



CITY COUNCIL

Public Hearing

**New Zoning Ordinance and Zoning Map
Tuesday, July 20, 2010
Council Chambers
5:00 p.m.**

I. Call to Order and Purpose

The purpose of this public hearing is to obtain public comment on the provisions of the newly proposed zoning ordinance.

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the "MPC") provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

In each zoning district, different uses are allowed or prohibited. There are three different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer,
- as a special exception use, with the zoning approved by the Zoning Hearing Board, and
- as a conditional use, with the zoning approved by the City Council.

Intense and potentially controversial uses should only be permitted as special exception or conditional uses. This results in a public meeting that allows public comment. The Zoning Hearing Board or City Council can carefully review the application to make sure that it complies with the City ordinances. Also, conditions can be placed upon any approval, such as conditions to protect public safety.

Generally, an existing use that was legal when it was first established can continue to operate regardless of zoning regulations. An existing use that would not be permitted under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

I. Oath to all planning to testify

III. Testimony from City Staff

- **Council Questions**

IV. Public Comment (No More than 10 minutes)

V. Announcement of expected date of decision

City Council will render a decision to approve or deny new zoning ordinance and zoning map at the Regular Meeting of Council scheduled for Monday, July 26, 2010 in Council Chambers, City Hall.

VI. Adjourn

URBAN RESEARCH AND DEVELOPMENT CORPORATION

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May 28, 2010

TO: Citizens and Officials of the City of Reading

FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)

SUBJECT: **Summary of Major Issues Regarding the Zoning Ordinance**

This memo summarizes major policy issues regarding the proposed New Zoning Ordinance. The Zoning Map is intended to be re-adopted without any changes, except for the addition of Institutional Overlay Districts, described below.

This discussion is not intended to provide legal advice. It is essential to continue to have the City's Legal Department involved in reviewing the proposed ordinance changes.

URDC is assisting the City in the preparation of an Official Map and the updating of the Subdivision and Land Development Ordinance (SALDO). The Zoning Ordinance is much more policy oriented than the SALDO, which is more a technical document used by engineers and surveyors on larger developments.

Overview of Zoning

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the “MPC”) provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

Ways to Address Different Uses

In each zoning district, different uses are allowed or prohibited. There are three different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer,
- as a special exception use, with the zoning approved by the Zoning Hearing Board, and
- as a conditional use, with the zoning approved by the City Council.

Intense and potentially controversial uses should only be permitted as special exception or conditional uses. This results in a public meeting that allows public comment. The Zoning Hearing Board or City Council can carefully review the application to make sure that it meets City ordinances. Also, conditions can be placed upon any approval, such as conditions to protect public safety.

- However, a special exception or conditional use is still an “allowed” use. Therefore, under the law, it is difficult to reject a special exception or conditional use if the applicant proves they meet all of the specific requirements of the zoning ordinance. Generally, in such case, the application could only be rejected if an opponent or the City was able to prove that the application violated a “general” requirement of the Ordinance. For example, it might be possible to prove that a certain type of industrial use would generate a major public safety hazard.
- Reading currently mainly uses the special exception use processes, which is proposed to be continued. (Note - With a special exception, the City Council can provide testimony before the Zoning Hearing Board, and can appeal their decisions.) A few uses are proposed to be conditional uses.

Nonconformities

Zoning primarily regulates **new** development, expansions of uses and changes in uses. Generally, an existing use that was legal when it was first established can continue to operate regardless of zoning regulations. An existing use that would not be permitted under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

For example, an auto repair garage may have existed before the City adopted zoning. It is located in a residential district. It may be changed to a store, which would be less intense. However, it could not be changed to an asphalt plant, which would be more intense.

Likewise, in most cases, existing vacant lots that were legally established may be built upon – even if they do not meet the minimum size requirements of a zoning ordinance. However, any building would still need to meet setback requirements, wetland regulations and sewage requirements.

However, if a use was not legal when it first started, it has no right to continue.

Lot Sizes

Please keep the following lot sizes in mind:

One acre = 43,560 square feet (such as 150 by 290 feet)

One-half acre = approximately 22,000 square feet (such as 125 by 175 feet)

One-quarter acre = approximately 11,000 square feet (such as 80 by 135 feet)

Major Goals and Objectives

The following major goals and objectives provide direction for the Zoning Ordinance. These are generally based upon the City's Comprehensive Plan.

- Provide for compatibility between different types of development, particularly to protect residential areas from very intense business uses and nuisances.
- Encourage types of housing that are most likely to be owner-occupied, such as single family detached houses, side-by-side twin houses and townhouses.
- Seek coordinated development and traffic patterns with adjacent municipalities.
- Strengthen the sense of community in various neighborhoods.
- Seek appropriate adaptive reuses of historic buildings.
- Promote a pedestrian friendly environment that allows people to walk to nearby stores.
- Promote appropriate types of businesses in business zoning districts to attract employers and generate additional tax revenue, while avoiding the most intense business uses next to residential areas.
- Seek an attractive vegetative buffer along the Schuylkill River, the Tulpehocken Creek and Angelica Creek, and maintain Mt. Penn and Neversink Mountains in woodland.
- Meet obligations under State law to provide opportunities for various land uses.

Summary of the Proposed Zoning Districts

The following summarizes the proposed provisions for each zoning district in the City:

P Preservation District

- a. This zoning district primarily includes the portions of Mt. Penn and Neversink Mountain that are within the City, as well as the lands along the Schuylkill River, Tulpehocken Creek and Angelica Creek. This district also includes the larger parks in the City. Almost all of these lands are unsuitable for development because of proneness to flooding or the steepness of the slopes. Most of this land is in public ownership or is preserved by a conservancy or a trust, except for some areas that are intended to be turned into public recreation land. The goal is to make sure that waterways and mountains serve as amenities that tie into regional recreation, water quality and tourism efforts. This district is proposed to continue to not allow housing and to mainly allow recreational uses.
- b. Much of this district is also within the 100 year floodplain. These are areas expected to be flooded during the worst storm in an average 100 period. The City has an ordinance to carry out Federal and State regulations on this matter. That ordinance greatly limits new construction of buildings within flood prone areas, and in some cases requires that new buildings be elevated or flood-proofed.

R-1A Low Density Residential District

This district includes the east side of Mt. Penn. It is proposed to continue to allow single family detached houses on 20,000 square feet (½ acre) lots. Removal of mature woodlands would continue to be limited. A new provision would limit construction of new principal buildings on very steeply sloped areas (over 25 percent).

R-1 Low Density Residential District

- a. This district includes areas near the City border in the southwest, northwest and northeast parts of the City, as well as along Eckert Avenue south of Mt. Penn.
- b. This district is proposed to continue to allow 6,000 square feet lots for single family detached houses. No other housing types are proposed to be allowed.
- c. To avoid over-regulation of expansions of homes and other routine changes, the draft ordinance proposes to require smaller side yard setbacks (7 feet each) and to allow higher percentages of a lot to be covered by buildings. New provisions would also make it easier to construct an unenclosed deck in a rear yard of a home.

R-2 Medium Density Residential District

- a. This district includes areas in the northeast and southwest parts of the City, including areas north and east of Lancaster Avenue.
- b. To make it easier to construct single family detached houses, the minimum lot size is proposed to be reduced to 3,000 square feet. Currently, the ordinance discourages construction of singles because they need much larger lot sizes than other housing types. This district would continue to allow for side-by-side twin homes on 2,500 square feet lots per unit and 1,800 square feet lots for townhouses.
- c. The draft ordinance would specifically prohibit the conversion of a one family home (including a single, twin or rowhouse) into two or more housing units. Apartment conversions can harm neighborhood stability, reduce property maintenance, increase transiency, increase fire hazards and cause parking shortages.

- d. Side yards are proposed to be reduced and building coverages proposed to be increased to encourage improvements to homes, and reduce the need for variances. These adjustments will also make it easier to construct rear garages.
- e. College uses and dormitories are proposed to continue to be allowed as special exception uses in R-2 and R-3. A new Institutional Overlay zoning district is described below.
- f. Churches and other places of worship would continue to be special exception uses in residential districts, except new churches would not be allowed in R-1. The minimum lot size is beneficial to a house in the middle of a block from being converted into a church. Federal and State laws generally require that places of worship be allowed in most areas of a municipality, unless there is a strong justification to not allow them in certain areas.

R-3 Residential District

- a. This district includes most of the residential neighborhoods in Reading, particularly including most of the rowhouse neighborhoods.
- b. The draft ordinance would specifically prohibit the conversion of a one family home (including a single, twin or rowhouse) into two or more housing units.
- c. This district would continue to allow all types of housing.
- d. The draft ordinance would include a density bonus for housing that is limited to older persons (such as age 62 and older).
- e. With special exception approval, this district (and R-2) would allow the adaptive reuse of an industrial or institutional building into residential or commercial uses. The goal is to have a process that allows the Zoning Hearing Board to approve desirable types of reuses of older buildings without an applicant having to prove there is a legal hardship.
- f. A maximum building setback would be established. The goal is to have most parking placed to the side or rear of buildings, with the building placed close to the street. The goal is to also maintain a consistent streetscape. Currently, there are cases where a building may be required to have a 15 foot front yard, even though a zero front setback may be more appropriate.
- g. Where a rear alley of 10 feet or more of width exists or could be extended, it would be required to be used as access for parking and garages. The goal is to keep front sidewalks free of turning vehicles and avoiding the removal of on-street parking spaces for driveway cuts. The front yard setbacks would be reduced, in order to promote a usable rear yard area.
- h. To make it easier to build additions on existing homes, in the R-3 district, the minimum side yard is proposed to be decreased to 3 feet on each side, where buildings are not attached to each other.

Home Based Businesses/ Home Occupations

In all residential districts, all home occupations currently need Zoning Hearing Board approval, except for home computer work and home crafts. The draft ordinance would require the most intensive types of home occupations to obtain special exception approval from the Zoning Hearing Board. However, additional low intensity home occupations would be allowed by right. No more than one employee who does not live in the dwelling would be allowed to work in the home occupation at one time.

Student Homes

Student Homes would only be allowed in the R-1A, R-1 and R-2 districts if they are in an existing apartment unit. Therefore, a single family home in these districts could not be turned into a Student Home. The provisions for numbers of students living within a dwelling unit would be relaxed for units owned by a college or university within the proposed Institutional Overlay District.

INS Institutional Overlay District

- a. The bulk of the campus of Albright College is in the R-3 district, while the bulk of the Alvernia University campus is in the R-2 district, and the bulk of the RACC campus is in the C-C Commercial Core District.
- b. A new Institutional Overlay District is proposed for the core campuses of these institutions. This proposed district would provide alternative provisions for the core of the campuses of Alvernia University, RACC and Albright College, as well as the Health Sciences building of Reading Hospital and the proposed Reading Hospital nursing dormitory on Kenhorst Blvd.
- c. This Overlay District would provide an optional process for zoning approval that would allow higher education uses as a by right use, vs. needed special exception approval. The intent is to also allow dimensional flexibility in the centers of these campuses.

-Outside of the overlay district, special exception approval would continue to be needed for college uses. In these areas, additional setbacks would be required between college dormitories and other housing.

-Building heights for colleges would vary with the distance from privately owned houses. The goal is to encourage taller buildings towards the center of college campuses.

- d. Colleges would be permitted by right in most commercial and industrial districts, except college residential uses would not be allowed in industrial districts.
- e. Fraternities and sororities would not be allowed unless their building was owned or operated by a college.

MU Municipal Use District

This district was added last year to allow various City government uses and utility uses on Fritz Island.

R-PO Residential Professional Office

This district would continue to allow offices, day care centers and residential uses under the regulations of the R-2 district. This district applies along Kenhorst Boulevard from south of Pershing Boulevard to north of Lancaster Avenue..

R-O Residential Outlet District

This district was removed when the former outlet area was recently changed to the C-N district.

C-N Neighborhood Commercial District

- a. It is appropriate to maintain two commercial districts: a) a Highway Commercial District that allows a wide variety of commercial uses, such as auto repair, gas stations, restaurants with drive-through service, and other heavier commercial uses, and b) a Neighborhood Commercial District that mainly allow lighter types of commercial uses. The C-N district includes scattered areas of commercial uses, including the area around 5th and Spring Streets, and the area around 9th and Spring Streets.
- b. The intent of the C-N district is to control the development of very intense commercial uses immediately next to residential neighborhoods, and to promote the reuse of older buildings.
- c. The C-N district would continue to allow offices, retail stores, personal services, restaurants without drive-through service and similar uses. The C-N district also allows the same housing as the R-3 district. Taverns would continue to need conditional use approval from City Council.
- d. The former outlet centers in the vicinity of Oley and 9th Streets were previously changed to the C-N district to allow a wider ranges of uses.
- e. In the C-N district, vehicle fuel sales would need conditional use approval instead of currently being allowed by right. Drive-through restaurants would be specifically prohibited.
- f. Existing row homes would be limited in their ability to be converted to commercial businesses if they are adjacent to existing dwellings. New restaurants would not be allowed in the middle of attached dwellings.

Riverfront Redevelopment Overlay District

This district was added 2 years ago to allow more intensive mixed use residential/ commercial/ recreational development of areas between Center City and Schuylkill River. Most of these areas are also in the M-C district. This area extends from south of Penn Avenue, along both sides of 2nd Street, along both sides of Canal Street, to east of 7th Street.

Penn Square Overlay District

This is an “overlay district” that includes some slightly different regulations for properties along Penn Square/Penn Avenue between 2nd and 6th Streets. The Penn Square Overlay District is proposed to be re-written to emphasize control on street level uses of lots fronting on these core blocks..

C-H Highway Commercial District

- a. This district allows a wide range of commercial uses along Lancaster Avenue. The allowed uses include auto sales, banks, offices, day care, gas stations and motels.
- b. Bottle clubs and taverns would continue to need conditional use approval.
- c. Manufactured home parks must be allowed in at least one district in each municipality. For lack of a better location, they are proposed to be allowed in the C-H District, at a maximum of 5 homes per acre, if they have obtained special exception approval.

C-C Commercial Core District

- a. This district applies to the Downtown and immediately adjacent areas. The area around the Google Works was recently added to this district. It purposefully includes few dimensional regulations because the intent is to maximize use of sites in the Downtown.

- c. This district would allow a density bonus for senior apartments, and not allow new apartment buildings unless the first floor includes a commercial use on the street level.
- d. The St. Joseph's Hospital Downtown Campus is within this district.
- e. In the C-C district, the maximum height would be 100 feet, except that a 175 feet height would be allowed by special exception.
- f. The City has to have a location that allows Gaming Facilities, if they would ever be allowed under State law. The proposed location is C-C, as a conditional use.

M-C Manufacturing-Commercial District

- a. This district allows most manufacturing uses, as well as warehousing and truck terminals. The intent was to limit heavier types of industrial uses to the H-M district. Most industrial areas, former railroad lands and areas along Heister Lane/Rockland Street are within the M-C district. The types of manufacturing uses that are allowed by right vs. special exception has been updated.
- b. This district would continue to allow many types of commercial uses, such as trade schools, banks and exercise clubs. Junkyards would no longer be allowed.
- d. There is a 50 feet maximum height, which is proposed to be increased to 60 feet.
- e. Currently, 20% of every lot in the M-C district is required to be in lawn, plantings or landscaping. This percentage would be reduced to 10% and instead emphasize trees vs. grass.
- f. Minimum setbacks would increase for a business next to a dwelling, but decrease for a business next to a business.

H-M Heavy Manufacturing District

- a. This district currently includes Carpenter Technologies facilities on both sides of the Schuylkill River, as well as areas east of Wyomissing Boulevard that are west of Schlegal Park and south of Holy Name High School.
- b. This district allows a wide range of industrial uses as by right uses.
- c. Section 1106 currently requires that 40% of each lot must be maintained in lawn, plantings or other landscaping. That is an unusually high percentage. It is proposed to be reduced to 10% and instead emphasize trees vs. grass.
- d. In the H-M district, the maximum height would be increased to 70 feet. Minimum setbacks would increase for a business next to a dwelling, but decrease for a business next to a business.
- e. A few uses are proposed to be moved to needing special exception approval, such as Trash Transfer Stations, Chemical Plants and Asphalt Plants.

Control of Nuisances and Controversial Uses

Additional controls on excessive lighting and noise are proposed. The noise limit would vary by whether the noise is heard in a dwelling and by time of day.

New regulations are proposed for Pawn Shops, Gaming Uses and Treatment Centers (including alcohol and drug treatment and criminal halfway houses). A new section would send applicants to the Zoning Hearing Board where there is a claim that a zoning provision must be modified to comply with the Americans With Disabilities Act or the Federal Fair Housing Act.

Adult Uses

Unfortunately, many adult uses must be allowed in each municipality under numerous Federal and State court decisions. Adult uses mainly include adult bookstores, massage parlors and strip clubs. If they are not specifically regulated, they can get a zoning permit as a regular commercial use. The current zoning ordinance includes an appropriate set of provisions that are based upon many Federal court decisions. The existing provisions limit adult uses to the H-C district, require conditional use approval, and establish a 200 feet wide setback from a residential district. Adult uses are proposed to be moved to the H-M Heavy Manufacturing district. A few additional provisions would be added, such as limits on hours of operation.

Landscaping and Green Building Design

Incentives are proposed for green roofs and other types of green construction. Updates have been proposed of various landscaping and buffering provisions.

Parking

The Zoning Hearing Board would have additional authority to provide some flexibility in parking requirements, such as if different uses are sharing parking. Otherwise, a hardship variance would be needed.

Signs

Political sign provisions have been streamlined to make them more resistant to challenge. New limits are proposed on the frequency of change by large electronically changing signs. Billboards would be limited to the H-M, H-C and MU districts, and no longer be allowed in the M-C district. Internally lit signs in residential districts would be limited to a maximum of 20 square feet of sign area.

Economic Development

The zoning provisions have been reviewed to address unnecessary regulations that may delay or obstruct desirable types of economic development. For example, one section of the current ordinance says that only one type of principal use is allowed per lot. Multiple uses are often needed to support the rehabilitation of large old buildings.

The draft proposes to allow small setbacks between two business uses, or between two institutional buildings, but a larger setback between a intensive business use and a residential district.

Please contact us if there are any questions or comments.

