



**Project Address:** 3009 University Avenue and 3118 Harvey Street

**Application Type:** Zoning Map Amendment, Conditional Use, and Certified Survey Map

**Legistar File ID #** [32796](#), [32631](#), and [32630](#)

**Prepared By:** Kevin Firchow, AICP, Planning Division  
Report Includes Comments from other City Agencies, as noted

**Reviewed By:** Michael Waidelich, Principal Planner, Planning Division

**Summary**

**Applicant:** Duke Dykstra; Shorewood House LLC; 3009 University Avenue; Madison, WI 53705

**Contact:** Bill Dunlop; JSD Professional Services; 161 Horizon Drive; Verona, WI 53593

**Property Owner:** Duke Dykstra; Shorewood House LLC; 3009 University Avenue; Madison, WI 53705

**Requested Actions:** There are multiple requests before the Plan Commission. The first request is to rezone a small portion of 3118 Harvey Street from TR-U1 (Traditional Residential-Urban 1) to CC-T (Commercial Corridor-Transition). The second request is for approval of a two-lot certified survey map to adjust the property lines between the subject properties. The remaining requests are for conditional uses. This request would formally establish a conditional use for the existing “Shorewood House” mixed-use building. A conditional use was never established for this building and is currently considered a non-conforming property according to the Zoning Administrator. The second conditional use request is for the establishment of a fire lane across the residential property leading to the “Shorewood House” parking area (at 3009 University Avenue). The final conditional use is an alteration approval to construct the carport accessory structures.

**Proposal Summary:** The applicant’s requests relate to the his desire to add covered carports behind the “Shorewood House” at 3009 University Avenue and at the five-unit building at 3118 Harvey Street. In order to make these improvements, the applicant is required to provide fire-lane access to the “Shorewood House” site.

**Applicable Regulations & Standards:** This proposal is subject to the standards for Zoning Map Amendments [M.G.O. Section 28.182(6)] and Conditional Uses [Section 28.183] and land divisions [16.23]. The proposal is also subject to the standards of Urban Design District 6 [33.24(13)].

**Review Required By:** Urban Design Commission (UDC), Plan Commission (PC), and Common Council.

**Summary Recommendation:** The Planning Division recommends that the Plan Commission forwards zoning map amendment 00101 rezoning a portion of the subject site from TR-U1 to CC-T to the Common Council with a recommendation of **approval**. The Planning Division also recommends the Plan Commission **approve** the two lot certified survey map for 3009 University Avenue and 3118 Harvey Street. Finally, the Planning Division recommends the Plan Commission **approve** the conditional use requests for the existing Shorewood House and site alterations including the proposed accessory structures at 3009 University Avenue and for the construction of a driveway across a residential property, carports, and proposed site alterations for 3118 Harvey Street. This recommendation is subject to the input at the public hearing and the comments from reviewing agencies.

## Background Information

**Parcel Location:** The subject properties include contiguous parcels at 3009 University Avenue and 3118 Harvey Street. Combined, these parcels have an area of approximately 1.3 acres. Properties front on the aforementioned streets and are midblock between Hill Street (to the west) and Schmitt Place (to the east). The properties are within Aldermanic District 5, Urban Design District 6, and within the limits of the Madison Metropolitan School District.

**Existing Conditions and Land Use:** 3009 University Avenue includes the existing mixed-use “Shorewood House.” That 6 story development, constructed in 1966, includes approximately 3,000 sf feet of retail/office space and 56 dwelling units. The rear of that property is entirely impervious and now utilized for surface parking. Access to that site is currently limited to a covered drive accessed from University Avenue. 3118 Harvey Street, now owned by the owner of “Shorewood House,” includes an existing five-unit apartment building and detached garage.

### **Surrounding Land Use and Zoning:**

North: Mixed-use shopping center in the Village of Shorewood Hills;

South: Small multi-family apartment buildings zoned TR-U1 (Traditional Residential-Urban 1) with Quarry Park, zoned CN (Conservancy), beyond;

East: Restaurant and surface parking lot zoned CC-T (Commercial Corridor Transition); and

West: Furniture store and office uses, zoned CC-T.

**Adopted Land Use Plan:** The Comprehensive Plan recommends community mixed use development along the University Avenue frontage and medium density residential development along Harvey Street.

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

**Zoning Summary:** 3009 University Avenue is zoned CC-T (Commercial Corridor Transition) and 3118 Harvey Street is zoned TR-U1 (Traditional Residential-Urban 1). Driveways crossing residential properties to commercial properties require conditional use approval. This application would establish conditional uses on both properties and alterations, such as the carports, require approval of a conditional use alteration.

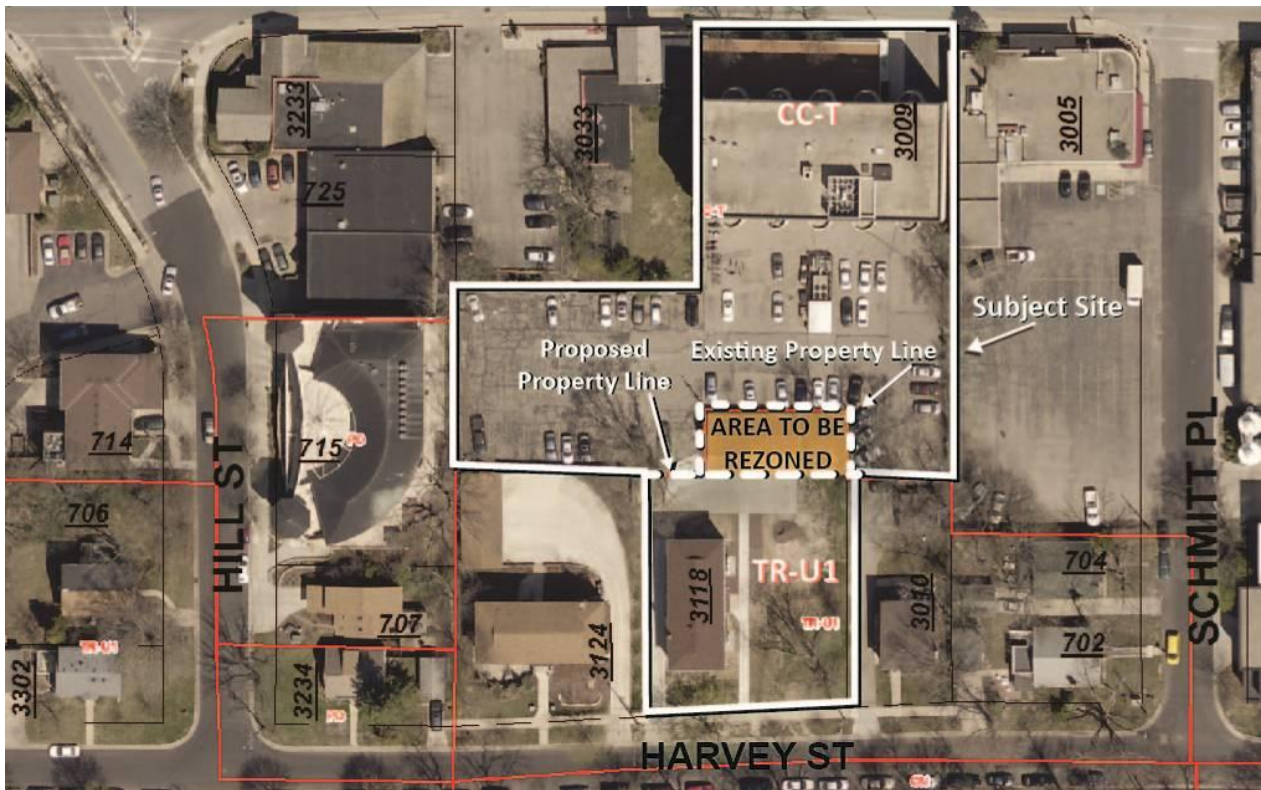
The detailed report from the Zoning Administrator is provided as a separate handout.

## Project Description

There are three requests before the Plan Commission. These requests relate to the applicant's desire to add covered carports behind the "Shorewood House" at 3009 University Avenue. That six-story development, constructed in 1966, includes approximately 3,000 square feet of retail/office space and 56 dwelling units. Fire access to that property is limited and the only existing vehicular access point is a covered driveway opening onto University Avenue. In order to proceed with construction of the carports and provide the required fire access, the applicant has purchased the adjacent property at 3118 Harvey Street. The proposed fire lane is depicted on the applicant's plans.

In summary, the following items are before the Plan Commission:

- **Zoning Map Amendment.** The first request is to rezone about 2,590 square feet of property now at the rear of 3118 Harvey Street from the TR-U1 District to the CC-T District. (See below graphic)
- **Certified Survey Map.** The second request is to adjust the rear lot line boundary between 3009 University Avenue and 3118 Harvey Street. Upon approval, this would "square" off the rear property line. Please note, the properties are under common ownership. (See below graphic)



- **Conditional Use.** Approval of conditional use and conditional use alterations to:
  - 1) Add a fire lane across the 3118 Harvey Street property to provide required fire access to the "Shorewood House." From a zoning standpoint this lane considered a "driveway". However, this is not intended to provide non-emergency access to the Shorewood House site and will be gated as shown on approved plans.
  - 2) Conditional use alteration to build car ports and related site plan changes as depicted.

Approval of this conditional use request will also formally establish the mixed-use “Shorewood House” development as a conditional use. When it was constructed, conditional use approval was not required. The Zoning Administrator currently considers this a legal, non-conforming use.

Details of the carports are included in the applicant’s plans. On 3009 University Avenue, there will be a total of 66 covered stalls. On 3118 Harvey Street there will six covered stalls. The structures are 8 feet in height to the eave and 12 feet to the peak. The structures vary in length with the longest structure about 230 feet in length. The structures include standing seam metal roofs and steel column supports. The existing garage now on the Harvey Street property will be demolished. As part of the land division, that portion of the property will become part of the “Shorewood House” site.

## **Analysis and Conclusion**

This proposal is subject to the standards for Zoning Map Amendments [M.G.O. Section 28.182(6)] and Conditional Uses [Section 28.183] and Land Divisions [16.23]. The proposal is also subject to the standards of Urban Design District 6 [33.24(13)].

### **Conformance with Adopted Plans**

The Comprehensive Plan recommends community mixed use development along the University Avenue frontage and medium density residential development along Harvey Street. Staff believes the requests are consistent with these recommendations.

### **Zoning Map Amendment Standards**

Staff does not have concerns on the partial rezoning of the subject site and believes the applicable standards can be met. These standards 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, and shall comply with Wisconsin and federal law. Chapter 66.1001(3) of Wisconsin Statutes requires that zoning ordinances (of which the zoning map is part) enacted or amended after January 1, 2010 be consistent with the City’s Comprehensive Plan. 2010 Wisconsin Act 372 clarified “consistent with” as “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan.”

### **Conditional Use Standards**

Staff believes the conditional use standards can likely be met. The addition of the fire lane across the Harvey Street property provides necessary fire access to the Shorewood House site. The proposed car ports will provide an amenity to residents of the site.

In regards to impacts on surrounding properties, the proposed carports will have very limited visibility from University Avenue, with the existing “Shorewood House” building substantially screening the rear parking area. Considering that Harvey Street sits about 7 to 9 feet above the parking area, there may be some visibility of the tops of the carports from the rear. The existing garage which screens much of the parking from Harvey Street would be removed and replaced with new car ports, as shown. To minimize visual impacts, staff has recommended the metal roofs be of a non-reflective character.

There will also be some carport visibility from Schmidt Place (to the east), especially in the winter months, as leaves fall from the small row of deciduous plantings between the subject parking lot and the lot behind the adjacent restaurant. Plans show that fencing is proposed, though no details are proposed. Fencing details are requested as a condition of approval.

Finally, Conditional Use Standard 7 states that "The conditional use conforms to all applicable regulations of the district in which it is located." The Zoning Administrator notes that accessory structures are required to have a rear-yard setback of 10 feet. As shown, the car ports along the shared rear property line do not meet this standard. The applicant previously received a variance approval for a similar layout, though a new variance request is required. Typically, a variance request would be approved prior to the Plan Commission's consideration of a conditional use. However, in this case it must occur after the rezoning is granted. If a variance is not granted, the plans will need to be adjusted to meet the code. A condition of approval noting this has been added.

### **Urban Design District 6**

This item was referred by the UDC at its February 5, 2014 meeting. Urban Design District (UDD) 6 was established to improve the appearance of University Avenue as a major transportation corridor. The code specifies that if any portion of a zoning lot is in the District, the entire lot within the District. Most new development, including new buildings or structures, requires Urban Design Commission approval. The development shall meet the District's specific standards and conform as much as possible to the recommended guidelines. The Planning Division believes the applicable standards for District 6 can be met. The Planning Division requested UDC consider the following:

- Consider the details of the carports' standing seam metal roofs. Staff would recommend the roofs be of a non-reflective character.
- The landscape plan shows a "proposed fence" along the eastern and southern property lines. Details on the fence have not been provided. The proposed fence should be considered with the landscape plan. The UDD 6 guidelines discourage chain link or other metallic fences where visible from roadways.

### **Land Division Standards**

Staff believes the applicable Land Division Standards can be met. This aspect of the request is a relatively simple adjustment of the rear lot lines. The resulting lot removes the "jog" that currently exists between the properties. Conditions of approval on this aspect of the request are noted.

### **Public Input**

At the time of report writing, staff has not received any public input on these requests.

### **Conclusion**

The applicant requests rezoning, conditional use, and land division approval. These requests will allow for the construction of new carports and a required fire lane. Staff believes the approval standards can likely be met, as noted above. At the time of report writing, staff had not received any public comments on these requests.

## Recommendation

### Planning Division Recommendation (Contact Kevin Firchow, 267-1150)

The Planning Division recommends that the Plan Commission forwards zoning map amendment 00101 rezoning a portion of the subject site from TR-U1 to CC-T to the Common Council with a recommendation of **approval**. The Planning Division also recommends the Plan Commission **approve** the two lot certified survey map for 3009 University Avenue and 3118 Harvey Street. Finally, the Planning Division recommends the Plan Commission **approve** the conditional use requests for the existing Shorewood House and site alterations including the proposed accessory structures at 3009 University Avenue and for the construction of a driveway across a residential property, carports, and proposed site alterations for 3118 Harvey Street. This recommendation is subject to the input at the public hearing and the comments from reviewing agencies.

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

#### Planning Division

##### *Comments on the Rezoning and Conditional Use Request*

1. That the applicant receives variance approval so the accessory structures comply with applicable setbacks, or that the plans are revised to provide the required rear yard setbacks.
2. That the carport roofs be of a non-reflective character and that these details are provided for staff approval.
3. That details of the proposed fence be provided for staff approval.

##### *Comments on the CSM*

4. The CSM shall include the location of existing improvements, buildings, driveways as required by Section 16.23(7)

### City Engineering Division (Contact Janet Dailey, 261-9688)

##### *Comments on the Rezoning and Conditional Use Request:*

5. The pending Certified Survey Map application for this property shall be completed and recorded with the Dane County Register of Deeds (ROD) prior to issuance of any building permits. When the recorded CSM image is available from the ROD, the Assessor's Office can then create the new Address-Parcel-Owner (APO) data in GEO so that the Accela system can upload this data and permit issuance made available for this new land record.
6. Show and note on the Overall Site Plan and the individual site plans for 3009 University Avenue and 3118 Harvey Street the proposed Storm Water Easement and the Emergency Fire Lane Easement as per the pending Certified Survey Map of these sites.
7. The proposed Emergency Fire Lane Easement shall be recorded prior to issuance of any building permits.

8. Provide setback dimensions to the car port structures on the site plan.
9. The applicant shall close all abandoned driveways by replacing the curb in front of the driveways and restoring the terrace with grass. (POLICY)
10. The applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction. (POLICY)
11. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
12. All damage to the pavement on Harvey Street adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link: <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)
13. The applicant shall submit, prior to plan sign-off, digital PDF files to the Engineering Division (Jeff Benedict or Tim Troester). The digital copies shall be to scale, and shall have a scale bar on the plan set. (POLICY and MGO 37.09(2)) PDF submittals shall contain the following information: a) building footprints, b) internal walkway areas, c) internal site parking areas, d) lot lines and right-of-way lines, e) Street names, f) Stormwater Management Facilities, and g) detail drawings associated with stormwater management facilities (including if applicable planting plans).

*Comments on the CSM:*

14. New, up to date 60 year title reports for 3009 University Avenue and 3118 Harvey Street shall be provided. Currently only a title commitment for 3118 Harvey Street has been provided.
15. The overall distance between the NW corner and North Quarter corner of Section 21-7-9 computes to be 2676.00. Correct the distance or modify the coordinate values.
16. The 25' Wide Emergency Fire Lane Easement shall be recorded and the recording information placed on the face of the Certified Survey Map prior to final sign off of the Certified Survey Map.
17. Revise the text for the stormwater easement to "10' Wide Private Stormwater Easement Benefitting Lot 2 Of This CSM".
18. Show the Buildings and pavement limits on Sheet 2 as required by ordinance.
19. Provide adequate dimensions (bearings and distances) to locate the Emergency Fire Lane Easement on the Certified Survey map.
20. The lots within this certified survey map are inter-dependent upon one another for storm water runoff conveyance, and/or a private drainage system exists for the entire site an agreement shall be provided for the rights and responsibilities of all lot owners. Said agreement shall be reviewed and placed on file by the

City Engineer, referenced on the certified survey map and recorded at the Dane Co Register of Deeds.  
(POLICY)

21. A minimum of two (2) working days prior to requesting City Engineering signoff on the plat/csm the applicant shall contact Janet Dailey (608-261-9688) to obtain the final stormwater utility charges that are due and payable prior to sub-division of the properties. The stormwater utility charges (as all utility charges) are due for the previous months of service. All charges shall be cleared prior to the land division (and subsequent obsolesces of the existing parcel). (POLICY)
22. In accordance with Section s.236.34(1) (c) which says a CSM shall be prepared in accordance with s.236.20(2) (c) & (f), Wisconsin Statutes, the Applicant must show type, location and width of any and all easements. Clearly identify the difference between existing easements (cite Register of Deeds recording data) and easements which are being conveyed by the Plat/CSM. Identify the owner and/or benefiting interest of all easements.
23. Prior to Engineering final sign-off by main office for Certified Survey Maps (CSM), final CSM must be submitted to Engineering Division Surveyor / Land Records Coordinator for final technical review and approval. This submittal must occur a minimum of two working days prior to final Engineering Division sign-off. Electronic mail submittal of the FINAL CSM in PDF form is preferred. Transmit to [epederson@cityofmadison.com](mailto:epederson@cityofmadison.com) (POLICY)

**Traffic Engineering Division** (Contact Eric Halvorson, 266-6572)

*Comments on the Rezoning and Conditional Use Request (No Comments on CSM)*

24. Per City of Madison Fire Department the driveway on Harvey St is required to accommodate 28' turning radius of their trucks. With this in mind the driveway still needs to meet MGO which does not allow for such an oversized curb cut. Modify the entrance to conform to a typical entrance width and for the remainder of the radius use rolled curb and impervious surface.

25. The applicant shall submit one contiguous plan for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
26. The developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
27. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
28. All parking facility design shall conform to MGO standards, as set in section 10.08(6).



**Zoning Administrator** (Contact Matt Tucker, 266-4569)

Comments from the Zoning Administrator are in the separate report.

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

*Comments on the Rezoning and Conditional Use Request:*

29. The Madison Fire Department does not object to this proposal provided the project complies with all applicable fire codes and ordinances.

*Comments on the CSM:*

30. MFD supports the CSM as it provides needed fire access to the existing 3009 University Ave. building.

**Parks Division** (Contact Kay Rutledge, 266-4714)

*Comments on the Rezoning and Conditional Use Request and CSM*

31. All proposed street tree removals within the right of way shall be reviewed by City Forestry. Please submit an existing inventory of trees (location, species, & DBH) and a tree removal plan (in PDF format) to Dean Kahl – [dkahl@cityofmadison.com](mailto:dkahl@cityofmadison.com) or 266-4816. Approval and permitting of street tree removals shall be obtained from the City Forester and/or the Board of Public Works prior to the approval of the site plan.

32. No new street trees are required for this project – there is not enough space between existing trees and terrace sites are under high voltage power lines.

33. Existing street trees shall be protected. Please include the following note on the site plan: Contractor shall install tree protection fencing in the area between the curb and sidewalk and extend it at least 5 feet from both sides of the tree along the length of the terrace. No excavation is permitted within 5 feet of the outside edge of a tree trunk. If excavation within 5 feet of any tree is necessary, contractor shall contact City Forestry (266-4816) prior to excavation to assess the impact to the tree and root system. Tree pruning shall be coordinated with City Forestry. Tree protection specifications can be found in section 107.13 of City of Madison Standard Specifications for Public Works Construction - <http://www.cityofmadison.com/business/pw/documents/StdSpecs/2013/Part1.pdf>.

34. This development is within the Garner park impact fee district (SI29). Please reference ID# 13173 when contacting Parks about this project.

**Office of Real Estate Services** (Contact Jenny Frese, 267-8719)

The CSM is also subject to the recommended conditions from City Real Estate which will be provided in a separate memo.

**Water Utility** (Contact Dennis Cawley, 261-9243)

*Comments on the Rezoning and Conditional Use Request and CSM*

35. This property is not in a wellhead protection district. All wells located on this property shall be abandoned if no valid well operation permit has been obtained from the Madison Water Utility. The Water Utility will not need to sign off the final plans, and will not need a copy of the approved plans.

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

No comments were submitted for this request.