



Department of Planning & Community & Economic Development
Planning Division

Website: www.cityofmadison.com

Madison Municipal Building
 215 Martin Luther King, Jr. Boulevard
 P.O. Box 2985
 Madison, Wisconsin 53701-2985
 TTY (866) 704-2318
 FAX (608) 267-8739
 PH (608) 266-4635

MEMORANDUM 1

TO: Plan Commission
FROM: Planning, Zoning, and Attorney’s Office Staff
DATE: May 24, 2010
SUBJECT: Committee and Commission Recommendations and Comments received on the City of Madison draft zoning code (Legistar # 15932).

The purpose of this memorandum is to summarize revisions to the Draft Zoning Code recommended or discussed by City Committees and Commissions based on a detailed review the draft document. The memorandum provides all formal recommendations from reviewing committees/commissions, as well as a compilation of informal suggestions, questions, and comments by Plan Commission and Urban Design Commission members throughout working sessions where no formal action was taken. These working sessions were held on the following dates: September 10, 2009; October 22, 2009; October 29, 2009; December 2, 2009; January 7, 2010; February 4, 2010; February 15, 2010. The memo is organized as follows:

Page	Committee/Commission	Date(s)
2	Sustainable Design and Energy Committee	11/2/2009
4	Madison Arts Commission	1/12/2010
6	Long-Range Transportation Planning Committee	1/21/2010
14	Urban Design Commission	2/24/2010
24	Housing Committee	3/3/2010
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50	Plan Commission/Urban Design Commission Questions	2/15/2010
	APPENDIX	

Within the memo, recommendations/comments/questions are numbered within each committee/commission section, and organized based on the order of the Draft Zoning Code. Specific pages and sections are referenced when possible, and include both a page reference to the Draft Code as introduced in **Black Bold**, and a second page reference to the “red-lined” draft prepared by the City Attorney’s Office (Memorandum 3) in **Red Bold**. e.g. **Page ##, ## [Section ##.##(a)]**

Staff comments appear following the words, **Staff recommend:** or **Staff response:** in the case of a staff answer to a question. Symbols are provided to indicate the following:

- Corrections 
- Consent Changes 
- Other Recommendation **3** (more discussion, no change, or future issue)

ACTION BY THE SUSTAINABLE DESIGN AND ENERGY COMMITTEE

On November 2, 2009, the Sustainable Design and Energy Committee met to discuss and adopted recommendations that would be sent to the Plan Commission regarding Legistar #15932 adopting and confirmed amendments to the MGOs to revise the City's Zoning Ordinance with recommendations.

Recommendations:

1. Plan Commission should discuss and/or refer back to the Sustainable Design and Energy Committee or the Zoning Code Rewrite Advisory Committee all of the policy items that were not addressed in the new code and were listed in the memo titled "Consultant and Staff Responses to the Zoning Code Sustainability Ideas Document" dated December 15, 2009. These policy items should be discussed before the Common Council votes on the zoning code rewrite.

Staff recommend: On February 4, 2010, the Plan Commission reviewed the December 15, 2009 document entitled "Consultant and Staff Responses to the Zoning Code Sustainability Ideas Document". Comments and questions discussed by Plan Commission members during that working session are integrated into the document (**See Appendix, p. 1-5**).

2. District "systems" (heating, power generation, etc.) should be a permitted use in all zoning districts.

Staff recommend: Staff agrees that these systems should be allowed in all districts, but due to their varying size and operational characteristics, some district systems may have substantial impacts on adjacent properties. Therefore, these uses should require a conditional use review. Also, power generation is a utility that is further regulated by the PSC, which may overrule local zoning requirements.

3. Add "and composting" as a permitted use wherever agriculture is mentioned.

Staff recommend: OK

4. **Page 101, 111 [Section 28.104(4)]** Transit-Oriented Development overlay – re-examine the prohibited uses such as (A, C, E in #4), and consider making them conditional uses.

Staff recommend: The proposed prohibited uses (i.e. auto body shop, auto service station, convenience market, auto repair station, auto sales or rental, car wash, storage facility, and personal indoor storage facility), are not appropriate in a compact, walkable, mixed-use area typical of TOD sites.

5. Medium to High Density Residential Districts, Traditional Employment, Neighborhood Mixed-Use, Traditional Shopping Streets, and Traditional Residential Planned should allow frontage on private streets to encourage sustainable-designed residential streets (i.e. woonerfs, spiegelstrasse, etc.)

Staff recommend: Future. Zoning code does not prohibit this, these are further regulated by subdivision ordinance and fire access requirements. PDD District could allow these.

6. Don't allow lands to be zoned or rezoned into the "suburban type" districts.

Staff recommend: No change. While this is a mapping issue, staff does not support Recommendation 6 above because it is not consistent with the Comprehensive Plan. Wisconsin law requires zoning decisions to be consistent with the Comprehensive Plan. The City's Comprehensive Plan recommends that "General locations where a transition into a denser neighborhood or district is appropriate should be identified in the Comprehensive Plan and in detailed neighborhood development plans, and other special area plans." (Land Use Objective 41, Policy 2). Further, the Comprehensive Plan states that "In general, predominantly single-family blocks within established neighborhoods should continue in this use, since intensification in these areas could be detrimental to the neighborhood and exceed infrastructure limits." (Land Use Objective 41, Policy 3). Finally, the Comprehensive Plan recommends that "Single-family housing should include a variety of lot sizes (Volume II-2-80)

7. Zone areas that are currently suburban-type as traditional; consider engaging in transformational zoning in the mapping process.

Staff recommend: No change. While this is also a mapping issue, staff does not support this recommendation. See Staff recommendation in 6 above. Further, application of traditional districts (and associated lesser bulk requirements) will create significant opportunity to modify existing structures that have developed into a common development pattern, which may upset the consistency and rhythm that has been established by the requirements in place at the time these neighborhoods were developed.

8. Alterations to existing sites using landscaping triggers

Staff recommend: A tiered approach to requiring sites to be brought up to compliance: zoning code should establish thresholds at which site compliance is required, typically associated with changes of use or building additions. A threshold approach as to when alterations, additions and expansions or changes-of-use would require site compliance.

9. Page 126, 139 [Section 28.133 (2)(c) and (d)] "Nuclear" section: Add "Research" and "Storage" or strike section because of State and Federal laws.

Staff recommend: OK

10. Page 125, 137 [Section 28.132 (1)] Add cisterns and rain barrels as projections/permitted encroachments in required side yards

Staff recommend: Allow limited projection into side yards, similar to what is allowed for other similar equipment. Note: placement within building envelope would be considered allowable.

ACTION BY THE MADISON ARTS COMMISSION

On January 12, 2010, the Madison Arts Commission voted to recommend that the modifications summarized below be returned to the Plan Commission. A motion was made by Elson, seconded by Rummel, to return to the Plan Commission with the following recommendations. The motion passed by voice vote/other.

Recommendations:

Introductory Provisions

1. Page 1, **1** [Section 28.002(1)] Expand to include a 17th general purpose as follows: "To encourage the creation, promotion, sale, and enjoyment of art."

Staff recommend: OK

Supplemental Regulations

2. Page 167, **181** [Section 28.155(1)(c)] be amended to define permitted, conditional, and prohibited uses of accessory buildings based on specific functions and effects (for example, noise levels) rather than commercial versus non-commercial uses.

Staff recommend: Future. Existing ordinance does not allow the use of an accessory building in support of a home-based business. Current approach in draft code allows use of accessory building in support of a home-based business to be reviewed as a conditional use. An approach could be crafted to further differentiate which types of business activity require further review beyond permitted use allowances. For example, use of an accessory building for a professional office during typical business hours could be permissible, where production, processing, or storage of materials that creates smoke, fire, dust, noise, etc. or business activity being conducted at non-traditional hours could be reviewed as conditional use. This issue could be addressed at this time, or could be appropriately detailed in a future amendment to the code.

3. Page 168, **181-2** [Section 28.155(2)(a)] and [Section 28.155(2)(b)] be removed (see table below for more specific information).

Staff recommend: OK, with following comment: Ground-floor residential uses can sometimes have an adverse impact on the viability of a commercial shopping street/corridor. Conversion of ground floor street oriented commercial spaces into the dwelling portion of a live/work use should be discouraged.

<i>Subchapter</i>	<i>Section</i>	<i>Title</i>	<i>Page</i>	<i>Discussion</i>
Subchapter 2A Introductory Provisions	28.002 (1)	Intent and Purpose	1 1	The current language provides a list of 16 broad purposes of the overall zoning code. The Madison Art Commission notes the absence of a specific statement of intent with regard to arts, culture, and creative enterprise. <i>The Commission therefore recommends subsection 28.002(l) be expanded to include a 17th general purpose, as follows: "To encourage the creation, promotion, sale, and enjoyment of art."</i>
Subchapter 28K Supplemental Regulations	28.155(1)(c)	Home Occupation	167 180	Current language requires "The occupation must be conducted within a dwelling and not in an accessory building, unless authorized by the Plan Commission as a conditional use." The Madison Arts Commission understands this regulation to be intended to restrict against activities in accessory buildings that could disrupt general residential standards for noise, toxic exposure, and unsightly storage of commercial supplies. While sympathetic to the need to ensure reasonable protection against the disruption of the residential character of a neighborhood in these regards, the Madison Arts Commission does not believe the distinction between "commercial" and, for example, hobbyist activity is a good basis for that protection. Further, the Commission can foresee many arts uses that are commercial in nature (for example, maintaining a writing or painting studio) and are well suited for accessory buildings in residential areas. <i>The Commission therefore recommends the code be amended to define permitted, conditional, and prohibited uses of accessory buildings based on specific functions and effects (for example, noise levels) rather than commercial versus non-commercial uses.</i>
Subchapter 28K Supplemental Regulations	28.155(2)(a)	Live/Work Unit	168 181	Current language requires "The work space component must be located on the first floor or basement of the building with an entrance facing the primary abutting public street." The Madison Arts Commission considers this language overly restrictive, especially in terms of its potential to discourage reuse of historic and warehouse buildings for live/work spaces. <i>Therefore, the Madison Arts Commission recommends removal of subsection 28.155(2)(a).</i>
Subchapter 28K Supplemental Regulations	28.155(2)(b)	Live/Work Unit	168 182	Current language requires "The dwelling unit component must be located above or behind the work space, and maintain a separate entrance located on the front or side façade and accessible from the primary abutting public street." The Madison Arts Commission considers this language overly restrictive, especially in terms of its potential to discourage reuse of historic and warehouse buildings for live/work spaces. <i>Therefore, the Madison Arts Commission recommends removal of subsection 28.155(2)(b).</i>

ACTION BY THE LONG-RANGE TRANSPORTATION PLANNING COMMITTEE

On January 21, 2010 the L RTPC met to discuss and adopted recommendations that would be sent to the Plan Commission regarding Legistar #15932 adopting and confirmed amendments to the MGOs to revise the City's Zoning Ordinance. A motion was made by Basford, and seconded by Sundquist, to return to the Plan Commission with the following recommendations. The motion passed by voice vote/other.

Recommendations:

Mixed-Use and Commercial Districts

1. Throughout this subchapter (including in the general discussion at the beginning of the section), guideline language should note that parking should be located at the side or rear of buildings. The status of auto vs. bicycle parking in regard to building placement and other requirements should be clarified.

Staff recommend: Frontage and building/parking placement requirements are in place as standards (not guidelines). Adding word "auto" or "bicycle" to parking placement requirements is acceptable.

2. Recommend single row of parking should be allowed in the front of certain commercial buildings to be reviewed as a Conditional Use.

Staff recommend: More Discussion. This concept is part of a larger ongoing discussion, including intersection with large-format retail development building and parking placement requirements and frontage requirements. This issue should be resolved as part of the code rewrite.

3. The text should be clear to not allow building entrances that prohibit wheelchair access. Strong statements of encouragement in support of accessibility, and modifications to the graphics in the code, so they graphics depict an accessible entrance should be included.

Staff recommend: Barrier-free requirement is regulated by the building code. Graphics could be modified to show barrier-free examples and statements could be included to encourage barrier-free entrances.

4. Page 56, 60 [Section 28.065(3)(b)] language should be added to note that it is desirable to orient buildings to "multi-use paths", in addition to the facilities noted.

Staff recommend: OK

Employment Districts

5. Auto and bicycle parking placement and other requirements should be made clear in this sub-section (e.g. Page 74, 79 [Sections 28.086(3) and (4)]. Location and placement of bicycle parking (in relation to the buildings) be made clear throughout the sub-section.

Staff recommend: OK

Special Districts

Page 85, **91** [Section 28.095] Airport District

6. Bus stop locations (for convenient access to Metro service) or access to other multi-modal transit should be made clear in this sub-section.

Staff recommend: Future

7. The placement and facilities for bicycle parking at the airport (i.e., long-term bike parking and storage) should be address in this sub-section.

Staff recommend: OK

Overlay Districts

[Section 28.104] Transit-Oriented Development (TOD) Overlay District

8. Page 101, **111** [Section 28.104(1)] "Bicycle connections" be added to the TOD Statement of Purpose, on Page 101[1(b)]. In general, references to parking should make it clear when referring to auto parking, as opposed to bicycle parking.

Staff recommend: OK

9. Page 101, **111** [Section 28.104(4)] Drive-through windows should be a prohibited use in this district, given that this type of use is, by nature, not "transit-oriented".

Staff recommend: OK

10. Page 101, **112** [Section 28.104(5)(b)] Language regarding floor-area ratio (FAR) is not clear and should be re-worded. In any event, the pre-existing FAR should be maintained or increased (rather than allow for a decreased to a floor of 1.0) for alterations, additions or expansion of buildings.

Staff recommend: OK

11. Page 102, **112** [Section 28.104(5)(d)] building entrances should be encouraged to be located along a primary street.

Staff recommend: OK

General Regulations

[Section 28.141(4)] Parking and Loading Standards

12. Page 134, **147** [Section 28.141(4)(c)] When bicycle parking is required, the parking minimums should be increased to something greater than 2, where appropriate.

Staff recommend: Future

13. Page 135-139, 147-152 [Section 28.141(4)] Table 28J-3

- a) Table should include the word “minimum” after Bicycle in the far right column, and the maximum column should have the word “Auto” added before it.
Staff recommend: OK
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- b) Any space in chart with a blank should be filled in.
Staff recommend: OK
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- c) Bicycle minimums could be enhanced for many of the listed uses.
Staff recommend: OK
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- d) Recommend support of the concept and continue to look at lowering maximums where possible in most non-residential districts.
Staff recommend: OK
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- e) **Page 135, 147** 3-unit dwellings should have a bicycle parking requirement of one per dwelling unit.
Staff recommend: OK
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- f) **Page 136, 148** The dormitory, fraternity or sorority minimum parking requirement may be too high, and that a maximum might even be considered.
Staff recommend: Lower minimum 1 per 10 lodging rooms/beds (similar to retirement home), maintain 1 per lodging rooms/beds as a maximum
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- g) **Page 136, 148** For parks and playgrounds, add “as determined by the Zoning Administrator” in that blank box, to account for unique park/playground circumstances.
Staff recommend: OK
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- h) **Page 137, 149** Parking for medical facilities (clinic, dental, etc.) could be addressed by using a percentage of employees, rather than square feet (and that more bicycle parking could be a result).
Staff recommend: Minimum auto parking of 1 per 2 employees, maximum of 1 per employee. Bicycle minimum 1 per 5 employees.
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- i) **Page 137, 150** Bicycle parking should be added to the column on drive-through uses, bicycle parking should not be “n/a”. The Committee suggested to add “as determined by the Zoning Administrator”, and be sure that there are no blank boxes in the “bicycle minimum” column.
Staff recommend: OK
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- j) **Page 137, 150** Change the term “drive-through windows” to “vehicle access/service windows.” Code should ensure that when lobby/internal spaces are open, pedestrians should be served. Provide clarification in regard to definitions; ensure consistency with State Statute definition for “vehicle”.
Staff recommend: More Discussion. Change of term to “vehicle access/service windows” ok. State statute definition of “vehicle” can be added. Conditions of approval of Conditional Use or additional supplemental regulations could be included to ensure service to pedestrians.
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- k) **Page 138, 151** Transportation Uses (bus/railroad passenger depot), there should be much more bicycle parking required, and standards should be developed that relate to users and employees of facilities, or as determined by Zoning Administrator.

Staff recommend: Increase to 1 per 5 employees or tie bicycle parking requirement to requirements found in TOD special area plan/overlay district. Should look at including long-term and short-term parking requirement, for commuters and travelers.

14. Page 140, 152-153 [Section 28.141(5)] Table 28J-4 Bicycle Parking Reduction

- a) Create a reduction request similar to car parking. Example:

Staff recommend: See the following revised approach:

A bicycle parking reduction request must be initiated by the owner, who must submit information to support the argument for reducing the required number of spaces. Factors to be considered include but are not limited to: availability, proximity, and use characteristics of public bicycle parking (in public right-of-way) within 300' of the subject property; existing or potential shared parking agreements; proximity to transit routes and/or multi-use paths; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street bicycle parking that will be provided; and whether the proposed use is new or a small addition to an existing use.

- b) If reductions are being requested, guidelines for consideration should be created that effectively “raise the bar” from the status quo (similar to current automobile parking reduction) Note: variance alternative exists.
- c) Table 28J-4, add statement to #1: “...provided areas on-site for the entire amount of bicycle parking are reserved, and the Zoning Administrator determines the proposed bicycle parking provisions to be adequate”.
- d) Table 28J-4, Bicycle Parking Reduction, #4, distance should be less than 300 feet.
- e) Do not allow bicycle parking in the right-of-way within some distance to count toward required total. Very problematic due to double counting, maintenance questions, competition, and disincentive to provide your own parking facilities on-site.
- f) If permission has been granted to locate required bicycle parking in the directly abutting public right-of-way, those spaces may contribute to the minimum requirement. Note: if rack in the ROW is counted, should find a way to track it and indicate it may not be removed or relocated without some process.
- g) No reduction shall be approved if the existing site plan is proposed to be changed. Eligible to ask for a reduction if site plan is not proposed for changing.

Staff recommend: No change to address items (b) through (g) above. Elimination of the specific lines enumerated in Table 28J-4 for Bicycle Parking Reductions, and replacement with bicycle parking reduction process in (a) above, which would allow for a more thorough review of the context surrounding the request.

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- 15. **Page 143, 155 [Section 28.141(8)(a)1]** residential drive grass centers should have a minimum width of 12 inches, and delete reference to 18 inches.

Staff recommend: OK

16. Page 143, 156 [Section 28.141(8)(c)5] Section should be reviewed to determine if it is necessary for the front and rear yard to have 40% for parking. Front and rear yards may need to be discussed separately.

Staff recommend: No change. Staff believes draft is adequate, in lieu of a specific alternative. Comment relates to driveway (front yard) and parking (rear yard). Setback, lot coverage and open space requirements should result in appropriate amount of paving on a lot for parking/driveway purposes.

17. Page 146, 159 [Section 28.141(11)] **Bicycle Parking Design and Location**

a) Need to define short-term vs. long-term bicycle parking, and develop requirements accordingly:

Staff recommend: OK

- Short-term = daily, intermittent use, directly accessible to street or public way
- Long-term = multiple day or storage-oriented, not as directly accessible as short-term

b) In bicycle parking design and location add the following (changes from draft in **bold italics**).

(11) *Bicycle Parking Design and Location.*

(a) *Parking designation. Bicycle parking requirements are as shown in Table 28J-3 and shall be designated as long-term or short-term parking.*

i. *For all residential uses, including those in combination with other uses, at least ninety percent (90%) of resident bicycle parking shall be designed as long-term parking. Any guest parking shall be designed as short-term parking.*

ii. *For all other uses, at least **ninety** percent (90%) of all bicycle parking shall be designed as short-term parking.*

(b) *Required short-term bicycle parking spaces shall be located in a convenient and visible area within **one hundred (100)** feet of a principal entrance.*

(c) *Required long-term bicycle parking spaces shall be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas **or private storage areas** accessory to dwelling units. With permission of the zoning administrator, long-term bicycle parking spaces for non-residential uses may be located off-site within three hundred (300) feet of the site. No fee shall be charged for long-term resident bicycle parking.*

Staff recommend: OK

c) Up to 25% of bicycle parking may be provided as structured parking, as approved by the Zoning Administrator (Millennium Park model or valet bike parking).

d) Allow small (25%?) percentage of total required bicycle parking to be vertical.

e) Allow up to 25% of required long-term parking may be installed as wall mount, where 5' access aisle is provided.

Staff recommend: OK for items (c), (d), and (e) above. 25% of required bicycle parking may be either structured, vertical, or wall mount, as long as all dimension requirements are met.

f) Bicycle parking spaces provided, but not meeting dimensional or access aisle requirements may be installed, but do not count toward minimum bicycle parking requirement. Need this for flexibility.

Staff recommend: OK

- g) Require location of all bicycle parking to be as accessible as the majority of the car parking, bicycle parking should start at location as least as close as the closest non-accessible auto parking stall.

Staff recommend: OK

- h) Ground- mount (non-vertical) rack & spacing.

Staff recommend: OK

- i) Provide examples of acceptable racks/design in supporting document.

Staff recommend: OK. Supporting document to be prepared.

- j) Support a wheel and frame in the center of the bicycle parking stall (no overlap), keeps wheel and frame in a single plane and prevents rotation of the bicycle when placed in the rack.

Staff recommend: More Discussion. The Plan Commission should consider that this comment is very prescriptive, and will make many of the acceptable racks installed today nonconforming. Certain rack styles that result in bicycle overlap (for example, inverted "U" or lollipop) work well and fit into urban sites and or at places where a minimum of two bike parking spaces is required.

- k) Separate rack designs to apply to short term and long term parking.

Staff recommend: OK. Appropriate racking for specific applications/sites or parking durations should be considered as part of an approved rack selection list.

- l) Who approves the rack? Ordinance defines rack, Zoning Administrator approves, with consideration/guidance from TE (allows for creativity). Approval of racks should include # of bike parking spaces the specific rack is designed to accommodate from manufacturer.

Staff recommend: OK

- m) Need 6' vertical clearance requirement

Staff recommend: OK

- n) Does 3% slope work to provide stable surface for rack mounting?

Staff recommend: No change. This is a carry-over from the existing ordinance. If rack holds bicycle in a stable condition on a 3% slope, ok.

- o) Surfacing: must be paved with asphaltic or concrete surface, approved by DPW, and may use pervious paving (no gravel, landscape stone, woodchips)

Staff recommend: OK

- p) Eliminate 2.5' width if information from rack manufacturers reflects rack side is not modular standard or being manufactured (keep current 2' width).

Staff recommend: OK

- q) Accommodate U-lock (including removal of front wheel and locking it to the rear fork and frame) and cable lock.

Staff recommend: OK

- r) Allow vertical allowance substitute to bicycle-car substitute

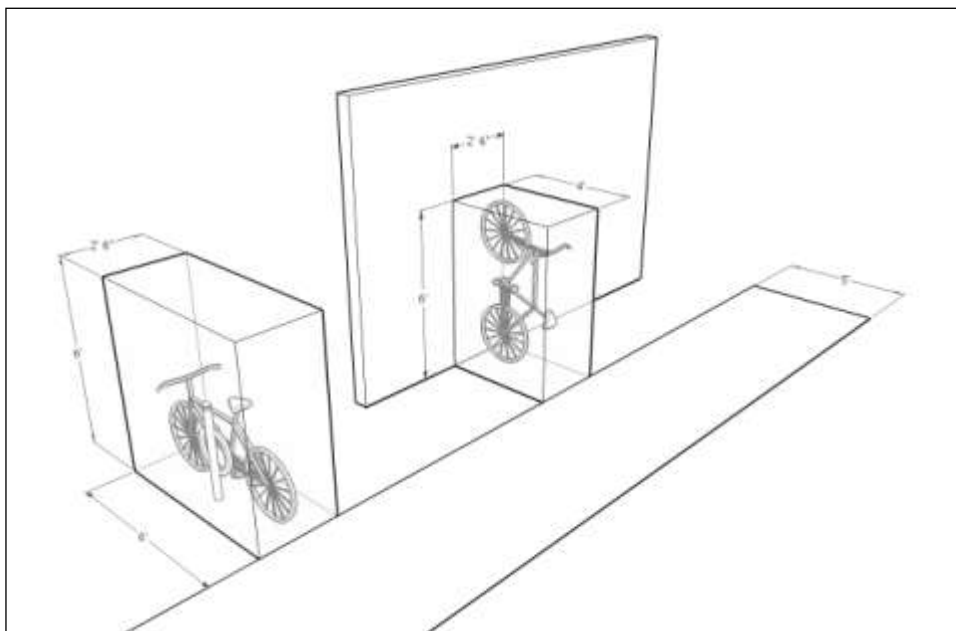
Staff recommend: Vertical or horizontal bicycle parking could be acceptable when substituting bicycle parking for automobile parking, so long as the vertical parking percentage and specifications meet requirements elsewhere in the ordinance.

- s) Need a diagram (see below) showing how vertical parking may be designed:

- Define as a cube, free of 5' access aisle, use storage locker door for dimensions,
- 4.5' projection from wall suggested as acceptable.

Staff recommend: OK

Diagram Example



18. Page 147, 160 [Section 28.141(13)] Explore use of maximum idling times for loading or staging operations, or for truck loading areas.

Staff recommend: No change. This is not really a zoning-type issue, and is extremely difficult to enforce. It may be better handled on a land use-specific basis, for the uses where vehicle idling is part of the land use. Where identified, supplemental regulations limiting idling could be included, or conditions of approval could be applied to conditional uses.

Definitions

19. Page 243, 243 [Section 28.211] Define traffic to include motor vehicles and bicycles. Check state statute.
Staff recommend: OK
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General Bicycle Comments

20. Two calculators for generating required bicycle parking: Residential and Non-residential
Staff recommend: This is covered in required parking table, which differentiates requirements by land use.
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21. Residents of buildings shall not be required to pay a fee for access and use of required bicycle parking.
Staff recommend: More Discussion. Staff notes that this may depend on the type of bike parking required or made available by the building owner. For instance, if a building owner were to provide all required bike parking, but provide some of it as higher quality parking exceeding ordinance requirements (bike lockers, etc.), perhaps charging a small fee for use of this parking might make sense in some situations. Owners are certainly allowed to charge for required automobile parking. Could consider prohibiting a charge for bicycle parking in cases where free automobile or moped parking is provided on-site.
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22. Where developments are comprised of multiple buildings, bicycle parking shall be provided for each building as part of approval of the planned multi-use site.
Staff recommend: OK
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23. Stronger or direct reference to “bicycle connections” in *Statement of Purpose* subsections (parking, TOD).
Staff recommend: OK
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24. Fact: Ordinance does not address long-wheelbase bicycles, tricycle recumbent, cargo bikes, trailers, or associated storage needs.
Staff recommend: Future.
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General/Concluding Comment

25. Zoning code should establish mechanism for review of transportation connections within and through parks, such as multi-use trails, parking facilities, and other transportation facilities. This issue could be covered in supplemental regulations or with a Conditional Use process.
Staff recommend: No change. This appears to be a parks planning transportation, or master planning issue. Creating a zoning process may be redundant.
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ACTION BY THE URBAN DESIGN COMMISSION

On February 24, 2010 the Urban Design Commission recommended adoption of amendments to the Madison General Ordinances as set forth in attached Exhibit F pursuant to Sec. 66.0103, Wis. Stats. to revise the City's Zoning Ordinance with all comments by the Urban Design Commission to be incorporated into a recommendation to the Plan Commission from the Commission's prior review of the draft provisions at its meetings of May 27, October 28, December 7, 2009 and January 27, 2010, including comments of record from the meeting of February 24, 2010 and individual comments by Harrington, Slayton and Smith (forwarded prior to and following discussion at the January 27, 2010 meeting). The Zoning Code Rewrite Staff Team is to summarize and condense the collective recommendations prior to consideration by the Plan Commission of the draft ordinance provisions with the Urban Design Commission to be copied on the condensed recommendations with a report to the Urban Design Commission on the Plan Commission's action on its recommendations.

A motion was made by Slayton, seconded by Rummel, to RECOMMEND TO COUNCIL TO ADOPT - PUBLIC HEARING. The motion was passed on a vote of (5-0).

Note: Staff has reorganized the comments below based on the order of the Draft Zoning Code, incorporating Page and Section references where possible.

Recommendations:

Mixed-Use and Commercial Districts

1. **Page 37, 39 [Section 28.060(2)(b)]** Uncomfortable with describing rhythm/pattern in design standards; make sure guidelines are flexible in prescribing architecture.

Staff recommend: Staff believes draft allows flexibility in design and rhythm/pattern. Staff is working to translate guidelines into standards where possible.

2. **Page 37, 39 [Section 28.060(2)(b)]** The design standards as previously noted need flexibility. (Matt Tucker referenced the waiver system within the ordinance on Page 37, which was commented on as needing more work).

Staff recommend: Staff has carefully reviewed the "waiver" process in the draft, and is recommending replacement of the waiver process for design standards with a zoning variance process, which is currently typical for other requests to depart from zoning code requirements.

3. **Page 38, 40 [Section 28.060(2)(b)5]** Reference to "arched windows and balconies" doesn't leave space for modern architecture, should not be the vocabulary, needs flexibility.

Staff recommend: OK to remove.

4. **Page 45-49, 48-52 [Section 28.062]** Go back and review this section to determine whether it encourages or discourages the developer having a large development.

Staff recommend: No change. This subsection generally replaces the C1 district requirements, where a maximum building size of 10,000 sq. ft. is in place. The maximum building size may be exceeded if

approved as a conditional use, which is more flexible than the current C1 maximum. The ordinance as drafted for the NMX district encourages smaller developments by right, but provides for larger developments as a conditional use when appropriate.

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5. Page 37, 39 [Section 28.060(2)] The "compliance and feasible" references need to be reworded to be more clear.

Staff recommend: OK

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6. Page 38, 40 [Section 28.060(2)] Non-street facing facades allow and encourage blank walls, needs to be amended.

Staff recommend: No change. Draft includes window/door opening requirement on side and rear facades. Staff believes draft adequately addresses side/rear facades, and does not allow blank walls.

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7. Page 39, 40-41 [Section 28.060(2)(g)] Table 28D-1 Building Materials

- a) Materials section is biased against glass.
- b) Use of reflective glass or spandrel glass should be allowed more extensively.
- c) Don't like mirrored glass.
- d) Reflective glass should be shown as an innovative element of a superior design.

Staff recommend: Future. While the use of glass may need to be revisited, it is difficult to conclude any clear direction from the glass-related comments, 7 (a)–(d) above.

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- e) Issues with encouraging the use of vinyl siding; it was felt it should not be allowed at all. The language needs to be stronger to note UDC required projects required adherence to a higher standard. High quality materials should exclude the use of vinyl. The table should be amended to eliminate the use of vinyl as indicated within the chart. Provide an asterisk to note that vinyl siding is not on the list of materials.
 - f) The use of vinyl should require UDC approval.

Staff recommend: No change. Continue with current approach, which allows vinyl only as trim or top of building.

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- g) Metal panel OK as a base/bottom of a building material.

Staff recommend: Change table to allow for metal panel at base/bottom

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- h) Fiber cement panels OK as a base/bottom of building material.

Staff recommend: Change table to allow for fiber cement panel at base/bottom

-
- i) Brick size should be differentiated standard versus large brick sizes (standard versus utility for example). Encourage use of standard brick versus large, should be based on some coherence in brick size based on context with existing buildings.

Staff recommend: Future. While brick size specifications may need to be revisited, it is difficult to create a new regulatory framework for the use of brick at this time.

8. Page 39, 41 [Section 28.060(3)] Amend graphics to reflect barrier free entrances, where relevant.

Staff recommend: OK

Page 45, 50-51 [Section 28.062] Neighborhood Mixed Use District

9. [Section 28.062] Exhibits should be of comparable scale to each other.

Staff recommend: OK

10. Page 49, 51-52 [Section 28.062(6)] Build-to lines for fixed frontage eliminate option for street trees.

Staff recommend: Staff believe this should be addressed adequately in Memorandum 2, which includes a staff recommendation to provide for *prescribed frontages* to take into account unique site circumstances.

Page 49, 52 [Section 28.063] Traditional Shopping Street District

11. Page 51, 54 [Section 28.063(6)] Frontage Requirements

- a) Adjust building placement based on width of available terrace. Less terrace, more setback, more terrace, little to no setback. Need to incorporate sidewalk width to interplay with setback requirement.
- b) Need flexibility but want buildings to hold corner.
- c) Need real data to guide setback requirements for fixed versus flexed frontage as provided on Page 51, (54).

Staff recommend: Future. These are good ideas related to preparing a more dynamic set of rules for setbacks as related to various conditions in the right-of-way.

Page 56, 62 [Section 28.065] Commercial Corridor - Transitional District

12. Need to provide references that require four-sided buildings beyond the primary street side facade.

Staff recommend: No change. Staff believe this is adequately addressed in Sec. 28.060(2)(d) and (g), the Design Standards in the General Provisions for Mixed-Use and Commercial Districts.

Employment Districts

13. Page 63, 67 [Section 28.082(a)–(e)] Consider using a legend to simplify (Richard Slayton)

Staff recommend: OK

14. Page 68, 72 [Section 28.083(3)(d)] Building Standards: New Development Are there exceptions? (Richard Slayton)

Staff recommend: No change. Staff believes that the variance process can be utilized if exceptions are warranted.

15. Page 70, 75 [Section 28.084 (3)(a)] Suburban Employment District Parking Placement Provide diagram with width and length of bay. Screening requirements? (Richard Slayton)

Staff recommend: Future

16. Page 74, 78 [Section 28.086(1)(d)] Employment Campus District Statement of Purpose Vague, let's reference LEED level standards. (Richard Slayton)

Staff recommend: No change at this time. Could add reference to LEED or other similar standards in future, but may not be necessary in statement of purpose.

Special Districts

Page 89, 95 [Section 28.097] PD Planned Development District provisions

17. Page 89, 96 [Section 28.097(2)(a)] Question the use of base districts as an option to PD; who makes determination?

Staff response: This aspect of PD proposals would be reviewed by staff, and the Plan Commission and ultimately Common Council would include this as part of their determination.

18. Page 91, 97 [Section 28.097(4) (e)1–5] Add spatial guidelines for Open Space (Min. dimensions, etc.)

Staff recommend: No change. Staff believes that the PD review process adequately addresses open space, and that setting spatial guidelines for open space might not adequately address the wide variety of contexts within which PD zoning could be proposed.

19. Page 91, 97 [Section 28.097(4) (e)2] Include Dog parks/runs on list. (Slayton)

Staff recommend: No change. Staff believes that the list as drafted is inclusive enough so as to allow for Dog parks/runs as open space.

20. Page 91, 98 [Section 28.097(5)(a)2] Change "PD" process to require concept presentation before UDC as is currently with PUDs in Downtown Design Zones

Staff recommend: No change. Already appears in draft in Sec 28.097(5)(a)2.

21. Page 91, 98 [Section 28.097(5)(a)2] Strike reference to "massing models" to state "...that additional materials by the applicant and staff.."

Staff recommend: Removing "massing models" as a specific type of additional materials that can be requested will certainly still allow them to be requested, and open up opportunities to request other materials as well.

22. Page 91, 98 [Section 28.097(5)(a)2] Facilitate requests for Traffic Engineering models, in addition to required massing models.

Staff recommend: No change. See above.

23. Page 92, 98, 99 [Sections 28.097(5)(c)1 and 28.097(5)(e)1] Issue with the staged initial and final approval of a project by UDC. Code needs to be correlated to indicate UDC practice with conditional initial approval which allows for both Plan Commission and Common Council consideration where the provisions need to warrant and recognize the need for UDC future final consideration.

Staff recommend: OK

General Regulations

Section 28.141 Parking and Loading Standards

24. Page 135, 147 Table 28J-3 Off Street Parking Requirements

- a) Minimum and maximum standards needed for moped parking. Define need for more moped parking in certain districts on and near campus.

Staff recommend: Future. Perhaps moped minimums and maximums would be useful to include in some downtown districts, or as part of Campus Institutional Master Plans, but staff believe that their treatment in the draft (where moped stalls of specific dimensions may be used to substitute for automobile stalls) is adequate.

- b) Page 138, 150 Hotel, inn, motel parking maximum should be lowered to 1.5 stalls per bedroom.

Staff recommend: OK

25. Page 139, 152, Table 28J-4 Minimum Parking Waivers and Reductions

- a) Page 140, 153 Transit corridor reduction should include up to 50% reduction to also qualify for TDM and shared parking.

Staff recommend: OK

- b) Page 140, 153 The waiver to reduce bike parking with public parking spaces within 300-feet should qualify if location is "directly" in front of.

Staff recommend: Staff supports the recommendation by the LRTPC for a revised bike parking reduction process.

26. Page 146, 159 [Section 28.141(11)(c)] Relevant to long-term bicycle parking spaces, storage areas can't be used to count for bike parking.

Staff recommend: Bike parking would need to meet ordinance requirements regarding rack design, and empty storage spaces would not meet these requirements.

27. Page 146, 159 [Section 28.141(11)(d) and (e)] Qualify requirements for ease of access, long and short-term bike parking and clarify language relevant to "dust free."

Staff recommend: OK

28. Page 146, 159 [Section 28.141 (11)] Add, "Circulation to and location of bicycle parking shall not interfere with pedestrian circulation to building. (Slayton)

Staff recommend: OK

NOTE: While some of the UDC recommendations related to Landscaping and Screening Requirements (Recommendations 29 – 43) are easily accommodated with small changes to the draft Zoning Code, many are followed by a staff recommendation to address them in the “Future”. Staff recommends that these issues might best be addressed as a future amendment to Section 28.142 of the Zoning Code after reexamination and further study by the UDC.

Section 28.142 Landscaping and Screening Requirements

29. Page 148, **161** [Section 28.142(1)] Consider adding under Statement of Purpose, “(e) Enhance the environment for successful plant establishment and growth” (Harrington)

Staff recommend: OK

30. Page 149, **162** [Section 28.142 (3)(a)10] Under elements of the landscape plan to be shown, provision needs to be made that for plantings in parking areas or for those surrounded by pavement, the size on the plan should be shown at 15 years of growth. To show plants in such locations at 2/3 their mature size is a major misrepresentation of what would ever exist. (Harrington)

Staff recommend: OK

31. Page 149, **162** [Section 28.142 (3)(a)] Suggest adding an 11th item: “Existing trees 8" in diameter or greater noting those that are to be removed and their size”. (Harrington)

Staff Recommendation: OK

32. Page 149, **162** [Section 28.142 (3)(c)]

- a) Stone mulch may have appropriate uses especially at building mow strips. Delete chipped. (Slayton)
- b) Require organic mulch over rock mulch.

Staff recommend: More Discussion. Unclear direction at this time with regard to mulch details. Staff is recommending that the Plan Commission clarify whether stone mulch and weed barriers are allowed.

33. Page 150, **163** [Section 28.142 (5)] In Landscape Calculations table, Overstory deciduous trees should be planted at a minimum 2 1/2" caliper, not 2" (Harrington)

Staff recommend: OK

34. Page 150, **163** [Section 28.142(5)] Reexamine the use of gallon size reference for plant size

Staff recommend: Future. The gallon size reference seems to be a common industry standard, but staff would not oppose a different standard.

35. Page 150, **163** [Section 28.142(5)] Need ratio for providing diversity of tree types.

Staff recommend: OK

36. Page 150, 163 [Section 28.142 (5)(f)] Weed barrier –Prohibited! Creation of a Japanese type garden would include less plant material... Note exceptions. (Slayton)

Staff recommend: More Discussion

37. Page 150, 163 [Section 28.142(6)(a)]

- a) The ratio of tree/shrub planting in overplanting; five shrubs too much and doesn't take into account the use of grasses. Should consider the use of percent of required coverage instead.
- b) Development Frontage Landscaping should be reworded, "One (1) overstory deciduous tree and a *minimum* of five (5) shrubs shall be planted for each *thirty.....sufficient shrub numbers and spacing should allow for continuous foliage cover at mature size.*" I suggest something to this effect, some shrubs may only spread 2-3', others could spread 5 or 6'. Some ordinances provide an opacity factor, but I think this would be hard to enforce. (Harrington)

Staff recommend: Future. While this may need to be revisited, it is unclear what, if any, exact changes would be best.

38. Page 151, 164 [Section 28.142(7)] Interior Parking Lot Landscaping – General Changes / Additions

- a) Do more with parking lot standards, need stronger landscaping standards, e.g. requirement for 50% canopy cover.
- b) Reexamine the minimum qualifier of 20 or more parking spaces to be dropped down to 12 stalls as necessary to address landscaping standards.
- c) Consider a maximum number of stalls beyond which will require large divider type longitudinal tree islands.
- d) Add "There shall be a maximum of 12 contiguous parking stalls without a break from a tree island" -- wording needs work. (Harrington)
- e) Add, "Parking areas with more than 4 parallel rows of car stalls shall have a minimum of one 7' wide planted median between and extending the length of every other head-to-head car row. (Harrington)

Staff recommend: Future. Recommendations (a) through (e) above regarding revisions to how parking stalls trigger specific landscaping requirements may need to be further explored.

- f) Add, "Parking lot lighting should not conflict with tree growth or the use of trees in islands." (Harrington). Include copy regarding trees islands vs. light poles (Slayton)
- g) Parking lot lighting should not conflict with tree growth and not exceed 16-feet in height; create separate compact light islands for compact parking with dedicated tree islands.

Staff recommend: Future. Recommendations f and g above regarding the relationship of parking lot lighting and trees may need to be further explored.

- h) Need to emphasize pedestrian connectivity with parking lots with more than 12 stalls with a pedestrian circulation plan and parking lot design.
- i) Require through walkways between building front and street.
- j) It would also be nice to have some wording about establishing safe pedestrian circulation internal to parking lots. (Harrington)

- k) Tree islands should be large enough to provide safe passage out to street that includes walkways to parking bays.
 - l) Use walk crossings at the head of double bays to facilitate pedestrian access.
Staff recommend: Future. Pedestrian connections to the street, as well as internal pedestrian circulation are important issues that may need to be further explored.
-

- m) Put together a list of tree species that deal with species and tolerance to paved condition.
Staff recommend: Future. This is a good idea, and such a list could be developed and included as an appendix/reference in the code at a later date.
-

39. Page 151, 164 [Section 28.142(7)(a)] Interior Parking Lot Landscaping – Island Size and Coverage

- a) Relative to Interior Parking Lot Landscaping, the minimum area devoted to interior planting islands or peninsulas should be 10% rather than the 5% as proposed (or at least 8%). Madison is certainly not approaching the landscape level in its zoning of many cities its size. (Harrington)
Staff recommend: More Discussion. Staff would not object to a % greater than 5.
-

- b) Provide for soil replacement in tree islands of 4-feet in depth to allow for tree growth.
Staff recommend: More Discussion. Staff would not object to this, but it may be difficult to enforce.
-

- c) Need large tree islands to allow for growth to provide for greater cooling effect. Encouragement to provide for 9'x18' dimensions for tree islands.
Staff recommend: No change. Draft reflects this already with requirement for 160 sq. ft. islands (roughly 9'x18').
-

- d) Need to emphasize a landscape strip between head-on adjoining bays of surface parking as a tree island option.
Staff recommend: Revise language in [Sec. 28.142(7)(a)] to make this more explicit, as follows:
“...shall be devoted to interior planting islands, peninsulas, or landscaped strips, each with a minimum area of 160 sq. ft. and a minimum width of nine (9) feet.”
-

40. Page 151, 164 [Section 28.142(7)(b)] Interior Parking Lot Landscaping – Island Plantings

- a) Examine tree island requirement based on canopy coverage.
 - b) The provision that requires "at least one deciduous canopy tree for every 160 square feet of landscaped area", should be 120 square feet.
 - c) The primary plant material shall be shade trees with at least one deciduous canopy tree for every 160 sq. ft. of landscaped area. This should be increased to 1 for every 140 sq. ft. or, even better, 120 sq. ft. This would also ensure two trees per larger islands that extend nearly two car stalls. (Harrington)
 - d) Provide a minimum of two canopy trees in double length tree islands.
 - e) Need to provide for tree island design and layout to encourage the staggering of trees.
Staff recommend: Future. Items (a) – (e) above may need to be further explored.
-

- f) Discourage the use of evergreen trees in interior tree islands.

Staff recommend: Revise language in [Sec. 28.142(7)(b)] to make this more explicit, as follows:
“...Two(s) ornamental deciduous trees may be substituted for...”

- g) Place shade trees that have the greatest effect on reducing the heat island effect on parking lots.
h) Discourage the use of low ornamental trees; they are dangerous in tree islands. Encourage the use of overstory trees to provide shading, emphasize large deciduous trees.

Staff recommend: No change. Believe that the wording in the draft stating a 25% limit on the proportion of ornamental trees is adequate.

- i) Remove sod as an acceptable form of tree island coverage.

Staff recommend: No change.

41. Page 151, 164 [Section 28.142 (7)(c)] Interior Parking Lot Landscaping – Island Curbs

- a) Islands could include curbing and cut-ins for infiltration with the option of a 300 square foot stall for large trees or at 600 cubic feet.
b) Look at other standards including European for cuts in curbing for drainage and landscaping canopy cover.

Staff recommend: Future

- 42. Page 153, 166 [Section 28.142(11)]** Planting material that has died shall be replaced no later than the upcoming June 1. (this allows *up* to 12 months depending on when the plant died but ensures that plants be replaced by the start of the next growing season). (Harrington)

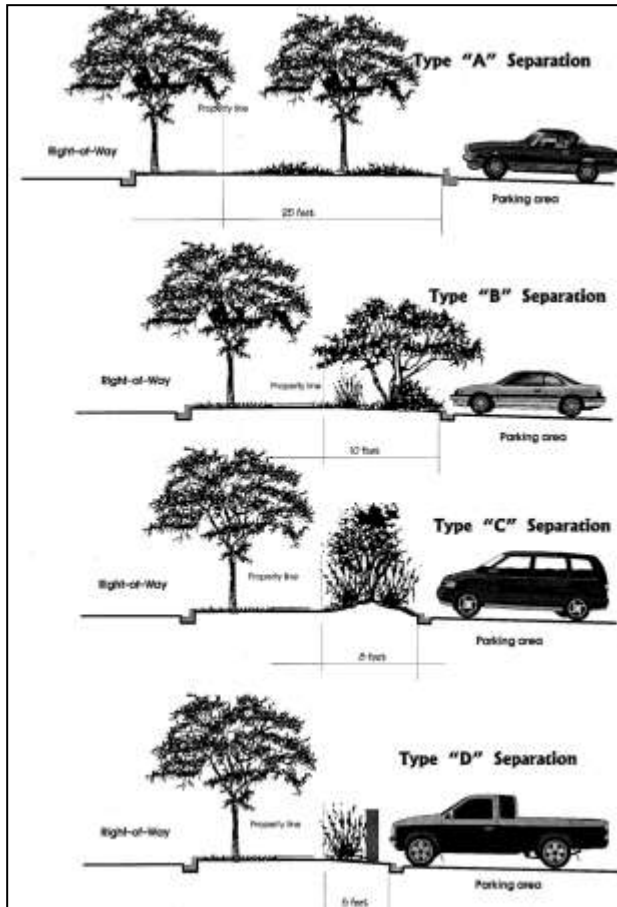
Staff recommend: OK

43. Thoughts borrowed from other landscape ordinances (Harrington):

- a) Trees. Where trees with a trunk caliper of six inches or more already exist on a proposed parking lot site, a tree preservation plan that makes the best use of as many trees as possible shall be reviewed and approved by the city landscape architect and the approval body.

Staff recommend: Future

- b) Landscaped medians at least 10 ft. in width shall be required for aisles that align with street access .
Diagram from Utah (*provided by Harrington*)



Staff recommend: Future

44. Procedural Comments pertaining to the UDC

- a) Strengthen City Staff's ability to reject incomplete submittals. We see far too many submittals that simply are not ready for the committee to consider. Last second surprises are a sure recipe for referral which wastes everyone's time. (Smith)
- b) Increase the lead time for submittals. The City Staff should have enough time to examine submittals and allow the applicant to make changes and or updates well before the committee meets. (Smith)
- c) Increasing the interval between submittal and hearing will allow the public and the press time to fully understand the applicant's project and make better and more useful comment. (Smith)
- d) The committee needs to be quicker to refer items that are incomplete and or have not supplied information that has been repeatedly asked for. After the second or third meeting without the requested information the item should be tabled indefinitely until the information is provided. The applicant is causing the delay, not the committee. Not fair. (Smith)

Staff recommend: Future. These issues may be able to be addressed procedurally, or in MGO Ch. 33.

ACTION BY THE HOUSING COMMITTEE

On March 3, 2010, the Housing Committee voted to recommend approval of the draft zoning code with modifications. A motion was made by Wilcox, seconded by Ejercito, to approve the language provided by David Sparer, entitled "Proposals Related to Housing Cooperatives Presented by Representatives of Housing Cooperatives" (*attached*).

Day/Wilcox proposed a friendly amendment for recommendation to support an expansion of the language related to the definition of Housing Cooperatives based on the handout provided by Sparer. This friendly amendment was accepted. The motion passed.

A motion was made by Ejercito, seconded by Hassel, to recommend approval of the approach for Accessory Dwelling Units that is in the Draft Ordinance. Maniaci made a friendly motion for amendment that the recommendation to accept be with the understanding that this does not apply to the yet to be constructed Downtown Districts. Ejercito accepted this friendly amendment. The motion passed.

A motion was made by Maniaci, seconded by Ejercito, to return to Plan Commission with a recommendation for Approval with recommendations, with the stipulation that a final draft be provided to the Housing Committee. The motion passed.

Note: With regard to cooperatives, a clarifying summary of the Housing Committee's recommendation is provided in the attached March 18, 2010 memorandum from David Porterfield to the Plan Commission (**See Appendix, p. 6**). A copy of the David Sparer proposal referenced in the motion is also attached (**See Appendix, p. 7-8**). The Housing Committee's recommended changes to the draft zoning code are as follows:

Recommendations:

1. **Page 11, 11 [Sec. 28.032, Table 28-C-1]** Increase places which housing cooperatives could locate by allowing them in more districts.

Staff recommend: No change. Essentially, the Housing Committee is proposing to allow the possibility of Housing Cooperatives in districts beyond that which are noted in the draft. David Sparer's memo recommends that they be allowed in the SR-C3 District, which the current draft does not, but does not recommend that they be allowed as permitted or conditional uses in the SR-C1, SR-C2, TR-C1, or TR-C2 districts. (see table on next page summarizing Sparer's proposal).

-
2. **Page 164, 177 [Sec. 28.152(5)]** Eliminate certain requirements that would trigger a conditional use process for housing cooperatives as a requirement.

Staff recommend: No change. For districts where Housing Cooperatives are proposed to be allowed in the draft, the Housing Committee is proposing changes to the way maximum occupancy is established, and in some cases, whether a Housing Cooperative is a permitted or conditional use (see table on next page summarizing Sparer's proposal).

-
3. **Page 230, 255 [Sec. 28.211]** Expand upon the definition of a housing cooperative to include other types of qualifying cooperatives.

Staff recommend: No change. The Housing Committee may need to provide more information with regard to how they recommend the definitions change. Their recommendation may also include changes to the definition of "Family", or "Owner-Occupied".

Table Comparing Draft Code with David Sparer’s Proposal for Housing Cooperatives (prepared by staff)

Districts	Draft Code	Sparer Proposal
SR-C3	Not allowed at all	<ul style="list-style-type: none"> ● Permitted when converting a 2-unit, 3-unit, or multi-unit building. Occupancy = Legal # of Bedrooms prior to conversion (e.g., for a converted duplex which had two 3-bedroom units, maximum occupancy = 6) ● Conditional for occupancy to exceed legal # bedrooms prior to conversion of 2-unit, 3-unit, or multi-unit building. ● Cannot occur within SF homes
SR-V1 SR-V2 TR-C3	<ul style="list-style-type: none"> ● Conditional Max. Occupancy = 5 ● Can occur in any residential structure 	<ul style="list-style-type: none"> ● Permitted when converting a 2-unit, 3-unit, or multi-unit building. Occupancy = Legal # of Bedrooms prior to conversion. ● Conditional for occupancy to exceed legal # bedrooms prior to conversion of 2-unit, 3-unit, or multi-unit building ● Cannot occur within SF homes
TR-V1 TR-V2 NMX CC-T	<ul style="list-style-type: none"> ● Permitted Max Occupancy = 5 ● Conditional Occupancy exceeds 5 	<ul style="list-style-type: none"> ● Permitted when converting a 2-unit, 3-unit, or multi-unit building. Occupancy = Legal # of Bedrooms prior to conversion ● Conditional for occupancy to exceed legal # bedrooms prior to conversion of 2-unit, 3-unit, or multi-unit building. ● Permitted in any dwelling unit, Max. Occupancy =5
TR-U1 TR-U2	<ul style="list-style-type: none"> ● Permitted Max Occupancy = 5 ● Conditional Occupancy exceeds 5 	<ul style="list-style-type: none"> ● Permitted when converting a 2-unit, 3-unit, or multi-unit building. Occupancy = Legal # of Bedrooms prior to conversion ● Conditional for occupancy to exceed legal # bedrooms prior to conversion of 2-unit, 3-unit, or multi-unit building. ● Permitted when converting a sorority, fraternity, or lodging house, with maximum occupancy set by building code. ● Cannot occur within SF homes

PLAN COMMISSIONER COMMENTS AND SUGGESTIONS

The comments and questions below were discussed and noted during a series of six Working Sessions held on the following dates: September 10, 2009; October 22, 2009; October 29, 2009; December 2, 2009; January 7, 2010; February 4, 2010

In these Zoning Code Working Sessions, which were noticed and open to the public, the Plan Commission reviewed and discussed the draft, but took no action. Most of the comments were made by an individual commissioner. Comments/suggested revisions, which begin on this page, have been separated from Questions, which begin on **Page 37** of this document.

Each section has been reorganized based on the order in which items appear in the Draft Zoning Code.

Comments/Questions:

Introductory Provisions

1. **Page 1, 1 [Section. 28.002]** Add “create sense of place”, “pedestrian-oriented development”, and “design of buildings” to 28.002
Staff recommend: OK

2. **Page 1, 1 [Section 28.002]** Add text that indicates that the purposes are not listed in any particular order.
Staff recommend: No change. Staff notes that few, if any, of the lists in the code are listed in any particular order, and that if this were specifically noted here, it might need to be listed everywhere.

3. **Page 1, 1 [Section 28.002 (g)]** Add “restore”. (n) change to “enhance property values”.
Staff recommend: OK

4. **Page 1, 1 [Section 28.002]** Add “Promote the orderly development and economic vitality of the City.”
Staff recommend: OK

5. **Page 1, 1 [Section 28002 (m)]** Remove the word “urban”.
Staff recommend: OK

6. **Page 1, 1 [Section 28002(1)(e)]** Replace the; with a.
Correction

7. **Page 1, 1 [Section 28.002(1)(n)]** Consider to stabilize, protect and increase property values.
Staff recommend: OK

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8. **Page 1, 1 [Section 28.002]** Add, “To provide an adequate variety of housing and commercial building types to satisfy the city’s social and economic goals.”
Staff recommend: OK
-
9. **Page 2, 2 [Section 28.005 (1)]** “Temporary Agriculture” creates a misleading perception in the minds of the public. They think it will be in agricultural use when it will not.
Staff recommend: No change.
-
10. **Page 5, 5 [Section 28.021]** Explain “consistent” and “varied”.
Staff recommend: OK
-
11. **Page 5, 5 [Section 28.021]** Can “Traditional Workplace” be changed to “Traditional Employment”?
Staff recommend: OK (Change to be made throughout code)
-

Residential Districts

12. **Page 11, 11 Table 28C-1** Change multi-family dwellings from 3-8 to 5-8.
Correction
-
13. **Page. 11, 10 [Section 28C-1]** Add sentence that indicates that bulk standards are provided in the following Tables: 28.034-remainder of the document.
Correction
-
14. **Page 12, 12 [Section 28.032]** Concern about mixed-use buildings in residential areas.
Staff recommend: See below.
-
15. **Page 12, 12 [Section 28.032]** Want more mixed-use buildings in single family neighborhoods.
Staff recommend: The removal of mixed-use buildings from the Residential Districts Use table on Page 11 of the Draft Code. Rather than having mixed-use buildings allowed as permitted or conditional uses in residential districts, it would be better to recommend appropriate parcels to be rezoned to mixed-use districts based on adopted neighborhood plans.
-
16. **Page 13, 11 [Section 28.034]** Add the word “Criteria” (“Requirement”) to the top row of each residential table.
Staff recommend: OK. Will add to all Lot Area and Bulk Requirement tables throughout code
-

17. **Page 13, 10 [Section 28.034]** (and all other districts), Add text that indicates that for specific uses, standards (Supplemental Regulations) may apply.

Staff recommend: No change. This is already implied in revised Use Charts in the “supplemental regulations” column, and is also mentioned at the beginning of each Subchapter.

18. **Page 14, 15 [Section 28.036 (1)]** Add to the end of the sentence “provided they meet the additional criteria (requirements) listed below.”

Staff recommend: No change.



19. **Page 14, 15 [Section 28.035]** Typo. Change “covers” to “cover”.

Correction

20. **Page 27, 29, 32, 30, 32, 36** Add courtyard apartment, podium building and carriage houses to the TR-U1, TR-U2, and TR-P Districts as permitted building forms.

Staff recommend:

- a) Courtyard Apartment - Staff has recommended adding courtyard apartments to these districts, as well as TRV2 and SRV2.
 - b) Podium - OK to add to the TR-U1, TR-U2, and TR-P Districts as suggested above.
 - c) Carriage House - Staff has recommended removing Carriage House as a building form, as accessory buildings such as carriage houses need not be defined, and it was not listed as an allowable form in any district.
-

21. **Page 27-30, 28-32 [Section 28.048]** TRU Districts Neighborhood Plans could identify recommended building heights.

Staff recommend: No change. Identification of maximum heights is likely for the Downtown Planning area, within which new residential districts could apply. With regard to the TRU districts, (which will likely be applied to some of the areas covered by adopted neighborhood plans) the draft currently sets two sets of maximum heights - one for permitted uses, and a higher maximum requiring conditional use review (including a review for consistency with adopted plans). In addition, review for demolition and rezoning requests will also require consideration of adopted plans.

22. **Page 35, 37 [Section 28.052(6)(b)]** Take out “each cardinal direction”

Staff recommend: OK

23. **Page 36, 37 [Section 28.052]** Add design guidelines to master plan Submittal Requirements. If there are no design guidelines, each building must receive Plan Commission approval.

Staff recommend: No change. In Section 28.052(7)(a)3, building design standards are already included as a component of the master plan.

Mixed-Use and Commercial Districts

24. Page 37, 39 [Section 28.060 (2)(b)] Define “storefront”.

Staff recommend: OK

25. Page 37–60, 39-59 [Section 28.060] In the Neighborhood Mixed-Use, Traditional Shopping Street, and Mixed-Use Center Districts, use build to lines in the draft zoning code, large format retail standards apply but not the building placement standards.

Staff recommend: Staff believes that the draft frontage requirements in these districts are more prescriptive than the large format retail standards.

26. Page 38, 40 [Section 28.060 (2)(d)] Change “windows and doors” to windows and/or doors”.

Correction

27. Page 49, 52 [Section 28.063] How are residential uses mapped? Wants flexibility for residential.

Staff recommend: No change. Residential uses are not mapped, per se, within the TSS District. However, they are allowed as defined in the use list table.

28. Page 51, 54 [Section 28.063(5)] Three stories maximum permitted height in the TSS district is worth revisiting.

Staff recommend: Staff is recommending a 3 stories height maximum as permitted use in this district, but allowing for height to exceed 3 stories as a conditional use

29. Page 51, 54 [Section 28.063(6)] Commercial projects should be brought up to the street in the Traditional Shopping Street District.

Staff recommend: Staff believe that the frontage requirements, in conjunction with appropriate mapping of frontages in TSS Districts, can address this for new development or significant site changes. Some very small additions or exterior changes may not “trigger” these standards.

30. Page 58, 59 [Section 28.065] There needs to be a balance, (if frontage and parking requirements are) too rigid will hamper redevelopment. Lot depth is key to making CC-T work.

Staff recommend: Staff has recommended changes to the frontage requirements in mixed-use and commercial districts (See Memorandum 2, No. 38)

31. Page 58, 59 [Section 28.065] Add something from CC-T District to CC District regarding frontage requirements and parking location requirements or add something from the Large Format Retail Standards.

Staff recommend: Staff has recommended changes to the frontage requirements in mixed-use and commercial districts (See Memorandum 2, No. 38)

32. Page 58, 61 [Section 28.065] Correct typo in (5)(a), Change MXC to CC-T.
Correction

33. Page 59, 62 [Section 28.066(4)] Correct typo—CC-T should be CC.
Correction

Employment Districts

34. Page 64, 68 [Section 28.082] Table 28-F1 Add trash transfer station.
Staff response: Waste Transfer Station added

35. Page 64, 68 [Section 28.082] Table 28-F1, Define “telecommunication center”.
Staff recommend: Will add to definitions section. In addition, need to change “call center “on Page 136, 149, Table 28-J-3 to “telecommunication center”.

36. Page 67 & 73, 72 & 78 [Section 28.083 and 28.086] Incorporate entrance orientation standards like Page 37, 39 [Section 28.060(2)(a)] (the Design Standard regarding Entrance Orientation for Commercial and Mixed Use Districts) into the TW and EC districts
Staff response: OK.

37. Page 69, 74, 76 [Section 28.083] Consider allowing more height in the TW District and the SE districts
Staff response:

- a) TW District – No change. Note that in at least one area likely to be zoned TW (the Capital Gateway Corridor), the heights outlined in Urban Design District 8 would trump the height limitations of the base zoning district, allowing for taller buildings.
- b) SE District – OK. Staff is recommending the allowance of heights greater than five stories as a conditional use in the SE District.

Special Districts

38. Page 80, 85 [Section 28.091] The Key to Table box lists Conservancy as “C”. This creates confusion with the “C” for conditional uses in Table 28G-1.
Staff recommend: OK

39. Page 80, 85 [Section 28.091] Table G-1., Consider adding equestrian center/riding-boarding stable (Academy) to the list and permit it in the Agricultural District. This use could be public or private.
Staff recommend: OK

40. Page 80, 86 [Section 28.091] Table 28G-1, Consider allowing schools, arts, technical or trade as a conditional use in the Urban Agricultural District.

Staff recommend: Staff would not object to this as a conditional use.

41. Page 80, 88 [Section 28.091] Table G-1, Consider adding some provision for food and beverage preparation in the Agricultural District.

Staff recommend: More Discussion. Staff would support adding this, but supplemental regulations may be required.

42. Page 82-83, 88 [Section 28.092] Add text to Statement of Purpose that indicates that these areas may be temporary until rezoned to another district.

Staff recommend: No change.

43. Page 89, 97 [Section 28.097] PDD [Section 28.060] Mixed-Use and Commercial Districts, add text that requires sidewalks along private streets.

Staff recommend: No change to Section 28.097, as connectivity is covered in 28.097(4)(d). No change within Section 28.060, as sidewalk requirements handled by Traffic Engineering consistent with MGO Ch. 10.

44. Page 91, 97 [Section 28.097(4)(e)1] Change language from “...shall not be applied to this requirement...” to “...shall not be credited toward open space...”.

Correction

Overlay Districts

45. Page 106, 116 [Section 28.107] Consider adding a statement that tells the reader why an urban design district is important and a note about what it requires.

Staff recommend: As noted in Memorandum 2, staff recommends that UDDs (as well as Local Historic Districts) be removed from the zoning code and remain in MGO Chapter 33 in order for the Urban Design Commission and Landmarks Commission to retain their current roles in these districts. City Attorney noted that if these districts were to be included as Overlays in MGO Chapter 28, any change from district requirements would require a variance granted by the ZBA, rather than by the UDC and Landmarks Commission as is current practice.

46. Page 107, 117 [Section 28.108(4)(f), (g),(h)] Change (h) to “ADU District Study” so that it is consistent with other references to the study.

Correction

47. Page 108, 117 [Section 28.108(4)] Add (j) 20 year review requirement.

Staff recommend: OK

48. **Page 106-108, 116-119 [Section 28.108]** There is an enforcement issue if the owner of an ADU sells the house, it then becomes a rental unit.

Staff recommend: No change. This is an enforcement issue, and would be addressed similarly to the way adherence to occupancy requirements is enforced today.

General Regulations

49. **Page 125, 137 [Section 28.132]** Table 28J-1, remove “minor” from recreational equipment.

Staff recommend: OK

Page 130-133, 142-144 [Section 28.138] Lakefront Development

50. Require a prominent front door on the street frontage of lakefront residential buildings.

Staff recommend: More Discussion. The orientation of lakefront homes varies significantly throughout the City, and staff believes that the draft in its current form adequately deals with this through the conditional use review for lakefront development. In addition, lakefront homes will need to comply with Building Form Standards.

51. **Page 130, 142 [Section 28.138]** Concern about “walling off “ lakefront views.

Staff recommend: Future

52. **Page 130, 142 [Section 28.138]** Shoe horning big houses on small lots is a concern.

Staff recommend: No change. The draft currently utilizes height and Floor Area Ratio (FAR) comparison between proposed homes and properties 1000 feet on either side of the proposal. FAR is derived using the size of the home and the size of the lot, and better addresses this issue than simply comparing sizes of homes, or as is current practice, leaving everything to the conditional use review absent clear standards or limitations.

53. **Page 130, 143 [Section 28.138]** Add a nonresidential development subsection to the Lakefront Development section.

Staff recommend: More Discussion. As currently written in the draft ordinance, a conditional use permit is required for all development on the lakefront (residential and non-residential). This development must comply with general regulations for lakefront development on Page 143, [Section 28.138(1)]. The difference between nonresidential and residential development is that on top of the general regulations for lakefront development, residential development must *also* comply with new setback requirements and bulk limitations in [Section 28.138(2)].

54. **Page 130-131, 143 [Section 28.138]** Maybe a green roof or something else could be used for projects similar to the Union Terrace which has a lot of hardscape next to the lake.

Staff recommend: More Discussion (related to the above comment).

55. Page 131, 143-144 [Section 28.138(2)(b)] include basements in the residential floor area calculation.
Staff recommend: Staff believes that including the entire basement area, rather than just the finished basement area, would be best for this calculation. If only “finished” area counts toward the residential floor area, there is a risk that new homes will be proposed with large “unfinished” walkout basements for purposes of the calculation, and then if homeowners wish to finish all or part of the basement in the future, they may be prevented from doing so.

Reword: “The residential floor area as defined includes finished or occupiable attic and basement space, full basement space, attached garages, and enclosed porches.”

56. Page 131, 143 [Section 28.138] The draft code says residentially zoned property instead of use. This should be changed.

Staff recommend: OK. Change “residentially zoned property” to “property with a residential use”

Page 133-148, 145-161 Parking and Loading Standards

57. Page 133, 145 [Section 28.141] Clarify “maximum” and “minimum” parking requirements in the Statement of Purpose.

Correction. Reword: “this section establishes minimum and maximum parking ~~space ratios~~ requirements “

58. Page 133, 146 [Section 28.141(3)] Add sentence “minimum parking requirements do not prohibit providing parking up to the maximum. “

Staff recommend: No change.

59. Page 133, 145 Section 28.141 (1)] In Statement of Purpose add something about goal of reducing impervious surface, run-off, etc.

Staff recommend: OK

60. Page 133, 146 [Section 28.141] Add Planned Development District, Transit-Oriented Development District to no minimum requirement list.

Staff recommend: No change. Table 28-J2 reflects conventional zoning districts. In some PDs and TOD Overlays, while doubtful, there may conceivably be minimum parking regulations included in the Zoning Text (PDs) or Station Area Plan (TODs), and including them in this table may be confusing.

61. Page 133, 145 [Section 28.141] Discussion notes that districts where inadequate parking is most likely to result in spill-over into neighborhoods are already recommended as having no minimum parking requirement.

Staff recommend: Future

62. Page 135, 146-147 [Section 28.141] Table 28J-3 Table is confusing. Would it be better to reverse the table to show where there is a minimum?

Staff response: No change.

63. Page 135, 147 [Section 28.141] Desire to rewrite parking minimums. Could some be further reduced?
Staff response: Future. In many districts, minimums have already been eliminated.
-
64. Page 140, 153 [Section 28.141] Likes approach of being able to substitute moped for automobile parking
Staff recommend: No change.
-
65. Page 140, 153 [Section 28.141] New code should include a moped parking requirement.
Staff recommend: Future. Perhaps moped minimums and maximums would be useful to include in some downtown districts, or as part of Campus Institutional Master Plans, but staff believe that their treatment in the draft (moped stalls of specific dimensions may be used to substitute for automobile stalls) is adequate.
-
66. Page 139-140, 152 [Section 28.141] There is no apparent trigger for actually providing the parking ever, so long as space for it is shown on the site plan. No problem with this in single family and two-family uses, but may need a way to get the parking elsewhere.
Staff recommend: OK
-
67. Page 150, 163 [Section 28.142(5)(f)] **Landscape Calculations and Distribution** Remove weed barrier. There needs to be an exception or discretion for the Plan Commission.
Staff recommend: More Discussion. Could remove the *requirement* that there be a weed barrier for non-planted areas, but may want to still allow for weed barriers. The UDC has also expressed various opinions about weed barriers. Staff does not recommend that the code be revised in such a way that the Plan Commission could see cases based on a weed barrier issue alone.
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Supplemental Regulations

68. Page 163, 175 [Section 28.153(1)(e)] Change typo, “(3) above” to “(c) above”
Correction
-
69. Page 164, 176 [Section 28.153(5)] Consider adding a section (e) For housing cooperatives with 5 or more persons, the owners shall submit a management plan for the facility, etc.
Staff recommend: No change, based on current draft ordinance
-
70. Page 170, 184 [Section 28.157(3)(a)] Drive-through facility, Consider replacing “one, two, or multi-family building” with “any residential building”.
Correction
-
71. Page 177, 193 [Section 28.167(2)(b)] Rewrite (2)(b) to note: The Director of Department of Health Madison and Dane County must certify to the Zoning Administrator that a family member residing in the home has a health condition that meets the standards for the conversion as recommended by the Department of Health Madison and Dane County.
Staff recommend: OK
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Building Form Standards

72. Page 179, 197 [Section 28.171] The standards seem general. Who decides whether they've been met? Make them objective.

Staff recommend: No change. Staff believes that the building form standards are sufficiently objective.

73. Page 183, 201 [Section 28.172(5)(c)] Building Form Standards: change "tuck under parking" to "under building parking" or define "tuck under parking" in the definitions section.

Staff recommend: OK

74. Page 183, 200 [Section 28.172(5)] Add requirement for windows at the end of single-family attached buildings.

Staff recommend: OK

Procedures

75. Page 196, 214 [Section 28.181(3)] Require a pre-application meeting.

Staff recommend: No change. Pre-application meeting is strongly encouraged.

76. Page 201, 219 [Section 28.183] Add design to statement of purpose.

Staff recommend: OK

77. Page 201, 219 [Section 28.183(1)] Is "substantially uniform" necessary? Suggest "compatible"

Staff recommend: OK

78. Page 203, 221 [Section 28.183(6)(a)] Add neighborhood plans after comprehensive plan.

Staff recommend: OK

79. Page 203, 222 [Section 28.183(6)(a)] Look at conditional use approval standards to see if they can be more consistent with current planning policies. Does 9 require compliance with building form standards.

Staff recommend: No change. Yes, Building Form Standards apply universally, based on the building type.

80. Page 203, 222 [Section 28.183(6)(b)] Add proof of financing, previous performance, history of property tax payment, proposed contractors.

Staff recommend: OK

81. Page 205, 225 [Section 28.184] Variances Change voting requirement to be up to date with state law.

Staff recommend: OK

Definitions

82. Page 223, 245 [Section 28.211] Separate “Assisted Living, Congregate Care or Nursing Home”. Consider changing nursing home to skilled nursing facility and including the definitions of assisted living, congregate care and skilled nursing home as separate entries.
Staff recommend: OK
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83. Page 226, 248 Clinic, Medical, Dental, or Optical Change to Clinic-Health.
Staff recommend: OK
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84. Page 227, 249 [Section 28.211] Community Garden, Change definition to read “An area of land or space...”
Staff recommend: OK
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85. Page 228, 250 [Section 28.211] Add demolition definition to the zoning code.
Staff recommend: Existing definition to be added.
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86. Page 230, 253 [Section 28.211] Farmers Market, Take out “unamplified”.
Staff recommend: OK
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87. Page 230, 253 [Section 28.211] Fence, Ornamental, and Fence, Solid, Reference these in other parts of the text.
Staff recommend: OK
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88. Page 234, 257 [Section 28.211] Add definition of “lot of record”.
Staff recommend: OK
-
89. Page 234, 258 [Section 28.211] Mission House, Add “supportive services” to the definition.
Staff recommend: OK
-
90. Page 243, 265 [Section 28.211] Transportation Management Association, Add “employment or residential”.
Staff recommend: OK
-
91. Put retrofitting parking lots on the unresolved issues list.
Staff recommend: Future
-
92. Zoning variance standards don’t address “atrocities”.
Staff recommend: Future
-

PLAN COMMISSIONER QUESTIONS

Introductory Provisions

1. **Page 2, 2 [Section 28.005]** Why are annexed lands zoned temporary agriculture district?
Staff response: State statutes allow for temporary zoning of any zoning district. Historically, lands annexed into the City have been in agricultural use. The temporary agriculture zoning district allows newly annexed lands to be placed in a zoning district so that the agricultural uses may continue, but does not allow for new urban development to occur before a rezoning request and approval. This allows staff, the Plan Commission, and Common Council to consider consistency with adopted plans when permanent zoning is sought.

2. **Page 9, 13-38 [Section 28.033 – 28.052]** How were maximum lot coverage values determined?
Staff response: Lot coverage values were recommended by the consultant based on input from staff, and seem reasonable based on existing conditions.

3. **Page 9, 13-38 [Section 28.033 – 28.052]** Have stormwater requirements been considered when creating maximum lot coverage and usable open space?
Staff response: Stormwater requirements are covered in MGO Chapter 37, and must be met in addition to lot coverage requirements. In newly developing or re-platted areas, stormwater requirements need not be met on each individual lot, so there is not always a direct correlation between lot coverage and stormwater management.

4. **Page 9, 13-38 [Section 28.033 – 28.052]** Can rear yards be completely paved?
Staff response: As long as lot coverage requirements are met, rear yards can theoretically be paved. In any case, rear yards could be paved with pervious pavers, as per the lot coverage definition.

Residential Districts

5. **Page 11, 12 [Section 28.032] Table 28C-1** Why don't public safety facilities have standards?
Staff response: Public safety facilities (police, fire, etc.) would be reviewed as conditional uses in the residential districts, and would also be reviewed by the Urban Design Commission as per MGO Chapter 33. Thus, the conditional use standards apply to these facilities and the way they relate to surrounding properties.

6. **Page 11, 11 [Section 28.032] Table 28C-1** Can three-flat dwellings be allowed in more districts?
Staff response: More Discussion. This could occur based on a recommended amendment by the Plan Commission approved by the Common Council. Staff recommends that if they are included in more districts, they could be included as a conditional use in the TR-C3 District.

7. **Page 11, 11 [Section 28.032] Table 28C-1** Why are single family dwellings and two family/twins conditional uses in the TR-V2 and TR-U2 Districts?
Staff response: These districts were conceived as being primarily for multi-family residential buildings resulting in a more dense residential development pattern. However, some single and two-family

buildings may currently exist, and existing or new single and two family dwellings may be appropriate for the future in these districts. As a conditional use, their development is not precluded, but at the same time, development of a large proportion of these districts as single and two-family dwellings is discouraged.

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8. **Page 11, 11 [Section 28.032] Table 28C-1** What is the difference between TR-V2 and TR-U2?

Staff response: There are several differences. Maximum building heights, when approved as a conditional use, can be greater in the TR-U2 District. Multi-family buildings with 5-8 units are permitted in TR-U2, but conditional in TR-V2. For multifamily buildings, much less lot area is required per dwelling unit in the TR-U2 than the TR-V2.

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9. **Page 12, 13 [Section 28.032] Table 28C-1** Why are home occupations a conditional use in the residential districts?

Staff response: Staff has recommended changes to the draft so that home occupations be permitted accessory uses with supplemental regulations.

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10. **Page 30, 31 [Section 28.050]** In the TR-U2 District, what is the practical effect of shifting maximum height to floor area ratio?

Staff response: This would create the only residential district where FAR would be used as a bulk standard. Using FAR, allowable buildings can be much higher and/or more variable, depending on the lot size, making it more difficult to implement adopted neighborhood plans with height recommendations.

-
11. **Page 33, 34 [Section 28.052(3)(b)]** Could the neighborhood development plan determine the percentage threshold (for two-family, attached, and multifamily residential dwellings in TR-P districts)?

Staff response: In Memorandum 2, staff has recommended a reduction of this threshold from 20% to 10%. However, a Neighborhood Development Plan could set a higher percentage threshold than the minimum required in the code.

-
12. **Page 35, 37 [Section 28.052(6)]** Will bike paths count as open space?

Staff response: Normally, public multiuse paths cannot count as open space (see definition of Usable Open Space, p. 243 266). However, the provision in this section notes within the TR-P District, land donated for any public purpose may be credited as open space at the discretion of the Common Council.

Mixed-Use and Commercial Districts

13. **Page 37-60, 39-63 [Chapter 28D]** How does the design standards waiver process work?

Staff response: Staff has recommended a significant change to the draft with regard to the potential to request design waivers. Instead, staff recommends that the variance process (requiring review and approval by the Zoning Board of Appeals) be utilized to request relief from any design standard. (See Attorney Memorandum 4, preceding red-lined draft)

14. Page 37, 39 [Section 28.060] What does infeasible mean?

Staff response: See No. 13 above. The lack of ability to tie the term “infeasible” to objective standards is one reason staff is recommending a significant change to this process.

15. Page 37, 40 [Section 28.060(2)(d)] Do door and window openings create non-conforming buildings?

Staff response: Design standards (including the percentage of window/door openings required, apply only to new buildings and major expansions (additions of 50% or more to the building floor area). In the latter case, only the portion of the building/site undergoing the alteration is subject to these standards.

16. Page 39, 41 [Section 28.060(3)] How would advisory design guidelines be used?

Staff response: They would be encouraged by staff, during the site plan review process, and could also be considered as a condition of approval for any rezoning, demolition, or conditional use request.

17. Page 41, 43 [Section 28.061] What is the difference between NMX and MXC districts?

Staff response: There are many differences, the most significant being that the MXC District requires a master plan. The NMX District can be applied to a single small property, while the MXC District is intended to be utilized on larger sites with coordinated, multi-phased projects.

18. Page 44, 46 [Section 28.061] Table 28D-2 Should (stand-alone) residential multi-family dwelling (>8 dwelling units be permitted in the NMX districts?

Staff response:

a) No change. Stand-alone residential buildings with over 8 units may not be appropriate in this district, which is intended to be applied to small “nodes” dominated by mixed-use buildings. Instead, an individual parcel could be rezoned to TSS or a residential district if the proposed development were appropriate.

OR

b) Add as a *conditional* use in the NMX District, as the building size limitations in this district should sufficiently address any concerns, but suggest a maximum of 12 units.

19. Page 44, 46 [Section 28.061] Is there a maximum number of dwelling units in mixed-use buildings?

Staff response: No, although other limitations and requirements (square footage, height, usable open space, etc.) will indirectly limit the number of units that can be accommodated.

20. Page 45, 45 [Section 28.061] Table 28D-2 Should theaters and concert halls be allowed as conditional uses in the NMX District?

Staff response: They could be, based on a recommendation of the Plan Commission approved by the Common Council.

21. Page 46, 48 [Section 28.062 (3)] Are the NMX District building standards required or variable?

Staff response: Required.

22. **Page 55 & 60, 58 & 61 [Section 28.064 and 28.065]** Should buildings higher than five stories be allowed in the MXC and CC-T Districts.

Staff response: Both of these districts allow height to exceed five stories as a conditional use.

23. **Page 55 & 57, 58 & 61 [Section 28.064 and 28.065]** How was the five story height limit determined?

Staff response: Staff and consultants feel that allowing 5 stories as a permitted use is a reasonable ceiling, while also allowing taller buildings as a conditional use where appropriate. The conditional use review will allow aesthetic and other impacts to be considered.

24. **Page 55, 58 [Section 28.064(8)]** Is a rear yard setback necessary if a MXC District backs up to another MXC District?

Staff response:

a) No change.

OR

b) Could eliminate rear yard setback between two MXC parcels, except for when residential uses comprise the rear of these buildings. The review of the master plan for MXC districts could address this issue. Important to note that all development still must comply with Building and Fire Codes.

25. **Page 56, 59 [Section 28.065(1)]** The statement of purpose is not entirely clear. How does the CC-T District differ from the CC District?

Staff response: The districts are very similar, but CC-T allows for a greater variety of residential uses and building forms as conditional uses.

26. **Page 58, 61 [Section 28.065(6)]** Waiver should be used as infrequently as possible. What does “infeasible” mean?

Staff response: See Nos. 13 and 14 above.

27. **Page 58, 60 [Section 28.065(3)]** What about making CC-T District standards permitted and Large Format Retail standards a conditional use permit with only one row of parking in front?

Staff response: More Discussion

28. **Page 59, 62 [Section 28.066(3)(a)]** Increase by right size of buildings in the CC-T District?

Staff response: No change

Employment Districts

29. **Page 70 & 72, 74 & 76 [Section 28.084 and 28.085]** How can we foster the transition from SEC districts to SE districts?

Staff response: The SEC District is not intended to be mapped for new employment areas, office parks, etc. It will be used very sparingly during the mapping process, but in order to transition the very few areas likely to be zoned SEC to SE, they would likely need to be zoned to SE in the future.

30. **Page 73, 78 [Section 28.085(6)]** why is the maximum floor area ratio 1.0 in the SEC District?

Staff response: This FAR is consistent with agreements negotiated with the American Center (the only property in the City within the current O-4 District) It is being maintained for the SEC, which is only intended for application on those properties currently zoned O-4.

31. **Page 76 & 77, 81 & 82 [Section 28.087 and 28.088]** What are the primary differences between the IL District and the IG District?

Staff response: The IG District allows more uses (heavier industrial uses) by right.

Special Districts

32. **Page 86, 92 [Section 28.096]** Can campuses build without a conditional use permit if they have an adopted master plan?

Staff response: Yes. As long as the proposed building is consistent with the adopted master plan. All other ordinances would still need to be followed, and plans would be reviewed administratively by relevant agency staff.

33. **Page 91, 96 [Section 28.097]** Who decides when a PDD can be used?

Staff response: Ultimately, the Common Council, based on a recommendation by the Plan Commission, as well as the Urban Design Commission.

34. **Page 92 & 93, 95 [Section 28.097]** What is the role of the UDC in the PDD District? .

Staff response: Concept review by UDC is new. Also, GDP and SIP review by the UDC still occurs, but is nonbinding.

Overlay Districts

35. **Page 106, 116 [Section 28.108]** Do accessory dwelling units (ADU) have to be returned to their original status if the ADU is discontinued?

Staff response: No. The approval to establish an ADU in the future would remain.

36. **Page 106, 116 [Section 28.108]** Should ADUs be reviewed over time?

Staff response: The policies surrounding ADUs can be reviewed over time.

37. **Page 106, 116 [Section 28.108]** Can an ADU be established in an existing home?

Staff response: Yes, as drafted, an ADU could be created within an existing home if all other requirements were met.

38. **Page 106, 116 [Section 28.108]** Could a single-family home that is owner-occupied have a roomer provided a conditional use permit is granted?

Staff response: This is allowed by right (no conditional use needed) under both the current ordinance and the draft ordinance.

39. **Page 106, 116 [Section 28.108]** Would conversions require a new staircase?

Staff response: It would depend on how the ADU was configured, and would need to meet all applicable residential building codes.

40. **Page 106, 116 [Section 28.108]** Concern about tenure issue. Legal issue?

Staff response: There is no legal issue with regard to requiring that for an ADU, either the principal or accessory dwelling unit must be owner-occupied.

41. **Page 106, 117 [Section 28.108(3)]** How was the Minimum Area Required selected?

Staff response: As drafted, the minimum area is consistent with the minimum area for Neighborhood Conservation Districts. This could be changed, but was used for consistency between the two overlay districts.

42. **Page 106, 118 [Section 28.108]** Could tight design standards be used to allow ADUs to be permitted on corner lots and larger lots?

Staff response: This would be a departure from the current draft zoning code, which provides for allowing ADUs as overlay districts with certain requirements. However, within the unique list of requirements developed for a particular ADU overlay district, there could be different standards for corner or larger lots.

43. **Page 108, 118 [Section 28.108 (6)]** Can buildings larger than 10,000 square feet in size be required to first receive a conditional use permit?

Staff response: Unsure what this relates to, but in an ADU Overlay District, the base district requirements would apply with regard to permitted vs. conditional uses.

General Regulations

44. **Page 130-132, 143 [Section 28.138] Lakefront Development**, Is it difficult to get the data to do the lakefront calculations?

Staff response: Somewhat difficult, yes. Setback and height data for properties within 1000 feet on either side of the subject property will require a survey, paid for by the applicant. Other data requested is easily obtained on-line through the City Assessor's Database.

45. Page 130, 142 [Section 28.138] Lakefront Development

- a) Should there be a residential and nonresidential subsection of the Lakefront Development section? **More Discussion**
- b) Should there be lakefront lot coverage standards? **Lot coverage standards of the underlying zoning district would apply.**
- c) Would new lakefront standards apply to rivers and streams? **Not as currently drafted**
- d) Why isn't there anything in the statement of purpose to maintain lakes, water quality and what the standards shall apply to?
- e) Should there be more lakefront landscaping in redevelopment?
- f) Should the code refer to residentially zoned property or the use on that property?
- g) Can shoreland zoning work?
- h) What are the rules for shoreland public access?
- i) How would the draft code handle a building that burned down and was rebuilt? **Law allows one to rebuild buildings damaged by fire or a natural disaster within 1 year, regardless of the state of zoning conformance in its pre-disaster condition.**
- j) Lot use coverage for large scale development? Within 50 feet of the water, no more than 10% impervious surface?
- k) What if lakefront standards were an overlay zone? May allow us to catch other non-lakefront waterfronts.
- l) Should there be stormwater capture standards?
- m) Could the City allow flexibility if development includes stormwater management measures?
- n) Could a statement that nonresidential development goes through a conditional use process be added to the draft code? **This is already the case, but if an explicit statement needs to be made, it could be added.**
- o) Have we tested the median size for lakefront development? **No.**
- p) Should there be a limit to how close impervious surface can be to the water?
- q) Does the 1,000 foot standard stop at municipal boundaries? If so, can it be added to the 1,000 feet on the other side of the building? **More Discussion may be needed, as this issue is not currently addressed.**
- r) How would the ordinary high water mark be changed if the lake is lowered? **Unchanged**

Staff response: These questions may require more discussion. There are many remaining questions regarding lakefront development, especially with regard to the development of a new subsection to provide standards for nonresidential lakefront development beyond the conditional use standards that would already apply.

46. Page 148, 161 [Section 28.142] What types of events trigger these requirements (i.e. landscaping)?

Staff response: See 28.142(2). As drafted, "all exterior construction and development activity" would trigger these standards. See Memorandum 2, No. 89, where staff has recommended the addition of a specific list of minor site changes that would be exempt from the need to bring a site into compliance.

47. **Page 148, 161 [Section 28.142]** could we add a compliance date for landscaping?
Staff response: No change. Landscaping will be expected to be implemented when inspected by Zoning staff, unless seasonal limitations apply.
-
48. **Page 148, 161 [Section 28.142]** Parking lot grant program. Could it be by size, number of stalls?
Staff response: Future. The creation of a parking lot improvement grant program would be separate from the zoning code.
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49. **Page 149, 162 [Section 28.142]** Should we prohibit plants rather than prescribing a plant list?
Staff response: Future. Perhaps a prohibited plant list and a suggested plant list could be developed and provided within the code.
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50. **Page 149, 162 [Section 28.142]** Why are stone mulch and weed barriers prohibited?
Staff response: More Discussion.
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Building Form Standards

51. **Page 180-181, 200, 202-203 [Section 28.172(2) and (3)]** Should there be design standards for multi-family or two family/twin homes?
Staff response: No change. Staff believes that the standards in this section are adequate as they appear in the draft.
-
52. **Page 187, 205 [Section 28.173]** Do the Mixed-Use and Non-Residential Building Forms apply to all building types? Office buildings aren't listed, are they meant to be? Hotels?
Staff response: These uses would presumably fit into building forms such as Commercial Block Building, Podium Building, Flex Building, etc. Staff is recommending the addition of a new building category, Free-Standing Commercial Building, which could also apply to these uses.
-
53. **Page 187, 205 [Section 28.173]** Should buildings with doors on the front and back be required?
Staff response: Building Form Standards in the zoning code are probably adequate with regard to entrances, but this would very likely be required in the Building Code in most cases.
-

Procedures

54. **Page 197, 215 [Section 28.181] Table 28M-2** Does the president of the neighborhood association have to approve a neighborhood notice requirement?
Staff response: There is no explicit approval of a notice requirement. The Neighborhood Association receives notice, and the President would be responsible for granting a waiver of the notice requirements, along with the Alder and the Director of the Department of Planning and Community and Economic Development.
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55. **Page 197, 215 [Section 28.181] Table 28M-2** Should the 200-foot notice requirement be expanded?
Staff response: No change, although this could be expanded upon Common Council approval.
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56. **Page 197, 215 [Section 28.181] Table 28M-2** Are there other non-paper forms of notice rather than the 200 foot requirement?
Staff response: For demolition requests, a public notification list serve has been created for anyone interested in knowing in advance where demolitions will be proposed. Aside from this, all notices required in this code are on paper. Neighborhood Associations and Alders may have other ways of disseminating notices.
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57. **Page 202, 220 [Section 28.183]** Can the list of people who can appeal conditional use permits be expanded?
Staff response: No change, although this could be expanded upon Common Council approval.
-
58. **Page 203, 221 [Section 28.183(6)(a)3]** Can “best for the community as a whole in the long-run” be added in addition to “general welfare”?
Staff response: No change. This phrase, while broad and important to consider, does not tie directly to the statutory police powers (public health, safety, and welfare)
-
59. **Page 203, 221 [Section 28.183 (6). 8]** Are there other measures than TDM? Parking studies? Traffic impact analysis?
Staff response: No change. These could be explicitly added, but as drafted, they are not excluded.
-
60. **Page 203, 222 [Section 28.183(6)(a)9]** Does this section require compliance with the building form standards?
Staff response: Yes.
-
61. **Page 204, 223 [Section 28.183(9)(b)]** Why would an extension of an expired conditional use permit be applied for retroactively after the expiration has occurred? Also see Page 207, 226 [Section 28.184(7)(b) and Page 210, 230 [Section 28.185 (9)(b)]
Staff response: This has commonly been the practice, when there are no issues with regard to allowing the extension and the terms of the use and site plan are unchanged. If the extension is not approved, a new application would be required.
-

Definitions

62. **Page 221, 243 [Section 28.211]** Are each of the definitions found elsewhere in the zoning code?
Staff response: This is the intent. Staff checked the text for each definition, and those not currently in the draft text will be added.
-
63. **Page 224, 246 Bed and Breakfast** Is a bed and breakfast required to serve breakfast?
Staff response: Yes.
-

64. **Page 224, 246** Brewery and Brewpub where did the 5,000 barrels come from?
Staff response: 5,000 is a production level threshold in state statute governing beer production.
-
65. Are there definitions for distillery or winery?
Staff response: Staff will add these definitions
-
66. **Page 228, 250** Dependency Living Arrangement, Why is it limited to a “temporary” living area?
Staff response: This allow for the short term living arrangement to occur without necessitating the need for approval (land use approval, building codes, etc.) of a two-unit building.
-
67. **Page 229, 252** Encroachment, Why does the definition only apply to floodways?
Staff response: Mandated by NR115 to include this term related to floodways.
-
68. **Page 230, 252** Equipment, Building, Shelter, or Cabinet, Expand the definition?
Staff response: Eliminate “used by telecommunication providers” in this definition, so that it can be applied more broadly.
-
69. **Page 230, 252** Family, Why is there a regulation in the definition?
Staff response: No change.
-
70. **Page 233, 256** Laboratory Scale, What does it mean?
Staff response: Relates to provisions for fissile and no-fissile materials
-
71. **Page 236, 258** Monopole, What is it?
Staff response: Telecommunications tower consisting of a single pole.
-
72. **Page 240, 262** Roomer, Where else is this located in the zoning code?
Staff response: Located within the family definition, and nowhere else.
-
73. **Page 240, 263** Schools, Public and Private, Are daycare and four year old kindergarten included in this definition?
Staff response: Daycare is not included, as it has its own definition. 4-year old kindergarten, if taking place within a school setting, is included.
-
74. **Page 240, 263** Screening, Is there a need for adding “opacity of screening fences”?
Staff response: Future.
-
75. **Page 244, 266** Walk-Up Service Opening, Is this term used elsewhere in the zoning code?
Staff response: No. Staff has recommended adding this as an accessory use in mixed-use and commercial districts as a P/C with supplemental regulations.
-

76. Page 244, 267 Do we want to add “Zoos”?

Staff response: This would be fine.

Other

77. Where does the project first go when multiple commissions and ordinances apply?

Staff response: No legal requirement. In practice, if variance is needed, ZBA is the first body a proposal should go to. Otherwise, if UDC, Plan Commission, and Common Council review are required, a proposal should generally go to UDC first, then Plan Commission, then Common Council, since Plan Commission is usually the lead on land use decisions.

78. Should there be some staff/administrative review?

Staff response: Unclear what this question pertains to, but staff reviews all permitted uses, and assists applicants with any necessary approval processes. Some approvals (minor alterations, etc.) are and would continue to be administrative, sometimes requiring support from the Alder and Planning Director.

79. Can mobile home parks be banned?

Staff response: No.

80. Is the new code promoting greater building heights?

Staff response: Not universally. It is creating an opportunity more responsive to the Comprehensive Plan and Neighborhood Plans with regard to mixed-use and residential densities, and in some cases, will allow for taller buildings. In many districts, staff is recommending that maximum heights specified be allowed to be exceeded as a conditional use.

81. How do height limits correspond to prescriptive height limits in adopted City plans?

Staff response: When a proposed height exceeds that which is permitted in the district, there are some opportunities for conditional use review for taller buildings (TR-U1, TR-U2, NMX, TSS, etc.) Approval of a conditional use for heights exceeding that which is permitted should be consistent with adopted plans. Staff is also recommending a new standard for approval of conditional uses pertaining to consistency with adopted plans.

82. Do we want to be too restrictive with building height?

Staff response: Unclear whether this is referring to a specific district, but in see above.

83. Can the street width drive the setback?

Staff response: Future. There has been a lot of discussion regarding setbacks, and the potential that they be developed based on characteristics of the public right-of-way (street width, on-street parking, presence of street trees, etc.)

84. Could a master plan be used to make a comprehensive development work instead of piecemeal?

Staff response: Yes. Master plan components and standards for approval are outlined for many of the districts (PD, Campus-Institutional, EC, SEC, MXC, TRP)

85. Can angle parking work?

Staff response: Yes. If executed appropriately and meeting all requirements in MGO Ch. 10.

86. How are residential uses mapped in the TSS District?

Staff response: Individual uses are not mapped within the TSS District, but would be allowed. This provides for flexibility and a mix of uses. If specific areas within an area zoned largely TSS are recommended as residential, a rezoning to an appropriate residential district would restrict it to uses allowed in the residential districts.

87. Add standards from the CC-T District to the CC District or add Large Format Retail Standards to the CC District?

Staff response: More Discussion

88. Has the City Attorney provided an opinion on mixed use buildings in residential neighborhoods?

Staff response: The addition of mixed-use buildings in residential neighborhoods presents no legal issues, but would need to be either included as permitted or conditional uses in residential districts, or explicitly zoned for mixed use.

89. How often should the Zoning Code be updated?

Staff response: While this is the first major overhaul in over 30 years, the current code is frequently updated upon initiation by an alder for changes. Staff assumes that the updates will continue after the adoption of this code.

90. Are propane tanks regulated by the Zoning Code?

Staff response: Yes, as well as in the Fire Code.

91. Should telecommunication centers be allowed in commercial districts?

Staff response: This will be separately defined, and could be added as an allowable use in CC-T and CC.

92. Why not zone appropriate areas SE District rather than SEC District?

Staff response: This could be accomplished during the mapping process. SEC is intended to be utilized very sparingly.

93. Are signs allowed in entries?

Staff response: Signs are controlled by the Sign Code, MGO Ch. 31. For vision clearance triangles, signs at driveway entries must be lower than 30 inches or higher than 10 feet.

94. Why are ice machines and soda machines not allowed anywhere except in auto-related uses?

Staff response: See Memorandum 2, No. 25. Staff recommends broadening this by allowing incidental accessory items such as ice and vending machines at retail and service establishments.

95. Where would adult entertainment uses be allowed?

Staff response: These uses would be allowed as permitted uses in the IL and IG Districts, but would still need to meet all distance and separation requirements in the supplemental regulations on pp. **186-187**

96. Where would homeless housing be allowed?

Staff response: Mission houses would be permitted in all mixed-use and commercial districts, and permitted in residential districts if in conjunction with a religious institution as the principal use.

97. Can the code require additional screening for solar apparatus?

Staff response: State statutes limit what can be required in conjunction with solar and wind power apparatus.

PLAN COMMISSION / URBAN DESIGN COMMISSION COMMENTS AND QUESTIONS

The following comments and questions were discussed at a joint working session between the Urban Design Commission and the Plan Commission, held on February 15, 2010. The main focus of the meeting was on the role of the Urban Design Commission, which involved discussions about various parts of the Draft Zoning Code. Comments and questions have been categorized by staff.

Mixed-Use and Commercial Districts

Page 37 **39** Mixed-Use and Commercial Districts (Design Standards, Bulk Standards, Frontage Requirements, and Waivers)

1. Pulling buildings up to the street doesn't work well if there is no on-street parking.
Staff response: More Discussion

2. What is the difference between frontage and a yard requirement?
Staff response: Frontage is a "build-to" line, which sets parameters for where a building shall be placed in relation to the public right of way. A yard requirement is a minimum distance from the front, side, or rear of a building to the property line.

3. What are the design guidelines?
Staff response: See Red-lined Draft (Memorandum 3). Design Guidelines have been pulled into the Design Standards.

4. "Waiver Process" comments and questions.
 - a) There are some things the Plan Commission will want to review. Will the big box standards be melded into this section?
 - b) Expression of some concern with cumbersome process and burden on developers.
 - c) Why would we want to waive the design guidelines?
 - d) Can standards be added that allow waivers for a higher level of design?
 - e) Criteria are needed for granting waivers.
 - f) Design standards could go to the UDC.
 - g) There is a difference between standards and building forms. UDC may be more appropriate for one than the other.
 - h) When in the process would someone ask for a waiver?
 - i) Sequence of design process could be a consideration, if the Plan Commission may have a concern with design.
 - j) A flow chart of the design process may be useful.
 - k) Waivers would go the UDC for review (one meeting) and then their recommendation would go to the Plan Commission for their action (one meeting).

- l) Maybe all waivers would not need to go to the Urban Design Commission ~Maybe only if several waivers are requested.
- m) Would UDC be advisory with regard to waivers?
- n) UDC could review a waiver fairly quickly.
- o) Complete submittal should be provided to the UDC or the UDC won't grant a waiver.
- p) Will there be a fee for waivers?
- q) Look for ways to streamline the review process. The process may discourage infill development due to onerous UDC/design review requirements

Staff response: Staff has recommended a significant change to the draft with regard to the potential to request design waivers. Instead, staff recommends that the variance process (requiring review and approval by the Zoning Board of Appeals) be utilized to request relief from any design standard. **See Memorandum 3)**

Employment Districts

Page 63, 67 Subchapter 28F: Employment Districts

5. UDC review, Plan Commission final for Employment standards.

Staff response: Uncertain what this comment is referring to.

6. EC, SEC, UDC requests and approves design review.

Staff response: Uncertain what this comment is referring to.

7. Page 73, 77, Who decides option Page 73 (5)(a)(b)?

Staff response: No option to choose from. This section provides for the formation of the architectural review committee, and in the case that one is not formed, the UDC would review designs instead of the committee.

8. Why is the make-up of the SEC design review board not specified?

Staff response: This allows freedom for individual property owners / developers to create a committee (although its membership must be approved).

9. We haven't loosened up uses to go along with form.

Staff response: Staff believes that in many cases in the draft code, uses (especially in mixed-use districts) are more flexible than in the existing zoning code. The intent for this code is a "hybrid" code, with standards for both land use and urban form.

Special Districts

Page 86, 92 [Section 28.096] Campus Institutional District

10. UDC only reviews plans in Campus Institutional District if there isn't a master plan and design standards in place. This is good and should encourage the creation of master plans and design standards.

Staff response: No change.

Page 89, 95 [Section 28.097] Planned Development District

11. It is important for the UDC to be involved in GDPs, because if the UDC doesn't get a project submittal until the SIP stage, major decisions have already been made.

Staff response: No change. As drafted, the UDC is involved in the review of PDD-GDPs.

Overlay Districts

Page 96, 103 Subchapter 28H: Overlay Districts

12. Do the Overlay Districts trump the base districts?

Staff response: Yes. Overlay Districts add additional regulations to base districts. If they are in conflict, the overlay district standards take precedence.

General Regulations

13. Request by an individual that the Plan Commission should focus on the height of houses on the lakes

Staff response: Height is one of the bulk attributes addressed in the Lakefront Development section for residential buildings.

Building Form Standards

Page 179, 197 Subchapter 28L: Building Form Standards

14. Like the building form standards, especially the images. They help steer the applicant in the right direction.

Staff response: No change.

Other

15. Desire for people to provide the UDC with informal design presentations. Put some language in the Urban Design Ordinance that would require some projects to go to UDC for an early informational meeting.

Staff response: Which projects? Which Districts? Current draft requires PD submittals to include a conceptual presentation to the UDC. Applicants often do this voluntarily for complex projects.

16. How is “early in the review process” defined? As soon as the applicant has an idea of use, that would be a good time for the applicant to talk to staff and UDC if a project is “big” enough.

Staff response: This is not explicitly defined, but the above suggestion is correct, and often occurs.

17. How do UDC districts work with the design standards?

Staff response: The standards in Urban Design Districts, if in conflict with design standards, would take precedence. In a vast majority of cases, both should be able to be met simultaneously.

18. Review should be completed by the Plan Commission-best suited to do so. Plan Commission review “use oriented” and UDC should review “design oriented” aspects of a project.

Staff response: Uncertain what this refers to, but generally, this is the intent for review of proposals

19. UDC gets a lot of incomplete submittals. Would like to table those submittals so they don’t hold up other people on the agenda.

Staff response: This could be addressed procedurally, outside of the realm of the zoning code.

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Sustainability Ideas that CAN be addressed through zoning

POLICY ISSUES

Consultant and Staff Responses

To the Zoning Code Sustainability Ideas Document

December 15, 2009

In October 2008, the Zoning Code Rewrite Advisory Committee (ZCRAC) approved an approach to gathering information on sustainability issues that should be considered in the rewrite of the City of Madison's zoning code. The code sets the rules and procedures for the use of land (residential, commercial, etc.) and the scale, mass and form of buildings (height, placement on lot, densities, parking standards, etc.) within the City. The rewrite of the zoning code presents the opportunity to provide recommendations to remove obstacles to sustainability, create incentives for sustainability and enact standards for sustainability.

The approach for gathering input on sustainability issues entailed:

- Holding two discussion meetings during the month of November with a cross section of sustainability advocates who represented various topic areas in the sustainability spectrum – energy conservation, renewable energy, water resource conservation, green building – to generate ideas.

- Holding a public meeting in early December for feedback on the ideas identified by the discussion groups.

- Providing all of the information gathered to the ZCRAC and the consultants who are working with the City to rewrite the code in time for consideration in the draft documents they will present to the committee in January and February.

During the two discussion meetings on November 14th and 25th, a variety of ideas were generated and categorized into broad theme areas, such as Residential and Commercial Districts, Energy, Water, etc. Broad strategies that could be applied to the rewriting of the zoning code to encourage sustainability were also identified. City zoning staff was asked whether they qualified as zoning issues. In each category, those ideas that can be addressed through zoning and which are listed first, are already addressed to some extent in the code. Those marked with ** would be possible to include in the new zoning code. Those ideas that cannot be addressed through the zoning code (e.g. issues or topics covered by other ordinances or plans, or ones addressed by state or federal law) are listed separately.

The public meeting held on December 10th was attended by 24 people, including staff, discussion group and committee members; six individuals spoke. They expressed general support for the effort, and felt that the Zoning Code should remove barriers to sustainability wherever possible. They also encouraged the City to think outside the boundaries of traditional zoning, and to develop its own standards for green development that can be utilized by city commissions to evaluate the sustainability of proposed projects. Several specific ideas were suggested, and those have been added to the lists. At the conclusion of the meeting, people were encouraged to stay involved with these issues, and in the Zoning Code rewrite process which will be ongoing for the next year or two; they were also encouraged to visit the website and contact other standing City committees that discuss areas of interest, e.g. Sustainable Design and Energy, and the Commission on the Environment.

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NOTE: Staff and Consultant Responses from December, 2009 are in bold italics

Plan Commission comments from their February 4, 2010 meeting are inserted in shaded boxes

ENERGY:

1. ****Create incentives for district heating/cooling in multi-use developments, industrial and office parks**
The use of incentives to encourage a specific activity or type of development is frequently suggested throughout this paper. The creation of incentives is often a policy issue. The approach used throughout the zoning code rewrite has been to “right-size” the level of development allowed under the base zoning, rather than using incentives to achieve the desired level of development.

- Do we want to set overlays for areas required to meet improved sustainability?
- Could we provide incentives for district heating? Do density bonuses work? PUDs essentially do this.
- What does “right size” mean? The staff response doesn’t directly address district heating/cooling.

WATER:

1. Build in tree protection /tree replacement policies
Policy issue. Would be more appropriate to consider in a separate tree protection ordinance, like those in use by many other cities. Such ordinances typically include standards for protection of trees during construction, limits on tree removal, and tree replacement requirements.
2. Reduce green space requirement if using non-mowed (natural lawn) surface
Creation of incentives is a policy question to be discussed – continuing maintenance of natural lawn surface is also difficult to monitor.

- Have tree protection standards in the ordinance? Maybe a separate ordinance.
- Are there height limits on natural lawns?

GREEN INFRASTRUCTURE / URBAN AGRICULTURE:

1. Eliminate/reduce landscape requirement for permeable paving
Creation of incentives – policy issue
2. Protect trees, but when they are lost in the process of development they must be replaced.
(e.g., if 1 tree is removed, 2 or more must replace it)
See discussion above under Water, item 1
3. Reduce required green space if implementing non-mowed surfaces-natural lawns, rain gardens and prairies
Creation of incentives – policy issue. Could reduce usable open space by 25% if a natural lawn is provided.

- Doesn’t like #1. “Eliminate/reduce landscape requirement for permeable paving.”
- Doesn’t like #3. “Reduce required green space if implementing non-mowed surfaces-natural lawns, rain gardens and prairies.” What are other codes requiring?

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- Aren't we eliminating/reducing landscape requirements for permeable paving?

PUBLIC HEALTH:

1. Use permit process to limit number/density of fast food outlets and drive-through windows (similar to fast cash businesses, etc.)

Policy issue – may be difficult to define “fast food” or justify from public health standpoint since many chains emphasize healthier options.

- Look at reducing the number of drive-throughs. Look at limiting drive throughs in mixed-use districts and TODs.

DENSITY:

1. Provide bonus for sustainable provisions that exceed minimum standards

Creation of incentives – policy issue

2. Allow density bonuses for green features (Same as 1)

MIXED USE/TRANSIT ORIENTED DEVELOPMENT:

1. Allow micro, mixed use areas ('spot' zoning)-residential / commercial infill, corners, retail, employment, agriculture in all zones / districts

This is a policy issue to be discussed – some reviewers prefer small “spot” zones and others prefer a greater level of mixed use in all districts. The current draft allows small-scale corner commercial in most residential districts, community gardens in all districts, home occupations, etc. (see use tables).

- We need to look at No. 1 further.

RESIDENTIAL DISTRICTS:

None

COMMERCIAL DISTRICTS:

1. Create infill opportunity zones; areas where projects are encouraged with incentives to developers (tied to transportation)

Creation of incentives – policy issue. Transit-oriented development allows this.

2. **Density bonus available for LEED certification - same
3. **Permit buildings to exceed established height limits if they are designed to green building standards (not necessarily LEED), incorporate renewable energy systems and/or green roofs – same. **Note that green roofs qualify as “pervious,” thus reducing total lot coverage.**

- Could the City require light-colored roofs?
- Inclined to move away from LEED as a basis for energy efficiency. Stick to Green Building approach.

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PARKING:

1. Discourage individual parking options; provide incentives for transit
Incentive “policy issue” needs further consideration – what incentives might be appropriate?
2. **In some cases, consider allowing on-street parking to count towards parking ceiling
Not included in the zoning code but can be considered as part of a parking reduction requirement.
3. **Eliminate incentives to build underground parking (e.g. density bonus)
Not included in the zoning code

- Consider 2. Might be OK.
- Not in favor of 3.

Other related Plan Commission comments and questions:

- Clarify water storage, cisterns, rain barrels can't be pumped into a house.
- Discussion about regulation of hoop houses
- Should built up residential areas with relatively large lots be zoned for smaller lots?

The following ideas, generated by the Sustainability Focus Group would typically be addressed by something other than the Zoning Code. Staff could provide more complete information on the ability to amend local ordinances to implement these suggestions and any limitations which may exist because of state and/or federal law.

1. Provide incentives for construction that meets green building standards.
2. Prohibit heated sidewalks/driveways
3. Prohibit restrictive covenants on renewable energy
4. Require businesses to turn off lights and signs when buildings are unoccupied
5. Require solar on all commercial and institutional buildings
6. Street trees should be placed and managed for max. solar access
7. Household grey water should be used for flushing toilets, irrigation
8. Require % of irrigation water to be from collected grey water or harvested rainwater
9. Require monitoring of infiltration systems to insure continued successful operation
10. Allow for 100% on-site control or containment of water
11. Allow composting toilets
12. Neighborhood development standards for rain gardens – area/homeowner (e.g. Vilas)
13. Implement Passive House Standard (90% reduction in energy use) by removing obstacles (if any) to “new” architectural designs, and providing incentives for houses that achieve it
14. Implement Green Affordable Housing Land Trusts (see “The City-CLT Partnership” from Lincoln Institute. www.lincolninst.edu)
15. Neighborhood streets should be narrow with high curbs (to manage storm water runoff)
16. Combine sidewalks with no sidewalks (on one side of street only)
17. Require drive-up windows to close on air quality alert days

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18. Encourage greater variety of parking lot spaces.
19. Zone for future. Code should reflect future needs and desires – provide a framework for what the community wants to happen (not a structure for what we can't do)
20. Pursue intensive non-single-occupancy-vehicle orientation
21. Code should follow new urbanism principles
22. Zoning code should apply to all districts (all uses allowed in all districts)
23. Consider establishing a Transfer of Development Rights program
24. Provide incentives for doing the right thing
25. Focus the code on permissible uses
26. TNS: Implement the City's policy on The Natural Step, define what sustainability (success) means for zoning, consider the human needs element (conceived broadly) as a part of the equation in every category
27. Inventory special requests (variances, conditional uses, etc) that could be made permitted to remove barriers to sustainability
28. Zoning should adapt to meet the demands of climate change; use zoning to address or mitigate effects, or adapt to climate change; remove any barriers to mitigating the effects, adapting to climate change (trees, green space, mobility, renewable energy, land use)
29. Write the code to allow the city to function when automobile travel will be severely limited and oil-related products, including food and heating fuel, become prohibitively expensive because of the scarcity and high-cost of fuel.
30. Embrace and adapt to take advantage of new technologies.
31. Projects that meet sustainability principles should be eligible for waiver or bonus of zoning regulations that would otherwise limit their success. (e.g. Passive House)
32. Establish baseline criteria for determining sustainability of proposals covered by code
33. Provide incentives for sustainable practices – foster innovative design, fast track green building
34. Create “innovation zones” to permit cutting-edge ideas, perhaps utilizing overlay districts.
35. Enable retrofitting of existing neighborhoods for greater sustainability.
36. Codify sustainability elements of site design, e.g. landscaping, water retention, parking and pedestrian connectivity.
37. Keep in mind that technology will evolve, keep code flexible enough to respond.
38. Be innovative with the new code; change statutes necessary to make this possible.
39. Create a “sustainability review commission” and standards to evaluate projects.
40. Embrace the concept of “wholeness” to promote mixed-use, walkable development.
41. Use incentives rather than police powers to encourage sustainability.
42. Look for ways to say YES, rather than NO.

These are broad philosophical issues that need to be addressed at a policy level, thus are difficult to respond to in this format. The new code is oriented towards principles of new urbanism and includes many aspects of sustainability, but will need to be revised and upgraded in the future to address many of these questions.

MEMORANDUM 1: APPENDIX

Date: March 18, 2010

To: City of Madison Plan Commission

From: David Porterfield, Chair City of Madison Housing Committee

Subject: Follow-up on Housing Committee Actions Pertaining to Zoning Code Rewrite regarding Cooperative Housing.

I am sending this memo at the request of City staff to provide additional clarification to the Plan Commission on this subject as it has been one of the subjects of vigorous discussions during the Zoning Code rewrite process.

The purpose of this message is to further summarize the recommendation from the Housing Committee, relating specifically to *Cooperative Housing* as a defined and regulated land use in the new Zoning Code. While the minutes for the meeting summarize the motions and votes associated with items on the agenda for consideration I was not sure they reflected the detail of conversation relevant to the cooperative housing issue. I thought it might be helpful to provide further clarification from the housing committee that may then assist the Plan Commission and Common Council in regard to their deliberations on the subject.

During the meeting, an alternative approach to addressing housing cooperatives was distributed by David Sparer. As part of the committee's discussion and as pointed out by staff, the committee recognized that Mr. Sparer's approach generally differs from the approach in the draft ordinance as follows:

1. Increasing the places which housing cooperatives could locate by allowing them in more districts.
2. Eliminating certain requirements that would trigger a *Conditional Use* process for housing cooperatives, as a requirement.
3. Expand upon the definition of a housing cooperative to include other qualifying types of cooperatives.

The committee generally supported all of these concepts, and approved a friendly amendment to their main motion in support.

Attached is a copy of the documents Mr. Sparer distributed at the meeting.

Here is a link to the draft minutes:

http://legistar.cityofmadison.com/meetings/2010/3/8427_M_HOUSING_COMMITTEE_10-03-03_Meeting_Minutes.pdf

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David Sparer Proposed Language

Zoning Ordinance Rewrite

Proposals Related to Housing Cooperatives Presented by representatives of Housing Cooperatives

Definitions (as stated in current draft - no suggested changes - these are fine):

Dwelling. (p. 228) A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels or other accommodations for the transient public, lodging houses, housing cooperative or other group living arrangements.

Housing Cooperative (p. 233). A dwelling unit where one-hundred percent (100%) of the ownership is held by a Cooperative Corporation organized under Chapter 185, Wisconsin Statutes, for the purpose of residential living where the residents share common areas and cooking, dining, and maintenance duties. All residents shall be members of the Cooperative Corporation.

Supplemental Regulations (p. 164):

Proposal from Cooperative Housing representatives, to replace currently proposed text with the following text instead: (current proposed text follows)

(5) Housing cooperative.

(a) Two-family, three-family and multi-family buildings may be converted into one housing cooperative provided that the entire building is converted and must remain as a cooperative while so occupied. This conversion and use shall be a permitted use in the following districts: SR-C3, SR-V1, SR-V2, TR-C3, TR-V1, TR-V2, TR-U1, TR-U2, NMX, TSS and CC-T. The conversion is a permitted use only if the Cooperative files the following documents with the City Zoning Staff: 1) evidence that the Cooperative meets the definition of Housing Cooperative in the Zoning Code; 2) a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms; 3) a statement, approved by the zoning staff, of the number of legal bedrooms in the multi-unit building before conversion to a housing cooperative. Upon the filing of such documents the zoning staff shall issue an occupancy permit for the Housing Cooperative which states the total number of occupants permitted, which shall be the same number as the number of legal bedrooms in the building before the conversion to a housing cooperative.

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

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(c) Within the TR-V1, TR-V2, NMX, TSS and CC-T districts, a housing cooperative may be established in a dwelling unit as a permitted use if the occupancy is five (5) or fewer persons.

(d) Within TR-U1, TR-U2 districts a housing cooperative may be established in any building currently occupied as a sorority or fraternity or lodging house as a permitted use with no maximum occupancy under the zoning code. The maximum occupancy shall be regulated by the building code.

(e) A housing cooperative may request, as a conditional use, in any of the zoning districts listed in subsection (a) above, a level of occupancy greater than what is permitted under (a) above. Such increased level of occupancy may be approved for buildings currently approved as having one single dwelling unit and for buildings having multiple dwelling units where the Coop does not seek any conversion to one cooperative unit, and may also be approved for conversions of multiple unit buildings into one cooperative unit. Such conditional use approvals shall be based upon the same standards and requirements for conditional use approval as stated in the zoning code.

Current proposed text

(5) Housing cooperative.

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

(b) Within the TR-V1, TR-V2, TR-U1, TR-U2, NMX, TSS and CC-T districts, a housing cooperative may be established in a dwelling unit as a permitted use if the occupancy is five (5) or fewer persons. Occupancy by more than five (5) persons requires conditional use approval.

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

(d) Two-family, three-family and multi-family buildings may be converted into cooperatives provided that the entire building is converted and must remain as a cooperative while so occupied.

Definitions:

Family:

owner-occupied:

(This is the current proposal, and the Coop representatives ask to add the underlined phrase)

(b) 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, or the entire coop membership interest in a full or limited equity apartment style housing cooperative, in said dwelling unit.

Provided, however, dwelling units occupied by owner-occupants holding less than one hundred percent (100%) interest in the fee simple shall nonetheless be considered owner-occupied for the purposes of this definition where the remainder of said interest is held by an investor pursuant to a shared equity purchase arrangement and the owner-occupant has continuously resided in said dwelling unit for at least four (4) years;
