

CITY OF MADISON
INTER-DEPARTMENTAL
CORRESPONDENCE

TO: Madison Plan Commission
FROM: Michael Waidelich, Principal Planner
DATE: February 17, 2006
SUBJECT: Proposed Amendment to the Zoning Code to Allow Specified Lodging Houses as Conditional Uses in the R3, R4, R4A, and R4L Districts

A proposed amendment to the Zoning Code was introduced by Ald. Judy Olson (District 6), at the request of the Madison Community Co-op, to allow lodging houses where 100 percent interest in the fee simple is held by a nonstock corporation, partnership or housing cooperative as defined Subparagraph 2.b.i., ii., or iii. of the definition of Family in Section 28.03(2) of the Zoning Code¹ as a conditional use in the R3, R4, R4A and R4L zoning districts. The primary purpose of the proposed ordinance change was to allow more than five unrelated persons to live together in housing owned by the specified types of organization. The family definition in the Zoning Code limits the number of unrelated persons that can live in a dwelling unit to five, but there is no limit on the number of unrelated roomers that can occupy a lodging house.

A complete description and analysis of the proposed ordinance amendment is provided in the memorandum to the Plan Commission dated February 2, 2006 (attached); but in summary, the two key concerns expressed by Planning staff were:

- Because there is no limit on the number of occupants, lodging houses could have impacts which might be inconsistent with the character of surrounding residential uses, with neighborhood plans and objectives, or with the purposes of the R3, R4, and R4A zoning districts.² This is particularly true in the case of the R3 zoning district, which allows only single-family and two-family residences, but is also true to a lesser extent in the R4 and R4A zoning districts.
- With no limit on the maximum number of roomers, and no requirement that the lodging house even be a "dwelling unit," there is a potential that existing multiple-family dwellings could be converted into large lodging houses. This type of facility might function essentially as a "rooming house" with a large number of sleeping rooms rather than as a dwelling unit shared by members of the housing cooperative. Combining existing units into a larger lodging house would also remove some of the neighborhood housing stock that would otherwise be available to other types of households.

¹ To avoid the need to repeat this long citation multiple times, lodging houses owned and operated pursuant to this section of the Zoning Code are referred to as "specified lodging houses" in this memorandum.

² Because the R4L District and R4A statements of purpose are identical and R4L zoning occurs on only a single property, the R4L district is not discussed separately in this memorandum. The proposed substitute ordinance does not include the R4L District as a place where specified lodging houses would be allowed.

In response to concerns with the proposed ordinance revision cited in the staff memorandum and comments made at the February 6th Plan Commission public hearing, a substitute ordinance has been prepared which addresses some of the potential negative impacts that might result from introducing specified lodging houses as conditional uses in additional zoning districts. There are three primary changes in the proposed substitute ordinance, compared to the original proposal:

1. Specified lodging houses would be allowed in the R4 and R4A zoning districts, but not in the R3 District or the R4L District.
2. Specified lodging houses would have to comply with lot area and useable open space requirements similar to the requirements applicable to all dwelling units in the R4 District.
3. Three additional review criteria would be established for the review of specified lodging houses as conditional uses.

Analysis

Planning staff consider lodging houses to be a distinctly different land use that can be considered an appropriate use in low and medium-density residential districts only in special situations and within prescribed limits. The substitute ordinance substantially addresses the primary concerns raised by staff regarding the original proposed ordinance, although success will ultimately depend upon careful review and evaluation of specific conditional use applications. Each of the elements of the substitute ordinance contributes to making it an acceptable vehicle for achieving the goal of allowing increased housing occupancy in order to utilize cooperative housing more fully and efficiently.

Limiting Specified Lodging Houses to the R4 and R4A Zoning Districts

The substitute ordinance allows specified lodging houses only in the R4 and R4A Districts---each of which currently allow, and often are characterized by, relatively larger buildings and multiple-unit structures, although many older R4 and R4A neighborhoods are comprised primarily of "house-like" dwellings, including single-family, two-flat and three-flat structures as well as large houses that have been converted into several units. Neither the R4 or the R4A District currently allows lodging houses, but if the primary purpose of the proposed ordinance change is to allow larger groups of unrelated individuals to share cooperative housing when the size of the dwelling unit is appropriate for higher occupancy, staff consider the potential impacts to be relatively minor and probably not significantly different than what could occur now in large houses occupied by a large (related) family---a family of five plus three roomers, for example.

Lot Area and Useable Open Space Requirements for Specified Lodging Houses

Making specified lodging houses in both the R4 and R4A Districts subject to the same lot area and usable open space requirements as are currently required for dwelling units with similar numbers of bedrooms in the R4 District provides a reasonable limit on the number of roomers that could occupy a particular property, and links this limit to measurable characteristics of the property. These requirements will help prevent over-crowding and ensure that any lodging house uses will be consistent with the more-limited purposes of the R4 and R4A residential zoning districts, which emphasize family housing in one-family, two-family, and smaller multiple-unit

dwellings, in contrast to the R5 and R6 residential zoning districts, both of which also allow fraternities, sororities and apartment hotels, for example, as permitted uses.

As noted in the February 2, 2006 memorandum, other zoning requirements applicable to lodging houses, such as requirements for provision of off-street parking, may also effectively limit occupancy, although the Plan Commission may approve a reduction in the amount of required parking when the situation warrants.

Additional Conditional Use Review Criteria

The three special additional criteria proposed for the review and approval of specified lodging houses as a conditional use provide a framework for Plan Commission consideration of the factors identified as potential concerns if lodging houses were allowed in additional residential zoning districts. Consideration of the zoning district statements of purpose provides for an evaluation of whether the specific proposed lodging house would be compatible with general neighborhood objectives as defined by the applicable zoning, or whether the specific proposal represents a different and more intensive use that would be more appropriate in the R5 and R6 Districts where lodging houses are currently allowed. Consideration of appropriate occupancy limits provides for a review of such factors the number of roomers compared to the number of bedrooms, and whether the building will retain essentially its original configuration, or whether formerly shared living spaces (such as living and dining rooms) are also being converted into additional bedrooms, for example.

The requirement to minimize the reduction in the number of dwelling units responds to the concern that existing two-unit or multiple-unit buildings not be converted into large lodging houses. In general, staff consider the conversion of existing duplex or three-flat dwellings into lodging houses to be inconsistent with the character and planning objectives of most older R4 and R4A zoned neighborhoods---which emphasize maintaining sound existing housing stock and the availability of a variety housing types, including smaller rental units. Consideration was given to recommending that specified lodging houses be allowed only in existing dwelling units as one way to address this concern. But many older R4 and R4A neighborhoods include large single-family houses that were subdivided into several smaller apartment units at some time in the past, and in some cases, converting these structures back into a single large lodging house would be compatible with general objectives to maintain the existing housing stock and provide housing choices. This already happens from time-to-time as families moving into these older neighborhoods purchase a house that had been cut up and convert it back to single-family use. The more-flexible wording in the proposed review criterion provides a way to approve such conversions in limited specific situations, while not generally supporting the conversion of multi-unit dwellings into lodging houses.

Other Factors Applicable to Lodging Houses

Although the proposed amendment to the Zoning Code would allow specified lodging houses to be approved as conditional uses in the R4 and R4A zoning districts, there are other regulations beyond zoning applicable to lodging houses that may offset, or more than offset, the relatively modest increase in occupancy allowed compared to the occupancy allowed in a dwelling unit. In particular, lodging houses are subject to the commercial building code, which is much more stringent than the residential code applicable to a house occupied as a dwelling unit. It is not known if the cooperatives proposing the Zoning Code revisions are aware of all the ramifications of being a lodging house rather than a dwelling unit. In addition, the Zoning Code includes a

penalty provision which increases the lot area and usable open space requirements on lots that are less than 50 feet wide or 6,000 square feet in size. This provision effectively limits the potential expansion of buildings and occupancy on many lots to a greater extent than the standard lot area and usable open space requirements applicable to larger lots in the zoning district.

It may be advisable to defer consideration of the proposed ordinance revision until it can be determined what the potential net benefits are when all other factors are taken into account.

Conclusion

Planning staff appreciate that the types of housing cooperatives identified in the proposed ordinance represent an important component of the housing supply and serve residents who might have difficulty finding alternative affordable housing. These types of housing cooperatives are already recognized in the Zoning Code family definition as an additional type of owner-occupant. From one point of view, the proposal to allow more than five unrelated occupants in cooperative housing (by allowing specified lodging houses) could be considered a recognition of these same cooperatives as an alternative type of family.

The proposed substitute ordinance includes provisions regarding required lot area and usable open space that seem sufficient to ensure that the number of rooms in the lodging house is not excessive, and the additional criteria for conditional use review will allow the Plan Commission to approve only proposed lodging houses that can demonstrate that the use is consistent with the objectives and purposes of the zoning district, the reasonable occupancy of the specific building and the intent to prevent inappropriate combination of existing dwelling units into lodging houses. While the proposed substitute ordinance is not perfect, staff can support it as a reasonable compromise that will facilitate higher occupancy and better utilization of cooperative housing in appropriate situations and under defined conditions.

However, the potential effect of the increased lot area and useable open space requirements for undersized lots was not considered when the substitute ordinance was prepared, and staff have not yet determined how this might affect the practical application of the proposed ordinance to residential properties typical in the older R4 and R4A District neighborhoods. As noted above, shifting a residential building from dwelling unit to lodging house status also has other consequences that may not have been fully evaluated by proponents of the ordinance revision.

Recommendation

Planning staff recommend referral of the substitute ordinance to allow lodging houses where 100 percent interest in the fee simple is held by a nonstock corporation, partnership or housing cooperative as defined Subparagraph 2.b.i., ii., or iii. of the definition of Family in Section 28.03(2) of the Zoning Code as a conditional use in the R4 and R4A zoning districts, to provide additional time for evaluation of the potential net impacts and benefits of the proposed ordinance when all factors are considered.

2nd Revised
Draft

AGENDA # _____

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE _____

creating Sections 28.08(5)(c)14.,
28.08(11)(c)15. and 28.12(11)(g)12. of the
Madison General Ordinances to allow tax-
exempt lodging houses as conditional uses in
the R4 and R4A Districts.

PRESENTED November 8, 2005
REFERRED Plan Commission; Assessor;
Housing Committee; Comptroller
REREFERRED _____

ADOPTED _____ POF _____
RULES SUSP. _____ TABLED _____
PUBLIC HEARING PC 12-5-05
CC 1-6-06

Drafted by: Katherine C. Noonan
Assistant City Attorney

Date: February 15, 2006

SUBSTITUTE ORD NUMBER _____
ID NUMBER _____

SPONSORS: Ald. Olson

DRAFTER'S ANALYSIS: Lodging houses are residences where five (5) or more persons who are not members of the same family are provided lodging or meals or both. This amendment makes tax exempt cooperatives that are lodging houses a conditional use in the R4 and R4A districts. Currently, lodging houses of any type are allowed only in the R5, R6 & OR districts.

The Common Council of the City of Madison do hereby ordain as follows:

1. Paragraph 14. of Subdivision (c) entitled "Conditional Uses" of Subsection (5) entitled "R4 General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

"14. Lodging houses where 100% interest in the fee simple is held by a nonstock corporation or a housing corporation pursuant to Subparagraph 2.b.i., ii. or iii. of the definition of Family in Sec. 28.03(2), provided that the lot area is not less than two thousand (2,000) square feet for the first two (2) bedrooms plus five hundred (500) square feet for each additional bedroom and there is usable open space of five hundred (500) square feet plus one hundred sixty (160) square feet for each additional bedroom."

2. Paragraph 15. of Subdivision (c) entitled "Conditional Uses" of Subsection (11) entitled "R4A Limited General Residence District " of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

"15. Lodging houses where 100% interest in the fee simple is held by a nonstock corporation or a housing corporation pursuant to Subparagraph 2.b.i., ii. or iii. of the definition of Family in Sec. 28.03(2), provided that the lot area is not less than two thousand (2,000) square feet for the first two (2) bedrooms plus five hundred (500) square feet for each additional bedroom and there is usable open space of five hundred (500) square feet plus one hundred sixty (160) square feet for each additional bedroom."

Approved as to form:

Michael P. May, City Attorney

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3. Paragraph 12. of Subdivision (g) entitled "Standards" of Subsection (11) entitled "Conditional Uses" of Section 28.12 entitled "Administration And Enforcement" of the Madison General Ordinances is created to read as follows:

"12. That when applying the above standards to an application for dwelling units or a lodging house where 100% interest in the fee simple is held by a nonstick corporation or a housing corporation pursuant to Paragraph 2.b.i, ii., or iii. of the definition of Family in Sec. 28.03(2), the Plan Commission:

- a. Shall bear in mind the statement of purpose for the zoning district such that the proposed building at its location does not defeat the purpose and objective of the zoning district, and
- b. Give consideration to the appropriate occupancy limits of the building, and
- c. Minimize any decrease in the number of dwelling units in any conversion to a lodging house."