

CITY OF ROCHESTER

ZONING CODE EVALUATION REPORT

February, 2010



Acknowledgments

**R. Carlos Carballada, Commissioner,
Department of Neighborhood and Business Development (NBD)**

**This report is respectfully submitted to
the Mayor and the City Council of the City of Rochester
by
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REPORT OVERVIEW

Section I: Introduction discusses how traditional Euclidian Zoning may no longer be the best method for creating a quality urban environment. It proposes using a variety of tools and approaches to land use regulation to enhance our neighborhoods, increase property values and support economic growth.

Section II: Zoning Districts and Map discusses the status and recommendations for the following mapping strategies that were initiated in the 2003 Code Revision: Residential Down Zoning, the creation of the Village Center District and the creation of the Center City District. It also discusses the status and recommendations for the regulations in both the Commercial and Industrial Zoning sections of the Code.

Section III: Design discusses how the City's shift in 2003 to a more design-focused Zoning Code was an important step in preserving the City's long term health. It also discusses the status of and recommendations for Citywide Residential and Non-Residential Building Design Standards, as well as for the City's Neighborhood Design Guidelines. A frank discussion of the unique design challenges that the City has faced since the 2003 Code Revision is also presented.

Section IV: Nonconformities discusses how the new approach to nonconformities that was taken in the 2003 Code Revision (i.e. recognizing that not all nonconformities are inherently problematic and that some provide opportunities for reuse and preservation) was on the right path. Further study of and recommendations for the following topics are also discussed in detail: Exemption from Built-As Nonconformities from Abandonment Provisions; Reuse and Reactivation; Requirements for Site Improvement with Reactivation; Intent and Abandonment; and the Re-Establishment of Prior Nonconforming Uses in Large, Single Family Dwellings.

Section V: Signs discusses how the major re-write of the City's sign regulations in 2003 has impacted overall development and presents the key issues that have been identified with these regulations over the past several years. This section also describes how sign technology has evolved since 2003, especially with regard to digital sign displays, and makes recommendations for addressing this new technology in the Code.

Section VI: Parking discusses whether or not the 2003 Code Revision went far enough in its departure from the traditional approach to parking requirements. The 2003 Code emphasized using existing parking supplies more efficiently and did not focus as much on the number of spaces required. This section provides

a frank discussion of the pros and cons of going even further by eliminating parking requirements altogether and makes recommendations for moving forward with that discussion.

Section VII: Historic Preservation discusses how preservation goals do not have to conflict with economic development goals as many believe, but can be an effective strategy for promoting economic growth and well-being. It also discusses and makes recommendations for developing the tools necessary to convince property owners, businesses and developers to embrace historic preservation and realize the benefits derived from it.

Section VIII: Procedures discusses the continual effort to monitor the processes in the Code so that they can be improved and streamlined where possible. To that end, this section provides a look at all of the extended review processes (i.e. Site Plan, Special Permit, Variance, Certificates of Appropriateness, Cluster Subdivisions and Planned Development Districts) and makes recommendations for improvement where necessary. This section also discusses the proposal to shift to an overall Case Management System and makes recommendations for improving the more general office procedures such as Fees and Public Notification.

Section IX: Emerging Trends and Technologies discusses what new technologies have emerged since the Code Revision in 2003, and in some cases, since the first evaluation in 2005. This section looks at Sustainable Land Use and Wind Energy Regulations, Solar Access, Urban Agriculture and Wireless Communication and makes recommendations to update the code to reflect these emerging trends.

Section X: Resolving Land Use Disputes through Mediation and Conflict Resolution discusses how traditional means of dealing with land use disputes and applications are at times ineffective and were devised in a different era of planning and zoning. Today, communities throughout the United States are relying on a new, consensus building approach to resolve land use disputes. This section provides a frank discussion of this topic and recommends codifying a consensus building approach for conflict resolution.

Section XI: Conclusion discusses how this evaluation makes many recommendations that will continue to lead us further away from the traditional Euclidian Zoning model. These recommendations more often than not will result in streamlining processes and less regulation rather than more. It also urges a commitment to the ongoing monitoring of the code and to its timely modification and adjustment.

Section XII: Case Studies provides a more in-depth look at the following seven projects: 1) DePaul at 774 West Main Street; 2) Rite Aid, Monroe Theater and Townhouse development at 585-599 Monroe Avenue; 3) Price-Rite, KFC and an undetermined store at 1230 University Avenue; 4) M&T Bank and DiBella's at 1876-1882 East Avenue; 5) Canandaigua National Bank at 334 Monroe Avenue; 6) Family Video Proposal at 2222 Norton Street; and 7) Cluster Subdivisions at 95 Barrington Street and 1475 East Avenue.

Section XIII: Summary of Report Recommendations provides a complete list of the recommendations included in this report for easy reference.

SECTION I: INTRODUCTION

Traditional zoning, since its arrival on the scene in 1916, has tended to focus on the techniques of protecting one property from the adverse impacts of another. Indeed, the central principal of *Euclidian Zoning* has been the creation of districts for the purpose of separating incompatible uses. It is clear now that segregation of uses in cities ultimately worked to destroy the essence of mixed use, vibrant neighborhoods. Certainly, districting as a singular tool to implement certain policies and plans has some utility. However, zoning, as a means of comprehensive land use regulation, is not only obsolete, but in many instances has been detrimental to the attainment of quality urban development, economic development and the goals of sustainability.

Land use regulation should facilitate community visions and goals, as those goals and visions change over time. It should take into account the values and identity of a community, physical scale and form, economic and social conditions and environmental awareness. It should be about making places, places that are attractive to both individuals and businesses, places that are both distinctive and functional.

The comprehensive Zoning Code Revision of 2003 recognized the obsolescence of many zoning methods. It embarked on some new approaches that, as reported in the 2005 Evaluation Report, appear to have set us on a path to a more contemporary and useful land use management system. These new approaches focus less on the technical aspects of zoning and more on responses to market conditions, the preservation and sharing of urban resources, quality physical design and place making, the ability to embrace new technologies, public participation, and the balancing of concerns and divergent interests.

Since the mandated report to the Mayor and City Council in 2005, regular, qualitative evaluation of the code has been an ongoing task of the zoning division as was indicated in the 2005 report. This 2009 evaluation is based largely on input from a wide range of stakeholders (including residents, business owners and operators, architects, engineers, attorneys and various other commercial interests) as was the 2003 Code revision and the 2005 evaluation. It utilizes case studies and qualitative data, including field work, observation and interviews. When applicable and useful, quantitative data is referenced and employed.

As we continue to evaluate the land use codes we should bear in mind that future revisions to the Comprehensive Plan must identify the characteristics of the kind of places the community at large and the various neighborhoods

envision. Clarity in plan and policy are essential to continue to provide a basis for such an approach to land use regulation and management.

The literature is full of various approaches to zoning. There are traditional codes, performance codes, design codes, unified codes, form codes, etc. As we learned in 2003, there is no one method that applies to every locality or every set of conditions. Invariably, built-up cities require a hybrid approach. The 2003 Code is exemplary of this. If we use a broader approach to land use regulation, the specific method used will be secondary. With it we can concentrate on identifying the kinds of places we want to create, places that will enhance our neighborhoods, increase property values and support economic growth. The Code should facilitate and accommodate these desirable results. The key is to load the “toolbox” with as many useful tools as possible to help achieve these results and to readily adjust to new and unforeseen challenges as they arise.



SECTION II: ZONING DISTRICTS AND MAP

A. Residential Down Zoning



The 2003 Zoning Code and Map reflected substantial down zoning of variously zoned properties to R-1 residential. This was largely in response to strong petitions by neighborhood groups throughout the City. The R-1 zoning was viewed as a means of addressing the City's shrinking population, protecting neighborhoods from further decline, and promoting owner occupancy. While the R-1 regulations have prohibited residential conversions that would increase the numbers of dwelling units, they have also produced a large number of nonconforming residential uses which are subject to abandonment and strict regulations regarding use and reuse (see also *Section IV on Nonconformities; as well as Appendix A for a list of minor Code Amendments being proposed and Appendix B for a list of Map Amendments implemented since 2005*).

Since 2003, there has also been a continued decline in population and an increase in foreclosures which has resulted in an increase in vacant buildings. Significant increases in owner occupancy have not occurred. R-1 zoning has been effective in restricting dwelling unit conversions and remains appropriate for stable neighborhoods that require maintenance and protection. R-1 zoning imposed on other, less stable areas of the city may require more flexible zoning regulations to accommodate and facilitate an appropriate response to targeted investment and planning efforts in those areas.

The 2005 Evaluation Report recommended that the down zoning strategy, continue to be monitored and evaluated. The record indicated then, as it does now, that down zoning to R-1 alone will not solve the problems facing certain neighborhoods. Since that time, new strategies have emerged. The 2008 Housing Study recommended a Focused Investment Strategy (FIS), concentrating limited resources in specific areas, as a means to stabilize and upgrade neighborhoods. Interviews with internal stakeholders suggest that modifications to the R-1 regulations, geared toward greater flexibility in reuse of abandoned nonconforming structures, will likely be needed in these targeted areas. In this case, a relaxation of the abandonment provisions relating to nonconforming uses may be in order.



Project Green calls for interim uses of vacant land, land banking, and assesses other strategies in response to the City's 12% vacancy rate as well as the need to reduce in excess 9,000+ dwelling units. (*This report is available for review in the City's Planning Office.*) It has identified areas of the city that may require more strategic and intense efforts to

remove dwelling units either through demolition or de-conversion. A more aggressive approach could be considered in these areas which would restrict reactivation of nonconformities that might stand in the way of the greening strategy or future redevelopment. Existing abandonment provisions could also be utilized to force de-conversions, particularly in neighborhoods which are experiencing high levels of population loss, vacancies and blighting conditions.



The “placeholder” zoning strategy that was implemented in 2003 was intended as a temporary stabilization measure to protect marginal commercial streets from the continued negative effects of inappropriate development and property conversions. It involved the down zoning of certain commercial blocks to R-1 residential. The impacted areas included segments of Portland Avenue, Norton Street, Joseph Avenue, Emerson Street and S. Plymouth Avenue. There was little activity in these areas, as anticipated, from 2003-2005. Hence, the 2005 Report recommended that the R-1 placeholders be maintained and further studied until a comprehensive strategy and market interest materialized.

In 2006 the Zoning Division and Planning Bureau conducted a study of these corridors (*available for review in the City’s Zoning Office*). The corridors were evaluated for public/private ownership, vacancies, locations and numbers of vacant lots, existing land uses, land use reviews (such as variances, special permits, certificates of nonconformity and building permit activity). The intent of the report was to provide comprehensive information about the corridors so that public and private entities could begin formulating redevelopment strategies. The study determined that there was still no single zoning option for these districts and that an appropriate land use approach would emerge as a market materialized.



Recommendations for Residential Down Zoning:

- 1) *More flexibility needs to be added to the provisions of the code dealing with nonconforming uses in residential areas in order to promote and implement strategic planning efforts and to increase potential investment opportunities in targeted areas.*
- 2) *The regulatory response in these targeted areas may include the use of special purpose districting, overlay districts, planned development districts, or street oriented restrictions.*
- 3) *As viable strategies, both planning and market centered are pursued, maintaining R-1 residential zoning and continuing to land bank, as lands come into public ownership, remain effective tools for regulating these areas to discourage inappropriate redevelopment.*

B. Village Centers



The Village Center District was one of the new zoning concepts introduced in the 2003 Code. It was intended to encourage the establishment of special regulations for unique areas. The district was proposed to be a floating zone which could be specially tailored for neighborhoods meeting certain conditions relating to commercial viability, multi-modal transportation, housing choice and appropriate design. Two Village Center Districts were adopted in 2003, H-V Harbortown Village and PM-V Public Market Village.

It was difficult to evaluate the success or failure of the concept in 2005, only two years after the adoption of the code. Since 2003, there has been significant activity in portions of the PM-V. We have seen significant investment on Railroad Street and within the Public Market itself but very little activity in the residential areas surrounding the market. While the flexibility allowed within the market proper and on certain lands adjoining the market has been successful, such as on Union Street, Railroad Street and Trinidad Street, these permissive regulations have not proven to be beneficial for the residential areas north of the Market that are included in the district. By removing the residential neighborhood to the north and reducing the size of the district, more flexibility can be incorporated in use and review provisions.



The H-V District extends over a large portion of the Charlotte neighborhood. Since the 2005 report, the *Sasaki Plan* was completed and another study centered on a marina location is currently under way, as is an update of the Local Waterfront Revitalization Program (LWRP). Consideration of significant changes to the district regulations will be given subsequent to the completion of these planning efforts.

The Village Center floating zone concept was utilized for the C-V Collegetown Village District which was adopted in 2008 for a portion of Mt. Hope Avenue extending between Elmwood Avenue and Crittenden Blvd. Only commercially zoned properties were included in the district. The high density residential allowances and flexible permitted use provisions work well for Mt. Hope Avenue. The Collegetown experience reflected the flaws in existing commercial zoning controls and the need to modify existing C-1, C-2 and C-3 district provisions.

In the case of Collegetown, specialized regulations were required to ensure the implementation of the Collegetown vision as agreed to by the neighborhood's stakeholders. Other commercial corridors may benefit from the application of a special zone; as such, the floating zone continues to be a valuable tool.

Recommendations for Village Centers:

- 1) *The PM-V District should be re-mapped to exclude the residential areas to the north of Pennsylvania Avenue. The permitted and specially permitted use listings should be re-evaluated.*
- 2) *The H-V text and map should be reassessed after the completion of the Marina development.*
- 3) *The Village Center concept should be considered for application in citywide commercial zones.*

C. Center City District



The biggest departures from traditional zoning in the 2003 Code were the form and design based provisions of the Center City District (CCD.) The underlying premise of the regulation of Center City is that it makes more sense to focus on the recycling and adaptability of well designed buildings than to be principally concerned with the use of those buildings. To protect against adverse impacts on adjoining uses, the CCD regulations include performance requirements pertaining to noise, screening and lighting. In addition, all uses, except specifically listed prohibited uses and limited uses, are permitted in the CCD, if located in fully enclosed buildings. Outdoor seating and assembly areas are permitted in conjunction with an existing use.

One of the CCD issues that has challenged both zoning and enforcement staff are outdoor operations and their associated noise. The CCD is a 24/7 mixed use district where residential land uses adjoin nonresidential uses.

The 2003 Code imposed special noise limitations in the CCD. In 2005, the City's Noise Ordinance (Chapter 75 of the City Code) was amended. This amended Noise Ordinance supersedes all other noise limitations in the City Code including those enacted in the CCD regulations. Although there are exceptions to the noise provisions, the following limitations set forth in Chapter 75-4A generally apply to most uses throughout the city, including the CCD:

No person shall make, continue, cause, or suffer or permit to be made or continued, and the owner and the person in control of a motor vehicle and the person in control of a premises shall not suffer nor permit to be made or continued, any excessive noise. It shall be prima facie evidence of a violation of this section if noise emanating from any source, including, but not limited to, voices or other sounds caused or emitted by humans, is:

- (1) Audible beyond the property line of the premises from which it emanates between the hours of 10:00 p.m. and 8:00 a.m.
- (2) Audible at a distance of 50 feet beyond the property line of the premises from which it emanates between the hours of 8:00 a.m. and 10:00 p.m.
- (3) Audible at a distance of 50 feet from the source if emanating from a public street, public park or other public place.



In 2005, business owners in the East End of the CCD desired outdoor operations in order to take advantage of the good summer weather. Bar operators installed unapproved tents for long periods of time, with outdoor bars, speakers and lights, and virtually relocated their businesses outside during the summer months. Business was good, and “standing room only” crowds filled these outdoor areas. The problem was that residential neighbors from blocks around complained about the noise.

An interdepartmental team of city staff including: Law, Fire, Police, EDD, Zoning, Special Events, NET (NSC), the Clerk’s Office and Buildings met to resolve this problem during 2006 and 2007. It was concluded that the intent of the CCD’s “anything goes” use policy applies to the interior of buildings not to outdoor operations. Outdoor seating could be allowed in the CCD, but piping in music or providing live bands should not. The existing Noise Ordinance applies to these situations.

It was also recognized that during the summer months there are numerous outdoor special events that bar owners could take advantage of by conducting outdoor functions in conjunction with the Jazz Festival, the Alexander Street Festival, the East End Festivals and others. In addition, the Director of Planning & Zoning can approve two temporary outdoor events per year. The bar owners could take advantage of this provision to accommodate two special events. Many have opted to for special events on St. Patrick’s Day and pre-Thanksgiving Day.



The proximity of night clubs to apartment buildings has also presented problems. Noise emanating from buildings and outdoor decks can impact adjacent residents and has required NSC enforcement efforts. A more recent complaint involved the unapproved installation of outdoor speakers on the exterior of a building to serve a relocated radio station. The noise has generated complaints during the day from nearby office uses.

Should there be laxer sound controls in the Center City? Should noise be regulated differently in the CCD? Is there an expectation that the CCD should

be very lively and therefore, the noise an expected consequence? Possibly. However, the City's goal of increasing residency in the Center City and establishing it as a primary land use brings with it a responsibility to ensure a reasonable quality of life to its residents. Residents moving to the downtown area should expect vitality and a certain degree of inconvenience, but where should the line be drawn?

Noise is a difficult thing to control. Members of the interdepartmental team met with a sound engineer to discuss how to regulate noise. The ability of sound to bounce off structures can result in noise often being more problematic for properties blocks away than those immediately adjacent. Each property in the downtown area can have unique aspects. While outdoor entertainment can be perfect in one location, it can be extremely bothersome in another. Even interior noise can leak out of a building depending on its construction and roofing materials.

Any approval of permanent, outdoor entertainment or functions would necessitate mitigating measures such as limiting occupancy levels, limiting live entertainment to certain days and hours of the week, limiting sound levels, limiting amplification, etc. If amendments to the Noise Ordinance are proposed for the CCD, and noise provisions based on sound level frequencies and decibels are imposed, then the city must have the ability to accurately measure sound in its enforcement procedures.

Recommendations for Center City District:

- 1) Amend the CCD regulations by removing the existing obsolete code provisions relating to outdoor activities and clarifying the provisions relating to as of right outdoor seating areas.
- 2) Amend the entertainment licensing provisions to allow for temporary entertainment licenses.
- 3) Consider the possibility of special permit uses in the CCD that include outdoor functions, including but not limited to live entertainment, accessory drive-thru's, temporary tent structures for extended periods of time and vending on private property.
- 4) As a streamlining measure, clarify the CCD provisions to give the Preservation Board authority to approve waivers of the CCD guidelines in downtown Preservation Districts. The Zoning Board should be authorized to approve waivers of the design criteria for all projects in the CCD which require use variances. In addition, if we establish special permits in the CCD, the Planning Commission should have waiver authority over the CCD design criteria.

D. Commercial Zoning



The 2005 Evaluation Report recognized that the 2003 Code included most of the commercial zoning provisions from the 1975 Zoning Ordinance and that those C-1 and C-2 district regulations were not particularly responsive to specific neighborhood conditions or changing market forces. The report also recommended that further study be conducted of the city's commercial zoning districts.

Since the 2005 Report was issued, there has been significant activity by both the City and neighborhood organizations to evaluate commercial corridors and develop long-range plans and strategies for the City's commercial corridors.

- Teams of neighborhood representatives and city staff worked together on planning studies and transportation improvements for Monroe Avenue, S. Clinton Avenue, Mt. Hope Avenue, Thurston Avenue, Jefferson Avenue, University Avenue and Dewey Avenue.
- Commercial areas on N. Clinton Avenue, Chili Avenue, Genesee Street, W. Main Street and W. Ridge Road have benefitted from targeted façade improvement projects coordinated by the City's Economic Development.
- Neighborhood organizations obtained Main Street Grant funding from New York State to upgrade commercial properties on South Avenue, S. Clinton Avenue, N. Clinton Avenue, Hudson Avenue and in the NEAD neighborhood.
- The rezoning of a portion of Mt. Hope Avenue to a new Village-Center designation in 2008, Collegetown Village District, was recommended by a collaboration of neighborhood residents, businesses, the University of Rochester and an interdepartmental team of city staff in response to a significant transportation project and new commercial construction proposed along the corridor.

The in-depth review of the C-2 regulations which occurred during the Mt. Hope Moratorium was particularly instructive and indicated the following about the C-1 and C-2 district regulations:

- lot and building coverage requirements have been ineffective in producing better development;
- unlimited building height allowances have the potential to negatively impact commercial corridors;
- permitted and specially permitted use listings do not necessarily reflect current market trends;
- floor area limitations unnecessarily impact new construction and force variance approvals;

- front setback requirements do not guarantee appropriate building placement on built up streets;
- sign provisions do not provide sufficient flexibility or square footage allowances to ensure effective signage;
- prior parking requirements have resulted in streetscapes with of asphalt between buildings;
- clarifications and improvements to city-wide design standards and guidelines are necessary to better guide development.

The Collegetown Village District is an amalgam of the successful aspects of other zoning districts. The district combines the flexible review, use of design focused form based zoning, relaxed use and parking provisions of the CCD with the administrative approval allowed for sign programs of Planned Development districts.



A number of projects in the Center City District have shown how relaxed use and review provisions, in conjunction with design focused guidelines, can facilitate better development.

Recommendations for Commercial Zoning:

- 1) *The regulations pertaining to the C-1 and C-2 districts should be modified and updated. The Collegetown zoning district and process can be utilized as a template for new commercial district regulations.*
- 2) *Not all commercial areas may be ready for the flexibility of a Collegetown - like district. A commercial designation may be necessary which maintains certain, less flexible controls.*
- 3) *Continued study of the City's commercial corridors is necessary to determine their long term viability. This must include planning for shared parking locations within the districts.*
- 4) *The Overlay Boutique and Overlay Office designations were developed under the 1975 Code as a means of affording certain residential areas on major thoroughfares the ability to convert to light commercial uses as the desirability for residential uses declined. These districts should be studied along with the commercial zones to determine their utility and effectiveness.*

E. Industrial Zoning



The M-1 Industrial District is utilized citywide to accommodate the diversity of light and heavy industrial uses. M-1 districts are distributed throughout the city, often across from or adjacent to residential zones and other sensitive uses, which have necessitated the imposition of protective controls.

Because the M-1 district is the singular industrial zone used throughout the City, it contains safeguards such as distance separations and special land use approvals such as site plan review and special use permits to protect adjoining sensitive uses. The M-1 district regulations can sometimes be perceived as inhibiting the establishment of new uses and/or the expansions of existing uses because of the protective nature of the regulations.

The Planned Development (PD) concept has been used successfully to guide the growth of institutions such as hospitals, nursing homes, museums and schools. It can also be used to specially zone an area for industrial purposes, such as: Upstate Milk on Fulton Avenue; the Rochester Science Park on South Ave; and the former Valeo plant at 1555 Lyell Ave.

Currently, an interdepartmental team of city staff is working with the Eastman Kodak Company to develop a long-range redevelopment strategy for Kodak Park. Kodak completed a footprint reduction project in 2007 which resulted in the razing of a significant number of obsolete industrial buildings on its 80 acre campus. As Kodak continues to reduce its presence in the Park, viable industrial buildings and state of the art infrastructure remain that could be utilized by new businesses. In addition, the Park is surrounded by acres of unused parking lots which are being marketed for new construction. A planned development district is being devised for the establishment of a multi-tenant industrial park, Eastman Business Park. The PD district will facilitate economic development by incorporating flexible review and approval processes in exchange for design and performance controls. It is anticipated that the new PD will also be responsive to changing market conditions.



Recommendations for Industrial Zoning:

- 1) *Adjust M-1 regulations to retain their protective nature where necessary, but where unnecessary, increase flexibility and reduce processes for new uses and the expansion of existing uses in response to market initiatives.*
- 2) *Continue to utilize the PD District as a tool to accommodate the redevelopment of former obsolete industrial sites.*

SECTION III: DESIGN

Fostering good urban design is important to this community. Rochester has a legacy of quality architecture contributing to its strong urban fabric. The adoption of the 2003 Zoning Code, a code that focuses more on design than previous regulations, has helped to continue that legacy with the hope that it will be reinforced and extended into the future.



The 2003 Code included the City's first citywide design guidelines and standards. Citywide design guidelines and standards apply to all areas of the city outside of the Center City. It also provides a new and different approach to land use regulation in the Center City, regulation by design and form, rather than by use. The 2005 evaluation of the code indicated that these policies had pointed the City in the right direction and had, to date, been reasonably successful.

In 2009 it is clear that the design focus in land use and development is imperative to the City's long term health. While economic pressures sometimes seem to dictate against investment in quality design, it is important that design quality remains squarely on our agenda for future land use and development in the City. We now know that good urban design can create significant value for individuals, communities, the economy and the environment.



Value as it relates to design can be grouped into several categories: commodity value; operational value; aesthetic value; social value; and environmental value. Well designed buildings incorporate as many forms of value as possible, generating increased market value for the developer as well as value for the general public. The findings of recent research suggest many ways that quality urban design creates such value, including: attracting people and activity; attracting highly skilled workers; supporting the branding and promotion of a city; increasing the viability of local businesses; increasing accessibility and hence, land values. It is now possible to examine the value of good design, not only from the perspective of aesthetics and style, but also from the perspective of economic benefits and financial investment decisions.

The built environment is where people come together and where community and economic life occur. In an era of global economic competition and economic challenges, businesses, and the innovative people that start and grow businesses, have a great deal of choice as to where they may locate. In the "old economy" it was often believed that attracting companies was the key and that a high quality physical environment might be a luxury that could stand in the way of



attracting cost conscious businesses. In the “new economy” many believe that attracting educated workers is the key and that physical and cultural amenities are needed to attract those knowledgeable workers. Indeed, it has been stated that in the “new economy” small businesses will follow the workers. Those workers, in deciding where to locate, will look for what sets a community apart from others. One of the key attributes that sets a place apart is how well it implements good urban design principles.

To be clear, quality urban design is not solely about architecture, although architecture certainly plays a vital role in good design. Quality urban design is about character and place making; it is about continuity, ease of movement and connectivity; it is about adaptability, diversity, and density; it is about the relationships of buildings to one another, to neighborhoods, to blocks and to districts. It is very much about the quality of the public realm. However, it is not about the physical environment in isolation. There needs to be suitable balance between quality design and complimentary economic, social, and environmental policy.



A. Center City Design

The 2003 Code treats the Center City as a unique place within the larger City and regulates new development more on form and less on use. The code allows a great deal of flexibility when it comes to use, correctly acknowledging that it is the form and design of buildings that impact a center city area much more so than the uses that occupy them.

The current code has generally performed very well in allowing design flexibility through an expedited review process. Approvals for even large projects, such as the ESL Headquarters, can occur in as little as 45 days (*see graphic on the following page*). As long as the use is permitted, and almost all uses are permitted as long as they are completely within an enclosed building, review is administrative and does not require an extended process. The code has provided for a market oriented approach to Center City regulation and has offered a unique mix of certainty, flexibility and an expedited process.

While the general direction and approach set forth by the 2003 Code has proven to be successful, continual monitoring and input from Center City stakeholders has resulted in the following critique and recommendations for improvement.



ESL's 180,000 SQUARE FOOT, MULTI-STORY OFFICE BUILDING and 550 SPACE PARKING GARAGE

Among many other criteria, a very important site selection factor in deciding to locate downtown was Rochester's Center City "fastrack" land use approval process. An issue involving easements along Woodbury Boulevard necessitated discussion with the Strong Museum and led to some delays and design changes to the project. Discounting the time associated with the resolution of these legal issues, a major Center City project completed the zoning approval process in less than 90 business days.

Regulatory Districts



The Center City District is divided into seven regulatory districts: Riverfront, Main Street, Grove Place, East End, Tower, and Cascade Canal, plus the Base district. These seven districts are based on detailed studies undertaken by consultants during the development of the 2003 Zoning Code. It has been noted by zoning staff and stakeholder groups that there are overly subtle distinctions among the districts that perhaps add unnecessary complexity to the Center City regulations.

The seven design districts also tend to be defined geographically with street centerlines. This can create situations where one side of a street is regulated differently than the opposite side. Also, two streets may have very different characters and purposes, but will be regulated the same way. For example, North Water Street and State Street are regulated the same way because they are both in the Riverfront District; however, these streets are very different in both character and purpose.

As the public spaces of the Center City are of high importance, more attention needs to be placed on streets and the public realm. The recent Downtown Charette conducted by the Rochester Regional Community Design Center (RRCDC) is instructive and focuses very much on public realm improvements.

Outdoor Uses

If a use is not completely within an enclosed building, such as a gas station or a used car lot, a use variance from the Zoning Board is required. This illustrates a shortcoming in the current review system as the financial hardship standard for use variances is incongruous in a regulatory scheme that permits nearly all uses in enclosed buildings. Granting a use variance can undermine the achievement of the goals and vision for downtown development. It is the design of a project that is critical to its appropriateness in contributing to the quality of the Center City. A partially or completely outdoor use may, or may not, be appropriate depending on location and how the site is laid out and designed. The hardship test should not be a way to avert design compliance.

Existing Structures

The CCD code performs best when applied to new construction. When used to regulate renovation of existing structures, it performs less well. The CCD represents a relatively small area with a wealth of buildings, many of which are historic, and they need better acknowledgement and protection. It is crucial to re-examine this aspect of the CCD code as there will always be substantial redevelopment downtown that will take place in existing structures.

Usability of the Code

Both the printed bound paper copy and the online digital version of the Code have several deficiencies when it comes to the actual “ease of use” of the code, both for City staff that must administer it and the public who consults the Code document.

Many users of the code have commented that the term “base” is often construed as “underlying.” In that, the entire CCD district is the “base” district and the various other regulatory districts of CCD (Riverfront, Main Street, etc.) are “overlays” on top of this “base”. District Maps and graphics are difficult to read due to an extremely “pixilated” character. Text and line art are jagged. Advances in digital graphics, formatting and/or printing technology since 2003 may address this issue.

The efficient use of the printed version would be greatly improved if each section in Article IX (CCD Center City District) started at the top of a new page. This is especially relevant in the Center City District portion of the code since each of the regulatory districts function almost independently of each other.

The CCD district makes frequent references to the four street definitions in Section 120-61 (Main Street, City Street, District Street, etc.). A clearer, more legible map showing these street types needs to be placed in the code. The boundaries of the Center City District have expanded since 2003 and should be reflected on an updated, codified map.

Recommendations for Center City Design:

- 1) *The basis for the seven design districts should be re-examined, focusing on the two main axes downtown: Main Street and the River. Due to the clear distinctions between the buildings within the Tower district and other parts of downtown, it is probably valid to retain that district. However, consideration should be given to consolidating other districts perhaps with more emphasis placed on street type.*
- 2) *The employment of use variances in CCD should be reviewed.*
- 3) *Revise the CCD regulations to better deal with changes to existing buildings taking into consideration the level of renovation and change.*
- 4) *Strive to better clarify, catalog, map, publicize and protect important buildings and historic assets.*
- 5) *Interdepartmental communication and cooperation needs to be continued and enhanced so that the design and implementation of street improvements coordinate seamlessly with the regulation and design of land development, ensuring the maintenance and creation of a quality public realm in the Center City.*

- 6) Clarification of the “CCD-Base” district terminology is needed; maps and graphics, including street definitions and updated district boundaries, must be reformatted to be clearer and more legible.

B. Citywide Residential Building Design Standards



In 2003 the consensus was that the application of design standards to single family residential infill development should be minimal. The code affords a menu of options to achieve design compliance and requires that a majority of the options be met. This system has worked reasonably well without putting a heavy burden on single family property owners. However, more detailed requirements may be necessary for front porches, siding materials and detailing.

There have been several recent multifamily housing developments, and there are likely to be more in coming years. The current code is largely silent on any sort of design guidance for multifamily housing. This issue needs to be addressed.

Recommendations for Citywide Residential Building Design Standards:

- 1) Develop more detailed design requirements for new front porches (materials, detailing). The goal would be to provide guidance for small contractors and homeowners to avoid unpainted, pressure-treated applications.
- 2) Better define “pattern of window and door openings” in current regulations.
- 3) Include references on detailing (i.e. vinyl siding can be acceptable if wider window frames are used to better fit with a historic pattern of window frames).
- 4) Devise vinyl siding specifications similar to minimum gauge requirements currently in the code for metal buildings.
- 5) Develop design standards and guidelines for multifamily dwellings; or in lieu of new standards, send all multifamily projects to the Project Review Committee (PRC) for review and recommendation.

C. Citywide Non-Residential Building Design Standards



The Zoning Code designates the Neighborhood Center (C-1) and Community Center (C-2) Districts as the areas for mixed use pedestrian-scaled buildings, constructed close to the sidewalk, with substantial first floor transparency, preferably in multi-story form. This type of development has been the historic pattern of building design along Rochester's “main streets”. Village Center Districts are also mixed-use districts

that address specific or unique situations. These include the Public Market (Public Market Village, PM-V), the port area and Charlotte (Harbortown Village, H-V), and the recently established Collegetown Village (C-V).

Together with the Center City, the C-1, C-2, PM-V, H-V, and C-V districts are the face of the neighborhoods and gateways to the City. These districts adjoin the primary vehicular and pedestrian corridors of the City. These are the streets that residents and visitors traverse the most often and are generally how people experience the city, in contrast to streets in residential or manufacturing districts which tend to be experienced on a much more limited basis by residents and employees. The goal for the C-1, C-2, and other mixed use districts is to accommodate dense, diverse development and pedestrian friendly, walkable streets. In general, district area, bulk requirements and Citywide Design Standards have served these areas well.



However, several shortcomings do exist with the current regulations, particularly with the district area and bulk regulations.

Front Yard Setbacks

The front setback requirement relies on the “average front yard depth of buildings along the corridor and within the commercial district.” This was intended to ensure that new structures will draw on the existing neighborhood context. One of the unintended consequences of this contextual approach occurs in areas where good context is lacking. A recent example of this is the redeveloped McDonald’s at 1701 East Avenue in a C-2 district. This area is currently a mix of traditional urban building forms and more auto-oriented building forms. Another example is Mt. Hope Avenue between Elmwood and Crittenden. Here, a more traditional, pedestrian friendly, “main street” environment was envisioned, but until the C-2 zoning was replaced with the new C-V zoning, the land use regulations stymied this vision due to the existing auto-oriented development context.

Walls Parallel to Streets

An important urban design principle is that front walls of buildings should generally be parallel to the street. Current regulations do not ensure this basic and fundamental rule. Three examples highlight this issue:

- A proposed building at the northeast corner of Monroe and Alexander on the former Genesee Hospital site. Because Monroe and Alexander intersect at an obtuse angle, the original proposal for the building exhibited a “saw tooth” footprint. This approach is much less successful in creating a strong “street wall” and continuing the historic pattern of development. A modification was secured through the site plan approval process and advice from the PRC; however, it would have been

preferable to have the principle clearly stated as a standard or guideline and then deviate as necessary from the rule.

- A proposed pharmacy development in front of the existing (Tops) plaza at North Winton and Blossom. The pharmacy, as proposed, would be a rectangle that is parallel to North Winton but not parallel to Blossom, to which it is much closer. This, unfortunately, does not further the goals of the mixed use district in creating strong street walls.
- The new Rite Aid Pharmacy at the southeast corner of Monroe and Goodman, as revised after the original proposal, is a building that is not a perfect rectangle, reflecting the site on which it is located and having walls parallel to both the Monroe and Goodman frontages.

Building Materials

Allowable and permitted building materials also need to be reviewed in depth. This includes better defining the use of metal as a building material. Certain applications of metal, such as the Strong Museum addition and a recently proposed multi-tenant retail development on Mt. Hope Avenue, should be permitted. Certain kinds of metal buildings are also appropriate in the H-V and PM-V districts, reflecting the historic use of metal structures.

Lot Coverage Regulations

Lot coverage regulations in the mixed use districts are unnecessary. Outside of Center City, C-1 and C-2 districts are the most “urban” zoning districts in the city. Urban character is exuded by buildings and density that enliven the city. Outside of public green space such as street trees, parks, and squares, urban character is not necessarily reflected in private green space, particularly in a mixed use setting. Mindful of unintended consequences, an exception needs to be made to continue to require landscaping for parking lots. Parking lots can disrupt an urban streetscape, and the code needs to continue to prevent a situation whereby entire parcels can be paved over.

Industrial Districts



Design regulations in the Industrial (M-1) District need to be re-examined. Currently, in some cases, design standards such as transparency and building material requirements impose unnecessary burdens on industrial development. Not only do they impose higher costs and security concerns, but they do not necessarily result in more attractive buildings. For example, the requirement that no more than 50% of the façade be clad in metal is not necessarily a value added standard. In industrial districts there is far less correlation between the attractiveness of a building façade and its material. Metal can be employed in creative, attractive ways in industrial settings. Conversely, simply requiring a minimal amount of masonry does not guarantee good design.

Where an industrial district abuts a residential or mixed use district, or fronts on a major street, more rigorous design regulations may have relevance. These may include 20% or more transparency, enhanced landscaping, and a prohibition on parking between the building and the street. Where a street has an industrial district on both sides, minimal standards should apply.

Recommendations for Citywide Non-Residential Building Design Standards:

- 1) *Adjust the application of front yard setback requirements to more strongly encourage pedestrian friendly building placement.*
- 2) *Require that the front walls of buildings be developed parallel to the street.*
- 3) *Re-examine allowable building materials, including metal, split face block, EIFS, concrete finishes, and those materials associated with transparency requirements.*
- 4) *Eliminate lot coverage requirements in commercial districts.*
- 5) *Modify and lighten design standards as they apply within industrial zones.*
- 6) *Consider design regulations for industrial uses that may be located on major streets or that interface with residential districts.*

D. Neighborhood Design Guidelines

To date, no neighborhood has taken advantage of the provisions of the Code, Section 120-161 and 120-192C, which allow a neighborhood to formulate and adopt design guidelines in addition to the Citywide Design Standards.

Although no neighborhood has taken advantage of this provision in the six years that the code has been in effect, there is no compelling reason to remove or change it. Several neighborhoods have gone through a design charrette process and these neighborhoods may wish to use the results of their respective charrettes as a starting point for creating neighborhood design guidelines.

The newly reorganized Neighborhood and Business Development (NBD) Department Quadrant Teams may wish to place more emphasis on this provision of the code, especially when working with neighborhoods as part of a community planning effort. The RRCDC has been made aware of this provision and its potential use in implementing charrette results.

E. Unique Design Challenges

Auto Related Uses



Auto and vehicle related uses present a challenge to pedestrian-oriented urban development. In many ways, the automobile and the pedestrian are in conflict. In a densely built, traditional urban community such as Rochester, the balance should clearly favor the needs of the pedestrian.

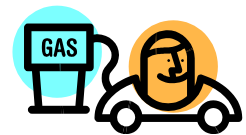
However, functional constraints inherent in the use and the typical proximity of residential occupancies should also be taken into account. The zoning code must recognize that auto related uses such as gas stations, car washes, car sales operations, car repair operations, etc. will be part of the urban landscape. Therefore, the immediate challenge is how to better integrate these auto-oriented uses so as not to detract from the desired pedestrian oriented environment.

Two different types of gas station issues are typically faced by the City of Rochester:

- the redevelopment of existing gas stations sites
- the construction of new gas stations

The first issue is more common in the City of Rochester. These sites are often relatively small, and almost always on corner lots. The space constraints can prevent these operations from having the number of pumps that newly built gas stations located on larger sites include. In addition, the space constraints can also preclude the inclusion of the mini-mart retail component that is common in newly built gas stations.

Construction of completely new gas stations occurs less frequently, due to the built-out nature of the City and the relative difficulty in obtaining or assembling parcels that are large enough. However, one prominent recent example is the proposed Fastrac development on East Main and Union Streets. Like most gas stations sites, this is a prominent corner location. The site plan process for this project would have benefitted from more specific design standards for gas stations in urban areas.



One approach to gas station design is to look back to the early days of automobiles when they first appeared on the urban landscape. From the 1920s to 1940s, autos and their associated uses, such as gas stations and dealerships were inserted into a cityscape that was much more dense and urban than it is

today. As Rochester seeks to return to a denser, more walkable form of development, looking at these historic precedents may be useful.

The downside to this approach is the simple fact of scale. Gas stations in the 1920s, 30s and 40s were much smaller than typical gas station/mini-marts today. The current business model is not for two or four pumps attached to a small kiosk or cottage sized structure. Employing a historic design context on the scale of the contemporary business model for gas stations should be done carefully to avoid the appearance of “overblown” or “cartoon” architecture.

A potentially more flexible approach would be to look at the components of contemporary gas station/mini-marts and how they might better fit into a traditional pedestrian-based urban context. The two main components are the retail building and the gas pump canopy. Looking at each individually may help inform design standards. Small, single story retail buildings have been a staple of Rochester's streetscapes for over 100 years. The architectural details of the retail building can draw on many models and are less important than the building's placement on the site and its connection to the public sidewalk. The canopy structure can also draw on many similar historic forms: railway and trolley stations, market sheds, and industrial storage yards all have employed a “shed-like” form for well over 100 years. These forms can serve as inspiration for modern gas station design standards.

The most critical component of modern gas station design that must be reflected in the design standards is how the building and canopy relate to each other and to the street. The bulk and massing of the components, coupled with their placement on the site, must reinforce the street edge.



Car wash technology has advanced beyond the definitions in the current zoning code. Therefore, consideration should be given to allowing ‘automatic in bay car washes’ in C-2 districts, in the same way that vehicle repair and vehicle service stations are allowed by Special Permit.

These automatic in bay car washes differ significantly from the large “tunnel-like” car washes (e.g. Delta Sonic, Buckman’s) as well as the “do-it-yourself” car washes where the driver gets out of the vehicle and runs a coin-operated, hand-held, power washer. The automatic in bay car washes are completely enclosed, completely automated (i.e. the driver stays in the vehicle at all times, there is no attendant), and relatively small. These types of car washes may still be regulated with regard to queuing, screening, noise, hours of operation, etc., but by allowing them with a special permit, the city may be creating value for commercial property owners in the C-2 district.

Civic Buildings



Civic buildings such as churches, schools, museums, theaters, fire stations, police stations, post offices, YMCA, libraries, etc. are not adequately addressed by the existing Citywide Design standards. These types of buildings do not fit neatly into the existing category of “residential development” or in “non-residential development” which seems to imply everything else. The current “non-residential” design standards are more suited for commercial and mixed use structures. Civic buildings, including those listed above, should not necessarily be expected to comply with the same transparency and setback requirements for commercial and mixed use buildings. Large glass storefront windows are not appropriate for churches or schools. Historically, these buildings were often set back from the street, even on main commercial corridors, so a 0-5 foot front setback is also inappropriate.

Rather than send these types of buildings to the ZBA for a variance from the Design Standards, the code should instead specifically acknowledge these special types of structures. The design is best handled on a case by case basis. Utilizing the site plan review process and the expertise of the PRC may be the best way to address the design issues with these types of buildings.

Public Realm Design



Organizational structure and decades of convention have lead to a situation where design professionals (landscape architects, engineers) from the City Department of Environmental Services (DES) are integrated into the site development design review process. This occurs through the regular weekly Site Plan Review Committee meetings, its associated referral process, as well as with the PRC. Development proposals that activate any of the Site Plan Review triggers, per Section 120-191, are reviewed for a wide range of issues, from conformance with the Citywide Design Standards, to parking design, to drainage, traffic, water and sewer impacts, as well as impacts on the existing public realm, i.e. streets, curbs, sidewalks, street trees, street lighting, etc.

However, the reverse is not necessarily true. Design professionals (planners, urban designers, architects) from the City Department of NBD are not integrated into the design process for public realm projects. More than once the PRC has noted a disconnect between the way development on private parcels (i.e. structures) is reviewed versus the way development or redevelopment of the public realm (streets, curbs, sidewalks, etc.) is reviewed. Neighborhoods, buildings and streets should be designed holistically as privately owned buildings have a significant impact on the adjacent sidewalks and vehicular travel lanes and vice versa.



For example, the recent Downtown Charette completed by the RRCDC lays out a vision for downtown. Implementation of this vision depends as much on public realm improvements (new or relocated streets, widened sidewalks, enhanced crosswalks, etc.) to provide structure for new infill development as it does on the current zoning code to regulate that development. In fact, the current CCD zoning regulations permit and encourage the very type of development envisioned by the charette, and there is little, if anything, in the current land use regulations that would hamper or prevent the realization of the charette's vision.

The recent Mt. Hope moratorium and subsequent rezoning to the Collegetown Village District and street improvement project represent a potential model of cooperation between various City Departments.

Roll-down Shutters and Security Devices

The purpose for the Citywide Design guidelines is to “preserve and promote the unique urban character of Rochester.” The guidelines and standards are intended to “encourage lively, pedestrian-friendly and attractive streetscapes” and to “maximize visibility for pedestrians, ensure appropriate building design, including entrances, doors and windows.”

Windows are recognized as an important component of urban design particularly in structures intended for retail use. Windows are one of the important defining architectural features of a building. Windows are also contributing features to the overall streetscapes of the City's mixed use corridors. The Code regulates windows through fenestration requirements. Fenestration is defined as openings in a building wall which allow light and views between interior and exterior. The overall intent of the fenestration requirements is the provision of transparency. Window glass must be clear or lightly tinted to allow the transmission of light and views. Opaque window treatments are prohibited. Transparency is required in new construction; reduction in existing transparency is not permitted in building renovations.

In April of 2008 an interpretation (03-08-09) of the code specified that the installation of roll-down shutters or other similar apparatus defeat the overall purpose of the fenestration and transparency requirements of the code. In addition, it stated that these installations are not sympathetic to the overall character of a building or a neighborhood streetscape and by their very nature violate a number of the adopted citywide design standards and guidelines. When closed, roll-down shutters create an unattractive blank wall. The architectural details of the window as well as the required transparency are completely obscured. When open, the accessory apparatus containing the shutters can obscure architectural details such as moldings, friezes and cornices.

These security devices seem to be proliferating in the City, defeating the purpose of citywide design standards and detrimentally affecting the image of neighborhood streets (see below).



It should be noted that input received from the NE Quadrant Team indicated that exterior security devices may be necessary in certain neighborhoods to protect and sustain business operations. It was suggested that the discussion leading to any further regulation of these exterior devices should include an option to permit them in areas where they are deemed necessary subject to specific conditions.

Recommendations for Unique Design Challenges:

- 1) Develop specific design standards for gas stations and gas station/minimarts.
- 2) Consider allowing "automatic in bay car washes" in C-2 districts.
- 3) Utilize the site plan review process and the expertise of the PRC to address the specific design issues of civic buildings.
- 4) Formalize the process that was used for the Mt. Hope Collegetown District for all major street improvement projects.
- 5) Amend the code to require that windows be unobstructed and to clearly state that the installation of any exterior device which obstructs transparency or impacts the architectural design of a window is not permitted. Consider an exemption for non-permanent interior devices such as non-opaque roll-down grills, etc.

SECTION IV: NONCONFORMITIES



Zoning regulations have traditionally strived for the eventual elimination of nonconformities, an approach rooted in the Euclidean Zoning model. The 2003 Zoning Code took a new approach. It recognized that not all nonconformities are inherently problematic. It maintained that some nonconformities should be eliminated, but clearly recognized that others provide opportunities for reuse and preservation. Rather than blanket elimination, it provided for a case by case assessment to consider the remaining utility and potential productivity. This was one of the major new directions taken in 2003, and one of the more significant departures from traditional zoning practice.

The following measures adopted in 2003 are emblematic of the new approach and have proven to be good changes:

- Built-as residential nonconformities were no longer subject to abandonment;
- certain nonconformities became eligible for reuse rather than elimination;
- owner intent was considered in addressing loss of rights.

The 2005 evaluation acknowledged that two years had not provided a sufficient backdrop against which to fully assess the new regulation. Cases reviewed from 2003 to 2005 indicated that the new approach was conceptually on the right path. However, several adjustments were made to the code as a result of recommendations of the 2005 report:



- modifications to the structure of the code provisions relating to nonconformities;
- an allowance of a variance application to convert very large residential structures, previously used for more units but originally designed as single family dwellings;
- requirements to improve sites in conjunction with reactivation of nonconforming uses; and
- allowances made to enable the conversion of commercial space to residential units.

Due to the substantial down zoning of approximately 3,500 acres of land to R-1 residential, the stock of nonconformities increased significantly in 2003. The down zoning created 11,600 (+/-) residential nonconformities. One of the reasons for the down zoning was to utilize the nonconforming use abandonment provisions of the Zoning Code as a means for reducing excess housing units. Abandonment provisions can be imposed on nonconforming uses in structures originally constructed as single family dwellings in which the converted use (two-family or multifamily) has been discontinued continuously for nine months.

Continued decreases in population since 2003 have resulted in increases in vacancies. Currently, there are approximately 9,000 vacant units in the city. Of those vacancies, the vacant residential nonconforming uses in R-1 districts have posed significant challenges.

Since the new regulations and the associated R-1 downzoning were adopted, we have experienced the following:

- An inordinate amount of staff time is devoted to the administration of these provisions.
- While owners of vacant, abandoned properties can be required to deconvert when proposing to reoccupy, maintaining unoccupied two- and multifamily dwellings is not illegal. Many owners opt simply to hold onto vacant properties and often allow them to deteriorate.
- Investors buy abandoned properties and initiate rehabilitation without permits.
- Many two and multifamily dwellings have been rendered unmarketable. Investors are unwilling to rehabilitate and potential owner occupants are not interested in oversized singles.
- There are a number of structures that may have been constructed as single family dwellings but over time have been structurally altered to the point that requiring deconversion is not practical.
- There has not been a dramatic increase in owner occupancy as a result of the down zoning and applications of abandonment provisions. In fact, single family dwellings continue to be acquired for rental purposes. There are approximately 12,000 rental singles in the city.

The experience in implementing the regulations causes us to reflect again on the original intent of the down zoning strategy. As generally understood, the down zoning to R-1 was to provide opportunities for owner occupancy; to reduce excess housing units in struggling neighborhoods that were already experiencing rising vacancy, disinvestment, high numbers of demolitions and foreclosures; and to address nuisance issues sometimes associated with overcrowded, substandard housing units.



As previously noted, the Housing Market Study and Project Green Report recommend the strategic removal of obsolete dwelling units. For this reason, it may be a useful strategy in neighborhoods with proven unhealthy market conditions to assist in the removal of blighted and obsolete dwelling units. For example, retention of full abandonment provisions should be considered for Project Green Areas (*see Appendix C for a map of the Project Green Areas*).

At the same time, in Focused Investment Strategy areas, more flexibility might be needed to allow for the continuation of existing nonconforming uses where

these uses are the target of investment. In these cases, exemption or selective exemption from abandonment may be in order.

The following is a review of the current status of the regulation of nonconformities in light of both the 2003 code changes and the increased stock of nonconformities resulting from the substantial areas downzoned to R-1.

The general approach to the regulation of nonconformities set forth in 2003 remains valid and is supportive of fundamental land use goals such as quality urban design, higher density, mixed use, and sustainability. The process associated with the administration of the regulations is, however, in need of repair.

Due to the dramatic change in the regulations in 2003 and a concern for how this previously untested methodology might work, a somewhat cautious process was devised. The process was essentially based on the Certificate of Nonconformity (CNC) procedure that had been developed with the 1975 Ordinance. The use of the CNC process was expanded significantly and made subject to public notification.

This process, in many respects, has proven to be somewhat onerous and not very customer friendly. Both staff and applicants have commented to this effect. This impact is exacerbated given the increase in numbers of nonconformities and decreasing staff levels available to administer the regulations. In the interests of efficiency and better customer service, the procedures for administering the nonconforming use regulations need to be streamlined and simplified.

The following subject areas provide for a discussion of relevant procedures and address the need for modification.

A. Exemption of Built-As Nonconformities from Abandonment Provisions



Since 2003 built-as nonconforming two and multifamily dwellings are no longer subject to abandonment, regardless of the district they may be located within. This exemption was a long time coming and makes practical sense. It also supports planning and community goals associated with mixed use neighborhoods, range of housing choice, urban densities and environmental sustainability. There has been no negative feedback since 2003 relative to this regulation.

Currently, where a structure has been so substantially altered that it in effect poses similar issues related to its deconversion as if it had been built as more

than one unit, the exemption does not apply. There is no discernable benefit to not applying the abandonment exemption in these cases if such conditions negatively affect or preclude marketability as single family dwellings.

Recommendations for Exemption of Built-As Nonconformities from Abandonment

Provisions:

- 1) Amend the code to clearly and definitively set forth the criteria for exemption of certain not built-as, but substantially altered, single family dwellings from abandonment. This provision might be related to building size, capital investment, or the constraints of an obsolete configuration. An administrative process is recommended to assess qualifications for an exemption in these cases.
- 2) Another option would be to exempt all legally existing and certified nonconforming residential uses from abandonment. Abandonment provisions would then apply only to nonresidential uses and illegal and uncertified residential uses.
- 3) A third option might extend the period of vacancy triggering abandonment of legally existing and certified nonconforming residential uses beyond the current nine month period.

B. Reuse and Reactivation



The current procedure for handling the proposed reactivation of an abandoned nonresidential nonconformity requires, through the Certificate of Nonconformity (CNC) process, a predetermination as to whether the case will be considered by the CPC as a special permit, or the ZBA, as a variance. The process developed to permit reactivation in 2003 has proven to be too costly and inefficient.

This particular CNC process requires extensive staff processing time considering that the review simply results in a predetermination as to which Board or Commission will consider the case at a public hearing. This predetermination prolongs the review process and adds little value to the review and approval of applications to reactivate abandoned uses. Also, neighbors are more often than not confused by the required CNC neighborhood notification in these cases. The CNC review process in this case is no longer necessary.



If this part of the process is eliminated, it is clear that the re-establishment of an abandoned nonresidential nonconforming use in a residential district should still require special approval through a public process. Neighborhood feedback in the evaluation process supported this requirement.

Since 2003, 99% of the reactivation cases have gone to the CPC for a special permit. Since 2005, the CPC has heard 47 special permits for the re-establishment of nonconforming uses, of these, 25 were given temporary approvals. The Zoning Board heard less than five requests.

The special permit process offers more flexibility and protections than the variance process. The benefits of the process are that special permit approvals can be approved on a temporary basis. A use, once approved, can be evaluated in a subsequent hearing after it has operated for a designated period of time. Also, special permit approvals lapse if the use is discontinued. Re-establishment of a new use requires a new special permit. Variances, on the other hand, are permanent and cannot be approved temporarily. It appears that the special permit process provides the best means to consider the reactivation of nonconformities. In making this adjustment the standards for reactivation should be reviewed to ensure only those nonconformities that have the potential to contribute to the health and vitality of the neighborhoods are reactivated.

Recommendations for Reuse and Reactivation:

- 1) *Eliminate the requirement to obtain a Certificate of Nonconformity as a means to predetermine the appropriate reactivation process.*
- 2) *Consider all applications for reactivation of nonconformities through the special permit process.*
- 3) *Develop additional standards for the Planning Commission to apply to their special permit decisions relating to reactivation. These standards might address the concentration of types of businesses in an area, the intensity of a proposed use, the viability and condition of a structure, and the quality of a rehabilitation plan.*

C. Requirements for Site Improvement With Reactivation



At its inception, the 2003 code accommodated the reactivation of certain nonconforming uses as described above. Some of the uses were located on sites that did not meet current standards for site development, typically accessory parking lots. These lots often lacked landscaping, buffering from the right-of-way, and adequate traffic and access control.

In 2005 this issue was raised and addressed in an amendment to the code now requiring site plan approval along with special permits or variances permitting reactivation. This provision has been successful in restoring properties in a more complete way.

One of the unintended results of adding this regulation was that it encumbered these reactivations with too much process. Currently, as many as three applications are needed including a CNC, site plan approval, special permit or a variance. It is beneficial to restore sites along with the reactivation of nonconforming uses in the buildings that occupy those sites, but the process needs to be streamlined.

Recommendation for Site Improvements with Reactivation:

Amend the regulations pertaining to special permits and Planning Commission authority to include a requirement that, as a condition of special permit approval in these cases, an applicant must submit a site plan illustrating that the site will be brought into conformity with current code requirements to the greatest extent possible. Site restoration would then be part of the overall special permit decision on the reactivation of the use.

D. Intent and Abandonment

Prior to the 2003 code the intent of an owner to resume use and not to abandon was not a consideration. Abandonment occurred regardless of intent to either maintain or restore the use. Input from the public during the 2003 ordinance revision effort called for a change in this restriction.



The 2003 Code addressed this issue by giving the Director of Zoning and the Zoning Board of Appeals the authority to extend the abandonment period for nonconforming uses where discontinuance of use was beyond the control and contrary to the intent of the owner. The Director was allowed to issue extensions prior to the expiration of the nine month discontinuance period causing abandonment, and the Zoning Board had the authority to reinstate the use after the expiration of the nine month period. Both the Director and the Board were required to apply the following standards in making their respective determinations:

- Extensive rehabilitation of property.
- Unique circumstances associated with repairs and alterations on designated landmarks or designated buildings of historic value.
- Transfer of title delays caused by estate or probate issues.
- Delay caused by serious illness or injury of any owner that may warrant special consideration on the basis of personal hardship.
- Current and expected market conditions that impact the ability to reoccupy within the re-occupancy period for built-as nonresidential.

Although the Zoning Code offers these extension opportunities, properties often are vacant for longer than can be approved administratively by the Director. At the same time, owners and buyers with legitimate circumstances beyond their control find it burdensome and costly to seek a variance. In addition, the standards which allow for an extension are not always applicable to foreclosure properties which can be in limbo for a long time. Experience with the code indicates that clarification of these standards is needed.

Two other items relating to this topic that were recommended for amendment in the 2005 evaluation report, but not accomplished, should now be reconciled. First, the Code is not clear on how long of an extension may be granted. Second, how long after abandonment has occurred does an owner have to make an application for extension?

Recommendations for Intent and Abandonment:

- 1) *Consideration should be given to increasing the Director's authority to extend the abandonment period after the nine month period for residential nonconformities has elapsed. This would eliminate the Zoning Board of Appeals from the process.*
- 2) *Provide more guidance in the code as to how one meets the standards for extension.*
- 3) *Codify how long of an extension may be granted by the Director and how long after abandonment an applicant has to petition for an extension.*

E. Re-Establishment of Prior Nonconforming Uses in Large, Single Family Dwellings



Property owners and real estate professionals had indicated in 2005 that the abandonment of multiple use rights in certain single family dwellings is often unrealistic due to their size. In response to this, the code was amended to permit variances to re-establish multifamily uses in structures having at least 2,000 square feet of habitable floor area. Recent interviews with stakeholders reflect a split opinion on how this has worked. Feedback at the public meeting indicated that from a neighborhood perspective the current standard is desirable. Owners, landlords and realtors say it is not. They would like to have the standard based on 2,000 square feet of *gross floor area* or better yet, reduced to 1,700 or 1,800 square feet. Of the 750 vacant, nonconforming structures, 35% had a gross floor area greater than 2,000 square feet according to assessment records.

Recommendation for the Re-Establishment of Prior Nonconforming Uses in Large Single Family Dwellings:

Amend the code to permit any structure containing 2,000 gross square feet or more, to be restored to a prior legal multi-unit use, provided the restoration units each meet current minimal habitable floor area requirements. This could be handled administratively through the CZC process as an as of right action.

SECTION V: SIGNS



Signs play a major role in the success of retailers, small businesses and the local economy as they are used for advertising, identification and wayfinding. At the same time, visually unappealing signs, sign clutter and abandoned, deteriorating sign support structures can erode community identity, dominate the streetscape, detract from historic character, and contribute to blighted neighborhoods.

The 2003 Code contains stricter baseline regulations regarding signs but also allows greater flexibility and provides more avenues of relief. It also prohibits larger, higher profile auto oriented signs like rooftop and pole signs in favor of encouraging more pedestrian scaled signs.

The 2005 evaluation largely deferred on the topic of signs, lacking a substantial amount of data over the first two years of the 2003 Code to draw reasonable conclusions. Having four more years of experience with the code, we are now in a better position to define problems with and suggest changes to the sign regulations.

Staff met with representatives of local sign companies who generally expressed the concern that the size limitations for signs in commercial districts are too restrictive. They indicated that they have lost clients because owners did not want to spend \$250 for a variance and wait two months for their sign, if approved. In the meantime, rogue contractors would move in and install signs without a permit. It seems that the restrictiveness of the regulations invites noncompliance.

Additionally, digital signs have emerged since the adoption of the 2003 Code as well as other new sign technologies. We will collectively refer to these new high tech signs as “dynamic” signs.

Sign codes have traditionally attempted to control the size, number and location of signs within the various zoning districts, without regard to business type, individual building features or district character. This sort of general regulation strives for uniformity, seeks to prevent clutter, provides little flexibility in process, and has been largely ineffective. The failure is because traditional regulation has not understood that the signage needs of various businesses are very different. On the one hand, service oriented businesses have established clientele that are aware of the businesses location and can get along with minimal identification signs. On the



other hand, some businesses rely heavily on visibility to be successful, such as restaurants.

Traditional sign codes, in seeking uniformity, often discourage the creativity that can add to the character and vibrancy of an area. With respect to urban design, standard regulations fail to account for the uniqueness of individual buildings and the opportunities those features present for signs. Instead, sign regulations should take into account the vision and goals of the community with respect to quality design, considering both the character of the buildings and that of the public realm, together with the needs of the businesses, particularly small businesses, for signage that will best ensure their success.

This leads us in two directions: one, a more liberal baseline, as of right allowance, and the certainty it provides; and two, greater flexibility to better account for the character, context and uniqueness of both buildings and districts, as well as for new technologies.

A. Issues with Current Sign Regulations

- Rochester neighborhoods have many nonconforming buildings in residential neighborhoods, many of which were built as commercial structures. They have, as per the 2003 Code's allowance for reactivating uses within these buildings, the potential to remain valuable assets to the neighborhood. Typically housing small businesses, enhancements to these buildings and businesses should be encouraged. While the general regulations pertaining to nonconforming buildings were made much more flexible in 2003, the sign regulations make no distinction for these structures and treat them as residential uses, severely limiting their allowable signage area. In addition, the 1-2 month process and \$250 fee for an area variance (and no guarantee for success) can be a significant obstacle for small businesses.
- Multi-tenant buildings on one parcel can take the form of either a strip plaza (Mt. Read-Lyell) or a more traditional pedestrian friendly development (Brooks Landing Business Park). In either situation, the parcel is limited to 50 square feet total signage, which is often inadequate for multiple tenants to share. The owner is forced to apply for either a variance or for a special permit for an alternate sign program. This amounts to penalizing owners simply for the size of their parcel. The existing sign code was written with the view of a traditional retail "main street" with 25-35 foot wide parcels owned by different owners. This view of property ownership and development does not necessarily reflect current market realities.
- Civic Buildings and places of worship are sometimes located in residential districts and thus subject to very limiting sign regulations. Developing clear

standards for these typically beneficial uses may help avoid the need for costly and time consuming variances while protecting the character of the residential area.

- The existing regulation on cabinet signs is a half measure. It forces applicants to have raised or recessed letters and limits the signs to three colors. These measures, in and of themselves, are likely to add cost but do not necessarily have a correlation to sign attractiveness and compatibility.
- There is not enough flexibility for awning signs.
- Signage regulations in the Center City Design district are limiting but can be waived through Site Plan Review. To date, Center City signs are some of the most attractive and creative in the city. There is a concern, however, that this is due to the talent of current staff. There is little to no guidance or standards on what types of signs are appropriate in the CCD while there is ultimate discretion (rife for abuse).
- The single biggest problem when it comes to the sign code is enforcement. This was brought up repeatedly by both neighborhood groups and industry representatives. Reputable sign contractors are discouraged from doing business in the city because of the varying levels of enforcement of the sign regulations. If unscrupulous contractors install illegal signs without permits, and face no sanctions, it becomes very difficult for reputable sign contractors, who make a good faith effort to follow the regulations, to acquire jobs.



B. New Technology and Dynamic Signs



For well over 100 years, ever since electric lighting turned New York's Broadway into "the Great White Way," new technologies have impacted signage. Neon signage, once reviled for its "tacky" quality, is now often viewed with affection and even historic significance.

New and emerging technologies such as liquid crystal displays (LCD), plasma screens, bioluminescent signs, light emitting diodes (LED), and fiber optics all have the potential to change what we traditionally think of as signs and sign materials.

(See the following page for examples of various types of "dynamic" signs.)





Since the adoption of the 2003 code the technology for signs has evolved to include digital displays in the form of both on-premise and off-premise signage. The proliferation of digital billboards in particular has caused many municipalities to modify their sign regulations. The 2003 Code does not address this form of signage. There were two applications for digital billboards in 2009, one on 490-West and one on Rockwood Street. Both were handled as attention getting devices, regulations that did not contemplate this technology. Variances related to both applications were approved. (The Rockwood location has since been abandoned.)

Estimates vary from about 700 to 1,500 digital billboards nationwide of the approximately 500,000 existing advertising signs. The Outdoor Advertising Association of America expects this number to grow by several hundred each year. New York State has enacted legislation that controls these types of signs statewide. Depending on one's perspective, these new signs are either traffic safety hazards or not; are desirable for small business advertising, tourism and public safety or are aesthetically undesirable, interrupt scenic views, are energy consumptive and are detrimental to community character.

The principal issues for municipalities are the impact on traffic safety; excessive brightness at night and glare during the day; and dominance of the skyline (Power Point in the Sky). At the same time, digital billboards can deliver emergency and community information for all levels of government. On August 1, 2007, at 6:19 pm, a downtown Interstate bridge collapsed in Minneapolis. Within minutes, a local digital billboard network posted emergency messages, as part of the disaster response. Law enforcement uses (donated) digital billboards to help find fugitives and missing persons. AMBER Alerts are posted on digital billboards, via a partnership with the National Center for Missing & Exploited Children. Digital billboards celebrate community achievements and deliver community information such as environmental tips in Albuquerque.

In addition, digital billboards are durable and are easy to update and maintain. By contrast, traditional billboards are static, cumbersome and subject to destructive weather elements. Digital billboards are often regulated by municipal cap and replace ordinances, which limit the number of billboards an outdoor advertising company can install while calling for the elimination of static boards. Digital billboards can help outdoor advertising companies overcome the restraint to revenue caused by cap and replace by increasing revenue per board without numerous locations.

The current code did not contemplate most forms of dynamic signs. It primarily addresses the issues associated with moving or changeable signs in the form of its definition of attention getting devices. This leaves too much room for interpretation and does not adequately address, control or accommodate new

sign technologies. The consideration of regulations for these dynamic signs and new technologies will require community discussion. Legislative options include prohibiting them citywide, controlling them by district and intensity, and legislating the community benefits associated with permissive regulation.

Advantages to a municipality include the ability to negotiate for the removal of static billboards throughout the community. For instance it has been reported (*scrfeens.tv*, July 09) that in one location, Lamar advertising offered to remove half of the city's conventional boards in return for a smaller number of digital locations. In San Antonio, Clear Channel Communications has a one year pilot program which includes the removal of six conventional boards for every new digital board location approved. Also, consideration can be given to the possibilities of profit sharing or taxing based on the location of such extremely high profit generating incomes from the use of the city's views and public roadways. The City of Toronto recently enacted a tax on advertising signs.

Recommendations for Signs:

- 1) *Allow for more liberal signage for commercial buildings in R districts possibly applying the sign regulations for C-1 districts, as of right, to nonconforming structures originally built as commercial or mixed-use structures currently occupied as such.*
- 2) *The sign code needs to be reviewed and amended to more clearly address signs for multi-tenant properties and provide a streamlined process for permitting signage.*
- 3) *Develop standards for signage for places of worship and other civic buildings (schools, libraries, etc.).*
- 4) *Review appropriateness/desirability of awnings with applied signage as well as internally illuminated cabinet signs.*
- 5) *Develop a guidance document or amend the code to define the discretionary process for signs in the Center City, to avoid arbitrary decision making, and ensure that current successes are replicated regardless of staff expertise.*
- 6) *Sign code enforcement needs to be a priority. In order to best utilize existing resources, one solution may be to focus on the city's 10-15 primary commercial corridors. Consider enlisting the help of citizens and neighborhood groups to track sign violations. Sign compliance can be linked to the issuance of business permits, requiring applicants to show proof that existing signs are code compliant.*
- 7) *It is suggested that the best way to assess community preference for and community impacts of dynamic signage is to take the approach of a generic or programmatic environmental impact statement. Perhaps a moratorium on future dynamic signs might be adopted while an assessment is completed and a regulation is devised.*

SECTION VI: PARKING



Traditional zoning codes established minimum on-site parking requirements for all uses and typically sought to maximize parking supply. The 2003 Code departed from this traditional approach. In doing so, it reduced minimum parking requirements; eliminated others in favor of parking demand analyses; established parking caps to avoid the overdevelopment of parking; and provided alternatives to encourage shared parking to take advantage of existing supplies.

It was hoped that these approaches would allow greater flexibility in reusing city properties, facilitate changes in commercial occupancies, and contribute to quality urban design goals. The 2005 evaluation recommended the continued oversight of these new ways of handling off-street parking. Our experience since 2005 indicates that we are headed in the right direction and that managing demand and efficiently using existing supplies should be the focus of parking regulations, rather than the number of spaces required.

Is it now time to consider eliminating parking requirements citywide? Doing so would rely on the marketplace to establish and document parking needs. Regulation could then focus on location, design, and management. This is arguably a very rational and desirable approach to future parking regulation.

However, on-site parking requirements are still very ingrained in how we think about zoning rules. Any proposal to eliminate on-site parking requirements will likely meet with substantial opposition. Indeed, meetings and interviews with stakeholders indicate that this continues to be a very controversial subject. Elimination of requirements would likely be popular with developers, commercial interests and urban design professionals, but unpopular with neighborhoods that surround the commercial districts. Spillover, particularly from bars and restaurants, is a problem in these neighborhoods, and parking requirements continue to be thought of as leverage to restrict these uses and avoid spillover effects.



In spite of these concerns and this divergence of opinion, it is time to have a community discussion about eliminating all parking requirements in the City of Rochester.

A. Beginning a Parking Discussion

Why Does Eliminating Parking Requirements Pose Such A Difficult Discussion?

The following are some of the many reasons:



- Tradition
- Spillover Problems
- Misconceptions about Parking Requirements
- Difficulty in Establishing Residential Parking Permit Programs
- Lack of a Comprehensive Public Transit System
- The Use of Enforcement Resources Relative to Other Public Safety Needs

Why Is The Discussion So Important To Have?



Because Minimum Parking Requirements:

- Are Arbitrary...there is No Science Supporting Them
- Force Costs on Developers, Business Owners and Can Increase the Cost of Housing
- Promote More Vehicle Usage, More Traffic and Contribute to Negative Environmental Effects
- Lower Development Densities, and Limit Development of Smaller Infill Lots
- Create Barriers to High Quality Urban Design and Result in Less Walkable, Neighborhoods
- Inhibit the Re-use of, and Investment In, Existing Buildings
- Undermine Support for Other Modes of Transportation

This is not to say that automobiles are bad, that off-street parking is not needed, or that it will not or should not be developed. The point is that it makes little sense to require it. The issue is not so much if there should be or will be parking lots and facilities; rather the issue should be about where parking is located, how demand and supply are managed, how it is designed, and methods to prevent too much. Too much can be more of a problem than too little.

When is Enough Too Much??



Parking regulation, as part of a larger policy, is a major factor in determining the quality of the urban form. Such regulation should be more concerned with the where and how of parking rather than the how many; more about quality than quantity. Legitimate concerns for regulation include location, aesthetics, landscaping, drainage, layout, access, signage, and management.

What's Wrong with this Picture?



Urban Commercial Intersection

- ✓ Lacks Tight Building Fabric
- ✓ Parking is Predominant Use
- ✓ Paved Areas Exceed Building Areas
- ✓ More Parking Lot Frontage Than Building Frontage
- ✓ Geared to Vehicles Rather Than Pedestrians
- ✓ Parking Requirements Helped Create This!



Parking is a commodity and it has a price. Developers will continue to build parking facilities. As long as there is a need in the marketplace, that need will be satisfied but not because of minimum requirements. Many believe that developers can assess demand for parking better than Zoning Codes ever could. They are right. Developer estimates are made on a location basis, in a specific context and at a specific time. This provides more accurate estimates than can be projected by any zoning code formula. Plus, the developer has a vested interest. Overestimating and overbuilding parking can result in excessive and unnecessary costs and underestimating can reduce marketability.

The regulation of parking is a policy decision not purely a technical one. We need to think differently about parking regulations than we have in the past.

 Old Way of Thinking	New Way of Thinking 
"Parking problem" means not enough.	"Parking Problem" can mean not enough but can also mean inefficient management, inadequate user information, or too much.
More parking is better.	Too much parking is harmful.
Parking should generally be free. Whenever possible, parking facilities should be funded indirectly through building rents or taxes.	As much as possible, users should pay directly for parking facilities.
Parking should be available on a first-come basis.	Parking should be managed to favor higher-priority users and encourage efficiency.
Parking requirements should be applied consistently, without exception or variation.	Parking regulations should reflect each situation, location and context, and should be applied flexibly.

B. Adjusting to a New Way of Thinking about Parking

In contemplating an adjustment to our traditional goals and values relative to the regulation of parking, the following topic areas are discussed followed by a set of recommendations for moving forward:

On-Street Parking

In the 2005 code evaluation, a reduction in Zoning Board parking variances was observed as a result of the reduction in parking requirements. This trend has continued. Since 2005, there have only been nine variance requests for waivers of off-street parking. All of these requests were approved. In addition, four administrative adjustments were approved for alternative parking plans for uses that required less than five additional parking spaces, and 26 special permits were approved for alternative parking plans for uses requiring five or more spaces. One of the substantiations for all of these approvals was the availability of on-street parking in the vicinity



(see Appendix D for a listing of special permits granted for parking by type of request).

On-street parking is an urban amenity of great value. Not only does it promote economic development by providing businesses and other uses with convenient parking, but it also enhances the physical environment by separating pedestrian walkways from the bustle of traffic, slowing traffic down, and enhancing the pedestrian friendliness of streets.

The *Comprehensive Downtown Parking Study* completed in 2008 by Walker Parking Consultants recognized on-street parking in the CCD as one of its biggest assets and recommended increasing on-street parking when and wherever possible. The report also indicated that on-street parking in the CCD is not only sought during week days for short periods of time to serve downtown businesses, but is the preferred parking choice during evenings and weekends to serve the diverse entertainment and dining/tavern venues.

Spillover Problem



On-street parking is not without its issues. Spillover refers to the undesirable use of on-street parking spaces, typically on streets in low density residential neighborhoods adjacent to commercial districts or institutional uses. Spillover problems are most significant in areas where there is a limited supply of parking, in popular commercial districts adjacent to residential neighborhoods, or around major activity centers like arenas and hospitals. Spillover problems are often used to justify parking requirements.

During the review of the Highland Hospital Garage application, residents in the South Wedge and Ellwanger Barry neighborhoods complained that staff of Highland Hospital monopolized parking on local streets near the hospital. Residents in the Upper Mt. Hope neighborhood have complained about Strong Hospital personnel parking all day on residential streets nearby the hospital. The residential neighbors adjoining Monroe Avenue complain of the aggravations associated with the unruly behavior of patrons returning from the Monroe Avenue bar scene late at night.

There are no easy solutions for the spillover problem. On one hand, on-street parking is in the public right-of-way and is obviously available to the public. On the other hand, owners in a neighborhood have a certain expectation that on-street parking should be serving the uses on a particular street not the uses located blocks away. In any case, if the elimination of parking requirements is to be considered, the spillover problem must be addressed. Methods to ensure the efficient use and management of on-street and off-street parking resources as well as planning for district communal parking lots need to be considered.

Broader use and greater accessibility to residential parking permits, in spite of procedural barriers, may also need to be part of the solution.

Shared Parking



The sharing of existing parking supplies maximizes existing resources and can be an efficient way to satisfy needs. The new Collegetown Village District (C-V District) on Mt. Hope Avenue is based on a plan which relies on shared parking and access. Like the Harbortown and Public Market Village Districts, which were adopted in 2003, there are no parking requirements in the Collegetown District. Parking is recognized as a necessary commodity that should be appropriately located, developed and shared.

The Collegetown District regulations established a development pattern for new construction in the district and imposed a 30 foot setback for parking lots to ensure that parking would be developed at the rear of buildings and that the street frontage would be developed with structures. The intent is to create a built up street frontage with enhanced pedestrian amenities which promote walkability, like the Public Market and Harbortown districts. The characteristics it is trying to achieve are what contribute to the success of certain commercial areas like Park, Monroe and South Avenues.

All uses within those districts benefit because it is assumed that shared parking will encourage patrons to visit the district, not just a specific business. In addition, it allows businesses that have different operating hours to easily share parking, and avoid the cost of parking lot development. This is not to say that development of parking is not occurring in these districts. For example, the ever increasing success of the Public Market is spurring the development of more surface parking. This is by demand and need rather than by requirement.

The code currently allows shared parking in the City through the Alternate Parking Plan process. If we consider the elimination of parking requirements, it may be necessary to entertain the development and financing of commercial community parking lots, perhaps as special assessment district lots. This would be addressed best as part of a planning process, perhaps quadrant focused, that looks at the remaking of the C-2 Districts since parking is so tied to goals for economic development and is so important in the development of urban form.

Ancillary Parking Lots

Since 2005, there have been 22 special permits granted for ancillary parking lots. The special permit has proven to be an effective tool for the establishment of parking lots in R Districts. It may also be the most effective means to administer regulation for community business district parking lots.



However, paving residential areas to accommodate shared parking and promote the use of on-street parking can be contrary to the intent of the code. The cumulative impact of the conversion of residential green space to vehicle storage should be monitored closely. Parking lots are most often not a contributing feature to residential areas. Balancing the true need for off-street parking against the visual, historic and environmental impacts will continue to be a challenge.

Parking Caps

The codification of parking caps in 2003 was intended as a long-range planning tool to protect against the overdevelopment of surface parking. Since 2005, the City Planning Commission has heard six special permit requests for parking in excess of 110% of the requirements. The number of requests was substantially lowered as a result of a Zoning Code change in 2005 which allowed manufacturing uses to submit parking analysis information substantiating their parking need rather than petition for a special permit.



The six special permit requests entertained by the Planning Commission were associated with new construction (including Rite Aid on Monroe Avenue, Brooks Landing, Price Rite, and M&T Bank projects). In some cases, the proposal included shared parking facilities between multiple businesses. The approval of all of these appeared reasonable and was supported by demonstrated market need. This reinforces the premise that the developer is in the best position to assess the number of parking spaces needed for a development or use.

However, if parking requirements are eliminated, numerical or percentage caps will have little value. Excess would be dealt with through demand analysis as part of the application and review of proposals. Form and design considerations would play a larger role. After a building is appropriately sited and setback and buffering matters are addressed, the residual number of spaces available on the site with safe access would effectively define the onsite cap. Additional needs that might be located on other sites, or non-accessory parking as the principal use of a site, would require a special permit with standards relating to need as well as to urban form impacts.

Alternative Parking Plans



This is a means, typically through special permit (or in limited cases by administrative adjustment), to satisfy off-street parking requirements through a number of off-site alternatives. Since 2005, there have been 26 special permits granted for Alternative Parking Plans. This tool will remain useful if off-street parking requirements are retained. If not, it may still be a useful tool in assessing off-site parking needs and the development of parking lots to support uses where on-site spaces may not be sufficient and could be merged with the ancillary parking lot special permit discussed above.

Additional Parking Management Tools

There are many other parking management tools (not all within municipal control) that could be considered in conjunction with the elimination of parking requirements. The following list describes some of those techniques and tools, both public and private:

- Cash Outs: for large businesses and institutions, a mechanism whereby employees are able to choose either a parking space or a monthly cash amount if they use alternative transportation.
- Unbundled Parking: parking rented or sold separately from building space so occupants pay only for as much parking as they want.
- Pricing Strategies: charging higher rates with shorter time periods for spaces where turnover is important, and less amounts with longer time periods for more distant, less convenient parking spaces; use a progressive pricing rate to favor short term users; set parking rates to exceed transit fares.
- Parking Benefit Districts: a district where parking is priced and all revenues go back into the district for services, especially parking improvements. A management association of businesses in the district can provide management services with support from city staff. Management services would include user information and marketing programs.
- Overflow Plans: each parking district would not only have district parking facilities, a pricing plan, shared parking mechanisms but also an overflow plan for special events in the district.
- Residential Parking Permit Programs: If the legal issues can be resolved, such programs could play a large role in addressing the spillover problem.

Recommendations for Parking:

- 1) *Develop a Citywide Parking Policy.*
- 2) *Amend the Zoning Code to eliminate parking requirements in all districts.*
- 3) *Require parking demand analysis for all proposed parking.*
- 4) *Supplement the parking demand analysis requirements in 120-173C(3) to assist in decision making.*
- 5) *Amend the Zoning Code by making ancillary parking lots special permit uses in all districts. Include a definition of "commercial community parking lot" and perhaps add special standards applicable to residential and commercial locations.*
- 6) *Eliminate parking caps if requirements are eliminated.*
- 7) *Assess need and control supply based on form and design on a site, and by demand analysis for offsite parking and parking lots as principal uses.*

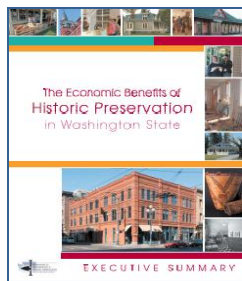
SECTION VII: HISTORIC PRESERVATION

A. Preservation and Value



Historic preservation, as some may believe, is not about saving old buildings for the sole purpose of saving old buildings. Historic preservation, like quality urban design and place making is about value. It is about aesthetic value, cultural value, educational value, environmental value and economic value. It is not at odds with economic development goals, as sometimes thought, but has evolved into an effective tool for promoting economic growth and well-being. It is, and should be, embraced as an important element of a community's economic development strategy. The success and popularity of the High Falls District, Cascade District, Grove Place and Corn Hill are all indicative of this.

Since the 1970s, mounting evidence has shown that historic preservation can be a powerful community and economic development strategy. Evidence includes statistics compiled from annual surveys conducted by the National Trust for Historic Preservation and statewide Main Street programs, state level tourism and economic impact studies, and studies that have analyzed the impact of specific actions such as historic designation, tax credits, and revolving loan funds. Creation of local historic districts stabilizes and can increase residential and commercial property values. Increases in property values in historic districts are typically greater than increases in the community at large. Heritage tourism provides substantial economic benefits. Tourists are drawn by a community's historic character. Historic rehabilitation encourages additional neighborhood investment and produces a high return for municipal dollars spent.



In 2006 a study was completed by the Department of Archeology and Historic Preservation documenting the economic impact of historic preservation on Washington's economy. The study noted, among other factors, that historic rehabilitation and heritage tourism had relatively high levels of job creation per dollar of spending than in many other economic sectors such as, the general construction industry and the wood and food products manufacturing. Also, State projects taking advantage of federal and state historic building tax credits involved an average spending of \$83.5 million per year from 2000 to 2004. This initial investment generated total sales of \$221 million, supported 2,320 jobs in a variety of sectors, and paid an estimated \$87 million in wages and salaries. These activities generated \$8.9 million in state sales tax (Executive Summary 2006). Studies by the Federal Advisory Council on Historic Preservation support this conclusion.

It is thought that many economic development yardsticks in this century will be more qualitative than quantitative (Rypkema 1999). Local assets will not only be identified in terms of location and resource factors but also in human, physical, natural and cultural terms. A case can be made that to be competitive in the future, communities will need to exude what has been referred to as the "Five Senses of Quality Communities": sense of place, sense of identity, sense of

evolution, sense of ownership and sense of community (Rypkema 1999). Historic preservation, along with quality urban design, is a linchpin in attaining this level of sensibility.

Cultural and historic resources tell the story of a community and make a community distinct from other places. People generally appreciate the need to retain and restore historic properties and enjoy the community character provided by historic places. However, the support often wanes under regulatory pressures, and the associated costs, to maintain or upgrade the historic integrity of *their* property. Many people then view historic preservation as burdensome, arbitrary and costly and even an abuse of property rights. This is especially true among owners of properties at the edges of preservation districts or properties that are individually landmarked and not within a district. At the same time, businesses and developers, and sometimes governmental agencies, may view historic preservation as an impediment to growth and development.



Our challenge is to reverse these sentiments and encourage property owners and commercial interests to favor and embrace historic preservation. Unfortunately, the preservation movement has struggled to develop the required tools; it lacks the incentives and market mechanisms of the environmental movement with which it evolved.

Unlike environmental issues with long-term, global consequences, preservation remains largely a local issue that affects individual property owners and is funded by those owners.

One measure of the struggle to attract people into the preservation movement is the list of city-designated landmark districts and properties. The vast majority of these properties were designated by 1984; few were added in the last quarter century. This is a national trend. Once property owners learned of the regulatory oversight with no offsetting carrots, few people have voluntarily requested landmark status, and many have fought it. This was the case in the Maplewood and Browncroft neighborhoods, both of which opted for purely honorific National Register designation. In surrounding communities, newer preservation commissions are facing this same legacy and are having a tough time getting properties designated.

Since the 2005 evaluation was published, the City has created a position of Preservation Planner and filled that position with a highly qualified preservation specialist. That position is currently assigned to the Planning Division of the new NBD Department. This reflects a commitment to focus on local historic preservation as part of the City's planning program, to give equal consideration to preservation as to other citywide plans of significance, and to move away from the idea that preservation is solely keyed on enforcement and the administration of the Rochester Preservation



Board (RPB). These were positive steps and made the City poised to better meet its challenges, but other challenges still remain.

Some of these remaining challenges were expressed by the following comments received by staff at meetings and from interviews with stakeholders:

- The number one concern: “Nobody told us we were in a preservation district.” Forty years after the adoption of the preservation ordinance, there is nothing in the districts or on individual landmarks indicating which properties are governed by the regulations. Many owners only learn of the law when applying for a permit.
- It is sometimes difficult to have a productive dialogue with the Preservation Board in a quasi-judicial public hearing, and there is little opportunity for give-and-take.
- There is no appeals process other than an Article 78 proceeding. Applicants are at the mercy of the Board and its mood.
- The Preservation Board sometimes focuses too much on small issues.
- The \$100 C of A fee is too high; why isn’t it based on the cost of the work like a building permit? In some instances, property owners seem willing to face enforcement fines rather than pay the fee.
- Enforcement of RPB decisions and of unapproved work is lacking or has been unsuccessful. This comes equally from neighbors and board members.
- Board members sometimes express dislike for a proposal without substantiating their reasons or referring to specific guidelines.
- Preservationists complain that the dual approvals needed from the RPB and CPC effectively stifle any chance for controversial landmark designations.

B. Preservation Landscapes

There is little reference to preservation landscapes in the Zoning Code. The code offers no standards for the treatment of designed or non-designed landscapes as it does with buildings. The preservation guidelines, adopted by the Board in 2005, provide guidance, but are based on the code requirement that all changes are reviewable. This breeds conditions for arbitrary decision making.

Few landscapes in the preservation districts were designed; most are simply yards that evolved over time. Some indeed are special, such as the Eastman House, the Olmsted parks and squares, East Avenue and the malls of Rundel, Arnold Park and Oxford Streets. Most changes to yards never reach the RPB;

those that do often receive an undue or inconsistent level of scrutiny. Enforcement of unapproved changes is nearly impossible.

The role of the RPB is to determine whether a design is appropriate to the property and the district. While there is no definition of the word "appropriate", it has been taken to mean that the work should not detract from the remaining historic character. The work does not need to be perfect; it just needs to reach a certain threshold, albeit an undefined one. With landscapes, however, defining degrees of appropriateness is difficult.

C. Designated Buildings of Historic Value

A Designated Building of Historic Value (DBHV) is defined as a "... building that is listed in the City of Rochester's Historic Resources Survey that includes properties on the National Register or which are contributing properties in a national or local historic district as filed in the City Clerk's office. Demolition of a designated building of historic value is prohibited; significant architectural features must be maintained; and replacement windows in a designated building of historic value must utilize true divided lights or simulated divided lights when matching the original mullion and/or muntin configuration."

Rochester has about 5,400 DBHVs, with another 500 or so identified in the Y2000 survey as worthy but not yet determined eligible by the State Historic Preservation Office (SHPO). The Landmark Society is currently surveying downtown to identify potentially-eligible mid-century buildings, which may add another 25 properties. About 1,500 of the DBHVs are in local preservation districts or are local landmarks, and therefore, under the auspices of the Rochester Preservation Board. That leaves about 4,000 properties with this special designation.

The look and feel of city neighborhoods result largely from the types and sizes of buildings, their placement on their sites, their proximity to one another, and their physical conditions. Many of these properties were developed in the century leading up to 1930, when high-quality materials, attention to detail, and deliberate design were the norm. Because of their firmness, commodity and delight, these properties are often the most visible, most admired and most appreciated of any in the city and region. View any tourism brochure or website about Rochester and the historic properties are typically center stage.

Rochester's most vibrant neighborhoods are the ones that retain their historic character and have a pleasing public realm. Among these areas are the South Wedge, East Avenue, Park Avenue, Corn Hill, Maplewood and Browncroft. New

construction inserted into a historic context can help or harm the character of a neighborhood, and its design should be controlled to maintain the character.

It is a worthwhile effort to retain architectural character; something most people agree is important. This is one of very few regulatory tools available to protect our built heritage. Other NYS communities are impressed with this approach to preservation, because it is a "light" version of the typical landmark process. It does not require adoption of a preservation ordinance or creation and management of a preservation commission, and guidelines and standards can be applied rapidly by staff.

D. Staff Observations Regarding Citywide Historic Preservation

- Owners do not know that their property is a DBHV. They were probably unaware of the initial survey or of the SHPO listing, most of which were done in 1986. There was no public notification requirement of the listing or of the designation as a DBHV. The designation does not appear in BIS. There is no requirement that the designation appears in a property abstract, so it will not appear in a deed search.
- Enforcement is critical, but nearly impossible. The code is trying to retain aesthetic character, but many of the changes do not affect health, safety and welfare, and therefore do not require permits. Examples include installation of vinyl siding, replacement of windows (of nearly any size and number), replacement of slate roofing with asphalt shingles, removal of decorative trim, and replacement of porch steps with pressure treated lumber. And while permits are required for work such as replacement of porch columns and railings, work is often done without permits. As a result, we often only see the work after completion. Follow up enforcement is nearly impossible, especially if features are destroyed.
- Enforcement is critical to preservation goals so that properties do not deteriorate to the point where they have little value left.
- Is the Zoning Board of Appeals the appropriate board to make decisions with respect to DBHV? Only about five cases have been decided by the ZBA since the 2003 code update, not enough to incite public discourse.
- Many of these DBHV properties are within low-income census tracts where owners simply cannot afford upkeep. Many others are commercial properties where the rents do not support restoration. Rather than restore damaged components, owners remove them or replace them with cheaper alternatives (e.g. vinyl windows).
- Initial documentation of the properties is minimal, so we have limited knowledge of the conditions at the time of listing or of the characteristics we want to protect.

- Many properties that should be DBHVs are not, in part because the historic resources survey of 2000 recommended to SHPO that many more properties be listed, but SHPO did not make eligibility determinations.

Recommendations for Historic Preservation:

- 1) Write a preservation plan for the city including the identification of important landscapes.
- 2) Develop and fund a better public notification system, including mailed notices, signage, website, public presentations, etc.
- 3) Balance the regulatory "sticks" with incentive "carrots".
- 4) Focus on the infrastructure of the preservation districts and around individual landmarks, as we are with the FIS areas.
- 5) Expand districts to natural boundaries where possible, not the arbitrary, invisible lines we often use.
- 6) Determine how to allow more administrative reviews.
- 7) Create a preservation web page.
- 8) Mail postcards to owners annually informing them of DBHV designation and directing them to a web page.
- 9) Flag DBHV properties in BIS.
- 10) Improve code language: Does the word 'maintain' mean to retain, repair, or both? Are significant interiors included when identified in surveys? Coordinate language on lead paint between 120-158 and 120-65.
- 11) Reconcile the 1986 Mack Survey that forms the basis of the DBHV list. Many properties are no longer eligible for listing, and several are gone.
- 12) Complete our contractual obligations on the Y2000 survey so SHPO will finalize eligibility determinations. Begin preparing for a Y2010 survey.
- 13) Clarify that DBHVs in preservation districts are to be reviewed only by the RPB, not also the ZBA, and review whether the ZBA or the RPB should be the reviewing body for applications to alter DBHVs.

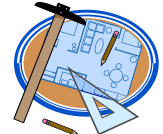
SECTION VIII: PROCEDURES



Approximately 250 applications a year require an extended review (i.e., Site Plan Review, Special Permit, Variance, Certificates of Nonconformity, Certificates of Appropriateness, Subdivisions, etc.). In the interest of fair process, efficiency and better customer service, it is necessary to ensure that these procedures remain timely, responsive, understandable and cost effective. As part of the ongoing evaluation of the code, there is a continuing effort to monitor these processes and consider ways to improve and streamline them.

A. Site Plan Approval

The 2005 report called for six amendments to the 2003 Code to revise the thresholds requiring site plan approval. These changes were recommended to clarify and streamline the site plan review process. Five of the six recommendations identified in 2005 have been implemented. *(A recommendation to include any new structure having a total floor area of 20,000 square feet or more which does not comply with the Citywide Design Standard was not implemented, but will be this year.)*



Recommendation for Site Plan Approval:

In an effort to further streamline and improve customer service and organizational effectiveness, it is recommended that the site plan review triggers [§120-191.D.(3)] of the code be once again reviewed and streamlined, placing greater reliance on “over the counter” review and approvals and reducing the number of site plan reviews required for minor projects. This recommendation will improve customer service and streamline the approval processes.

B. Project Review Committee

The Project Review Committee (PRC) was established by the 2003 Zoning Code to include a broad range of design and development expertise in advising the Director of Zoning on Major Site Plan Applications. The inclusion of City Department and Bureau heads and outside Urban Design Professionals has proven to be the right mix, both with respect to mandated referrals for recommendation as well as for advisory purposes. The recent reorganization and creation of NBD impacts the membership prescribed in §120-181A. of the Zoning Code. In addition, it has become apparent that the PRC is somewhat weighted too heavily on



building/architectural design and could benefit from a more well-rounded membership that includes a design professional who is not an architect.

Recommendations for the Project Review Committee:

§120-181A. of the Zoning Code should be modified to state the following:

A. Membership

- (1) *There shall be a Project Review Committee made up of the following individuals or a designee:*
 - a. *Director of Planning and Zoning*
 - b. *Director of Planning*
 - c. *Manager of Plan Review and Permits*
 - d. *Director of Business and Housing Development*
 - e. *City Engineer*
 - f. *City Landscape Architect*
 - g. *Three Urban Design Specialists, appointed by the Mayor, one of which shall be an Urban Planner, the remainder can include, but not be limited to, an architect, landscape architect, etc.*
 - h. *In addition, it is recommended that term limits be established for outside members. This would bring the PRC in line with the other land use boards and commissions which all have term limitations.*

C. Public Notification

Currently, notification is required for major and minor site plan review as follows:

Major Site Plan Review – Official Neighborhood Contact (ONC) and properties within 100 feet of the proposal

Minor Site Plan Review – ONC only

The Zoning Office and the Bureau of Planning have maintained an ONC list in spite of the constant changes in the group of ONCs. Notifications to ONCs over the past five years have yielded minimal responses. The amount of staff time and the cost of postage can no longer be justified. Further, since the 2003 code was adopted, technology and the availability of the Internet have grown. According to *Internet World Stats.com*, Internet usage by the United States population has grown from 59.2% in 2003 to 72.5% in 2008.



Recommendation for Public Notification:

The City web page should post the weekly site plan agenda for easy access by the public. Neighborhood associations should routinely review the agendas and make the information available to their constituency. In addition, the newly established quadrants could be a location for the information regarding the site plan review agenda.

D. Pre-Application Meetings

The pre-application meeting is intended to be a service to development customers when a large or complex project is proposed. The purpose of the pre-application meeting is to inform the applicant of applicable procedures, submission requirements, development standards and other pertinent matters before the applicant finalizes an application for a development proposal. Providing applicants with the opportunity to present their plans to several City, County and State regulators all at once and allowing them to receive input on various permit requirements has proven to be a great service to both the applicant and the regulators. The information sharing also contributes to more streamlined permit processing.

In January 2008, the Zoning Office conducted a survey of all the customers who participated in a pre-application meeting since 2003 (see *Appendix E for a summary of the survey results*). Five pre-application meetings were conducted and all five customers responded to the survey. It is evident from the survey results that the project sponsors are very satisfied with the conduct and results of the conferences. In an effort to continuously improve zoning processes and practices, however, the following recommendation will be implemented.

Recommendations for Pre-Application Meetings:

Invitations to the meetings will, where appropriate, highlight enthusiasm and support for a particular project.

E. Fees



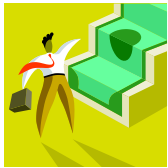
Through the routine processing of applications for special processes, it is apparent that there are situations where the current fee schedule of the Zoning Code is too burdensome. At the same time, due to the current economic climate, there is an interest in reviewing all city fees to determine the potential for increasing revenues.

Recommendation for Fees:

Review the fee structure outlined in the Zoning Code for the following:

- 1) The expense of cumulative fees for multiple special review processes.*
- 2) The fee schedule for applications from non-profit organizations.*
- 3) A variable fee structure for residential versus commercial applications.*
- 4) Fees for sign applications.*

F. Two-Step Use Variance Process



An application for a use variance includes economic hardship information as well as development plans (e.g., a site plan, elevations, floor plans, etc). This information is necessary to address the standards that the ZBA must consider prior to making a decision.

In the specific case of the use variance, if the economic hardship test is not met, then regardless of the quality of a plan or an applicant's ability to meet the other standards, the variance cannot be granted. Also, the State Environmental Quality Review Act (SEQR) requires that environmental review be completed prior to a final decision. Compliance with SEQR can also be costly at this point.

In fairness to applicants, they should be given the option to proceed to the ZBA to address the economic test first, prior to investing in plans and SEQR documentation. The zoning staff has experimented successfully with this approach over the past couple of years, initially as mandatory and subsequently as optional.

Recommendation for the Two-Step Use Variance:

The option for a two-step use variance process should be codified.

G. Temporary Special Permits

The Special Permit process provides a means to establish certain uses which, although generally desirable, may have some special impact or uniqueness that requires careful review of their location, design and configuration to determine their appropriateness on a particular site.



The 2003 Code provided for temporary special permits as a means of revisiting special permit approvals for particularly sensitive uses, and they continue to be an effective tool today. Between January, 2005 and December, 2008, there were 37 new temporary special permits issued and 36 renewals granted (see Appendix F for a complete list of Temporary Special Permits that have been granted since 2003).

Recommendation for Temporary Special Permits:

Maintain as adopted.

H. Cluster Subdivisions



Residential subdivisions are relatively infrequent in the City of Rochester and most often involve detached and attached single family dwellings. The City does not contain many large undeveloped areas that will be subdivided for residential development. Most often subdivisions are the result of a redevelopment project. Sites are often smaller sites that are integrated into a built-up neighborhood. The Zoning Office has, therefore, often sought the benefits of the "Cluster Development" to facilitate better development and better customer service.

New York State's General City Law § 37. Subdivision review; approval of a cluster development defines a "cluster development" as:

"...a subdivision plat or plats, approved pursuant to this article, in which the applicable zoning ordinance or local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands."

According to General City Law the purpose of cluster development is to:

"Enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands."

To accomplish a cluster development, the subdivision plat must result in a density of dwelling units which does not exceed the density permissible in a standard subdivision. In short, the clustered subdivision cannot accommodate more units on the site, but it can facilitate an alternative configuration by waiving lot area per unit and setback requirements. This can make for a more efficient use of land as well as a more streamlined process.

If confined to the specific legislated purpose and definition ("preserving the natural and scenic qualities of open lands"), cluster has limited utility in a built up urban setting such as Rochester. In an urban context we might be talking about a small garden, green space or even an open area for the display of public artwork, rather than a forest, meadow or stream.

Rochester defines cluster development as permitting:

"... the grouping of structures in order to provide more usable open space or to preserve open space or historic or scenic features without exceeding overall density or land coverage requirements."

The City has applied cluster development to preserve adjacent open space. In that case, the situation of the buildings allowed better use and security for a neighboring pocket park. The City has also employed cluster to protect or preserve a historic feature of a site. Historic assets are prevalent and valuable in an urban setting, and clustering can be used very effectively in preserving the character of a historic neighborhood or preserving the value of a historic building.



The courts have generally supported the broadening of the purpose for cluster development. New York State's highest court stated that "economy, flexibility and scenic beauty are all appropriate reasons for permitting cluster zoning." Based on local court decisions, Rochester may redefine the purpose of the cluster development provision in an urban setting to allow its use for other important site and neighborhood considerations, such as efficient use of land and preserving urban character, while allowing more flexibility in development.

Although Rochester's current use of the cluster development tool has been tested in court and upheld, some changes in the review requirements are necessary to meet the court's standards. One requirement is that certain dimensions appear on the subdivision drawings to allow for an easier review by the Planning Commissioners. Second, a conventional subdivision concept layout must be presented along with the proposed clustered subdivision to ensure that the maximum density is not exceeded.

The modification of the Code, clearly expanding and clarifying the definition of cluster development, ensures the utility and availability of a significant tool for improving subdivision proposals, achieving urban character goals, streamlining processes by providing maximum flexibility in regulatory controls, and avoiding legal challenges.

Recommendations for Cluster Subdivisions:

- 1) *Further define the purpose statement and other provisions of 120-192 to provide flexibility in the planning of residential subdivisions in the urban setting which will result in:*

- a. A choice in the types of living units;
 - b. A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion;
 - c. An efficient use of land resulting in smaller networks of utilities and streets;
 - d. An environment in harmony with surrounding development; and
 - e. The preservation of areas which are physically, aesthetically, historically, and environmentally unique by virtue of their geology, topography, vegetative cover, or previous use.
- 2) Stamped professional drawings with a professional seal will be accepted as sufficient to establish the information shown on the drawings, so the City Planning Commission members will not have to produce their own calculations.
 - 3) A conventional subdivision layout in concept form must be presented to the City Planning Commission, along with the proposed clustered subdivision, to allow the Planning Commission to determine that the maximum density is not exceeded.

I. Planned Development Districts

The 2005 Report recommended the following:

The procedures for the initial adoption of PD Districts as well as the procedures for ensuring development within a PD need to be reconciled. Proposed amendments will include: streamlining and simplifying the text and combining into one, two separate sections of the code that refer to PD procedures; reconciling the procedures for both existing and new developments; and bringing the procedures in line with the best current practices.

In June, 2005 through Ordinance N. 2005-161, all requirements and procedures pertaining to Planned Development Districts were combined into Article XVII of the Zoning Code. The procedures were simplified and streamlined for better access and implementation (see Appendix G for the status report of Planned Development Districts). This land use regulatory tool has been a benefit to large-scale development property owners for customizing zoning regulations pertaining to their property.

J. Case Management

For the purposes of this 2009 evaluation, customers who submitted an application for special process review were surveyed. A random sample of 20% (50 surveys) of the 253 applications that were processed in one year was selected. Eighteen (or 7%) of the surveys were returned (see Appendix H for a summary of the survey results).

While the number of returns was not overwhelming, the comments received were extremely positive with respect to customer satisfaction. Irrespective of the survey results, the Zoning Division will transition from a process oriented system to a case management system for projects involving multiple processes and board actions. These processes include cases heard by the citizen land use boards, site plan review and environmental assessment.

Currently, staff is assigned to a process or a citizen board rather than to a specific applicant and his/her case. This system results in an applicant having to deal with several staff persons as his/her application migrates through the review and approval process.

In a case management system, staff is assigned as a "case manager" for a project and is involved with any and all processes that might be necessary to complete that project's (case) review. A singular staff person would facilitate and manage the review and decision making processes for a proposal. The applicant would have a single point of contact while the project moves through each and every process required. Board staff would communicate with the case manager who would then communicate with the applicant, and vice versa, to avoid the need for the applicant to interact with more than one staff person.

This will certainly improve customer service for those projects requiring multiple decisions. Approximately 10-15% of the applications in the Zoning Office involve complex projects that require a series of approvals. This can present the applicant with the daunting process of having to interact with multiple boards and City staff, attend several public hearings and complete a great deal of paperwork.

Recommendation for Case Management:

In an effort to improve customer service, a case management system is being proposed. Also, this should reduce the customer's confusion and anxiety about a potentially complex process. This new system would include the implementation of a single application with a single fee instead of several applications and their accompanying fees. This approach is currently being researched and is near implementation.

K. Role of the City Planning Commission

Over the years the role and responsibilities of the City Planning Commission have been somewhat reduced as policies, programs, administrations, and approaches to planning have changed. The Commission's role and

participation in larger community planning issues has been limited, and sometimes they enter very late in the planning process.

The Commission provides the ideal forum for public disclosure, discussion and debate on significant community-wide or neighborhood-based planning issues and policies before those issues and policies are presented to decision makers. The Commission's procedural requirements and practices provide for clear time parameters, consistency and efficiency in terms of meetings requirements and staff allocations.

Recommendation for the Role of the Planning Commission:

With shrinking budgets, consolidations and the diminution of the role of the Planning Bureau in community planning efforts, it is recommended that the Planning Commission, as a standing citizen's advisory committee, once again have a larger and more useful role in advising and guiding public and private decision makers with respect to development, redevelopment, and public improvements for the benefit of all the people who live, work and visit the City of Rochester.

SECTION IX: EMERGING TRENDS AND TECHNOLOGIES

A. Sustainable Land Use Regulations



Like the terms smart growth and sprawl, the term “Sustainable Development” can conjure different meanings. Common use of the term “sustainability” began with the often quoted Brundtland Report, which defined sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (the Brundtland Commission Report entitled, *Our Common Future*, published by the Oxford University Press in 1987).

Simply put, sustainable development is about balance. It is concerned about development in a responsible and efficient manner. It is about caring for the environment, in both the short and long term; achieving environmental protections that do not preclude economic development; and pursuing economic development that is environmentally sound, both now and in the future. Across the country plans are starting to reflect an awareness of the goals and importance of sustainability.



The City of Rochester has embraced a “green”, sustainability mission and its associated principles since the adoption of the 2003 Code. It underlines the city’s intent to demonstrate, through practice and policy, a commitment to environmental stewardship. It states that, “The City, while cognizant of fiscal limits, is committed to the implementation of environmental management practices which will provide a healthy and sustainable environment and enhance the quality of life for our citizens.” Specifically, in terms of sustainability it states that, “We carefully consider how to best design construction that can be maintained over time without damaging the environment, and how to balance near-term interests with the protection of future generations. We recognize the interdependence of environmental quality, economic growth and social justice.”

The Congress for New Urbanism, the U.S. Green Building Council, and the Natural Resources Defense Council are organizations that represent many of the nation’s leading progressive builders, design professionals, developers and environmentalists. Since the adoption of the 2003 Code, these groups have come together in an attempt to develop national standards, within the Leadership in Energy and Environmental Design (LEED) framework, for neighborhood development. They have combined the principles of smart growth, new urbanism and green building. But unlike LEED for buildings, LEED for Neighborhood Development focuses on site selection and design. It addresses the design and construction elements that



bring buildings together, relate those buildings to a neighborhood context, and relate that neighborhood to a larger area or region. The application of LEED neighborhood development standards can hopefully have a positive effect on encouraging the revitalization of existing buildings in urban areas, reducing land consumptive regulations and policies, reducing auto dependence, and developing more livable, sustainable, and economically sound communities.



In reviewing the literature on sustainability, and in particular land use regulation and sustainability, it is apparent that Rochester has many of the features of a sustainable community. It has many compact, walkable neighborhoods with nearby schools and commercial areas; plentiful parks, access to fresh water, water power, a tree canopy, a trail system, nearby farms, and farmers markets. Our biggest advantage is likely our ability to make use of what we already have, conserving our wealth of resources, and ensuring that future development does not deplete these existing resources and advantages. One of our biggest environmental opportunities is in the reuse of existing buildings and infrastructure and the construction of infill buildings in existing, dense neighborhoods. We cannot just build our way to sustainability; we must also conserve our way. To many, “the greenest building is the one already built”.

Several cities offer zoning incentives to encourage higher-density and other sustainable development. Our real estate market has shown little interest in embracing such incentives. With easy access to a wide range of housing types and prices, short commute times, a convenient highway system, proximity to neighboring municipalities, relatively equal tax assessments across municipalities, and competing IDAs, most people can live, work, shop and play anywhere in the region. Lacking regional planning, these conditions may well be the reality for the foreseeable future. Thus, in the City, monetary or regulatory inducements may be more effective.



The 2003 Code addressed the issue of sustainability in several ways. The relaxation of the restraints on the reuse of nonconforming buildings has accommodated the adaptive reuse and reactivation of many existing buildings in the city. The reduction in minimum parking standards, allowance for alternatives to meet parking requirements and the application of parking caps were also measures that promoted the goals of sustainability. The emphasis on urban design, walkability, mixed use, higher densities, expanded housing options, the center city regulations and various site landscaping provisions are all sustainability features of the 2003 Code. As stated in several other sections of this report, we need to continue developing these tools and consider what other land use regulations should be eliminated, modified or added to the code in the continuing pursuit of sustainability.



Generally speaking, adjustments to the zoning code to support sustainability should result in: the accommodation of higher density development; the ease of reuse of older buildings; allowances for diversity of dwelling types; encouragement of infill development; pursuit of a reduced parking footprint; receptivity to urban agriculture; continued emphasis on quality urban design and street connectivity; reasonable regulations for renewable energy resources; and assurance for appropriate environmental controls for all development.

Recommendations for Sustainable Land Use Regulations:

Accommodate and encourage higher densities by:

- 1) Returning the minimum lot size requirement in the R-1 Districts from 5,000 back to 4,000;
- 2) Eliminating the maximum density restrictions in the R-2 and R-3 Districts, and possibly eliminating the distinction between the R-2 and R-3 Districts;
- 3) Utilizing the unique aspects of the River and Gorge by eliminating density restrictions in areas adjacent to the River;
- 4) Eliminating parking requirements;
- 5) Reducing lot coverage requirements and easing regulations that tend to inhibit infill development;
- 6) Permitting as wide a range of dwelling types in the City as possible.

Encourage and accommodate the reuse of existing buildings by:

- 1) Continuing the policies established in 2003 regarding the reuse of nonconformities;
- 2) Including lifecycle analysis in environmental reviews;
- 3) Setting higher thresholds for demolition permits;
- 4) Eliminating off-street parking requirements;
- 5) Enhancing opportunities for the preservation and adaptive reuse of historic buildings.

Limit the development of paved areas by:

- 1) Eliminating off-street parking requirements;
- 2) Reconsidering the parking lot landscaping requirements and reviewing the approved plant materials list for maintenance needs, low irrigation and integrated pest management;
- 3) Requiring dark sky ratings for all exterior parking lot illumination;
- 4) During the site plan review of development projects, consider the use of pervious pavement to limit water run-off, the use of reflective pavement to reduce heat islands; and limitations on the use of concrete, a huge emitter of CO₂.

Continue to emphasize and adhere to the tenets of quality urban design by:

- 1) Promoting a well connected, well designed, accessible and walkable city through the expansion of more comprehensive design standards and guidelines, and a de-emphasis on traditional land use controls throughout the City;
- 2) Considering and regulating for the recyclability of buildings for future use, at the time of development;
- 3) Considering lifetime costs associated with development;
- 4) In the site plan review of developments, considering streets, their connectivity and accessibility, as an important part of urban form and structure and as critical to efficient urban life and activity;
- 5) Better promote the idea of streets as places.

Make adjustments to the Code to accommodate and facilitate the goals of Project Green:

- 1) In the short term, develop standards that specifically reference the permissibility of community gardens, private parks and recreation areas, urban agriculture, tree farms, energy generation sites and rain gardens;
- 2) In the long term, look to these "pilot" areas to consider citywide regulations for the same;
- 3) Devise a process which, in both the short and long term, is clear and simple, without substantial application costs, and which can procedurally be accomplished in a short period of time.

B. Wind Energy Regulations



Wind energy is the world's fastest-growing energy technology. It is an abundant, renewable and non-polluting energy resource and by converting it to electricity, dependence on non-renewable energy resources is reduced. Thus, the air and water pollution that results from the use of more conventional energy sources is also diminished.

Wind turbines can be used to produce electricity for a single home or building, or they can be connected to an electricity grid for more widespread electricity distribution. Wind energy facilities can enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the State's energy supply portfolio. Many municipalities across New York State are struggling to figure out how to regulate these emerging facilities.

The City Zoning Code does not currently regulate wind energy systems. Although Rochester does not currently have the land available for large wind farms (perhaps other than at Kodak Park), as financial incentives continue and increase, small wind energy facilities will certainly become more attractive. Small wind turbines are electric generators that can utilize wind energy to

produce clean, emissions-free power for individual homes, farms, and small businesses.



The U.S. leads the world in the production of small wind turbines, which are defined as having rated capacities of 100 kilowatts or less, and this market is expected to continue experiencing strong growth through the next decade. Small wind turbines have proven records of performance, even in locations with modest winds. The success of the commercial wind industry has propelled significant advances in small turbine design, making these systems more reliable, quieter, and safer than those introduced in past decades. Although most of the electricity they produce is used on-site, excess generation from small wind turbines can possibly be fed into distribution lines, strengthening the electric grid.

The regulatory authority for wind facilities resides within the locality, as New York is a "home rule" state. There are local experiences with wind regulations and the New York State Energy Research and Development Authority (NYSERDA) has developed guidance documents and model ordinances to assist local municipalities in this task. Effective wind ordinance standards address several objectives, including: ensuring public safety; identifying and minimizing on and off-site impacts; promoting good land use practices; expressing local preferences; informing and involving the public; and providing legal defensibility.



NYSERDA suggests that the purpose statement of a wind ordinance read as follows:

The purpose of the ordinance is to provide a regulatory scheme for the construction and operation of wind energy facilities in the City, subject to reasonable restrictions, which will preserve the public health and safety.



A locally adopted wind ordinance could include circumstances under which certain wind energy facilities would be allowed as of right. Beyond those circumstances, the facilities could be subject to site plan review and a special use permit. This would allow the siting and installation of these facilities to be reviewed and adjacent property owners to be notified. Predictable and clear standards and a reasonable time frame for review provide fairness for developers and the public as well as streamline the review process. Such an approach might mimic the highly successful procedures developed to regulate personal wireless communications facilities.

Recommendations for Wind Energy Regulations:

- 1) Amend the Zoning Code to include regulations for all types of wind energy systems, including large commercial and industrial applications as well as small scale business and residential types.
- 2) Include a site plan trigger for wind energy facilities that meet certain criteria thresholds.
- 3) Article XVIII of the Zoning Code (Additional Requirements for Specified Uses) should be amended to include a new section: §120-156 Wind Energy Facilities. This new section would include provisions specific to wind energy facilities including standards for setbacks, fencing, locking equipment, lighting, siting, installation, noise, colors and surface treatments, and decommissioning.
- 4) The adoption of a new wind ordinance would be subject to the review requirements of the State Environmental Quality Review Act (SEQR). The use of the generic environmental impact statement in this case would allow public disclosure, discussion and debate about the installations of wind energy facilities in the City of Rochester. It would allow for the establishment of criteria under which these facilities would be allowed and may save time in the future during review and approval of individual facilities.
- 5) Consider neighborhood-scale, community-based wind turbines on city-owned, vacant land for district power generation.

C. Solar Access

The Code is currently silent with respect to solar energy.



Recommendations for Solar Access:

- 1) Amend the Code to have specific reference to solar energy systems and their definitions.
- 2) In the site plan review of new developments, consider optimizing solar access with southern exposure. (Note: control of building bulk and setbacks to avoid blocking a neighbor's solar access is an issue because low winter sun angles would force large setbacks and/or low buildings. Dense development may be more energy efficient than deeper setbacks, easements, etc. for solar access.)
- 3) Prepare design standards for PV roofing and panels.
- 4) Consider standards for neighborhood-scale, community-based PV collectors.

D. Urban Agriculture



As Michael Pollan demonstrates in his best-selling, *The Omnivore's Dilemma*, the current agribusiness model creates an enormous carbon footprint. Sustainable agriculture not only produces more nutritious food, but is also far less dependent on petroleum for long-distance transportation, fertilizer, and neurotoxic pesticides. The United Nations, which has long embraced agribusiness as the key to famine prevention, is beginning to recognize the role of sustainable, *localized* practices in food security. The change in public perceptions has created a critical mass of “locavores,” most living in cities far from the heart of agribusiness, which are driving a growing market for local and organic products.

Farmers' markets, community-supported agriculture, community gardens, and green roofs have become increasingly popular, forcing big supermarket chains to offer local, organic produce. New York City alone went from two farmers' markets in 1979 to more than 45 in 2008. Rochester has also seen a strong and growing interest in this trend, from the hugely successful Rochester Public Market to the increasing number of neighborhood farmers' markets such as in the South Wedge, 19th Ward, and Monroe Village. From its 19th century seed merchants, to the 20th century market farms, the Rochester area has a long and proud tradition of local agriculture.

This history can inform Rochester on how to take what are now perceived as liabilities, its abandoned buildings and vacant lots, and turn them into assets. Cities like Rochester, which has lost a substantial percentage of its population over the past 50 years, must acknowledge that there is little to no market for residential development in certain neighborhoods, particularly when viewed against the context of a stagnant metropolitan population. Until these trends change, the highest and best use of land in parts of the city is likely to be green space. Depending on how it is structured, however, green space can burden the city or neighborhood groups with ongoing maintenance costs. Green space programmed as public parkland costs the city money in operation and maintenance, and green space programmed as community gardens require a committed neighborhood association to maintain it in good order.



Therefore, urban agriculture must be given serious consideration for certain areas, especially where the level of abandonment and city ownership creates a situation where multiple parcels can be assembled into a contiguous piece of land. Buffalo, Detroit, and other northeastern and Midwestern cities have had successful examples of urban agriculture. Rochester has recently accepted a proposal on Managing an Urban Agriculture System in the City that will likely

result in many other policy and code regulations in addition to the ones recommended below.

Recommendations for Urban Agriculture:

- 1) *Allow agriculture as a permitted use in most districts in the City.*
- 2) *Allow certain accessory buildings (greenhouses, storage sheds, barns) as the principle use on a parcel and allow greater flexibility in terms of setback and design standards.*
- 3) *Allow greater flexibility in fence design and placement for agricultural related uses.*
- 4) *Consider the unique aspects of agricultural uses when requiring special processes; a 4-6 week delay for site plan review or a special permit can mean the loss of a growing season for agricultural uses.*
- 5) *Consider the creation of an "agriculture overlay" district that would encompass areas identified as most conducive to urban farming.*

E. Wireless Communication



In 1997 the City enacted a new personal wireless telecommunications amendment to the Zoning Code. This was on the heels of the 1996 federal de-regulation which simultaneously placed limits on local government authority in their regulation of these facilities. At the time, the regulation was considered by many to be state of the art. The 2005 evaluation noted that, "There have not been any judicial decisions, regulatory or statutory changes since the adoption of the 2003 Zoning Code which would affect our local regulation of Personal Wireless Telecommunications Facilities." Hence, there were no recommendations in 2005 for amendment of the regulation.

However, since 2005 we have witnessed some new industry directions. There have been two applications for towers more proximate to residential areas. This is in part due to the trend towards more cellular phones rather than land lines in many homes. "Wireless replacement of landlines has grown significantly in recent years. Adults living in households using only wireless phones doubled from 2003 to 2005. The percentage of cell phone dependent households is expected to continue to grow in the coming years, particularly as young adults establish their own households" (Hoovers).



Some hope that satellite communication technologies will eventually replace land towers. "While we cannot foretell the future, it would seem that the major providers have satisfactorily proven the non-existence of a mass market for

satellite personal telephones" (Ghais; Modle Satellite Users Association). So it appears that towers will continue to be part of the landscape.

At the same time, it is anticipated that the heights of new towers may come down appreciably. The problem is not a coverage problem but rather one of sufficient depth of coverage. There will be a need to add capacity rather than the need for more towers. Some in the industry see the possibility, maybe three to four years out, for much shorter towers being deployed every few blocks in residential areas to provide broadband wireless services.

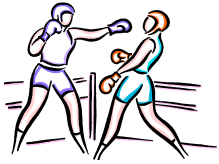
Another consideration may be with respect to WiMax, a wireless digital communications system that is intended for wireless "metropolitan area" networks. There are more than 500 WiMax networks in 146 countries. WiMax can provide broadband wireless access up to 30 miles for fixed stations and 3-10 miles for mobile stations. In contrast, WiFi wireless area network standard is limited in most cases to 100-300 feet. It can be used for wireless networking in much the same way as the more common WiFi protocol. It is a second generation protocol that allows for more efficient bandwidth use, interference avoidance, and is intended to allow higher data rates over longer destinations. Many believe that WiMax will do for broadband what the cell phone did for telephone service. The release of broadband stimulus funds in the near future would most likely give a boost to WiMax vendors. This emerging technology should be accounted for in our plans and regulatory framework.

Recommendation for Wireless Communication:



It is time to review our current regulation and to suggest amendments that will continue to accommodate the technology and, at the same time, continue to afford the maximum protection allowable by law.

SECTION X: Resolving Land Use Disputes Through Mediation and Conflict Resolution



As noted in the 2005 Evaluation Report, land use conflicts can be one of the most contentious issues that arise in a community. Land use planning originally focused on the most technically efficient method of separating land uses. Today, the emphasis has shifted toward a concern of fairness in the allocation public resources. Planners constantly struggle to balance the goals of environmental protection with economic development while also attempting to protect private property rights and the quality of life for various groups. There has also been a continuing interest in public stakeholder participation in decision making. Against this backdrop is the growing property rights movement that is proliferating throughout the country, with most states now having some form of property rights law.

Traditional means of dealing with land use disputes and applications are at times ineffective and were devised in a different era of planning and zoning. However, today, what may be technically correct and appear to make sense does not always result in fair, quality decision making. Regulations are no longer black and white, and decision making will require more and more creativity to provide for quality decisions that satisfy property owners, neighbors and governments.



The development review process can be very costly and may at times involve only indirect, formal contacts between parties at public hearings or in other contentious settings. The process can be lengthy, inflexible and frustrating to those involved while not always producing creative, agreeable solutions. Outcomes can be unpredictable, and relationships between parties are often damaged rather than strengthened. Often when a developer seeks approval from a board, the public becomes involved late in the process after the developer has already invested large sums of money in the project and is more averse to making changes.

The current code was set up to provide a great deal of flexibility and discretion on the part of decision makers. This context provides fertile ground for the integration of mediation options. Mediation skills offer an approach to dealing with complex, contentious land use issues having a growing number of stakeholder concerns. There are potential opportunities for mediating land use issues during the planning and pre-application process; post submission and post decision; and during court annexed proceedings.

Throughout the United States, communities of all sizes are relying on a new approach to resolving land use disputes, a consensus building approach that brings all of the relevant stakeholders together in a face-to-face dialogue assisted by a professional mediator. In a new book, *Land Use in America*, co-published by the Lincoln Institute and Island Press, a land use agenda for the 21st Century is discussed and set forth. One of the ten items on the agenda is that “New tools are required to meet the new challenges of land use. Land use disputes should be solved through negotiation or mediation rather than through confrontation and litigation ...”



The 2005 Report cited the opportunity to convene a local training session for staff, boards and commissions, and neighborhood associations. This was accomplished in 2006. Course instructors included Ona Ferguson, Associate, *Consensus Building Institute* and Merrick Hoben, Senior Associate, *Consensus Building Institute*. The course was well attended and received high marks from participants. If the success and feedback from this program is any indication, it is believed that all segments of the community would welcome Alternative Dispute Resolution (ADR) as an option in land use process and decision making.

**ANNOUNCING A PROFESSIONAL
DEVELOPMENT COURSE ON
RESOLVING LAND USE
DISPUTES**
October 23 - 24, 2006
City Hall, Rochester, New York

THROUGHOUT THE UNITED STATES, COMMUNITIES OF ALL SIZES ARE RELYING ON A NEW APPROACH TO RESOLVING LAND USE DISPUTES - a consensus building approach that brings all the relevant stakeholders together in a face-to-face dialogue assisted by a professional mediator. This course will teach land use planning stakeholders how to use mediation to help build consensus on difficult land use issues. Participants will work with cases involving land development and community growth, explore the link between mediation theory and practice in the land use context, and determine whether and when mediation is an appropriate conflict resolution tool.

This course combines the theoretical framework of consensus building with exercises based on the results of the Consensus Building Institute's first comprehensive study of land use mediation in the United States. The study examined more than 100 cases of successful and unsuccessful mediation. Case discussion will include disputes over the rate and pattern of development, conflicts over infrastructure, disagreements over the cleanup of contaminated sites, and controversies over efforts to adopt new land use plans. The course materials incorporate practical experience from citizens, developers, planners, and land use mediators from across the country.



Supporters of regulations that allow for this option have stated that mediation in land use disputes has the potential to accomplish many things that standard land use process often cannot, including the following: it avoids problems caused by litigation; encourages better communication; offers opportunities for joint gains; builds trust; dispels cynicism; fosters more efficient use of resources; resolves underlying issues; develops a shared knowledge base; increases confidence in government officials; empowers disadvantaged groups; and offers greater satisfaction with decisions.

As with any program, process or approach there are detractors as well. Those voices might say that the mediation process: may not be faster or less expensive; alter competitiveness of stakeholders; result in the best agreements; and be immune from litigation at some point. Many of these issues can be dealt with by viewing this approach as optional. It clearly is not appropriate for every land use conflict, but it makes sense to add this opportunity to the tool box of available alternatives for problem solving.

Most research on the effectiveness of this model relates to time and money. A study by the *Consensus Building Institute* in 2000 looked also at the issues of quality in settlement and whether relationships were enhanced and confidence

in government was restored as a result of the process. The study included 100 cases from around the country, and most respondents had a positive view of assisted negotiation.

Efforts at the state level to legislate enabling acts to affirmatively give municipalities the authority to incorporate ADR into land use regulations stalled in several sessions. It is being reintroduced this year, but with no guarantee of approval. However, as a Charter City, Rochester does not need to have this legislation in place in order to move ahead and incorporate a process into its own City Code.

There have been several local cases where mediation might have helped, not only by saving time and money, but by producing a better project and resulting in better relationships between the proponents and opponents of projects. A case in point is the Highland Hospital Employee Parking Garage project.

The process associated with the development of the Highland Hospital Garage was extended over a period of about three years. There was much opposition, and the process became extremely contentious. As time went on, the parties were less trustful of each other and the possibility of compromise and reconciliation diminished. In the end, after a lengthy process and court appeal, the garage was built. However, professional fees, additional studies and escalation costs over time significantly drove up the project's final cost by nearly one million dollars. Ironically, the final product may have been enhanced, including the application of brick on all facades, at about 40% of the costs born out of the conflict and associated delay.

Recommendation for Mediation and Conflict Resolution:

Codify an option for resolving land use disputes through mediation and conflict resolution. Make the option available at any point in the process from pre-application to post-decision, pre-appeal.

SECTION XI: CONCLUSION

Urban planning and land use regulation are about change and change management. Cities by their very nature are in a continual state of change. At the same time, the rate of change in contemporary society is more rapid than any time in the past. Cities often develop and change at rates faster than plans can be realized. Planning that relies on end state prescriptions and unbounded intervention in the design of plans, is costly and largely incompatible with dynamic economies.

Planning and land use regulation need to reflect the evolutionary aspect of communities to be successful. They run the risk of being viewed as irrelevant when they attempt to be too prescriptive and long term. Planning, plans and zoning regulations must be timely, significant, feasible, relevant, adaptable, flexible, monitored and evaluated. Their principal usefulness should be in guiding and helping to make decisions today, with an eye to current and future trends and goals, and a keen awareness of the marketplace.

This evaluation forwards many recommendations that will continue to lead us farther and farther away from the traditional Euclidian Zoning model. These recommendations more often than not will result in streamlining processes, less regulation rather than more, and with respect to new trends and technologies, some new regulations.

Historically, zoning codes have been protectionist, static and end state oriented. Contemporary land use regulation should be available to protect when necessary, but more so to accommodate, facilitate, and guide the productive development and economy of cities. At the same time, there needs to be a recognition and acceptance that quality urban form, preservation of historic resources, and the need to ensure livability, in plan and regulation, are necessary to meet these development and economic goals.

The approach, as we move forward, should be based on efficient process; fair and open, yet reasonable, public engagement and discourse; and on review mechanisms that are at once thorough and expeditious. This evaluation recommends, and will likely result in, a substantial number of amendments to the Zoning Code. As we proceed soon into a period of plan revisions, many of the recommended amendments will be synched with plan updates, while others will be forwarded separately and more immediately. In all cases the amendments will be subject to additional public dialogue.

SECTION XII: CASE STUDIES

Case Study #1

(Design Standards, Parking Requirements, Multi-Family In-Fill)

Project: DePaul @ 774 West Main Street
Designer: SWBR Architects, Parrone Engineering

Case Study

This proposed redevelopment will involve the construction of a 3-story, single-room occupancy (SRO) building along West Main Street (Fig. 1); the construction of a 2-story apartment building along Brown Street; and the expansion and conversion of a former convent along West Main into a 3-story apartment building. A new 43-space parking area will serve all three structures (Fig. 2).

In accordance with the Citywide Design Standards found in the Zoning Code, both freestanding buildings are flush with the sidewalk to create a vibrant streetscape. The mass of the Brown Street building is broken down to reflect the residential character of nearby homes, while the SRO building recalls a traditional main street structure with retail along the bottom and housing above. This practical and efficient design will permit adaptive reuse of the first floor spaces for office or retail. The convent addition is tucked behind to avoid conflict with the nearby St. Peter and Paul Church.

Comment

This project exemplifies the level of site planning and design encouraged by the 2003 Zoning Code. Based on its attention to adaptive reuse and quality design, this development will be a long-term community asset. Parking demand analysis, in place of minimum requirements, allowed staff the flexibility to approve fewer spaces on site than normally required, based on the nature of the building use and the ease of access to public transit.



Figure 1: Proposed SRO building along West Main Street.



Figure 2: Proposed redevelopment: SRO building along West Main Street at top; apartment building along Brown Street at bottom; convent with addition at top left.

Case Study #2

(Design Standards, Adaptive Reuse)

Project: Rite Aid, Monroe Theater & Townhouses @ 585-599 Monroe Avenue

Designer: Hanlon Architects

Case Study

This project involved the construction of a new Rite Aid Pharmacy and drive-through at the corner of Monroe Avenue and South Goodman Street; the construction of four two-story townhouses at the corner of Monroe Avenue and Amherst Street; and the redevelopment of the former Monroe Theater between these structures. The theater, which is a Designated Building of Historic Value under the Zoning Code, will be redeveloped with first-floor commercial space and second-floor offices or apartments. The back portion of the structure has been demolished, while its historic façade will be rehabilitated and retained. A new 69-space parking area serves the entire development.

Comment

The redevelopment of this formerly run-down block into a vital, neighborhood-appropriate stretch of businesses and housing was streamlined through use of the City-wide Design Guidelines and Standards. The discretionary flexibility of these standards allowed staff to ensure high-quality site and building design while maintaining consistency with existing neighborhood form and character.

The Rite Aid building, now the fourth anchor of the Monroe Avenue - Goodman Street intersection, is a successful example of the ability of flexible design standards to reconcile traditionally suburban-styled structures with the vibrant urban atmosphere that citizens desire. Initial plans for the structure showed a low, monolithic

building set away from the sidewalk, having very little transparency or visual interest. Backed by the Zoning Code, staff was able to instead obtain a building that incorporates a two-story, high-quality façade, and is tight to the sidewalk with parking tucked behind.

A unique characteristic of this structure is its potential for adaptive reuse. Based on a Zoning Board of Appeals condition for site variances, the building was designed to accommodate a second floor and four-tenant commercial spaces, should future needs require. Many questioned whether it was prudent to require such an expensive design addition, however, this building now contributes not only to the attractiveness of the neighborhood, but to the sustainability of the structure and the site.

The façade of the former Monroe Theater, a 1928 Classical Revival structure, will shine as a fully restored point of neighborhood interest. Its west side will directly abut the proposed townhomes, re-creating a classic, unbroken streetscape and enlivening the pedestrian atmosphere. The new "Designated Building of Historic Value" classification found in the Zoning Code expedited preservation of this iconic façade, which could otherwise have been threatened by demolition.

The summative effect of this quality redevelopment effort will be to both reflect and enhance the unique, eclectic nature of the Monroe Avenue neighborhood.

**Project: Rite Aid, Monroe Theater & Townhouses
at 585-599 Monroe Avenue
Designer: Hanlon Architects**



Figure 1: Frontage of the new Rite Aid Pharmacy along Monroe Avenue. Note that the structure is tight to the sidewalk, and has a two-story design to mimic traditional main street stores.



Figure 2: Side of the new Rite Aid Pharmacy along South Goodman Street. Large display windows and traditional canvas awnings create an open, inviting atmosphere.

Before



Figure 3: The former Monroe Theater in use as an adult video store in 2008, prior to façade improvements and renovations.

After



Figure 4: The theater in 2009, following extensive façade improvements. Future uses will include first-floor retail, and offices or apartments above.



Figure 5: The proposed townhouses complete the block-front development, abutting the street, filling the corner, and exuding a true urban fabric. Not only do the residential units contribute to a continuous street front, but they also contribute to the mixed use character of the development.

Case Study #3

(Design Standards, Signage, Big-Box Retail, Infill Development)

Project: Price-Rite, KFC, and undetermined store @ 1230 University Avenue

Designer: Barkstrom Architects

Case Study

This 5.5 acre parcel is located at the northeast corner of Culver Road and University Avenue. Its development required a special permit to allow commercial uses in an M-1 manufacturing zone. The project involved partial demolition of a warehouse for conversion to a Price Rite grocery store; construction of a KFC restaurant at the corner of Culver and University; and retention of land for a future pharmacy. A 205-space landscaped parking area serves all three sites.

Comment

The flexibility of the Citywide Design Standards allowed staff to ensure high levels of exterior and site design throughout this project. While initial site plans called for only a grocery store and pharmacy, staff realized the necessity of a third corner anchor (now the KFC) at the intersection of University and Culver. This building, which became a condition of site plan approval for the project, would frame the intersection, slow turning traffic and enhance the public realm.

Based on staff recommendations, the KFC is built tight to the sidewalk with its drive-through at the rear, and boasts a landscaped seating area and transparent street front façades. The Price Rite also features active facades and direct pedestrian connections to the streets. Signage and parking for the Price Rite were both reduced from initial plans to enhance the site and meet design standards.



Figure 1: KFC



Figure 2: Price-Rite and KFC



Figure 3: Looking Northeast on Culver

Case Study #4

(Commercial Infill, Design Standards)

Project: M&T Bank and DiBella's @ 1876-1882 East Avenue

Designer: Barkstrom & LaCroix Architects

Case Study

As illustrated in Fig. 1, this development parcel sits at the triangular convergence of University and East Avenues. It is bounded on three sides by commercial uses, and immediately to the east by an interstate interchange. The site initially housed a boxy, single-story building and large, informal parking lot, neither of which conformed to current Zoning Code requirements.

Following complete clearance of the site, DiBella's (Fig. 2) was built tight to the sidewalk at the west end, and M&T Bank (Fig. 3) was built behind parking to the east. A 65 space lot now serves both buildings, with bicycle spaces equaling 10% of those allowed for cars.

Comment

Despite unique site limitations, this development improved upon both the scale and design of the previous uses. DiBella's now creates a vibrant streetscape through zero setback, generous window coverage, and quality design and construction. M&T Bank complements the scale and form of existing structures. Both reflect traditional neighborhood character through the use of natural façade materials such as brick and stucco. Overall, designers made the best of an awkward transition between the traditional urban architectural fabric to the west, and the less dense suburban development to the east.



Figure 1: Triangular development parcel—University Avenue above, East Avenue below.



Figure 2: DiBella's sub shop on East Avenue.

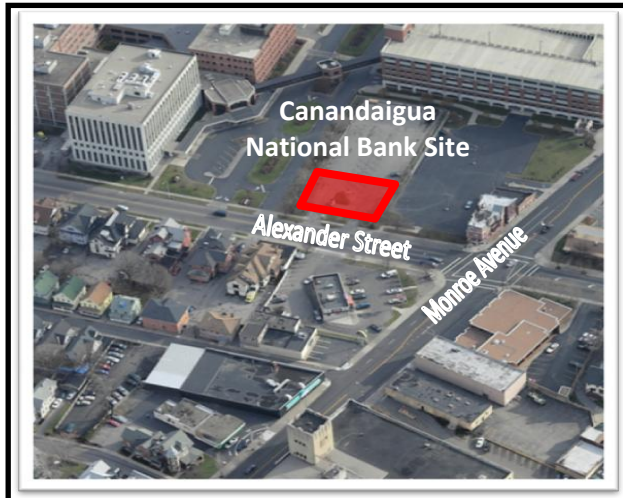


Figure 3: M&T Bank on East Avenue.

Case Study #5 (Design Standards)

Project: Canandaigua National Bank @ 334 Monroe Avenue

Designer: Mossien Associates



Location Map

Case Study

This branch of the Canandaigua National Bank opened in December of 2009 at the northeast corner of Monroe Avenue and Alexander Street. The structure has a triple drive-through, with parking at the back, and sits on the eight-acre campus of the former Genesee Hospital.

Comment

This development demonstrates the iterative process in which city urban design staff work with a project's architects to achieve a design solution that meets the needs of client while respecting the goals and intent of the city's planning and zoning policies.

The location of the bank building on the east side of Alexander Street just north of Monroe Avenue is adjacent to one of the city's primary commercial mixed-use

corridors. Monroe Avenue is a dense, pedestrian oriented street of multi-story buildings, most with retail space on the ground floor and apartments above. Immediately adjacent to the bank site is a seven story office building to the north, two and a half to three story residential structures across Alexander Street, and a seven story parking garage to the east. Although single story fast-food restaurant buildings are adjacent to the west and south, this type of auto-oriented, suburban design is not an appropriate precedent to draw on.

The goals and intent of the Zoning Code's Citywide Design Standards require new buildings in commercial and mixed use areas to be built in a pedestrian-oriented, urban form. That is, new buildings are to be built close to the street with the main entrance and significant areas of windows on the front of the building. Buildings must be of a minimum height (20 feet) to provide enough bulk and massing to help frame the public space of the street. Finally, building design should draw on the surrounding context as well as proposed use.

The bank's site, a surface parking lot, provided a great opportunity to fill a large gap in the streetscape and establish a precedent for good urban design for the entire Alexander Park site as well as the surrounding Monroe Village area.

**Project: Canandaigua National Bank
@ 334 Monroe Avenue
Designer: Mossien Associates**

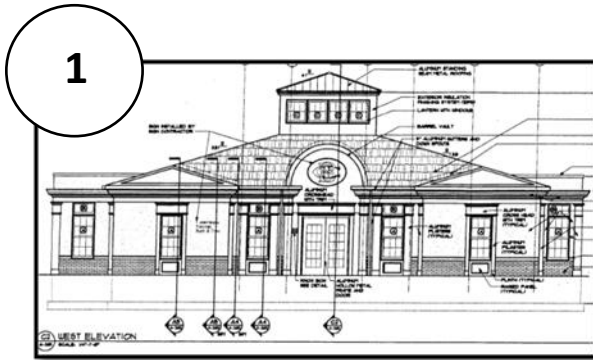


Figure 1: The first proposal for the Canandaigua National Bank showed a handsome building, but one that was too short at only 14 feet, 6 inches high and utilized design details such as a pitched roof and cupola that were not typically seen on traditional bank buildings in Rochester, including others in the neighborhood.



Figure 2: Through ongoing discussions with Zoning staff, the project's architect returned with the second proposal for the Canandaigua National Bank. While improved with additional height (it was now at 18 feet, 6 inches), the design still included a pitched roof and cupola. Design staff in the Zoning office felt that this exhibited an informal, residential, almost nautical feel to the building and was out of place among the more formal commercial buildings around it.

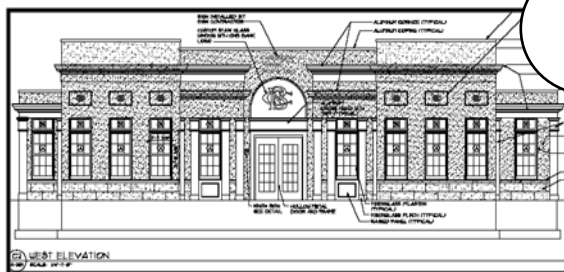


Figure 3: The project architect returned with a third and ultimately successful proposal for the bank. This increased the height to 19 feet and most importantly, changed the pitched roof to a flat roof. The final design fits much better into the traditional urban mixed-use context of the Monroe Avenue area and is a positive addition for the Alexander Park development and the entire Monroe Village.



December, 2009

Case Study #6 (Design Standards) Project: Family Video Proposal @ 2222 Norton Street

Case Study

A proposal to construct a new 6,000 square foot video rental store and a 1,175 square foot retail space on three parcels at the northwest corner of Norton Street and Culver Road was submitted to the City in June, 2007. Preliminary site plan review findings were issued in July, 2007 and found that the proposal required nine area variances related to building size, hours of operation, height, transparency, building entrance, parking and landscaping. After several months of discussion with the developer, an application for these variances was made to the Zoning Board of Appeals in July, 2008.

The Zoning Board approved the size of the proposed building and the extended hours of operation for the stores to 12:00 A.M. The Board denied the request to waive the height of the building, the location of the entrance to the video store, the building transparency, the setback for the parking lot and the requested signs. The Zoning Board determined that there was no sufficient justification to grant these variances. As a result, the applicant decided not to pursue the project.



Location Map

Comment

This case is an example of how the 2003 Zoning Code, specifically the Citywide Design Standards, through the open and public process of the Zoning Board of Appeals, limits poorly designed development. As has been made clear through the City's Comprehensive Plan and Zoning Code, the type of development that is expected is pedestrian friendly, urban development. The proposal from Family Video was neither, and the applicant did not provide sufficient justification as to why it could not develop in a more pedestrian friendly, urban format.

It is unfortunate that the applicant chose not to alter the design of the building, because this type of business is precisely the type of use envisioned for the C-1 Neighborhood Center Zoning District.

Project: Family Video Proposal @ 2222 Norton Street

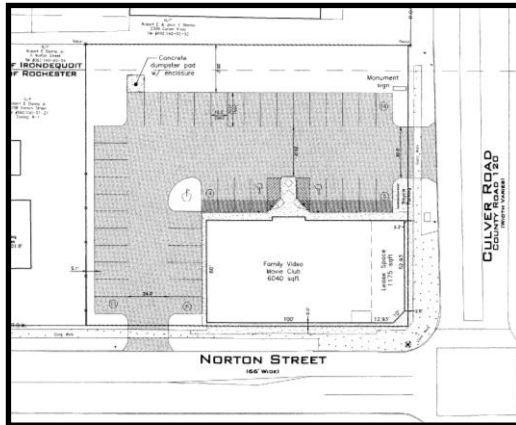
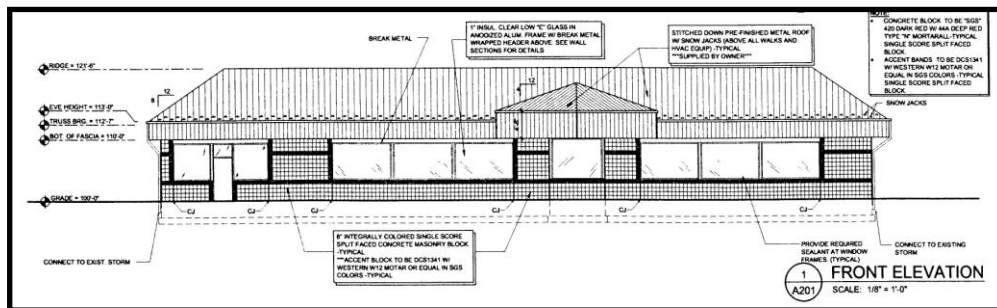
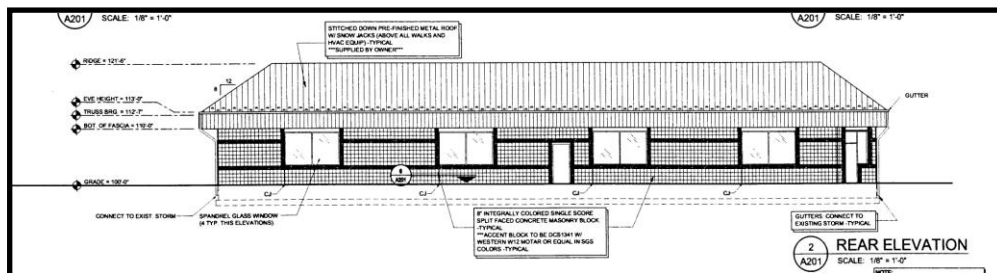


Figure 1: As this site plan indicates, the placement of the building at the corner of the parcel with the parking to the side and rear is positive. However, the orientation of the building is towards the parking lot. The main entrance and a substantial amount of transparency face the parking lot. The rear of the building faces Norton Street and includes a small doorway and virtually no transparency.



Parking lot façade



Norton Street façade

Figures 2 & 3: The windows shown on this façade use spandrel glass which is not transparent, and therefore, does not meet the intent and spirit of the code.

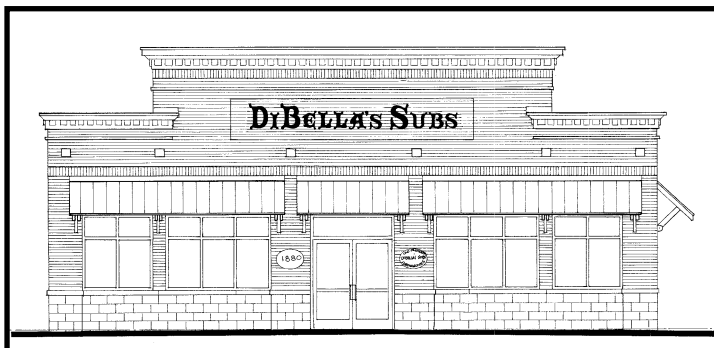


Figure 4: Other recent retail developments have found it easy to comply with the spirit and intent of the code with regard to design, including the DiBella's Restaurant on East Avenue shown above.

Case Study #7 (Cluster Subdivisions) 95 Barrington Street and 1475 East Avenue

95 Barrington Street Cluster Subdivision

This was an application for the demolition of an existing non-conforming building and the subsequent cluster subdivision of a single parcel of land into six lots for construction of six attached townhouses in two groups of three located near the corner of Park Avenue and Barrington Street. Between Park Avenue and the subject parcel, there is a neighborhood pocket park.

The cluster provisions allowed for the alteration of the yard, space and bulk requirements without altering the overall density requirements for the site. Clustering the subdivision allowed the proposed development to most appropriately contribute to the pedestrian focus of the neighborhood by limiting vehicular access to a single driveway. It will also allow three townhouses to face the park rather than backing up to the park or having side yards on the park. Facing the park establishes a strong “edge” to the park which is in keeping with accepted urban design principles for creating a sense of place. In addition, perception of safety is improved by putting more “eyes” on the park during evening and nighttime hours.

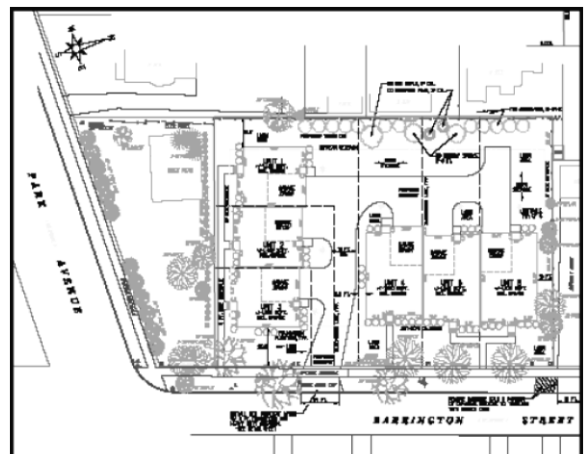


Figure 1: Barrington Street
Cluster Subdivision

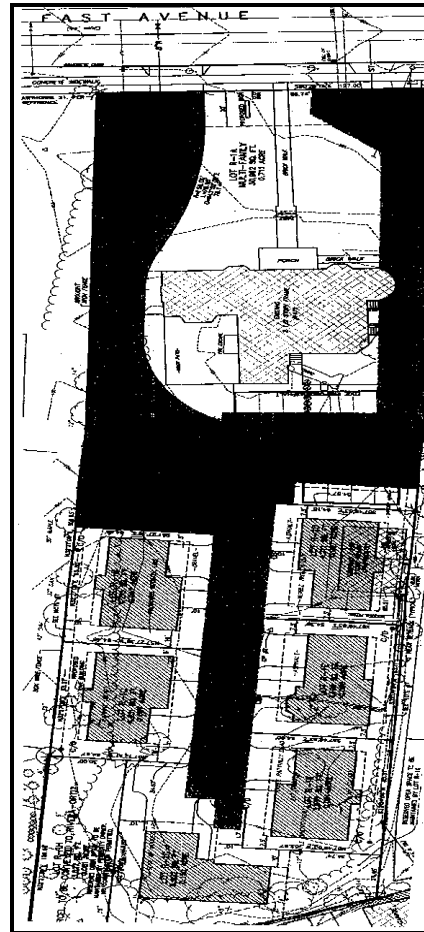
**(Cluster Subdivisions)
95 Barrington Street and
1475 East Avenue**

1475 East Avenue Cluster Subdivision

This application was for the subdivision of one lot into eight lots and to permit minor modifications of the yard, bulk and space requirements associated with the cluster subdivision and development of six single family detached dwellings, a new private drive, and the reservation of two parcels for open space conservation.

To mitigate the additional development in this historic neighborhood, setbacks were reduced in accordance with the provisions of cluster subdivision and two parcels were reserved for open space conservation and for establishing buffers between the proposed development and adjacent properties.

The proposed cluster development will be constructed at the rear of an existing apartment building within the East Avenue Historic District. The clustering of the properties also allowed buffering between the development and the existing building that fronts on East Avenue, thereby contributing to the preservation of that historic building. In addition, the visual impact of the development from the East Avenue frontage is minimized.



**Figure 2: East Avenue
Cluster Subdivision**

SECTION XIII: SUMMARY OF REPORT RECOMMENDATIONS

ZONING DISTRICTS AND MAP

Recommendations for Residential Down Zoning:

- 1) More flexibility needs to be added to the provisions of the code dealing with nonconforming uses in residential areas in order to promote and implement strategic planning efforts and to increase potential investment opportunities in targeted areas.
- 2) The regulatory response in these targeted areas may include the use of special purpose districting, overlay districts, planned development districts, or street oriented restrictions.
- 3) As viable strategies, both planning and market centered are pursued, maintaining R-1 residential zoning and continuing to land bank, as lands come into public ownership, remain effective tools for regulating these areas to discourage inappropriate redevelopment.

Recommendations for Village Centers:

- 1) The PM-V District should be re-mapped to exclude the residential areas to the north of Pennsylvania Avenue. The permitted and specially permitted use listings should be re-evaluated.
- 2) The H-V text and map should be reassessed after the completion of the Marina development.
- 3) The Village Center concept should be considered for application in citywide commercial zones.

Recommendations for Center City District:

- 1) Amend the CCD regulations by removing the existing obsolete code provisions relating to outdoor activities and clarifying the provisions relating to as of right outdoor seating areas.
- 2) Amend the entertainment licensing provisions to allow for temporary entertainment licenses.
- 3) Consider the possibility of special permit uses in the CCD that include outdoor functions, including but not limited to live entertainment, accessory drive-thru's, temporary tent structures for extended periods of time and vending on private property.
- 4) As a streamlining measure, clarify the CCD provisions to give the Preservation Board authority to approve waivers of the CCD guidelines in downtown Preservation Districts. The Zoning Board should be authorized to approve waivers of the design criteria for all projects in the CCD which require use variances. In addition, if we establish special permits in the CCD, the Planning Commission should have waiver authority over the CCD design criteria.

Recommendations for Commercial Zoning:

- 1) The regulations pertaining to the C-1 and C-2 districts should be modified and updated. The Collegetown zoning district and process can be utilized as a template for new commercial district regulations.
- 2) Not all commercial areas may be ready for the flexibility of a Collegetown - like district. A commercial designation may be necessary which maintains certain, less flexible controls.
- 3) Continued study of the City's commercial corridors is necessary to determine their long term viability. This must include planning for shared parking locations within the districts.
- 4) The Overlay Boutique and Overlay Office designations were developed under the 1975 Code as a means of affording certain residential areas on major thoroughfares the ability to convert to light commercial uses as the desirability for residential uses declined. These districts should be studied along with the commercial zones to determine their utility and effectiveness.

Recommendations for Industrial Zoning:

- 1) Adjust M-1 regulations to retain their protective nature where necessary, but where unnecessary, increase flexibility and reduce processes for new uses and the expansion of existing uses in response to market initiatives.
- 2) Continue to utilize the PD District as a tool to accommodate the redevelopment of former obsolete industrial sites.

DESIGN

Recommendations for Center City Design:

- 1) The basis for the seven design districts should be re-examined, focusing on the two main axes downtown: Main Street and the River. Due to the clear distinctions between the buildings within the Tower district and other parts of downtown, it is probably valid to retain that district. However, consideration should be given to consolidating other districts perhaps with more emphasis placed on street type.
- 2) The employment of use variances in CCD should be reviewed.
- 3) Revise the CCD regulations to better deal with changes to existing buildings taking into consideration the level of renovation and change.
- 4) Strive to better clarify, catalog, map, publicize and protect important buildings and historic assets.
- 5) Interdepartmental communication and cooperation needs to be continued and enhanced so that the design and implementation of street improvements coordinate seamlessly with the regulation and design of land development, ensuring the maintenance and creation of a quality public realm in the Center City.

- 6) Clarification of the “CCD-Base” district terminology is needed; maps and graphics, including street definitions and updated district boundaries, must be reformatted to be clearer and more legible.

Recommendations for Citywide Residential Building Design Standards:

- 1) Develop more detailed design requirements for new front porches (materials, detailing). The goal would be to provide guidance for small contractors and homeowners to avoid unpainted, pressure-treated applications.
- 2) Better define “pattern of window and door openings” in current regulations.
- 3) Include references on detailing (i.e. vinyl siding can be acceptable if wider window frames are used to better fit with a historic pattern of window frames).
- 4) Devise vinyl siding specifications similar to minimum gauge requirements currently in the code for metal buildings.
- 5) Develop design standards and guidelines for multifamily dwellings; or in lieu of new standards, send all multifamily projects to the Project Review Committee (PRC) for review and recommendation.

Recommendations for Citywide Non-Residential Building Design Standards:

- 1) Adjust the application of front yard setback requirements to more strongly encourage pedestrian friendly building placement.
- 2) Require that the front walls of buildings be developed parallel to the street.
- 3) Re-examine allowable building materials, including metal, split face block, EIFS, concrete finishes, and those materials associated with transparency requirements.
- 4) Eliminate lot coverage requirements in commercial districts.
- 5) Modify and lighten design standards as they apply within industrial zones.
- 6) Consider design regulations for industrial uses that may be located on major streets or that interface with residential districts.

Recommendations for Unique Design Challenges:

- 1) Develop specific design standards for gas stations and gas station/minimarts.
- 2) Consider allowing “automatic in bay car washes” in C-2 districts.
- 3) Utilize the site plan review process and the expertise of the PRC to address the specific design issues of civic buildings.
- 4) Formalize the process that was used for the Mt. Hope Collegetown District for all major street improvement projects.
- 5) Amend the code to require that windows be unobstructed and to clearly state that the installation of any exterior device which obstructs transparency or impacts the architectural design of a window is not permitted. Consider an exemption for non-permanent interior devices such as non-opaque roll-down grills, etc.

NONCONFORMITIES

Recommendations for Exemption of Built-As Nonconformities from Abandonment

Provisions:

- 1) Amend the code to clearly and definitively set forth the criteria for exemption of certain not built-as, but substantially altered, single family dwellings from abandonment. This provision might be related to building size, capital investment, or the constraints of an obsolete configuration. An administrative process is recommended to assess qualifications for an exemption in these cases.
- 2) Another option would be to exempt all legally existing and certified nonconforming residential uses from abandonment. Abandonment provisions would then apply only to nonresidential uses and illegal and uncertified residential uses.
- 3) A third option might extend the period of vacancy triggering abandonment of legally existing and certified nonconforming residential uses beyond the current nine month period.

Recommendations for Reuse and Reactivation:

- 1) Eliminate the requirement to obtain a Certificate of Nonconformity as a means to predetermine the appropriate reactivation process.
- 2) Consider all applications for reactivation of nonconformities through the special permit process.
- 3) Develop additional standards for the Planning Commission to apply to their special permit decisions relating to reactivation. These standards might address the concentration of types of businesses in an area, the intensity of a proposed use, the viability and condition of a structure, and the quality of a rehabilitation plan.

Recommendation for Site Improvements with Reactivation:

Amend the regulations pertaining to special permits and Planning Commission authority to include a requirement that, as a condition of special permit approval in these cases, an applicant must submit a site plan illustrating that the site will be brought into conformity with current code requirements to the greatest extent possible. Site restoration would then be part of the overall special permit decision on the reactivation of the use.

Recommendations for Intent and Abandonment:

- 1) Consideration should be given to increasing the Director's authority to extend the abandonment period after the nine month period for residential nonconformities has elapsed. This would eliminate the Zoning Board of Appeals from the process.

- 2) Provide more guidance in the code as to how one meets the standards for extension.
- 3) Codify how long of an extension may be granted by the Director and how long after abandonment an applicant has to petition for an extension.

Recommendation for the Re-Establishment of Prior Nonconforming Uses in Large Single Family Dwellings:

Amend the code to permit any structure containing 2,000 gross square feet or more, to be restored to a prior legal multi-unit use, provided the restoration units each meet current minimal habitable floor area requirements. This could be handled administratively through the CZC process as an as of right action.

SIGNS

Recommendations for Signs:

- 1) Allow for more liberal signage for commercial buildings in R districts possibly applying the sign regulations for C-1 districts, as of right, to nonconforming structures originally built as commercial or mixed-use structures currently occupied as such.
- 2) The sign code needs to be reviewed and amended to more clearly address signs for multi-tenant properties and provide a streamlined process for permitting signage.
- 3) Develop standards for signage for places of worship and other civic buildings (schools, libraries, etc.).
- 4) Review appropriateness/desirability of awnings with applied signage as well as internally illuminated cabinet signs.
- 5) Develop a guidance document or amend the code to define the discretionary process for signs in the Center City, to avoid arbitrary decision making, and ensure that current successes are replicated regardless of staff expertise.
- 6) Sign code enforcement needs to be a priority. In order to best utilize existing resources, one solution may be to focus on the city's 10-15 primary commercial corridors. Consider enlisting the help of citizens and neighborhood groups to track sign violations. Sign compliance can be linked to the issuance of business permits, requiring applicants to show proof that existing signs are code compliant.
- 7) It is suggested that the best way to assess community preference for and community impacts of dynamic signage is to take the approach of a generic or programmatic environmental impact statement. Perhaps a moratorium on future dynamic signs might be adopted while an assessment is completed and a regulation is devised.

PARKING

Recommendations for Parking:

- 1) Develop a Citywide Parking Policy.
- 2) Amend the Zoning Code to eliminate parking requirements in all districts.
- 3) Require parking demand analysis for all proposed parking.
- 4) Supplement the parking demand analysis requirements in 120-173C(3) to assist in decision making.
- 5) Amend the Zoning Code by making ancillary parking lots special permit uses in all districts. Include a definition of "commercial community parking lot" and perhaps add special standards applicable to residential and commercial locations.
- 6) Eliminate parking caps if requirements are eliminated.
- 7) Assess need and control supply based on form and design on a site, and by demand analysis for offsite parking and parking lots as principal uses.

HISTORIC PRESERVATION

Recommendations for Historic Preservation:

- 1) Write a preservation plan for the city including the identification of important landscapes.
- 2) Develop and fund a better public notification system, including mailed notices, signage, website, public presentations, etc.
- 3) Balance the regulatory "sticks" with incentive "carrots".
- 4) Focus on the infrastructure of the preservation districts and around individual landmarks, as we are with the FIS areas.
- 5) Expand districts to natural boundaries where possible, not the arbitrary, invisible lines we often use.
- 6) Determine how to allow more administrative reviews.
- 7) Create a preservation web page.
- 8) Mail postcards to owners annually informing them of DBHV designation and directing them to a web page.
- 9) Flag DBHV properties in BIS.
- 10) Improve code language: Does the word 'maintain' mean to retain, repair, or both? Are significant interiors included when identified in surveys? Coordinate language on lead paint between 120-158 and 120-65.
- 11) Reconcile the 1986 Mack Survey that forms the basis of the DBHV list. Many properties are no longer eligible for listing, and several are gone.
- 12) Complete our contractual obligations on the Y2000 survey so SHPO will finalize eligibility determinations. Begin preparing for a Y2010 survey.
- 13) Clarify that DBHVs in preservation districts are to be reviewed only by the RPB, not also the ZBA, and review whether the ZBA or the RPB should be the reviewing body for applications to alter DBHVs.

PROCEDURES

Recommendation for Site Plan Approval:

In an effort to further streamline and improve customer service and organizational effectiveness, it is recommended that the site plan review triggers [§120-191.D.(3)] of the code be once again reviewed and streamlined, placing greater reliance on “over the counter” review and approvals and reducing the number of site plan reviews required for minor projects. This recommendation will improve customer service and streamline the approval processes.

Recommendations for the Project Review Committee:

§120-181A. of the Zoning Code should be modified to state the following:

A. Membership

- (1) There shall be a Project Review Committee made up of the following individuals or a designee:
 - a. Director of Planning and Zoning
 - b. Director of Planning
 - c. Manager of Plan Review and Permits
 - d. Director of Business and Housing Development
 - e. City Engineer
 - f. City Landscape Architect
 - g. Three Urban Design Specialists, appointed by the Mayor, one of which shall be an Urban Planner, the remainder can include, but not be limited to, an architect, landscape architect, etc.
 - h. In addition, it is recommended that term limits be established for outside members. This would bring the PRC in line with the other land use boards and commissions which all have term limitations.

Recommendation for Public Notification:

The City web page should post the weekly site plan agenda for easy access by the public. Neighborhood associations should routinely review the agendas and make the information available to their constituency. In addition, the newly established quadrants could be a location for the information regarding the site plan review agenda.

Recommendations for Pre-Application Meetings:

Invitations to the meetings will, where appropriate, highlight enthusiasm and support for a particular project.

Recommendation for Fees:

Review the fee structure outlined in the Zoning Code for the following:

- 1) The expense of cumulative fees for multiple special review processes.
- 2) The fee schedule for applications from non-profit organizations.
- 3) A variable fee structure for residential versus commercial applications.
- 4) Fees for sign applications.

Recommendation for the Two-Step Use Variance:

The option for a two-step use variance process should be codified.

Recommendation for Temporary Special Permits:

Maintain as adopted.

Recommendations for Cluster Subdivisions:

- 1) Further define the purpose statement and other provisions of 120-192 to provide flexibility in the planning of residential subdivisions in the urban setting which will result in:
 - a. A choice in the types of living units;
 - b. A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion;
 - c. An efficient use of land resulting in smaller networks of utilities and streets;
 - d. An environment in harmony with surrounding development; and
 - e. The preservation of areas which are physically, aesthetically, historically, and environmentally unique by virtue of their geology, topography, vegetative cover, or previous use.
- 2) Stamped professional drawings with a professional seal will be accepted as sufficient to establish the information shown on the drawings, so the City Planning Commission members will not have to produce their own calculations.
- 3) A conventional subdivision layout in concept form must be presented to the City Planning Commission, along with the proposed clustered subdivision, to allow the Planning Commission to determine that the maximum density is not exceeded.

Recommendation for Case Management:

In an effort to improve customer service, a case management system is being proposed. Also, this should reduce the customer's confusion and anxiety about a potentially complex process. This new system would include the implementation of a single application with a single fee instead of several applications and their accompanying fees. This approach is currently being researched and is near implementation.

Recommendation for the Role of the Planning Commission:

With shrinking budgets, consolidations and the diminution of the role of the Planning Bureau in community planning efforts, it is recommended that the Planning Commission, as a standing citizen's advisory committee, once again have a larger and more useful role in advising and guiding public and private decision makers with respect to development, redevelopment, and public improvements for the benefit of all the people who live, work and visit the City of Rochester.

EMERGING TRENDS AND TECHNOLOGIES

Recommendations for Sustainable Land Use Regulations:

Accommodate and encourage higher densities by:

- 1) Returning the minimum lot size requirement in the R-1 Districts from 5,000 back to 4,000;
- 2) Eliminating the maximum density restrictions in the R-2 and R-3 Districts, and possibly eliminating the distinction between the R-2 and R-3 Districts;
- 3) Utilizing the unique aspects of the River and Gorge by eliminating density restrictions in areas adjacent to the River;
- 4) Eliminating parking requirements;
- 5) Reducing lot coverage requirements and easing regulations that tend to inhibit infill development;
- 6) Permitting as wide a range of dwelling types in the City as possible.

Encourage and accommodate the reuse of existing buildings by:

- 1) Continuing the policies established in 2003 regarding the reuse of nonconformities;
- 2) Including lifecycle analysis in environmental reviews;
- 3) Setting higher thresholds for demolition permits;
- 4) Eliminating off-street parking requirements;
- 5) Enhancing opportunities for the preservation and adaptive reuse of historic buildings.

Limit the development of paved areas by:

- 1) Eliminating off-street parking requirements;
- 2) Reconsidering the parking lot landscaping requirements and reviewing the approved plant materials list for maintenance needs, low irrigation and integrated pest management;
- 3) Requiring dark sky ratings for all exterior parking lot illumination;
- 4) During the site plan review of development projects, consider the use of pervious pavement to limit water run-off, the use of reflective pavement to reduce heat islands; and limitations on the use of concrete, a huge emitter of CO₂.

Continue to emphasize and adhere to the tenets of quality urban design by:

- 1) Promoting a well connected, well designed, accessible and walkable city through the expansion of more comprehensive design standards and guidelines, and a de-emphasis on traditional land use controls throughout the City;
- 2) Considering and regulating for the recyclability of buildings for future use, at the time of development;
- 3) Considering lifetime costs associated with development;
- 4) In the site plan review of developments, considering streets, their connectivity and accessibility, as an important part of urban form and structure and as critical to efficient urban life and activity;
- 5) Better promote the idea of streets as places.

Make adjustments to the Code to accommodate and facilitate the goals of Project Green:

- 1) In the short term, develop standards that specifically reference the permissibility of community gardens, private parks and recreation areas, urban agriculture, tree farms, energy generation sites and rain gardens;
- 2) In the long term, look to these "pilot" areas to consider citywide regulations for the same;
- 3) Devise a process which, in both the short and long term, is clear and simple, without substantial application costs, and which can procedurally be accomplished in a short period of time.

Recommendations for Wind Energy Regulations:

- 1) Amend the Zoning Code to include regulations for all types of wind energy systems, including large commercial and industrial applications as well as small scale business and residential types.
- 2) Include a site plan trigger for wind energy facilities that meet certain criteria thresholds.
- 3) Article XVIII of the Zoning Code (Additional Requirements for Specified Uses) should be amended to include a new section: §120-156 Wind Energy Facilities. This new section would include provisions specific to wind energy facilities including standards for setbacks, fencing, locking equipment, lighting, siting, installation, noise, colors and surface treatments, and decommissioning.
- 4) The adoption of a new wind ordinance would be subject to the review requirements of the State Environmental Quality Review Act (SEQR). The use of the generic environmental impact statement in this case would allow public disclosure, discussion and debate about the installations of wind energy facilities in the City of Rochester. It would allow for the establishment of criteria under which these facilities would be allowed and may save time in the future during review and approval of individual facilities.

- 5) Consider neighborhood-scale, community-based wind turbines on city-owned, vacant land for district power generation.

Recommendations for Solar Access:

- 1) Amend the Code to have specific reference to solar energy systems and their definitions.
- 2) In the site plan review of new developments, consider optimizing solar access with southern exposure. (Note: control of building bulk and setbacks to avoid blocking a neighbor's solar access is an issue because low winter sun angles would force large setbacks and/or low buildings. Dense development may be more energy efficient than deeper setbacks, easements, etc. for solar access.)
- 3) Prepare design standards for PV roofing and panels.
- 4) Consider standards for neighborhood-scale, community-based PV collectors.

Recommendations for Urban Agriculture:

- 1) Allow agriculture as a permitted use in most districts in the City.
- 2) Allow certain accessory buildings (greenhouses, storage sheds, barns) as the principle use on a parcel and allow greater flexibility in terms of setback and design standards.
- 3) Allow greater flexibility in fence design and placement for agricultural related uses.
- 4) Consider the unique aspects of agricultural uses when requiring special processes; a 4-6 week delay for site plan review or a special permit can mean the loss of a growing season for agricultural uses.
- 5) Consider the creation of an "agriculture overlay" district that would encompass areas identified as most conducive to urban farming.

Recommendation for Wireless Communication:

It is time to review our current regulation and to suggest amendments that will continue to accommodate the technology and, at the same time, continue to afford the maximum protection allowable by law.

MEDIATION AND CONFLICT RESOLUTION

Recommendation for Mediation and Conflict Resolution:

Codify an option for resolving land use disputes through mediation and conflict resolution. Make the option available at any point in the process from pre-application to post-decision, pre-appeal.

APPENDIX A

RECOMMENDED CODE AMENDMENTS

Code Section	Category	New Code	Reason
Multiple locations	Lot Coverage	Delete lot coverage from the following sections: 120-28B.(1)(c)[4]&[5], 120-28B.(2)(a),(b)&[c], 120-36B.(1)(b)&(c), 120-36B.(2)(b)&(c), 120-44B.(1)(a)[3]&[4], 120-44B.(1)(b)[3]&[4], 120-44B.(2)(a)&(c), 120-52B.(2)&(3), 120-84B.(1)(b)&(c), 120-84B.(2)(b)&(c), 120-76C.(2)(b)[2]&[3], 120-77C.(2)(a)[3][b]&[c]	Reduce numbers of unnecessary variances. Allow for more density in high-density residential, commercial and industrial districts.
120-11C(1)(a)[3] 120-20C(1)(a)[3] 120-28C(1)(a)[3]	Residential Districts	Minimum front yard setback, attached garages <u>and carports</u> : front yard of the principal use or structure plus 10 feet.	Carports have a similar visual impact to attached garages and should be regulated similarly.
120-34M.	C-1	Add: M. Mixed uses, as listed in this section, not including industrial uses.	Mixed use buildings are the classic building type desired in the C-1 district. This building type was adventantly left out.
120-36C(2)(a) & 120-44C(2)(a)	C-1, C-2	(2) Non residential uses. (a)Maximum front yard setback: zero to five feet or average front yard depth of building(s) along the corridor and within the commercial district where the property is located, but in no case more than five feet larger or smaller than the average of the front yard depth on buildings on the two adjoining lots. In cases where a specific design guideline or concept plan has been adopted, the recommended setbacks shall be followed.	The existing provision has presented problems in recent reviews. It is essential that nonresidential structures in the city's traditional, pedestrian-oriented mixed-use districts (C-1 and C-2) be located at or near the front property line to adequately frame the public space of the street. By removing the option for following the average front setback of adjacent nonconforming properties, the revised code will require new buildings to conform to the desired pedestrian-oriented building form regardless of the existing context.

Code Section	Category	New Code	Reason
CCD Design Checklist	CCD	Tolerance* <u>*Within the specified tolerance limit, no site plan approval is indicated.</u>	Currently, construction in the CCD is guided by certain standards. Some of these standards may be waived without site plan review if there are only minor differences to the code requirement. This correction will explain what the tolerance value indicates.
120-65D	CCD	D. Applications not meeting the design criteria, within the specified tolerance <u>limits</u> set forth in this article <u>in the "Design Checklist" tables at the end of this Chapter</u> , shall require site plan approval.	The tolerance limits are only referenced in the tables which are only referenced through footnotes in the Article.
120-71F(1)(b)	CCD-T	(b) Lot size and coverage. [1] The minimum lot frontage shall be 60 feet. [2] The maximum building coverage per lot shall be no more than 25% of the block.	The purpose statement of the CCD Tower District references the "monumentality" of the district. There is no discernible reason to limit building size to 1/4 of the block. Existing buildings in the district, such as the Xerox Tower, B&L Building, and even the Central Library occupy 50-100% of their respective blocks.
120-81A(4)	M-1	(4) Warehouse and wholesale distribution facilities	Wholesale uses are allowed as-of-right in C-3, there is no discernable reason why wholesale uses should not be permitted as-of-right in M-1. Currently, M-1 is silent on wholesale uses, therefore one could interpret them as a prohibited use.
120-81A.(6)	M-1	Vehicle repair stations in existing buildings subject to 120-152.	Allow vehicle repair in existing buildings only. New construction is subject to special permit approval.
120-83A (6).	M-1	Relocate to 120-83 M. The new construction of <u>vehicle-related uses, including car washes, vehicle service and repair stations, vehicle rental services and vehicle sales, subject to the additional requirements for specified uses in Article XVIII.</u>	The new construction of vehicle-related uses should be specially permitted in M-1 and should not be subject to marketability standards. Vehicle repair is recognized as a use demanding oversight due to the visual and other impacts of the repair operations.

Code Section	Category	New Code	Reason
120-81A.(7)	M-1	Vehicle and equipment rental, sales and storage, <u>entirely enclosed within an existing building.</u>	These uses may occupy a pre-existing building. A new building for this purpose would require a Special Permit subject to Marketability Standards.
120-83C.(1)	M-1	Delete outdoor storage of construction equipment and relocate to proposed 120-83N	The relocation of this particular use changes the approval process for distance related deficiencies from a use variance to a special permit for which the Commission can waive the required 200' separation.
120-83.	M-1	Add "N. Outdoor storage/sales of construction materials, equipment and vehicles subject to 120-175."	See above
120-175	Specified uses	Add: 120-175B.(6) Contractor storage must be a minimum of 200 feet from a residential or open space district.	Related to 120-83N amendment
120-81B.	M-1	The following uses are permitted in the M-1 District when <u>located</u> in any <u>existing</u> multistory building or single-story...	Clarification.
120-81B.(10) & 120-83A.(12)	M-1	Add: Funeral Homes and Mortuaries	Inadvertantly left out.
120-113C	O-O	Correct spelling error: <u>composers</u>	spelling error

Code Section	Category	New Code	Reason
120-131	Specified uses (Ancillary parking)	<p>Ancillary parking lots and garages shall be subject to the following additional requirements:</p> <p>A. Ancillary parking lots and garages shall only be allowed in the district where the principal use is located or a less restrictive district.</p> <p>B. Ancillary parking lots and garages shall be subject to all the provisions of § 120-173, Off-street parking, <u>Article XX of this Chapter, excluding 120-163, 120-164, 120-166 and 120-171</u>, and all the lot, area, yard and bulk requirements of the applicable zoning district.</p> <p>C. Ancillary parking lots and garages shall be used exclusively for parking of passenger vehicles.</p> <p>D. Ancillary parking lots and garages shall be equipped and controlled to discourage illegal parking, vandalism and other unlawful or nuisance-creating activities. When so equipped and controlled, such lots and garages may be open 24 hours a day.</p> <p>E. No commercial repair work or services of any kind shall be conducted in any ancillary parking lot or garage.</p> <p>F. No sign of any kind other than designating entrances, exits and conditions of use shall be maintained on any ancillary parking lot or garage.</p>	<p>Can rely on the definition so A. is unnecessary. With regard to Article XX, there really is no point in limiting it to parking when other sections may apply (e.g., landscaping.)</p>

Code Section	Category	New Code	Reason
120-136	Specified uses (Junkyards)	<p>Drive-throughs shall be subject to the following requirements:</p> <p>A. In the C-1, C-2, H-V, and PMV Districts; Drive-through establishments, as principal uses, shall meet the front yard setback requirements.</p> <p>B. Except in C-3 and M-1 Districts, all elements associated with drive-throughs, including but not limited to service windows, vehicular queuing lanes, menu boards and intercoms, shall be prohibited in the front yard and shall not be located to prevent direct pedestrian access from the public right-of-way to the principal building.</p> <p>C. When adjacent to residential uses, drive-throughs, including both the facility and queuing lanes, shall be screened from the adjacent residential properties.</p>	<p>The code should be very specific that all elements associated with drive-throughs be prohibited from the front yard. In addition, since the ZBA has permitted drive-throughs in C-1 and presumably could approve them in the H-V and PMV districts, these districts should also be specifically subject to the requirements for drive-throughs. These provisions would not apply to M-1 or C-3 districts.</p>
120-142A.	Specified uses (Junkyards)	A. Junkyards shall be located at least 1,000 feet from any residential, planned development, <u>Village Center</u> , or open space district or ...	Village Center Districts should be protected from the blighting impacts of junkyards as residential, open space and PD districts are protected.
120-142B. and C.	Specified uses	Delete certain use limitations from junkyard requirements	These use limitations repeat requirements of the junkyard license. CPC cannot waive requirements of a license.
120-153	Specified uses	Delete the word "storage" from vehicle towing and/or storage limitation	Adding a new provision for Vehicle Towing and/or Storage. See below.
120-154.1	Specified uses	Add: Vehicle Towing and/or Storage	Need to establish use limitations for towing and vehicle storage operations, uses that typically have affected nearby properties and posed certain land use issues.

Code Section	Category	New Code	Reason
120-159	Citywide Design	<p>Add subsection 'E':</p> <p>E. All new construction within 5 feet of the front property line shall be built parallel to the property line for at least 80% of its frontage and up to a height of 20 feet. Up to 20% of the building frontage may be built skewed from the property line; any portion of the building above 20 feet in height may be built skewed from the property line.</p>	<p>Closes a loophole in the design requirements that allow buildings to be built at odd or skewed angles to the street. Buildings constructed in such a manner fail to properly frame the public space (i.e. street). The above wording allows for small portions of the lower façade to be at any angle, as well as allow all portions of upper floors to be at any angle. The proposed change would not effect C-3 and M-1 properties.</p>
120-160	Citywide Design	<p>Delete: "A.(2) Garage orientation and access (e.g., attached/front-loaded, attached/side-loaded, or detached/alley-loaded); " Add and Change as follows: C. Accessory structures/uses.</p> <p>(1) Garage orientation and access (e.g., attached/front-loaded, attached/side-loaded, detached/street loaded, or detached/alley-loaded) shall conform with the majority of other existing residential parcels on the same block frontage within 200 feet</p> <p>(2) Single family attached dwellings shall not have street-loaded garages if alternative access can be provided.</p> <p>(3) Garages, sheds, and other accessory structures over 100 square feet in area shall not be in the style of a "Quonset-hut" or other similarly formed metal or plastic structures designed and/or marketed for industrial or agricultural use.</p> <p>D. Yard areas.</p> <p>(1) Except for driveways and walks, no portion of the front yard shall be paved with asphalt or concrete.</p> <p>(2) Decorative stone or gravel surfaces shall be used when an integral part of a landscape plan....</p>	<p>Strengthen and clarify the code, especially with regard to garage placement and style. Garage placement is such a defining element of residential development that it cannot be an optional feature.</p>

Code Section	Category	New Code	Reason
	Accessory Uses	Add to 120-163A.(1)(f) Freestanding radio antennas <u>and Dish antennas one meter or less in diameter, excluding roof-top systems.</u>	These facilities need to go in the rear yard in residential districts unless they are on the roof. Roof-top installations can be in the front, back or side of the house.
120-163A.(1)(c)	Accessory Uses	(c) Detached —Residential garage <u>and carport.</u>	self-explanatory.
120-163A.(5)	Accessory Uses	Delete	Moved this provision to 120-163A.(1)(f)
120-163A.(6) & 120-163B.(6)	Accessory Uses	(6) Fences <u>and</u> walls and hedges subject to the provisions of § 120-167, Fences and walls.	Corrects a discrepancy between 120-163 and 120-167. 120-167 is silent on the subject of hedges; therefore 120-163A should not reference hedges. Hedges are a vegetative element of the landscaping; the zoning code should no more regulate hedges than it should flower beds, vegetable gardens, or trees.
120-163B.	Accessory Uses	Specify that Dish antennas, solar energy systems, and wind energy conversion systems are allowed when in the rear yard, unless they are roof-top installations.	The Code recognizes the importance of an unobstructed front yard. Limitations were imposed on fencing, enclosed porches and other encroachments in the front yard setback. The installation of dish antennas in the front yard has a negative visual impact on the property and the neighborhood streetscape as a whole.
120-164B.	Air Quality	B. Notwithstanding the existence of any New York State or federal permits or approvals, the development <u>any use or structure</u> shall not emit smoke, dust, heat or heated air, noxious odors, odorous gases or other matter in such quantities as to be readily discernible on neighboring property and detrimental to the use and enjoyment of such neighboring property.	The term “development” is unclear.

Code Section	Category	New Code	Reason
120-166	Dwelling Unit Conversions	The intent of this section is to establish standards for the conversion of existing buildings to either increase or decrease the number of dwelling units. These standards are intended to reduce the overcrowding of dwelling units and every dense development of neighborhoods and to encourage the re-use of obsolete structures and ensure satisfactory amenities as conversions take place.	Dense development is not always bad. The intent of the provisions is to prevent substandard units from being created and will not be effected by this deletion.
120-169A.(1)	Landscaping (lot coverage)	Delete percentages of minimum ground area required to be landscaped for C uses, Multi-family uses and industrial uses	Keeping these landscaping percentages would contradict the elimination of lot coverage requirements described above. Parking lot buffering screening requirements will ensure adjacent properties are protected.
120-171 & 120-66F. & 120-67H. & 120-68H. & 120-69H. & 120-70H. & 120-71H. & 120-72H and 120-171.	Noise	Delete all references to noise controls and replace with the following: <u>All Uses shall be subject to Chapter 75 of the Municipal Code.</u>	The noise provisions contained in Chap 75 of the City Code supersede all zoning noise regulations per: § 75-18. <i>Inconsistent provisions.</i> <i>If the provisions of this chapter are inconsistent with any other provision in the Municipal Code of the City of Rochester, or with any rule or regulation of any department, bureau or governmental agency of the City of Rochester, the provisions of this chapter shall be controlling.</i> Currently, there is no means for enforcing the existing specific noise levels contained in the Zoning Code.
120-173B(3)	Parking Demand Analysis	such analysis <u>shall be submitted to the Director of Planning and Zoning for approval and</u> will include.....	The Code is silent as to who reviews the parking analysis submitted.
120-173F.(3)(a)	Parking	Delete provisions for dimensions of Handicapped Parking Spaces.	Handicapped parking is regulated by the NY State Building Code.
120-176	Outdoor Displays	Rename: "Outdoor Retail Displays"	clarification.

Code Section	Category	New Code	Reason
120-181A	Project Review Committee	<p>(1) There shall be a Project Review Committee made up of the following individuals or a designee:</p> <p>(a) The Director of Planning;</p> <p>(b) <u>The Director of the Bureau of Business and Housing Development</u></p> <p>(c) The Manager of Plan Review;</p> <p>(d) The City Engineer; and</p> <p>(e) Three urban design specialists, appointed by the Mayor, that could include, but not be limited to, an architect, an urban planner and a landscape architect.</p>	<p>As a result of the NBD consolidation, the composition of the PRC must be amended to reflect the current departmental organization. The Director of Planning and Zoning will be removed as he is the convener of the PRC. The previous members, Commissioner of Economic Development and the Director of Housing and Project Development will be replaced by Director of the Bureau of Business and Housing Development. The PRC shall be composed of seven members instead of the prior nine members.</p>
120-188K.	Review Procedures	Add:120-188K(1)(d) Official Map Amendments as referred by the City Engineer.	Clarification. The City Code is silent on the Official Map hearing process. Since OMAs require CPC referral, adding them to the the Zoning Code to the listing of cases requiring an informational hearing makes sense as does adding subdivisions to the listing of cases requiring a public hearing (see below.)
120-188L.	Review Procedures	Add:120-188L(1)(m) Subdivision Requests per Chapter 128.	Clarification. See above.
120-191D.(3)(a)[5][f]	Site Plan Review Triggers	Projects <u>listed as or</u> adjacent to a designated landmark or those <u>listed as or</u> abutting a site listed or eligible for listing on the State or National Register of Historic Places.	Currently the Code has a loophole. Projects adjacent to historic properties require site plan review yet the properties do not. Rehab of these properties would benefit from the review.
120-194A.(5)(a)	CofA's	Replace with: "Replacement of historic features precisely in kind, using like material in the same configuration, size, and degree of detail."	Clarification. The intent of the provision was not to require Board approval for repairs and replacements comparable to existing conditions. The problem is that people were using inferior materials and altering the original design of porches, roofs, windows etc. This provision clarifies the People were replacing, in kind, bad and/or unpermitted items.

Code Section	Category	New Code	Reason
120-194A.(5)(e)	CofA's	Replace with: "The removal of dead or diseased trees, as certified by a licensed arborist in writing to the Director of Planning and Zoning."	The Code previously required referral to the City Forester. The City Forester does not have authority on or make inspections of private property.
120-195B.(5)(c)	Prohibited Variances	...to permit the residential structure containing more than 2,000 square feet of habitable- gross floor area which has been abandoned...	This change is more customer friendly. The calculations of interior floor area are readily available from assessment information. The previous requirement necessitated the provision of floor plans for a determination on eligible floor area.
120-208	Definitions	Delete "Community Center, Private" and Community Center, Public" and Add: "Community Center" with the definition being that of "Community Center, Private" with the addition of "governmental agency" in the first sentence.	We make no distinction anywhere in the code.
120-208	Definitions	Change "ancillary garage or parking lot" to "Garage or parking Lot, ancillary" to be consistent with other definitions for Community, Municipal and Public parking lots and garages.	Consistency
120-208	Definitions	Add: "ADJACENT - having a common boundary or edge; abutting; touching"	Clarification
120-189 F; 120-191D (8); 120-192B(7); 120-194A(9); 120-195B(9)	Approval time frames	Change expiration of CZC, Site Plan, Special Permit, C of A and Variance approvals from 6 months to one year.	The 6 month limit on approvals has proven to be an inadequate amount of time for the initiation of projects as a result of weather, project coordination or financing delays.
120-206.1	Fees	Add \$100 fee for approval extensions	Despite ongoing efforts be staff to educate applicants as to the requirement to activate approvals with permits and/or certificates, there is a backlog of open ended approvals that have become a work item for the Zoning Office. It is recommended that a extension fee be established for all zoning processes extending beyond one year. Approvals may be extended annually if necessary.

APPENDIX B

<u>Ord. #</u>	<u>Date</u>	<u>Map Amendment</u>
2005-112	5-10-2005	Changing the zoning classification of 1, 3, 4, 5, 7 and 9 Karges Place, 667 and 671 South Goodman Street and a portion of vacant land dedicated to I-490 from R-1 Low-Density Residential to C-2 Community Center (Acquisition of NY State owned lands)
2005-158	6-14-2005	Changing the zoning classification of the Rochester Science Park from Manufacturing-Institutional Planned Development District M-IPD No. 2 to Planned Development District No. 7 – Rochester Science Park (Science Park PD)
2005-220	7-12-2005	Changing the zoning classification of the rear portion of 87-89 Saratoga Avenue and a portion of the abandoned Oak Street from M-1 Industrial to Erie Canal Urban Renewal District, amending the district boundary along West Broad Street, and amending the urban renewal plan (PaeTec Soccer Stadium)
2006-20	2-14-2006	Changing the zoning classification of 385-443, 380-420, 347-355, 368-378, 481-487 and 474-482 Portland Avenue, 1149 Clifford Avenue, 92-98 Hollister Street and the southerly part of 55 Miller Street from C-2 Community Center and R-1 Low-Density Residential to M-1 Industrial (Portland Corridor Rezoning)
2006-255	8-22-2006	Changing the zoning classification of 90-98 Alexander Street, 573-625 South Clinton Avenue and 300 Hamilton Street from R-2 Medium-Density Residential to R-2 Medium-Density Residential/O-B Overlay Boutique (Boulder Coffee Redevelopment)
2007-6	1-16-2007	Changing the zoning classification of 105 and 107 Hickory Street from R-2 Medium Density Residential to C-2 Community Center (Konar Project)
2007-7	1-16-2007	Changing the zoning classification of a portion of 1100 South Goodman Street, as subdivided and combined with 117 - 125 Highland Parkway, from Institutional Planned Development (IPD) – Colgate Rochester Divinity School, to R-1 Low Density Residential (Minor Subdivision)

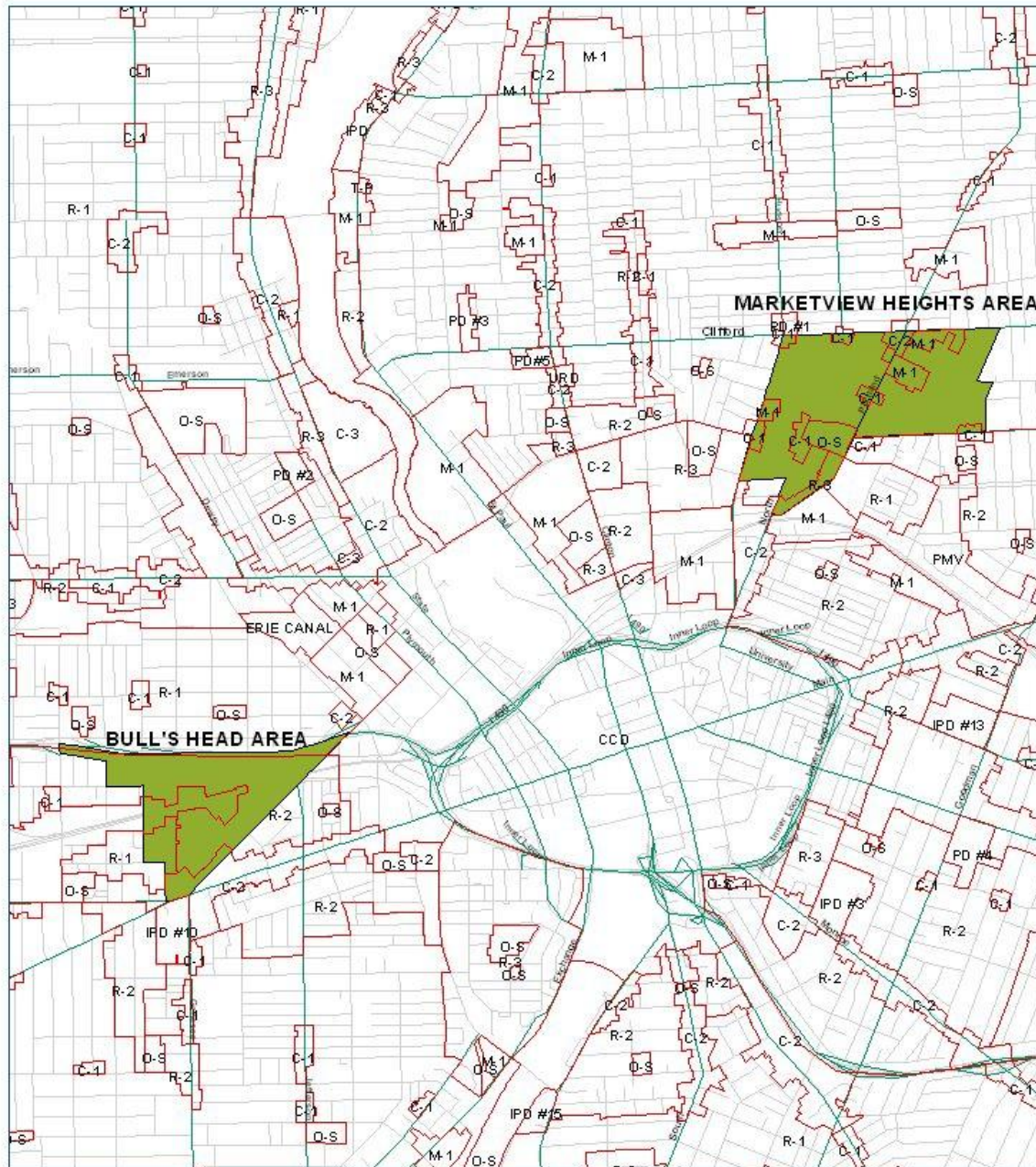
<u>Ord. #</u>	<u>Date</u>	<u>Map Amendment</u>
2007-94	3-20-2007	Changing the zoning classification of the Midtown Plaza parcels at 233 - 247 East Main Street, 249 - 253 East Main Street, 255 - 257 East Main Street, 285 East Main Street, 18 - 26 South Clinton Avenue, 32 - 58 South Clinton Avenue, 100 South Clinton Avenue, 27 - 33 Chestnut Street, 35 Chestnut Street, 41 Chestnut Street, 45 - 51 Chestnut Street, 65 - 67 Chestnut Street, 88 - 94 Elm Street, 89 - 95 Elm Street, 6 Atlas Street and 45 Euclid Street from Center City District-Tower District (CCD-T) to Midtown Urban Renewal District (Midtown Plaza Project)
2007-100	4-17-2007	Changing the zoning classification of 1218 - 1300 South Plymouth Avenue from R-1 Low Density Residential to R-3 High Density Residential (Riverview Project)
2007-189	6-19-2007	Changing the zoning classification of 59 - 69 Lyell Avenue and 662 - 674 North Plymouth Avenue from C-2 Community Center to Conditioned C-3 Regional Destination Center District; and changing the zoning classification of 648, 654 and 658 North Plymouth Avenue and 131 Frankfort Street from M-1 Industrial to a Conditioned C-3 Regional Destination Center District
2007-302	8-21-2007	Changing the zoning classification of 200 East Highland Drive from C-2 Community Center, 44 - 178 Gould Street from R-1 Low Density Residential, and portions of 2085 East Avenue from R-3 High Density Residential to Planned Development District No. 8 - Mid-Town Athletic Club (Midtown Athletic Club Expansion)
2007-371	9-19-2007	Changing the zoning classification of 373 - 375 Driving Park Avenue from C-2 Community Center to Driving Park Urban Renewal District (Price Rite Market Project)
2008-15	1-15-2008	Changing the zoning classification of 1555 and 1651 Lyell Avenue, 295, 303, 309, 315, 319 and 325 Adirondack Street and 270 Alvanar Road from M-1 Industrial to PD #9 - Canalside Business Center (Valeo Redevelopment)
2008-261	7-15-2008	Changing the zoning classification of 115 North Union Street and portions of 271, 275-277 and 283 Lyndhurst Street from R-2 Medium-Density Residential to CCD-M City Center District Main Street (Fastrac Project)

<u>Ord. #</u>	<u>Date</u>	<u>Map Amendment</u>
2008-383	11-25-2008	Changing the zoning classification of 1256 – 1510 and 1325 - 1521 Mt. Hope Avenue, 30 East Henrietta Road, 683 and 793 - 797 Elmwood Avenue from C-2 Community Center to C-V Collegetown Village and 35 Crittenden Boulevard and 22 and 25 Raleigh Street from R-1 Low Density Residential to C-V Collegetown Village (Mt. Hope Moratorium Project)
2008-410	12-23-2008	Changing the zoning classification of 171 - 405 Mt. Hope Avenue from O-S Open Space to CCD-R Center City-Riverfront (Erie Harbor Development)
2009-11	1-20-2009	Changing the zoning classification of 431 West Main Street from C-2 Community Center to CCD-M Center City-Main Street
2009-12	1-20-2009	Changing the zoning classification of 488 – 546 South Clinton Avenue from C-2 Community Center to CCD-B Center City-Base (ABVI Expansion)



CITY OF ROCHESTER
DCD - PLANNING
June 11, 2009

GREENING AREAS



**MARKETVIEW
HEIGHTS:**

176 acres with streets
970 parcels
136 acres, parcels only

**BULL'S HEAD
AREA:**

112 acres with streets
495 parcels
104 acres, parcels only

SPECIAL PERMITS GRANTED FOR PARKING BY TYPE OF REQUEST

(since January 1, 2005)

PDA = Parking Demand Analysis; APP = Alternative Parking Plan; Anc. P. = Ancillary Parking

ADDRESS	USE	REQUEST	APPROVAL
215 Merchants Rd.	ESL	PDA	45 spaces
100 Lake Ave.	Brotherhood	APP	17 spaces
1751 Clifford Ave.	Church	APP	6 spaces
541 Lyell Ave.	Bar/Rest./Live Ent.	APP	20 spaces
1550 N. Clinton Ave.	Church	APP	88 spaces
845 S. Goodman St.	Restaurant	APP	5 spaces
220 Epworth St.	Multi-fam.	Anc. P.	6 spaces
530 Thurston Rd.	Rest.	APP	5 spaces
1143 Joseph Ave.	Check Cashing	PDA	7 spaces
747 Joseph Ave.	Mixed-use	PDA	5 spaces
673 Glide St.	Bar/Rest./Live Ent.	APP	19 spaces
746 South Ave.	Rest./Live Ent.	APP	44 spaces
480 W. Main St.	Bar/Rest./Live Ent.	APP	120 spaces
176 Genesee St.	Restaurant	APP	14 spaces
827 E. Main St.	Glass Shop	Anc. P.	11 spaces
812 Hudson Ave.	Quality Vision	Anc. P.	13 spaces
		PDA	125 spaces
399 Gregory St.	Mixed-use	Anc. P.	18 spaces
910-960 Genesee St.	Brooks Landing	PDA	62 spaces
348-354 Genesee St.	Resid. Use	Anc. P.	7 spaces
610-630 N. Goodman St.	Community Ctr.	Anc. P.	10 spaces
		APP	9 spaces
563 Clifford Ave.	Offices	Anc. P.	4 spaces
90 -100 Alexander St.	Mixed-use	Anc. P.	42 spaces
1452 N. Clinton Ave.	Live Ent.	APP	38 spaces
741 South Ave.	Live Ent.	APP	23 spaces
350 Thurston Rd.	Restaurant	APP	8 spaces
685-689 Maple St.	Mini-mart	PDA	5 spaces
573 Monroe Ave.	Rite-Aide	PDA	12 spaces
86 River St.	Senior Housing	Anc. P.	60 spaces
699 S. Clinton Ave.	Live Ent.	APP	45 spaces
875 South Ave.	Highland Hosp.	Anc. P.	340 spaces
997 St. Paul St.	Church	Anc. P.	25 spaces
72 Thurston Rd.	School	APP	8 spaces
275 Westmoreland Dr.	Ronald McDonald House	Anc. P.	10 spaces
656 Park Ave.	Jine's Restaurant	APP	8 spaces
211 W. Ridge Rd.	Live Ent.	APP	25 spaces
235 W. Ridge Rd.	Live Ent.	APP	42 spaces

SPECIAL PERMITS GRANTED FOR PARKING BY TYPE OF REQUEST

PDA = Parking Demand Analysis; APP = Alternative Parking Plan; Anc. P. = Ancillary Parking

ADDRESS	USE	REQUEST	APPROVAL
881 Merchants Rd.	Live Ent.	APP	42 spaces
124 Railroad St.	Anc. Parking	Anc. P.	72 spaces
6 Walton St.	Vet. Outreach Center	Anc. P.	28 spaces
187 Averill Ave.	Postler and Jaeckle	PDA	9 spaces
1230 University Ave.	Price Rite	PDA	65 spaces
1876-1882 East Ave.	M & T Bank	PDA	19 spaces
135 Dr. Samuel McCree Way	Church	Anc. P.	17 spaces
1568-1586 E. Main St.	Bar/Rest./Live Ent.	Anc. P.	27 spaces
743 S. Plymouth Ave.	Grocery Store	PDA	2 spaces
332 Arnett Blvd.	Restaurant	APP	9 spaces
127 Merriman St.	Bar/Rest.	APP	7 spaces
2052 St. Paul Blvd.	Church	PDA	68 spaces
1701 East Ave.	McDonald's	PDA	11 spaces
2222 Norton St.	Family Video	PDA	37 spaces
694 Hudson Ave.	Church	APP	14 spaces
503 South Ave.	Live Ent.	APP	19 spaces
760 Brooks Ave.	Red Roof Inn	PDA	60 spaces
1382 Culver Rd.	Live Ent.	APP	49 spaces
396-398 Lexington Ave.	Price Rite	PDA	73 spaces
25 Edward St.	Church	Anc. P.	19 spaces
431-439 Monroe Ave.	Park Bench (Live Ent.)	APP	27 spaces
45 Fullon St.	Upstate Milk	Anc. P.	13 spaces
59 Sycamore St.	Multi-family	Anc. P.	5 spaces
14 Woodlawn St.	Mark's Hots	Anc. P.	16 spaces
370 E. Ridge Rd.	Medical Offices	Anc. P.	42 spaces
1401 Mt. Hope Ave.	U of R	Anc. P.	400 spaces

Total parking spaces approved by the CPC since 2005: 2,564

PRE-APPLICATION MEETING SURVEY SUMMARY

Pre-application Conferences:

1. **Project:** Expansion of the Mid-Town Athletic Club located at 200 E. Highland Drive
Applicant: Mr. Glenn Williams, Mid-Town Athletic Club
Meeting Date: December 13, 2006
Received survey from Alan Schwartz.
2. **Project:** Citygate
Applicant: Anthony J. Costello and Son Development
Meeting Date: October 13, 2006
Received survey from Brett Costello.
3. **Project:** Alexander Park (former Genesee Hospital)
Applicant: Buckingham Properties
Meeting Date: September 12, 2007
Received survey from Don Lasher.
4. **Project:** Redevelopment of 1201 Elmwood Avenue for student housing
Applicant: Place Properties
Meeting Date: September 19, 2007
Received survey from Bob Landers.
5. **Project:** Redevelopment of 1876-1882 East Avenue
Applicant: M&T Bank
Meeting Date: July 18, 2007
Received survey from Mike Hyman.

The following is a summary of the responses received in the survey. The question is reiterated and the numbered responses correspond to the person who is listed in the numbered projects above.

Was the meeting effective in meeting your needs to obtain information? Please Explain. (All surveys answered Yes)

- 1) *There were many agencies involved and having them together at one time helped me a great deal.*
- 2) *Some Agencies were open and communicative while others were quiet.*
- 3) *The meeting provided us with insight as to how our project affected each department and provided us with a contact for each department as well as feedback.*
- 4) *I found it to be a great forum in which all departments & entities with an interest in the proposed development were present for comments and questions. It was very convenient for us to have one point of contact, Dorraine,*

to pull this together for one meeting versus tracking down each of the individuals that attended.

- 5) It gave us an insight to what would need to happen and what was needed.

Did you feel city staff was supportive of your project: Please Explain.

(All surveys answered Yes)

- 1) I believe that all the people we worked with on the city staff liked the project concept and tried to minimize and help with the potential problems.
- 2) The contrast between the level of experience and support at the City of Rochester versus other municipalities I have dealt with is significant. Hats off to Art and staff for the customer service oriented approach to code enforcement.
- 3) Although not everyone at the meeting approved of the site plan/architecture completely, we felt that they supported the concept.
- 4) The City of Rochester is supportive of our project. They have been very responsive in scheduling meetings, providing information, contacts, and feedback on proposed site plan alternatives. I have yet to feel that the City of Rochester has attempted to delay our efforts.
- 5) Walked us through the steps.

Did you feel that the meeting structure and process was effective: Please Explain.

(All surveys answered Yes)

- 1) Since many question involved more than one agency, it was helpful to have multiple agencies present at the same time.
- 2) The open meeting form worked. Albeit large at times, you much feel like there were a lot of agencies with very different objectives.
- 3) We felt that the open dialogue allowed for candid feedback and that it generated some great ideas, some of which we will certainly adopt or modify.
- 4) We were allowed time to present our project on a conceptual level and then had time for each department/individual to express their concerns, ask us questions, and answer our questions. Having all entities in the same room was very effective as the comments on one group may spark comments form another and all issues were addressed at the same meeting.
- 5) At this time, yes. We still have a ways to go.

Next time, I would prefer:

- 1) To have had a chance to review the city's proposal so as to be able to understand the basis and respond more effectively.
- 2) You may consider grouping like agencies into 2 smaller workshop-type scenarios. But the fleshing out of each organization's focus points is very useful.
- 3) Blank
- 4) Blank
- 5) Blank

TEMPORARY SPECIAL PERMIT APPROVALS

January 1, 2003 - present

List by Expiration Date

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
1401 Mt. Hope Avenue	E-002-05-06 E-031-06-07	Establish a temporary ancillary parking lot on the former Mt. Hope Wegmans site. "U of R"	07/17/05-03/02/07	Approved for 2 years.	03/31/09	1	Hold U of R
399 Gregory Street	E-046-03-04 E-066-05-06 E-002-07-08	Establish 18 space ancillary Parking lot to serve 389-395 Gregory Street. John Trickey	05/17/04-06/19/06-09/17/07	Approved until city lease agreement expires, but no longer than 2 years.	09/30/09	1	Sent Reminder for October
149 E. Ridge Road	E-017-08-09	Live entertainment (DJ only) at "Maxwell's", daily until 2am.	11/06/08	Approved for 1 year.	10/30/09	1	On Oct. Agenda
431-439 Monroe Avenue	E-022-08-09	Live entertainment for "Park Bench" 5pm-2am F-Sat, 5pm-midn Th & Sun.	11/10/08	Approved for 1 year.	11/30/09	1	OK
82 Wilbur Street	E-024-07-08	Establish a residential care facility for 5 senior citizens. Geraldine Thomas	12/17/07	Approved for 2 years.	12/31/09	1	OK
235 W. Ridge Road	E-027-07-08 E-034-08-09	Establish live entertainment at "La Copa Lounge". Ester Suro-Berrios	12/17/2007-02/09/09	Approved for 1 year.	02/28/10	1	OK
1008 Avenue D	E-034-07-08	Re-occupy a vacant nonconforming structure with a convenience store.	02/11/08	Approved for 2 years with hours 7am-9pm Mon-Sun and that property is rehabilitated as per elevations.	02/28/10	1	OK

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
462-466 North Street	E-041-07-08	Establish 5-bay auto repair facility.	03/10/08	Approved for 1 year to 03/31/09. One year extension granted from date of issuance of c of o (Mar. 27, 2009).	03/31/10	1	OK
58 Lowell Street	E-043-08-09	Establish grocery store w/take-out.	03/16/09	Approved for 1 year	03/31/10	1	OK
190-192 Glide Street	E-042-07-08	Establish a grocery store.	03/10/08	Approved for 2 years.	03/31/10	1	OK
2271 E. Main Street	E-047-08-09	Establish café & retail operation.	03/16/09	Approved for 1 year	03/31/10	1	OK
599 Chili Avenue	E-016-06-07 E-044-07-08	Establish clothing and footwear store.	10/16/06 04/07/08	Approved for 2 years with hours S-Th 9-9 and F&Sat 9-10.	04/30/10	1	OK
743 S. Plymouth Avenue	E-056-07-08	Retail operation	05/12/08	Approved for 2 years.	05/31/10	1	OK
1252 N. Goodman Street	E-055-06-07	Extend hours of operation until 2:00 a.m. on Friday and Saturday "Molly Hatchet's Sub Shop"	06/18/07 06/16/08	Approved for 2 years.	06/30/10	1	OK
717-719 S. Plymouth Avenue	E-060-07-08	Extend hours of operation in bar/restaurant S-th until 12:00AM, F&Sat until 2:00 AM.	06/16/08	Approved for 2 years.	06/30/10	1	OK
127 Merriam Street	E-063-07-08	Alternative Parking Plan.	06/16/08	Approved for 1 year to 06/30/09. One year extension granted from date of issuance of c of o (08/21/09).	08/21/10	1	OK
875 South Avenue	E-012-09-10	Ancillary parking for Greek Orthodox Church Annual Greekfest.	08/10/09	Approved for 1 year.	08/31/10	1	OK
130 Stenson Street	E-059-06-07	Establish a truck center. "Instant Again"	08/12/07	Approved for 3 years.	08/31/10	1	OK

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
1380-1394 Mt. Hope Avenue	E-006-07-08	Establish a drive-through accessory to a proposed sit-down restaurant. "Starbucks Coffee"	08/12/07	Approved for 3 years.	08/31/10	1	OK
541 Lyell Avenue	E-046-04-05 E-003-06-07	Establish live entertainment and amusement center in proposed bar/restaurant. "Roof Bar and Grill"	06/13/05 08/30/06 8/11/08	Approved for 2 years.	08/31/10	1	OK
80 Steel Street	E-012-05-06 E-034-03-04	Construct steel shredding mill. "Louis Atkins"	03/15/04 08/08/05	Renewed for 5 years (see file for conditions).	08/31/10	1	OK
691 S. Plymouth Avenue	E-063-06-07 E-002-08-09 E-013-09-10	Clothing and footwear store.	06/18/07 07/14/08 091409	Approved for 1 year, hours of operation 5-11 pm, Th until 9:00 pm, F&Sat until 10 pm.	09/30/10	1	OK
503 South Avenue	E-010-08-09	Live entertainment in existing bar and outdoor seating. "Southwedge Colony Bar and Grille"	09/14/09	Approved for 1 year.	09/30/10	1	OK
706 W. Main Street	E-014-08-09	Rooming House for 9 persons.	09/08/08	Approved for 2 years.	09/30/10	1	OK
142 Atlantic Avenue	E-040-08-09	Establish community center.	02/09/09	Approved for 1 year from date of issuance of the c of o (09/08/09).	09/30/10	1	OK
985 S. Clinton Avenue	E-015-08-09	Extend the hour of operation for takeout only until 2:00am daily. Dining room to close at 10:00pm.	10/06/08	Approved for 2 years.	10/31/10	1	OK
1171 Lyell Avenue	E-032-08-09	Rooming house for 6 persons.	12/08/08	Approved for 2 years.	12/31/10	1	OK

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
751 Jefferson Avenue	E-031-08-09	Retail clothing, footwear and jewelry.	12/08/08	Approved for 2 years on condition of hours: Sun-Th 9am-9pm and F&Sat 9am-11pm.	12/31/10	1	OK
1568-1586 E. Main Street	E-052-07-08	Establish bar/restaurant w/hours until 2:00 AM.	04/07/08	Approved for 3 years (see decision for conditions).	04/30/11	1	OK
233 La Grange Avenue	E-051-08-09	Add commercial uses to a manufacturing building.	06/08/09	Approved for 2 years.	06/30/11	1	OK
619 Monroe Avenue	E-058-06-07 E-005-09-10	24-hour operation. "Malcho's Service"	06/17/07 08/10/09	Approved for 2 years.	08/31/11	1	OK
445-447 North Street (47 Skuse St)	E-008-09-10	Auto repair.	08/10/09	Approved for 2 years.	08/31/11	1	OK
65 & 75 Wilton Terrace	E-009-09-10	Contractor's office and storage.	08/10/09	Approved for 2 years.	08/31/11	1	OK
75 Marshall Street	E-007-07-08 E-015-09-10	Sit-down restaurant and outdoor seating.	09/14/09	Approved for 2 years.	09/30/11	1	OK
1140 Lyell Avenue	E-018-05-06 E-015-06-07	To establish 24-hour operation. "Sunoco"	09/12/05 11/13/06	Approved for 5 years.	11/30/11	1	OK
293 Clarissa Street	E-045-05-06 E-030-03-04 E-048-08-09	Re-occupy vacant space with bar w/live entertainment. "Clarissa Room"	02/17/04 03/13/06 04/13/09	Approved for 3 years.	04/30/12	1	OK
881 Merchants Road	E-034-04-05 E-045-06-07	Re-establish live entertainment (DJ, bands and dancing) in an existing tavern/restaurant/banquet facility. "Merchants Grill"	02/07/05 04/16/07	Approved for 5 years.	04/30/12	1	OK
90-100 Alexander Street	E-056-06-07	Establish South Wedge Farmer's Market.	6/17/2007 04/07/08	Approved for 4 years.	04/30/12	1	OK
103 Prospect Street	E-016-05-06 E-009-06-07 E-008-07-08	To reoccupy a vacant nonconforming storefront on the first floor with a convenience store. "Sweeties Grocery"	09/12/05 09/18/06 09/17/07	Approved for 5 years.	09/30/12	1	OK

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
81 Marshall Street	E-015-04-05 E-001-05-06 E-009-06-07	Add live entertainment to an existing bar/restaurant. "Damian's"	10/18/04-07/11/05-09/17/07	Approved for 5 years.	09/30/12	1	OK
1456 N. Clinton Avenue	E-017-06-07 E-015-07-08	Add live entertainment (DJ) to existing bar. "Kaja's Place"	10/15/06-10/15/07	Approved for 5 years.	10/31/12	1	OK
3841 Lake Avenue	E-011-07-08	To establish a homeless residential facility for 10 women.	10/15/07	Approved for 5 years.	10/31/12	1	OK
4769 Lake Avenue	E-043-05-06 E-006-05-06 E-026-06-07 E-023-07-08	Establish temporary outdoor live entertainment in the parking lot. "Nola's BBQ"	07/11/05-02/15/06-03/02/07-12/17/07	Approved for 5 years from date of decision.	12/31/12	1	OK
480 W. Main Street	E-052-05-06 E-035-07-08	Add live entertainment to an existing bar/restaurant. "Café Underground Railroad"	4/17/06-03/10/08	Approved for 5 years.	03/31/13	1	OK
1259 Lyell Avenue	E-034-05-06 E-047-07-08	Rooming House. Aera Lee	03/24/06-04/07/08	Approved for 5 years on condition that applicant perform site changes and remove signs.	04/30/13	1	OK
450 Brooks Avenue	E-042-05-06 E-020-04-05 E-046-07-08	Maintain use of property as a Beauty Salon. "Reflections of You"	11/15/04-02/15/06-04/07/08	Approved for 5 years.	04/30/13	1	OK
700 Monroe Avenue (259 Rutgers) Blessed Sacrament	E-050-07-08	Establish Farmer's Market.	4/7/2008-05/11/09	Approved for 5 years.	05/31/14	1	OK
433 Genesee Street	E-037-07-08	Establish a homeless residential facility for 6 women. "House of Redemption"	3/10/08-05/11/09	Approved for 5 years.	05/31/14	1	OK
666 South Avenue	E-005-06-07 E-012-09-10	Establish outdoor seating until 2AM and movie night 1 night per week until 12:30 AM. "Lux Lounge"	09/14/09	Approved for 5 years	09/30/14	1	OK

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
255 & 295 McKee Road	E-051-07-08 E-014-09-10	Metal Processing yard (junkyard). "Damico's"	09/14/09	Approved for 5 years.	09/30/14	1	OK
781-809 Genesee Street	E-055-07-08 E-054-08-09	Westside Farmer's Market	05/12/08- 06/08/09	Approved for 5 years.	06/30/14	1	OK
6 Walton Street	E-036-07-08	Ancillary parking lot for Veterans Outreach Center.	04/07/08	Approved for 3 years.	04/31/11	1	OK
511 Child Street	E-039-07-08	Establish a clothing and footwear store.	03/10/08	Approved for 1 year to 03/31/09. One year extension granted from date of issuance of c of o (not yet issued).		1	OK
285 Clarissa Street	E-003-09-10	Multi-purpose arts and media center.	07/06/09	Approved for 2 years from date of issuance of C of O.		1	OK
211 W. Ridge Road	E-026-07-08	Establish live entertainment at "Pyramids". Shalonda Nash	12/17/07	Approved for 1 year. Expired on 12/31/08.	N/A	2	Termination Letter issued 12/17/08
431 W. Main Street	E-044-03-04 E-054-05-06	Establish ancillary parking lot. "Hahn Automotive"	05/17/04- 06/19/06	Approved for 1 year. Expired on 6/13/2007.	N/A	3	Rezoned to CCD, use permitted in
713 Smith Street	E-013-05-06 E-026-08-09	To establish auto repair and offices.	10/16/05- 12/08/08	Permanent Approval.	N/A	3	Permanent
1025 Chili Avenue	E-067-05-06 E-062-07-08	Establish outdoor storage in conjunction with contractor's operation. Frederico Construction	06/19/06- 06/16/08	Permanent approval.	N/A	3	Permanent

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
1140 Norton Street	E-015-05-06 E-010-06-07	To establish a drug and alcohol rehabilitation center	09/12/05- 09/18/06	Approved for 1 year on condition that a	N/A	3	Permanent
1346 Clifford Avenue	E-064-05-06 E-001-08-09	Establish a barber shop. Paul Theodorou	06/18/06- 07/14/08	Permanent approval.	N/A	3	Permanent
144 Lincoln Avenue	E-013-03-04 E-031-05-06	Re-occupy vacant space for retail/office. "Red Snappers"	10/06/03- 12/12/05	Permanent Approval granted 12/12/05 on condition - hours 8AM-9PM (c of o says hours 7AM-11PM)	N/A	3	Permanent
423-425 River Street	E-004-07-08 E-005-08-09	Establish live entertainment. "River Street Grill and Bar"	08/12/07- 08/11/08	Permanent approval.	N/A	3	Permanent
561 S. Clinton Avenue (100 Alexander Street)	E-008-05-06 E-032-06-07	Add live entertainment (acoustic guitar) to coffee shop/sit down restaurant. "Boulder Coffee Company"	08/08/05- 03/02/07	Permanent Approval.	N/A	3	Permanent
630 East Avenue	E-024-04-05 E-062-05-06	Re-occupy a vacant nonconforming structure with an office and 200(+/-) climate controlled storage units. "North Pointe Center"	12/13/04- 06/19/06	Approved for 1 year on condition that the applicant install window treatments in the storage rooms to obstruct the view of stored materials from the street.	N/A	3	Permanent
655 Monroe Avenue	E-047-03-04 E-044-05-06	Establish live ent. in tavern. "Spike's"	05/17/04- 03/13/06	Permanent approval granted on condition that L.E. end at 12:00 M-Th and 2 am F & Sat.	N/A	3	Permanent

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
704 Joseph Ave.	E-017-02-03 E-055-05-06 E-061-07-08	Change use of the 2nd floor to 6-person residential care facility. "Rev. Ronald Morse"	02/24/03-05/15/06-06/16/08	Permanent approval.	N/A	3	Permanent
74 Adelaide Street	E-012-04-05 E-056-05-06 E-030-07-08	Establish a temporary parking lot on vacant industrial land. "Frederico"	09/13/04-05/15/06-02/11/08-07/14/08	Site Plan approved on 7/14/08 and included one additional parcel at 68 Adelaide Street	N/A	3	Permanent
741 South Avenue	E-034-06-07 E-045-07-08	Establish live entertainment in an existing bar/restaurant. "Caverly's Pub"	04/07/08	Approved.	N/A	3	Permanent
875 E. Main Street	E-010-03-04 E-018-04-05 E-019-06-07	Continue live entertainment. "Masonic Temple"	08/18/03-11/15/04-11/18/06	Approved for 2 years. Upon renewal, applicant to provide info. on the number and types of events held that included live ent., the number of attendees, and whether any police or enforcement calls resulted.	N/A	3	Permanent

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
900 E. Main Street	E-030-05-06 E-030-06-07	To establish live entertainment and APP in conj. with redevelopment of the Armony with mixed entertainment, restaurant and other commercial uses. "The Armony"	12/12/05 02/15/07	Permanent Approval Granted	N/A	3	Permanent
1290 Lake Avenue	E-060-05-06 E-003-07-08	Establish Private K-5 and educational complex/conference center. "Spring Learning Center"	08/30/06 08/13/07	Approved for 1 year.	N/A	4	Discontinued. School Closed 08/06/09, property for sale.
510 Monroe Avenue	E-050-08-09	Add live entertainment and amusement center to existing bar.	04/13/09	Live entertainment approved for 1 year. Amusement approved.	N/A	4	Abandoned - Live ent never activated. Amusement-ok.
283 Webster Avenue	E-001-06-07 E-006-09-10	Establish a private K-12 Christian school	07/24/06	Approved for 2 years.	N/A	4	Withdrawn- School Closed 7/31/09.
4776 Lake Avenue	E-007-08-09	Live entertainment on an outdoor deck. "The Beach House"	08/11/08	Approved for 1 year on condition that the applicant returns from sound sampling from an acoustical engineer.	N/A	4	Business Closed
1009-1013 S. Plymouth Avenue	E-025-06-07	To establish a take-out restaurant and retail/office in 2 vacant storefronts.	01/08/07 03/02/07 (revised)	Approved for 1 year (3/1/08) on condition that facade and site improvements are completed w/in 1 year of the date of the approval.	N/A	4	Application abandoned.

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
133 Gregory Street	E-041-05-06	To establish a take-out soup and sandwich operation. "Saint Aubyn's"	02/14/06	Approved for 1 year from date of decision.	N/A	4	Business closed 6/06.
15-23 Brayer Street	E-048-05-06	Truck storage and accessory repair in R-1.	03/12/06	Approved for 2 years on condition that hours not exceed 6 am to 10 pm and all storage an repair be inside building.	N/A	4	Abandoned
197 Whitney Street	E-061-06-07	Establish a retail grocery/deli.	06/18/07	Approved for 1 year until 06/30/08.	N/A	4	Discontinued - Real Estate cancelled sale.
309 Kenwood Avenue	E-037-04-05 E-020-06-07	Establish 24-hr supervised residential care facility for up to four adults within a single family dwelling. "Mary Vaughn"	03/06/05 11/13/06	Approved for 2 years.	N/A	4	Discontinued - Tenant Evicted per open case 8/24/07
367 Lyell Avenue	E-024-02-03	Establish use as youth entertainment. "Rochester Food not Bombs, Inc"	04/27/03	Approved for 6 months effective from date of issuance of C of O. Exp. 10/28/03 Permit Voided 7/13/04 - no progress. Property vacant since 09/14/05.	N/A	4	Discontinued - Business Closed.
499 Monroe Avenue	E-007-04-05	Establish an Alternative Sign Program which includes legalizing the wall sign painted on the east side of the building. "Sports Page"	09/12/04	Approved for 3 years effective from date of Special Permit approval. Expired 9/12/07.	N/A	4	Discontinued - Sign removed per inspection & photo 12-27-07.

Address	File #	Purpose	Date Approved	Limitation	Expiration Date	Status	Notes
673 Glide Street	E-039-05-06	To add live entertainment to bar/restaurant "T. Brennan's"	02/14/06	Approved for 1 year from date of decision on condition that applicant return in January 2007 for renewal.	N/A	4	Discontinued - No longer offers live ent 3/29/07.
751 Jefferson Avenue	E-050-05-06	Retail clothing store.	03/12/06	Approved for 2 years on condition that security gates be removed and landscaping installed. Expired 3/12/08	N/A	4	Abandoned - Open case and permit show no activity.
699 S. Clinton Avenue	E-049-06-07- E-057-07-08	Establish live entertainment at "Platinum".	05/14/07- 06/16/08	Approved for 1 year on condition that a signed parking agreement is submitted. Approved until 12/31/08.	N/A	4	Discontinued - Shut down by Police and Law.
31-35 Pullman Avenue	E-018-06-07	Establish a private soccer club at 33 Pullman Avenue. "Balkan Club"	10/15/06	Approved for 2 years	N/A	5	Abandoned - No response to renewal letter.

IPD and M-IPD DISTRICTS

~~IPD #1 - Eastman Dental~~
IPD #3 - Genesee Hospital
IPD #4 - Valley Manor
IPD #5 - University of Rochester/Strong Memorial Hospital
IPD #6 - Wilson Health Center
~~IPD #7 - Rochester Museum and Science Center~~
IPD #8 - Highland Hospital
IPD #9 - Al Sigl Center
IPD #10 - Unity Health System - Genesee Street Campus
~~IPD #11 - Rochester General Hospital~~
IPD #12 - Iola
IPD #13 - Memorial Art Gallery
IPD #14 - St. John's Home
IPD #15 - Episcopal Church Home
~~IPD #16 - Wesley on East~~
IPD - Rochester Psychiatric Center
IPD - Rochester School for the Deaf
IPD - Colgate Rochester Divinity School
~~MIPD #1 - St. Bernard's Seminary~~
~~MIPD #2 - Rochester Science Park~~
MIPD #3 - University Business Center
~~MIPD #4 - Upstate Milk~~
MIPD #5 - Cumberland Business Center

PLANNED DEVELOPMENT DISTRICTS

PD #1 - Holy Redeemer
PD #2 - Upstate Milk
PD #3 - Buena Vista
PD#4 - Rochester Museum and Science Center
PD#5 - St. Michael's
PD#6 - Rochester General Hospital
PD#7 - Rochester Science Park
PD#8 - Midtown Athletic Club
PD#9 - Canalside Business Center
PD#10 - University of Rochester
PD#11 - Citygate
PD#12 - Clifford Avenue

STATUS

Incorporated into IPD #5

Not converted to PD. Master planning underway.
Will be rezoned when Redev. Proposed.
Proposal for PD submitted. Under review.
Will be converted to PD soon with need for revisions

Converted to PD# 4

Not converted to PD with no immediate need
Not converted to PD with no immediate need
Not converted to PD with no immediate need

Converted to PD#6

Proposal for PD submitted. Under review.
Not converted to PD with no immediate need
Not converted to PD with no immediate need
Not converted to PD with no immediate need

Rezoned to R-3

Not converted to PD with no immediate need
Not converted to PD with no immediate need
Not converted to PD. Master planning underway.

Rezoned to R-3

Converted to PD#7

Not converted to PD with no immediate need

Converted to PD#2

Not converted to PD with no immediate need

Ordinance #2002-19, adopted 1/17/02

Ordinance #2002-122, adopted 5/16/02

Ordinance #2003-309, adopted 9/24/03

Ordinance #2004-51&52, adopted 2/27/04

Ordinance #2004-53&54, adopted 2/27/04

Ordinance #2004-241&242, adopted 7/29/04

Ordinance #2005-159, adopted 6/20/05

Ordinance #2007-302, adopted 8/21/07

Ordinance #2008-15, adopted 1/18/08

ZONING PROCESS EVALUATION SURVEY SUMMARY May-July 2009

The survey recipients were chosen using a random selection format. 20% of the 253 applicants processed in a year were selected in an effort to get responses from 10% of the applicants. We received 18 surveys which is 7% of the total applicants.

The following is a summary of the written responses received in the survey:

Do you have any general comments on how you were treated by City staff?

- 1) No Problems
- 2) Our experience with the Town was pleasant, professional, and done in a timely manner.
- 3) Art Ientilucci and Zina Lagonegro were extremely helpful assisting us through this Process and were very accommodating of our needs for extensions and completing paperwork.
- 4) Courteously and professionally
- 5) As a frequent applicant for various projects in the City over many years the staff has always been cooperative and supportive through the process.
- 6) Excellent
- 7) One of the best City building departments I have dealt with. Everyone tries their best to help through the process.
- 8) Staff was informative and knowledgeable.
- 9) I was treated very well. Staff was knowledgeable and thorough.
- 10) Overall, things were pretty good. It has been much better from over the years.
- 11) Zina was extremely helpful, knowledgeable and responsive. She was a pleasure to work with.
- 12) Art Ientilucci and Justus Ocholi were extremely helpful in advising me on all of the can do's and can not's. After meeting with them the process went very smooth.
- 13) Always treated great.

Do you have any comments on the process (e.g., complexity, timing, communication)?

- 1) No Problems.
- 2) The only negative element is a function of staffing in the Bureau. We realize Art is under fiscal constraints thus sometimes deadlines converge while under review process.
- 3) Communication of everything required was good.
- 4) None. Went as planned.
- 5) The process was easy to navigate in comparison to other municipalities.
- 6) All Good – Timing and the City staff were excellent.
- 7) I think tax-payer dollars should be spent more effectively. There is not A need for 3-week, 3-page review that simply states that all zoning codes are followed. A simple sign-off would do.

Do you have any suggestions on how the process could be improved?

- 1) No Problems.
- 2) A revised checklist possible online may spare the staff time overall in the process, linked to other requirements that impinge on projects as suggested in the workshop we attended in February. Zina, Barry, Ed, et al, do a great job.
- 3) Checklists could be more specific to the type of permit required. I pulled a sign permit and there were a lot of things on the application I was told later was unnecessary.
- 4) None. Went as planned.
- 5) The "One Stop Shop" matrix of possible routes and timeframes.
- 6) Keep the current people employed and get them some staff!
- 7) Overall, I think the City bldg and zoning depts. and staff do a great job, however you need to do a better job of enforcing the code equally to all property owners. Selective code enforcement is illegal!

The following is a summary of the ratings received in the survey:

1 = Strongly Disagree; 2 = Disagree; 3 = Agree; 4 = Strongly Agree; 5 = Couldn't Agree More!

On a scale from 1 to 5, rate your experience with the following items (if applicable).	
Initial Contact	Response Average
I was treated in a professional manner	4.6
The explanation of the process was clear and understandable	4.1
The instruction I received resulted in my ability to prepare a complete application	4.3
Application Processing	
The intake meeting was scheduled quickly and conveniently	4.3
The process following the intake meeting was explained adequately	4.1
Staff kept me adequately informed throughout the process	4.1
City Staff set realistic expectations regarding the process timing	4.2
I had to deal with too many City staffers while going through the review process	2.0
Public Hearing/Decision	
I felt I was adequately listened to during the public hearing	4.2
The decision(s) was communicated to me quickly	4.4
My next steps, following the decision, were explained adequately	4.1