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TO: Plan Commission
FROM: Planning and Zoning Staff
DATE: September 4, 2014
SUBJECT: Proposed Zoning Text Changes

The following staff discussion and general recommendations relate to zoning text items prioritized by the Plan Commission at a March, 2014 Plan Commission Work Session. Please note that for some of the items, staff is seeking input from the Plan Commission before recommending a specific set of text changes. A status update to the list of priority text changes will also be provided to Commissioners.

Item 2.1 - “Community event”/“temporary outdoor event”/“special event” in residential zoning districts

Events such as outdoor festivals associated with a school or church property are currently not allowable within the residential districts. The current language regulating “temporary outdoor event” permissible on property in certain nonresidential districts is as follows:

Temporary Outdoor Events (Sec. 28.032(1), Page 11)

- a) *There shall be no permanent alteration to the site or construction or alteration of any permanent structure.*
- b) *Events include but not limited to, seasonal holiday sales, church, neighborhood or community events, traveling carnivals, and accessory promotional events.*
- c) *No event shall last more than one-hundred eighty (180) days per calendar year.*
- d) *Any event that lasts for more than forty-five (45) days requires conditional use approval.*
- e) *All such events require a Temporary Use Permit.*

If the code is amended to allow these types of events to occur on residential property, careful consideration is needed to ensure the regulation does not allow certain retail/commercial activities to occur on residentially zoned property, which could be seen as inappropriate or incompatible with residential use adjacent or in proximity to the nonresidential use. If the use was added to the residential districts as a permissible accessory use as currently written, a church, apartment building, single-family home or any other use could set up an event such as a weekend car sale, rug sale, or party/celebration open to the general public on their property if they wanted, which could be seen as an inappropriate commercial activity in a residential area.

Staff recommends the creation specific supplemental regulation to allow for community/nonprofit/or private intuition-based temporary events to be permissible in residential districts, on property with a nonresidential use only, and exclude “traveling carnivals” and “accessory promotional events” from being permissible at TOA’s on property located in residential districts.

Item 2.6 – R4A to TR-V1 family definition change

This issue relates primarily to properties in the Vilas, Marquette and Regent neighborhoods, formerly zoned R4A. The former R4A zoning district established a maximum occupancy of no more than two unrelated individuals in a rental unit. This was established to limit the density in areas near the university or downtown, and make it less attractive to establish non-owner occupied units that tend to have higher numbers of unrelated occupants. The new zoning code split former R4A zoned areas into TR-C4 and TR-V1, generally to ensure no nonconforming use was created. Buildings with three units or less were zoned TR-C4, which maintained the lower occupancy limitation, where buildings with 4+ units were zoned TR-V1, which allows up to five unrelated individuals to occupy a dwelling unit. This increase to occupancy allowance for the TR-V1 zoned property was not intentional in the former R4A areas.

Further, some recent apartment projects have come forward where developers have voluntarily offered to limit the occupancy of dwelling units to the lower occupancy regulation, either at the request of alders/neighborhoods or in response to adopted plans. With these particular projects, the units in these dwellings are usually on the small side, not necessarily appropriate for the up to “five unrelated individuals” otherwise allowed per the occupancy limitations. The voluntary reduction has been seen as a positive limitation, often key in a project receiving support from stakeholders. However, there is no mechanism in the code to codify this commitment, because most multi-family zoning districts allow the higher occupancy level.

Staff believes the most efficient solution would be to create an “occupancy overlay” district in Subchapter 28H, *Overlay Districts*, which can be mapped over certain properties where the intended occupancy limitation is appropriate. This mapping could occur site-specific to those properties formerly zone R4-A in Marquette/Regent/Vilas neighborhood, and also could be included with new/redevelopment projects, where the lower occupancy is favorable and/or consistent with adopted plans.

Item 2.12 – Stand-alone parking lots in residential areas

In the 1966 Zoning Code, the following was listed as a conditional use in the R1 (Single-Family Residence) district, which generally telescoped through the Residence Districts in Section 28.08:

“Automobile parking lots, open and accessory to a nonresidential use and solely for the use of employees and patrons of the use to which it is accessory, provided further:

- a. That such parking lot shall be used solely for the parking of passenger automobiles.*
- b. That such parking lot shall be closed between the hours of 10:00 p.m. and 7:00 a.m. except as otherwise authorized.*
- c. That such parking lot is located on a zoning lot:
 - i. That either abuts, or is separated only by an alley at one of its lot lines from, a commercial or manufacturing district; or*
 - ii. On which the principal nonresidential use is a permitted use; or*
 - iii. That is directly across a street from a commercial or manufacturing district, except that where such street is a “heavy traffic route” such parking facility shall not be approved unless a separated pedestrian crossing or walk signals provide for pedestrian crossing.**
- d. That each entrance and exit to and from such parking lot shall be at least twenty (20) feet distant from any adjacent property located in any residence district, except when ingress and egress to and from the parking lot is provided from a public alley or public street separating such residence areas from the parking lot.”*

The parking lot located across Hammersley Road from Pacific Cycle's headquarters is a recent example of an accessory automobile parking lot approved by the Plan Commission using the above conditional use, which was not included in the adopted 2013 Zoning Code. Another example is the parking lot at 1347 Fish Hatchery Road used by the nearby Dean Clinic, which was zoned R4 on the former zoning map and is zoned TR-V1 currently.

Most properties where these lots were approved under the 1966 code were planned for residential uses as well as zoned for them. Planning staff believes that it is necessary to incorporate this use into the new code as a conditional use in Subchapter 28C—Residential Districts to provide conformity for those lots legally approved by the Plan Commission under the old code, and to have a regulatory framework to consider alterations to those lots as well as new lots that may come forward in the future. As with the 1966 code, it may be appropriate to allow an off-site parking lot in a residentially zoned area for a nearby non-residential use without the need to rezone the parking lot to a non-residential district that may be contrary to a residential land use recommendation in an adopted plan. By not rezoning a property in such an instance, staff feels that there is a greater likelihood the off-site parking lot in residential zoning will eventually develop with residential uses than if the lot was zoned commercially.

Staff believes that the incorporation of supplemental regulations in Section 28.151 of the 2013 code similar to the requirements in *a-d* above would be sufficient to regulate new and existing accessory automobile parking lots going forward.

Items 3.1-3.4 - Potential Revisions to Mixed-Use Districts

Staff has assessed the interrelated items pertaining to mixed-use districts outside of the Downtown area (Items 3.1-3.4 in the attached update), which were identified by the Plan Commission in March 2014 as High-Priority items to be addressed in the near future. Following is a brief summary of the existing mixed-use districts, issues and concerns about the adequacy of the current palette of districts, and a suggested framework for text and mapping revisions for which staff would like feedback from the Commission. The issues and suggested changes focus largely on the NMX and TSS Districts.

Existing Mixed Use Districts

LMX (Limited Mixed Use) - This is not yet mapped, but provides opportunities for 2-story mixed-use buildings, or the conversion of single or two-family homes into mixed-use buildings. (This district was created as an alternative to an idea to allow mixed-use buildings on corner lots in all residential districts as a conditional use, which was not part of the zoning code adopted by the Common Council.)

NMX (Neighborhood Mixed-Use) - Intended for use within nodes near residential neighborhoods. Max height is 3 stories unless approved as conditional use (no absolute upper limit on height).

TSS (Traditional Shopping Street) - Intended for use along mixed use and commercial corridors (Williamson St., S Park St, Atwood, parts of Old University). Max height is 3 stories unless approved as conditional use (no absolute upper limit on height). There is no usable open space requirement (this may change as of 9/2/14, if Council approves usable open space requirement of 40 square feet per unit).

MXC (Mixed Use Center) - This is a Master Planned District with a lot of flexibility, but requires a large site and a master plan (similar to how PD-GDP was intended to work in the past). This is not currently being utilized anywhere, and is only mapped on one undeveloped parcel.

CC-T (Commercial Corridor-Transitional) - Intended for use in auto oriented areas where plans recommend an evolution to more pedestrian oriented uses. Max height is 5 stories, although these

areas today are very low-intensity areas dominated by single-story buildings. Lot area and usable open space requirements preclude high-density residential development in these areas.

CC (Commercial Center) - Intended for use in regional commercial areas which are currently auto-oriented (East and West Towne Malls, etc.)

Issues and Concerns

1. The code does not seem to contain a full continuum of mixed use districts. NMX and TSS are not sufficiently different, and may not need to be so tied down to the “node” vs. “corridor” framework.
2. TSS is now a catch-all district for long stretches of mixed-use corridors covering everything from Monroe St. near Camp Randall Stadium to parts of South Park Street, portions of Old University Avenue to much of Atwood Avenue.
3. The fact that there is no absolute height maximum in these districts leads to confusion, particularly where the massing, design, and traffic/parking impacts are experienced by nearby residential neighborhoods. In some cases, either the lack of clear recommendations in an adopted neighborhood plan, or deviations from the plans leads to a lack of predictability in areas where these districts are mapped.
4. We likely need a new mixed-use district similar to UMX that could be utilized outside of Downtown in transit-oriented areas such as Hilldale and parts of the Capitol East District currently in the TE (Traditional Employment) District, especially if absolute height limitations are introduced in the existing districts.
5. Especially in the TSS District, along mixed-use corridors, purely residential buildings are sometimes desirable. The current density limitations for residential buildings are too strict to feasibly allow for this type of development to occur. *Note: A recent code change recommended for approval by the Plan Commission addressed this issue by revising the code to allow for greater densities in purely residential buildings in the TSS District.*
6. The TSS District has no usable open space requirement, and while buildings often cover most of the property in these areas, high-quality usable open space is still needed. *Note: A recent code change recommended for approval by the Plan Commission addressed this issue by revising the code to require 40 square feet of usable open space per dwelling unit in the TSS District, all of which may be provided on balconies or rooftop terraces.*
7. The CC-T District is applied in many very different areas around the City, from the East Washington Avenue frontage near East Towne Mall to parts of University Avenue between Hilldale and University Hospital, along parts of Cottage Grove Road near the Royster-Clark site to parts of Stoughton Road. In almost all cases, these areas are predominantly one-story buildings, yet the maximum height for permitted uses is 5 stories, with taller buildings requiring conditional use approval.

Suggested Framework for Consideration

LMX (Limited Mixed Use)

- Maintain as-is. Not enough experience with this district to inform changes.

NMX (Neighborhood Mixed Use)

- Revisit the Statement of Purpose to make it less tied to nodes.
- Change maximum height to 2 stories for permitted uses, with up to 4 allowed with conditional use review.
- Consider map amendments to change certain TSS areas to the revised NMX district.

TSS (Traditional Shopping Street)

- Revisit the Statement of Purpose to make it less tied to corridors.
- Divide into two districts (names TBD), each with a similar list of permitted and conditional uses.
 - In the lower-intensity district, change maximum height to 3 stories for permitted uses, with up to 5 allowed with conditional use review. Replace most existing TSS properties with this district on the zoning map.
 - In the higher-intensity district, introduce a maximum height of 5-6 stories as a permitted use, with greater height allowed with conditional use review. Similarly, increase the permitted building size. Consider apply this district within major transit oriented development areas, and allow it to be requested elsewhere.

MXC (Mixed Use Center)

- Maintain as-is. Not enough experience with this district to inform changes.

CC-T (Commercial Corridor – Transitional)

- Consider reducing the maximum height for permitted uses to 3 stories (taller with a conditional use), when abutting residential districts. Maintain 5 stories as permitted use (taller with conditional use) elsewhere.

CC (Commercial Center)

- Maintain as-is.