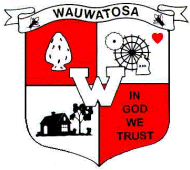


CITY OF WAUWATOSA
MEMO



To: **Community Affairs Committee**

From: **Tamara Szudy, Planning & Zoning Manager**
Art Piñon, Planner

Meeting Date: **September 26, 2023**

Subject: **Memo from Planning Staff Regarding Proposed Building Height Restrictions in the C2 Zone From Alderperson, Joseph Makhoulf II, Dated September 20, 2023**

On August 3, 2023, Common Council member Joseph Makhoulf II submitted a memo to the Community Affairs Committee requesting certain height restrictions within the General Commercial (C2) zone. On September 20, 2023, a revised memo was submitted with revisions. The purpose of this memo is to provide staff's comments on Alderperson Makhoulf's proposal dated September 20, 2023.

While we agree a discussion on building height is warranted, staff believes that moving forward with an amendment at this time is premature given an appropriate building height study has not been conducted and needed public outreach has not occurred. Such a study would analyze appropriate building heights for the C2 zone based on a balance of community character, market considerations, public input, and community needs. The study would identify protected view corridors within the City, make recommendations on architectural design standards for high-rise buildings, establish appropriate heights and locations for certain heights, and include architectural renderings with varying building heights for comparative analysis. In addition, the City is also undergoing a Comprehensive Plan Update, which could also address building height and other architectural standards for the City.

In addition to the need for a building height study and public input, staff has the following concerns with the recommendations outlined in Alderperson Makhoulf's memo:

- Under Key Issues for Consideration, it's stated that developers (plural) have used loop holes to propose structures of inappropriate height, especially near residential neighborhoods. Staff is aware of one (1) development proposal of controversial height near a residential neighborhood, which was never built, but are unaware of other requests. The language suggests that there have been an ongoing number of development proposals with "inappropriate" heights near residential structures, which is not accurate.
- Under Fiscal Impact, it's stated that the exact fiscal impact of the proposed height limits is unknown and unclear, which staff agrees. However, the section goes on to state that inappropriately tall buildings in a given area would very likely cause a decrease in the value

of other nearby structures therefore decreasing tax from those structures. This statement is not supported with data, or a fiscal or market impact study and cannot be presented as factual.

- Under Requested Action, it's proposed that properties within 50 feet of a residential zoned property be limited to a maximum height of 60 feet. It's unclear what makes 60 feet an "appropriate height" and whether there are any studies, data, renderings, or comparisons used to support this height. More importantly, there hasn't been any public outreach to determine if this height is acceptable for residents, property owners, businesses, or the development community.

Staff also has a concern that 60 feet may not be enough height for certain properties in the C2 zone where higher density development would be supported by mass transit, such as the Bus Rapid Transit (BRT) Corridor, which runs along C2 zoned properties on Watertown Plank Road. In the future, the extension of the BRT line may run along Bluemound Road to Waukesha and along portions of Mayfair Road. Limiting building height in these areas could hinder Transit Oriented Development (TOD) opportunities in the City.

- Under Requested Action, it states that exceptions to height limits shall be given to the Regional Mall Property and Milwaukee Regional Medical Center (MRMC) Complex. Staff agrees with preserving height flexibility for the mall. However, MRMC is not zoned C2 and should be excluded from the proposal.
- Under Requested Action, it's proposed that density limits for properties within 50 feet of a residential property be lifted, which staff agrees. However, staff recommends density restrictions be lifted for all C2 zoned properties.
- Under Requested Action, it's proposed that developers not be able to rezone properties in an attempt to get around requirements for height restrictions on properties whose boundaries come within 50 feet of a residential zoned property. Staff believes this item should be removed since the intent of the request is to keep properties with taller buildings a minimum of 50 feet from residential zoned properties. If a developer can achieve the desired spacing intent through the rezoning process, the flexibility should remain. A rezone of the property would also require review and approval from Common Council.
- Under requested action, it's proposed that the Planned Unit Development (PUD) be removed as an option for a project applicant to exceed the proposed height limitations. Staff believes the flexibility for an increase of height through a PUD should remain. With the proposal, the "by right" allowance for buildings exceeding 60 feet in height would be removed, but the Council's discretion to approve taller buildings should remain if the site had proper conditions (i.e. properties adjacent to church or school, neighbors not in opposition, etc.). Land use and development compatibility with surrounding development would be reviewed as part of the PUD process and final decision would be at the discretion of Common Council.

- Under requested action, it's proposed to have a variance removed as an option to allow for additional building height. The option for a variance must remain since a request for a variance is a right of an applicant to demonstrate hardship.

Overall, staff is not in support of the proposed amendment, as written, without an appropriate building height study and public outreach to ensure a responsible formulation of a building height ordinance. However, if the Committee wishes to move forward with an amendment at this time, staff recommends making the following changes to Alderperson Makhoulf's text:

- Remove Milwaukee Regional Medical Center (MRMC) Campus from the text.
- Remove density restrictions from all C2 zoned properties.
- Remove restriction, or remain "silent", on a rezone as a way to meet the required 50-foot spacing buffer.
- Preserve option for a PUD to be used to achieve additional building height in C2 zones within 50 feet of a residential zoned property.
- Preserve option for a variance to be used to achieve additional building height in C2 zones within 50 feet of a residential property as long as the required findings for a variance can be made.
- Allow for additional height (85 feet) for developments that contain affordable housing or transit-oriented development (properties located along the Bus Rapid Transit (BRT) Corridor or any other future mass transit corridors).
- Allow for multi-family development in the C2 zone with no requirement for commercial space.