

Potential Zoning Revisions

In reviewing the zoning ordinance, I noted anything that seemed unclear, or a typo, or similar problem. Some of what follows are just questions for my own edification. I have underscored areas where I think the zoning ordinance needs to be revised, or where there needs to be a thorough discussion on a topic.

Mark Pierzchala, 4/26/2010

Definitions and related

1. Section 25.03.01.7: What is meant by *common dictionary meaning*?
2. Section 25.03.02 – Words and Terms Defined
 - a. *Adult Day Care Center* – Why 4 people, why not 3 for example?
 - b. Need to define *Grade*
 - c. *Automobile Filling Station*: The definition is okay once it says what is being dispensed or selling for retail sale
 - d. *Basement*: Put note in parentheses that says (See cellar.)
 - e. *Boardinghouse*: Why 3? Why not 1 or 2?
 - f. *Build-To-Line*: Awkwardly defined, especially the bit “is required to occur on”
 - g. *Cellar*: Put note in parentheses that says (See basement.)
 - h. Need a definition for a *Cooking Facility* which is any device that cooks food.
 - i. Need a definition for DRC
 - j. Need a definition for *de novo*
 - k. *Established Setback*: Last line, maximum what?
 - l. *Family*: Take out the whole last part of the definition where you have up to five (5) unrelated persons.
 - m. Need a definition for *Fee Simple*
 - n. *Kitchen*: The phrase “The presence of a range or oven” should be replaced by “The presence of any cooking facility or device”.
 - o. *Live/Work Unit* – There are a number of living arrangements, such as *Work/Live* and others that should all be defined in this section. Additionally, it would help if there is a table of such terms where the distinction between all of these can be made clearer.
 - p. Need a definition for *Lot, deeded*

- q. *Lot, Qualifying*: The technical definition is okay, but what is it for?
- r. Need a few pictures to illustrate the whole concept of *Lot Line*
- s. Need a definition for *Low Income*
- t. Need a definition for MPDU
- u. *Overlay zone*: Can the phrase “that either add to or modify the requirements of” be construed to mean “or substitute for”?
- v. *Parking Facility*: Why the number 7?
- w. *Petitioner*: Says “See ‘Applicant’”, but there is no definition for *Applicant*.
- x. Need a definition for *Planned Development*.
- y. *Project Plan*: Suggest that after “a major project proposal” that the qualifier is added “as determined by the point system in 25.07.02
- z. Need definition for *Residential*
- aa. Need a definition of the kinds of roofs. I know there is a diagram somewhere that is very nice, but it should be here.
- bb. *Senior Adult*: Why age 62? Why not 60?
- cc. *Shopping Center*: Why 6?
- dd. Need to add a definition for *Sign, Bicycle*
- ee. *Single Housekeeping Group*: Why is this here?
- ff. *Special Exception*: Do we need a definition of “compatibility”?
- gg. *Story*: part 3 of definition: See the definition of mezzanine, especially the 1/3 number. Seems that between these two definitions, you will get nothing in reality that is a mezzanine
- hh. *Story, Half*: need pictures
- ii. *Stream Buffer*: July 1999, is this some sort of valid date?
- jj. Need definition for *Town Center Management District*
- kk. *Use*: part 2 of the definition, *Use, Conditional*: where are the specified conditions stated?
- ll. Need a definition for *Work/Live Unit*
- mm. Section 25.03.03 – Terms of Measurement and Calculation

- i. Under c. Terms of Measurement, part 3, Height of building, there should be a provision where it is prohibited to raise the grade post construction, in order to meet the height requirement.
- ii. Also under c. Terms of Measurement, there should be a definition or mention of Maximum Height where the measurement is to the peak of the roof. This is used in Article 10, Single Dwelling Unit Residential Zones.
- iii. Section 25.03.03.c.4 *Lot Area*: Need pictures for these lot areas.

Zoning Ordinance Text Items

1. Section 25.01.04 .b: Does this give the Approving Authority to disregard the whole zoning ordinance?
2. Section 25.04.02.(c) “. . . and intent of this Chapter” should be “. . . and intent of this Chapter and the Plan”.
3. Section 25.04.05.c.5.(b) – Replace “Commission” with “Board”
4. Section 25.04.06.1.(c) and (d): Do *administrative interpretations* and *administrative adjustments* need to be defined?
5. Section 25.04.06.b.1.(b), should “Planning Commission” be replaced by “Approving Body”
6. Section 25.05.03.c.3 – Does the Chief of Planning have to certify the acceptability of the list?
7. Section 25.05.05 – Should the applications be put on the web?
8. Section 25.05.06 – What is the “official record”? Whatever it is, it should be put on the web.
9. Section 25.05.07.b.5: “. . . determines that the change is not minor” should be “. . . determines that the change is not minor, it is a major change and the”
10. Section 25.05.10: Need a definition for *jurisdictional defect*
11. Section 25.06.02 – Modify the heading Text Amendments to Zoning Text Amendments (ZTA)
12. Section 25.06.04 – Administrative Interpretation. The Chief of Planning has final interpretation authority; should a citizen group have the capability to ask the Department Head to review, and potentially reverse or modify an interpretation? Sort of like a home-plate umpire having to check with the 3rd base umpire on a checked swing.
13. 25.06.05.2, lead this off with “It is”
14. Section 25.07.01.b.2.(d) “. . . of this Code” should be “. . . of the City Code”
15. Section 25.07.02.a.2: Need to have some definition around *Pre-Application Area Meeting*. See **Notes on the Review Process** below.

16. Section 25.07.02.a.4, *Historic Review* Don't we have an existing inventory of historic properties? Why is there always this continual review for historic significance?
17. Section 25.07.02.b.1, Need a definition for *residential impact area*. Also, need a definition for *peak hour trips*
18. Section 25.07.04.6: At the end: ". . . and intent of this Chapter" should be ". . . and intent of this Chapter and the Plan"
19. Section 25.07.05.2 *Pre-Application Area Meeting*: ". . . to outline the scope of the project, and to receive and seriously consider comments.
20. Section 25.07.08.7, why isn't this provision in 25.07.06?
21. Section 25.07.09, some of this process is too much for lower-point applications.
22. General note: Throughout the chapter, the term ". . . intent of this Chapter" should be amended ". . . intent of this Chapter and the Plan".
23. Section 25.09.03.a.1, footnote 1 after the table. "finished grade"; shouldn't this be the grade prior to the construction?
24. Section 25.09.05.1.(f).ii: I just don't get this whole paragraph on canopies
25. Section 25.10.05.b.2, why is there this exception for housing for senior adults and persons with disabilities and life care facilities?
26. Section 25.10.09.b, I can't read this because the picture is on top of it
27. Section 25.11.03.d – Child care center: Are these intended for private homes?
28. Section 25.11.05, why is this section only for RMD-10 zones? Why not RMD-15 or RMD-25?
29. Section 25.12.04, the I- H row; would a grain elevator fit under this definition?
30. Figure 12.1, the Layback Slope Example is all askew
31. Section 25.13.02- Zones Established; The table of Mixed Use zones
 - a. All these rows refer to density where this term is not defined. There needs to be explicit definitions for these kinds of density
 - b. All rows of this table should refer to the applicable master plan such as we see for MXB.
32. Section 25.13.03 – Land Use Tables; It is possible to have 100% of any use in these mixed-used zones. This needs to be revised so that these areas end up as mixed use. The only thing I could find in the Chapter that seems to require true mixed use is that some of the commercial mixed-use zones call for ground-floor commercial.

33. We also need to assess whether some of the smaller commercial areas in the City should be re-zoned as a true commercial zone, re-establishing what we had in the prior zoning ordinance.
34. Section 25.13.05.2.(a).ii.C: Why?
35. Section 25.13.05.2.(a).ii.D: I don't get this.
36. Section 25.13.05.2.(d).i. (From the last sentence above: "This layback slope requirement does not apply to i. Areas adjacent to the MXT zone. Why not?)
37. Section 25.13.05.2.(d).vi: same as above but for the MXC zone. Why not?
38. Section 25.13.06.c.9, need to define *ancillary uses*
39. Section 25.13.07.a.6: Parking, is this requirement too inflexible? What would the business community say?
40. Section 25.14.01.d.1.(a).(v): Why is "Any other person" allowed to apply?
41. Section 25.14.02.c.3: Should "in writing" include email?
42. Section 25.14.07 – Planned Development Zones: are new ones allowed?
43. Section 25.14.10 – PD-FM2 (Fallsmead 2) and other subsequent sections, why is the designated equivalent residential zone R-60?
44. Section 25.05.01.b.1.(b): Who are "all parties entitled to notice"?
45. Section 25.15.02.c.6.(a).(vi), spelling error at end
46. Section 25.15.02.f.2.(a).i: "ppropriately" needs a leading 'a'
47. Section 25.15.02.j.2: There should be reference to *density*.
48. Section 25.15.02.j.3.(c): Why is the MXT zone singled out?
49. Section 25.15.02.j.3.(e): We need to take the allowed 50-foot height down to 35 feet. Here and in other places such as Section 25.15.02.k.3.(e) Life Care Facility
50. Section 25.17.02.d.2, the Fee in Lieu resolution, where is this recorded?
51. Section 25.17.02.e: What is an *affordable dwelling unit*?
52. Section 25.17.05.b.3; the table of Sidewalk Design Standards: Are these reasonable?
53. Section 25.17.06.a: Include the MXT zone.
54. Article 18 – Signs: I know that some areas of the City, e.g., King Farm, would like to see some restrictions reduced in order to get traffic into shopping areas. How would this be done?

55. Section 25.21.10.e, I think we shouldn't be explicit about forms of digital media. 3.5" diskettes are out and CD-ROM disks will be sooner or later.

56. Section 25.21.11.d: replace 'most' with 'must'

Notes on the Review Process, draft for wider discussion by the Communications Task Force

1. Area meetings should be of a form where:
 - a. Minutes can be taken. The reason is to have a meeting where everyone can hear the same commentary, and hear the same questions and answers.
 - i. A series of meetings with individuals does not count as an area meeting.
 - ii. A charette-style meeting does not count as an area meeting.
 - b. A private minute-taking organization should be hired by the developer to take the minutes and the minutes should be available to anyone.
 - c. Copies of the materials used in the meeting should be available to anyone. These can be in digital form using commonly available file formats such as PDF files.
 - d. The roster of 'interested parties' should be made available to anyone who asks, including the required mailing lists
 - e. At the beginning of the meeting, a City-produced DVD should be played (maybe 5 or 7 minutes) that explains the development process. In particular, the DVD should specifically indicate the criteria under which area citizens can object to a project or attempt to modify it. For example, it doesn't do any good for citizens to just say they don't like it. The zoning ordinance relationship to The Plan and its role in determinations should be part of the DVD. The DVD should explain how the City Staff review developer's applications according to explicit tests and methodologies. Citizens should be encouraged to engage responsibly.
2. A short document should be produced giving examples of how objection criteria are evaluated. For example, what does it mean to "Change the character of the neighborhood"? How do citizens show this?
3. City staff briefing materials to an Approving Authority must explicitly address citizen concerns.
4. The Approving Authority should must explicitly address all citizen concerns.
5. Any staff report should be available X days before the Planning Commission meeting to all interested parties. Citizen comments must be included.
6. Tightly scheduled successive meetings are hard for a neighborhood group to deal with and to have meaningful involvement.
7. Modifications to an application must be given in a timely manner to all interested parties.

8. Advanced review of other parties' materials should be afforded to all parties or none at all.
9. The Approving Authority should follow the order of the published agenda.