

From: gordian@nym.hush.com
To: [Plan Commission Comments](#)
Subject: Oppose item 13 (Legistar 84619) and item 14 (Legistar 84629)
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Sun. Sept. 8, 2024

Plan Commission Members,

Please vote against item 13 (Legistar 84619) and item 14 (Legistar 84629). These two measures cause three problems.

* RMX zoning, as proposed in Item 13 (Legistar 84619), would allow construction of family housing with no required safe place for children to play. RMX zoning requires no "usable open space" and requires no "Lot area (for exclusive residential use)". [1] RMX zoning is inappropriate for a 50 unit family apartment building. As the Staff Report says, "The Zoning Map Amendment standards, found in 28.182(6), MGO state that such amendments are legislative decisions of the Common Council that shall be based on public health, safety, and welfare, shall be consistent with the Comprehensive Plan..." [2; p. 3.] RMX zoning at this site fails the "public health, safety, and welfare" test.

According to Legistar 84619, the phase 3 site extends 172.02 feet along Commercial Avenue. [4] Even Madison's fiercest shoppers would give up 172.02 feet of store fronts to provide a safe place for children to play.

The site is now zoned partly RMX and partly TR-U2. It could easily be designated entirely TR-U2, which would require 2,000 square feet of usable open space. [3] If children are to be allowed to live in the new phase 3 building, it would be more appropriate to make the whole lot a TR-U2 zoning district.

* Item 13 (Legistar 84619) authorizes City staff to try to remove environmental protections from a Designated Wetland on the site. [4] The north side of Madison needs the many ecological benefits provided by this wetland. Wetland protections should not be reduced at the demand of real estate developers. A vote to remove those protections would demonstrate an anti-environmental bias on the part of the Plan Commission and Common Council.

* The Wisconsin DNR has approved a Materials Management Plan for the development of the former Hartmeyer property. [5] That Materials Management Plan does not include the phase 3 housing project proposed by Lincoln Avenue. [6] Any construction done would violate the current Materials Management Plan. Neither of these two pieces of legislation requires a new Materials Management Plan approved by the Wisconsin DNR.

These three issues are discussed in detail below.

Thank you.

Don Lindsay

TR-U2 Zoning

TR-U2 zoning requires 40 sq. ft. per dwelling unit. of usable open space for apartment buildings of this size. [3]

50 units

* 40 square feet

= 2000 square feet of usable open space (minimum).

That area is not a lot for 50 apartments, but it is better than nothing at all. If children are to be allowed to live in the phase 3 building, it would be more appropriate to make the whole lot a TR-U2 zoning district.

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RMX zoning, as proposed in Item 13 (Legistar 84619), would allow construction of family housing with no required safe place for children to play. RMX zoning requires no "usable open space" and requires no "Lot area (for exclusive residential use)". [1] RMX zoning is inappropriate for a 50 unit family apartment building. RMX zoning at this site fails the "public health, safety, and welfare" test.

The site is now zoned partly RMX and partly TR-U2. It could easily be designated entirely TR-U2, which would require 2,000 square feet of usable open space. [3] If children are to be allowed to live in the new phase 3 building, it would be more appropriate to make the whole lot a TR-U2 zoning district.

Wetland Protection

Legistar 84629 says,

"BE IT FURTHER RESOLVED that the Common Council authorizes City staff to request approval from the Capital Area Regional Planning Commission of any minor revisions to adopted environmental corridor boundaries within the Central Urban Service Area relating to this subdivision, and that the Council recognizes and adopts said revised boundaries." [7]

Lincoln Avenue Capital knew when it bought the property that a part of the parcel was in a

protected wetland. When they designed the third phase of their development, they assumed that the City would act to remove those protections. Why must environmental protections yield to the demands of real estate developers? Removing wetland protection status makes a mockery of the planning intended to preserve this sensitive environment.

Wisconsin DNR Approved Materials Management Plan

On Oct. 3, 2023, the Wisconsin DNR approved a Materials Management Plan for the development of the former Hartmeyer property. [5] That Materials Management Plan does not include the phase 3 housing project proposed by Lincoln Avenue. [6] Any construction done would violate the current Materials Management Plan approved by the Wisconsin DNR. Neither of these two pieces of legislation requires a new Materials Management Plan approved by the Wisconsin DNR. Again, the "public health, safety, and welfare" are not protected.

Sources

[1] RMX Zoning Code

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIICH20-31_CH28ZOCOR_SUBCHAPTER_28DMIECODI_28.069REMIERMDI

[2] Staff Report

<https://madison.legistar.com/View.ashx?M=F&ID=13283683&GUID=ED74B93E-EA08-4230-A067-15748B5E98D9>

Accessed 20240907

[3] TR-U2 Zoning Code

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIICH20-31_CH28ZOCOR_SUBCHAPTER_28CREDI_28.0512DI

[4] Legistar 84619

<https://madison.legistar.com/LegislationDetail.aspx?ID=6807772&GUID=D4661889-FF41-403F-9ED2-FF5F92A0CEDB&FullText=1>

Accessed 20240907

[5] Wisconsin DNR Approval of Materials Management Plan

[https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?
docSeqNo=268711&docName=20231003_857_MMP_Appr.pdf&docDsn=580328](https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=268711&docName=20231003_857_MMP_Appr.pdf&docDsn=580328)

Accessed 20231008

[6] Wisconsin DNR Approved Materials Management Plan

[https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?
docSeqNo=262460&docName=20230707_854_MMP_Req.pdf&docDsn=580328](https://apps.dnr.wi.gov/botw/DownloadBlobFile.do?docSeqNo=262460&docName=20230707_854_MMP_Req.pdf&docDsn=580328)

Accessed 20230710

[7] Legistar 84629

[https://madison.legistar.com/LegislationDetail.aspx?ID=6808103&GUID=87B77210-0A54-4345-
9DD1-36285548EC45&FullText=1](https://madison.legistar.com/LegislationDetail.aspx?ID=6808103&GUID=87B77210-0A54-4345-9DD1-36285548EC45&FullText=1)

Accessed 20240907

Lincoln Avenue Capital Letter of Intent

[https://madison.legistar.com/View.ashx?M=F&ID=13192784&GUID=21926352-9465-4F0B-A668-
CCE40B4A80FA](https://madison.legistar.com/View.ashx?M=F&ID=13192784&GUID=21926352-9465-4F0B-A668-CCE40B4A80FA)

Accessed 20240907