



# Wauwatosa, WI

7725 W. North Avenue  
Wauwatosa, WI 53213

## Staff Report

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**Agenda Date:** 1/9/22024

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Proposed Zoning Text Amendment related to building height for C2 zoned properties

**Submitted by:**

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**Department:**

Development

**A. Background/Options**

On September 20, 2023, Alderperson Joseph Makhoulf II submitted a memo to the Community Affairs Committee (CAC) proposing development standards for General Commercial (C2) zoned properties located within 50 feet of Residential (R) zoned properties. The proposed standards would limit building height to 60 feet, remove the existing residential density limit for mixed use development (1 unit for every 1,000 square feet of lot area), and prohibit rezoning, variance, or Planned Unit Development requests to exceed the 60-foot height limit. During the September 26, 2023 CAC meeting, Ald. Makhoulf's memo and staff's response were discussed. Ultimately, the CAC, and the Common Council, voted to send the item to the Plan Commission. The September 26th meeting materials are linked to this item.

City staff met with Ald. Makhoulf on three occasions and had many informal conversations in an attempt to come to a consensus regarding the issues prior to introducing the text amendment to the Plan Commission. Short of conducting a building height study, staff forwarded a proposed ordinance that utilized Ald. Makhoulf's proposed standards as a foundation. Staff's ordinance changes allow for the balance and flexibility needed to sustain the City's economic vitality, provide more certainty for impacted residents, increase the supply of market rate and affordable housing (2022 Housing Study prepared by SB Friedman, page 37), and comply with state law. In addition, the revisions take into consideration the C2 District is the City's predominate commercial zoning district, located throughout Wauwatosa, and encompasses a wide variety of commercial uses.

Staff proposed the following standards to the Plan Commission at the November 13, 2023 meeting that were modified by the Plan Commission as indicated below:

- 1) For C2 zoned properties located within 65 feet of a R zoned property (measured from property line to property line):
  - a. Limit building height to a maximum of 60 feet.
  - b. The Regional Mall (Mayfair Mall) is not subject to these regulations.
  - c. Additional height of up to 85 feet is allowed for projects proposing ~~1020%~~ at 80% of the average median income (AMI) for the Milwaukee, Waukesha, and West Allis region, as established by the US Department of Housing & Urban Development (HUD) (housing is considered affordable if a household spends no more than 30% of their gross income on housing related costs) or transit-oriented development (properties located along the Bus Rapid Transit (BRT) Corridor ~~or any other future rapid-transit corridor~~.)
- 2) Remove multi-family residential density restrictions in the C2 District. NOTE: Zone Tosa for All Initiative

(Recommendation Z3, Page 35).

- 3) Permit multi-unit residential buildings in the C2 District. NOTE: Currently not allowed unless the building is mixed use.

The proposed text accomplishes the objective of Ald. Makhlouf's proposal by eliminating unlimited height *by right* for buildings adjacent to residential neighborhoods. The 60-foot height limit would allow up to 4-5 story buildings on C2 zoned properties within 65 feet of a residential zoned property, however the height limit would restrict the number of units a developer could place on a property. It should be noted that Ald. Makhlouf originally proposed a 50-foot spacing requirement for properties with taller buildings from R zoned properties, but the spacing requirement was changed to 65 feet at Ald. Makhlouf's request due to the right of way width of some residential streets. To balance this restriction and to meet the City's development goals that include increasing the supply of all types of housing, unlimited height for C2 zoned properties not within 65 feet of a residentially zoned property is preserved, residential density restrictions for all C2 zoned properties are lifted, and the requirement for multi-family development to contain a commercial component is removed.

Staff also recommends preserving the right to request a rezone, Planned Unit Development (PUD), or variance to exceed the 60-foot height limit. Maintaining the PUD as a flexible option could allow for creative solutions that locate taller buildings within 65 feet of R zoned properties in areas where the development is not opposed, or where the proper conditions exist (e.g., C2 properties adjacent to R zoned properties that contain non-residential uses such as a church or school.) The PUD also allows for exceptions to other development standards, such as setbacks, required parking, and landscaping. Land use and development compatibility and specifics are evaluated as part of the PUD process and final decisions are at the discretion of Common Council. Finally, the ability to apply for a variance must remain per state law as the right of an applicant to demonstrate hardship in accordance with the required variance findings.

The Plan Commission recommended approval 4-2. The required public hearing before the Common Council was held December 19, 2023 with two people commenting about the proposal. Information is linked to this item.

## **B. Recommendation**

Staff recommends adoption of the Plan Commission recommended text amendment as provided above and in the proposed ordinance.

