



United City of Yorkville
County Seat of Kendall County
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Meeting Minutes

Zoning Ordinance Commission

Wednesday April 29, 2009
Yorkville City Hall Conference Room
800 Game Farm Road

ATTENDEES:

Zoning Commission:

Mike Crouch, Chair
Jeff Baker
Greg Millen
Ralph Pfister
Gary Neyer
Phil Haugen
Pete Huinker
Al Green

United City of Yorkville Staff:

Travis Miller, Community Development Department Director
Stephanie Boettcher, Senior Planner
Anna Kurtzman, Zoning Coordinator

Guests:

Renee Montalbano

MINUTES

Mike Crouch, Chair of the Zoning Commission, called the meeting to order at 7:00 pm. He welcomed all for attending and called role. All members of the commission were in attendance. The commission then reviewed the minutes from the March 25, 2009 meeting. The minutes were approved with no corrections.

Crouch then went onto the next meeting topic, reviewing the assessment report. Travis Miller asked the commission to provide input on the assessment report which was drafted by staff. He stated that it was staff's hope to get through the assessment at this meeting. He asked for the commission to provide comments or identify items which staff had missed.

Crouch began with the summary of deficiencies report that listed out dated terms. Hospital and sanitarium – sanitarium is no longer used. The phrase “treatment of insane persons” is outdated and should be changed to “mentally ill”. Also the phrase, “liquor addict” should be amended.

Phil Haugen commented that “chemical dependent” would be the most appropriate term.

Crouch also brought up if the term “junk yard” is currently used. The terms “salvage yard” or “recycling center” were mentioned as optional terms. Jeff Baker thought the term “junk” was good as it could incorporate a multitude of things, but mentioned that typically junk yards are used for finding old automobile parts. Crouch stated that he thought this was still the case, but now the common term is “salvage yard”. Pete Huinker asked if these facilities are a special use. Al Green commented that they are just looking to rename the term. Greg Millen commented that the “salvage yard” is a better term than “junk yard”. Miller was unable to find where the zoning ordinance references a “junk yard” other than the definitions. Anna Kurtzman commented that staff can do a word find, to see where this term is referenced. It could be a term that is used to help define another term. It did not look like a “junk yard” was either a permitted or special use. Staff was to double check where this term is used in the zoning ordinance and report back to the commission. The commission at a later date could then discuss if this use needs to be addressed by the zoning ordinance. The definition of the term “junk yard” was read by Crouch, which states the facility is not enclosed. Baker brought up a transfer station and how would that be addressed. Miller stated that these facilities are controlled by the Illinois Pollution Control Board and zoning is moot to these facilities. Baker thought it was best to address these facilities in the zoning ordinance in order to back any municipal decision. Staff is going to get the language from the Illinois Pollution Control board in regard to the facilities and provide it to the commission at the next meeting.

Crouch continued with other out dated terms, including “Laundrette”, the zoning ordinance already has laundry and laundry – self service. “Tourist Court” was another term mentioned by Crouch, which is included with the definition of motel. Crouch hadn’t heard of the term. Baker thought it would apply to locations in town such as the Sunset Motel and Lydia’s. Crouch still felt the term was out dated. Green mentioned it could be similar to a B&B, to which Crouch commented that a definition of B&B isn’t included in the definitions section; however it is mentioned in the zoning ordinance. Another out dated term was “livery stable”. Finally, Crouch mentioned “Eleemosynary”, to which Miller mentioned is a charitable institution. Crouch wondered if there was a more modern term for this. Miller mentioned that this term could be potentially coupled with “philanthropic”.

The terms “auto repair – major” and “auto repair – minor” were brought up, specifically on how the terms are separated. Miller identified a potential difference as a major auto repair needing outdoor storage, while the other would not. Baker mentioned that in both instances, there could be a car sitting there more than a day, yet they need to be handled differently as one is now M-1 and the other is B-3. Crouch stated the minor would be along the lines of a Jiffy Lube, an in and out place, while a transmission shop would be a major. Huinker brought up that a lot of the minor auto repair places are in strip malls or areas of mixed use. Baker mentioned that the minor auto repair is appropriate in a B-3 zoning, while the heavy use are suited for M-1. Crouch said that would need to look at the definition further as some uses cross between a major and a minor auto repair. Haugen thought maybe another way of defining the terms would be helpful – auto collision repair, retail application and a third. Crouch stated there is a broad spectrum work being done on autos. Baker brought up the Fisher property, stating that this was zoned B-3 special use. Miller corrected that it is zoned B-2 and brought in as a P.U.D. Millen brought up

the potential benefit and also concern of retail establishments locating next to an auto repair. Staff is going to review the definitions and that either two or three definitions would be appropriate.

Pfister then reference the Floodplain District chapter, which mentions the Illinois Sewage Board. This is an outdated term and should be replaced with the Illinois Environmental Protection Agency. Miller mentioned that staff's recommendation is to remove the entire chapter, as there is an existing city code which has superseded the regulation of this chapter. Nothing is zoned floodplain, but there is floodplain within other zoned areas. Huinker questioned if structures could be built within floodplain? Kurtzman mentioned that to recollection the zoning ordinance doesn't restrict building in the floodplain and the practice has been to defer to the FEMA regulations. Miller mentioned the FEMA regulations are tied to insurance, so in most instances private owner would not want to develop in a floodplain, but some public uses, such as a park, may be appropriate.

Huinker questioned the use of the term look out basement as opposed to cellar. He mentioned there are look out, walk out and basements. Miller asked if there was a need for additional terms. Huinker was just curious as to where this term is referenced, can't just replace the term with look out. Kurtzman thought it would be best for staff to do a word search, in which staff can search the terms in the definitions section to see if they are used in the rest of the document, that those which are used in the document could be removed.

Crouch then addressed the chapter on non conforming uses that the language was confusing. Kurtzman clarified that if a use is not allowed in a zoning district, but the use was there prior to the zoning, then that use can continue. However if the use ceases to continue then the City has the ability to require its removal. Crouch was concerned about the time frames given in which a use is required to comply with the zoning ordinance, some up to 10 years. He was concerned that this could be an enforceability issue, questioning who tracks this information. Kurtzman replied that the Building and Safety department has the ability to pull records in order to confirm this. Miller noted that the language from the zoning ordinance is from the early 1970s, so this will be important language in the update if anything changes in the new zoning ordinance. Crouch thought the commission should consider shorter time frames. Baker commented he was not in favor of shorter time frames, and that existing structures should remain as it was conforming when it was built. The Commission is to take a look at this issue as one of the last items, at which time they can assess how many structures are non-conforming, what they are being used for, and their location. Neyer mentioned that there may be legal issues with imposing an absolute deadline with a nonconforming use. Pfister mentioned that non conformance can deal with a variety of things, not just business. Kurtzman noted that the existing language states, "lawfully granted", making sure that the nonconforming use was legally established at the time of construction (via County codes, another municipality, etc), but if it was not, then the City has the right to cease this use. Baker also that the zoning ordinance should maintain the areas with their original integrity, citing the example of zero-lot lines in Downtown Yorkville. Miller brought up the "Amortization Period" language, stating it was strong language and that it should be addressed.

Crouch asked could a person operate a business out of a residence. Miller responded, yes, a

home occupation is currently permitted, as long as it doesn't generate any additional traffic, there isn't a sign, and it behaves as a residence. However, if the business generates traffic, then it would either need to be addressed as a special use or a zoning change as applicable, and example of this would be a daycare. Kurtzman asked that the Commission review this language and provide feedback to staff. Staff recommendation in the assessment report is to create a section addressing home occupations.

Crouch also mentioned that "Drugstore" should be updated to "pharmacy".

Huinker stated the assessment report addressed updating "Billboards" and questioned what was staff's intention? Miller identified that they are mentioned because they are currently prohibited in the Sign Ordinance, but provisions should be in place to regulate them, as opposed to prohibiting them. Baker mentioned that if the Prairie Parkway was constructed there is avenue for billboards. Miller mentioned that if Route 47 reached a level of traffic volume desired by billboard companies that also might be a location to expect petitions. Millen brought up portable signs, stating from a commerce side they can be beneficial to a business. As opposed to this, businesses are putting up multiple small "political" style signs. They are currently not allowed per the Sign Ordinance, but they used to be allowed a certain number of times per year per business. Miller mentioned that this specific issue is before the EDC at their May meeting, in which a temporary permit will be considered for their use. Crouch stated that the commission can decide if they feel the sign ordinance should be a part of the zoning ordinance, or remain a separate document.

Huinker asked for clarification if the zoning ordinance regulates what color a homeowner can paint his/her home. The appearance code addresses this; however it is not a part of the zoning ordinance. Huinker also asked for clarification on Part 1 of the Assessment Report. Miller stated that this part of the report identifies the regulatory authority given by the State. The italicized text identifies how the City currently exercises this authority.

Huinker asked if the commission wanted to go through affordable housing. Miller explained that staff defined what would be deemed affordable housing in Yorkville and that some states and municipalities have standards to provide affordable housing. Many of these locations are quite different from the Midwest. Miller pointed out that there are few success stories, but the intent is a good idea. However, it is the Commission decision on if they want to discuss further or include.

Huinker asked about the language "a nonconforming uses are required to be discontinued when the building or structure has been discontinued for a period of 12 consecutive months." He felt in this economy, 12 months might be too short. Huinker asked about enforcement of this, do property owners receive a letter at 11 months? Kurtzman mentioned is that this situation is either handled due to resident complaints or due to the property owners acknowledging this when they come in for permits.

Huinker wanted to then discuss in General Provisions – Chapter 3, open space on lots. Kurtzman mentioned that decks and patios are not subject to building setbacks, which allows a property owner to build this type of structure up to the lot line. She questioned should this be a part of the

lot area? Kurtzman also brought up bay windows, as they are only allowed in the front yard. Baker mentioned that bay windows typically extended 18-24” so they are under the roofline. Neyer asked if the City had run into any issues with the amount of hardscape in a residential setting, consists of decks, patios, basketball courts, etc? Kurtzman mentioned that issues typically come after structures are built, which are in conformance with code. There are some yards which are full – pools, decks, etc. Crouch mentioned it is an issue of what is filling up a yard. He stated that lawn is not always the best solution for the environment, native plants and taller grasses might be better. Commission didn’t feel this was an issue needing to be addressed. Neyer felt that could simply add bay windows to the existing text in 10-3-2D sections 3 and 4. For bay windows, the commission thought they could be included in side and rear yards; however there may be an issue with smaller setbacks in a PUD. The Commission thought that a minimum of 10 feet of setback between two residential structures, total of 20 feet between structures, in which if a bay window was built on both houses, would still have 14 feet in between. Fireplaces should also be treated the same as bay windows.

Huinker asked if the Commission wanted to discuss wind energy, solar panels, etc. He asked if a person could place solar panels on his roof. Miller identified that they would have to meet the current building code and be permitted. Kurtzman asked are there any other issues or technologies which the zoning ordinance should consider. Solar panels could be a zoning issue due to height. Green thought it would be best to include solar energy in the zoning ordinance. Green mentioned that there are many different technologies, and thought it would be best to research other communities. Baker asked about geo thermal energy. Miller mentioned that there would be permitting requirements for new or existing construction. Kurtzman asked that what is above ground with a geo thermal system. Neyer mentioned that the most one would have above ground would be a termination box, which would be similar to a sprinkler system. Given that the system is fully underground it would not be a zoning issue.

Neyer asked how staff handles “pie-shaped” lots in which the rear yard comes to a point. How is the setback measured? Currently staff measures down each side lot line from the apex the length of the setback and connects the points.

Baker mentioned that the Commission should pay attention to frontage roads and that parking lots should be connected in order to control access points. Could this be added to the ordinance? Miller felt it was most applicable to the subdivision control ordinance and staff has typically accessed for cross access easements as part of development plans and annexation agreements.

Miller reviewed the revised timeline for updating the zoning ordinance. The next meeting on May 27 will be reviewing new districts, potential overlay districts, and the comprehensive plan recommendations.

The meeting was adjourned.

Minutes submitted by Stephanie Boettcher