



Project Addresses: 2926 Atwood Avenue and 232-238 S Fair Oaks Avenue
Application Type: Conditional Use and Certified Survey Map Referral
Legistar File ID # [90800](#), and [90806](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant & Property Owner: Tim Lemkuil, TriNova Ventures, LLC; 507 Bruce Street; Verona.

Contact Person: Jacob Morrison, Potter Lawson, Inc.; 749 University Row; Madison.

Surveyor: Wade Wyse, Wyser Engineering, LLC; 300 E Front Street; Mount Horeb.

Requested Actions:

- ID [90800](#) – Consideration of a conditional use in the Traditional Shopping Street (TSS) District and Transit-Oriented Development (TOD) Overlay District to modify the required rear yard height transition to a residential district to allow construction of a four-story mixed-use building with approximately 3,900 square feet of commercial space and 31 dwelling units following demolition of two buildings; and
- ID [90806](#) – Approval of a Certified Survey Map (CSM) to create one lot for the proposed development.

Proposal Summary: The applicant is seeking approvals to construct a four-story mixed-use building containing 3,880 square feet of ground floor commercial space and 31 dwelling units at 2926 Atwood Avenue and 232-238 S Fair Oaks Avenue following demolition of a two-story mixed-use building at 2926 Atwood and a five-unit multi-family dwelling at 232 S Fair Oaks. The underlying parcels comprising the subject site will be combined into one lot by CSM. The letter of intent indicates that construction will commence in May 2026, with completion anticipated in May 2027.

Applicable Regulations & Standards: Table D-2 in Section 28.061(1) identifies dwelling units in a mixed-use building with up to 48 dwelling units and at least fifty percent (50%) of the ground-floor frontage facing the primary street is non-residential, including all frontage at a street corner, as a permitted use in the TSS (Traditional Shopping Street) zoning district and the Transit-Oriented Development (TOD) zoning overlay. Section 28.065(3)(b) requires where a TSS district abuts a residential district at the rear or side lot line, building height at the rear or side yard setback line shall not exceed the maximum height in feet allowed in the abutting district as a permitted use. From this point, building height may increase at a ratio of one foot of rise to one foot of horizontal distance away from the property line, (a 45-degree angle) up to the maximum allowed height. Transitions exceeding this height and/or ratio limitation require conditional use approval. Section 28.183 provides the process and standards for the approval of conditional use permits. The subdivision process is outlined in Section 16.23(4)(f) of the Subdivision Regulations.

Note: At the time of submittal, it was believed that the proposed mixed-use building would not meet the rear yard height transition requirement noted in the preceding subsection. However, during the review of the land use application, it was determined that the building will comply with the required rear yard height transition. Therefore, no conditional use approval is required in order for the building to be built.

Review Required By: Plan Commission (for both requests) and Common Council (for the CSM).

Summary Recommendation: The Planning Division recommends the following to the Plan Commission:

Because the only conditional use that the proposed four-story mixed-use building required is no longer needed, the Plan Commission should **place on file without prejudice** the land use application for 2926 Atwood Avenue and 232-238 S Fair Oaks Avenue; and

That the Plan Commission forward the Certified Survey Map to combine 2926 Atwood Avenue and 232-238 S Fair Oaks Avenue into one lot to the Common Council with a recommendation of **approval** subject to the conditions from reviewing agencies beginning on **page 5**.

Background Information

Parcel Location: A 18,068 square-foot (0.41-acres) parcel located at the northwesterly corner of Atwood Avenue and S Fair Oaks Avenue; Alder District 15 (Martinez-Rutherford); Madison Metropolitan School District.

Existing Conditions and Land Use: The southwestern corner of the subject site is developed with a two-story mixed-use building at 2926 Atwood Avenue containing a first floor commercial space (the former Birrenkott Appliance) and four apartments according to City records. The northeastern corner of the site is occupied by a two-story multi-family dwelling containing five units addressed as 232 S Fair Oaks Avenue. The parcels in between at 234 and 238 S Fair Oaks are developed with a surface parking lot accessed from Fair Oaks that is shared with the adjacent commercial property at 2916 Atwood Avenue. The entire site is zoned TSS (Traditional Shopping Street District).

Surrounding Land Uses and Zoning:

- North: Single- and two-family residences, zoned TR-V1 (Traditional Residential–Varied 1 District);
- South: Across Atwood Avenue, three-story mixed-use building (Anaala Salon, State Farm, etc., zoned PD; Lowell Elementary School, zoned TR-C2 (Traditional Residential–Consistent 2 District);
- West: Laundromat and Glass Nickel Pizza, zoned TSS; and
- East: Across S Fair Oaks Avenue, multi-tenant mixed-use and commercial buildings, zoned TSS; single-family residences, zoned TR-V1.

Adopted Land Use Plans: The Comprehensive Plan as amended through 2024 identifies three of the four quadrants of the Fair Oaks-Atwood intersection for Neighborhood Mixed-Use (NMU), with the exception of Lowell School, which is recommended for Special Institutional (SI). The remaining properties nearby are recommended for Low Residential (LR).

The subject site is located within the boundaries of the Schenk-Atwood-Starkweather-Worthington Park Neighborhood Plan (2000), which does not include specific land use or redevelopment recommendations for the site and surrounding properties.

Zoning Summary: The subject site is zoned TSS (Traditional Shopping Street District).

Requirements	Required	Proposed
Minimum Front Yard Setback	0' or 5'	5.32'
Maximum Front Yard Setback	20' per TOD Overlay	
Side Yard Setback: Street side yard	0' or 5'	5.65' S Fair Oaks Ave 5.55' Dixon St

Requirements	Required	Proposed
Side Yard Setback: Where proposed buildings or abutting buildings have window openings in side wall(s) within 6' of lot line	5'	6.16' west side yard 5.01' northwest side yard
Rear Yard	20'	20.39'
Maximum Lot Coverage	85%	83.2%
Minimum Building Height	2 stories per TOD Overlay	4 stories/ 49.2'
Maximum Building Height	4 stories/60' per TOD Overlay	
Auto Parking	None per TOD Overlay	16
Electric Vehicle (EV) Stalls	10% EV ready (2)	1 EV; 3 EV ready
Accessible Stalls	1	1
Bike Parking	1 per unit up to 2-bedrooms, half-space per add. bedroom (31); 1 guest space per 10 units (3) General retail; service business; office: 1 per 2,000 sq. ft. floor area (2) (46 total)	33 garage; 12 exterior: 45 total (See Zoning conditions)
Loading	None	0
Building Forms	Commercial Block Building	Will comply (See Zoning conditions)
Other Critical Zoning Items		
Yes:	Transit-Oriented Development Overlay, Barrier Free, Utility Easements, Wellhead Protection (WP-08)	
No:	Urban Design, Waterfront Development, Wetlands, Floodplain, Adjacent to Park, Landmarks	
Prepared by: Jenny Kirchgatter, Assistant Zoning Administrator		

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor.

Public Utilities and Services: The site is currently served by a full range of urban services, including Metro Transit, which operates seven-day service along Atwood Avenue (Routes C and 38) through the S Fair Oaks Avenue intersection, with trips at least every 30 minutes (every 15 minutes or less during the day on weekdays). Metro Transit would initially estimate the following counts of potentially eligible trips towards US Green Building Council/LEED Quality Access to Transit points: 79 Weekday and 34 Weekend. Please contact Metro Transit if additional analysis would be of interest.

Project Description

The applicant proposes to redevelop four parcels located at 2926 Atwood Avenue and 232, 234, and 238 S Fair Oaks Avenue with a four-story mixed-use building containing approximately 3,900 square feet of ground floor commercial space and 31 dwelling units on the upper three stories. The applicant is also requesting approval of a Certified Survey Map (CSM) to combine the underlying parcels comprising the subject site into one lot to facilitate construction of the mixed-use building.

The subject site is 0.41 acres in area and extends along the northwesterly side of S Fair Oaks Avenue from Atwood Avenue on the south to Dixon Street on the north. The site is currently developed with a two-story mixed-use building at 2926 Atwood, which City records indicates was originally constructed in 1906 and until recently included Birrenkott Appliance on the ground floor and four apartments. The northeasterly edge of the site is

developed with a tall two-story multi-family dwelling containing five units addressed as 232 S Fair Oaks; the multi-family dwelling occupies the corner of the site at Dixon Street. The two parcels between the buildings at 234 and 238 S Fair Oaks are improved with a surface parking lot, which continues onto the parcel adjacent to the west developed with a multi-tenant commercial building. Access to the parking lot is provided by driveways from Fair Oaks and S Marquette Street. As of the writing of this report, the applicant has not sought demolition approval for the two buildings pursuant to Section 28.185 of the Zoning Code. The site is devoid of any noticeable grade or significant tree cover.

The proposed mixed-use building will include 3,880 square feet of commercial space on the ground floor, which will be located at the Atwood-Fair Oaks corner. A residential lobby will be located approximately midway along the Fair Oaks façade. The remainder of the ground floor will include parking for approximately 16 automobiles, which will be accessed from a driveway from Fair Oaks. Floors 2 and 3 will include 11 dwelling units apiece, with the remaining nine units on the fourth floor. The 31 units proposed will include 24 one-bedroom units and seven two-bedroom units. Parking for 33 bicycles will be provided within the building, with an additional 12 bike stalls to be located around the perimeter. A basement containing tenant storage spaces and an open storage area is proposed below the footprint of the building.

The proposed building will stand approximately 49.2 feet in height and will be topped by a flat roof. The exterior will be primarily comprised of a combination of reddish-colored brick, metal plank siding, and composite metal panel. The building will be set back between five and six feet on all sides except the northern rear yard, where a 20.4-foot setback is proposed. The building will incorporate a stepback along the northwesterly side wall at the second floor and an approximately 10.5-foot stepback along the northern rear wall at the fourth floor.

Analysis and Recommendations

Up to four-story, 60-foot tall mixed-use buildings containing no more than 48 dwelling units with at least fifty percent of the ground-floor frontage facing the primary street being nonresidential (including all frontage at a street corner) are a permitted use in the TSS (Traditional Shopping Street) zoning district and the Transit-Oriented Development (TOD) zoning overlay.

Section 28.065(3)(b) requires where a TSS district abuts a residential zoning district at the rear or side lot line that building height at the rear or side yard setback line shall not exceed the maximum height in feet allowed in the abutting district as a permitted use. From this point, building height may increase at a ratio of one foot of rise to one foot of horizontal distance away from the property line, (a 45-degree angle) up to the maximum allowed height. Transitions exceeding this height and/or ratio limitation require conditional use approval by the Plan Commission.

The current rear and side yard transition requirement was adopted by the Common Council on October 7, 2025 as part of the *Housing Forward* initiative to spur construction of additional housing across Madison. Prior to the text amendment (Ordinance 25-00067–ID [89917](#)), the Zoning Code required the upper stories of buildings in mixed-use and commercial zoning districts like TSS to be stepped back at a 45-degree angle starting from a point two stories and 25 feet above grade at the side and/or rear setback line regardless of the allowable height of buildings in the abutting residential zoning district. The recent change synchronized the height transition requirements with the maximum height in feet (not stories) allowed for a permitted use building on the adjacent residentially zoned property to allow for some additional building mass in the lowest stories of buildings by-right.

In this case, the abutting residential district is the Traditional Residential–Varied 1 (TR-V1) District. The maximum height allowed in TR-V1 for a permitted use is 40 feet (for three- and four-unit dwellings). The TSS district requires a 20-foot minimum rear yard setback. Therefore, the proposed building is required to begin transitioning in height at a 45-degree angle at 40 feet of height at the 20-foot rear yard setback. Subsequent to submittal of their land use application and noticing of a public hearing for a conditional use for a transition not complying with the new zoning requirement, the applicant provided a section drawing confirming that the fourth floor of the proposed building will be stepped back at the northern, rear yard setback consistent with the transition requirement.

Therefore, the proposed mixed-use building is a **permitted use**, and no conditional use is required in order for the project to proceed. As a result, **staff recommends that the Plan Commission place the conditional use application on file without prejudice**. The proposal will now proceed as a permitted use site plan review as governed by Section 28.186 of the Zoning Code, and agency comments submitted for the conditional use will instead generally be applied to the permitted use review.

Regarding the related Certified Survey Map to combine the underlying lots that comprise the subject parcel into one lot to facilitate the redevelopment, staff recommends that the Plan Commission find that the standards and criteria for approval are met and recommend **approval** subject to the conditions from reviewing agencies that follow.

Recommended Certified Survey Map Conditions of Approval

Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Aviles Pineiro, Gretchen, (608) 266-4089)

1. The applicant shall add a note to the face of CSM stating the following: “Development on this parcel is required to accept and convey private drainage onto the site from the adjacent parcels and convey it to the public right of way.”
2. The developer shall enter into a City / Developer agreement for the required infrastructure improvements. The agreement shall be executed prior to sign off. Allow 4-6 weeks to obtain agreement. Please contact the City Engineering Division to schedule the development and approval of the plans and the agreement.
3. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff.
4. A minimum of two (2) working days prior to requesting City Engineering signoff on the CSM, contact either Tim Troester (West) at (608) 261-1995 (ttroester@cityofmadison.com) or Brenda Stanley (East) at (608) 261-9127 (bstanley@cityofmadison.com) to obtain the final stormwater utility charges that are due and payable prior to sub-division of the properties. The stormwater utility charges (as all utility charges) are due for the previous months of service and must be cleared prior to the land division (and subsequent obsolesces of the existing parcel).

City Engineering Division – Mapping Section (Contact Jeffrey Quamme, (608) 266-4097)

5. The private storm sewer easement proposed to be set forth on this CSM shall be granted by a separately recorded instrument to be recorded immediately after the CSM has been recorded and before final site plan

sign off. This site and the site to the west are dependent on a common storm sewer to properly convey storm water drainage from both properties to S Fair Oaks Avenue. The agreement shall also include acknowledgement and terms for the underground pipe for roof drainage from the parcel to the west crossing this proposed development property. The easement limits shall be revised to include the proposed roof drainage pipe to be constructed along the westerly side of this CSM.

6. Add Document No 281589 to the documents that affect this CSM on sheet 5.
7. Wisconsin Administrative Code A-E 7.08 identifies when Public Land System (PLS) tie sheets must be filed with the Dane County Surveyor's office. The Developer's Surveyor and/or Applicant must submit copies of required tie sheets or monument condition reports (with current tie sheet attached) for all monuments, including center of sections of record, used in this survey, to Jeff Quamme, City Engineering (jrquamme@cityofmadison.com).
8. Prior to Engineering final sign-off by main office for Certified Survey Maps, the final CSM shall be submitted in PDF format by email transmittal to Engineering Land Records Coordinator Jeff Quamme (jrquamme@cityofmadison.com) for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off.
9. Correct the sheet headers and the legal description header from the Southeast Quarter of the Southeast Quarter to the Southeast Quarter of the "Southwest" Quarter
10. The position of the northern corner of Lot 3, Block 24 should be considered to move more northerly to better fit the width of Lot 21, Block 24.
11. Provide all plat-derived "recorded as" information on all boundaries.
12. Provide a copy of the boundary survey per note 5 on sheet 1 to Jeff Quamme (jrquamme@cityofmadison.com).
13. Correct the Secretary of the Plan Commission to Matt Wachter.
14. Correct the street name of Fair Oaks Avenue to S. Fair Oaks Avenue and Marquette Street to S. Marquette Street on all appropriate sheets.
15. This pending Certified Survey Map application for this property shall be completed and recorded with the Dane County Register of Deeds, the new parcel data created by the Assessor's Office, and the parcel data available to Zoning and Building Inspection staff prior to issuance of building permits for new construction or an early start permit.
16. The applicant shall submit to Jeff Quamme, prior to final Engineering sign-off of the subject CSM, one (1) digital CADD drawing in a format compatible with AutoCAD. The digital CADD file(s) shall be referenced to the Dane County Coordinate System and shall contain, at minimum, the list of items stated below, each on a separate layer/level name. The line work shall be void of gaps and overlaps and match the final recorded CSM: right of way lines (public and private); lot lines; lot numbers; lot/plat dimensions; street names, and; easement lines (including wetland and floodplain boundaries).

*This transmittal is a separate requirement than the required submittals to Engineering Streets Section for design purposes. The Developer/Surveyor shall submit new updated final plat, electronic data and a written notification to Engineering Mapping for any changes to the plat which occur subsequent to any submittal.

Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

17. The applicant shall dedicate right of way or grant a public sidewalk easement for and be responsible for the construction of a minimum six (6)-foot wide sidewalk, eight (8)-foot terrace, and additional one (1) foot for maintenance, along the site frontage of Atwood Avenue and S Fair Oaks Avenue.

Parking Division (Contact Trent W. Schultz, (608) 246-5806)

This agency has reviewed the request and recommended no conditions of approval for the CSM. A TDM Plan is required prior to obtaining final zoning approval and issuance of building permit (see section above).

Zoning Administrator (Contact Jenny Kirchgatter, (608) 266-4429)

This agency has reviewed the request and recommended no conditions of approval.

Fire Department (Contact Matt Hamilton, (608) 266-4457)

This agency has reviewed the request and recommended no conditions of approval.

Water Utility (Contact Jeff Belshaw, (608) 261-9835)

18. The following information shall be noted on the CSM prior to final approval: "The properties are located within Wellhead Protection District—Zone (WP-08). Uses of the properties are required to comply with the City of Madison Wellhead Protection requirements as provided under MGO Sections 13.22 and 28.102."

Assessor's Office (Contact Carlos D. Aguilar Velin, (608) 267-8791)

This agency has reviewed the request and recommended no conditions of approval.

Parks Division (Contact Brian Kowalski, (608) 243-2848)

19. Park impact fees are due and payable prior to building permit or early start permit issuance.

20. Park Impact Fees (comprised of the Park Infrastructure Impact Fee, per MGO Sec. 20.08(2)), and Park-Land Impact Fees, per MGO Sec. 16.23(8)(f) and 20.08(2) will be required for all new residential development associated with this project. This development is within the East Park-Infrastructure Impact Fee district. The Park Impact Fee ID# for this project is 25090.

21. The following note should be included on the CSM: "Lots within this subdivision are subject to impact fees that are due and payable at the time building permit(s) are issued."The Parks Division shall be required to sign off on this CSM

Metro Transit (Contact Tim Sobota, (608) 261-4289)

This agency has reviewed the request and recommended no conditions of approval on the CSM.

Forestry Division (Contact Bradley Hofmann, (608) 267-4908)

This agency has reviewed the request and recommended no conditions of approval.

Office of Real Estate Services (Andy Miller, (608) 261-9983)

22. Prior to approval sign-off by the Office of Real Estate Services ("ORES"), the owner's certificate on the CSM shall be executed by all parties of interest having the legal authority to do so, pursuant to Wis. Stats. 236.21(2)(a). Said parties shall provide documentation of legal signing authority to the notary or authentication attorney at the time of execution. The title of each certificate shall be consistent with the ownership interest reported in the most recent title report. If any of the land within the CSM boundary is under contract for sale or purchase, and said transfer will be conducted at the time of CSM recording, an escrow agreement may be necessary. Please discuss closing plans with ORES in advance of CSM signoff. The City and Register of Deeds are now accepting electronic signatures. A .pdf of the CSM containing electronic signatures shall be provided to ORES to obtain approval sign-off.
23. Prior to CSM approval sign-off, an executed and notarized or authenticated certificate of consent for all mortgagees/vendors shall be included following the Owner's Certificate(s). If a mortgage or other financial instrument is reported in record title, but has been satisfied or no longer encumbers the lands or ownership within the CSM boundary, a copy of a recorded satisfaction or release document for said instrument shall be provided prior to CSM approval sign-off.
24. All ownership consents and certifications for the subject lands shall conform to Wis. Stats. 236.21(2) and 236.29 by including the language ...surveyed, divided, mapped and dedicated...
25. If any portion of the lands within the CSM boundary are subject to an option to purchase or other option interest please include a Certificate of Consent for the option holder and have it executed prior to CSM sign-off, if said ownership interest meets the criteria set forth by Wis. Stat. Sec. 236.34 and Sec. 236.21(2)(a).
26. A Consent of Lessee certificate shall be included on the CSM for all tenant interests in excess of one year, recorded or unrecorded, and executed prior to CSM sign-off.
27. For the Madison Common Council Certificate to read "...ADOPTED ON THE _____ DAY..."
28. Update the City of Madison Plan Commission Certificate to be executed by Matthew Wachter, Secretary of the Plan Commission.
29. As of December 5, 2025, real estate taxes are paid for the subject property. Per 236.21(3) Wis. Stats. and MGO Section 16.23(4)(f)(3), the property owner shall pay all real estate taxes that are accrued or delinquent for the subject property prior to CSM recording. This includes property tax bills for the prior year that are distributed at the beginning of the year. Receipts from the City of Madison Treasurer are to be provided before or at the time of sign-off.
30. As of December 5, 2025, there are no special assessments reported. All known special assessments are due and payable prior to CSM approval sign-off. If special assessments are levied against the property during the review period and prior to CSM approval sign-off, they shall be paid in full pursuant to MGO Section 16.23(4)(f)(3).

31. If Parcel A (251-0709-191-0101-7) is not located within the CSM boundary, it may be removed from the title update.
32. Pursuant to MGO Section 16.23(5)(g)(4), the owner shall furnish an updated title report to Andy Miller in the ORES (acmiller@cityofmadison.com), as well as the survey firm preparing the proposed CSM. The report shall search the period subsequent to the date of the initial title report submitted with the CSM application (September 29, 2025) and include all associated documents that have been recorded since the initial title report. A title commitment may be provided, but will be considered only as supplementary information to the title report update. The surveyor shall update the CSM with the most recent information reported in the title update. ORES reserves the right to impose additional conditions of approval in the event the title update contains changes that warrant revisions to the CSM.
33. Depict, dimension, name, note and/or identify by document number all relevant easements, declarations, plans, conditions, agreements, and other documents cited in record title and the updated title report, and include relevant notes from plats or CSMs of record.