Smart Growth Greater Madison

White Paper

**Impacts of Recent City Government Actions on the Supply and Price of Housing in Madison**

February 17, 2022

It is widely recognized that a combination of population growth, not enough new housing units being constructed (especially in the years immediately following the housing market crash in 2007), rising land prices and rising construction materials prices[1] is causing Madison to experience a shortage of housing and increasing housing costs at all price points, including a shortage of housing that is affordable to people with modest incomes.[2] The Madison Common Council could help both the supply and price issues by adopting policies that encourage construction of more new housing units and refrain from adopting policies which discourage construction of new housing units or add costs to housing.

Madison elected officials and city staff frequently talk about the housing crisis in Madison and the need to take action to address it. The Common Council recently enacted two ordinances intended to encourage construction of "missing middle" housing: alternative dwelling units, duplexes, townhouses, and smaller apartment buildings.[3]

In addition, the Plan Commission, Transportation Policy and Planning Board, and city staff are working on a transit-oriented development ordinance. If this ordinance is enacted, it also could encourage more housing development in narrow areas along transit corridors.

Too often, however, the Common Council has adopted policies which discourage construction of new housing units or add costs to new and existing housing. The Council's actions are well intentioned, and the impact on housing supply and costs from each action considered separately might appear relatively small, but the cumulative negative impact of these actions on housing supply and cost is substantial. Many of these actions, in addition to pressure from market forces, have the effect of constricting the pipeline through which a project must pass to come to fruition.

If Madison is to have any hope of achieving its goals for appropriately housing its people, the Common Council must stop restricting the supply of housing and adding costs to housing and begin to reverse the supply restrictions and cost additions it has enacted. Otherwise, it is likely that the housing crisis in Madison will persist or become worse.

This white paper is not intended to be an exhaustive list of all existing Madison ordinances and policies that restrict the supply of housing or add costs to housing. Nor is it intended to be a legislative proposal

[1] "Building materials prices have increased 12.2% year-to-date after climbing 4.5% over the same period in 2020." https://eyeonhousing.org/2021/11/building-materials-prices-post-record-year-to-date-increase-through-october/#:~:text=Building%20materials%20prices%20have%20increased,the%20same%20period%20in%202020.&text=The%20price%20of%20all%20goods,first%2010%20months%20of%202020.

[2] This challenging issue exists in communities throughout Wisconsin, resulting in calls for state legislative action. https://www.wra.org/PressRelease/FallingBehind/

[3] https://missingmiddlehousing.com/

for changes to Madison ordinances. Smart Growth hopes this white paper will start a conversation with Madison elected and appointed officials, city staff and leaders of neighborhood organizations about what can and should be done to increase the supply of housing and relieve costs the city's ordinances add to housing. Smart Growth will make legislative proposals for consideration in the near future.

**Executive Summary**


The following recent ordinances, rejections of proposed ordinances, and interpretations of existing ordinances are examples of actions that discourage or reduce the construction of new residential housing units in Madison, which will contribute to rapid increases in the cost of housing in Madison:

- New stormwater management requirements
- Wider front-yard setbacks to create more room for street tree canopies
- Wider front-yard setbacks on Langdon Street
- Recommended restrictions in plans
- Denying approval of rezoning and the preliminary plat for the Raemisch farm subdivision
- Prohibiting the Landmarks Commission from considering the appropriateness of a proposed new building when considering the appropriateness of assembling a site for the proposed new building
- Bird-friendly glass ordinance
- Electric vehicle charging infrastructure ordinance

The following recent ordinances will encourage construction of new residential development, but their positive impact will be modest:

- Ordinance changing thresholds between permitted and conditional uses and increasing maximum permitted densities
- Ordinance making alternative dwelling units a permitted use

The following charges directly increase the cost of housing in Madison:

- Zoning, subdivision and site-plan review fees
- Park impact fees
- Increasing water, sewer and stormwater utility rates
- Urban forestry special charge

When there is a persistent imbalance in the supply of and demand for housing in the overall housing market, it causes rents to increase at all levels of rental housing, including rents for "naturally occurring affordable housing," faster than family incomes increase. This process is causing residential units that once were "naturally occurring affordable housing" to no longer be "affordable" to many of the families who live in them.

**Impact of Supply and Demand on the Cost of Housing**

Before discussing examples of actions by the Common Council, this paper provides background on how the housing market operates. This background is necessary to understand how the Common Council's actions affect the supply and price of housing in Madison.

The balance between supply and demand affects the price of housing. When the demand for housing units considerably exceeds the supply, rents and sales prices increase every year by large percentages. When the supply of new housing is enough to essentially keep up with demand, rents and sales prices probably will continue to increase because of increasing costs of land and building materials, but the price increases will be more modest.

According to Madison city staff, Madison needs 2,000 new housing units to be constructed each year, plus Madison needs an additional 3,000 new housing units to be constructed immediately, to reach a healthy vacancy rate for rental housing. The table below, reporting data taken directly from the City of Madison's website, shows the number of new-construction residential units for which building permits were issued during the most recent five calendar years.

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|
| Single-family | 361 | 359 | 378 | 355 | 289 |
| 1-4 units | 33 | 50 | 74 | 76 | 64 |
| 5+ units | 1,640 | 1,147 | 1,190 | 1,737 | 3,273 |
| Other | 25 | 24 | 26 | 23 | 7 |
| Total | 2,059 | 1,682 | 1,583 | 2,203 | 3,633 |

We can see from this data that 2021 was an exceptionally good year for new-construction residential units, but it only started to fill the gap created by low to moderate numbers of new-construction residential units during the preceding four years. It is important to keep in mind that the multi-family housing projects for which building permits were issued in 2021 started in the developers' planning processes years earlier, and many of these projects started in the city's review and approval process in 2020.

A recent news report on the Channel 3000 website about the tremendous population growth in Madison and surrounding Dane County communities from 2010 to 2020 painted a similar picture: not enough housing units were constructed to keep up with demand fueled by the growing population.[4]

The persistent ultra-low vacancy rate in Madison is causing rents to increase every year by large percentages rather than modest percentages. Rapidly increasing housing costs in Madison are making it so fewer and fewer families can afford to live in Madison unless they are (a) wealthy or (b) able to qualify for income-restricted housing and able to find an income-restricting housing unit. The 2020

[4] https://www.channel3000.com/growing-pains-madisons-decade-of-rapid-growth/?fbclid=IwAR0EE2Ag19sri4TuQVrg-fXPyjg7PMSHxvMRANjLHAV_Rjd00FACSCfJHfY

Housing Snapshot Report by the Madison Department of Planning, Economic and Community Development provides data on this issue[5]:

> There has been tremendous growth in the City of Madison since 2008, but most of the growth is largely attributable to households earning very low or very high incomes. (Page 2)

As a result of this trend, more people who work in Madison will choose to live outside of Madison for housing-cost reasons. Most of them will drive themselves with no other passengers to and from their jobs in Madison. Madison city government wants to encourage people to live near where they work so they can walk to work or live near Madison Metro bus service so they can take a bus to work. But instead of that happening, more people who work in Madison will drive to work from the suburbs or small outlying communities, including from dwellings outside of Dane County. This will greatly undermine the efforts of Madison city government to combat global warming and climate change by reducing the number and length of single-occupancy vehicle trips.

A similar trend is noted for all of Dane County in the Dane County Housing Needs Assessment: 2019 Update[6]:

> The rate of growth of jobs has exceeded the rate of growth of new households and household income. And these have far exceeded the rate of growth of new housing.
>
> We are adding jobs faster than we are adding population. That means that many thousands of people who work in Dane County cannot live in Dane County, and must drive in for work every day.
>
> We are adding population faster than we are adding housing units. That means that vacancy rates have declined and rents are going up. (page 4)

Many people who work in Dane County live outside Dane County and drive to and from Dane County for work, which counteracts efforts to reduce the number and length of single-occupancy vehicle trips. If more housing were being constructed in Dane County, including in Madison, housing prices and rents would not be growing so rapidly, and more people who work in Dane County could afford to live in Dane County.

**New Stormwater Management Requirements**

In 2020, the Common Council approved a new stormwater management ordinance. As a result of this ordinance, in greenfield settings, most new residential subdivisions will be required to have larger stormwater detention facilities. Often, the size of the stormwater pond will need to be increased by

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[5] https://danehousing.countyofdane.com/documents/assessmentReport/2019/Dane-County-Housing-Needs-Assessment-2019.pdf

[6] https://danehousing.countyofdane.com/documents/assessmentReport/2019/Dane-County-Housing-Needs-Assessment-2019.pdf

80% as a result of new stormwater requirements. This will reduce the number of buildable lots that can be created on a particular parcel of land. To make up for the loss of lots, the subdivision developer will need to charge a higher price for each lot, which will mean the selling price of each new house will be higher.

The new stormwater ordinance also, for the first time, imposed stormwater requirements on redevelopment projects in already developed areas of the city, unless the developer reduces the amount of impervious surface by 10% compared to the current built environment.[7] Because land costs are high, reducing the amount of impervious surface by 10% compared to the built environment usually is not financially feasible (and would cause a substantial reduction in the number housing units included in the project). Adding green infrastructure (e.g., a green roof or cistern) to comply with the new stormwater requirements will substantially increase the costs of redevelopment projects (green roofs and cisterns are expensive), which will increase the rents for any housing units in the new building (unless the project is in a tax incremental district and the city government provides additional tax increment financing assistance to offset the additional cost of green infrastructure).

For example, a general contractor reported that in 2019, it was asked to include a green roof as an optional component of a bid to construct a small commercial building. The green roof added $15 per square foot to the bid price, or an additional $54,000 to the bid price on a building with a 3,600 square foot roof. In the alternative, an underground cistern and piping would have added approximately $100,000 to the bid price of the project. Adding a green roof or cistern system to a mixed-use or apartment building also would substantially increase the cost of the project.

**Wider Front-Yard Setbacks to Create More Room for Street Tree Canopies**

In 2021, the Common Council adopted an ordinance which applies to new buildings in zoning districts which permit buildings to have front façades at the property line, in other words, a zero-foot front-yard setback. The ordinance provides that in these zoning districts, if the distance between the curb and the property line is less than 15 feet, the front-yard setback must be increased to 5 feet to allow more room for the canopies of larger street trees planted in the terrace. This ordinance applies even in situations where a larger street tree will not be planted because of conditions in the terrace. However, certain Downtown block faces identified in a map in this ordinance are exempt from the ordinance.

If a 150-foot-wide parcel with zero-foot front yard setback could have a four-story building constructed on it, this ordinance would eliminate 3,000 square feet of developable space (150 x 5 x 4 = 3,000), the floor area of approximately four one-bedroom apartments. This ordinance applies to hundreds of parcels throughout the city.

Despite Smart Growth's urging them to do so, the Common Council did not request that city staff provide an estimate of how many additional larger street trees city forestry would be able to plant as a

[7] City engineering staff candidly conceded that it will take many years before there have been enough redevelopment projects subject to these new stormwater requirements before it will have a measurable impact on flooding.

result of this ordinance nor how many potential future housing units would be lost as a result of the ordinance.  No cost-benefit analysis was performed before the Common Council adopted this ordinance.

**Wider Langdon Street Front-Yard Setbacks**

On a smaller scale, the Common Council reduced the area available for constructing new housing units when it changed the front yard setbacks on Langdon Street through an ordinance in 2019.  The new front-yard setbacks were set at 10, 15, 20, 25, or 30 feet, depending on the block face—even on parcels where, historically, buildings had smaller front-yard setbacks than the new setbacks.  On some blocks, the front-yard setback was set at 10 feet or 15 feet on one side of the street and 25 feet on the other side of the street.  This ordinance purported to implement the recommendations in the Langdon Street Neighborhood Character Study (2018).

The larger front-yard setbacks reduce the number of housing units that can be constructed on a parcel.

**Recommended Restrictions in Plans**

In general, special area plans, neighborhood plans and BUILD plans have recommended larger setbacks, step backs on upper stories, or height restrictions, all of which reduce the number of housing units that can be included in a new building.  The Mifflandia Plan is an example of a plan which includes such recommended restrictions.  Restrictions which reduce the number of units that can be included in a new building increase the rent or price for the units that are included in the building, because of (a) the high cost of the land, (b) the costs of extra items that city government "asks" the developer to "voluntarily" include in order to win approval of the project, and (c) having fewer units over which to spread these costs.

Developers cannot require property owners to agree to a lower sale price because of recommended restrictions that reduce the number of housing units.  And if there is an impasse between the developer and the property owner about the price of the property, the development project does not happen, and the new housing units needed to reduce the imbalance between housing supply and demand are not constructed.

Even when a new building actually gets constructed, these recommended restrictions reducing the number of housing units exacerbate the imbalance of housing supply and demand in Madison, which increases housing costs.

**Ordinance Changing Thresholds Between Permitted and Conditional Uses and Increasing Maximum Permitted Densities**

In 2021, the Common Council adopted an ordinance which did the following things in a variety of moderate- and higher-density residential zoning districts and mixed-use zoning districts:

- Increased the number of housing units which may be included in a new building while still being a permitted use rather than a conditional use requiring a Conditional Use Permit (CUP)
- Increased maximum allowed densities
- Allowed developers to choose to develop 100% housing buildings in mixed-use districts

- Decreased the amount of ground floor space that must be for non-residential uses in mixed-use buildings.

This ordinance should encourage the construction of more relatively small buildings containing housing units or adding housing units to existing buildings. In other words, this ordinance is targeted at encouraging the construction of "missing middle" housing. This ordinance will help narrow the gap between housing supply and demand in Madison, although probably only modestly.

The ordinance as it was initially introduced would have had a greater positive impact, but in order to win enough votes in the Common Council, the thresholds between permitted uses and conditional uses were reduced from the initially introduced version to the version that was enacted. The Common Council could do more to increase the supply of housing by revisiting this ordinance and enacting the higher thresholds that were initially proposed (e.g., making up to 48 housing units a permitted use in the TSS zoning district and up to 60 housing units a permitted use in the CC-T zoning district).

An article published on January 31, 2022, in the online edition of the *Capitol Times* illustrates why allowing more housing development projects to be permitted uses is important to increasing housing construction.[8] The article was about the frustration of neighborhood activists with the development review and approval process for a proposed multi-family housing redevelopment project on the site of Zion Evangelical Lutheran Church near Atwood Avenue. The developer initially proposed a large condominium building, but neighborhood activists objected to the size of the building. The developer responded by proposing a smaller building, three stories tall containing 32 units, but the units would be apartments rather than condominiums to make the smaller building generate enough revenue to make the project work financially. The neighborhood activists are objecting to the new proposal. One neighborhood activist said her goal was to stop any housing from being constructed on the Zion Church property, even if that means the property is vacant for a long time, because she wants the city government to locate a community center on the site.

The article laments that the developer is a large developer proposing a large project rather than a small developer, new developer, or minority-owned developer proposing a "missing middle" project, as this ordinance was enacted to encourage. However, the cost of the Zion Church property is so expensive that a smaller project will not work financially. Currently, a larger project requires rezoning or a Conditional Use Permit (CUP). The extended time, higher costs, and higher risks that are part of the rezoning and CUP processes, largely because of neighborhood activists, strongly discourages small developers, new developers, or minority-owned developers from pursuing development projects in these circumstances. Smaller developers, new developers, and minority-owned developers need opportunities to propose development projects that are both large enough to be financially feasible and permitted uses.

In addition, later in 2021, the Common Council adopted an ordinance making accessory dwelling units (ADUs) a permitted use rather than a conditional use. This ordinance will increase the number of ADUs

[8] https://captimes.com/news/proposal-would-demolish-atwood-neighborhood-church-for-apartments/article_10a6e3af-5127-55af-a594-4291b0fbbd92.html?utm_source=The+Capital+Times&utm_campaign=505953dcb8-EMAIL_CAMPAIGN_2022_02_01_01_13&utm_medium=email&utm_term=0_43dda86fb8-505953dcb8-446829766

in the city, but not by a large enough volume to have an impact on overall supply and demand of housing units in the city.

**Uncertainty Created by Refusing to Approve the Raemisch Farms Subdivision**

In the summer of 2021, the Plan Commission recommended approval of a new residential subdivision on the Raemisch Farm property. The developer had agreed to place on the subdivision plat a restriction which said that for a number of years, no residential development could occur within the projected 65 dB average noise level from F-35 fighter jets. To the surprise of many, the Common Council overwhelmingly rejected approval of the rezoning needed for the residential subdivision.

This action caused developers and city planning staff to doubt that any proposal for residential development near the airport would be approved—especially if the project requires the Common Council to approve rezoning. This doubt caused development and redevelopment projects near the airport, which were in their initial stages of financial feasibility analysis and design, to stall. As a result, fewer new housing units will be available to rent or purchase. The loss of new housing units near the airport will not be offset by increased production of housing units in other parts of the city. How long the negative impact on housing production will persist depends on how long the Common Council allows this uncertainty to continue.

Shortly after the Common Council's vote on the Raemisch farm subdivision, Council President Abbas appointed a President's Work Group on Environmental Justice, and one of the charges given to the work group was to make a recommendation to the Common Council regarding restrictions on residential development near the airport to protect current and future residents from F-35 noise. After months of working with city staff and careful consideration, the work group wisely recommended that the Common Council not enact any restrictions on residential development near the airport.

However, that lack of recommendation from the work group to do something (the work group recommended NOT to enact new restrictions) means there has been nothing for the Common Council to vote on to show the Council agrees with the work group's recommendation.

The developer of the proposed subdivision of the Raemisch farm property has resubmitted for approval the same rezoning and preliminary plat that the Common Council rejected last year. The developer offered to increase the size of the parkland dedication in the plat, but the Madison Parks Department said it did not want more parkland at that location.

On February 7, 2022, the Plan Commission again recommended that the Common Council approve the rezoning and preliminary plat for the Raemisch farm subdivision.

If the Common Council approves the rezoning and preliminary plat this time, it will indicate it agrees with the recommendation of the work group not to restrict residential development near the airport.

**Obstacles to Redevelopment and Infill Development Based on Historic Preservation**

Some of the impediments in Madison to the development of more housing units have been around for a longer period of time. That is the case with obstacles to redevelopment and infill development within local historic districts or caused by actions of the Landmarks Commission. Impediments to redevelopment and infill development in historic districts not only deprive the city of needed additional housing units, but they also damage historic districts by preventing them from evolving and attracting investment. Areas of the city that are not able to attract investment do not remain static, but instead deteriorate. Neighborhoods are either going up or going down—they do not remain at the same level for long.

We have seen recent examples of "historic preservation" gone awry, such as when the Landmarks Commission's statement that the Wonder Bar had historic significance caused the Plan Commission to place on file without prejudice a proposed mixed-use redevelopment project near the intersection of Olin Avenue and John Nolen Drive. This occurred even though the Wonder Bar is not in a local historic district and has no landmark designation. The Plan Commission's action has caused the developer to drastically downsize the project in order to work around preserving the Wonder Bar in its current location. If the downsized redevelopment project goes forward, it will be far less dense and contain far fewer housing units than is envisioned in the recently adopted South Madison Plan.

In addition, the standards for obtaining a certificate of appropriateness to combine small parcels into a larger parcel within a local historic district is a substantial obstacle to redevelopment and infill development. That obstacle became even more substantial as a result of a memo by former Assistant City Attorney John Strange, dated June 27, 2019, opining that the Landmarks Commission cannot consider whether a proposed new building is appropriate to a site unless the commission independently determines that the combinations of smaller parcels to create the site meets the standards in MGO sec. 41.18(4).

Developers propose larger buildings requiring the combination of smaller parcels into larger parcels because that is necessary to be able to provide underground parking. Neighborhood residents oppose redevelopment and infill projects unless they provide off-street (which usually means underground) parking.

Attorney Strange's memo conceded that the Landmarks Commission could conclude that a larger building is not out of character with the nearby historic resources, but if the large parcel needed for the larger building is out of character with the nearby parcel sizes, then the Landmarks Commission may not issue the Certificate of Appropriateness allowing the smaller parcels to be combined into a larger parcel. Unless the ordinances are amended to reverse Attorney Strange's opinion, as a practical matter, redevelopment and infill projects can happen in a local historic district only if a developer can find an already existing unusually large parcel for sale. There are few such parcels.

The new building currently under construction at 817 to 821 Williamson Street is an example of how only the rare availability of an oversized parcel allowed a project to go forward. Before the Third Lake Ridge historic district was created, two parcels were combined for the construction of a "modern" commercial building and adjacent parking lot. A developer proposed demolishing the existing building and parking lot and replacing it with a new mixed-use building containing housing units, with underground parking. The Landmarks Commission issued a Certificate of Appropriateness for the building, and it is currently under construction.[9] If the "modern" commercial building and parking lot had been on two separate parcels, the Landmarks Commission almost certainly would have denied the Certificate of Appropriateness for the combining the separate parcels into a single parcel, and consequently would not have considered issuing the Certificate of Appropriateness for the new mixed-use building. The result would have been that a good redevelopment project containing more housing units would not have been constructed.

The following are further examples of historic preservation provisions that impede the development of more housing units:

- The arbitrary provision that only historic resources within 200 feet of a proposed new building should be considered when determining the appropriateness of the new building.
- The provision in MSO sec. 41.18(2) that authorizes the Landmarks Commission to give tremendous weight to only one standard among the eight applicable standards when determining whether to grant a Certificate of Appropriateness for demolition.

**City Government Fees Increase the Cost of Housing**

A state law required cities with populations of 10,000 or more (as of January 1, 2020) to report the amount of fees they collected from residential development and construction in 2018.[10] The City of Madison reported that in 2018, the estimated amount of fees it collected from residential development and construction was $6.26 million for new subdivision plats and new construction and $2.40 million for remodeling and renovation projects.[11] Developers set the prices of new lots and rents for new multi-family housing units high enough to recover these fees, and are required to do so by their lenders even if they were inclined not to do so.

Some of the fees collected in 2018 were collected in connection with review and approval of new subdivision plats, where the phases of the subdivision and the housing units themselves will not be constructed until years later. Some of the fees collected in 2018 were collected in connection with zoning applications, where construction of the housing units might have started in 2018 or might start in subsequent years. Some of the fees collected in 2018 were collected when a building permit was issued, but the subdivision or zoning fees for the parcel on which the unit was constructed were collected years earlier. Consequently, it is challenging to calculate and report a meaningful amount of fees per housing unit. Madison city staff divided the $6.26 million of fees for new subdivision plats and new construction

[9] https://www.cityofmadison.com/dpced/planning/documents/TLR_817_821_Williamson_case_study01_30_22.pdf
In addition, the Plan Commission approved a Conditional Use Permit and demolition permit for this project.
https://madison.legistar.com/View.ashx?M=F&ID=9056217&GUID=F6EC2111-CC29-43B2-82C0-FD2159D2E8FD

[10] 217 Wisconsin Act 243, codified as Wis. Stat. § 66.10014.

[11] https://www.cityofmadison.com/dpced/planning/new-housing-fee-report/3308/

by a total number of housing units, including undeveloped residential lots in new subdivisions for which fees were collected in 2018, and reported a result of $3,954 of fees per dwelling unit.

Please note that the sum of Madison's 2022 park-infrastructure impact fee and park-land impact fee, which are only some of the fees charged to new development, is substantially greater than $3,954 per dwelling unit.

**Increasing Park-Infrastructure and Park-Land Impact Fees**

In 2016, the Common Council enacted changes to the structure and rates of the park impact fee and the fees in lieu of parkland dedication. The following is a statement from former Executive Director Andrew Disch of the Apartment Association of South Central Wisconsin regarding the impact of these changes on the cost of housing in Madison:

> This proposal will raise combined impact fees and fees-in-lieu from 20% to 147% depending on the unit type. This is in addition to the 5% annual inflation adjustment that the fees-in-lieu have increased since 2002. The result will make housing in the City of Madison prohibitive for too many income levels. This proposal also does not meet the intent of the State Impact Fee Statute.
>
> Additionally, the proposal re-constitutes the cost per acre formula for fees-in-lieu by using a city-wide average instead of the current formula that uses the value of the actual subject property. This unnaturally skews the actual cost of the land and will have the most significant impact on affordable units.

Despite this warning regarding the proposal's substantial impact on the cost of housing in Madison, the Common Council enacted the proposal.

The 2022 park-infrastructure impact fees are $1,871.99 for a single-family house or duplex, $1,270.98 for each regular multi-family housing unit, and $2,466.84 for each large multi-family housing unit. The 2022 park-land impact fees are $4,291.57 for a single-family house or duplex, $2,913.98 for each regular multi-family housing unit, and $5,653.28 for each large multi-family housing unit. The sum of these two impact fees in 2022 is $6,163.56 for each single-family house, $4,184.96 for each regular multi-family housing unit, and $8,120.12 for each large multi-family housing unit.

According to the U.S. Department of Housing and Urban Development (HUD), 60% of the Dane County area median income (AMI) is $55,680 for a family of three and $61,860 for a family of four. To provide perspective, the sum of 2022 park fees on a single-family house, $6,163.56, is 1.1% of the income of a family of three with income of 60% of Dane County AMI and 1.0% of the income of a family of four with income of 60% of Dane County AMI.

Of course, nearly all families purchasing a house will borrow to pay for much of the cost of the house, and so most of the park impact fees will be paid over time through higher monthly mortgage payments after making a larger down payment. The table below shows the impact of the 2022 park impact fees on the down payment and mortgage payments on a single-family house where the family purchasing the house is borrowing 95% of the purchase price on a 30-year fixed interest mortgage with a 3.9% annual interest rate.

| | Without Park Impact Fess | With Park Impact Fees | Difference |
|---|---|---|---|
| House price | $330,000.00 | $336,163.56 | $6,163.56 |
| Down payment | $16,500.00 | $16,808.18 | $308.18 |
| Amount borrowed | $313,500.00 | $319,355.38 | $5,855.38 |
| Annual mortgage payments | $17,744.16 | $18,075.57 | $331.42 |

Park impact fees contribute to whether the amount of the mortgage payments, plus property taxes, homeowners insurance and utilities, cause a family purchasing a house to be considered "housing cost burdened."

The amount of park fees per unit for multi-family housing is less than the park fees for a single-family house, but park fees still do increase rents for multi-family housing units. Higher rents cause more renter families to be considered "housing cost burdened."

Please note that there are other impact fees imposed on new residential construction in some areas of the city, e.g., for stormwater infrastructure improvements, drainage improvements and sanitary sewer improvements.

**Increasing Water, Sewer and Stormwater Utility Rates**

Owners of new and existing apartment buildings recover the water, sewer and stormwater utility fees they pay through the rents they charge. Consequently, every time the Common Council approves increases in water or stormwater rates or the Madison Metropolitan Sewerage District increases sewer rates, it eventually increases the rents paid by all residential tenants in the city.

From the Water Utility's website:

> Under the new plan, the water bill for an average residential customer (e.g., single-family house) who uses 4,000 gallons a month will increase from $17.24 per month to $19.51, or 13 percent.
>
> The residential usage tiers do not apply to people living in buildings with three or more units connected to one water meter. Those properties are part of Madison Water Utility's new Multi-Family customer class. The Multi-Family rate is $2.64 per 1,000 gallons for most apartment buildings. Previously, multi-family buildings were considered part of the Commercial Class, and were charged either $1.83 or $2.34 per 1,000 gallons depending on usage.

The Water Utility has applied to the Wisconsin Public Service Commission for a rate increase, which would be effective at the end of 2022 at the earliest, according to the 2022 Executive Operating Budget.

Sewer Utility rate increases:

- 10.5% increase in the Sewer Utility rate in the 2020 operating budget
- 10.0% increase in the Sewer Utility rate in the 2021 operating budget
- 5.0% increase in the Sewer Utility rate in the 2022 operating budget

Stormwater Utility rate increases:

- 9.0% increase in the Stormwater Utility rate in the 2020 operating budget
- 9.1% increase in the Stormwater Utility rate in the 2021 operating budget
- 7.0% increase in the Stormwater Utility rate in the 2022 operating budget

**Urban Forestry Special Charge**

In 2014, the Common Council enacted the Urban Forestry Special Charge (UFSC) for the express purpose of being able to collect from Madison residents more revenue for the operating budget than is permitted by the state levy limit law. Homeowners pay this fee. When the owner of an apartment building pays this fee, the owner passes this cost on to the tenants through higher rents.

UFSC increases:

- 18.2% increase in the UFSC in the 2020 operating budget
- 9.9% increase in the UFSC in the 2021 operating budget
- 4.8% increase in the UFSC in the 2022 operating budget

**Bird-Friendly Glass Ordinance**

In 2020, the Common Council adopted an ordinance that requires the use of expensive bird-friendly glass in the first 60 feet from the ground of façades of new buildings that are more than 10,000 square feet in total floor area, unless the developer and its architect design the building (a) to have less than 50% transparent glass on the façade or (b) to break up the areas of transparent glass to be about the size of a patio door or smaller. In addition, certain building features such as transparent glass railings on balconies and glass bridges between building towers always must have bird-friendly glass.

It is likely that developers of new buildings containing primarily or exclusively multi-family housing units which are five stories or shorter will design the facades of the buildings to avoid being required to use expensive bird-friendly glass. Their current building designs, for the most part, already avoid the requirement to use bird-friendly glass. Consequently, the bird-friendly glass ordinance probably will have only a small impact on the cost of housing in typical new apartment buildings.

In contrast, the cost of redesign or use of expensive bird-friendly glass will have a greater impact on rents in new mixed-use or apartment buildings that are eight stories or taller, where potential tenants expect large areas of transparent glass. Bird-friendly glass that human eyes notice is at least two times more expensive than comparable untreated glass. Arnold Ornilux bird-friendly glass contains a UV layer which bird eyes can see but human eyes cannot, but it is nearly four times more expensive than comparable untreated glass.[12]

Please note that this ordinance adds considerable costs to proposed new office buildings, where potential tenants demand large areas of transparent glass.

**Electric Vehicle (EV) Charging Infrastructure Requirements**

In early 2021, the Common Council adopted an ordinance that requires new buildings which provide 6 or more parking spaces for residential uses to install electric vehicle (EV) charging stations in at least 2% of the parking spaces and provide empty conduit and electric panel space to later provide EV charging stations in 10% of the parking spaces. The cost of this EV charging infrastructure will be passed on to tenants in higher rents or rent surcharges on tenants who want to use EV charging stations.

Smart Growth's members support providing EV charging stations in the parking areas for their apartment buildings and have been working with electric utilities which offer programs to encourage installation of charging stations. When residential tenants (or commercial tenants or employees of tenants) have electric vehicles and want access to EV charging stations for their vehicles where they live (or work), developers respond by providing EV charging station. Consequently, the ordinance mandating EV charging stations was not necessary.

Please note that the cost of installing EV charging stations when constructing or reconstructing large surface parking lots for office buildings is substantially greater than installing EV charging stations in parking structures of apartment buildings.

**Background on the "Affordable Housing" Part of Madison's Housing Crisis**

The imbalance in the supply of and demand for housing in the overall housing market also makes the imbalance between the supply and demand of "affordable housing" worse. But before discussing the relationship between those two things, we should consider what we mean by "affordable" housing. It might be more accurate to call it housing that families with modest incomes can purchase or rent and still have sufficient financial resources to pay for other essentials.

When policy makers and others use the term "affordable housing," they usually mean housing that is affordable to people with modest incomes. Sometimes policy makers use the term "workforce housing" to comprise housing affordable to people at a wide range of modest incomes and reserve "affordable housing" to mean housing affordable to low-income families.

The most widely recognized test for affordability is whether the rents and utilities to live in a rental unit or the mortgage payments, insurance and utilities to purchase and live in an owner-occupied housing unit are 30% or less of a family's income. If the cost of housing is greater than 30% of a family's income, that family is said to be "housing cost burdened." The 30% standard is the one used by the U.S.

[12] http://www.ornilux.com/index.html

Department of Housing and Urban Development (HUD) to determine which families are housing cost burdened, although much has been written about this being an outdated metric.

Keep in mind that the fact that a family is "housing cost burdened" does not mean that they were forced by lack of options to buy or lease a residence for monthly payments that total more than 30% of their income. A family with an income somewhat below or somewhat above the area median income might choose to spend more than 30% of their income on housing because they want housing that is newer or has more amenities or is in a particular location rather than live in lower-cost housing that would allow them to meet the 30% metric, and they are willing to cut back on expenditures for non-essential things to be able to spend more to have the housing they prefer. Put another way, if these families were offered housing at a lower price, a price at which they were no longer housing cost burdened, they would reject the offer because the alternative housing did not meet their desired criteria.

In contrast, for families that have extremely low incomes, being housing cost burdened often causes them to lack sufficient financial resources to pay for other essential things. In these situations, it is highly likely that the families are housing cost burdened because they lack access to housing at a price that would allow them to avoid being housing cost burdened.

Below is an excerpt from a publication which recognizes that being housing cost burdened is more likely to be a choice of how to balance priorities within the family budget for families with middling to high incomes and more likely to be a hardship they cannot avoid for families with low incomes[13]:

> Researchers argue that this approach ignores variations in individual household budgets.[3] Many households have major, largely unavoidable expenses—such as those for child care, education, or medical and student loan debt—which may decrease the share of household income that can be dedicated to housing.
>
> The threshold also fails to take into account a household's size or income level. A high-income household spending more than 30% on housing may well have enough income left over to cover other expenses and thus, arguably, should not be considered cost-burdened. Or a household may be able to find a comfortable home while spending far less than 30%.
>
> And very low-income households may have difficulty finding suitable housing even when spending well above the threshold—or may still struggle to make ends meet despite staying below it.

Families that might be considered to have modest incomes, and which sometime are housing cost burdened, are those with incomes of 80% or less of the area median income (AMI). According to HUD, the Dane County area median income in 2021 was approximately $92,800 for a family of three and $103,100 for a family of four.

[13] https://www.pewtrusts.org/en/research-and-analysis/reports/2020/09/the-state-of-housing-affordability-in-philadelphia

Families with modest incomes would include a family headed by a new teacher or someone working in the retail sales or hospitality industries or providing basic care to residents of skilled nursing facilities. The following tables shows (a) HUD's calculations of 60% and 80% of 2021 Dane County area median income and (b) 30% of those amounts divided into equal monthly payments.

| Household Size | 60% of Dane County Area Median Income (AMI) | Monthly Payments Totaling to 30% of Income | 80% of Dane County Area Median Income (AMI) | Monthly Payments Totaling to 30% of Income |
|---|---|---|---|---|
| 1 | $43,320 | $1,083 | $57,760 | $1,444 |
| 2 | $49,500 | $1,238 | $66,000 | $1,650 |
| 3 | $55,680 | $1,392 | $74,240 | $1,856 |
| 4 | $61,860 | $1,547 | $82,480 | $2,062 |

To put this in context, in the most recent assessment year (January 1, 2021), the average assessed value of a single-family residence in Madison was $335,200. If one has a good credit score and borrows 95% of $335,200 on a 30-year fixed mortgage at 3.9%, the monthly payment of principal, interest, private mortgage insurance and property taxes is approximately $1,990, plus approximately $90 per month for homeowners insurance, $140 for gas and electricity and $80 for city utilities and fees, the total housing cost is $2,300 per month.

Apartment rents vary widely by the age of the property, amenities, and whether the unit is or is not income limited because the building's construction capital stack included donated capital in exchange for agreeing to limit rents.

According to city staff's interpretation of data shown in Figure 8 in the 2020 Housing Snapshot Report by the Madison Department of Planning, Economic and Community Development,[14] in 2018, there were approximately 10,000 more rental households for which monthly rents under $875 would be "affordable" (using the 30% of income metric for determining who is housing cost burdened) than there were rental units with monthly rents under $875—a 10,000-unit shortage. However, if we follow city staff's method of interpretation, the data in Figure 8 also shows there were approximately 12,000 FEWER rental households for which monthly rents of $875 to $1,249 would be "affordable" (using the 30% of income standard for determining who is housing cost burdened) than there were rental units with monthly rents of $875 to $1,249—a 12,000-unit SURPLUS.

It is likely that neither the 10,000-unit shortage of units with monthly rents under $875 nor the 12,000-unit surplus of units with monthly rents of $875 to $1,249 is accurate, because including students who are renters distorts this data. As city staff state, "a large number of renters in the lowest bracket are students who have exacerbated this mismatch." (page 9) The extent of the distortion from including students in the data has not been quantified and merits further study.

Most students have low incomes, but many are able to afford much more expensive housing than their incomes would appear to indicate they can afford because they have sources of money that are not

[14] https://www.cityofmadison.com/cdbg/documents/HsngSnapshotFullRptFINAL072420.pdf

their income, e.g., money from parents or grandparents and student loans. This may explain why developers and lenders are continuing to be willing to invest in constructing more market-rate multi-family housing buildings targeted at student tenants—there still is unsatisfied demand for market-rate student housing.

**Use of Donated Capital to Produce NEW "Affordable Housing"**

Because of the high costs of land and building materials, without an infusion of donated capital, it is essentially impossible to produce NEW housing units that rent or sell for amounts that are 30% or less of family incomes for families with modest incomes. Sources of donated capital required to reduce rents or mortgage payments to the level that are affordable to families with modest incomes include section 42 federal housing tax credits, contributions from the Madison city government's affordable housing fund, contributions from non-profit housing funds, or patient-capital mortgages like those provided by Habitat for Humanity of Dane County. In most instances, the developer of these housing units must agree, for a certain number of years, to limit rents and to require tenants to have incomes below a certain level, in order to qualify for the infusion of donated capital. Sources of donated capital are limited, and it is conventional wisdom that these sources are not adequate to build enough NEW "affordable housing" units to keep pace with the demand/need for them.

**Relationship Between Overall Housing Supply/Demand and the Supply of "Affordable Housing"**

However, a large part of the "affordable housing" units in Madison were not produced using donated capital to reduce their rents or selling prices. Instead, they are older housing units that were built when costs were lower, and they often have fewer amenities and look well worn, which limits the amount of rent a property owner can charge or the price a seller can seek for them. Figure 4 in the 2020 Housing Snapshot Report shows that housing units constructed between 1940 and 1980 tend to have lower rents. These housing units often are referred to as "naturally occurring affordable housing" units.

When the rents charged for "naturally occurring affordable housing" increase by large percentages every year, families' incomes cannot keep pace. As a result, fewer and fewer existing housing units are "affordable" to families with incomes of 30% or 60% or 80% of Dane County area median income.

Furthermore, when the imbalance between supply and demand of housing at higher price points causes housing costs to increase every year by larger percentages than the incomes of higher-income families increase, the higher-income families start competing for rental and owner-occupied units that lower-income families also are seeking to rent or purchase. This increased competition for housing units at all prices points is accelerating the price escalation for housing units that once were "naturally occurring affordable housing" units.

The "naturally occurring affordable housing" units do not disappear, but they cease to be "affordable housing" for many families because of rapidly increasing rents/prices. The 2020 Housing Snapshot Report discusses how the imbalance between the supply of and demand for housing in the overall housing market most adversely affects families with low incomes:

> The housing market and low vacancy rate have especially cost burdened low-income renter households who pay rents that have escalated quicker than that of their incomes.

> Nearly half of renter households and one-fifth of homeowners are housing cost burdened, which means that more than 30% of their income is spent on housing costs. As a disproportionate number of low-income households in Madison are Persons of Color, this housing market has led to economic segregation that have reinforced patterns of racial and ethnic segregation. (Page 1)
>
> * * *
>
> There is a significant shortage of units for the lowest-income renter households; however, a large number of renters in the lowest bracket are students who have exacerbated this mismatch. Even when considering the next cost bracket, there are nearly 10,000 more renter households than there are dwelling units rented for less than \$875. This is exacerbated by households "renting down" for more affordable units, as there are more than three renter households able to afford more than \$1,875 than there are rental units at that rate, indicating those households are renting units more affordable to them and thereby removing those units from the pool of units affordable to less affluent households. Further study may be required to understand better the impact that the student population has on the rental housing mismatch. (Page 9)

If Madison policy makers focus exclusively on producing more NEW "affordable housing" units with donated capital while ignoring the imbalance between the supply of and demand for housing in the overall housing market, there will continue to be too many families with modest incomes which are housing cost burdened. A healthy relationship between supply and demand in the overall housing market is essential to preventing escalating rents from causing "naturally occurring affordable housing" units to no longer be affordable for many families.

**Conclusion**

Smart Growth stands ready to work with elected and appointed officials, city staff and leaders of neighborhood organizations to craft legislative proposals that will increase the supply of housing units in the overall housing market, which is crucial to putting a damper on rapidly increasing rents at all levels of the rental housing market. Rapidly increasing rents are causing "naturally occurring affordable housing units" to be no longer "affordable." Taking action to increase the overall housing supply to put a damper on rapidly increasing rents can be combined with and support initiatives to incentivize production of more new "affordable housing" units.