

City Commission

AGENDA SUMMARY

APPROVED - DISAPPROVED
BY CITY COMMISSION

DATE: 4 March 4, 2021

M. Dana Peterson



SUBJECT: Ordinance 4761-20: Third Reading (Public Hearing Continued)
An Ordinance to amend Articles II and VI of the City of Johnson City Zoning Code regarding the MX-1 (Mixed-Use Neighborhood) District

MEETING: City Commission - Mar 04 2021

DEPARTMENT: Development Services

STAFF CONTACT: Preston Mitchell, Development Services Director

SUMMARY:

The MX-1 Mixed Use Neighborhood District was originally intended to promote the development of affordable housing as part of new, greenfield mixed-use developments in Johnson City. The likely application under this original scenario was for the MX-1 zoning district to be assigned to large developments (over 2 acres in size), often in conjunction with annexations at the fringe of the city limits. Since its adoption, the district has been used sparingly for small affordable housing residential developments. While the Planning Staff supports efforts to develop affordable housing ("value-oriented housing"), changes in state law have made the current requirements unenforceable (prohibition of inclusionary zoning).

Given recent efforts to improve opportunities for infill development and reinvestment within the city's urban core, as is called for throughout the Comprehensive Plan 2020 (primarily in the Land Use Element and Urban Growth & Services Element), planning staff recognizes that the MX-1 zoning district can be an excellent tool to support such efforts. However, in order to meet this new intent/application, some modifications to the zoning district must be considered.

STAFF RECOMMENDATION:

Staff recommends approval

SUPPORTING DOCUMENTS:

MEMO MX-1 TEXT REVISION

ORD 4761-20 TextAmendment MX1-District 012121CC-1stRead

MX-1 Rev-Jan2021

ORDINANCE NO. 4761-20

AN ORDINANCE TO AMEND ARTICLE II – DEFINITIONS AND ARTICLE VI – USE REQUIREMENTS BY DISTRICT IN THE CITY OF JOHNSON CITY ZONING ORDINANCE AS IT RELATES TO MX-1 (MIXED USE NEIGHBORHOOD) DISTRICT.

WHEREAS, Sections 13-7-201 to 13-7-211 of the Tennessee Code Annotated provide the City of Johnson City, TN with the powers and authority to enact local municipal zoning codes;

WHEREAS, said Sections provide a process for amendment of local municipal zoning codes;

WHEREAS, the Johnson City Regional Planning Commission on December 8, 2020 considered and recommended amendments to the Zoning Code of the City of Johnson City hereto;

WHEREAS, The Board of Commissioners of the City of Johnson City, TN has determined that it is in the public interest to amend the local municipal zoning codes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY AS FOLLOWS:

SECTION 1. That Article II – Definitions and Article VI – Use Requirements by District in the City of Johnson City Zoning Ordinance as it relates to MX-1 Mixed Use Neighborhood District, Exhibit A, is amended as underlined and/or stricken.

SECTION 2. BE IT FURTHER ORDAINED, That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. BE IT FURTHER ORDAINED, That this ordinance shall take effect upon final passage and publication of this ordinance in a newspaper of general circulation, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON
THE FIRST READING 1-21-2021

PASSED IN OPEN, PUBLIC MEETING ON
THE SECOND READING 18 FEB 2021

PASSED IN OPEN, PUBLIC MEETING ON
THE THIRD READING 04 MAR 2021

APPROVED AND SIGNED IN OPEN MEETING
ON THE 4th DAY OF March, 2021
FOLLOWING PASSAGE ON THIRD READING.



MAYOR

ATTEST:



CITY RECORDER



STAFF ATTORNEY

Date: December 8, 2020
To: Johnson City Regional Planning Commission
From: Matthew Manley, AICP
Senior Planner

SUBJECT: Revision of Article II – Definitions & Article VI – Use Requirements by District, in the City of Johnson City Zoning Ordinance as it relates to the MX-1 (Mixed Use Neighborhood) District

SUMMARY: The MX-1 Mixed Use Neighborhood District was originally intended to promote the development of affordable housing as part of new, greenfield mixed-use developments in Johnson City. The likely application under this original scenario was for the MX-1 zoning district to be assigned to large developments (over 2 acres in size) often in conjunction with annexations at the fringe of the city limits. The district has been used sparingly for small affordable housing residential developments. While the Planning Staff supports efforts to develop Affordable Housing (“value-oriented housing”), changes in state law have made the current requirements unenforceable (prohibition of inclusionary zoning).

Given recent efforts to improve opportunities for infill development and reinvestment within the city’s urban core, as is called for throughout *the Comprehensive Plan 2020* (primarily in the Land Use Element and Urban Growth & Services Element), Planning staff recognizes that the MX-1 zoning district can be an excellent tool to support such efforts. However, in order to meet this new intent/application, some modifications to the zoning district must be considered.

PURPOSE OF THE REVISION: The following revisions are designed to:

- 1) Modify the “Intent” and “Area Regulations” in order to apply the MX-1 district as a tool which supports infill opportunities;
- 2) Update the “Permitted Uses” to conform to other recent code changes and improved compatibility with urban neighborhoods; and
- 3) Streamline the “Permitted Uses” and “Approval Process” for improved clarity and less redundancy.

These revisions were reviewed, revised and supported by the Planning Commission’s Legislative Committee on December 2, 2020.

The Planning Commission will consider the staff recommendation for these revisions on December 8, 2020.

PROPOSED TEXT AMENDMENT

- Any and all text ~~stroke-out and in red~~ is recommended to be repealed
- Any and all text in green and underlined is new and inserted provision
- Any and all text in black is current existing language.

RECOMMENDATION: Staff recommends approval of these amendment

Exhibit A

ARTICLE II – DEFINITION OF TERMS USED IN THE CODE

Animal hospital or Veterinary Clinic means a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as an indoor kennel shall be limited to short-term boarding and medical care and shall be incidental to the hospital use.

Religious Institution means a building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

ARTICLE VI – USE REQUIREMENTS BY DISTRICT

6.25 - MX-1 MIXED USE NEIGHBORHOOD

6.25.1 INTENT:

The purpose of the MX-1 Mixed Use Neighborhood District is to accommodate the development of a combination of wide-range ~~of~~ residential and compatible non-residential uses, which are designed and developed within the framework of a coordinated master plan or utilized to accommodate infill opportunities as a transition zone or neighborhood edge/node. The district provides flexibility from conventional use and dimension requirements of other zoning districts in order to encourage affordable, high-quality design and an innovative arrangement of buildings and open space. Structures with commercial, service, or office uses on the first floor and upper level residential uses are encouraged.

~~The maximum cost of a single-family dwelling unit to be constructed in this district shall be derived by using the Department of Housing and Urban Development's (HUD) latest Low and Moderate Income Table for a family of four and multiplying it by four. A minimum of 20 percent of the housing shall be Value-Oriented Housing. Value-Oriented Housing is defined as the maximum value of a single-family house in this district derived by using the HUD's latest Low and Moderate Income Table for a family of four and multiplying it by two and one-half.~~

6.25.2 PERMITTED USES:

Within the MX-1 Mixed Use Neighborhood District the following uses are permitted:

6.25.2.1 Residential dwellings, excluding single-family detached dwellings, not to exceed one and a half (1.5) times the density of developed property within 1,000 feet radius of the property line of the proposed development excluding non-residential and undeveloped parcels. At no time will the residential density exceed 14 units per acre;

6.25.2.2 ~~Day-care centers, subject to the provisions of Subsection 6.1.2.2~~ Family Child Care Homes & Group Child Care Homes, subject to the conditions of Subsection 6.1.1.6, and Child Care Centers and Drop-In Child Care Centers, subject to the conditions of Subsection 6.7.1.2;

6.25.2.3 Nursing homes, convalescent homes, and assisted living facilities;

6.25.2.4 The following non-residential uses shall be permitted provided they do not exceed 2,000 square feet of floor area, excluding patios, decks and porches:

- A. Business, professional, corporate, or government offices;
- B. General and Specialty retail and service establishments;
- C. Cultural uses; ~~and~~
- D. Federal, State, County, City, or public utility buildings and uses;
- E. Animal hospitals;
- F. Bakery;
- G. Bed & Breakfast homes and inns;
- H. Beer serving / sales establishments;
- I. Financial institutions;
- J. Laundromats, dry-cleaning and laundry establishments not exceeding 1,500 square feet;
- K. Pharmacies;
- L. Restaurants, subject to the following standards;
 - 1. For outdoor dining, a masonry wall or wood fence shall be constructed between the outdoor dining area and neighboring residential uses to completely screen patrons from the residential use; and
 - 2. Serving or food/alcohol consumption shall not extend beyond 10:00 p.m.
 - 3. Drive-through windows shall be located along a non-street building frontage

6.25.2.5 Accessory structures and uses, and customary, incidental, home occupations, provided subject to Section 4.13 of this ordinance; and

- ~~A. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling;~~
- ~~B. Use of the dwelling for this purpose shall be limited to 50 percent of the total floor area of the dwelling;~~
- ~~C. No accessory buildings or outside storage shall be used in connection with the home occupation;~~
- ~~D. No chemical, mechanical, or electrical equipment that is not normally a part of domestic or household equipment shall be used primarily for commercial purposes, with the exception of medical and dental equipment used for professional purposes;~~
- ~~E. Machinery that causes noise or interference in radio or television reception shall be prohibited;~~
- ~~F. No internal or external alterations inconsistent with the residential use of the building shall be permitted;~~
- ~~G. Residents of the dwelling and no more than one nonresident may be engaged in the home occupation;~~
- ~~H. No display of products shall be visible from the street and the selling of merchandise on premise cannot be the primary function of the home occupation;~~
- ~~I. Instruction in music, dancing, and similar subjects shall be limited to two students at a time; and~~
- ~~J. Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the customary home occupation.~~

6.25.2.6 Live-Work Units

6.26.2.7 Religious institutions

6.25.3 AREA REGULATIONS:

All structures and uses shall meet the following requirements:

6.25.3.1 Setbacks & Development Standards ~~Requirements:~~

- A. Front Yard: No front yard setback shall be required. However, there may be a seven and one-half foot drainage and utility easement along the property line.
- B. Side Yard: No side yard setback shall be required. However, there may be a seven and one-half foot drainage and utility easement along the property line.

- C. Rear Yard: No rear yard setback shall be required. However, there may be a seven and one-half foot drainage and utility easement along the property line.
- D. Garages, for vehicle parking or storage, which ~~that~~ face the street shall have a minimum setback of 25 feet to the garage door.
- E. Lot Area: No minimum lot area.
- F. All buildings shall have the primary entrance visible and accessible from the street.
- ~~G. All nonresidential buildings are encouraged but not required to have awnings or covered walkways along public walkways and streets.~~
- ~~H. The maximum amount of impervious surface permitted shall not exceed 75 percent.~~
- I. The maximum building height shall be 35 feet unless uses are mixed vertically (i.e. ground floor commercial with office or residential in upper floors) in which case the maximum height may be increased to 45 feet.
- ~~J. The development shall include a minimum of two acres.~~
- K. All If a mixed-use development is proposed, commercial space shall be constructed concurrently with or after the construction of the residential units, and no Certificate of Occupancy for such accessory commercial space shall be issued until Certificates of Occupancy have been issued for at least 50 percent of the dwelling units to be constructed within the said development.
- ~~L. The total gross floor area of the commercial uses defined under Subsection 6.25.2.4 including off-street parking areas, shall not exceed ten percent of the total area of the development.~~

6.25.4 ~~DEVELOPMENT~~ SITE STANDARDS:

- 6.25.4.1 Pedestrian systems: All buildings shall have a defined pedestrian connection to all street frontages. Internal sidewalk connection between properties is encouraged to facilitate pedestrian movement.
- 6.25.4.2 Street design: A street design including a pedestrian system that deviates from the typical street cross-sections of the city's Subdivision Regulations may be approved provided such departure does not destroy the intent of those regulations.
- 6.25.4.3 Parking: A mixed-use district may contain uses that experience parking demands at different times, allowing them to take advantage of shared parking. It can accommodate more activities with fewer vehicle trips by providing a variety of uses in a pedestrian setting. The following standards are designed to encourage a reasonable balance between the private automobile, the pedestrian, and alternative means of transportation.

- A. On-street parking located adjacent to any lot shall be counted toward meeting the parking requirements for that lot as set forth in Article XI of this Code ordinance.
- B. All off-street parking lots shall be located in the rear or side yard ~~of any building for all multi-family and non-residential uses~~. Side yard parking lots shall account for no more than 25 percent of required parking and shall be screened from the street by a combination of landscaping and a wall or fence that is a minimum of three feet in height.
- C. Parking lots shall not abut a street intersection.
- D. Shared parking is encouraged between appropriate uses and may be approved as part of the Comprehensive Development Plan review process. Approval shall not require Special Exception approval by the Board of Zoning Appeals as specified in Section 11.5.
- E. Any public parking or commonly owned parking lots may be counted toward meeting the required parking for uses on other lots within 300 feet of the common lot. The allocation of such spaces shall be documented as part of the Comprehensive Development Plan and will be approved through that process.
- F. In view of the pedestrian-oriented nature of this district, the parking requirements for commercial or mixed uses included in Subsection 6.25.2 6.10.2.14 through 6.10.2.24 shall be 75 percent of the number of spaces required for uses in ~~Subsection 5.2.3~~ Article XI, Subsection 11.3.

6.25.4.4 Landscaping: The MX-1 District shall be subject to Article XII Landscape Regulations; excluding: Section 12.2 Landscape Yards, 12.4 Buffer Yards, and 12.5 Protective Screening.

6.25.4.5 Screening and buffering:

- A. The proposed concept plan shall not be required to follow the buffering requirements of this Code. However, any and all buffers between uses shall be identified on the concept plan and detailed on the Comprehensive Development Plan and site plan.
- B. Loading docks and dumpsters ~~and satellite dishes~~ shall be screened from public streets and walkways by walls, trellises, fences, or opaque landscaping. Walls and fences shall be constructed of similar exterior building materials as that of the primary building.
- C. ~~Except for single-family and two-family residential properties, mechanical equipment shall be screened from public view.~~

6.25.4.6 Utilities:

- A. All street lighting shall be designed to address pedestrian as well as vehicular needs.
- B. If surrounding properties are served with overhead utilities, the proposed development may, subject to the approval of the Planning Commission and the City Commission, use overhead utilities, provided the property does not lie within an overlay district prohibiting overhead utilities.

6.25.4.7 Architecture: The architectural style and material shall be compatible with the residential character of the surrounding area.

6.25.5 APPROVAL PROCESS FOR MX-1 ZONING:

The following process shall be required for any development within the MX-1 District.

6.25.5.1 Neighborhood meeting: The developer shall hold a neighborhood meeting to inform abutting property owners of the proposed development prior to making application to the Planning Commission. Property owners within 200 feet of the proposed development shall be notified in writing at least ten days prior to the proposed neighborhood meeting.

6.25.5.2 Concept plan: Rezoning to MX-1 District requires a Concept Plan subject to Article XIV. Application to the Planning Commission for rezoning to MX-1 must contain, at a minimum, a general description of all proposed uses with their intensity, location, relationship to each other, and densities. This requirement may be met in writing or graphically, provided there is sufficient detail for adequate review.

6.25.5.3 Comprehensive Development Plan (CDP). A CDP is a generalized plan for the coordinated development of areas within the Mixed Use Neighborhood (MX-1) zoning district. The purpose of this plan is to examine the impacts of various types of uses with respect to land use, site design, aesthetics, harmony, compatibility, intensity, phasing, the need for off-site improvements, and conformance to the Comprehensive Plan.

6.25.5.4 Prior to the development of any property with a zoning designation of MX-1, five copies a copy of the CDP shall be submitted to the Development Services Department Coordinator. If the CDP conforms to the concept plan referenced in Subsection 8.24.5.1, only staff review and approval will be required. If there has been no rezoning or concept plan approved by the City Commission, only staff review and approval is required. If the CDP varies significantly from the approved concept plan, or if an approved concept plan is to be significantly amended, approval shall be by the City Commission following

Planning Commission and staff review and recommendation. At a minimum, the CDP shall include the following:

A. Required plans, drawings, and illustrations:

1. A development plan identifying each type of land use with acreage tabulations and proposed phasing. The plan shall show the placement of proposed uses and buildings, the number and size of residential units, the square footage of non-residential buildings, a layout of lots, open space designations, location of landscaped and buffer areas, on and off street parking, loading facilities, conceptual utility location and connection, and refuse collection locations.
2. The plan must show site accessibility, internal and external, involving all vehicular and pedestrian traffic.
3. An overall drainage plan with sufficient detail to demonstrate orderly collection and disposal of stormwater from the development site, taking into account the impact that any discharge will have on downstream properties. The quality of stormwater discharged must be acceptable as regulated by State and Federal agencies.
4. Conceptual architectural elevations and sketches demonstrating style, colors, textures, and materials in sufficient detail to evaluate compatibility.

B. Analysis of the following factors:

1. Compatibility of proposed and existing uses and potential impact on adjoining and surrounding uses.
2. Impacts on surrounding natural or architectural features in terms of design compatibility, harmony, and intensity of the proposed development.
3. Impacts on the health and safety of customers, residents, employees, and the general population, specifically as related to environmental factors such as, but not limited to, noise, odors, hazardous materials, fire, fumes, vibration, and traffic.
4. Impact of traffic and parking areas particularly as related to pedestrian, transit, and bicycle provisions.
5. Adequacy of existing municipal facilities and services to support the development. Consideration should be given to, but not limited to, water, sanitary sewer, stormwater, fire protection, street systems, public safety, schools, and recreational facilities.
6. Consistency of the proposed CDP with the intent of the MX-1 district, the City's adopted Comprehensive Plan, and sound planning and development practices.

Upon approval of a Comprehensive Development Plan, two copies of that plan shall be signed by the applicant and the City Manager or

designee. Signed copies shall be retained on file by the Development Coordinator and the applicant.

6.25.5.5 Site plan approval: The site plan is the detailed engineering document which must be submitted and approved prior to the issuance of any clearing, grading, development, construction, or building permit. Each site plan for development in a MX-1 district shall conform to the appropriate recorded Comprehensive Development Plan. Any significant deviation between the final site plan and any Comprehensive Development Plan approved by the City Commission shall be resubmitted to the Planning Commission and City Commission for approval. Any significant deviation between the final site plan and any Comprehensive Development Plan approved by the Staff shall be resubmitted to the Development Services Department for approval. Examples of significant deviations include but are not limited to: increase in density, change of use, change of circulation or parking patterns, significant change in size or location of buildings, or significant change in the architectural appearance of the buildings.