



THESE ARE THE MINUTES OF THE **PUBLIC HEARING** HELD AT 7:45 P.M., TUESDAY, **NOVEMBER 5, 2019**, IN THE COUNCIL CHAMBERS OF BROOKFIELD CITY HALL, 2000 N. CALHOUN RD, BROOKFIELD, WI

MAYOR STEVEN V. PONTO PRESIDING

ALDERMAN PRESENT: Dan Sutton, Bill Carnell, Bob Reddin, Rick Owen, Jeff McCarthy, Ron Balzer, Edward “Buck” Jurken, Mark Nelson, Gary Mahkorn, Scott Berg, Christopher Blackburn, Jerry Mellone, Renee Lowerr, Brad Blumer

ALDERMAN EXCUSED: None

STAFF PRESENT: City Attorney Jenna Merten, City Clerk Kelly Michaels, Director of Community Development Dan Ertl, Director of Public Works Tom Grisa, and Director of Finance and Administration Robert Scott, Police Chief Dan Tushaus, Economic Development Coordinator Todd Willis

Mayor Ponto introduced the public hearing at 7:50 pm and read the hearing notice regarding the request of the City of Brookfield to amend Section 17.98.010, 17.98.020, 17.98.030 and 17.98.040 of the Brookfield Municipal Zoning Code regarding Modified Suburban Overlay Districts’ Purposes, Relation to Other Zoning, Requirements and Matrices; Creating Section 17.98.050 of the Zoning Code regarding Specific Zoning Overlay Areas, and the Brookfield Square Area Overlay, and amending Sections 17.04.020 and 17.116.050 of the Code regarding Definitions and Landscape Surface Ratio.

Director of Community Development Dan Ertl stated this is the first of a series of public hearings that the Common Council will be asked to authorize to take steps to improve and enhance the zoning tool called the Modified Suburban Overlay District. Approximately 20 years ago, the city created this tool to change the nature of suburban type of developments in the community. This district was created of the first of its kind in the region that promotes creative site design and allows for a mixture of uses rather than a singular uses. It is a response of the Capitol Drive Corridor Study which will in the community at large suggests we should avoid further strip retail development in a conventional suburban development. This tool was created with it the assistance of Attorney Dick Lehman at the time. The first application of this tool was used along the Capitol Drive corridor as an outcome of the Capitol Drive Corridor Study. It envisioned nodes and targeted investment areas at intersections and mapped modified suburban overlay districts at that time. Since that time we’ve applied MSO to various areas in the community and targeted investment areas including the Bluemound Road corridor. It has come to my attention that recent case history and constitutional issues that we likely need to include and enhance the zoning tool by adding standards and mapping to all areas which this tool has been applied and will be applied in the future. The first area of need to do that is the Brookfield Square southern portion of Brookfield Square that was recently redeveloped, i.e. the Movie Tavern, Whirly Ball, the Conference Center and Hilton Garden Inn. We would add standards and move the current description of guidelines into standards. They are more legally defensible if they become standards and are actually included in the zoning code. Secondly, we map these areas rather than a general description in whatever zoning ordinance that was adopted for that property. Attached to the public hearing notice is the map that shows the three properties upon which this first MSO enhancement would be applied to which is the former Sears property, the Conference Center and the Hilton Garden Inn. There will be a series of these over the next 12 to 18 months depending upon how quickly these can be put together for other areas of the community. After that, we will see the actual ordinance that was co-drafted by Attorney Jenna Merton and myself regarding improvements to the text of the zoning code and converting guidelines into standards, setbacks, offsets, building heights, floor area ratio etc.

No action takes place this evening. It goes back to the Plan Commission on November 11 and to the Common Council November 19.

Ald. Blackburn stated when the setbacks for new suburban development and for cluster suburban development were applied, there was a controversy on Greenfield Avenue and Calhoun Road. There were objections from the residences about pushing the buildings close to the street and sticking the parking lot in the backyard. He hasn't seen an advantage to this and he thinks it also spoils the uniform appearance of streets when the building is punched out a lot. He has a question on parking offsets. It stated it will be 25 feet, except that intensive use is regulated elsewhere in the code. He asked how intensive use is defined in the context of MSO. Alderman Blackburn gave an example of a complaint he received by a citizen. Attorney Merten replied there are specific sections in the code that's labeled intensive uses, specifically Section 17.108.090. There are restaurants, automobiles service repairs, taverns, health clubs, and grocery stores. There are also very specific requirements regarding the intensive use. There are special offsets and landscaping requirements for them. In the context that Alderman Blackburn is referring to wasn't categorized in the code as an intensive use and it didn't apply there. Also health clinics would also be considered intensive uses based on the number of vehicles that go there each day. Alderman Blackburn stated it was office which was in an intensive use then. Alderman Blackburn commented in section 17.98.050 in regards to Brookfield Square that it was private property and is not public space. He stated he was wondering that the street activity that is by Moorland and Bluemound Road and asked what it means to the public space on private land. Mr. Ertl replied that the use of those terms is more generic than specific to a municipality. Meaning that "public space" is if someone can access as a shopper in urban terminology. Likewise "street activity" is more of a generic statement. In the case of Brookfield Square Drive acts as a public street even though it is a private drive. It is a theory that uses an alignment or are adjacent to a street should activate the street that is urban design concept and make an inviting and not sterile. Alderman Blackburn asked about setbacks off of Moorland Road. Mr. Ertl replied this MSO for Brookfield Square is dealing with an area built-up with already compromised setbacks, even before the MSO. In this particular application for the MSO, the setbacks and offsets are rather minimal and also the landscape surface ratio is minimal. The lot coverage is aggressive. It's because it's a built environment and recognizes that and tries to make sure we do not create nonconforming structures or uses by enacting this ordinance. Alderman Blackburn stated he is concerned with zero offsets. He mentioned the landscape surface ratio was 2%. He has heard from a concerned citizen that Brookfield Square had a lack of green space. Should we be increasing that as it would benefit from our green space and it is all pavement to Bluemound Road. Mr. Ertl replied that comment would be more shared to the Plan Commission when they take this item up next week. Again, the Brookfield Square environment is our most urbanized area and when you go to a central business district, you don't always see a lot of green space in those areas. This is our central business district and if there was an expectation that this is somewhat counterproductive on creating that central business district environment. Nonetheless CBL and some other properties in their redesign and our own conference center is adding green space beyond 2%. We couldn't make some sites nonconforming by making something more aggressive.

Ald. Berg asked what the timeline is for bringing those from a proposal to changes in the code and is there some particular reason we chose that timeline. Mr. Ertl replied time management is how many we can package. There are many properties zoned MSO and we selected this particular area because there is a need to create a platform for the next building at Brookfield Square to be considered. We are going to move in the vicinity of Brookfield Square with additional public hearings. Then we will sit down and strategically talk about which areas we will approach next. Alderman Berg stated he doesn't feel there are areas on Capitol Drive that need to be fixed. Alderman Merten agreed and stated we need

to look at plan a method of operations and make sure that the map we are using is representative of the area and making sure they are grouped correctly. Targeting the Brookfield Square area and the area around is something that is changing and more development activity is probably the best place to start in that regard so that we can get those areas taken care of first. Alderman Berg stated the other place to come to mind is 124th St. and some of the old business districts there. It is a very different district, mostly commercial and mostly older with some renovation required. Capitol Drive is certainly intensely developed but is a different feel than Bluemound Road. He can't see a lot of tweaking going on there.

There were no comments from the public.

Alderman Nelson moved to adjourn the hearing. Seconded by Alderman Reddin and carried unanimously. 8:05 pm