



## PLANNING DIVISION STAFF REPORT

December 12, 2022

PREPARED FOR THE LANDMARKS COMMISSION

**Topic:** Discussion of Transit Oriented Development (TOD) Overlay Zoning District proposal, Legistar [74703](#)

**Legistar File ID #** [75070](#)

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**Date Prepared:** December 7, 2022

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### Background

The City is proposing an ordinance for a Transit Oriented Development (TOD) Overlay Zoning District to encourage increased development intensity and improved site design standards within approximately ¼ mile of our primary transit corridors beyond what is allowed in the base zoning. The originally proposed TOD Overlay ordinance excluded National Register Historic Districts and Local Historic Districts. The Transportation Policy & Planning Board, at their December 5, 2022 meeting, recommended including those historic districts in the TOD Overlay. They noted that local historic districts are protected from adverse physical impacts through the regulatory framework as laid out in the new historic district standards ([MGO 41](#)) and that there is room for increasing development intensity in the National Register (NR) districts along the transit corridors that would not inherently negatively impact the historic integrity. The sponsors of the ordinance accepted those changes and the new substitute ordinance includes several NR and local districts (see attached map).

Staff analysis concluded that the three local historic districts are included within this new proposed scope of TOD are University Heights, Third Lake Ridge, and Marquette Bungalows (First Settlement and Mansion Hill are not part of TOD as they are located within the Downtown area). Within the TOD Overlay, the Historic Preservation Ordinance would continue to guide any alterations, additions, or new structures that may occur. The Landmarks Commission does not regulate land uses and simply ensures that as sites evolve, they are able to continue to convey their historic associations and maintain architectural compatibility with the surrounding historic properties. The Landmarks Commission regularly reviews projects that involve adaptive reuse, additions, and the occasional infill new construction and would continue to do so, ensuring that the physical changes meet historic district standards. There is a solid track record of projects being able to effectively meet historic district standards that are also in compliance with Zoning standards.

For the National Register districts, the TOD will not prevent opportunities for property owners to explore State and Federal preservation tax credits, which could also allow these structures to be adapted in order to accommodate the development options TOD will allow in these areas. It could also increase development pressures that result in demolitions rather than adaptive reuse of existing structures. However, there is always the potential of historic property protections for these areas by creating new local historic districts. As local historic districts do not regulate changes in land use, the Historic Preservation Ordinance standards instead guide how the historic resources can evolve to maintain the physical historic character of the buildings and places. Local historic designation does not prevent additions, new construction, increases in density, or changes of use.

### Discussion Opportunity

Alder Bill Tishler has requested that the Landmarks Commission discuss the potential inclusion of the local and NR districts in the TOD overlay area. The Landmarks Commission is not a formal referral for this process. The last commission referral is occurring on the same night as Landmarks Commission, at the 5:30pm Plan Commission meeting. Following a recommendation from Plan Commission, the proposed TOD ordinance will proceed to Common Council for its consideration, likely the January 3, 2023 Common Council meeting.

**Landmarks Commission Action**

The Landmarks Commission will have a presentation from Planning staff about the TOD Overlay Ordinance proposal and then can discuss if they have thoughts or concerns or want to submit a comment to Common Council as they consider this proposed new ordinance. The Landmarks Commission is not obligated to enter a comment, but has the option to do so.

# Overview Map: Parcels Added to Transit-Oriented Development (TOD) Overlay Zoning if Local and National Historic Districts are Included

- Parcels Within TOD Overlay District\*
- Proposed Inclusion of Local Historic District Parcels in TOD Overlay District\*\*
- Proposed Inclusion of National Register Historic District Parcels in TOD Overlay District\*\*

\* As introduced at the 11/22/22 Common Council meeting.  
 \*\* As recommended at the 12/5/22 Transportation Policy and Planning Board meeting  
 (note that local districts overlap with national districts).  
 Source: City of Madison Planning Division  
 Date: 12/8/2022

