



Department of Planning & Community & Economic Development

## Planning Division

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From: Dan McAuliffe

Re: Oscar Mayer Special Area Plan proactive rezoning and official mapping

When the [Oscar Mayer Special Area Plan](#) was approved, the Common Council directed staff to prepare recommended zoning map amendments in the study area that will support implementation of the goals and objectives contained within the plan. Following similar efforts in the Milwaukee Street plan area, proactive rezonings are relatively new, and the City does not have an adopted policy framework to approach the variety of issues created when considering new zoning. As a result, it's challenging to establish a recommendation for rezoning without discussing how each of the following factors should be handled. This discussion with the Plan Commission follows a neighborhood meeting held on February 25, which introduced the process, considerations and potential strategies for rezoning.

The primary reasons for proactive rezoning are:

- to prevent new or expanded land uses that are inconsistent with plan recommendations, and detrimental to the character envisioned in and recommended by adopted plans; and
- to make it easier for current or future property owners to (re)develop property consistent with plan recommendations

As with any rezoning, it's important to understand the allowable permitted uses (approved with no public process) and conditional uses. In most instances, multiple zoning districts could be used to accommodate land uses, building scales and intensities recommended in the plan either by permitted or conditional use.

One consideration when evaluating zoning districts is whether the City should generally allow uses recommended in the plan as permitted or conditional uses, and what factors should be considered as the breaking point between the two approval methods. Permitted uses simplify the development and approval process by allowing by-right development, where conditional uses require additional review and approval.

Rezoning can also open the door to permitted uses that may not align with plan recommendations, since each district allows a variety of uses generally considered appropriate for their intended context. Rarely are they so specific as to prevent all uses other than those recommended by the plan. This would primarily occur with mixed use districts being considered for higher density residential areas (mixed use districts are often used to approve new multifamily buildings). While this could result in land uses inconsistent with plan recommendations, many would be generally compatible with the land use context established by the plan; for example a mixed-used building with residential above retail built in an area recommended for residential.

Rezonings can create non-conforming uses, particularly on sites where redevelopment is anticipated in the future but is not imminent. In general, non-conforming uses are not an ideal condition. While existing uses are allowed to continue as a legal non-conforming use, it can impact the property owner or user's ability to obtain financing for site improvements or business purposes. Three approaches could be used where significant land use changes are recommended in the plan:

1. keep the existing zoning and not create non-conforming uses (status quo, rezone if/when redevelopment occurs);

2. rezone to a district that best fits plan recommendations and create non-conforming uses, and;
3. rezone to a district that is more consistent with plan recommendations than existing zoning, yet allows the current use, even if the rezoning does not explicitly follow plan recommendations in that location

The last consideration is how expansive rezoning efforts should be. Should rezonings be focused on major properties and/or those likely to see redevelopment in the near-term, or be applied more broadly across the entire plan area to ensure plan consistency?

## Official mapping:

Following guidance from the Plan Commission on the Milwaukee Street official mapping, staff's initial thoughts on rezoning were coupled with the assumption of officially mapping only the primary streets through the area. These include the extension of Coolidge Street west of Packers Avenue, the realignment of Roth Street (with eventual vacation of some existing sections and the rail crossing), the extension of Ruskin Street connecting to Huxley Street, and the connection between Shopko Drive and Pankratz Street.

## Individual Site Discussions:

Properties where rezoning consistent with plan recommendations are relatively straightforward and do not create conflicts are not discussed.

### 1. Oscar Mayer:

*Plan recommendation: Community Mixed Use, High Residential and Employment*

*Maximum height: 6-12 stories*

*Existing zoning and uses: Industrial General (IG) – mixed employment*

Staff's initial scan of appropriate zoning districts for the Oscar Mayer site resulted in Regional Mixed Use (RMX) south of the Coolidge Street extension and Industrial Limited (IL) north of the street. RMX is a new district very similar to downtown mixed-use districts, relatively flexible with uses and allowing heights up to five-stories as a permitted use and taller by conditional use. IL was thought to be a good starting point for the northern portion because it has greater flexibility with non-office employment uses, but is slightly less permissive than the current IG zoning with regard to industrial uses that may not be compatible with new residential uses. Traditional Employment (TE) could also be considered, but would allow for residential to occur by conditional use, which is not a plan recommendation in this area.

### 2. Roth to Aberg, West of Rail Corridor

*Plan recommendation: Community Mixed Use, Medium Residential, High Residential*

*Maximum height: 5-8 stories*

*Existing zoning and uses: Commercial Corridor Transitional (CC-T), Industrial Limited (IL) – shopping center, mixed residential, light industrial, East transfer point*

These properties have significant variability in use, often changing mid-block. The shopping center is zoned CC-T, which is an appropriate district for its community mixed use designation. Also zoned CC-T is the Dane County Job Center and the recently approved affordable apartments on Huxley, both of which are recommended for Medium Residential. CC-T can accommodate Medium Residential but will allow other uses as well.

- While acknowledging that it is not the purest use of proactive rezonings for plan consistency, staff recommends maintaining the existing CC-T zoning in this area to 1) avoid the creation of a split-zoning issue in the middle of the Dane County Job Center building, and; 2) rendering obsolete the first-floor commercial space in the mixed-use building with affordable housing at 1212 Huxley, which is currently under construction.

Behind the shopping center to the east is a single block of lower density residential, with two small employment uses mid-block.

- If that block were to be rezoned consistent with plan recommendations, Traditional Residential - Urban 1 (TR-U1) might be an appropriate district, but the two employment uses (a small sign shop and a toy casting business) would become non-conforming (they are allowable uses in the current CC-T zoning).
- Staff recommends maintaining CC-T zoning for the two employment uses in this small area.

The remaining properties on Huxley Street are zoned IL and include a large sign company, the transfer point, self-storage and the new Occupy Madison property. The areas are recommended for Medium and High Residential, which could correspond to TR-U1 and TR-U2 (Traditional Residential - Urban 2) if non-conforming uses were not a concern.

- If the creation of non-conforming uses is a concern, selective rezonings to CC-T could accommodate these uses while moving the zoning closer to consistency with land use recommendations in the plan. (Note: the Occupy Madison site is operating under a separate Common Council action, but will likely pursue Planned Development (PD) zoning in the near future.)

### 3. Hartmeyer:

*Plan recommendation: Regional Mixed Use, High Residential, Medium Residential, Park and Open Space*

*Maximum height: 5-10 stories*

*Existing zoning and primary use: Industrial General (IG) – largely vacant*

This property has several planned land uses in a relatively tight space as it transitions from higher intensity mixed-use at the rail corridor and along Commercial Avenue to medium residential fronting the park. Significant questions are how many zoning categories should be used and where they should be divided. South of Roth Street, one possibility is extending RMX, and transitioning to a relatively intense residential district like TR-U2. Only using RMX in this area could also be considered, as it would allow the uses and scales in the plan, however it would allow other uses like mixed-use or commercial buildings fronting the planned park. The market likely would not support these in areas planned for residential, but it would be a possibility. North of Roth Street, TR-U2 is appropriate for the High Residential area.

The park on the Hartmeyer property was heavily debated during the plan approval process, and could be in this rezoning process as well. Plans often don't recommend what should be incorporated in the future park spaces, since that is determined by a subsequent public park planning process. The adopted plan recommends this space be a mix of passive and active open space, noting that open spaces should have multi-use spaces and places to gather that serve the needs of Madison's diverse communities.

- PR is likely the most appropriate starting point given the language in the plan, and it is the preference of Parks Division staff.
- We are aware of several individuals who would prefer this to be zoned CN. Practically, they are very similar. PR allows more active use and CN is more oriented to conservation and passive recreation, as stated in the districts purpose text. Examples of prohibited uses in CN that are allowable in PR include: farmers markets, food and beverage vending such as food carts or the Olbrich Biergarten and community centers. While these uses weren't specifically discussed in the plan, they could be an outcome of the park planning process. If the outcome of that process is a conservation park, it would be appropriate to rezone to CN at that time, but doing so now may pre-determine the outcome of that public process.
- A final possibility is to not rezone the future park space, and to officially map this area instead as a future park. This approach would prevent development in this area, while letting the future park planning process define the zoning outcome.

## 4. 702 Ruskin

*Plan recommendations: Community Mixed Use, Medium Residential; Parks and Open Space*

*Maximum height: 5-6*

*Existing zoning and use: Industrial Limited (IL) – truck terminal, contractor shops, motorcycle shop*

Rezoning this site to be more consistent with land use recommendations in the plan will create a non-conforming use with the truck terminal, since that use is only allowable in IL and IG. While a relatively small terminal, a truck terminal could be detrimental to the character of future development in the surrounding area. The remaining uses are more typical of redeveloping areas and may not create the same potential conflicts, so they could be treated differently.

- One option for this property would be to rezone consistent with plan recommendations, rendering all existing uses legal non-conforming. It may not make sense to draw distinction between medium residential and regional mixed use areas on this property since it has far less visibility than the property to the south with frontage on Commercial Avenue. In this case, the most appropriate zoning districts may be TR-U1 and rezone to PR/CN or officially map the open space portion of the plan as determined for Hartmeyer open space.
- Another option would be to rezone into TE, which allows residential development as a conditional use. This would make the truck terminal non-conforming, while the other existing uses would be allowable (permitted or conditional use). If there is a desire to keep these other uses conforming, official mapping the open space could be used to prevent building expansion or new permitted use development from occurring.
- The final option is to leave the property in IL, keeping all uses conforming, and allow the property to be rezoned as it redevelops over time. In theory the property could redevelop with industrial uses, however it's very unlikely given market forces driving residential.

## 5. Madison College Triangle

*Plan Recommendation: Institutional, High Residential, Community Mixed Use*

*Maximum Height: 6 stories*

*Existing zoning and use: Industrial Limited (IL) – Madison College, tavern, auto repair shop, body shop*

The most pertinent questions for this area are how many districts should be used and how should potential non-conforming uses be approached. The High Residential category had been discussed as a long-term option that could potentially serve students, but the Wisconsin technical colleges are prohibited from building student housing. Strictly following the plan might result in RMX for the southern portion, which would allow taverns but not auto repair. CC-T could also work and keep all existing uses conforming.

## 6. Shopko Drive

*Plan Recommendation: Employment*

*Maximum Height: None*

*Existing zoning and uses: Planned Development (PD) – Grocery store, personal storage, gas station, bank*

The area is regulated by an older retail-focused PD which is not particularly well suited to change in response to the plan. Many older PDs have not aged well; since they define their own standards, incremental changes which occurred in the zoning code may not be impact the PD unless it contains language which points back to MGO 28.

Rezoning this site is not essential by any means but could define a process of shifting older PDs back to an appropriate base zoning designation with more consistent standards and less administrative burden. Given the disconnected nature of this area and noise impacts from the airport (the only portion of OMSAP in the F-35 65 db DNL contour), staff does not believe this is an area appropriate for residential and it is not allowed by the current zoning text of the PD. Suburban Employment (SE) best matches plan recommendations but does allow residential by conditional use. IL doesn't allow residential, but it might allow uses with greater impacts on surrounding area than envisioned in the plan.