

September 14, 2023

Via email only

Mr. Thomas Ramler-Olson
City Planner
City of Bloomington
1800 West Old Shakopee Road
Bloomington, MN 55431
tramlorolson@bloomingtonmn.gov

Dear Mr. Ramler-Olson,

It was a pleasure meeting with you and City Planning Manager Markegard on August 31st to discuss the City of Bloomington's proposed ***Zoning Ordinance Rezoning Lyndale Avenue Properties Relating to the Rezoning of Nodes within the Lyndale Avenue Corridor from B-2 to B-4*** as part of the City of Bloomington's Lyndale Avenue Suburban Retrofit Plan (the "Retrofit Plan").

We appreciate your willingness to discuss mutually beneficial solutions and hear that the goal of the proposed zoning map amendment is not intended to harm Pawn America, a business that is proud to call Bloomington home and has operated in the City since 1998, recently celebrating its 25th anniversary as a member of the Bloomington (and Lyndale Avenue) community. The store's eight employees, four of whom are Bloomington residents, are proud to have served a total of 8,205 Bloomington residents over 25,000 times in the last year alone.

As you know, the proposed rezoning ordinance would rezone the parcel on which Pawn America is situated (8650 Lyndale Avenue South) from the B-2 district to the B-4 district, where the "pawn shop" use type is prohibited, causing Pawn America to become a legal non-conforming use as compared to its current conditional use designation. While status as a legal nonconforming use would allow Pawn America to operate a pawn store indefinitely at its current location, it would inhibit, or prohibit entirely, Pawn America from making any improvements to further the goals of the Retrofit Plan. These goals for Lyndale Avenue include, in part, improving and expanding non-vehicular navigability to create a walkable urban design, providing redevelopment opportunities with a focus on increasing area density, revitalizing the aesthetic appearance along the corridor, and reducing auto-oriented uses and standards, all culminating to create a compact critical mass of housing, jobs, and services within the Lyndale Avenue nodes that are the subject of the proposed rezoning.

If the City approves the proposed rezoning, without a follow-up text amendment to allow an existing pawn shop to continue as a Conditional Use, Pawn America would have sufficient rights as a nonconforming use to continue indefinitely, and may have some limited rights to expand, but Pawn America would be unable to help achieve, and further the goals of, the Retrofit Plan. As discussed during our call, Section 21.504, item (A) of the "Expansion of a Nonconformity" definition prohibits "relocation of the use to a structure or portion of the site not previously occupied by the use," but the "Replacement" definition allows for "[c]onstruction that provides a substitute *substantially equivalent* to the pre-existing conditions that preceded damage or destruction." (Emphasis added.) Our concern here is that the Conflicting Provisions section (§ 21.507.01) requires the more restrictive provision to control. If the proposed ordinance is passed without a subsequent text amendment to the zoning code, the current zoning code, specifically Item (A) of the "Expansion of a Nonconformity" definition, would probably prevent Pawn America from conforming to the goals of the Retrofit Plan highlighted above and, further, would leave City Council with no ability to mitigate these consequences if, for instance, a time-sensitive development opportunity arose.

On September 12, we sent you a revised version of the proposed ordinance to be included with the materials for, and considered at, the upcoming City Council meeting on September 18. We understand from our discussion with City Planning Manager Markegard and you that, because the proposed amendment being considered at this meeting is a zoning *map* amendment while our proposed revisions contemplate a zoning *code* amendment (i.e., a text amendment), procedure prevents City Council from including our proposed revisions in the pending rezoning ordinance. Instead, procedure requires our proposed revisions, if recommended by City Council, be noticed and run through the proper procedural channels. We are not opposed to the current proposed zoning *map* amendment to the extent City Council considers, recommends, and refers our proposed solution to city staff to commence and undergo the procedure required for the zoning *text* amendment. The following paragraph details our proposed solution to the zoning issue discussed above.

In order to mitigate the negative impacts of the proposed rezoning ordinance on Pawn America's ability to effectuate the Retrofit Plan, we recommend an amendment to Section 21.209(d) of the Zoning Code, adding "Pawn Shops in existence in the B-4 District prior to September 19, 2023" as a new use type under the "Retail Sales and Services" category that would be a conditional use in the B-2 and B-4 zoning districts. This would give the City more control over, and more opportunity for, development consistent with the Lyndale Avenue Suburban Retrofit Plan than it would have if Pawn America remained as a legal nonconforming use with no opportunity or incentive to redevelop. This proposal to allow an existing pawn shop to continue as a conditional use in the B-4 District is consistent with the manner in which the City Council has historically addressed zoning amendments that have caused existing uses to become nonconforming, as seen throughout the section 21.209 Use Tables.

Most importantly, the proposed text amendment would avoid the potentially conflicting language in the nonconformity section (§ 21.504) and provide the City Council with authority to issue, and assign conditions to, a conditional use permit for future redevelopment opportunities Pawn America that would be consistent with and support the Retrofit Plan. This solution would benefit the City of Bloomington and a business that has invested in the City and served its residents for over twenty-five years. Pawn America is excited about the revitalization and redevelopment opportunities the Retrofit Plan seeks to achieve and wants to be a part of, not a hindrance to, this growth.

Again, thank you for your time and attention to our concerns. We look forward to finding a solution that works for the City and Pawn America and greatly appreciate your desire to do the same.

Sincerely,

Stinson LLP

A handwritten signature in blue ink that reads "RP Schwichtenberg". The signature is written in a cursive, flowing style.

Rhett P. Schwichtenberg

RPS:dmh

ORDINANCE NO. 2023-

AN ORDINANCE REZONING 8600, 8602, 8640, 8650, 8700, 8708, 8714, 8722, 8800, 8810, 8820, 8830, 9500, 9600, 9624, 9700, 9800, 9501, 9529, 9601, 9621, AND 9633 LYNDAL AVE S; 801, 500, AND 400 W 98TH ST; 9818 AND 9830 ALDRICH AVE S; AND 9740 GRAND AVE S FROM B-2, GENERAL COMMERCIAL, TO B-4, NEIGHBORHOOD COMMERCIAL, AND AMENDING SECTION 21.209(d) OF THE ZONING CODE

The City Council of the City of Bloomington, Minnesota ordains that the zoning map and zoning code of the City of Bloomington is hereby amended as follows:

Section 1. The zoning map is hereby amended to change the base zoning district of the following described properties from B-2, GENERAL COMMERCIAL, to B-4, NEIGHBORHOOD COMMERCIAL:

Parcel Address	Parcel Identification Number	Legal Description (All located in Hennepin County, Minnesota)
8600 LYNDAL AVE S	0902724110129	Lot 2, Block 1, SUPERAMERICA 4TH ADDITION, Hennepin County, Minnesota
8602 LYNDAL AVE S	0902724110128	Lot 1, Block 1, SUPERAMERICA 4TH ADDITION, Hennepin County, Minnesota
8640 LYNDAL AVE S	0902724110067	Lot 3, SABIN LYNDAL GARDEN LOTS, Hennepin County, Minnesota, except street
8650 LYNDAL AVE S	0902724110068	LOT 4, SABIN LYNDAL GARDEN LOTS, Hennepin County, Minnesota, subject to roads
8700 LYNDAL AVE S	0902724110126	Lot 1, Block 1, SKIPPERS ADDITION, Hennepin County, Minnesota
8708 LYNDAL AVE S	0902724110086	Lot 1, Block 2, TUMA ADDITION, Hennepin County, Minnesota
8714 LYNDAL AVE S	0902724110016	Lot 1, Block 1, BROOKS 1ST ADDITION, Hennepin County, Minnesota
8722 LYNDAL AVE S	0902724110089	Lot 1, Block 2, SWAINS 1ST ADDITION TO BLOOMINGTON, Hennepin County, Minnesota

8800 LYNDAL AVE S	0902724110090	Lot 1, Block 1, INCO ADDITION, Hennepin County, Minnesota
8810 LYNDAL AVE S	0902724140078	Lot 1, Block 1, MOTOR PARTS ADDITION, Hennepin County, Minnesota
8820 LYNDAL AVE S	0902724140070	Lot 1, Block 1, TACO BELL 1ST ADDITION, Hennepin County, Minnesota
8830 LYNDAL AVE S	0902724140099	Lot 1, Block 1, BLOOMINGTON VETERINARY HOSPITAL, Hennepin County, Minnesota
9500 LYNDAL AVE S	1602724110026	Lot 1, Block 1, RBCU ADDITION, Hennepin County, Minnesota
9600 LYNDAL AVE S	1602724140012	Lot 1, Block 1, HOLLENBACK AND NELSON 1ST ADDITION, Hennepin County, Minnesota, subject to road
9624 LYNDAL AVE S	1602724140013	Lot 2, Block 1, HOLLENBACK AND NELSON 1ST ADDITION, subject to road
9700 LYNDAL AVE S	1602724140007	Lot 1, Block 1, FREEWAY FORD 1ST ADDITION, Hennepin County, Minnesota
9800 LYNDAL AVE S	1602724410017	Lot 1, Block 1, VILLAGE AT OXBORO, Hennepin County, Minnesota
801 W 98TH ST	1602724410010	Lot 1, Block 1, CONTINENTAL OIL 1ST ADDITION
9818 ALDRICH AVE S	1602724410011	Lot 1, Block 1, COUNTRY KITCHEN 1ST ADDITION, Hennepin County, Minnesota, except highway
9830 ALDRICH AVE S	1602724410012	Lot 2, Block 1, COUNTRY KITCHEN 1ST ADDITION, Hennepin County, Minnesota
9501 LYNDAL AVE S	1502724220065	Lot 1, Block 1, OXBORO DEVELOPMENT 3RD ADDITION, Hennepin County, Minnesota

9529 LYNDAL AVE S	1502724220271	Lot 1, Block 1, MCDONALDS BLOOMINGTON 4TH ADDITION, Hennepin County, Minnesota
9601 LYNDAL AVE S	1502724230079	Lot 1, Block 1, OXBORO HEATH 3RD ADDITION, Hennepin County, Minnesota
9621 LYNDAL AVE S	1502724230080	That part of Lot 2, Block 1, OXBORO HEATH 3RD ADDITION, Hennepin County, Minnesota, embraced within Lot 32, Block 11, OXBORO HEATH
9633 LYNDAL AVE S	1502724230081	Lot 2, Block 1, OXBORO HEATH 3RD ADDITION, Hennepin County, Minnesota, except that part of said Lot 2 embraced within Lot 32, Block 11, OXBORO HEATH
9740 GRAND AVE S	1502724230075	Lot 1, Block 1, SOUTH EXCHANGE ADDITION, Hennepin County, Minnesota
500 W 98TH ST	1502724230046	The West 240 feet OF Lots 19 and 20, Block 11, OXBORO HEATH, Hennepin County, Minnesota, except road
400 W 98TH ST	1502724230076	Lot 2, Block 1, SOUTH EXCHANGE ADDITION, Hennepin County, Minnesota

Section 2. Section 21.209(d) of the zoning code is hereby amended to add “Pawn Shops in existence in the B-4 District prior to September 19, 2023” as a new use type under the “Retail Sales and Services” category that shall be a conditional use in the B-2 (GENERAL COMMERCIAL) and B-4 (NEIGHBORHOOD COMMERCIAL) zoning districts, and a prohibited use in all other zoning districts.

Section 3. The areas to be amended are depicted on Exhibit A of this Ordinance.

Section 4. This ordinance is based on the following findings:

4.01 The rezoning is consistent with the intent of the zoning ordinance and the comprehensive plan.

4.02 The rezoning is consistent with the public health, safety, and welfare.

Passed and adopted this 18th day of September, 2023.

Mayor

ATTEST:

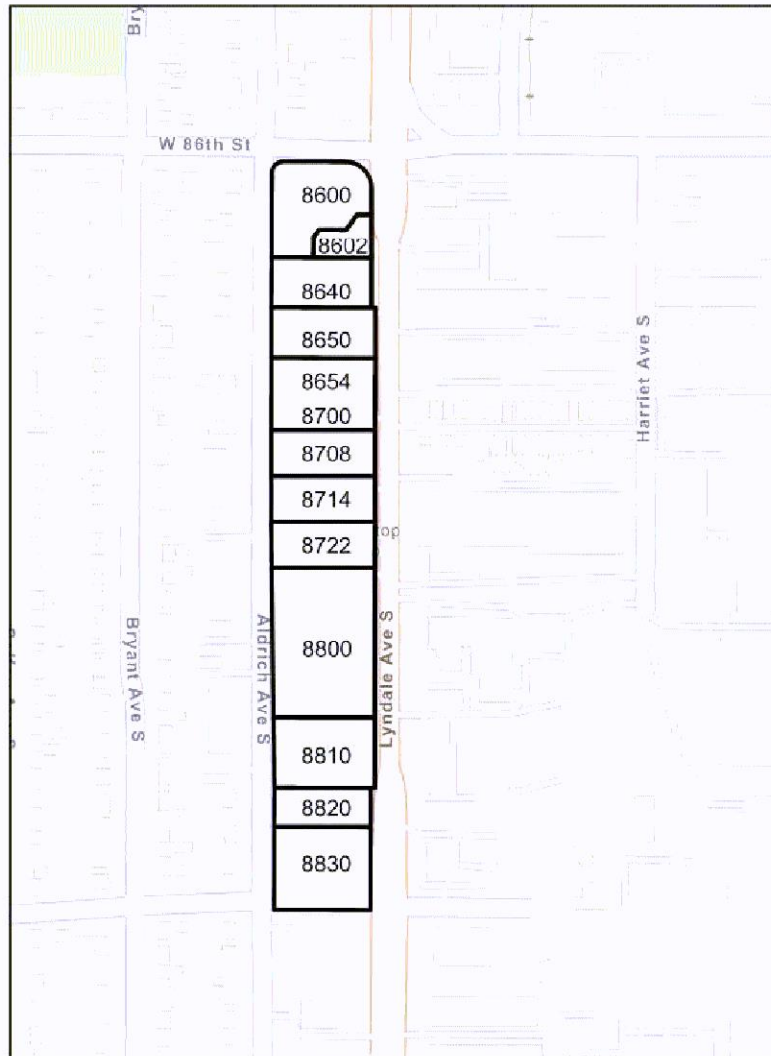
APPROVED:

Secretary to the Council

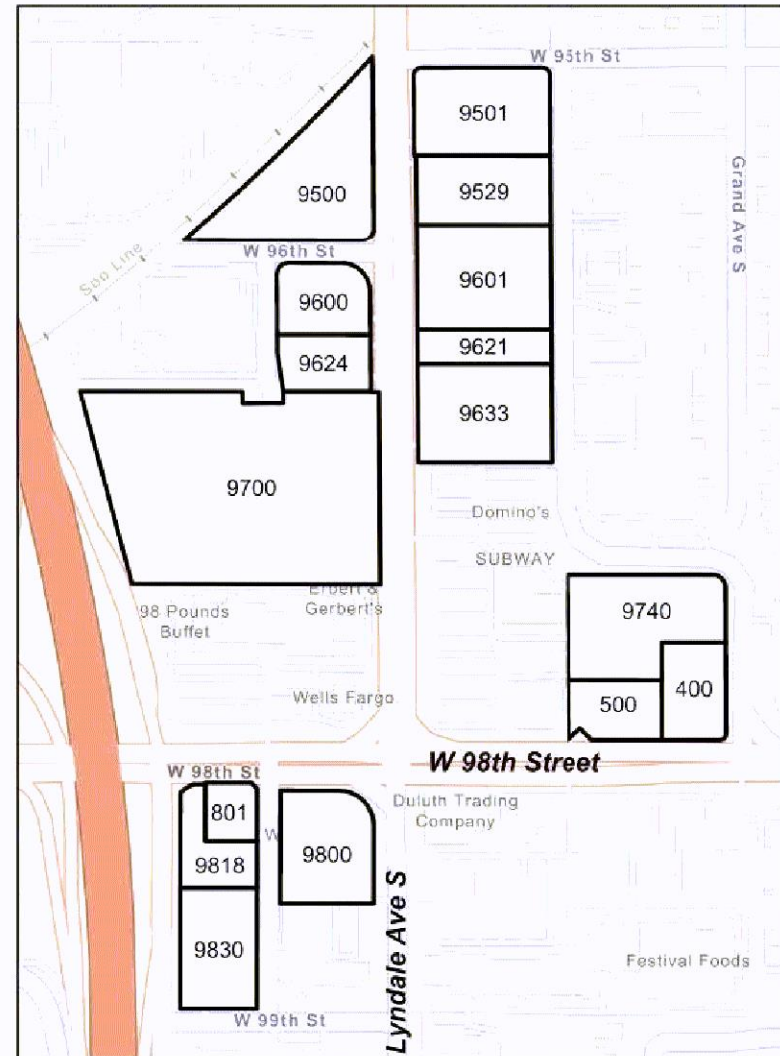
City Attorney

Exhibit A: Parcels to be rezoned to B-4

 Parcels to be rezoned



86th Street Node



98th Street Node

N
A
Scale: 1:5,000

ORDINANCE NO. 2023-

AN ORDINANCE REZONING 8600, 8602, 8640, 8650, 8700, 8708, 8714, 8722, 8800, 8810, 8820, 8830, 9500, 9600, 9624, 9700, 9800, 9501, 9529, 9601, 9621, AND 9633 LYNDAL AVE S; 801, 500, AND 400 W 98TH ST; 9818 AND 9830 ALDRICH AVE S; AND 9740 GRAND AVE S FROM B-2, GENERAL COMMERCIAL, TO B-4, NEIGHBORHOOD COMMERCIAL, AND AMENDING SECTION 21.209(d) OF THE ZONING CODE

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~~Section 2~~Section 3. The areas to be amended are depicted on Exhibit A of this Ordinance.

Section 34. This ordinance is based on the following findings:

~~3.014.01~~4.01 The rezoning is consistent with the intent of the zoning ordinance and the comprehensive plan.

~~3.02~~4.02 The rezoning is consistent with the public health, safety, and welfare.

Passed and adopted this 18th day of September, 2023.

Mayor

ATTEST:

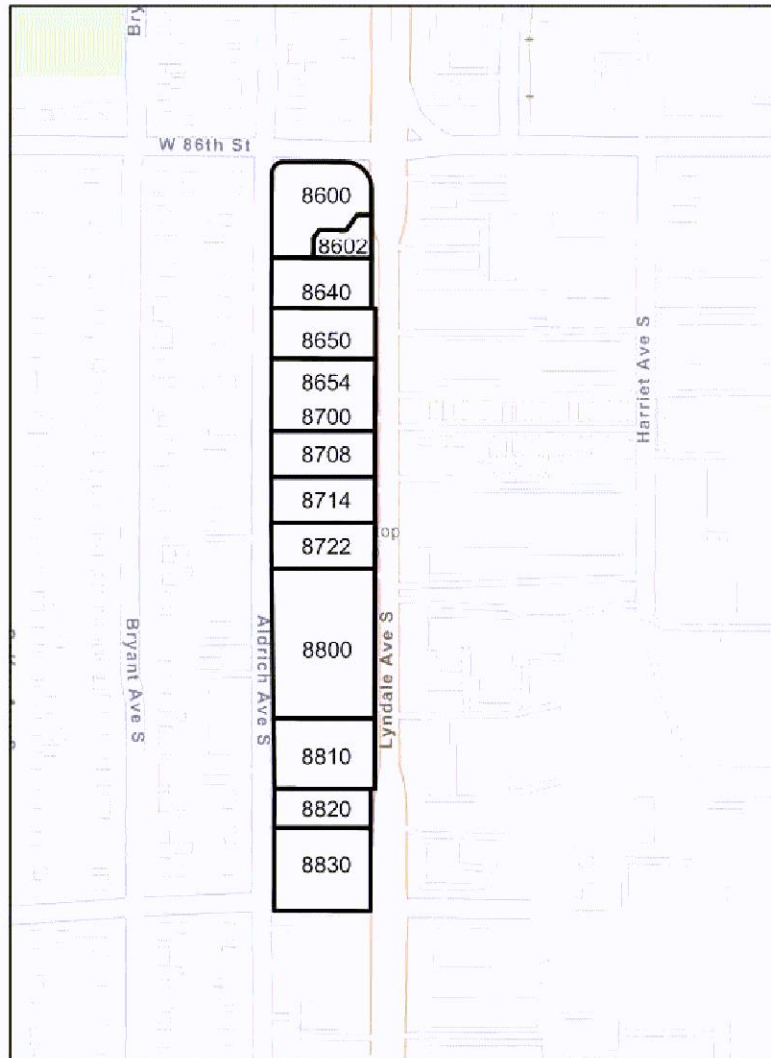
APPROVED:

Secretary to the Council

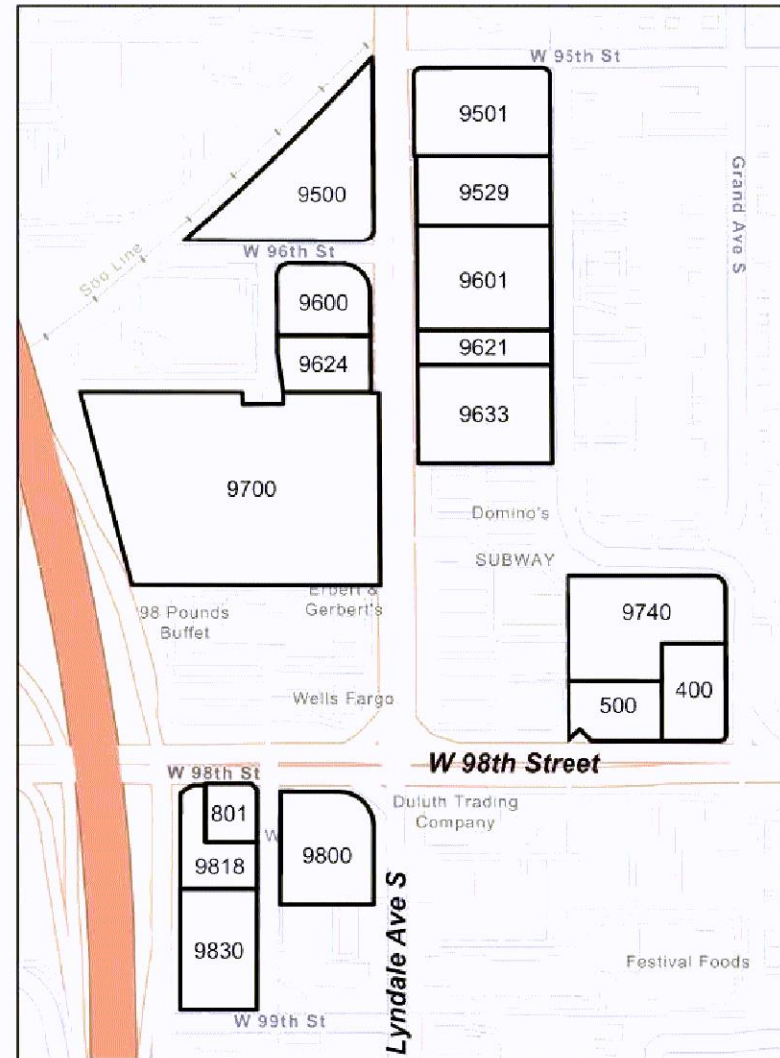
City Attorney

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 Parcels to be rezoned



86th Street Node



98th Street Node

N
A
Scale: 1:5,000

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Merged cells	
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