

**MEMORANDUM**

To: Mayor and Town Council

From: David B. Levy, Director of Planning and Zoning
Kelly O'Brien, Deputy Director of Planning and Zoning

Date: April 24, 2023

Re: May 8, 2023, Code Create conference session: *Zoning of 901 Glyndon St SE and uses in Transitional zone*

During the February 13, 2023 conference session, the Council and staff discussed the zoning and uses of the property located at 901 Glyndon St SE at the southeast intersection of Glyndon St SE and Tapawingo Rd SE. Currently, the property is zoned C-1 Local Commercial. The Council provided its general guidance that the property retain all of its current rights for uses in the updated zoning code. Staff discussed this guidance internally and with the Town Attorney. In staff's view there are 4 options for implementing the Council's guidance, each of which offers advantages and disadvantages.

Before discussing the options, it is important to note that the uses currently on the property are vested and will remain legal uses regardless of what zoning distinction the property is assigned. The only thing that would change is what *new* uses would be permitted by right or by conditional use after the code update is adopted. This statement is true for all properties in Town. All C-1 properties along Maple Avenue that are proposed to change to either AC Avenue Center, AE Avenue East, or AW Avenue West are in a similar situation to 901 Glyndon St SE. The Town is legally allowed to change the regulations on uses, heights, setbacks, etc. for future development, but the current approved uses remain legally vested until they cease to operate on that property.

Zoning Classification Options for 901 Glyndon St SE.

The challenge for this site is that there is no zoning classification that is quite right, either under the existing code or in the draft new code. The property as developed has both multi-unit housing and commercial in the middle of a neighborhood where properties are zoned for single-unit detached housing. As a result, all existing and draft new zones are not quite a perfect fit either by the zone's allowable uses or its location.

Staff sees four possible options to implement Town Council guidance, with a brief discussion of the advantages and disadvantages of each approach. In short, the four options are:

Option 1 – T Transitional Zone, incorporating the use changes that are proposed in the overall T zone.

Option 2 – AE Avenue East District

Option 3 – AC Avenue Center District

Option 4 – Maintain C-1 zone and current uses for this property only

Depending on the guidance of the classification of 901 Glyndon St SE, staff would like further guidance on the uses in the T Transitional Zone, as discussed below.

Background and Discussion

Option 1 – T Transitional Zone, incorporating the use changes that are proposed in the overall T zone.

As a reminder from the February 13th Conference Session on Article 3, the current draft includes a provision that would allow, *as conditional uses*, additional commercial and upper-story residential development in the T Transition Zone.

The **key advantage** of the T zone for this property in the draft is that it is designed to accommodate neighborhood-scale commercial and residential uses, as conditional uses. Most of the uses currently permitted in C-1 (the current zone for this property) are accommodated in this expanded use list for the Transitional Zone, which almost (but not quite) meets the Council's guidance to provide the property with all current uses.

The **key disadvantages** with respect to the Council's guidance are that:

- Four use categories that are currently permitted in C-1 would not be permitted, either by-right or as a conditional use, in the T zone - Hotel, Outdoor Dining, Drive-through, and Dancing and Live Entertainment. An important caveat, though, is that both Outdoor Dining and Drive-Thru uses would be severely limited and unlikely to be permitted in that location under any zone because the standards related to those uses are very restrictive with respect to their proximity to residences. So, practically speaking, the uses that T Transition would not permit, as compared to the current use list in C-1, are Hotel and Dancing and Live Entertainment.
- Certain uses that are currently by-right would require approval as conditional uses. Examples include Bed and Breakfast, Grocery, Private Indoor Recreational Uses, Medical Care Facility, Public Outdoor Recreational Uses, Restaurants, Retail, Personal Services, and General Services.

Option 2 – AE Avenue East District

The **key advantage** of AE Avenue East for this property is that it includes all the uses that are currently allowed in C-1.

The **key disadvantages** are that:

- Some of the permitted uses may not be seen as compatible for adjacency to an almost-exclusively residential neighborhood. Those uses are, as indicated above, Hotel, Outdoor Dining, Drive-through, and Dancing and Live Entertainment; though, as indicated above, Outdoor Dining and Drive-through may be ruled out by standards related to proximity to residences. (See Figure 4)

- Certain uses currently listed as permitted, rather than conditional, may be more appropriate for extra scrutiny in this neighborhood context.
- The intent of the various zoning districts is to group like properties in a geographic area. The zoning classification for this property would be inconsistent with that approach because it is outside of the geographic boundary of the targeted district, which is Maple Avenue East.

Option 3 – AC Avenue Center District

The **key advantage** of AC Avenue Center for this property is that it includes all the uses currently allowed in C-1 except for Drive-throughs.

The **key disadvantages** are the same, in nature, as those of AE Avenue East:

- Some of the permitted uses may not be seen as compatible with an almost-exclusively residential neighborhood.
- Certain uses currently listed as permitted, rather than conditional, may be more appropriate for extra scrutiny in this neighborhood context.
- The intent of the various zoning districts is to group like properties in a geographic area. The zoning classification for this property would be inconsistent with that approach because it is outside of the geographic boundary of the targeted district, which is the center portion of the Maple Avenue corridor.

Option 4 – Maintain C-1 zone and current uses for this property only

As noted, C-1 is the current zoning classification for this property. Except for the discussion of this property, there has been no plan to bring this zone forward into the new list of zones. One option, then, is to retain this zone into the future, designating it only for this property.

The **key advantage** of C-1 for this property is that the property would maintain all uses currently permitted, even if the property is redeveloped.

The **key disadvantage**, in staff's view, are that:

- Allowing only this relatively small parcel to remain as C-1 would not be good zoning practice.
- Applying this zone could invite applications for rezoning to C-1 for properties that are similarly situated.
- Some of the permitted uses may not be seen as compatible with an almost-exclusively residential neighborhood.

Uses in T Transitional Zone

Some council members have expressed concern about allowing upper-story residential and other uses such as child care in the Transitional zone. Figure 3 highlights in red text the uses that are currently proposed to be added to the Transitional zone. The uses in black text are currently permitted in the Transitional zone.

Staff would like guidance on the following options:

Option 1 – Continue with uses as proposed in draft

Option 2 – Allow only the same uses allowed in the current code for this zone (those shown in black text)

Option 3 – Council guidance on which uses to include/exclude from the T Transitional zone

Background information to aid discussion:

- **Figure 1** shows the location of the parcel in question and the other non-residential or mixed-use districts and zones.
- **Figure 2** shows the uses that are listed in C-1 in the first column and what the equivalent uses would be in the proposed code update.
- **Figure 3** shows proposed uses by district or zone listed. Yellow highlighted uses are currently permitted in C-1 zone. Red text uses in T are not currently permitted in the T zone and are proposed to be added in current draft.
- **Figure 4** shows the setback distances from residential that are required for outdoor dining and drive-thru uses on the property located at 901 Glyndon St SE.

Figure 1. Map of proposed non-residential and mixed-use districts and zones

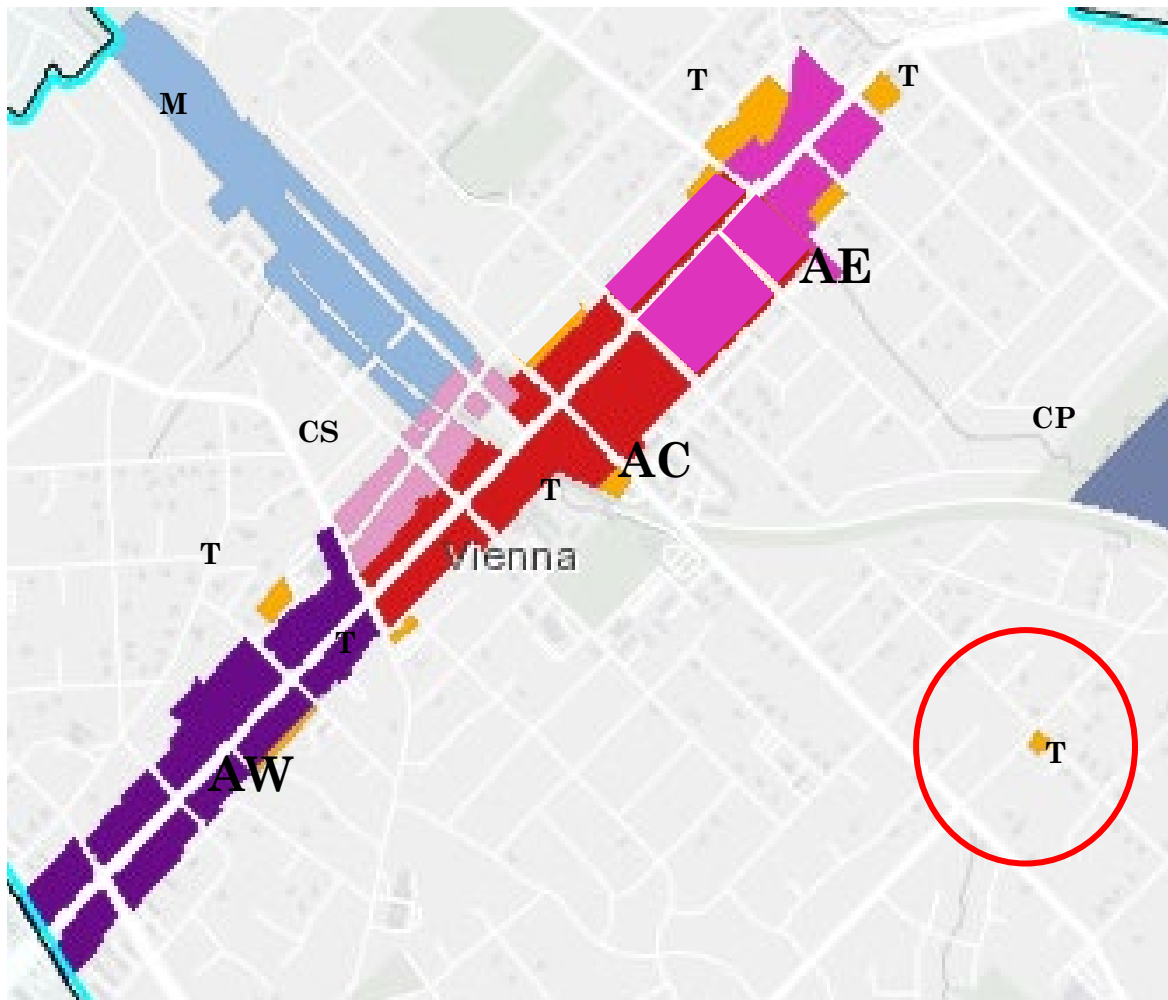


Figure 2. Current uses in C-1

Current Code Uses in C-1	Equivalent Proposed Code Uses
Principal Uses	
General business enterprises consisting of sales.	Retail
	Services, Personal
	Services, General
	Specialized Instruction
	Grocery
Home installation services associated with sales.	Services, General
Limited repairing, manufacturing, processing or assembly.	Manufacturing, Artisan
Offices.	Office
Recreation.	Indoor Recreation
	Outdoor Recreational Uses, Public
Restaurants.	Restaurant
Restaurants, carry-out.	
Bed and breakfast inns. [C]	Bed and breakfast
Motel, hotel and tourist homes.	Hotel
Hospitals, sanitariums, clinics and animal hospitals	Medical Care Facility
	Animal Care Facility
Apartments located on a floor above the street floor [C]	Upper Story Residential
Accessory Uses	
Outdoor Dining	Outdoor Dining
Massage	Massage
Drive-thru [C]	Drive-thru
Live entertainment and Dancing [C]	Dancing and Live Entertainment

Figure 3. Table of proposed uses by district or zone listed.

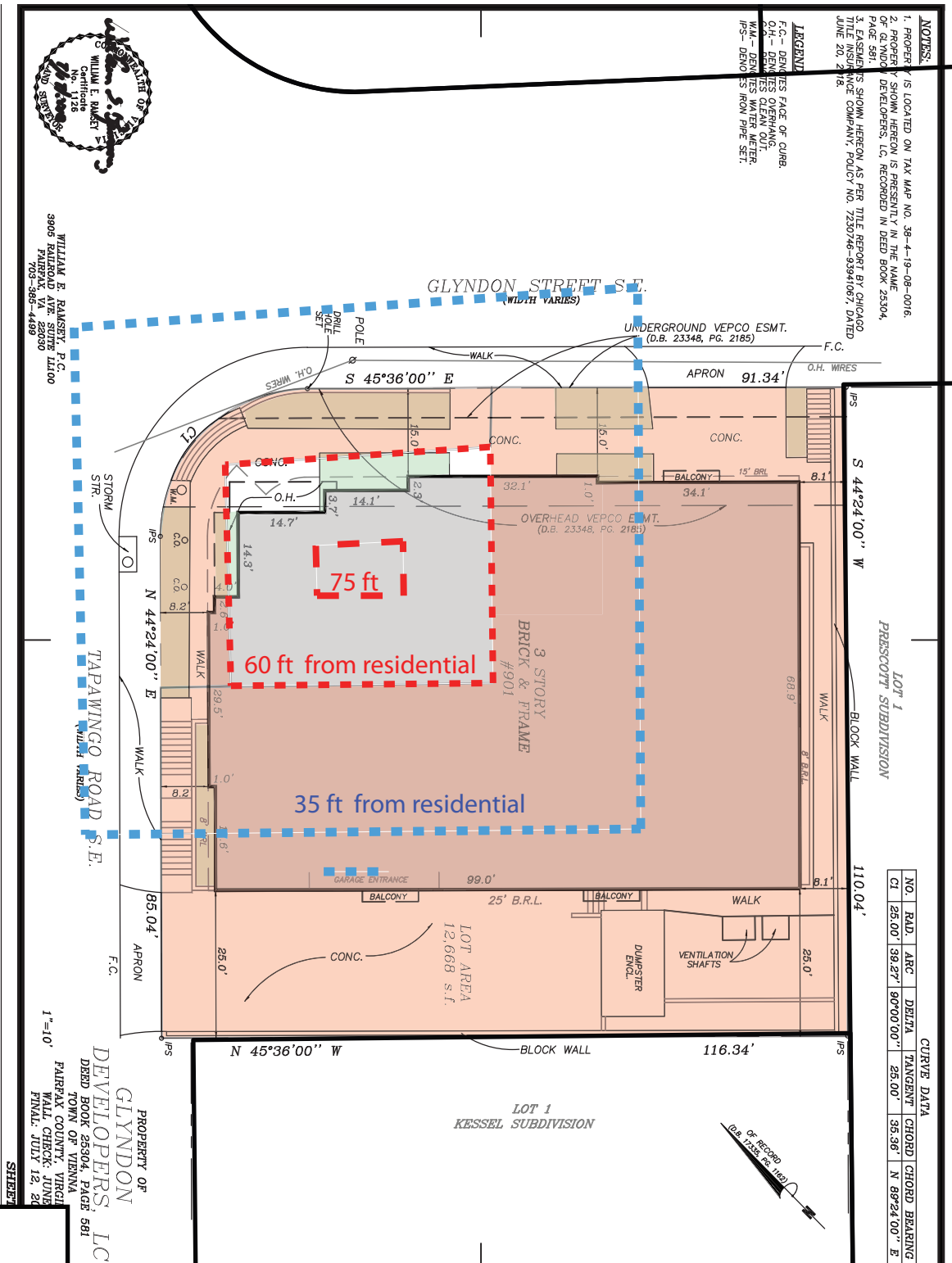
Yellow highlighted uses are currently permitted in C-1 zone. Red text uses in T are not currently permitted in the T zone and are proposed to be added in current draft. [C] designates uses that would be permitted only with a conditional use permit.

AC	AE & AW	T
PRINCIPAL USES		
Upper Story Residential	Upper Story Residential	Upper Story Residential [C]
Club or Service Organization	Club or Service Organization	Club or Service Organization [C]
		Community Garden [C]
Cultural Facility or Museum	Cultural Facility or Museum	
Government Uses	Government Uses	Government Uses [C]
Outdoor Recreational Uses, Public	Outdoor Recreational Uses, Public	Outdoor Recreational Uses, Public [C]
Religious Assembly [C]	Religious Assembly [C]	Religious Assembly [C]
Adult Business [C]	Adult Business [C]	
Adult Day Support Center [C]	Adult Day Support Center	Adult Day Support Center [C]
Animal Care Facility	Animal Care Facility	Animal Care Facility [C]
Animal Care Facility with Boarding [C]	Animal Care Facility with Boarding [C]	Animal Care Facility with Boarding [C]
Bed and Breakfast	Bed and Breakfast	Bed and Breakfast [C]
Brewpub	Brewpub	
	Carwash	
Catering [C]	Catering	
Child Care Center [C]	Child Care Center	Child Care Center [C]
College or Technical School [C]	College or Technical School [C]	College or Technical School
Commercial Off-Street Parking [C]	Commercial Off-Street Parking [C]	
	Continuing Care Facility [C]	Continuing Care Facility [C]
Entertainment	Entertainment	
Event Space [C]	Event Space [C]	
Financial Institution	Financial Institution	
Funeral Home or Mortuary [C]	Funeral Home or Mortuary	
Grocery	Grocery	Grocery [C]
Hotel	Hotel [C]	
Indoor Recreational Uses, Private [C]	Indoor Recreational Uses, Private [C]	Indoor Recreational Uses, Private [C]
Massage Therapy	Massage Therapy	Massage Therapy
Medical Care Facility [C]	Medical Care Facility [C]	Medical Care Facility [C]
Office	Office	Office







May 1, 2023, Code Create conference session:
Zoning of 901 Glyndon St SE and uses in Transitional zone

AC	AE & AW	T
Outdoor Recreational Uses, Public	Outdoor Recreational Uses, Public	Outdoor Recreational Uses, Public [C]
Restaurant	Restaurant	Restaurant [C]
Retail	Retail	Retail [C]
Services, General	Services, General	Services, General [C]
Services, Personal	Services, Personal	Services, Personal [C]
Shared Kitchen [C]	Shared Kitchen	
Specialized Instruction	Specialized Instruction	Specialized Instruction
	Vehicle Fueling Station	
	Vehicle Maintenance or Repair	
	Vehicle Sales and Rental [C]	
Craft Beverage Production Establishment [C]	Craft Beverage Production Establishment [C]	
Manufacturing, Artisan	Manufacturing, Artisan	Manufacturing, Artisan [C]
ACCESSORY USES		
Catering for Restaurant	Catering for Restaurant	
		Community Garden
Curbside Pick-up	Curbside Pick-up	Curbside Pick-up
Dancing and Live Entertainment [C]	Dancing and Live Entertainment [C]	
	Drive-thru [C]	
Home-based business	Home-based business	Home-based business
Keeping of Companion Animals	Keeping of Companion Animals	Keeping of Companion Animals
Massage Therapy	Massage Therapy	Massage Therapy
Outdoor Dining, Seasonal	Outdoor Dining, Seasonal	
Outdoor Dining, Permanent, 1-12 seats	Outdoor Dining, Permanent, 1-12 seats	
Outdoor Dining, Permanent, 13 or more [C]	Outdoor Dining, Permanent, 13 or more [C]	
Outdoor Display and Sales	Outdoor Display and Sales	
Recycling Drop-off	Recycling Drop-off	
Ride Share Standing Area	Ride Share Standing Area	
Smoking Lounge [C]	Smoking Lounge [C]	
Vehicle Charging Station	Vehicle Charging Station	Vehicle Charging Station
Wireless Facility [C]	Wireless Facility [C]	Wireless Facility [C]

Figure 4



- ## LEGEND

-  35 ft setback from residential
-  60 ft setback from residential
-  75 ft setback from residential
-  No outdoor dining permitted in this area
-  Building
-  Landscaping

No speaker box or other audio mechanism, regardless of operating hours, shall be located closer than 35 feet from any residentially-zoned property

Outdoor dining is not permitted within 60 feet of properties which are both residentially zoned and utilized. Outdoor dining located between 60 to 75 feet of a residentially zoned property utilized for residential uses must meet the following criteria

A drive-through facility operating later than 10:00 p.m. shall not have any portion of its operation (including, but not limited to, the stacking lane, menu boards or speaker boxes) located closer than 75 feet from any residentially-zoned property.