

Draft Middleton Zoning Code Part 1 –Policy Decision Guide

Introduction

As part of the full rewrite to the City of Middleton Zoning Ordinance, a Working Group was established to review each portion of the draft, discuss key policy questions, and provide feedback. The following outlines the identified policy question flagged for review by the Working Group (black text), the Working Group response to each question (red text), and the change made to the draft Zoning Ordinance in response (green text). This information has been summarized to provide context for the Plan Commission in addressing key policy questions. At the May Plan Commission meeting, staff will walk through each item and gather additional feedback. The goal will be to incorporate any additional changes needed into the draft Zoning Ordinance that will be reviewed in its full form later this summer/fall.

1. Maximum Impervious Surface Ratio vs. Maximum Building Coverage

The existing Zoning Code has lot area coverage maximums for each district. In the new Zoning Code, we are proposing to remove the maximum building coverage percentage and instead use a maximum impervious surface ratio for each zoning district. The new approach allows for property owners to use more of the lot, promoting infill development opportunities while still protecting stormwater management. Are you comfortable with this approach?

Work Group Response: Liked this idea because it allowed for the property owner to determine the most efficient use of the lot and have development controlled by bulk dimensions. Potential concern is excessive use of the lot in the higher density districts. City staff and V&A were instructed to look at recently approved PUDs to evaluate building coverage and impervious surface ratios to further refine the higher density setback and impervious surface standards proposed for those districts.

- *Proposed: MR-M (75%), MR-U (75%), MR-H (80%), I (80%), MU-N (75%), MU-A (80%), MU-U (80%), and MU-D (100%)*
- *Multi-Family PUD projects approved (12): almost all fall between 50%-80%, Conservancy Bend Apartments was 92%*
- *Proposed impervious surface definition: "Impervious surface: Surfaces that prohibit infiltration of stormwater. Homes, buildings, and other structures with roofs, decks, as well as concrete, brick, stone, asphalt, gravel, pervious pavers, and similar paved surfaces are considered impervious."*

2. Minimum and Maximum Front Setbacks in MU-A Zoning District

Right now, properties zoned B2 or B3 along University Avenue have a minimum 20' and 24' front setback. In the new Zoning Code, the proposed front setback for the MU-A Zoning District that would apply to most of University Avenue (min. 15', max. 30'). This will bring buildings closer to the street and provide a maximum to avoid buildings setback too far from the street. Are you comfortable with this approach?

Work Group Response: Liked this approach, but wanted to reduce the maximums further to eliminate drive aisles, parking, or pick up/drop off in front of the building. Consensus was to change the maximum front setback to 25 feet.

- *Proposed: MU-A zoning district front yard setback of 25 feet by-right. Staff would like to consider the use of a CUP for a potential reduction in the front yard setback for lots with large street terraces due to University Avenue's variable right-of-way sizes.*

3. Downtown Zoning District Purpose Statement

In the existing Zoning Code, the Downtown Zoning District (B4) has one sentence in the purpose section about the downtown area having major historical values warranting attention in design review. Within the new Zoning Code (MU-D Zoning District), should we have language about certain properties within this district retaining the existing traditional Main Street characteristics of the core of Middleton's historic downtown? With so much redevelopment that's already occurred and/or potential going to occur in the future, we wanted to see which direction you wanted to go.

Work Group Response: Requested that the purpose statement indicate that properties are compatible with traditional Main Street characteristics of the core of Middleton's historic downtown.

- *Proposed: New MU-D Zoning District purpose statement: "Intent. This district is intended to permit downtown commercial and mixed use development at an intensity which provides significant incentives for infill development, redevelopment, and the continued economic viability of existing development in a modern urban downtown development pattern that is compatible with traditional "Main Street" characteristics of the core blocks in Middleton's historic downtown. Residential uses are intended to occur at a density that can be accommodated within the bulk requirements of this zoning district."*

Instructed staff and V&A to explore options to either create a new base district to protect landmarked and other historic properties OR create an overlay to protect them along Parmenter Street (max. 3 stories in height).

- *Proposed: Create a downtown historic overlay district, design guidelines, and add the overlay to the zoning map.*

4. Permitted Uses for Industrial Districts

Right now, the City has one industrial district. The new Zoning Code proposes multiple industrial districts. Because of this, we are seeking recommendations for which types of uses to separate into these new districts:

- a. In the Light/Medium Industrial Zoning District, do we want to allow principal office, service, and sales uses? This may limit opportunities for future industrial space in Middleton if non-industrial principal uses are permitted. It could be regulated by a maximum area or percentage (more of an accessory use), if that is desired.

Work Group Response: Allow light industrial type land uses, in addition to principal (standalone) service land uses in these zoning districts. Requested a change related to office land uses, making it an accessory land use that can be a maximum 25% of the building's gross floor area.

Proposed: In the Light and Medium Industrial Districts, Light Industrial is permitted by-right, while Personal and Professional Services and Indoor Sales and Service uses are permitted by CUP. Incidental Office is permitted as an accessory land use in these districts (gross floor area of office activity shall not exceed 25% of the total gross floor area of the building).

- b. In the LI Zoning District, do we want to allow personal storage facilities (mini storage units) or only allow those in the Medium and Heavy districts?

Work Group Response: Only allow personal storage facilities in the Heavy Industrial Zoning District to orient the Light and Medium Industrial districts to higher and better uses.

Proposed: Personal Storage Facilities are only permitted in the Heavy Industrial, Intensive Outdoor Storage, and Airport zoning districts as a CUP.

5. Minimum Front-Loaded Garage Setback for Residential Land Uses

In the existing Zoning Code, there is no requirement for garage setbacks related to the principal buildings (just applies the district's min. setbacks). In the new Zoning Code, we are proposing all single-family and two-family land uses have a minimum 2' setback for garages from the principal structure. And, for all multi-family land uses, a minimum 0' setback for all garages from the principal structure (even with the building or behind it). This reflects what the City has enforced with recent Planned Developments and avoids the proliferation of snout houses. Are you comfortable with the new approach?

Work Group Response: Change the proposed rules to allow for single-family and two-family land uses to have the front garage extend a maximum of 5 feet in front of the principal building's front façade (the principal building's front façade does not include a front porch), keep the multi-family land uses at a minimum 0-foot setback, and incorporate front façade rules that allows up to a maximum of 50% to be made up of front-loaded garages.

- *Proposed: SF and TF zoning districts shall have a maximum front-loaded attached garage setback of 5 feet in front of the plane of the principal structure (front porches are not considered the front plane of the structure). MF zoning districts shall have a maximum of a 0-foot front setback for attached garages. All front-loaded garages in residential zoning districts shall comprise no more than 50% of the width of the ground floor building façade facing the street.*

6. Incentives for Affordable Housing and Stormwater Management

In response to the City's Comprehensive Plan and previous conversations with the Working Group, we have created new incentives for affordable housing and stormwater management in all new multi-family and mixed-use projects. What do you think of the approach as shown below?

- a. **Affordable Housing: Height Exceptions.** The following provisions apply to the base zoning district's maximum height requirement as described in Article II. The following height exceptions shall apply to the MR-L, MR-M, MR-U, MR-H, MU-N, MU-A, MU-U, and MU-D zoning districts.
 1. Buildings with voluntary contractual Land Use Restriction Agreements (LURA) with the City of Middleton to provide income and rent-restricted dwelling units (affordable housing) may exceed the base zoning district's maximum number of stories or height up to one additional floor of the building and the floor area of said additional floor shall not exceed the area of any other residential floor in the building. To exceed the maximum number of stories or height, the building shall meet the following requirements:
 - a. The cumulative interior square footage of the affordable units shall be greater than or equal to fifty percent of the total interior square footage of all units and common amenity space, such as community rooms and fitness rooms, above the maximum number of stories or height in the base zoning district. Subject to the details in the LURA, the cumulative square footage of the affordable housing units may be distributed throughout the building.
 - b. The affordable units shall be rented to households with an income at or below sixty percent area median income limits and at or below rent limits for sixty percent of area median incomes as specified in the LURA.

- c. The effective period of the LURA must be at least thirty years.

Work Group Response: Liked the idea, but requested that City staff gather further feedback from the Affordable Housing Committee on the percentage of required affordable units and the definition of affordable housing. One concern the group had was related to limiting short-term residential rentals in developments that get the height bonus. This may be best accomplished through a property-specific Development Agreement and Deed Restrictions, rather than the Zoning Ordinance.

Proposed: The above text under a. is in the draft ordinance based on Work Group feedback.

- b. **Stormwater Management:** An additional floor may be added to any multi-family or mixed-use land use in which the development's stormwater management plan exceeds the stormwater management standards of the City, as determined by the City Engineer and Water Resources Commission. The additional floor may exceed the base zoning district's maximum height requirement up to one additional floor of the building.

Work Group Response: Like the idea, but instructed City staff and V&A to explore options for more sustainability-based incentives similar to the proposed stormwater management incentive using some kind of benchmark number, figure, certification, etc. (ex. 100% of the on-site energy consumption is generated on-site).

Proposed: Staff plans to bring this idea to the Sustainability Committee for feedback and to determine which metrics would be best suited for this approach.

7. Approach to Mixed Use Land Uses

For mixed-use land uses, there are two different types proposed: mixed-use building and live/work building. Each type is proposed to be permitted by-right in all mixed-use zoning districts. The distinction between them is:

- a. **Mixed-use building:** max 25% for vehicle parking and access, min. 50% for non-residential land uses
- b. **Live/work buildings:** non-residential land use is required on the ground floor (no defined percentages)
- c. What do you think of this approach?

Working Group Response: Change the proposed requirements to include:

- *Standalone multi-family land uses are a permitted by-right land use in all mixed-use zoning districts if the property is not located at the intersection of two streets (to be mapped).*
 - *Proposed: Each mix-use district allows multi-family as a permitted by-right land use, if the property is not located at the intersection of two streets.*
- *Mixed-Use Buildings are a permitted by-right land uses in all mixed-use zoning districts and Live-Work Building land uses are no longer permitted in the mixed-use zoning districts (no longer needed – either standalone multi-family or Mixed Use Building depending on location).*
 - *Proposed: This change was not made because it didn't make sense after making the other changes noted in 7.c. Mixed use buildings are required at corners.*
- *Mixed-Use Buildings and Live/Work Buildings are permitted by-right in all multi-family zoning districts.*

- *Proposed: This change was not made because a Comprehensive Plan Amendment would be required to accommodate mixed uses (residential and commercial) in these areas. The Working Group recommended that the City consider an amendment in the future to enable this to be included within the Zoning Ordinance.*
- *On the ground floor of any façade facing a right-of-way, Mixed-Use Buildings can have up to a maximum 25% be made up of vehicle parking and access. A minimum of 50% of the ground floor must consist of non-residential land uses.*
 - *Proposed: Mixed-Use Buildings have a max. 25% vehicle parking and access and min. 50% ground floor non-residential standards. However, staff advise reducing the minimum to 33% of the ground floor.*
- *All new development within the MU-A zoning district is required to be a minimum of 2 stories in building height. Need to specify the size of the second floor as a percentage of the gross ground floor area.*
 - *Proposed: MU-A district: “Any new principal building shall be a minimum of two stories in height. The second story shall be a minimum gross floor area equivalent to 50% of the gross floor area of the ground floor.”*

8. Tourist Rooming Houses/Short-Term Residential Rentals

The City doesn't currently regulate these uses, but under state law we must permit them in all residential dwelling units.

- a. What do you think of this approach?

Work Group Response: Modify the Short-Term Residential land use requirements to mirror that of Madison.

Proposed: The Short-Term Residential rental land use has been changed to reflect the requirements imposed by the City of Madison. In summary, this includes:

- *Utilize a licensing program and have established property operational requirements*
- *Short-Term rentals are only permitted for owner-occupied units or if explicitly permitted within a lease or condo association*
- *Rentals that are not the operator's primary residence:*
 - *Limited to 6-29 day rentals and max. of 180 days of rentals in a year*
- *Rentals that are the operator's primary residence, but they are not on-site during rental:*
 - *1-6 day rentals permitted and max. of 30 days of rentals in a year*
- *Rentals that are the operator's primary residence and they are on-site during rental:*
 - *1-6 day rentals are permitted and no max. days for rentals in a year*

9. Electric Vehicle Charging

As drafted, these land uses are permitted as an accessory land use in all zoning districts, but there are no minimum requirements for electric vehicle chargers to be included within a new development. Madison adopted requirements for minimums, but this has since been challenged.

- a. City staff suggested that we create requirements for these to be incorporated (infrastructure at least) within new multi-family developments? Also suggested, establishing a minimum number of stations within the parking requirements?
- b. Should we simply allow them everywhere or require them in certain instances?

Work Group Response: Modify the Electric Vehicle Charging accessory land use to mirror Madison's requirements for a minimum of 10% of all off-street parking provided being EV-ready infrastructure within any new residential parking area greater than 10 space and new parking lots for institutional, hotel, and office uses. Add the escalating requirements by year, similar to Madison's requirements. No EV-infrastructure will be required for manufacturing, restaurants, retail, services, or warehousing land uses.

Proposed: Electric vehicle charging station requirements are included to mirror the recommendations above.

10. Permitted Vertical Projections into Required Yards

As drafted, we have vertical projections being permitted to extend beyond the required setback if they are within the building envelope and do not exceed the max height of the zoning district.

- a. City staff is concerned that this will infringe on solar viewsheds for neighboring properties and should require a variance so the neighbors could weigh in on it.
- b. V&A concerns include the fact that variances are hard to justify and ripe for NIMBY opposition and that this doesn't promote infill development opportunities and is likely to decrease vertical additions in these instances. Also, the solar viewshed could in theory be blocked by any vertical addition or new building that isn't directly in this circumstance.
- c. Would you like to permit these types of projections or prohibit them?

Work Group Response: Allow the vertical projections by-right and require the applicant to conduct a solar viewshed analysis if any neighboring property has existing solar panels located on-site. Basically, observe the solar rights of neighboring property owners that have existing panels as part of the review process for vertical additions.

Proposed: "All projection applications must demonstrate that no solar rights of existing solar panels on neighboring properties are negatively impacted by the addition on the winter solstice."

11. Any Other Questions or Comments

Work Group Response:

- A. *Modify the setback provisions to require a setback on the rear or side yards of new buildings in the MR-U, MR-H, I, MU-A, and MU-U zoning districts that directly abut a single or two-family land uses (above 3 stories = 15' setback) and require a setback on the street facing facades of all new construction in the MU-D zoning district (above 4 stories = 15' setback). Consider an overlay for properties along Parmenter Street in the MU-D zoning district that requires a setback on the street facing facades for all new construction (above 3 stories = 15' setback).*

- a. *Proposed: MR-U, MR-H, MU-A, MU-U, and MU-D zoning districts have setback requirements as outlined above. The historic downtown overlay also includes the provision as outlined above. However, Planning staff have grown increasingly aware of mixed opinions regarding setbacks. To address concerns about design impracticality and/or increased costs that undermine housing affordability, the best policy option may simply be to require a shadow study to achieve the goal of a building not casting a shadow on adjoining structures.*

- B. Modify the minimum lot size requirement for the MR-H zoning district to allow greater flexibility (min. 30,000 square feet).*
 - a. Proposed: The MR-H zoning district has a minimum lot size of 30,000 sf.*

12. Accessory Dwelling Units (ADUs)

In response to the City’s Comprehensive Plan, ADUs are proposed to be permitted by-right accessory land use in all single-family and two-family zoning districts, in addition to the MU-N district. They are also proposed to be permitted accessory conditional uses in the Multi-Family zoning districts. ADUs would include residential dwelling units located within buildings or separate detached structures. Drafted requirements for ADUs include a maximum number of occupants, maximum sizes, appearance standards, and minimum parking requirements.

The Working Group did not review this land use because it was intended to be a Plan Commission and City Council-level decision.