From: Roger Guest
Sent: Wednesday, October 22, 2008 10:06 AM
To: Roger Guest
Subject: ZCRAC comments

Comments from ZCRAC meeting 10/21/08

- A. The establishment of residential districts seemed to be driven by a mapping and documentation of what currently is built, which is an important element of the character of existing neighborhoods. I think, however, there may need to be equal emphasis placed on the vision of what these neighborhoods will become, as commented by a committee member last evening. This vision I believe needs to be consistent for infill development in these neighborhoods and new construction on undeveloped land. It may be difficult to create identical requirements for comparable districts of existing and new construction. For example, the elimination of projecting garages while achievable in new construction will create numerous non-conforming structures if applied to existing neighborhoods. Not wishing to add districts, is a possibility if requirements are substantially equal to have, for example, a SR-C2 existing and SR-C2 new district or an addendum to the district adding elements for new construction that are not attainable on existing. Also, new development has a variety of forms, from individual lots to the large parcels that have typically been done as PUDs or master planned communities specifying land use very early in the process, usually at time of plat. A clear overall vision of the ordinance objectives may help determine how best to implement future development.
- B. As noted by the consultants, the traditional neighborhood component needs more detailed consideration to be a workable part of the ordinance. Some of the specifics of this were mentioned in my earlier review of the TR-P district, my opinion is that it will be difficult to avoid some additional districts to accommodate TNDs, an example being the tailoring of design standards to very different building/site/street

relationship from conventional development.

- C. The new ordinance needs to create a careful blend of affordability, marketability, and sustainability in concert with providing an excellent built environment, not an easy goal. I am not in favor of increasing minimum lot sizes (elimination of R2-Z) without good evidence of negative impacts of those sites, I would look at design standards to make sure they are appropriate (application of 40' offset reqmt to interior TND sites). Are there some home buyers who want a clear definition of what can be built next door, is it practical to include twins/duplexes by right on all TND lots over a certain size?
- D. There is a lot of detail work of which the committee was obviously aware, all needing to be integrated into the ordinance, among them the following:
1. Area exceptions, reduced yard requirements – also need to relate to minimum fire and building code separations
 2. Rear yard issues, particularly how to encourage continuing investment in existing housing stock while respecting neighborhood patterns – for example a % coverage for rear yard encroachments as a 12' x 15' 1 story family room will likely have less impact than a full width 2 story addition.
 3. Problems of creating “non-conforming” uses, how to avoid.
 4. Details of design standards, how will they best be defined, and how will they be administered, I don't believe zoning and aesthetic considerations have overlapped to this extent before in residential districts.
 5. What is the appropriate introduction of accessory dwelling units into districts, particularly with respect to existing neighborhoods, we identified specific sites on a previous new neighborhood plan.
 6. Intoduction of sustainability standards
 7. Creating/maintaing affordability for first time home buyers and for people to stay in their homes and neighborhoods.

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Roll, Rick

From: Roll, Rick
Sent: Tuesday, June 09, 2009 11:28 AM
Subject: FW: Co-op draft text
Attachments: co-op_cohousing - our draft 0905.doc

Hi,

David asked me to forward this e-mail and attachment to you. The e-mail includes his draft of proposed Co-op housing zoning regulations. Please let me know if you have any questions.

Rick

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

From: David Sparer [mailto:sparer@herricklaw.net]
Sent: Tuesday, June 02, 2009 5:22 PM
To: Roll, Rick
Cc: Murphy, Brad; Rhodes-Conway, Satya; Tucker, Matthew; jeffbessmer@gmail.com; services@madisoncommunity.coop
Subject: Re: Co-op draft text

Greetings Rick:

As you and I and Alder Satya Rhodes Conway, and the committee chair discussed at the end of the May 20th meeting, I have taken the Word document which stated the Coop and Co-Housing language and made the modifications which addressed the concerns of the coop representatives. As you may remember Alder Rhodes Conway requested that the Committee start working from a draft which reflected the desires of the coop representatives, and the committee chair agreed with this plan as well.

You sent me the Word document last week so that I could produce such a version for the Committee. Please find that attached. I have shared this with Alder Rhodes Conway already, and she has authorized me to indicate to you that she wants to have the committee work from this draft. (I would copy the committee chair on this e-mail, but I don't have his e-mail address.)

Obviously the committee may discuss its terms and vote to make many changes to it. However, this is the place to start.

On her behalf, I ask that you send this around to the members of the committee, and put it up on the web site, and any other distribution that you believe is appropriate.

Any questions, certainly let me or Alder Rhodes Conway know.

Thanks very much.

Attorney David R. Sparer
Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
phone: 608-257-1369
fax: 608-250-4370

>>> "Roll, Rick" <RRoll@cityofmadison.com> 05/26/09 09:36AM >>>

Hi David,

Attached is the Word version of the Co-op draft. Please let me know if you have any questions.

Rick Roll

From: Tucker, Matthew
Sent: Tuesday, May 26, 2009 9:16 AM
To: Roll, Rick
Subject:

Matt Tucker
Zoning Administrator
Department of Planning and Community and Economic Development Building Inspection Division
215 Martin Luther King, Jr. Blvd.
PO Box 2984
Madison, WI 53701-2984
608/266-4569 PH
mtucker@cityofmadison.com<blocked::mailto:mtucker@cityofmadison.com>
<http://www.cityofmadison.com><blocked::http://www.cityofmadison.com/>

Suggested standards and requirements for cooperative housing and cohousing

Cooperative housing

Suggested definition: A dwelling unit where 100% of ownership is held by a Cooperative Corporation incorporated under Chapter 185 Wisconsin Statutes, in which all the residents are members of the Cooperative, as that term is used in Chapter 185. In such housing all residents have private bedrooms, but share cooking, dining and common areas and share some household maintenance and cooking duties. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Suggested locations and conditions for permitted and conditional use:

1. Permitted use in the TR-V2, TR-U1 and TR-U2 districts. The number of people who may live in a cooperative house is not an issue in these districts.
2. Permitted use in SR-C3, SR-V1, SR-V2, TR-C3 and TR-V1, under the condition that the Cooperative may reconfigure where in the building bedrooms and kitchens and other rooms are located, however, the Cooperative may not increase the number of permitted occupants above the number previously permitted before the conversion for the building as a whole. Within these districts, a Cooperative may be established in a dwelling unit, with occupancy consistent with the requirements of the family definition.
3. Conditional use status in the SR-C3, SR-V1, SR-V2, TR-C3, TR-V1 and TR-P districts, when a Cooperative wants to obtain permission to increase the number of occupants over the number permitted prior to a conversion, for the building as a whole.

	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P
Cooperative housing	-	-	P/ C	P/ C	P/ C	-	-	P/ C	P/ C	P	P	P		C

Whether permitted or conditional, co-ops would still need to meet the standards below.

Suggested standards:

Cooperatives may be established within single-family dwellings, meeting occupancy limits and parking requirements. The single-family appearance or function of the building must not be altered through addition of entrances, kitchens, etc. Any additions must meet dimensional requirements of the zoning district.

Two-family, three-family and multi-family dwellings may be converted into cooperatives provided that:

- the entire building is converted, and must remain as a single co-operative while occupied as such;
- building code standards are met. (All the normal building permits would still be required for the construction work involved in performing the relocation of rooms including removal of kitchens.)

Parking and open space requirement: When a Cooperative is established under the Permitted Use standard, the parking and open space requirements applicable to the building shall remain the same as they were before the conversion. When a Cooperative is seeking Conditional Use, then the following standards for parking shall be met unless a lesser standard is shown to be justified: 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.

Cohousing community

Suggested definition: A living arrangement that has private living quarters and often combines this with common dining and activity areas in a community whose residents share in tasks such as childcare. Living quarters can range from detached units to townhouses or multifamily units. (This definition does not include commercial uses that serve a larger public.) Ownership of all the real estate may be by one Cooperative in which the residents, or owners, of each individual dwelling unit have a membership and occupancy interest in the Cooperative, or it may be set up as a condominium where each individual dwelling unit is owned by one or more individuals.

Suggested locations: The many different types of cohousing make it difficult to confine it to specific zoning districts. Cohousing can occur in single-family dwellings, townhouses, apartments, or other configurations, at any density. Therefore we suggest the following standard:

- Cohousing would be a permitted use within those housing types that are already permitted within the primary zoning district.
- Other housing types that are conditional within that district could be used for cohousing under conditional use requirements. This would make cohousing a **"P/C" use in all residential districts**.
- Cohousing would not include individual lodging rooms (like group living co-ops) except in those districts where those uses are allowed.
- Other cohousing provisions might include:
 - Required open space per unit per unit may be combined as shared open space.
 - For new housing, allow housing to be clustered on smaller lots without changing the underlying density (a “conservation design” type provision).

Occupancy limits: Same as for other dwelling units.

Parking requirement: 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.

Roll, Rick

From: Roll, Rick
Sent: Tuesday, June 09, 2009 3:39 PM
Subject: David Sparer's Co-op Text with Edits Highlighted
Attachments: co-op_cohousing - mark up draft 090609.doc

Hi,

David Sparer has provided a highlighted version of the co-op housing text he drafted. This highlighted draft will make it easier for you to compare it to the current City draft. Please let me know if you have any questions.

Thanks,

Rick Roll, AICP

Senior Planner

Department of Planning and Community
and Economic Development

Planning Division

215 Martin Luther King, Jr. Blvd.

P.O. Box 2985

Madison, WI 53701-2985

608-267-8732 PH

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Suggested standards and requirements for cooperative housing and cohousing

Cooperative housing

Suggested definition: A dwelling unit where 100% of ownership is held and maintained by a Cooperative Corporation incorporated under Chapter 185 Wisconsin Statutes, in which all the residents are members of the Cooperative, as that term is used in Chapter 185. In such housing all residents have private bedrooms, but share cooking, dining and common areas and share some household maintenance and cooking duties. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership. Housing cooperatives are incorporated under Chapter 185 Wisconsin Statutes.

Suggested locations: Based on what we have heard from previous meetings, the cooperatives prefer to be located in close-in neighborhoods, with convenient access to transit and conditions for permitted activity centers. However, occupancy of co-ops can reach a size that may not fit the character of largely single- and conditional use: two-family neighborhoods. Therefore we recommend the following two classification groups:

1. Permitted use in the TR-V2, TR-U1 and TR-U2 districts. The number of people who may live in a cooperative house is not an issue in these districts.
 2. Permitted use in SR-C3, SR-V1, SR-V2, TR-C3 and TR-V1, under the condition that the Cooperative may reconfigure where in the building bedrooms and kitchens and other rooms are located, however, the Cooperative may not increase the number of permitted occupants above the number previously permitted before the conversion for the building as a whole. Within these districts, a Cooperative may be established in a dwelling unit, with occupancy consistent with the requirements of the family definition.
 3. Conditional use status in the SR-C3, SR-V1, SR-V2, TR-C3, TR-V1 and TR-P districts, when a Cooperative wants to obtain permission to increase the number of occupants over the number permitted prior to a conversion, for the building as a whole.
1. Conditional use status in the SR-V1, SR-V2, TR-C3 and TR-P districts. Within these districts, upon Conditional Use approval, a co-op may be established in a dwelling unit, with occupancy consistent with the requirements of the base family definition.
2. TR-V1, TR-V2, TR-U1 and TR-U2 districts. Within these districts, a co-op may be established in a dwelling unit as a permitted use if the occupancy meets the base family definition. If the co-op requests an exception to the family definition to exceed the maximum number of unrelated individuals occupying a dwelling unit, this exception would require Conditional Use approval. This alternative will require a change to the family definition to create an exception process for co-ops.

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	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P
Cooperative housing	-	-	P/ C	P/ C	P/ C	-	-	P/ C	P/ C	P/ C	P/ C	P/ C		C

Whether permitted or conditional, co-ops would still need to meet the standards below.

Suggested standards:

Cooperatives may be established within single-family dwellings, meeting occupancy limits and parking requirements. The single-family appearance or function of the building must not be altered through

addition of entrances, kitchens, etc. Any additions must meet dimensional requirements of the zoning district.

Two-family, three-family and multi-family dwellings may be converted into cooperatives provided that:

- the entire building is converted, and must remain as a single co-operative while occupied as such;
- building code standards are met. (All the normal building permits would still be required for the construction work involved in performing the relocation of rooms including removal of kitchens.) [probably self-evident, but are there issues involved in combining or removing kitchens?]

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Parking and open space requirement: When a Cooperative is established under the Permitted Use standard, the parking and open space requirements applicable to the building shall remain the same as they were before the conversion. When a Cooperative is seeking Conditional Use, then the following standards for parking shall be met unless a lesser standard is shown to be justified: ~~Occupancy limits:~~ Existing family definition, unless an exception is granted as a conditional use in those districts that CU review for exception is an option.

~~**Parking requirement:** 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.~~

Cohousing community

Suggested definition: A living arrangement that ~~has~~ combines private living quarters and often combines this with common dining and activity areas in a community whose residents share in tasks such as childcare. Living quarters can range from detached units to townhouses or multifamily units. (This definition does not include commercial uses that serve a larger public.) Ownership of all the real estate may be by one Cooperative in which the residents, or owners, of each individual dwelling unit have a membership and occupancy interest in the Cooperative, or it may be set up as a condominium where each individual dwelling unit is owned by one or more individuals.

Suggested locations: The many different types of cohousing ~~make~~ makes it difficult to confine it to specific zoning districts. Cohousing can occur in single-family dwellings, townhouses, apartments, or other configurations, at any density. Therefore we suggest the following standard:

- Cohousing would be a permitted use within those housing types that are already permitted within the primary zoning district.
- Other housing types that are conditional within that district could be used for cohousing under conditional use requirements. This would make cohousing a "P/C" use in all residential districts.
- Cohousing would not include individual lodging rooms (like group living co-ops) except in those districts where those uses are allowed.
- Other cohousing provisions might include:
 - Required open space per unit per unit may be combined as shared open space.
 - For new housing, allow housing to be clustered on smaller lots without changing the underlying density (a "conservation design" type provision).

Occupancy limits: Same as for other dwelling units.

Parking requirement: 1 space per four bedrooms minimum, 1 per bedroom maximum; requirement may be further reduced as described in the parking regulations section of the ordinance.

May 20, 2009

Dear Members of the Madison Zoning Advisory Committee,

We are a group of citizens interested in changing the zoning ordinance to more easily allow construction of ADU's or "granny flats" in residential districts in Madison. Following are our reactions to the ADU section of the current draft zoning rules:

1- We were happy to see the square footage limits changed.

2- The language about the number of people allowed in an ADU is unclear. It sounds like a family of four with an additional roomer would be acceptable.

3- The proposed process seems to require as much if not more participation from different city employees and departments than the current "provisional use" process.

We understood that the original goal was to streamline the process so that each ADU would not require "provisional use" designation and so much work for builders and city employees. The proposed process would require 5 distinct steps – a neighborhood meeting called by the City, a neighborhood survey conducted by the City, a report by the Department of Planning and Community and Economic Development, a study by the Plan Commission, and the vote of the Common Council. This seems contrary to the original goal.

4- It is still not entirely clear in this proposal if homeowners have the right to build an ADU.

Would the required steps be about the specifics of *how* the ADU would be built in that particular overlay district? Or would the conversations be about *whether* the ADU should be built at all?

It seems that the proposed ordinance does NOT give homeowners this right and instead gives neighbors, folks in different City offices, and the Common Council the power to say yes or no. It seems that the homeowner can only ask permission. Again, this does not seem different than what we have now.

5- We are skeptical that the ordinance as proposed will encourage people to build ADU's.

The process is lengthy, complicated, and has the potential of creating unhappiness between neighbors. It is likely that the current proposal will discourage most potential builders and will drive ADU construction underground as has happened in Chicago.

We wish that the proposal encouraged construction of ADU's more strongly and put fewer barriers in the way of bringing this potentially powerful vehicle for infill, creation of affordable housing and support for a variety of family needs to our city. We strongly urge you to reconsider the current proposed ADU rules.

Thank you for your attention and consideration.

Barb Koechley
Bob Koechley

Joan Laurion
John Linck

P.S. If this is the process you choose to adopt, here are some important details that are not covered in the current proposal:

- a) How soon after a request, must the City call the informational neighborhood meeting?
- b) What is the goal and format of the meeting and who facilitates it?
- c) How long does the Director of the Department of Planning and Community and Economic Development have to tabulate the neighborhood survey results and prepare the report?
- d) How long does the Common Council have to deliberate on the report and authorize the study?
- e) How long does the Plan Commission have for the study?
- f) How much weight does the survey have in the study or can the Plan Commission go against the survey results?
- g) How long does the Common Council have to discuss the study and vote?
- h) Who will be passing judgment on design issues?.
- i) Is there an appeal process for anyone?

Roll, Rick

From: David Sparer [sparer@herricklaw.net]
Sent: Monday, May 18, 2009 4:00 PM
To: Roll, Rick
Cc: jeffbessmer@gmail.com; services@madisoncommunity.coop
Subject: RE: Draft Zoning Standards for Co-ops and Co-housing
Attachments: coop zoning overview.pdf; coop zoning text suggestions.pdf

Hi Rick - attached are the two items that I would like to have go out to all committee members. Thanks very much. I will bring some hard copies for the meeting too.

Attorney David R. Sparer
Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
phone: 608-257-1369
fax: 608-250-4370

>>> "Roll, Rick" <RRoll@cityofmadison.com> 05/18/09 02:56PM >>>
Hi David,

As far as I can remember the committee members have received all submissions from you, however you may want to bring a few copies in case we missed something. By the way, I asked Matt Tucker to give you a call regarding your previous e-mail to me.

Rick

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

From: David Sparer [mailto:sparer@herricklaw.net]
Sent: Monday, May 18, 2009 2:44 PM
To: Roll, Rick
Cc: services@madisoncommunity.coop
Subject: Re: Draft Zoning Standards for Co-ops and Co-housing

Hello Rick:

A question for you in anticipation of Wednesday's meeting. Have the committee members been given any of the submissions that I have made to either you or the work group? I can bring with me copies for the entire committee. However, if they have in fact already been given to the committee members, then I don't need to do so. Please do let me know today or tomorrow. Thanks.

Attorney David R. Sparer
Herrick & Kasdorf, LLP
16 N. Carroll st, suite 500
Madison, WI 53703
phone: 608-257-1369
fax: 608-250-4370

>>> "Roll, Rick" <RRoll@cityofmadison.com> 05/15/09 04:39PM >>>
Hi,

Attached are draft zoning standards for co-operative housing and co-housing. This item is on the agenda for the May 20, 2009 Zoning Code Rewrite Advisory Committee meeting. Please feel free to contact me if you have any questions.

Sincerely,

Rick Roll, AICP
Senior Planner
Department of Planning and Community
and Economic Development
Planning Division
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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.

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."

Roll, Rick

From: Roll, Rick
Sent: Wednesday, August 06, 2008 1:11 PM
Subject: FW: zoning code, mailboxes, parking and street widths

Hi,

I am sending this e-mail for your information.

Rick

From: Webber, Robbie
Sent: Tuesday, August 05, 2008 9:32 PM
To: Roll, Rick; Dryer, David; Tucker, Matthew; Trowbridge, David
Subject: zoning code, mailboxes, parking and street widths

I have recently become aware that the Postal Service requires that we install street-side mail boxes in all new subdivisions. Tonight we passed an ordinance saying that you cannot park within 4 feet of a mailbox. Obviously, there are also restrictions on how close you can park to driveways, sidewalks, fire hydrants, etc.

My concern here is that if you add together all these areas where you CAN'T park, how much of the street length remains in new subdivisions where you CAN park? If it is a very small percentage, then are we actually building our streets too wide? If we assume that parking on the street is allowed, but then do not allow that parking, are we setting these streets up for speeding?

Where zoning comes in is that perhaps we should require that the mailboxes be placed close to the driveways, where you can't park anyway. Or perhaps if a certain percentage of the street will be restricted parking, then we have no parking at all and narrower streets.

Robbie

Roll, Rick

From: Stephen Steinhoff [stevesc@tds.net]
Sent: Monday, October 20, 2008 2:27 PM
To: Roll, Rick
Subject: residential district comments

Hi Rick,

I will be working out of town during the next couple months, so will not be available for meetings the rest of this year.

For the draft residential districts, I have the following comments:

GENERAL

1) The existing suburban districts should include provisions that enable residents to plan and implement a transition to more compact, mixed neighborhoods.

The requirements of the suburban districts lock in development patterns that, as stated in the City's Comprehensive Plan:

The City of Madison recognizes the problems associated with typical low density suburban development patterns such as increased traffic congestion, urban sprawl that consumes inordinate amounts of vacant land at the urban edge, the decline of downtown and neighborhood shopping areas, loss of a sense of community, and unaesthetic development. In response to these and other problems and increasing dissatisfaction with the quality of new neighborhoods, the City is striving to achieve consistently high quality neighborhoods that are more compact; mixed-use; aesthetically pleasing; and served by a highly interconnected system of streets, sidewalks, paths, and open spaces. New Madison neighborhoods, such as Grandview Commons, incorporate many of the classic design principles and characteristics found in the City's older neighborhoods. These design principles can serve as models for the design and construction of future Madison neighborhoods and the preservation or enhancement of existing neighborhoods. (V. 2. C. 1 Land Use, p.2-4)

The intent of the Comp Plan seems to be to encourage the enhancement of existing neighborhoods to adopt more of the characteristics of older neighborhoods. Codifying districts with low-density, single uses goes against that goal.

On the other hand I don't think it would not be right to declare whole neighborhoods as non-conforming, the way the 1966 code did to older neighborhoods. I suggest that the code adopt provisions to rezone neighborhoods based on neighborhood plans that recommend transitions to more compact, mixed, walkable neighborhoods. This would allow neighborhoods, if they choose, to plan for changes; but not impose the changes from above.

2) New traditional residential districts should be tied to mixed-used districts and transit corridors to ensure complete neighborhoods that are served by adequate transit services.

The City Comprehensive Plan promotes complete traditional neighborhoods, linked to transit service, not just residential districts:

Objective 72: Physically arrange land use activities in compact, interconnected, mixed-use neighborhoods, districts, and corridors to permit convenient, energy efficient travel between homes, businesses, open spaces, schools and other civic uses. V. 2 P. 2-61

See also the Adaptability and Sustainability Goals, Objectives and Policies starting on P. 2-69, such as:

Objective 85: Design mixed-use neighborhoods and special districts that support and encourage energy-efficient transportation modes and lifestyles.

Policy 1: Provide a mix of supporting land uses within neighborhoods and districts to allow many goods and services needed by residents and district users to be provided within convenient distance.

Policy 2: Design neighborhoods and districts to support multiple modes of transportation, including an inter-connected street and sidewalk system supplemented by off-street pedestrian and bicycle paths as required, a street layout which creates efficient routes for public transit service, and good connections to city-wide transportation networks.

The draft residential districts would likely lead, instead, to highly segregated residential districts that may or may not relate to commercial/mixed use districts and transit corridors. The TR-P includes only single and two-unit buildings. Yet a traditional neighborhood should include row houses, town houses, apartments and condos, as well as ADUs and possibly live-work units. Creating separate districts for each component of traditional neighborhoods will preclude a more fine-grained mix of housing types within the same block or in very close proximity.

I recommend instead a Traditional Neighborhood zoning category that includes the subdistricts of mixed-residential, and mixed-use neighborhood center. The mixed residential should include a minimum number of housing types of at least 4. There should be adjacency requirements between the residential and mixed-use district (this could be flexible enough to include mix of civic and park spaces where commercial is not feasible) to meet the Comp Plan goals, objectives and policies. For the Traditional Neighborhood category as a whole, there should be minimum density standards of 8 dwelling units per acre, and provisions to ensure adequate transit service (minimum 15 minute headways during weekday rush-hour traffic). I recognize that the integration of the TN districts is to some extent a mapping function. But I also believe that creating stand alone districts for pieces of traditional neighborhoods, without language in the districts that require them to be tied together into a complete neighborhood is a mistake.

3) Street and block standards should be defined for each zoning district.

Objective 32: Develop and extend a system of local residential streets that are highly interconnected, relatively narrow, and designed to meet the needs of pedestrians, bicyclists, motorists, public transit, and vehicles associated with periodic service providers.

Policy 1: Neighborhood streets and sidewalks should provide an interconnected transportation network that links neighborhoods, districts and corridors without forming barriers between them. Dead-end streets and cul-de-sacs shall generally be avoided unless necessary to protect sensitive environmental features or address significant changes in topography.

Policy 2: Neighborhood street networks should be designed to discourage cut-through non-local traffic and excessive travel speeds.

Note: Street widths and curb radii should be as narrow as possible to accommodate day-to-day auto traffic, as well as, less frequent travel by emergency and service vehicles. Other traffic calming features such as T-intersections, traffic circles, raised and textured street pavement, and crosswalk bump-outs may be used to slow traffic and encourage pedestrian and bicycle activity.

Policy 3: Neighborhood street spacing should create compact blocks with short block faces and perimeters to enhance pedestrian convenience and activity. For example, the common short block face standard is 400' to 600' long.

Policy 4: Design the street networks in all City neighborhoods and districts to provide good access and circulation routes for current or future transit service.

It is not possible ignore the public realm and also meet the goals, objectives and policies of the Comp Plan. I understand that budget constraints led to narrowing the scope of code re-write to the private realm - zoning. However, this should not be a reason for failing to address the public realm. The zoning districts should at least

make reference to the goals and intent of creating street and block standards that are consistent with the Comp Plan.

4) Lot widths and side-yard set backs. I didn't have time to comment for each district, but it seems that the lot widths and side yard set-backs of 50' and 6-7' respectively may be too large for some of the districts, especially some of those for the existing traditional neighborhoods and the urban neighborhoods.

Steve

Stephen Steinhoff
Neighborhood Design Center
www.neighborhooddesigncenter.org
(608) 843-9089

Roll, Rick

From: Carole Schaeffer [cjschaeff@hotmail.com]
Sent: Friday, October 17, 2008 10:26 AM
To: Roll, Rick; rguest@veridianhomes.com
Subject: FW: Scanned from EST-DESIGN 10/16/2008 13:49
Attachments: DOC101608.pdf

Rick - This is the print friendly version of those comments I just sent over from Roger Guest (Veridian Homes). Could you please forward it to the group?

Thank you!

Carole

> Subject: FW: Scanned from EST-DESIGN 10/16/2008 13:49
> Date: Fri, 17 Oct 2008 08:17:08 -0500
> From: rguest@veridianhomes.com
> To: cschaeff@smartgrowthgreatermadison.com
>
> Printable version of comments - horizontal format 8 1/2 x 11. Roger
>
> -----Original Message-----
> From: 600_Veridian Homes_26863 [mailto:est_design@veridianhomes.com]
> Sent: Thursday, October 16, 2008 2:49 PM
> To: Roger Guest
> Subject: Scanned from EST-DESIGN 10/16/2008 13:49
>
> Scanned from EST-DESIGN.
> Date: 10/16/2008 13:49
> Pages:3
> Resolution:200x200 DPI
> -----

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Roger Guest

From: Roger Guest
Sent: Thursday, October 16, 2008 1:11 PM
To: Roger Guest
Subject: Zoning Code Rewrite Draft - Residential Districts

1. General Provisions

A. Permitted Yard Encroachments

- a) Don't understand eaves and gutters 3' all yards but 2' front yard note
- b) Is there a maximum projection of uncovered decks above 3' into rear yard, used to be 6' maximum
- c) Is a 74' high communication tower really allowed in side yards, and if so why not in rear also?
- d) Should some of these permitted encroachments have standards associated with them similar to Residential Use District Chart? For example would a "Bilco" egress window permitted in front yard require screening?

B. Accessory Buildings

- a) Is there a maximum number of accessory buildings allowed as well as maximum area and percentage of yard covered?

C. Front Yard Averaging

- a) No comments

D. Design Standards

- a) These appear now to apply to all residential districts as opposed to originally applying to the R2-S, T, Y and Z districts as tradeoffs for increased density. I will discuss the sidewall offset and garage setback requirements in review of specific zoning districts to follow, and while I agree from a design standpoint with the garage requirement there may need to be the possibility of exceptions due to site conditions and/or a phase in time for districts where they do not currently apply. This will likely be addressed by builders of this plan type.
- b) The nonresidential long façade articulation might better address street facades over 40' in length with plane break requirements rather than increased setbacks

2. Residential District Uses

- I have not compared conditional and permitted uses on a line by line format with those in existing code but these are some general comments
- a) Is there a way to highlight changes (if any) from existing code?
- b) The articulation of applicable standards for the permitted uses will be important here – I know that's yet another level of detail but want to mention it – for example limits on day care occupancy, location of chicken housing, requirements for leased parking, increased setbacks for certain building types or uses, etc. I'll review this more specifically in zoning district review to follow.

3. Specific Zoning District review

For this I'm going to comment on three of the districts, SR-C2 as compared to old R2, SR-V2 as typical of multi-family though I'm sure there will be more comments from builders of predominantly these building types, and TR-P as replacement for R2S, T, Y and Z.

1) SR-C2

- a) This seems comparable to R2 as intended with a slightly reduced rear yard requirement except that the garage setback design

standard is introduced to this zoning district which may cause some resistance. Also if this district replaces the current R2, what happens when someone wishes to substantially remodel what is now a non-complying structure due to garage location?

b) Should there be a height limit on civic/institutional buildings when located in this district further than that created by increased setback requirement?

2) SR-V2

- a) No height limit on civic/institutional buildings other than dictated by increased setbacks
- b) General definition of how building height is determined would be helpful – does one element of structure (ie: church steeple) determine height, how is height of pitched roof building determined?
- c) Why is single-family attached (rowhouse) setback less than detached single-family and multi-family? The difference in setback from multi-family is interesting in that a design requirement for multi-family is that 1st floor units have direct street access creating a building likely very similar in appearance to rowhomes. Also single family front setback in presumably less dense TR-P district is only 15' vs. the 25' required here.
- d) If this is the district alley access rowhomes are most likely to be built in, there needs to be some way to address the rear yard setback to allow this configuration as part of standard zoning.

3) TR-P

This district as a replacement for R2-S, T, Y and Z, which recently have been used frequently to create well designed, higher density single family neighborhoods, seems to have the most differences from the districts combined.

- a) The R2-Z district has been eliminated. As noted in the draft, the 3500sf site minimum has been increased to 4000sf minimum. From our development standpoint this eliminates two alley access site types, 37'x95' (3515sf) and 45'x80' (3600sf) which currently comply with existing R2-Z standards. These smaller site sizes seem appropriate to the alley access sites where more people are looking for reduced home and yard maintenance but preferring a single family home. This difference in site size was one reason the existing ordinance separated alley access and street access districts, having previously been shown one size did not fit all very well. Additionally, the smaller alley access sites helped create more affordability in market rate housing. Finally, would both alley and street access sites in the same zoning district create a possible streetscape scenario of mixed garage forward and garage rear within the same block if sites were individually sold?
- b) The addition of the sidewall offset standard in this district – it was not applicable in the replaced districts – creates more inefficient construction and land use particularly on 1 story street access and all alley access homes. With respect to alley access neighborhood and home planning the zero lot line concept has been widely used with a variety of interpretations but the focus was to create usable sideyard space by giving one home land rights up to the wall of the adjacent home. The home with land rights would have a courtyard space with deck or patio and the adjacent home deliberately had a flat neutral wall with minimum and/or high windows to preserve outdoor privacy for the neighboring courtyard. Offsetting this neutral wall reduces courtyard space by forcing rear portion of home into it and complicates descriptions of land use rights, currently a simple straight front to rear sideyard use easement. On single story street access homes, the footprint usually is greater than 40' in depth, in part due to the rear wall of the home ending up further back because of recessed garage facade requirement, this was one of the trade-offs for the improved garage design – in short the design emphasis was placed on an attractive streetscape as well as efficient land use and construction.
- c) This district, replacing those originally all single family, would appear to include twin homes by right on any lot greater than 44' wide. It would be interesting to hear the rationale that 22' of site width works for a twin home, add a second side yard of minimum 5' for A total of 27', but a 37' single family site doesn't. Further, if this zoning replaces current exclusively single family zoning, how does it relate to existing neighborhoods built under the old ordinance in which there are plenty of sites wider than 44'?
- d) I don't understand the 60' minimum site width for accessory dwelling unit – is this another example of how requirements don't work well when applied to both street and alley access sites? On an alley site, you may want a bit more usable open space, but a "granny flat" over the garage does not add width to the structure. Also the height of an accessory structure should be limited to the lesser of height of principal building or 2 stories/35' – a flat over garage of a 1 story structure would just look bad! Finally, why a 1' difference in rear setback if unit over garage?

- e) As mentioned in previous districts, height limit for civic/institutional uses? Also greater side yard might be desirable depending on use or size of structure.
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- I am of the opinion that too much is being attempted in one district here. We went down that route with R2-S, which was not widely used in part due to issues reoccurring here. Further, in districts that have the best possibility of achieving market rate affordable housing, we should be careful in adding zoning requirements that translate rather directly into construction dollars, more wall offsets, roof breaks, increased site size, etc.
- 4) Definitions and general questions
- a) Seems to be some gray area in pervious pavement and parking – pervious pavement can be included in usable open space, but usable open space really isn't intended for parking. Also, is gravel pervious pavement?
 - b) Does usable open space area still have same dimensional requirements as in old ordinance? Are decks and patios usable open space? Which of these definitions are additions and which replacements – if something not here is it as it was?
 - c) How will these new requirements relate to current zoning requirements in areas of existing construction, are some of the new districts intended only for new construction and others for primarily existing areas.

Roger Guest

Architect

Veridian Homes, LLC

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Madison, WI 53713

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(608) 223-0424

rghost@veridianhomes.com

Visit us at www.veridianhomes.com

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10/16/2008

Roll, Rick

From: Carole Schaeffer [cjschaeff@hotmail.com]
Sent: Friday, October 17, 2008 10:23 AM
To: Roll, Rick
Cc: rguest@veridianhomes.com
Subject: FW: Zoning Code Rewrite Draft - Residential Districts

Rick - Could you please forward this to the rest of the committee?

Thank you,

Carole

Subject: FW: Zoning Code Rewrite Draft - Residential Districts
Date: Fri, 17 Oct 2008 08:16:03 -0500
From: rguest@veridianhomes.com
To: cschaeff@smartgrowthgreatermadison.com
CC: dsimon@veridianhomes.com; jrosenberg@veridianhomes.com; BMunson@vandewalle.com

Good morning Carole, thank you for providing us with a draft of the residential rewrite proposal. Attached are our initial comments - as we knew, the details are very important and are the focus of our concerns particularly with regard to smaller sites and TND neighborhoods, both of which are tools to create affordable market rate housing opportunities in the city. Comments with respect to those particular concerns are found under specific district review, section 3) TR-P. We want to be sure these concerns are made clear to the appropriate parties with both the city and consultant group. This review memo can definitely be used as we have presented it and/or we can attend any meetings where these items will be discussed. I will also send a printable version of these notes by separate e-mail immediately following this message.
Roger

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

From: Roger Guest
Sent: Thursday, October 16, 2008 1:11 PM
To: Roger Guest
Subject: Zoning Code Rewrite Draft - Residential Districts

1. General Provisions

A. Permitted Yard Encroachments

- a) Don't understand eaves and gutters 3' all yards but 2' front yard note
- b) Is there a maximum projection of uncovered decks above 3' into rear yard, used to be 6' maximum
- c) Is a 74' high communication tower really allowed in side yards, and if so why not in rear also?
- d) Should some of these permitted encroachments have standards associated with them similar to Residential Use District Chart? For example would a "Bilco" egress window permitted in front yard require screening?

B. Accessory Buildings

- a) Is there a maximum number of accessory buildings allowed as well as maximum area and percentage of yard covered?

C. Front Yard Averaging

- a) No comments

D. Design Standards

- a) These appear now to apply to all residential districts as opposed to originally applying to the R2-S, T, Y and Z districts as tradeoffs for increased density. I will discuss the sidewall offset and garage setback requirements in review of specific zoning districts to follow, and while I agree from a design standpoint with the garage requirement there may need to be the possibility of exceptions due to site conditions and/or a phase in time for districts where they do not currently apply. This will likely be addressed by builders of this plan type.
- b) The nonresidential long façade articulation might better address street facades over 40' in length with plane break requirements rather than increased setbacks

2. Residential District Uses

I have not compared conditional and permitted uses on a line by line format with those in existing code but these are some general comments

- a) Is there a way to highlight changes (if any) from existing code?
- b) The articulation of applicable standards for the permitted uses will be important here – I know that's yet another level of detail but want to mention it – for example limits on day care occupancy, location of chicken housing, requirements for leased parking, increased setbacks for certain building types or uses, etc. I'll review this more specifically in zoning district review to follow.

3. Specific Zoning District review

For this I'm going to comment on three of the districts, SR-C2 as compared to old R2, SR-V2 as typical of multi-family though I'm sure there will be more comments from builders of predominantly these building types, and TR-P as replacement for R2S, T, Y and Z.

1) SR-C2

- a) This seems comparable to R2 as intended with a slightly reduced rear yard requirement except that the garage setback design standard is introduced to this zoning district which may cause some resistance. Also if this district replaces the current R2, what happens when someone wishes to substantially remodel what is now a non-complying structure due to garage location?
- b) Should there be a height limit on civic/institutional buildings when located in this district further than that created by increased setback requirement?

2) SR-V2

- a) No height limit on civic/institutional buildings other than dictated by increased setbacks
- b) General definition of how building height is determined would be helpful – does one element of structure (ie: church steeple) determine height, how is height of pitched roof building determined?
- c) Why is single-family attached (rowhouse) setback less than detached single family and multi-family? The difference in setback from multi-family is interesting in that a design requirement for multi-family is that 1st floor units have direct street access creating a building likely very similar in appearance to rowhomes. Also single family front setback in presumably less dense TR-P district is only 15' vs. the 25' required here.
- d) If this is the district alley access rowhomes are most likely to be built in, there needs to be some way to address the rear yard setback to allow this configuration as part of standard zoning.

3) TR-P

This district as a replacement for R2-S, T, Y and Z, which recently have been used frequently to create well designed, higher density single family neighborhoods, seems to have the most differences from the districts combined.

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A group of Madison residents have begun discussing guidelines they would like for Accessory Dwelling Units (ADU) in the new Madison Zoning Ordinance.

Here are some beginning suggestions for your consideration:

- 1- Location- ADUs are limited to residential areas where there are single family houses. The ADU may be separate from the principle residence, above the garage or carriage house, attached to the principle residence, or in the residence.
- 2- Subordination- One ADU is allowed per single family home and it will be clearly subordinate to the principle structure in use, size and appearance.
- 3- Residency- The property owner must occupy either the principle house or the ADU. An owner can be absent for just cause for one year in every 5 years. (Could require notarized affirmation of occupancy for initial permit and for new owners)
- 4- Considered part of the principle residence- The ADU shall not be sold separately from the principle residence. The ADU and the lot under the ADU shall not be sold separately. The address of the ADU will be the same as the principle residence plus 1/2. The owner will have the same rights when renting an ADU as he/she has when renting a room in the principle residence.
- 5- Size- The ADU will have a floor area of no less than 300 sq. feet and no more than 700 sq. feet unless it is located above an existing garage that is larger than 700 sq. ft. Then the ADU may have the same sq. footage as the existing garage. (size varies around the country from 300-900). The square footage of the ADU should be less than the principle house.
- 6- Height- The ADU will be no more than 25 feet in height (2 normal stories). If the ADU is located above a garage, the height of the structure should be no more than 25 feet in height (2 normal stories).
- 7- Density- No more than 2 adults with one young child are allowed to live in an ADU. No more than 2 adults are allowed to use an ADU as a studio or office.
- 8- Setbacks- Current setbacks are reasonable. There should be flexibility however for properties where the house and garage were built before current setbacks and do not comply from the get-go.
- 9- Lot coverage- There should be rules for open space around ADUs—we don't understand yet what the current rules are.
- 10- Parking- One off-street parking space is required for the ADU.

Contacts: Joan Laurion
joan.laurion@gmail.com
255-1922

John Linck
john@woodentoy.com
231-2808

Roll, Rick

From: Roll, Rick
Sent: Monday, September 15, 2008 8:58 AM
Subject: FW: Zoning Code Rewrite Contact Form

Hi,

I'm sending this e-mail for your information.

Rick

From: jim@EventsGalore.net [mailto:jim@EventsGalore.net]
Sent: Sunday, September 14, 2008 4:30 PM
To: Roll, Rick
Subject: Zoning Code Rewrite Contact Form

General Information

Name : Jim Winkle
Business :
Address : 813 Emerson Street
City : Madison
State : WI
ZIP : 53715
Email : jim@EventsGalore.net

Message :

Hi,

I understand you're interested in hearing comments from the public about zoning. In general, I'd like to see a strong focus on sustainable ideas. What does this mean? For me, it means at least the following.

Encourage building design to use as little electricity as possible. Electricity consumption is the #1 cause of global climate change not cars, as many think. For example, I believe every new house should include a whole house fan. They're cheap to install at build time, and will save a large percentage of a house's electricity consumption because air conditioning won't be needed.

Encourage the use of renewable electricity. We converted to solar, but the up-front costs can really scare people away, even though long-term it's far less expensive than paying your electric bill. Can a program be started to encourage people to make these investments, like in Berkeley? Small roof-mounted wind generators will be hitting the market soon encourage people to start using these, too.

Encourage the use of solar for lighting and heating.

Encourage good quality affordable housing options, like co-housing.

Encourage better mass transit higher densities are fine. In particular, I'd like to see buses run more frequently, about twice as often as they do now. This doesn't necessarily mean twice the number of buses and drivers... just stagger the routes that go down frequently used corridors.

Have more paved bike/ped paths. Clear them quickly in the winter. Make them wider in frequently used areas, especially where there are many walkers and bikers.

Devote more space to community gardens. Community gardens in Madison are wildly popular... let's get them in more neighborhoods.

Encourage shorter car trips by meeting most of people's needs within a shorter distance. Better yet, eliminate car trips by meeting most of people's needs right in their neighborhood.

Thanks for allowing me to provide input!

Roll, Rick

From: Ledell Zellers [lzellers@mailbag.com]
Sent: Sunday, September 07, 2008 6:41 AM
To: Roll, Rick
Subject: Urban planning's future: people, not cars

Interesting article for our group.

<http://www.inman.com/buyers-sellers/columnists/arrogellner/urban-plannings-future-people-not-cars>

Ledell Zellers
510 N Carroll Street, Madison, WI., 53703

Roll, Rick

From: Roll, Rick
Sent: Friday, September 05, 2008 9:07 AM
Subject: FW: [Fwd: ecodensity]

Hi,

I'm sending this for your information.

Rick

From: peter fiala [mailto:toofarunderwater@yahoo.com]
Sent: Thursday, September 04, 2008 6:12 PM
To: Roll, Rick
Subject: Re: [Fwd: ecodensity]

Rick, would you please pass on that I would love to see Madison include such a philosophy as the basis of our city planning decisions. This is smart thinking.

Peter

toofarunderwater.com: for resources on government corruption, social injustice, poor environmental planning, the crumbling of capitalism, etc.

under-current.org: post consumer paper products reclaimed or recycled from local sources, designed to encourage the written word: greeting cards with original Wisconsin environments, handmade journals, homemade paper. We donate 10% to local non-profits of the customer's choice.

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

From: "Roll, Rick" <RRoll@cityofmadison.com>
Sent: Monday, July 21, 2008 10:17:13 AM
Subject: FW: [Fwd: ecodensity]

From: Rhodes-Conway, Satya
Sent: Sunday, July 20, 2008 6:08 PM
To: Roll, Rick
Subject: [Fwd: ecodensity]

Perhaps of interest to the committee.

SRC

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

From: Ecodensity
To: Ecodensity
Sent: Thursday, June 12, 2008 5:00 PM
Subject: Council Approves EcoDensity Charter

Council Approves EcoDensity Charter

Vancouver City Council unanimously voted on June 10 to adopt the EcoDensity Charter.

The EcoDensity Charter commits the City to make environmental sustainability a primary goal in all city planning decisions - in ways that also support housing affordability and livability.

The first two actions to be implemented by the City immediately are:

1. Rezoning policy for greener buildings: Applications for new rezoning will need to meet a minimum LEED™ (Leadership in Energy and Environmental Design) Silver rating, or similar equivalency in green design. The City will also be expecting that energy performance, water efficiency and storm water use be considered.

2. Rezoning policy for greener larger sites: Changes to rezonings for land that is two acres or more. A number of sustainability measures will be required for these rezonings, and for sites with housing, a range of types and tenures must be considered to increase affordable housing opportunities.

Longer-term actions that will receive priority include: an interim EcoDensity rezoning policy; options for backyard/laneway housing; more options for secondary suites; and removal of barriers to green building approaches.

Council initiated the EcoDensity program in July 2006. The final Charter and Actions incorporated public input from a Special Council Meeting that lasted seven sessions, amongst numerous other public consultation opportunities.

To view the EcoDensity Charter and Initial Actions and for more information:
vancouver.ca/ecodensity

Roll, Rick

From: Roll, Rick
Sent: Thursday, August 14, 2008 3:40 PM
Subject: Mark White's Zoning Publications
Attachments: L_Use_Classification_Zoning Practice_September 2005 S. Mark White.pdf;
BuiltOut_Comm's_Zoning Practice_Aug06.pdf

Hi,

Suzanne Rhees asked me to share these publications with you. Mark White wrote these reports for the American Planning Association.

Rick Roll, AICP

Senior Planner

Department of Planning and Community
and Economic Development

Planning Division

215 Martin Luther King, Jr. Blvd.

P.O. Box 2985

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608-267-8732 PH

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ZONING PRACTICE

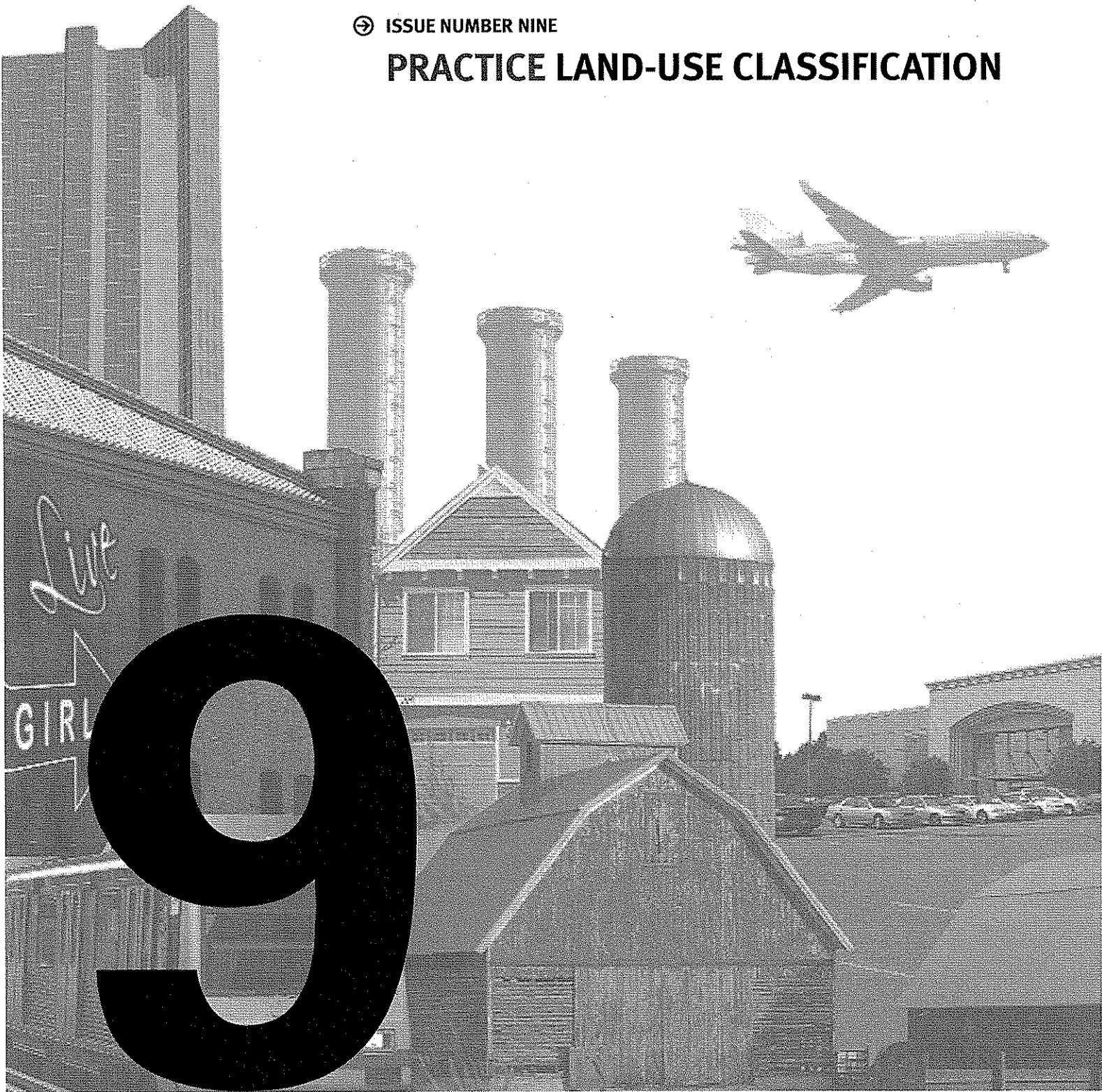
September 2005

AMERICAN PLANNING ASSOCIATION



⊕ ISSUE NUMBER NINE

PRACTICE LAND-USE CLASSIFICATION



Classifying and Defining Uses and Building Forms: Land-Use Coding for Zoning Regulations

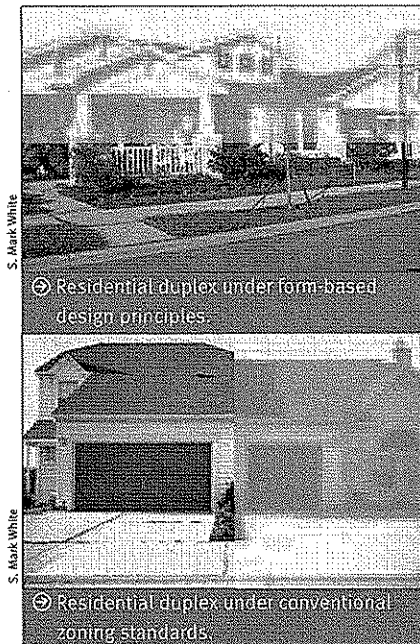
By S. Mark White, AICP

Defining and classifying uses is the heart of conventional zoning systems.

In zoning law, the term “use” refers to the purpose for which a parcel or building is utilized. Land-use classification systems are a systematic organization of land uses for purposes of planning or plan implementation. Conventional, or “Euclidean,” zoning assigns land uses to districts that are established in the ordinance. The theory behind Euclidean zoning is that assigning the right uses to each district protects the districts from intrusion by inappropriate uses. Precise definitions and distinctions between uses are needed not only to allocate uses to the appropriate districts, but also to determine how the uses are classified and the regulations that apply to them.

Form-based zoning (FBZ) has emerged as an alternative to conventional zoning. FBZ is based on the theory that design controls can resolve many potential inconsistencies between land uses. Design controls for FBZ ordinances include building envelope standards, building frontage requirements, fenestration (window and entryway), facade coverage, and traditional facade modulation techniques. FBZ regulations apply these elements to differentiate districts by building form and building-street relationships. By contrast, under Euclidean zoning, a use relates to the function of a structure and not its form.

FBZ can empower the evolution of traditional urbanism in existing and new neighborhoods. However, a pure FBZ ordinance ignores many of the secondary impacts of uses, such as traffic, noise, and lowering of property values. Accordingly, most existing FBZ ordinances include restrictions on uses along with design controls.



Systematic approaches to defining land uses are also needed for other types of land-use regulations, including impact fee and transfer of development rights (TDR) ordinances. For example, many impact fee studies use the broad land-use categories from the Institute of Transportation Engineers' *Trip Generation* to calculate the fees. While this is a useful methodology, the ITE categories are often carried forward into the impact fee ordinance. This can create administrative issues because many specific land uses arguably fit either several broad ITE categories or none of them. In addition, failing to link ITE land-use categories to the zoning categories leaves zoning administrators guessing how specific zoning uses are

classified. This can be time-consuming and cumbersome, requiring the administrator to issue administrative interpretations as to which ITE category a specific land use fits. If the alternative land-use categories have significantly different fee amounts (which is typical), property owners and developers will argue for the category that carries the lower fee. If their arguments prevail in an administrative proceeding or court action, this can have a significant fiscal impact on the community.

Land-use classification systems are also useful for cutting-edge TDR regulations. While TDR typically involves transfers of densities and intensities between similar uses, some programs allow residential densities to transfer to commercial or non-residential uses on other sites. Land-use classification systems can be useful for determining which uses qualify for density transfers from a sending to a receiving site, and for calculating the appropriate transfer ratio.

Zoning use lists and other land-use regulations are often developed and adopted without a link to a land-use coding system. However, local governments increasingly use land-use classification systems to regulate uses, which is the focus of this issue of *Zoning Practice*. Land-use classification systems have the following advantages:

- **Systematically categorizing uses.** Coding systems allow zoning administrators and code users to see the relationships between uses, which creates a framework for allocating uses to various zoning districts.
- **Defining uses.** Land-use classification systems provide a basis for crafting definitions for principal, discretionary, and accessory uses.

ASK THE AUTHOR (JOIN US ONLINE!)

From October 24 to November 4, go online to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. S. Mark White, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using an e-mail link. The author will reply, posting the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

S. Mark White, AICP, is an attorney for White & Smith LLC in Kansas City and is recognized as an expert in zoning and subdivision law, form-based zoning and new urbanism, land-use and takings litigation, housing, comprehensive growth management plans, and implementation systems. White & Smith LLC is a multidisciplinary urban planning and land-use law firm. Visit their web pages at www.planningandlaw.com.

- **Streamlining.** Land-use classification systems can shorten the length of an ordinance by providing an external reference for uses. This is particularly useful when staff have to address uses rarely seen in the jurisdiction. Instead of lengthening the ordinance and increasing printing costs by defining each use in the code document, the definitions can be reserved for uses that involve the majority of staff time.
- **Use relationships.** When a list of uses is published in matrix format, the reader can easily tell where the community permits the uses. The traditional enumerated list of uses permitted in each district does not allow such comparisons.

WHY WE NEED CLASSIFICATION SYSTEMS

While form-based zoning is the latest trend in the planning profession, use districting remains the mainstay of most zoning ordinances. This is expected to continue into the foreseeable future because key participants in the land-use planning process have legitimate interests in district uses.

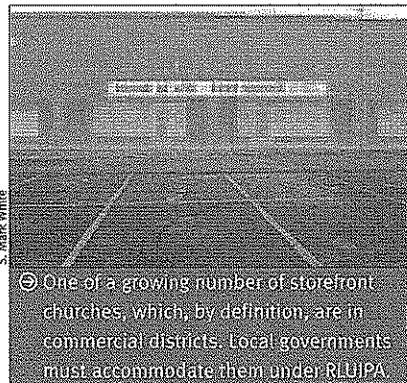
First, developers and landowners are interested in preserving uses that maintain the economic viability of commercial and industrial zoning districts. A simple change in commercial zoning from a district with limited uses to one with a broader range of uses can yield significantly higher rents from the same building. However, some commercial landowners are key proponents of use restrictions. This was one of the earliest justifications of Euclidean zoning. For example, a key objective of New York City's 1916 zoning district regulations was to protect the city's

Garment District. Local governments continue to use zoning to preserve land for uses that generate high employment or tax ratables, and to maintain opportunities for economic development.

Second, public officials have a significant interest in separating uses that can create public nuisance situations. Protecting the public health, safety, and welfare remains the most significant justification for zoning and land-use regulations. While environmental regulations can mitigate many impacts created by intensive land uses, spatial segregation is still one of the most powerful means to avoid adverse impacts on sensitive land uses.

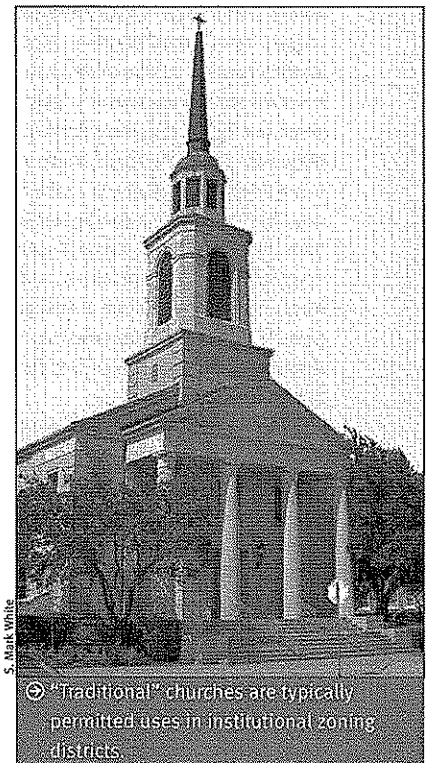
Third, neighborhoods are interested in use-based zoning to protect property values and to maintain the tranquility of residential neighborhoods. Regardless of how well a building is designed, the uses that occupy the building can generate noise, vibration, and similar characteristics that are incompatible with a residential living environment. Examples include high-turnover restaurants, adult bookstores, nightclubs, bars, and other uses that generate

high traffic volumes or characteristics that neighbors often find objectionable. On the other hand, zoning regulations must mediate neighborhood concerns with regional needs for affordable housing, living environments for disabled persons, and site locations for churches, cell towers, medical facilities, and other land uses that have regional benefits but that are typically unpopular with neighborhoods. Federal regulations governing such uses, such as the Telecommunications Act of 1996 and the Religious Land Use and Institutionalized



S. Mark White

⊕ One of a growing number of storefront churches, which, by definition, are in commercial districts. Local governments must accommodate them under RLUIPA.



S. Mark White

⊕ "Traditional" churches are typically permitted uses in institutional zoning districts.



S. Mark White

Ⓢ A mail distribution facility in a light industrial district. Communities often exclude residential uses from these districts to reserve land for economic development.

Persons Act (RLUIPA), require a careful legal review and diagnosis of use regulations to ensure compliance with state and federal law.

Zoning administrators are also concerned with use regulations because they are the ones involved in mediating competing concerns. They must be prepared to give applicants a clear answer on what is permitted in a district and the applicable procedures for zoning approval. On the other hand, the regulations must be sufficiently clear to allow administrators to bring a zoning enforcement action if inappropriate uses are established in a neighborhood.

BREADTH AND FLEXIBILITY

Zoning district use regulations typically require several modifications. First, zoning district use lists can be underinclusive, often because today's uses were largely unknown when the regulations were drafted. While it is impossible to contemplate every possible use in existence either today or in the future, it is possible to develop a comprehensive list of uses by using several national classification systems for uses or industries, such as the North American Industrial Classification System (NAICS) and the American Planning Association's Land-Based Classification Standards (LBCS).

Conversely, overinclusiveness creates a rigid separation of uses based on their differences rather than basing the uses on real—even perceived—problems with locating them in the same neighborhood. Not only can this present a hardship to landowners, but it can also thwart comprehensive planning policies that foster more compact, pedestrian-friendly neighborhoods. This result can be sprawling development patterns where otherwise complementary districts are beyond walking distance from one another. Planners and code

drafters can resolve this issue by focusing more on building forms than uses in the regulations. While most local governments are not prepared to completely abandon use controls, a greater emphasis on building design and a de-emphasis on use can permit the evolution of mixed-use, complete neighborhoods. The buildings classification in LCBS can be built into the matrix to substitute building form for conventional use restrictions.

Finally, even zoning ordinances with comprehensive use listings typically do not define all of the listed uses. Developing a complete list of definitions would take years, consuming hundreds of pages. Fortunately, the use classification systems described above contain definitions of uses and industry classifications. Specific definitions should be provided where state or federal law, local policies, or other factors require a unique definition.

OBJECTIVES OF USE CLASSIFICATION SYSTEMS

Zoning classification systems should focus on several objectives: usability, enforceability, and consistency with local land-use policies.

First, the list of uses must be *clear and understandable*. In other words, the list of permitted uses must be *user-friendly*. To achieve these goals, the following are required:

- (1) The terminology must be clear and as free as possible from interpretation. This makes the list of permitted uses easier for both the zoning administrator and applicants to understand. Clear terminology and definitions minimize the amount of time zoning staff needs to prepare interpretations and helps to avoid arguments with applicants. In addition, a clear use matrix explains the rules of the game to applicants before they approach the zoning administrator.

- (2) The uses must be well organized. Uses should be placed under categories where people expect to find them. The list of uses should be organized clearly and in a way that is consistent with professional practice. If uses are not well organized, staff and applicants lose time attempting to locate the use in the matrix. In addition, the likelihood of uses being classified differently in several places creates the potential for inconsistencies and vagueness.

Most zoning ordinances organize uses broadly into residential, commercial, and industrial land-use categories. This has been the practice since the inception of zoning in the United States, and continues under most ordinances today.

- (3) Uses should be clearly defined. If uses are not clearly defined, zoning staff is called upon to interpret the ordinance.

If the applicant disagrees with the interpretation, courts could be called upon to interpret the ordinance. Because ambiguities in zoning regulations favor the property owner, the result could be an interpretation that undermines the integrity of the local government's zoning scheme. Further, from the applicant's perspective, it means an unnecessary delay in the development approval process.

Second, the list of permitted uses should be exhaustive. While this makes the list longer, it also minimizes the need for formal interpretations and potentially minimizes litigation. Under most zoning systems, omitting uses means either that the use is not permitted or that it fits within a broader use category. This creates the need for staff and administrative agencies (such as the board of adjustment) to render a formal interpretation. If the applicant or landowners in surrounding neighborhoods disagree with this interpretation, the result could be litigation.

This does not mean every particular use must be enumerated in the list of permitted uses. However, all potential uses should be covered to the extent possible. For example, a general use category for retail sales will encompass a number of potential sales establishments, including some not in existence today. Again, it is not possible to contemplate every use that will become the subject of a zoning application.

Third, the list of permitted uses should be consistent with the local government's

planning policies as expressed in the comprehensive plan. The permitted uses should support and reinforce the districting policies established in a future land-use element and other elements of the plan.

Finally, the list of permitted uses must be consistent with state and federal law. For example, constitutional law, federal legislation, and sometimes state legislation require that adult uses, cell towers, churches, and similar uses be permitted somewhere in nearly all jurisdictions. Failing to recognize these uses in the permitted uses list or elsewhere in the zoning ordinance could result in their outright exclusion from the jurisdiction or failure to accommodate them in a sufficient number of locations. The result may be an unwinnable lawsuit, along with potential litigation expenses, damages, and attorneys fees.

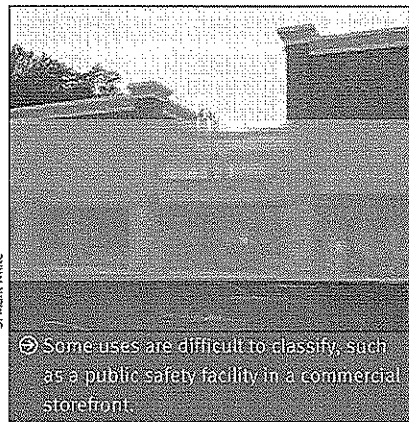
LAND-USE TAXONOMY: EVOLUTION AND APPLICATIONS

Industrial classification systems. Perhaps the earliest system of land-use taxonomy in the United States was the List of Industries for Manufacturing and List of Industries for Nonmanufacturing industries, completed in 1938–1939 by the Interdepartmental Committee on Industrial Statistics established by Central Statistical Board of the United States. This was later replaced by the Standard Industrial Classification (SIC) developed by the United States Office of Budget and Management in 1957. In older zoning ordinances, SIC was used to organize and define uses. Many zoning ordinances still use it as a cross-reference for permitted uses.

In 1997, The United States Department of Commerce updated the industrial classification system in the North American Industrial Classification System (NAICS). The system includes nearly every economic classification or activity in existence on the North American continent, and is updated periodically.

Industrial classification systems have several shortcomings as applied to zoning regulations. First, they are overspecialized for use in zoning ordinances and comprehensive plans. Listing every use in the classification system can result in a zoning ordinance that is excessively long and difficult to organize and understand. Second, the purpose of classification systems is to categorize industries rather than address land-use impacts. Accordingly, uses within the same industry

can have widely different impacts. For example, service sector uses such as nail salons are classified in the same category as tattoo parlors. However, many local governments are interested in restricting tattoo parlors because of their perceived neighborhood impacts. By focusing on similar market characteristics, the industrial classification system ignores the differences between these two very different uses. SIC and NAICS are comprehensive, but their classifications are sometimes incongruent with zoning.



S. Mark White

Transportation models. Transportation professionals have also developed classification systems to predict trip generation for various uses. An older version of this model is the Standard Land Use Classification Model (SLUCM). In 1965, the Urban Renewal Administration of the Housing and Home Finance Agency (now HUD) and the Bureau of Public Roads of the Department of Commerce (now the Department of Transportation, Federal Highway Administration) developed SLUCM to establish an extensive system of land-use activities for the purpose of providing uniformity in collection and analysis of planning information. It contains four levels of land-use activity categories, each higher level providing progressively greater specificity. SLUCM is still used by the United States Air Force and Federal Aviation Administration for airport compatibility planning.

SLUCM refined the nomenclature originally developed in 1957 in SIC, which was developed to provide a classification system for economic activity. SLUCM land-use categories have no particular relationship to noise sensitivity, aircraft accident considerations, or

any particular planning consideration. They are merely intended to provide a uniform and comprehensive categorization of land-use activity.

An up-to-date classification system is included in ITE's *Trip Generation*. The manual uses broad land-use categories to assemble data on observed trip characteristics. Because it is a comprehensive empirical database of trip generation—a key indicator of land-use impacts—it is typically used in impact fee studies. However, the breadth and limited scope of the manual limit its effectiveness for use in a list of permitted uses in zoning districts.

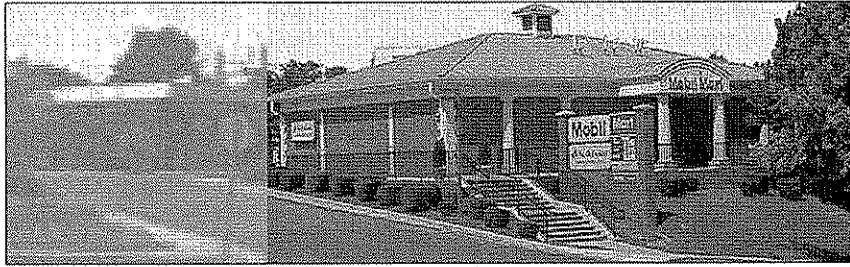
APA's Land-Based Classification Standards. The Land-Based Classification Standards (LBCS) merges the different forms of land-use classification into a single model that can be used for a variety of applications. Originally conceived as an update to SLUCM, LBCS consists of five classification systems: activity, function, structure, site, and ownership. The function classification works as an industry classification, although at a much less detailed scale than NAICS. The structure classification is best for design-based codes in communities or situations where the concern is more about the form and massing of a building and not its use. In practice, most communities prefer a combination of the function and structure classifications. The activity, site, and ownership classifications are generally more adaptable to mapping than to zoning regulation. Most states prohibit regulation of forms of ownership through zoning, eliminating this classification for zoning.

APA developed LBCS in collaboration with numerous public and professional agencies. APA maintains an extensive collection of land-use descriptions under each category, color-coding systems for mapping, working papers, photographs, and other useful information at www.planning.org/lbcs/index.html.

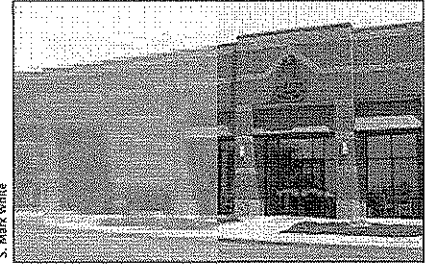
APPLYING LBCS

The application of a land-use coding system such as LBCS to a zoning ordinance involves several key steps.

Organizational framework. First, the jurisdiction must determine how it wants to regulate land use. Is it interested in maintaining both a tight separation of land uses and the relative simplicity of conventional zoning? Or does it want to maintain flexibility between uses to achieve better design? Answering this key question will go a long way in determining

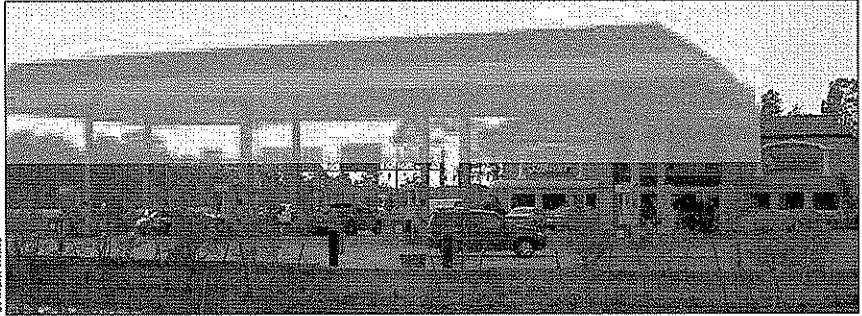


S. Mark White



S. Mark White

These images show different arrangements for similar uses. Clockwise from above: convenience store/gas station combination with pumps in rear; inconspicuous drive-thru of a suburban fast-food establishment; fast food/gas station combination use. The photos also show the necessity of defining accessory uses such as canopies.



S. Mark White

THE FIVE CLASSIFICATION STANDARDS OF LBCS

Activity. *An observable characteristic of land based on actual use.* It describes what occurs in physical or observable terms (e.g., farming, shopping, manufacturing, vehicular movement, etc.). For example, an office activity refers only to the physical activity on the premises, which could apply equally to a law firm, nonprofit institution, courthouse, corporate office, or other office use. Similarly, residential uses in single-family dwellings, multifamily structures, manufactured houses, or other building types would be classified as residential activity.

Function. *The economic use or type of establishment using the land.* The type of establishment determines the characterization of land use. Land-use terms, such as "agricultural," "commercial," and "industrial," relate to establishments. The type of economic function served by the land use gets classified in this dimension; it is independent of activity on the land. Establishments can offer a variety of on-premise activities yet serve a single function. For example, two parcels are said to be in the same functional category if they serve the same establishment, even if one is an office building and the other is a factory.

Structure. *Type of structure or building type on the land.* Land-use terms embody a structural or building characteristic, which indicate the utility of the space (in a building) or land (when there is no building). Land-use terms, such as "single-family house," "office building," "warehouse," "hospital building," or "highway,"

also describe structural characteristic. Although many activities and functions are closely associated with certain structures, it is not always so. Many buildings are often adapted for uses other than their original use. For instance, a single-family residential structure may be used as an office.

Site. *The overall physical site development character of the land.* For most land uses, it is simply expressed in terms of whether or not the site is developed. But not all sites without observable development can be treated as undeveloped. Land uses, such as parks and open spaces, which often have a complex mix of activities, functions, and structures on them, need categories independent of other dimensions. This dimension uses categories that describe the overall site development characteristics.

Ownership. *Legal and quasi-legal ownership constraints of the land.* Ownership refers to the relationship between the use and its land rights. Since the function of most land uses is either public or private and not both, distinguishing ownership characteristics seems obvious. However, relying solely on the functional character may obscure such uses as private parks, public theaters, private stadiums, private prisons, and mixed public and private ownership. Moreover, easements and similar legal devices also limit or constrain land-use activities and functions. This dimension allows classifying such ownership characteristics more accurately.

Source: American Planning Association, Land-Based Classification Standards, LBCS Tables, at www.planning.org/LBCS

how to structure a system of uses. Jurisdictions that want conventional zoning will need a longer list of uses to maintain the integrity of the districting scheme, avoid unwanted intrusions into residential districts, and reserve land for higher economic uses. Those that focus on design can get by with a much shorter list of uses or an abbreviated list based on the structure classification system of LBCS.

Most code updates today include a hybrid of conventional and form-based zoning concepts. While comprehensive plans frequently recite a desire for better design and new urbanism, neighborhoods and developers want to maintain some form of use districting. Because updates must go through the legislative process, most jurisdictions end up with a combination of districting along with design standards such as build-to lines and building fenestration.

The organizational framework will determine the number of levels employed in the land-use classification system. A jurisdiction that is interested in tightly controlling land use will typically use levels to the fifth or sixth level of classification. Those with greater design interests and with less of an interest in the range of permitted uses may use one or two level classifications in the use matrix.

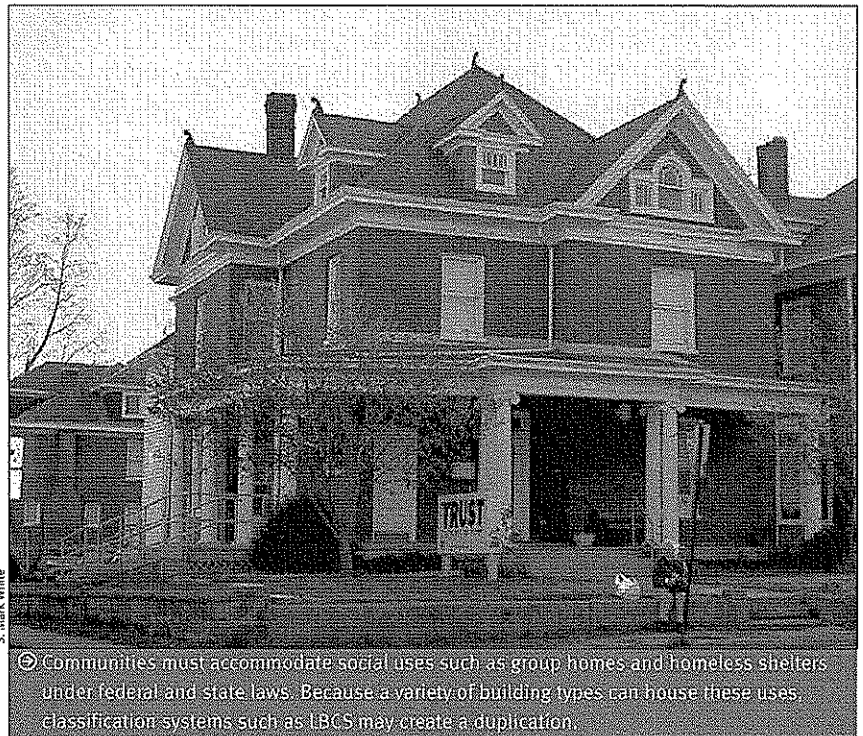
Develop an initial list of uses. Based upon staff experience and identified land-use trends, jurisdictions typically develop an initial list of permitted uses. These uses should include existing uses or use categories, uses currently going through the permitting process, uses for which the staff expects to receive applications, and uses the jurisdiction would like to encourage. It is good practice to begin with a comprehensive list of uses, such as the LBCS function and structure categories, and then pare down the list to conform to local conditions. The list should not be simply cut and pasted, but should instead reflect local conditions.

Distribute uses to zoning districts. Once the initial list of uses is developed, they should be distributed to individual zoning districts. As a starting point, consult the comprehensive plan policies and, if applicable, the existing zoning system. Ideally, the uses should conform to the policies expressed in the jurisdiction's future land-use map or transect-based plan. However, planning staff should be aware of where uses are currently permitted before taking the use list

through the legislative process. Landowners are likely to object if uses currently permitted are no longer permitted when the list is updated. In practice, most zoning code updates include the addition of new uses and removal of others. Also, uses can be reassigned to a discretionary process instead of removing them completely.

Display. Finally, the code drafter must decide how to display the list of permitted uses. The alternatives are a use matrix or a list of uses in individual districts. A matrix consolidates the listing of permitted uses, shortening

exclude some uses to shorten and streamline the list. While this may create the appearance of a user-friendly ordinance, it can create problems in practice. If uses are omitted, staff time can be consumed in preparing administrative interpretations or processing requests for use variances or rezonings. Because many ordinances provide that uses not listed are prohibited from the zoning districts, omitting a use can exclude it from a jurisdiction entirely. As mentioned earlier, federal and state law prohibit many uses from being



the ordinance and allowing the reader to quickly determine what uses are allowed and where they are permitted. The disadvantage of the matrix is that it requires the reader to shuffle between the zoning district dimensional regulations and the list of permitted uses.

Conversely, displaying the uses in individual districts has the advantage of consolidating all of the district regulations, including the use regulations. The disadvantage is that uses must be repeated in each district where they are permitted. This adds to the length of the ordinance and can create a rather cumbersome display.

Controversial uses. In preparing use matrices, code drafters may be tempted to

excluded from an entire jurisdiction. In addition, excluding a use entirely could invalidate the ordinance on preemption grounds. For example, environmental regulations in many states create licensing schemes for certain uses, such as landfills, hazardous waste facilities, and concentrated animal feeding operations. Under the doctrine of preemption, a local government cannot prohibit what the state permits.

Unusual uses. Despite the best efforts and long hours of national experts in producing land-use and industry code standards, some uses will invariably fall through the cracks. Tattoo parlors and adult uses are two such examples, neither of which is listed



S. Mark White

⊕ Though sometimes controversial, indoor skate parks may not appear in some land-use classification systems.



S. Mark White

⊕ This environmental monitoring station is difficult to classify. Though it may show up in the use classification system, local zoning administrators may be unaware of it.

expressly in LBCS or NAICS. To the extent such uses are known, they must be defined and assigned to a zoning district. The ordinance must allow many of them—adult uses in particular—a place in the jurisdiction, allocating sufficient land area to pass judicial standards.

It is impossible for the zoning staff to anticipate all future uses. Technological advances and market conditions will undoubtedly create new ones. Accordingly, zoning district regulations should include good standards for making administrative interpretations for them. If they do not, the landowner will normally need to request a text amendment to permit the use in one or more of the existing zoning districts (or create a new district for the use). A

use variance is permitted in some states but requires a standard of review that will not work for many sites. The interpretation standards can be tied to the land-use classification system along with performance standards such as trip generation and compliance with appearance or community impact standards.

Defining the uses. There are several ways to define uses, including directly in the zoning ordinance. This option expands the text of the zoning ordinance but minimizes the need to refer to external sources. Local governments can use a hybrid approach by defining those uses that will consume the majority of staff time while leaving the others to external references such as LBCS definitions. A

second option is to cross-reference LBCS. The ordinance should include a date and location for the sources so that applicants can obtain recent definitions. Code drafters should avoid the practice of cross-referencing the “latest” edition of the LBCS document. Normally, future updates to LBCS will not automatically become legally incorporated into the zoning ordinance by reference because an external reference would have the effect of amending the zoning ordinance without following the procedures required by state zoning statutes. When revisions are made to LBCS or other code references, a simple text amendment should be adopted that incorporates that edition by reference.

Again, code drafters should avoid “punting” uses that are controversial or difficult to understand. Failing to define a use could expose the ordinance to invalidation based on total exclusion from the jurisdiction or vagueness. Due process requires that zoning rules be ascertainable to a reasonably intelligent person. If the ordinance is too vague to convey meaning, or if staff is given unfettered discretion to determine where the uses are permitted, some courts will strike down the zoning provisions. While the remedies vary between states, some courts will order that the use be permitted or award damages. Even if the penalty is simply to amend the ordinance to conform to state or federal law, litigation is costly and can undermine public confidence in zoning administration.

Distinctions between uses. The primary purpose of zoning district lists is to allocate uses to districts. Once completed, the jurisdiction must determine how they are permitted. Under most ordinances, uses permitted by right are entitled to be established with a simple building permit if they comply with the ordinance standards. Conditional uses, special uses, or special exceptions require a public hearing and discretionary review by zoning agencies such as the planning commission, board of zoning adjustment, or legislative bodies such as a county commission or city council.

Even for by-right uses, the zoning regulations can make other distinctions, including standards for square footage or scale, design, parking, landscaping and buffering, or similar standards. Code drafters can make the distinctions in the use matrix, in a separate section that includes dimensional standards, or in both.

REGULATORY ALTERNATIVES FOR CLASSIFYING AND CODING USES

Regulatory Alternative	Advantages	Disadvantages
Consolidates uses into a matrix.	Abbreviates text, and reader may compare uses among districts.	Scatters district regulations.
Uses NAICS/LBCS to expand uses.	Improves thoroughness and allows local government to tailor districts more effectively to different situations.	Complicates the ordinance.
Uses LBCS structure classification to replace use classification.	Allows zoning to focus on building form rather than uses, consistent with the mandate of the plan.	Not likely to be acceptable to some neighborhood groups.
Uses LBCS structure to supplement use classification.	Preserves ability to regulate building form while providing control over uses.	More complicated than regulating by building type alone.
Expands list of uses permitted by discretionary review (e.g., conditional use permit, special exception).	Promotes mixed use by permitting wider range of uses while preserving discretionary control.	Lengthens the ordinance. Some mixing of uses consistent with plan policies could be discouraged by discretionary review or thwarted by political opposition.
Expands list of uses permitted by right in each district, but subject to criteria prescribed in the ordinance.	Preserves control over potential adverse impacts through the use of standards while allowing streamlined permitting.	Eliminates case-by-case review at public hearings.

CLASSIFICATION SYSTEMS EMPLOYED

San Antonio, Texas. In 2002, San Antonio updated its unified development code to incorporate new urbanism and update the city's conventional zoning district categories. The city combined two zoning regimes: an older one that included aging, traditional city neighborhoods, and a newer set of zoning districts adopted in 1987. In combining these districts, the city adopted an updated list of permitted uses based on LBCS and NAICS.

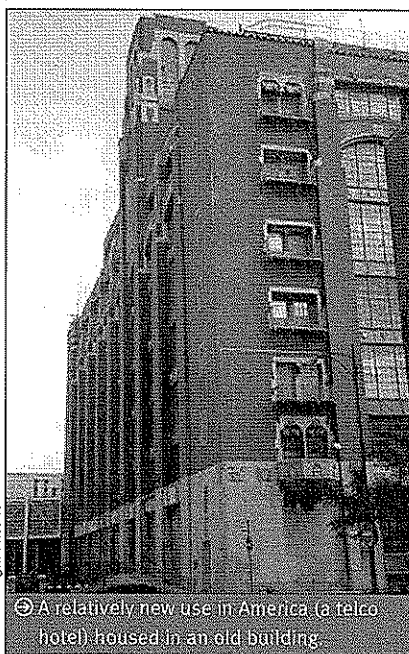
An early draft of the zoning district standards included a streamlined list of uses based on LBCS structure classifications and a few uses selected from the function category. The list was responsive to the city's master plan policies that directed a more design-based code based on principles of new urbanism. While the streamlined use classification system was praised by the local media, participants in the steering committee charged with updating the ordinance found that a longer list of uses would be more administratively convenient in the long run. To avoid future interpretation problems, the city ultimately adopted a longer, more comprehensive list of uses.

Hillsborough County, Florida. A design-based code could use a reference to building form, rather than simply uses, in each zoning district. These codes focus on building design

in each district rather than on the type of business occupying the building. Hillsborough County's traditional neighborhood development code divides new planned developments into four subareas: greenspace, residential neighborhoods, commercial, and core. Within each subarea, a zoning matrix using

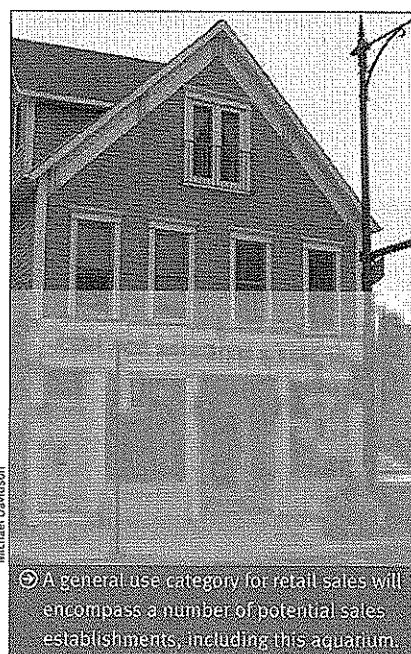
the LBCS structure classification controls building form.

Frederick, Maryland. Frederick's land management code (LMC), adopted in July 2005, divides permitted uses into 10 major categories, including residential; accommodations and group living; general sales or service;



Angela Mesinos

⊕ A relatively new use in America (a telco hotel) housed in an old building.



Michael Davidson

⊕ A general use category for retail sales will encompass a number of potential sales establishments, including this aquarium.

industrial and manufacturing; warehousing and storage; arts, recreation, and entertainment; education, public administration, health care, and institutional; transportation, communication, information, and utilities; utility and structures; and agriculture.

The uses are displayed in a matrix that corresponds to the city's 20 zoning districts,

within which uses are permitted in one of several ways (see Frederick, Maryland, Use Matrix). Standards are included for interpreting omitted uses. For questions about whether a use falls within an existing category, the zoning administrator looks first to the use classifications. If the classifications prove insufficient to answer the question,

the administrator applies trip generation as identified in ITE's trip generation manual or local studies.

The LMC also creates incentive-based performance standards for increases in density and intensity. While applicants can use their property for the uses and intensities permitted in the baseline zoning

FREDERICK, MARYLAND, USE MATRIX

Use	RC	RO	R4	R8	R12	R16	R20	PB	NC	GC	MO	M1	M2	DB	DR	DBO	MU	MXE	IST	PRK	LECS Function	LECS Structure	NAICS	
Residential Uses																								
Accessory Apartments			C	C	C	C	C	P	C	C				P	C	C	P	P	C					
Accessory Detached Dwelling Unit			P	P	P												P							
Duplex														P	P	P	P					1100	1202	-
Multi-Family				P	P	P	P							P	P	P	P	P				1100	1200	-
Multi-Family with Accessory Retail							C	C						P	C	C	P					-	-	-
Single-family	P	P	P	P	P	P	P	A						P	P	P	P					1100	1120	-
Townhouse				P	P	P	P							P	P	P	P					1100	1140	-
Two-family				P	P	P	P							P	P	P	P					1100	-	-
Accommodations and Group Living																								
Bed and breakfast inn		C	C	C	C	C	C	C	C					C	C	C	M					1310	-	721191
Group Home				P	P	P	P							P	P	P	P		P			6520 6561	-	623220 623990
Hotel, Motel, and tourist court								P		P	P	P		P	P	P	P					1330	1330	-
Senior Living & Retirement Facilities				C	C	C	C							C	C		M		P			1200-1210	-	623312
Nursing Home/Domiciliary Care/Adult Living Facility		C	C	C	C	C	C		C					C	C		M	C	P			1230 1250 6520	-	623110 623111 623112 623312 623311
Rooming House			C	C	C	C	C							P	C	P	P	C				1320	-	721310
General Sales or Service																								
Accessory Drive Through Facilities								A	A	A	A	A	A	C		C	A	A	C					
Animal Care Services (including grooming & boarding)										P		P	P					P						
Animal Grooming (Excluding Boarding)									S	P				P			P	P				2720	-	541940
Antiques									P	P				P		P	P	P				2145	-	-
Apparel									S	P				P		P	P					2133	-	-
Arts, crafts, or hobby supplies									P	P				P		P	P	P				2134	-	45112, 45113
Art Gallery, including framing								P	P	P				P		P	P	P				-	4410	45392
Automobile Filling Station/Service Station									P	P	C	P	P				P	P				2116	2270	4471

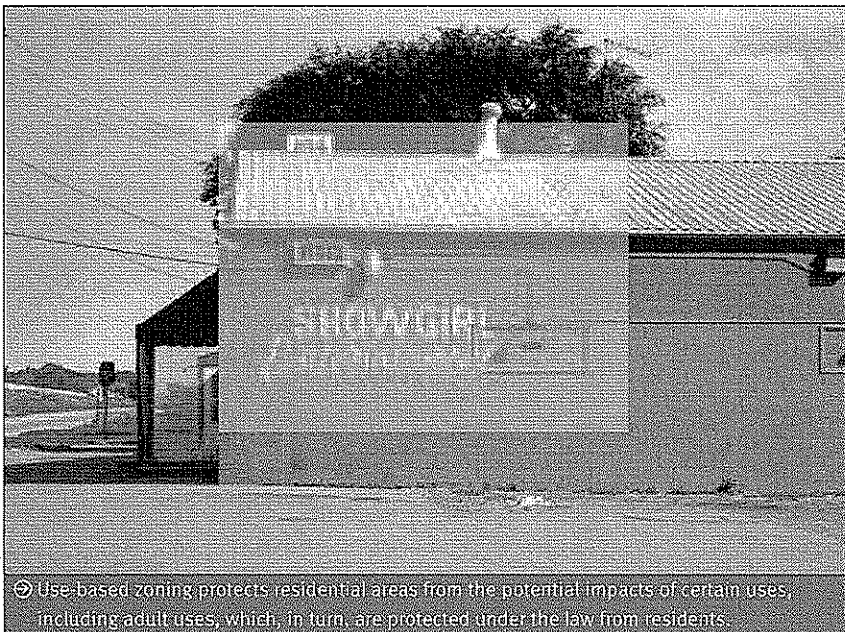
Frederick, Maryland, Land Management Code

CLASSIFICATION OF USES IN ZONING DISTRICTS

- Symbol Meaning
- P Indicates that a use is permitted as of right in the district.
- C Indicates that a use is permitted only as a conditional use. Board of zoning appeals approval is required. Specific requirements for conditional uses are set forth in § 308 (conditional uses) of this code.
- M Indicates that a use is permitted only as a conditional use within the mixed-use district. Planning commission approval is required. Specific requirements for mixed-use conditional uses are set forth in § 310 (master plan) of this code.
- A Permitted only as an accessory use to a principal permitted use (see §§ 801 through 803).
- T Permitted only as a temporary use (see § 867).
- S The ("S") in neighborhood commercial zone stands for permitted use in shopping center only. See § 863 for specific criteria and standards for neighborhood stores.

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⊕ Use-based zoning protects residential areas from the potential impacts of certain uses, including adult uses, which, in turn, are protected under the law from residents.

districts, the LMC provides the option of increasing development intensity subject to impact and design-based performance standards.

CONCLUSION

Developing a list of permitted uses is not the most enjoyable aspect of zoning regulation. Assembling and cross-referencing uses can be tedious and time-consuming. However,

zoning classification systems are useful for developing and refining the local use list, ensuring its completeness, and organizing information.

Finally, many stakeholders consider permitted uses the heart of the zoning system. Using LBCS to assemble and streamline the list can provide the basis for a user-friendly and effective system of land-use regulations.

Cover photo: Land-use composite to illustrate the breadth of classifications. Concept design by Toby Zallman.

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CAN CLASSIFICATION SYSTEMS SIMPLIFY REGULATION?

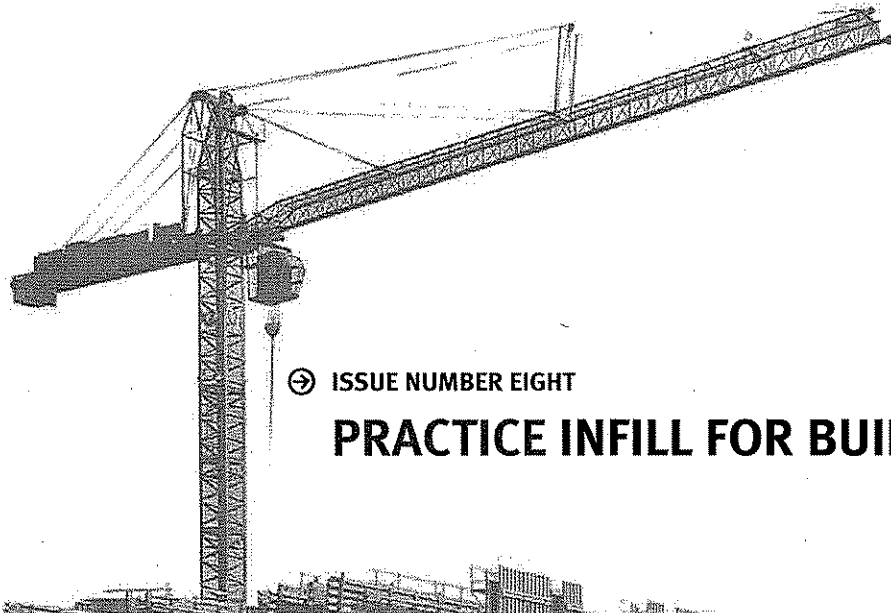
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⊕ ISSUE NUMBER EIGHT

PRACTICE INFILL FOR BUILD OUT

8



Development Codes for Built Out Communities

By S. Mark White, AICP

Since the advent of zoning, development codes have largely been used to harness the impacts of new growth.

However, there remains little discussion about the role of development codes in communities where the supply of developable land is exhausted. Accordingly, many planners working in mature, developed neighborhoods administer codes that were written primarily for new growth. As build out occurs, regulatory emphasis shifts from public improvements to urban design, from infrastructure capacity to maintenance, and from controlling the pace of development to finding lost space. This affects both the content of the code and the public process.

According to the U.S. Census Bureau, only 5.5 percent of the land area in the United States is developed. Even so, many individual communities (or areas of the community) are approaching build out, including the central cities of older communities and both the inner-ring and rapidly growing suburbs of major metropolitan areas.

Build out areas range from infill neighborhoods to downtown, mixed use environments to suburban corridors and low-density residential neighborhoods. Each requires a different regulatory approach and has different stakeholders.

Growing communities tend to be more concerned about fiscal impacts and pace of growth while urban neighborhoods focus more on design and scale. These concerns bring different constituents to the table with different agendas.

Growth-oriented codes paint development regulations on a fresh canvas while codes for built-out communities work within the existing urban context. This requires creative approaches to squeezing buildings and ancillary facilities onto small sites, finding new opportunities in the development of vacant buildings and empty parking lots, recognizing design pitfalls, and mediating housing and economic development needs with the demands of residential neighborhoods. Planners and code drafters must rethink conventional solutions to use compatibility, such as landscaping and buffers, and new tools such

as form-based zoning, transitional massing, and green infrastructure.

This issue of *Zoning Practice* addresses the unique concerns of applying development codes to built out communities, including ensuring appropriate context and managing the public process. The article also describes the development code issues facing communities as they approach build out, including techniques for prioritizing code issues, identifying tools and techniques to address those issues, and shepherding the code through the development approval process. Specific issues include conventional and form-based zoning, urban design, infrastructure, and parking.

CHARACTERISTICS OF BUILT OUT COMMUNITIES

“Build out” typically refers to a situation where a development is approaching a jurisdiction’s borders and the supply of large greenfield sites has diminished. “Greenfields” are new developments on a parcel that are not surrounded by

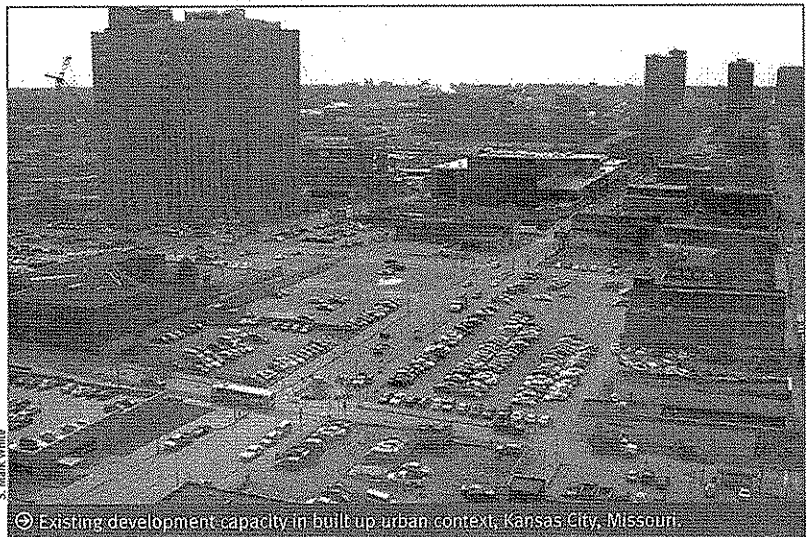
existing development, or relatively large parcels surrounded by partially developed sites. The section that follows describes the characteristics of built out communities.

High percentage of developed land.

Most of the land in a built out community has been improved, cleared, or has gained access to infrastructure and utilities that will permit development in the immediate future. Most of the platted lots have been improved with buildings and parking areas. While there is no generally accepted threshold for build out, a community is generally considered built out when at least 80 percent of its land is developed. Depending on the size of the community, opportunities for further greenfield development can be lost at smaller thresholds.

Few large-scale greenfield sites.

Greenfield sites typically require subdivision plat approval, the extension of utilities or urban infrastructure, and discretionary zoning approval such as a rezoning. As these sites begin to disappear the character of a commu-



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About the Authors

S. Mark White, AICP, is an attorney for White & Smith LLC in Kansas City and is recognized as an expert in zoning and subdivision law, form-based zoning and new urbanism, land-use and takings litigation, housing, comprehensive growth management plans, and implementation systems. White & Smith (www.planningandlaw.com) is a multidisciplinary urban planning and land-use law firm.

nity matures and its land-use issues and priorities begin to change.

Context. As Lang's research demonstrates, built out communities are not limited to traditional downtowns or historic, infill neighborhoods. Many American suburban communities are approaching build out. These communities can have different design issues and priorities than their more urban counterparts. For example, while traditional neighborhoods are often divided into relatively short blocks with narrow lots, a suburban community may be divided into relatively large lots with commercial uses standing alone on large sites.

Development potential. Built out does not mean there is no development potential. It does, however, mean a shift in the type of development potential a community faces along with a corresponding shift in regulatory priorities. Development patterns typically evolve from multiple uses or buildings on relatively large sites that were previously undeveloped to the development of individual lots or reuse of older buildings. In addition, existing lots and blocks can be reassembled and existing developed areas converted to other uses.

Rehabilitation and adaptive reuse. The reuse and recycling of older buildings occurs frequently on developed lots. In some instances this involves pressure to expand the building area or parking area into existing setbacks, over existing lot lines, or beyond current height limits. A typical example is the expansion of parking areas for churches and institutional and commercial buildings onto lots in existing residential neighborhoods.

Redevelopment. Building demolition, lot assembly, and the vacation of existing lots and streets are often requested to accommodate uses or structures with larger footprints than more intimately scaled urban structures. This often creates conflicts between the functional requirements (real or perceived) for new

uses and planning policies that call for compact, pedestrian-friendly, transit-friendly, or context-sensitive development patterns.

Infill. The march of development often passes over individual lots, leaving blocks or neighborhoods in built up areas pockmarked with vacant land. Infill development restores economic vitality to existing neighborhoods.

TABLE 1. DEVELOPMENT ISSUES IN BUILT OUT AREAS VS. GREENFIELD SITES

Issue	Built Out Areas	Greenfield Sites
Land Use	Infill	Developing
Design	Contextual	Trendsetting
Infrastructure	Maintenance	Capacity
NIMBY Issues	Scale	Pace
Permitting	Zoning	Platting
Procedural	Neighborhood-driven	Development-driven
Environment	Green Building	Preservation
Nonconformities	Nonconforming Uses	Vested Rights

Unlike many greenfield projects, infill projects do not require infrastructure expansion costs, thereby avoiding new capital costs by using existing infrastructure capacity. However, infill projects can create issues with existing neighborhoods about scale, massing, and coordination with existing street and utility networks.

Lost space. Built up areas can provide significant development capacity by creatively reusing existing space. This "lost space" is often found in existing parking lots, abandoned rights of way or rail lines, obsolete pedestrian malls, or oversized or outmoded urban civic spaces such as sunken plazas.

GREENFIELDS VS. BUILT UP AREAS

Table 1 summarizes how land development issues change as a community approaches build out. Land-use and zoning classifications

written for undeveloped tracts must be tailored to the context of developed lots and blocks.

While large greenfield tracts can require significant off-site infrastructure capacity the street and utility network where redevelopment occurs in built out areas is already established. While neighborhoods in newly developing areas often react to traffic and

school congestion created by the pace of development, developed communities face infrastructure maintenance issues.

The procedural context can change significantly as a community builds out. Fewer parcels require major subdivision approval, but zoning and design controls remain

important to resolve use issues (and what lay adjacent) for existing lots. In newly developing areas, procedures tend to respond to the complexities of large-scale, master planned developments or major subdivision approvals.

In built up areas, the concerns of established neighborhoods can influence the procedures needed to change existing uses or to expand existing structures. Built up areas are often characterized by infill sites, downtown locations, or distressed communities where local governments would like to encourage development. Procedures that create delay and uncertainty, such as design review, can scare developers away from these locations. Providing predictable standards and streamlined approval processes are an important way to balance contextual design with the needs of builders and developers.

Natural resource protection becomes less of a priority as a community approaches build out, but environmental and sustainability issues remain viable. Greenfield sites can have significant environmental features while built up sites have replaced natural features with pavement. Many cities have established requirements or incentives for green buildings and features such as roof gardens to soften the environmental impacts of new structures.

The doctrines of vested rights and nonconforming situations vary from state to state. Vested rights affect the ability of a local government to apply new land-use regulations to proposed but undeveloped sites with some form of development approval. In most states, the doctrine of nonconforming use law restricts the applicability of new land-use regulations to existing uses, structures, or lots. Greenfield developers are concerned with protecting vested rights as they move through the development process. Vested rights issues tend to be important for developments with long-term, multiphased development proposals. Conversely, built up sites might have existing buildings and uses that are protected as legal nonconforming uses.

CALIBRATION

New buildings, lots, and parking areas in built up areas must fit into the fabric of an existing neighborhood or corridor. In some communities, these neighborhoods reflect a compact pattern of development that a community would like to continue and whose design principles produce a coherent, compatible style of development. Calibration is particularly important for neighborhood conservation districts. In other communities, an existing built corridor must be retrofitted to conform to current land-use policy.

Calibration can be performed for a block, district, or corridor. The calibration process can yield important information for the code update process. This includes desirable or undesirable building forms, lot orientation patterns, and block patterns. If a community pursues a calibration study it is important that it either commit substantial staff time to this effort or establish an adequate budget for outside consultants.

SITE AND BUILDING DESIGN

Site design issues for built up communities can vary based on the context. On the smaller lots and blocks that characterize many traditional neighborhoods the massing and scale of individual buildings can have a profound

impact on the overall appearance of the block. Along a built out suburban corridor the larger scale of suburbia can provide greater flexibility in redesigning a site to meet updated land-use policies.

The presence of neighbors in a more densely settled environment can influence building design and permitted uses. While form-based zoning is an interesting and important trend in regulating uses, residents of densely settled areas are often concerned about the noise, traffic, and property value impacts relating to the use of existing buildings. The conversion of residential structures to offices and service establishments along a busy corridor provides an economic return for property owners but at the same time alters the residential character of neighborhoods.

INFRASTRUCTURE AND DRAINAGE

The street and utility network in built up areas is typically established when an application for development approval is filed. However, applications for street vacations or the resubdivision of existing lots can impair the connectivity of existing street and alley systems. In addition, the development of stand-alone stores along established street corridors can increase traffic levels. Communities can require connections to the existing street and alley system and interparcel access to maintain or improve connectivity. If new easements or access routes across existing property are required the regulations should be written in a way that complies with constitutional nexus standards for exactions.

Stormwater management provides a unique challenge for existing developed sites. The land area available for conventional stormwater treatment, such as detention or retention basins, is often limited. The ability to diffuse stormwater flows over natural areas using low-impact design or other features can be constrained by available land and the lack of vegetative cover. In addition, existing drainage ditches along built out suburban corridors can inhibit land-use policies that encourage pedestrian or transit-friendly development patterns.

LANDSCAPING AND BUFFERS

As with stormwater management systems, the landscaping used to buffer or to soften the impact of new suburban development can be restricted by available land in a built up context. In addition, suburban-oriented development regulations that require land to be set aside for stormwater management or landscaping can

hamper the development of small sites in urban locations. Street tree requirements, compatible massing of buildings, and site orientation standards are a preferable way to address use-to-use relationships in built up urban places.

PARKING

Parking regulations have a significant impact on travel behavior and the appearance of suburban corridors. In built up areas, regulations that require excessive amounts of land for on-site parking can inhibit development, result in site and building design that is out of context with the neighborhood, and establish barriers to pedestrian movements. At the same time, many residents of urban neighborhoods want to avoid spillover parking, and existing businesses fear their spaces will be taken by residents or visitors to the neighborhood, and not by customers.

Planning and Urban Design Standards (John Wiley & Sons, Inc., 2006) provides a number of regulatory solutions to avoid an oversupply of surface parking in built up areas, which include:

- **Shared parking.** Shared parking allows adjacent land uses to share parking lots as long as the parking demands occur at different times.
- **Parking caps.** Communities may want to establish maximum parking requirements, at least in designated locations where transit is available or special community character issues apply. Maximum parking requirements place a cap on the amount of parking a land use can provide. An incentive to use other means of transport in lieu of automobiles may result if maximum parking requirements reduces the number of available spaces. As an alternative, jurisdictions can require parking above a threshold limit to be made of a pervious pavement, turf, or other surface. Structured parking is often exempt from maximum parking requirements because it consumes less land area.
- **Rear parking requirements.** Rear parking minimizes the view of parking lots by placing the lot behind the principal buildings. Many jurisdictions require commercial and office uses to place parking in the rear to create a pedestrian streetscape, encourage transit usage, and to create a "town center" feel to shopping and employment areas.
- **Reduce parking to accommodate alternatives.** Reduce or cap parking requirements where transit is available. Where an application includes the mixing of uses or build-

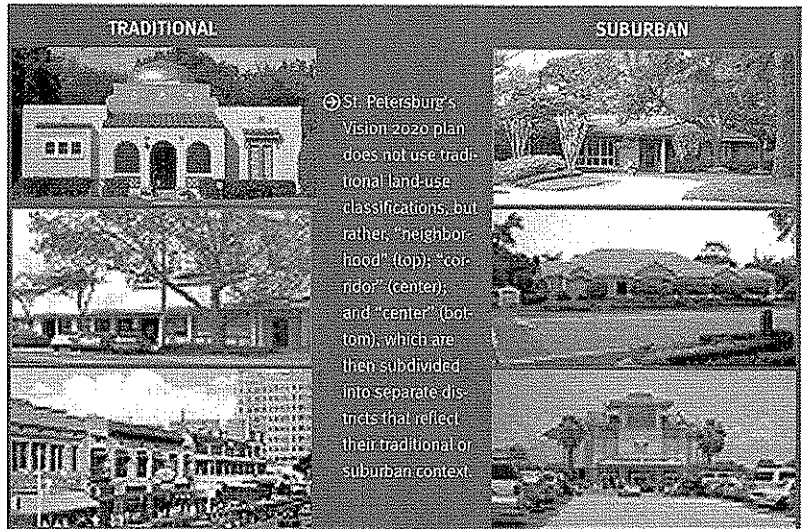
ing types, parking can be reduced to account for the capture of trips on-site or along the existing block structure.

- **Structured parking.** Structured parking has a smaller footprint than surface parking and is less disruptive to the continuity of a street. But structured parking is also more expensive to build and can deaden a street. Communities can consider density or intensity incentives to encourage parking structures or fees in lieu of parking to encourage their use.

PRINCIPLES IN PRACTICE

The recent code reform efforts of several built out communities provide examples of how the contextual and procedural issues of build out were resolved. The approaches vary widely, from conventional, use-based zoning to design-based solutions such as form-based zoning. Their approaches also provide insight into how infrastructure and compatibility issues can be resolved.

St. Petersburg. St. Petersburg, Florida (population 248,232), is a diverse community that operates under statewide growth management statutes. St. Petersburg also has very distinct traditional and suburban neighborhoods. The city is the heart of Pinellas County,



the most densely populated county in Florida. However, the county's average density of 6.4 persons per acre is not high by urban standards. Its history is characterized by distinct planning and architectural movements and period styles, including a plan developed by John Nolen in the 1920s.

In 2002, the city adopted St. Pete Vision 2020, a citizen-based plan that calls for more compact, pedestrian-friendly development. The plan divides the city into neighborhoods, corridors, and centers. The city has three major centers, including its traditional downtown, a suburban shopping mall, and a suburban office park. In addition, its residential neighborhoods are facing the development of new homes that are out of scale with existing homes.

In 2002, the city began the process of revising its code to implement Vision 2020 and to provide contextual, compatible, predictable infill. Extensive public comment sessions were held with multiple stakeholders, including both urban and suburban neighborhoods. These sessions included model-building exercises that allowed citizens to experiment with ways to resolve scale and mass and to find space for parking, green space, and stormwater management. One interesting result was a strong push by suburban neighborhood participants to retain their existing built form while improving the function and appearance of the plan's subareas for pedestrians.

The updated land development regulations established distinct standards for traditional and suburban built up neighborhoods, which are summarized in Table 2. A new set of zoning districts design standards were adopted. These districts do not use the traditional categories of residential, commercial/business, and industrial, but rather, "neighborhood," "corridor," and "center," which are then subdivided into separate districts that reflect their traditional or suburban context. Supplemental districts and standards apply to artist

TABLE 2. SUMMARY OF TRADITIONAL AND SUBURBAN STANDARDS FOR ST. PETERSBURG'S BUILT UP NEIGHBORHOODS

Traditional	Suburban
Neighborhoods	
Appropriate lot widths and setbacks to address traditional platting	Maintain wide lots and spacious setbacks.
Allow garage apartments/home occupations.	Design standards will address better contextual design so that garages do not dominate the facade.
Use the alleyways.	Prohibit traditional character developments with narrow lots.
Corridors	
Prohibit traditional character developments with narrow lots.	
Zero lot-line buildings	Create a street edge with building and landscaping.
Mixing and increasing uses	
Parking is secondary.	Reduce dominance of parking.
Regain pedestrian scale.	Improve architectural design.
Centers	
Massing and scale	Architectural design
Building base at sidewalk	Introduce the pedestrian.
Architectural design	Tame parking lots.

Source: Bob Jeffrey, City of St. Petersburg

enclaves, adaptive reuse, and stormwater management. The result is a zoning typology that provides form-based standards for both traditional and suburban contexts.

The zoning districts allow sufficient densities to implement the city's plan policies and accommodate future housing needs, subject to design criteria. These include garage apartment criteria and multifamily design standards that replicate the appearance and lot pattern of existing single-family blocks. The design standards prescribe the minimum standards needed to produce the desired building pattern without prescribed specific architectural styles.



Bob Jeffrey, City of St. Petersburg

⊕ (Left) St. Petersburg's Neighborhood Traditional Single-Family (NT-1 District); (Right) Neighborhood Suburban Single-Family (NS-1 District)

Height and massing requirements are included to avoid the "mansionization" of existing residential blocks.

The corridor districts accommodate moderate to high densities. They also address an oversupply of commercial square footage and the dominance of big box retail structures. Underperforming corridors with existing grayfields are permitted to add housing.

Boulder. Boulder, Colorado (population 103,213), is a home rule city with a vibrant downtown and a history of innovative growth management systems, including an urban growth boundary and slow-growth policies. It is a college town in the rapidly growing region north of Denver. Because it also serves as a regional retail and entertainment destination, traffic in the city has increased.

Prior to build out, the city's land-use policies focused on the retention of a defined edge and open space along the perimeter. Land-use criteria focused on controlling the environmental impacts of edge development, reducing the coverage of new development along the edge, and controlling the pace of growth. The city used its codes to stabilize the core areas and provide compatible infill development.

In 1971, the Boulder instituted a system of "established," "developing," and "redeveloping" districts (the "EDX" system). The established (E) districts used conventional minimum lot sizes while the developing (D) and redeveloping (X) districts replaced lot sizes with a provision requiring open space set-asides for dwelling units to preserve environmental features and to blend the urban edge into the surrounding open space through clustering. The city's zoning code expanded along with new growth. New "microzones" expanded the number of zoning district classifications from 21 zones in 1993 to 42 in 2004. The result was a reliance on planned unit development in lieu of definite standards, with most

property subject to discretionary review. The zoning code became complex, redundant, and inconsistent. It was difficult and time-consuming to administer and confusing to the public.

By 2004, the city had approached build out, and land-use policy was refocused on redevelopment. However, the zoning system did not keep pace with built up areas, which were treated as though they were newly developing. The city initiated its Land Use Code Simplification Project (LUCS) in 2004 to consolidate zoning districts, eliminate redundancies, and to more effectively address the character of established development.

Boulder's build out created new challenges, including regional competition and commercial vacancies, a declining retail market, and high housing costs. Declining retail development led to municipal budget and service delivery challenges. In addition, new development spread to nearby communities with relatively lower housing costs.

City land-use policy adjusted accordingly. Objectives included the retention of existing business, encouraging mixed use and TOD, instituting efficient permitting systems that enable a quick response to opportunities, and an increase in in-right development options.

LUCS addressed these standards through building form and design standards for edges and corridors, parking location standards, and mixed use zoning.

The revised codes established a modular approach to its zoning regulations that reduces the need for future amendments. The system organizes the zones based on three elements: uses, physical form, and land-use intensity (such as lot area per dwelling unit or floor area ratio). The system also organizes regulations by separate use districts, form or bulk districts, and land-use intensity districts. Combining the modules yields regulations that match current and desired future conditions, ranging from low density, single-use, semirural conditions to those that are mixed use, high density, and urban.

Chapel Hill. Chapel Hill, North Carolina (population 48,715), is also a university town with a history of innovative planning and land-use controls. The town began a code update in 2001 to implement a recently adopted comprehensive plan. The town's land-use management ordinance, adopted in 2003, includes a number of tools that specifically address its built out condition, including revised zoning districts, a flexible TOD district, and updated parking standards.

A successful feature of the new code is the use of neighborhood conservation districts (NCD). The NCD permits the establishment of special design standards to preserve and protect unique and distinctive in-town residential neighborhoods or commercial districts that contribute significantly to the character and identity of the town. There is no maximum size but the districts can be as small as a single blockface. An NCD designation can be initiated by the town council or property owners.

The town approved an NCD for its Northside district and has four additional districts on the drawing board. The Northside district contains approximately 190 acres. The district plan and the CD-1 overlay zoning regulations establish a maximum primary height of 20 feet and secondary height of 29 feet. A maximum building size of 2,000 square feet is established with an additional 500 square feet permitted by variance. Duplexes are prohibited because the neighborhood is predominantly single-family. The regulations establish standards for building orientation, parking, fencing, porches, and design details such as building materials.

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LESSONS

As communities near build out, planning and regulatory priorities change significantly. While the nature of these priorities is as varied as the communities and regions themselves, they often face a common set of issues, including the need to accommodate development on smaller spaces, ensuring that new development fits neighborhood context, and addressing nonconforming developments. These regulations should begin with a careful calibration of existing development with the new regulations or a diagnosis of the existing regulations that ties new development to updated planning policies.



NEWS BRIEFS

FAULT LINES FORM OVER CALIFORNIA EMINENT DOMAIN INITIATIVE

By David Morley

An initiative to amend California's constitution to severely restrict eminent domain will appear on the November ballot. Proponents of the "Anderson Initiative," named for California homeowner Anita S. Anderson, gathered approximately one million signatures for the proposed amendment, eclipsing similar proposals backed by Republican California state senator Tom McClintock.

According to the California Redevelopment Association, a single individual from New York provided \$1.5 million to hire a signature-collecting firm and retain a campaign consultant for the proposed measure. On July 13, *Capitol Weekly* identified this individual as multimillionaire developer Howard Rich. *Weekly* reporter Shane Goldmacher claims Rich is currently offering financial support to eminent domain initiatives in seven other states using nonprofit intermediaries, such as the Fund for Democracy, to obscure his influence.

The Anderson Initiative is one of many state and local initiatives attempting to replicate the success of Oregon's Measure 37, a 2004 amendment to that state's constitution allowing individual landowners to claim compensation for regulatory takings. So far, results have been mixed. In June, a coalition of groups representing industry, local government, and environmental issues successfully defeated a Measure 37 clone in Napa County.

The current wave of proposed measures is gaining support following the U.S. Supreme Court's 2005 decision in *Kelo v. City of New*

London [125 S. Ct. 2655 (June 23, 2005)]. The landmark ruling, which upheld eminent domain for economic development, has energized radical property rights organizations. Subsequent media coverage of the case has gathered the attention of a broad constituency of private property owners who support eminent domain reform.

In response to *Kelo*, California's pending measure is even more restrictive than Measure 37. The Anderson Initiative bars eminent domain unless the property taken will be owned by a governmental entity. Consequently, redevelopment agencies could not use eminent domain to transfer property to private developers.

Like Measure 37, the proposed amendment considers property to be damaged when regulatory actions not taken to protect public health and safety result in economic loss. Examples of economic loss offered by the measure include downzoning, property access elimination, and air space usage.

Perhaps most significantly, the Anderson Initiative would void unpublished eminent domain court decisions, leaving resolved cases open to challenge. Taxpayers would then be forced to foot the bill for legal fees and the increased costs of property acquisition and public works projects. If passed, the amendment could only be changed by another initiative.

Proponents view the measure as a populist rebellion against eminent domain abuse. "It is time to end the faction between local governments and special interests that sacrifice the property rights of the average citizen in order to line the coffers of government and the pockets of the powerful," says Republican legislator Mimi Walters. Walters, who identifies herself as honorary chair of the Protect Our Homes Coalition, is the measure's chief sponsor in the California Assembly.

Meanwhile, a coalition of planners, business groups, environmentalists, and local governments has formed to block the initiative. League of California Cities executive director Chris McKenzie warns that the amendment would "significantly erode environmental protections, limit the ability to restrict sprawl and open space, and significantly increase the cost of building all sorts of public works projects like schools and roads."

Representatives of the law firm Nossaman Guthner Knox & Elliott LLP claim the Anderson Initiative represents post-*Kelo* hostility toward governmental interference with property rights but go on to caution that in California only three sin-

gle-family homes were acquired for redevelopment through eminent domain in 2005. This statistic may undercut political strategist Kevin Spillane's assertion that most "victims of eminent domain abuse are minorities, immigrants, working-class people, and mom-and-pop businesses."

After learning the measure had qualified for the November ballot, a prominent member of the business community disagreed openly with Spillane's comments. "On behalf of California's 20 million minorities, we oppose the Anderson Initiative as anti-poor, anti-growth, anti-small business, and as crushing the future dreams of our state's aspirations to once again be a golden state," stated Latin Business Association director Jorge Corralejo in a release issued by the Greenlining Institute, a Berkeley public policy research and advocacy center.

As Californians look forward to registering their opinions in the November election, eminent domain rumblings continue nationwide. To access up-to-date information on eminent domain reform in your state and around the country, visit the American Planning Association's eminent domain legislation and policy page at www.planning.org/legislation/eminentdomain/index.htm. David Morley is a researcher with the American Planning Association.

Cover photo: Design concept by Lisa Barton

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DOES BUILD OUT
MEAN NO GROWTH?

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