



Project Address: 1017 N Sherman Avenue
Application Type: Zoning Map Amendment
Legistar File ID # [68639](#)
Prepared By: Timothy M. Parks, Planning Division
Report includes comments from other City agencies, as noted

Summary

Applicant: Steve Shulfer, SketchWorks Architecture, LLC; 7780 Elmwood Avenue, Suite 280; Middleton.

Property Owners: Ryan Suter, XX1, LLC; 1017 N Sherman Avenue; Madison.

Requested Actions: Approval of a request to rezone a portion of 1017 N Sherman Avenue from IG (Industrial–General District) to CC-T (Commercial Corridor–Transitional District).

Proposal Summary: The applicant and property owner are requesting to rezone the rear of an unplatted parcel consistent with the CC-T zoning of the front of the parcel along N Sherman Avenue. Following the rezoning, the applicants propose to renovate and construct a 2,000 square-foot addition to the existing one-story, 3,576 square-foot commercial building located on the subject parcel. According to the letter of intent, the renovation and addition may include the addition of a residential unit. The applicants wish to proceed as soon as all regulatory approvals have been granted, with completion of the renovation and addition anticipated in March 2022.

Applicable Regulations & Standards: Section 28.182 of the Zoning Code provides the process for zoning map amendments.

Review Required By: Plan Commission and Common Council

Summary Recommendation: The Planning Division recommends that the Plan Commission may find the standards met and forward Zoning Map Amendment ID 28.022–00524, rezoning a portion of 1017 N Sherman Avenue from IG to CC-T to the Common Council with a recommendation of **approval** subject to input at the public hearing and the recommended conditions of approval beginning on page 7 of this report.

Background Information

Parcel Location: An L-shaped, 21,192 square-foot (0.49-acre) parcel located in the southeastern quadrant of the N Sherman Avenue-Roth Street intersection; Aldermanic District 12 (Abbas); Madison Metropolitan School District.

Existing Conditions and Land Use: The subject site is developed with a one-story, 3,576 square-foot commercial building that includes a 2,880 square-foot basement per City records. The western approximately half of the property is zoned CC-T (Commercial Corridor–Transitional District), while the remainder of the parcel is zoned IG (Industrial–General District). The IG-zoned portion of the property is improved with parts of two existing parking lots accessed from Roth Street.

Surrounding Land Uses and Zoning:

North: Kavanaugh’s Esquire Club, zoned CC-T (Commercial Corridor–Transitional District);

South: Multi-tenant office building, zoned CC-T; Wisconsin-Southern Railroad right of way;

West: BP gas station and convenience store, maintenance building, Cafe la Bellitalia, and Dutch’s Auto Service located across N Sherman Avenue, zoned CC-T;

East: Undeveloped land and surface parking, zoned IG (Industrial–General District).

Adopted Land Use Plans: The 2018 Comprehensive Plan recommends the N Sherman Avenue frontage of the subject site and neighboring properties to the north and west for Community Mixed-Use (CMU), while the remainder of the property and lands to the east and south are recommended for Industrial (I).

The subject site is located within the boundaries of the 2009 Northport-Warner Park-Sherman Neighborhood Plan, which includes the subject site as part of “Northgate/ Kraft-Oscar Mayer” focus area. Most of the recommendations in this focus area are focused on the land north of the site between Roth Street and Aberg Avenue. However, the recommendations for the area call for the preservation of the open space near the existing wetland area south of Roth Street to serve as a greenspace gateway to the north side and for the City Engineering Division to stabilize run-off into the pond, with the open space also recommended for urban agriculture purposes. There are no specific recommendations for the commercial businesses located along the east side of N Sherman Avenue abutting the aforementioned open space.

The subject site is also located within the boundaries of the 2020 Oscar Mayer Special Area Plan, which recommends neighborhood* mixed-use for the N Sherman Avenue frontage south of Roth Street consistent with the historic land uses and zoning. A “Sherman” activity node recommended in the special area plan for the intersection of N Sherman and Aberg Avenues and Northgate Shopping Center extends south across Roth Street; the recommendations for the activity node envision the transition of Northgate into a more densely developed urban mixed-use and medium-density residential area interlaced by a local street network. The properties generally east of the commercial properties on the Sherman frontage are recommended for park and open space use. Additionally, the plan recommends that Roth Street be reconfigured and extended east to connect to Packers Avenue, and that the properties extending east from N Sherman Avenue south of Roth Street to extended Ruskin Street be acquired for park and open space to preserve a wetland located on the former Hartmeyer property and establish an active neighborhood park. The special area plan notes that the former Hartmeyer property remains zoned industrially, and that those lands could be developed and occupied for those purposes.

[* The December 13, 2021 staff report incorrectly noted that the Oscar Mayer plan recommended community mixed-use for the N Sherman frontage; the community mixed-use recommendation transitions to neighborhood mixed-use at Roth Street.]

Zoning Summary: The entire site will be zoned CC-T (Commercial Corridor–Transitional District) if the proposed rezoning is approved. The requirements in CC-T follow:

Requirements	Required	Proposed
Front Yard Setback	0-5’	Existing; no change proposed
Maximum Front Yard	65’	

Requirements	Required	Proposed
Side Yards	0-5' (Street side) 0' (Interior, unless needed for access)	1' south 15' north
Rear Yard	Lesser of 20% lot depth or 20'	Adequate
Maximum Lot Coverage	85%	Less than 85%
Useable Open Space (Residential)	40 sq. ft./ unit (2,880 sq. ft.)	To be determined at permitting
Maximum Building Height	5 stories/ 78 feet	1 story
Auto Parking	None	15 (Existing)
Accessible Stalls	Yes	None shown
Bike Parking	General retail; service business; office: 1 per 2,000 sq. ft. floor area (3)	4
Loading	None	0
Building Forms	Free-standing Commercial Building	Existing form
Other Critical Zoning Items		
Yes:	Barrier Free, Utility Easements, Wetlands*	
No:	Urban Design, Floodplain, Wellhead Protection, Landmarks, Waterfront Development, Adjacent to Park	
<i>Prepared by: Jenny Kirchgatter, Assistant Zoning Administrator</i>		
*: A portion of the site at the southeastern corner is included in a Wetland zoning overlay district per MGO Section 28.103 of the Zoning Code. The overlay district is not subject to the proposed zoning map amendment.		

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

Public Utilities and Services: The site is served by a full range of urban services, including Metro Transit, which currently provides service on N Sherman Avenue and Roth Street.

Project Description

The applicant and property owner are requesting approval of a request to rezone a portion of 1017 N Sherman Avenue from IG (Industrial–General District) to CC-T (Commercial Corridor–Transitional District) to allow the entire parcel to be zoned CC-T.

The L-shaped, 0.49-acre parcel is located in the southeastern quadrant of the N Sherman Avenue-Roth Street intersection and is developed with a one-story, 3,576 square-foot commercial building on the CC-T-zoned portion of the property. The existing commercial building has a partial 2,880 square-foot basement that is exposed along the northern façade, with a driveway from N Sherman that extends between the building and northern property line.

Historically, the 1017 N Sherman property was a roughly 40-foot wide, 136.8-foot deep (5,996 square-foot) rectangular parcel containing the commercial building. However, the property owner recently acquired an L-shaped, 15,196 square-foot section of the adjacent IG-zoned property addressed as 2007 Roth Street from Kraft-Heinz Foods, Co. The acquired land includes portions of two surface parking lots primarily accessed from Roth Street, which continue onto the remaining Kraft-Heinz land to the east, which is approximately 29.2 acres in area

per City records. The parking area adjacent to Roth Street is cross-connected with the driveway on the 1017 N Sherman parcel as well as the parking area for Kavanaugh's Esquire Club at 1025 N Sherman.

The applicants are requesting the rezoning of the entire parcel to CC-T zoning to facilitate renovation of the building and construction of a 2,000 square-foot addition to the rear of the building. According to the letter of intent, the renovation and addition may include the addition of a residential unit to create a mixed-use building. As shown on the site plan accompanying the rezoning request, the existing building (shown in gray) occupies most of the CC-T-zoned portion of the property, with the addition outlined in green. The plan also illustrates the existing zoning boundaries in blue (CC-T) and red (IG). If the rezoning is approved, the applicants will be required to obtain permitted use site plan approval and any necessary building and/or occupancy permits for the renovation of the commercial building, construction of the addition, and/or potential incorporation of a dwelling unit.

New: As shown on the locator maps for the January 24 meeting, a portion of the wetland on the adjacent former Hartmeyer (now Kraft-Heinz) property is located in a Wetland zoning overlay, with a small portion of the overlaid area extending across the southeastern corner of the subject property. The limits of the subject overlay roughly correspond to the limits of a mapped wetland shown on the Wisconsin Wetland Inventory and do not necessarily represent the actual condition on the ground or the boundary of the wetland as described by a certified delineator.

The requirements in overlay districts such as the Wetland (W) or Wellhead Protection (WP) apply to all zoning lots in addition to all requirements that apply to the primary zoning district classification of those zoning lots, and in the event of a conflict between the provisions of an overlay district and the underlying primary zoning district, the provisions of the overlay district shall apply, except where specified in the Zoning Code. The regulations in the W overlay are outlined in Section 28.103 of the Zoning Code and apply to the lands located within the overlay.

The applicant for the subject rezoning is **not** also requesting an amendment to the W overlay polygon, and any such amendment to the described area would need to follow a specific process prescribed in Section 28.103(7) of the Zoning Code. As a result, any future development activities on the portion of 1017 N Sherman located within the W overlay will be required to abide by the regulations in Section 28.103.

Further, the W overlay does not prescribe a setback from the overlay polygon, and should not be confused with wetland setbacks administered by the Wisconsin Department of Natural Resources pursuant to Wisconsin Admin. Code NR-151 or the Capital Area Regional Planning Commission (CARPC). Regarding the latter, the wetland setback requirements in the *Dane County Water Quality Plan* administered by CARPC do not apply in this case because the affected portions of the property are not located within a mapped environmental corridor.

Analysis

Consistent with Wis. Stats. Section 236.45, the City's Subdivision Regulations (MGO Section 16.23) generally allow for the owners of adjacent parcels to adjust their common boundaries without subdivision or land division approval so long as the resulting parcels comply with all applicable regulations (including zoning), and no additional parcels are created. Such adjustments are not formally approved by the City, and the limits of any recorded easements and any zoning district boundaries following the former parcel or lot lines are not automatically shifted as a result of any lot line adjustment.

Further, pursuant to Section 28.145 of the Zoning Code—Lots with Split Zoning, for any lot with two or more zoning designations, each portion of said lot shall be subject to the requirements of the district in which it is located. This provision is noteworthy in the case of the subject parcel due to dwelling units not being an allowed use (permitted or conditional) in the IG district, in addition to any other use, bulk, or area provisions in the two districts that may impact the applicant and property owner’s ability to renovate and add on to the existing building. In other words, the IG zoning has the practical effect of not allowing the applicants to convert the building in a mixed-use occupancy.

In order to approve the zoning map amendment, the Common Council shall find that the zoning map amendment is *consistent with* the City’s Comprehensive Plan as required by Section 66.1001(3) of Wisconsin Statutes. “Consistent with” is defined as “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan.”

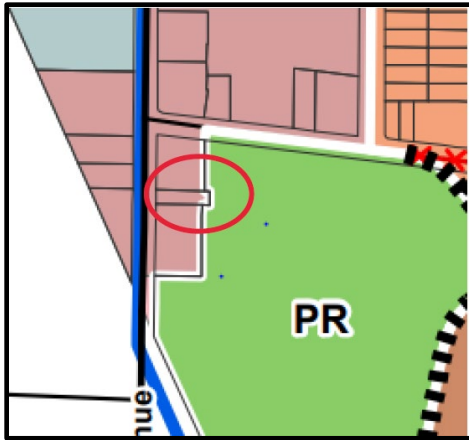
The 2018 Comprehensive Plan recommends the N Sherman Avenue frontage of the subject site and neighboring properties to the north and west for Community Mixed-Use (CMU), while the remainder of the property and lands to the east and south are recommended for Industrial (I).

Additionally, there are a series of adopted plans that include the subject parcel and surrounding properties within their boundaries.

The subject site is located within the boundaries of the 2009 Northport-Warner Park-Sherman Neighborhood Plan, which includes the subject site as part of “Northgate/ Kraft-Oscar Mayer” focus area. Most of the recommendations in this focus area are focused on the land north of the site between Roth Street and Aberg Avenue. However, the recommendations for the area call for the preservation of the open space near the existing wetland area south of Roth Street to serve as a greenspace gateway to the north side and for the City Engineering Division to stabilize run-off into the pond, with the open space also recommended for urban agriculture purposes. There are no specific recommendations for the commercial businesses located along the east side of N Sherman Avenue abutting the aforementioned open space.

More recently, the subject site was also included within the boundaries of the Oscar Mayer Special Area Plan (OMSAP) adopted in 2020, which recommends neighborhood mixed-use for the N Sherman Avenue frontage south of Roth Street consistent with the historic land uses and zoning, with the properties generally east of the commercial properties on the Sherman frontage recommended for park and open space use. Additionally, the plan recommends in the long-term that the properties extending east from N Sherman Avenue south of Roth Street to extended Ruskin Street be acquired for park and open space to preserve a wetland located on the former Hartmeyer property and to establish an active neighborhood park.

At the Plan Commission’s April 26, 2021 meeting, Planning staff gave a presentation on proactive zoning within the Oscar Mayer Special Area Plan area. Proactive rezoning was one of the implementation strategies adopted by the Common Council during its deliberations and ultimate adoption of the plan on July 21, 2020. During the April 26 presentation, the open space east of the three historic commercial properties located on the east side of N Sherman Avenue south of Roth Street—1001, 1017, and 1025 N Sherman—was identified for proactive rezoning to a district that would implement the park and open space recommendation in the OMSAP (either PR (Parks and Recreation District) or CN (Conservancy District)). See ID 65144 ([link](#)) for more information on the proactive rezoning discussion.



At the time that the proactive rezoning in the Oscar Mayer Special Area Plan area was presented, the acquisition of the 15,196 square feet of IG-zoned land had not occurred or was not yet reflected in the City’s parcel records, as shown on the excerpt of the proposed zoning map, which shows the historic boundaries of the 1017 parcel. As part of its direction to staff, the Plan Commission recommended that the “Hartmeyer” property be zoned CN instead of the PR shown, recognizing that, given the planned amount of housing in the OMSAP area, some of that land may be needed for active recreation requiring PR zoning. Ordinances to proactively rezoning some of the properties in the planning area per the recommendations in the special area plan are scheduled for introduction in January 2022.

In considering the applicant’s request to rezone the IG-zoned portion of the expanded 1017 N Sherman Avenue parcel, Planning staff cannot recommend that the request is entirely consistent or inconsistent with the various plan recommendations applicable to the site. While it is clear that the request proposes a zoning district contrary to the park and open space recommendation shown in the most recent and detailed sub-area plan, staff feels that the CC-T zoning proposed for the whole parcel could be found to be consistent with the neighborhood mixed-use recommendation for the N Sherman Avenue frontage per the Oscar Mayer Special Area Plan and the CMU recommendation in the Comprehensive Plan. Unlike a zoning district boundary, which is absolute in its location, the boundary between recommended land uses in an adopted plan is not, and some flexibility should be reasonably assumed provided that the goals and objectives in the plan are still being met. Although the additional CC-T zoning slightly expands the area recommended for mixed-use, thereby reducing the park and open space area, staff does not believe that this request will do so in a way that would be deleterious to the goals and objectives in the OMSAP to preserve the wetland located on the former Hartmeyer property and to establish an active neighborhood park.

Conclusion

The applicant is requesting approval of a zoning map amendment to rezone the 15,196 square feet of the 21,192 square-foot property at 1017 N Sherman Avenue from IG to CC-T to provide uniform zoning for the entire parcel, which became split-zoned by virtue of a lot line adjustment recorded earlier this year. While the Oscar Mayer Special Area Plan acknowledges that the industrial zoning of the former Hartmeyer may continue, any rezoning of that property, including the subject 15,196 square feet of it, shall be consistent with adopted plans, which in the case of the OMSAP, recommends the affected portion of the former Hartmeyer property for park and open space. The applicant is not seeking an amendment to the Wetland zoning overlay district that affects the southeastern corner of the property, and any future development within that polygon shall abide by Section 28.103 of the Zoning Code.

In closing, the Planning Division believes that the Plan Commission may find that the additional CC-T zoning meets the standards for approval despite being inconsistent with the specific polygons recommended for neighborhood mixed-use and park and open space in the Oscar Mayer Special Area Plan. While the area functionally available for future park and open space purposes is effectively reduced if the proposed rezoning is approved, staff does not feel that it would irreparably damage the ability to implement the vast majority of the planned future park and open space on the remainder of the former Hartmeyer property adjacent to the east. It also believes that the additional CC-T zoning can aid in the implementation of the neighborhood mixed-use recommendation in the

Oscar Mayer Special Area Plan and the Community Mixed-Use recommended in the Comprehensive Plan for the N Sherman Avenue frontage.

Recommendation

Planning Division Recommendation (Contact Timothy M. Parks, 261-9632)

The Planning Division recommends that the Plan Commission may find the standards met and forward Zoning Map Amendment ID 28.022-00524, rezoning a portion of 1017 N Sherman Avenue from IG to CC-T to the Common Council with a recommendation of **approval** subject to input at the public hearing and the following conditions:

Recommended Conditions of Approval Major/Non-Standard Conditions are Shaded

City Engineering Division (Contact Tim Troester, (608) 267-1995)

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

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

1. There three parcels involved in a shared access over the properties. Provide a copy of the recorded agreement that provides for vehicular access between the associated properties.
2. The letter of intent indicates that this will be a multi-tenant building as well as adding an apartment. If that phase is included with this approval, then an addressing plan is needed. Submit a site plan and complete building floorPlan in PDF format to Lori Zenchenko (lzenchenko@cityofmadison.com) that includes a floor plan of each floor level on a separate sheet/page for the development of a complete interior addressing plan. The Addressing Plan for the entire project shall be finalized and approved by Engineering (with consultation and consent from the Fire Marshal if needed) PRIOR to the verification submittal stage of this request with Zoning. The final approved Addressing Plan shall be included in said application. For any changes pertaining to the location, deletion or addition of a unit, or to the location of a unit entrance, (before, during, or after construction), a revised Addressing Plan shall be resubmitted to Lori Zenchenko to review addresses that may need to be changed and/or reapproved. For any changes, the final approved Addressing Plan shall be submitted by the applicant to Zoning to be attached to the final set of filed site plans.

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

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

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

3. Following approval of the rezoning to CC-T, a permitted use site plan review will be required for the proposed building addition and residential dwelling unit.

Fire Department (Contact Bill Sullivan, (608) 261-9658)

4. Provide fire sprinkler protection in the proposed building addition.
5. Provide fire access in accordance with MGO Chapter 34 and the IFC for the proposed addition. The document existing fire access based on existing conditions for the existing portion of the building.

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

This agency did not submit comments for the request.

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

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

Parks Division (Contact Ann Freiwald, (608) 243-2848)

This agency has reviewed the request and recommended no conditions of approval. [Note: Park fees may be required per MGO Section 28.150 if a dwelling unit is added in the future.]

City Forestry Section (Jeffrey Heinecke, (608) 266-4890)

This agency did not submit comments for the request.