

Over the past two years, the City of Madison has conducted a neighborhood planning effort for the area which led to the development of the draft [South Madison Plan](#), which is in the process of being adopted as a supplement to the city's comprehensive plan. The plan includes detailed recommendations for the immediately surrounding area, including the subject property (see plan excerpt, at right).

RESOURCE PROTECTION: No areas of resource protection located on the property.

COUNTY ZONING ORDINANCE

Compliance with Standards Required for Granting Conditional Uses: In order for an applicant to obtain a Conditional Use Permit, the Zoning and Land Regulation Committee must find that all of the following standards are met for the proposed land use:

- 1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or welfare.
- 2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.
- 3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.
- 5) That adequate measures have been or will be being taken to provide ingress so designed as to minimize traffic congestion in the public streets.
- 6) That the conditional use shall conform to all applicable regulations of the district in which it is located.
- 7) That the conditional use is consistent with the adopted town and county comprehensive plans.
- 8) If the conditional use is located in a Farmland Preservation Zoning district, the town board and zoning committee must also make the finding described in Section 10.220(1)

The applicant's responses to these 8 standards can be found in the application materials.

STAFF: The subject property and surrounding town of Madison land will be attached to City of Madison in late October 2022. The process of attachment has begun in some respects, including the town adopting the city's building code and contracting with city staff for building permitting and inspection services.

There are numerous aspects of this proposal that do not comply with county zoning regulations. The proposal calls for a 6 story apartment building, which would be in violation of the county code maximum height limit of 4 stories for multi-family residential buildings. The proposal also does not meet the required parking standards of the zoning code (1.5 spaces / dwelling unit). The proposal calls for 117 parking stalls, while 171 would be required by the zoning code. The proposal would also violate the minimum 200' divided highway setback for residential structures.

Perhaps more important is the fact that the proposal is inconsistent with the town/city cooperative plan, provisions of the county comprehensive plan, as well as the city's draft *South Madison Plan*. The proposal would violate the principal purpose of the cooperative plan which is to accomplish, *"...a coordinated, adjusted and harmonious development of the territory covered by the plan which will, in accordance with existing and future needs, best promote public health, safety,*

South Madison Plan Excerpt

...[T]he Plan recommends that the Madison Mobile Home Park ("MMHP") remain a mobile home community as an important source of low-cost housing within the area. See the Housing chapter for more recommendations for MMHP.

Surrounding MMHP, the Future Land Use Map recommends development of new housing in up to five-story buildings along Badger Road west of Rusk Street. New housing in this area should be carefully planned to integrate with the mobile home community that will surround those housing sites. Any redevelopment of the Hookah Lounge site should be built into the hill, with the height of any new construction measured from the grade of Badger Road and not from the top of the hill on which the restaurant is currently located.

morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.” As noted in the plan excerpt above, the *South Madison Plan* calls for new housing in the area to be, “...carefully planned to integrate with the mobile home park...” and that, “...redevelopment of the Hookah Lounge site should be built into the hill, with the height of any new construction measured from the grade of Badger Road and not from the top of the hill...”.

With the town already working with various city agencies on the process of attachment, this proposal would further complicate an already complicated process. While eventual redevelopment of the property is anticipated in the city’s draft plan, it would be more appropriate for that development to occur under the city of Madison’s jurisdiction and in accordance with city land use regulations. This is precisely what is called for in the town/city cooperative plan.

Staff recommends that this application for CUP #2545 be denied due to the following:

1. The proposal is inconsistent with the City of Madison, City of Fitchburg, and Town of Madison Cooperative Plan.
2. The proposal is inconsistent with the *South Madison Plan*.
3. The proposal violates the height limitations of the MFR zoning district.
4. The proposal does not meet the minimum parking standards of the MFR zoning district.
5. The proposal violates the 200’ minimum setback requirement from a divided highway (West Beltline Highway 12/18).

TOWN COMMENTS: The Town of Madison Town Board would like to express their support for the proposed 6 story development project at 77 Sirloin Strip, provided the developer obtain a PUD and meet all other requirements.
Renee Schwass, Town of Madison Clerk

CITY OF MADISON (Updated 3/17/22): The city of Madison initially opposed the proposal and requested that the county deny the proposed rezoning (or CUP) in a letter dated 11/5/21. The city has provided an [updated letter dated 3/11/22](#) outlining a number of remaining concerns. Those concerns include the proposed height of the building being inconsistent with the specific recommendations included in the *South Madison Plan*, as well as the inadequacy of utilities (sewer/water/fire) serving the project.

STAFF UPDATE (3/17/2022): This petition, along with a Conditional Use Permit application (#2545) for the same project, were first considered at the ZLR public hearing on November 23, 2021. Both petitions were postponed due to public opposition and a range of issues identified by staff, including inconsistency with the city of Madison’s [South Madison Plan](#). At the 11/23/21 hearing, the applicant indicated an intention to formally withdraw the CUP application, however, no such formal withdrawal has been submitted to date. Because of the intense interest in the project, and because significant changes are now proposed, a new public hearing was scheduled for 3/22/23 at the direction of the ZLR Committee Chair.

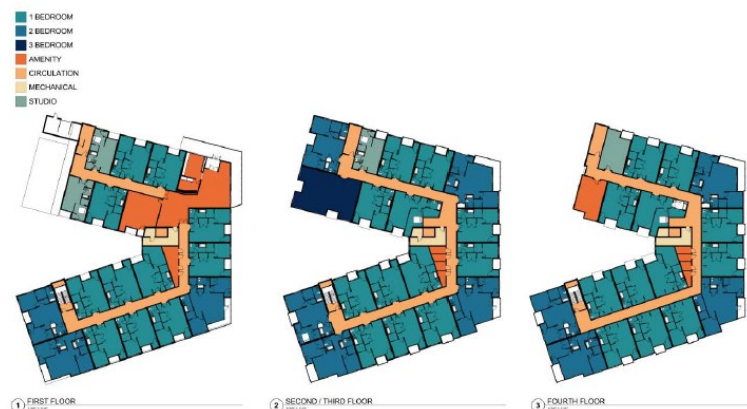
At the 11/23/21 public hearing, supporters of the proposal noted that it would result in much needed additional housing units and thereby help address the city’s housing shortage; would be an attractive development in a prominent location with views of the surrounding area; and would provide housing options for neighborhood residents who may wish to stay in the neighborhood. Opponents of the proposal expressed concerns about the size and scale of the apartment building; the negative effect it could have on the adjacent Madison Mobile Home Park (MHP); upward pressure on rents; and the eventual gentrification of the area and possible displacement of current residents, the majority of whom are from marginalized communities. The video recording of the 11/23/21 hearing can be accessed, [here](#).

The applicant has resubmitted the proposal and made a number of changes. Since the November public hearing, the applicant and their agents indicate that they’ve held meetings with city staff and the neighborhood in an attempt to address and resolve the various concerns. See page 6 of the applicant’s [updated statement of intent and development plans](#) for information about those efforts. City of Madison Alder Sherri Carter has submitted a [letter in support](#) of the project and also indicating her support generally for affordable housing.

Updated Proposal: The initial plan was for a 6 story apartment building with 114 units. The revised plan calls for a 4 story apartment building with 71 units: 16 units on the first floor, 19 units on the second and third floors, and 17 units on the

4th floor. There would be a mixture of studio, one bedroom, two bedroom, and three-bedroom units. It appears two 3 bedroom units are proposed. ADA accessible units would be available in the building. All of the units would be offered at market rate.

The applicant's resubmittal includes a variety of new information about the project, including updated site, parking, greenspace, stormwater, utility, and building design plans and conceptual renderings. The applicant states that changes to the building's massing were made to address concerns about overshadowing the Madison Mobile Home Park. A "sun path" diagram is provided, though it is difficult to discern the graphic included in submittal.



As noted above, the City of Madison has provided an updated letter detailing a number of outstanding concerns, including inconsistency with the recently adopted South Madison Plan.

It is evident that the applicant has revised the proposal in an attempt to resolve the various concerns that were raised initially. However, it appears the proposal is still not consistent with provisions of the adopted [South Madison Plan](#), and the city of Madison has once again raised concerns over the proposed design and height, and, perhaps more importantly, the adequacy of utilities to service the development. The issue of affordability does not appear to have been specifically addressed.

The South Madison Plan designates the property as "low – medium density residential" on the future land use map (~7-30 DU/Acre), with a building height limitation of 5 stories. The plan indicates that any redevelopment of the subject property should be, "built into the hill", with building height measured from the SE corner of the property, and not the top of the hill, "...so that the development will not loom over the adjacent mobile home park." The resubmittal plans are not consistent with this provision of the South Madison Plan. Similarly, it does not appear the proposed 71 units is consistent with the low-medium density designation of the plan. That designation would accommodate between 7-30 dwelling units / acre, though higher densities may be allowed in certain circumstances.

In addition the proposal's inconsistency with provisions of the South Madison Plan, staff remains concerned that the proposal also conflicts the [town/city cooperative plan](#).

Assure Orderly Development Within the Planning Area. The Plan provides a mechanism for joint land use decision making during the protected period. While, historically, the three communities have independently planned for the development of land within their communities, this Plan establishes extraterritorial zoning and the use of extraterritorial plat review authority by the Cities of Fitchburg and Madison in cooperation with the Town to manage land use and land development. This cooperative approach of land use decision making will help to reduce situations where developers seek timing and infrastructure concessions from one community by attempting to pit the Cities against the Town or against each other.

The cooperative plan addresses redevelopment, noting that, "...The Cities, especially Madison, have a more complete arsenal of tools to promote and direct development and redevelopment efforts than the Town. Attachment of Town lands to the Cities will enable the Cities to implement their respective adopted plans to comprehensively address the problems facing this area and to take full advantage of the opportunities

[Excerpt from town/city cooperative plan](#)

which exist. Although Madison already included lands located within the Town in its land use planning efforts, the lack of jurisdiction often frustrated implementation of resulting plans, unless annexation of key parcels occurred.”

The proposal represents the single most consequential development in the town of Madison to come before the ZLR Committee and County Board since the cooperative plan was first adopted almost 20 years ago and less than a year before the planned attachment. The town and city recognized that significant redevelopment proposals were best conducted through the cities’ processes.

There is general agreement that redevelopment of the property will occur, just as there is general agreement that redevelopment will have ramifications for the future of the broader neighborhood. The manner, design, and timing of that redevelopment, including details over critical infrastructure and impacts on the character of the neighborhood, appear to be the central, as yet unresolved, issues. As described in the initial staff review, and referenced in the town/city cooperative plan, staff believes that those issues are best resolved through the city’s regulatory process. Again, as noted above, the city has developed and adopted the only detailed plan for the area and is already responsible for providing building inspection / permitting, fire, and emergency medical services.

In summary, staff finds that the resubmittal is still inconsistent with the South Madison Plan, and does not yet meet the city’s development requirements, including provision of adequate utilities.

Staff recommends denial of CUP 2545 based on the following findings:

1. The proposed conditional use fails to meet the following standards for approval:
 - That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;

The proposed conditional use is of a scale and intensity that will negatively impact the neighboring Mobile Home Park.

- That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.

The applicant has failed to demonstrate that the water and sanitary sewer utilities are adequate to serve the proposed conditional use.

- That the conditional use is consistent with the adopted town and county comprehensive plans.

The proposed conditional use is inconsistent with the following: the *Intergovernmental Cooperation* goals, objectives, and policies of the Dane County Comprehensive Plan; the City of Madison, City of Fitchburg, and Town of Madison Cooperative Plan; and the South Madison Neighborhood Plan.

For questions: Contact Majid Allan, allan@countyofdane.com / 608-267-2536 or 608-720-0167.