



Department of Planning & Community & Economic Development

Planning Division

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TO: Plan Commission

FROM: Heather Stouder, Director
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SUBJECT: Substitute Ordinance ID [62174](#) – Rezoning 3614-3700 Milwaukee Street and 102-122 West Corporate Drive, 15th Ald. Dist., from CN (Conservancy District), TR-C1 (Traditional Residential–Consistent 1 District), SE (Suburban Employment District), and IL (Industrial–Limited District) to TSS (Traditional Shopping Street District) and TR-U1 (Traditional Residential–Urban 1 District).

On September 15, 2020, Ald. Grant Foster, 15th District, introduced Ordinance ID 62174 to rezone nine parcels generally located on the north side of Milwaukee Street between West Corporate Drive and the current City limits with the Town of Blooming Grove from CN, TR-C1, SE, and IL to TSS and TR-U1. The purpose of the proposed zoning map amendment is to begin to implement the land use recommendations in the [Milwaukee Street Special Area Plan](#), which was adopted in December 2018 by the Common Council guide future land uses and street networks, transit facilities, bike facilities, street design, and open spaces for the existing and future City of Madison bounded by State Highway 30 on the north, N Stoughton Road (US Highway 51) on the east, the south side of Milwaukee Street on the south, and N Fair Oaks Avenue and Starkweather Creek on the west.

As with any zoning map amendment, notice of the rezoning was published notice in the City’s newspaper of record (Wisconsin State Journal) and notices were mailed to the property owners and occupants within 200 feet of the area subject to the map amendment. The proposed rezonings are a companion to a related proposal to officially map some of the streets recommended in the [Milwaukee Street Special Area Plan](#); please refer to Resolution ID [61589](#) for more information on that effort.

Lands Subject to Proposed Amendment

Unlike the related request to officially map portions of the street network recommended by the special area plan (see Resolution ID [61589](#)), which will apply to properties both in the City of Madison and Town of Blooming Grove, the proposed zoning map amendment only applies to properties currently in the City. The parcels to be rezoned include four City-owned parcels and five privately-owned parcels. The City-owned parcels include:

- An undeveloped 70-foot wide, 953-foot deep (1.53-acre) parcel controlled by the Parks Division addressed as 3614 Milwaukee Street, which serves as access to the larger Starkweather Uplands conservancy area located to the north. The property is zoned CN;
- The East Transfer Point located at 102 West Corporate Drive and located at the northwestern corner of Milwaukee Street; the transfer point is zoned IL;

- An undeveloped, 10,892 square-foot parcel controlled by the Stormwater Utility and addressed as 112 West Corporate Drive; the parcel sits between the West Corporate right of way and private property to the west at 3650 Milwaukee Street. The site is zoned CN; and
- A 16,482 square-foot parcel controlled by the Stormwater Utility and addressed as 113 West Corporate Drive in CN zoning; the parcel sits between the West Corporate right of way and private property to the east at 3700 Milwaukee Street and is developed with an open drainage channel that drains under Milwaukee Street.

The five privately-owned parcels are:

- An undeveloped 5.1-acre parcel at 3618 Milwaukee Street, zoned TR-C1. The site has 250 feet of street frontage;
- Two parcels, 3630 and 3650 Milwaukee Street, which contain 16.15 acres developed with a 116,240 square-foot Amazon package distribution facility and parking for approximately 700 vehicles. The two parcels are zoned IL;
- An undeveloped 1.75-acre parcel at 122 West Corporate Drive, zoned CN. The parcel sits between the West Corporate right of way and private property to the west at 3650 Milwaukee Street; and
- A 0.88-acre parcel at 3700 Milwaukee Street developed with a one-story, 5,000 square-foot commercial building currently occupied by a laundromat. The property is zoned SE and has approximately 440 feet of frontage. Access to the site from Milwaukee Street is shared with an adjacent auto repair business located in the Town of Blooming Grove.

The proposed zoning map amendment will establish TSS zoning for the first approximately 300 feet north of Milwaukee Street, with the remaining land to the north to be zoned TR-U1.

Consistency with Adopted Plans

The land to be zoned TSS is recommended for Community Mixed-Use (CMU) in both the Milwaukee Street Special Area Plan and on the 2018 Comprehensive Plan Generalized Future Land Use Maps. The CMU designation is the most intense land use recommended in the special area plan and includes a recommendation for active ground floor uses (typically retail or services) and typically residential units on upper floors. Building scales are recommended to be three to five stories, with design standards consistent with the CMU designation in the Comprehensive Plan. Generally speaking, the TSS zoning district allows the development of mixed-use buildings up to three stories and 40 feet in height and 25,000 square feet of floor area. Both bulk thresholds may be exceeded with conditional use approval.

The proposed TR-U1 zoning follows recommendations in the Milwaukee Street Special Area Plan and the Comprehensive Plan that the land located between the mixed-use zone along the north side of Milwaukee Street and Starkweather Uplands conservancy and stormwater management area be developed with Medium Residential uses. In the special area plan, this area is recommended in the Housing Mix 2 district, which calls for townhomes and three- to four-story multi-family buildings. Ground level units facing public streets should have primary entries on the street, with direct access to a public sidewalk. Setbacks should generally be 10-20 feet and all parking should be located underneath, behind or beside buildings. The TR-U1 district allows a wide range of residential uses, with single-, two-, three-family dwellings and multi-family dwellings up to eight units allowed as permitted uses in two- or three-story buildings, and buildings

with greater than eight units allowed with conditional use approval. The height, lot area, and usable open space in the TR-U1 district vary dependent on the specific residential use.

In reviewing the proposed map amendment, the Planning Division believes that the proposed districts can implement the Community Mixed-Use and Medium Residential land use designations recommended for the subject area in the Milwaukee Street Special Area Plan and the Comprehensive Plan. While the proposed districts are not the only districts that could implement those recommendations, they illustrate the types of development anticipated by the plans. However, it is possible that another zoning district such as CC-T (Commercial Corridor–Transitional District) could better implement a specific development proposal in the area recommended for mixed-use, while a different residential district may better suit the lands recommended for housing.

In addition to the proposed rezoning, it is also likely that a subdivision will be required in order to fully create the street network and general development pattern recommended in the special area plan and that specific development proposals within the lands to be zoned TSS and TR-U1 may require conditional use approval(s) by the Plan Commission prior to the issuance of building permits.

Nonconformities Created by the Amendment

The proposed zoning map amendment will create zoning nonconformities on some of the parcels to be rezoned, and the Plan Commission should carefully consider the potential impact on the affected properties when making its recommendation on the zoning map amendment to the Common Council.

Nonconformities are governed by Subchapter 28M of the Zoning Code, Sections 28.190–28.195, which address nonconforming uses, buildings or structures, and lots, and provide the processes for restoring a nonconforming building or structure and obtaining a certificate of occupancy for a nonconforming use. The purpose of this Nonconformities subchapter is to specify the circumstances and conditions under which these nonconforming uses, buildings, structures, and lots shall be permitted to continue.

In general, a lawful nonconforming use of a building, structure, or land existing on the effective date of the Zoning Code (or an amendment thereto) may be continued although it does not conform to the provisions of the code, provided that structural repairs or alterations to the building do not exceed 50% of the total assessed value of the building, the nonconforming use is not extended or expanded, and the building does not become and remain vacant or the nonconforming use of the land cease for a continuous period of twelve months. A lawful nonconforming building may be continued although it does not conform to the provisions of the Zoning Code with respect to bulk (setback, open space, floor area ratio, height, parking, etc.) provided that any additions or enlargements shall conform to the provisions of the code as amended. Finally, a lawful nonconforming building existing on the effective date of the Zoning Code that has been damaged or destroyed may generally be restored to the size, location, and use that it had immediately before the damage or destruction occurred if the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation. The size of the restored building or structure may be larger than the size it was immediately before the damage or destruction if necessary for the building to comply with applicable state or federal requirements (such as the Building Code).

Any person having a legal or equitable interest in a property with a nonconforming use shall obtain a certificate of occupancy from the Zoning Administrator. Such person shall present evidence that the use was a lawful permitted or conditional use at the time it originated and was made nonconforming by the

adoption of the Zoning Code or any amendment thereto, or was made nonconforming by the Zoning Code in effect at the time the current code was adopted.

The summary of the nonconformities section above is intended to capture the potential effect of the proposed zoning map amendments and is not intended to supplant the full text of the Zoning Code, case law, or Wisconsin statutes. In addition to City Zoning and state law provisions for nonconforming uses and structures, the creation of nonconforming uses and structures can affect the ability of a property owner to obtain financing, the interest rate for said financing, the insurance policies and coverage that lenders may require a property owner with a nonconforming use or structure to carry, and potential increased cost for those policies.

Recommendation

If, following input at the public hearing the Plan Commission can find the standards for zoning amendments met, the Planning Division recommends that the Plan Commission forward [Substitute] Zoning Map Amendment ID 28.022-00461 and 28.022-00462, rezoning properties located at 3614-3700 Milwaukee Street and 102-122 West Corporate Drive from CN, TR-C1, SE, and IL to TSS and TR-U1, to the Common Council with a recommendation of **approval**.