



PREPARED FOR THE PLAN COMMISSION

Proposal: Zoning Text Amendment
Legistar File ID #: [67074](#) Demolition Ordinance
Prepared By: Planning and Zoning Staff

[67074](#) – This amendment repeals and recreates the demolition ordinance, MGO Section 28.185 in order to remove the Plan Commission’s consideration of the *proposed future use* when making findings on demolition applications, and to add the ability for administrative review of demolition requests in limited circumstances.

The City of Madison Plan Commission holds a public hearing for review and approval of all demolitions of principal structures, and their review currently includes consideration of the proposed future use – its consistency with adopted plans and impacts on normal and orderly development of surrounding properties. As discussed at the July 26 Plan Commission meeting and referenced in the [July 21, 2021 memo](#) from the City Attorney’s Office, the most substantive change to the ordinance is the removal of references to consideration of the proposed future use for two reasons.

- First, for instances where demolition is proposed to prepare a property for construction of a building that includes only *permitted uses*, the Plan Commission’s consideration of the proposed future use is legally problematic. In other words, the Plan Commission cannot legally base a denial of a demolition request on concerns about the consistency with recommendations in adopted plans when the future use is a *permitted use* in the underlying zoning district.
- Secondly, as has been the case with many redevelopment requests, when demolition is being undertaken to prepare a property for construction that includes a *conditional use*, standards in the demolition ordinance related to the proposed future use are redundant. In other words, in these cases where redevelopment involves concurrent review of demolition and conditional use, the Plan Commission is already considering over a dozen conditional use standards, and the ordinance need not include redundant standards.

The proposed amendment has no impact on the Landmarks Commission’s formal review of any proposed demolition in any of the City’s five local historic districts or involving a local Landmark. Those reviews for Certificates of Appropriateness would continue.

Importantly, the proposed change retains Plan Commission review of demolition requests in general, with a focus largely on the historic value of the building(s) proposed for demolition. Other factors such as the condition of the building and the impacts of any potential building relocation are also included among the factors the Plan Commission must consider in making their finding. Following discussion at the June 26 Plan Commission meeting, considerations regarding “naturally occurring affordable housing” have been removed from the standards for consideration due to the ambiguity of this term and the inconsistent application that may result in Plan Commission findings.

Another change in this ordinance is the enumeration of a few instances where *administrative approval by staff* is allowed. With few exceptions, in cases where demolition of a principal building is proposed, the Plan Commission will continue to take into account the informal, advisory recommendation by the City’s Landmarks Commission, and will continue to hold public hearings to make their determination. At a future date, the Plan Commission and Common Council may want to consider additional characteristics that could support

administrative approval of demolition, but at this time, here are the limited instances where administrative approval by staff could occur, and only *after a finding by the Landmarks Commission that there is no historic value of the building and property*:

- Building Inspection Director finds building is structurally unsound
- Building(s) are being demolished due to damage by fire or other natural disaster
- Building(s) are identified for removal in an adopted Campus Master Plan (UW-Madison is the only current example of this)
- Building(s) are being demolished for replacement with income-restricted housing units subsidized by the City of Madison

Staff anticipates that this allowance for administrative review may result in a few administratively reviewed demolition cases, but that it won't significantly change the number of demolition cases reviewed by Plan Commission.

Staff supports this amendment.