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TO: City Planning Commission

FROM: Eric Fazzini, Staff

RE: **A text amendment to amend Chapter 50 of the 2019 Detroit City Code, Zoning, to correct several miscellaneous sections with erroneous wording or references**

DATE: May 17, 2022

On May 19, 2022, the City Planning Commission (CPC) will hold a 5:50 P.M. public hearing on the subject text amendment request. Please see the attached copy of the public hearing notice showing the summary of the ordinance as published.

BACKGROUND

During routine use of the Zoning Ordinance (ZO), CPC, Planning & Development Department (PDD), Law Department, and Buildings, Safety Engineering, and Environmental Department (BSEED) staff have identified errors within several sections of the ZO. These errors have varying levels of importance regarding implementation of the ZO, but have all been identified as errors that are critical enough that they should be corrected. The proposed text amendment would not establish any new zoning policy, but are intended to correct ZO wording to match existing city zoning policy and intent.

PROPOSED AMENDMENTS

Below is an analysis and summary of the provisions of the proposed text amendments to Chapter 50, which will be the subject of your May 19, 2022, public hearing.

Article III, Review and Approval Procedures (Part 1)

The proposed ordinance amends Article III, Division 1, Section 50-3-10, which contains the newspaper public hearing notice requirements that apply to BSEED (1), the BZA (2), CPC (3), and City Council (4).

Currently, the City Council public hearing notice requirement in 50-3-10(4) states that the newspaper notice shall be published “at least five days prior to a public hearing held before the City Council”. This five-day notice requirement for City Council public hearings is an error that conflicts with the Michigan Zoning Enabling Act 125.3103 Sec. 103. (1), which states that a newspaper public hearing notice shall be published “not less than 15 days before the date of the hearing”.

This stated error of a minimum of five days, instead of the correct minimum of 15 days, should be corrected for compliance with the Act and consistency with the 15-day notice requirement stated elsewhere in Chapter 50.

Article VIII, Residential Zoning Districts (R5)

The proposed ordinance amends Article VIII, Division 6, Section 50-8-142, which contains the R5 District list of Conditional retail, service, and commercial uses.

Currently, 50-8-142(10) states that certain Conditional retail, service, and commercial uses listed in (10)a. through n. “occupying not more than 3,000 square feet of gross floor area (GFA) and not having drive-up or drive-through facilities, where located in a building constructed prior to January 1, 2017 and located on a zoning lot not farther than one-half mile from a high-frequency transit corridor” are permitted. The statement of “located on a zoning lot not farther than one-half mile from a high-frequency transit corridor” is an error as this subsection is intended to apply related to 50-8-142(9), which states “located on a zoning lot within one-half mile of a high-frequency transit corridor”.

The existing purpose of subsection (9) is to permit SD1 District By-right retail, service, and commercial uses specified in 50-11-206 as Conditional uses in the R5 District “where located on a zoning lot within one-half mile of a high-frequency transit corridor”. The existing purpose of subsection (10) is to provide a permissible list of uses that are separate from subsection (9) based on previous ZO text amendments and the common ZO structure of listing permitted uses separately and uniquely within districts.

The error here is that subsection (9) correctly applies to uses within one-half mile of a high-frequency transit corridor, while subsection (10) incorrectly applies to uses within one-half mile of a high-frequency transit corridor when in fact (10) should apply to uses farther than one-half mile. This is further supported by the fact that subsection (9) uses reference SD1 District uses which are generally more intense than R5 District uses and should be permitted when located near transit, while the subsection (10) uses listed directly in the R5 District are generally less intense than SD1 District uses and are effectively permitted citywide in the R5 District as Conditional.

Additionally, amendments are proposed to 50-12-142 subsections (10)g. and (10)l. that include minor text additions or deletions that would improve administration of the ZO for the R5 District.

Article XII, Use Regulations (Manufacturing and Industrial Uses)

The proposed ordinance amends Article XII, Division 3, Subdivision F, Section 50-12-336, which contains district-based requirements for food catering establishments.

Currently, 50-12-336(c) states that food catering establishments in the SD2 District not exceeding 5,000 square feet in gross floor area are permitted on a Conditional basis. The structure of the ZO is that Article XII Use Regulations are intended to match corresponding district regulations in Articles VIII through XI. Specifically, 50-12-336 (Article XII) should exactly match 50-11-237 (Article 11) for food catering establishments in the SD2 District.

The conflict here is that 50-12-336(c) does not exactly match 50-11-237 for two requirements. First, per 50-11-237, food catering establishments are permitted as a By-right manufacturing and industrial use in the SD2 District. Therefore, 50-12-336(c) should be amended to replace “conditional” with “by-right” to correct this existing conflict. Second, again per 50-11-237, food

catering establishments in the SD2 District are required to contain “a minimum of ten percent of the gross floor area being used as a retail store for the sale of goods produced on the premises”. Therefore, this 50-11-237 requirement should be restated in 50-12-336(c) in order for the use requirements between these two sections to match exactly as intended.

Additionally, amendments are proposed to 50-12-336 subsections (a), (b), and (d), that include minor text additions or deletions that would improve administration of the ZO for this use.

Article XIV, Development Standards (Off-Street Parking Exemptions)

The proposed ordinance amends Article XIV, Division 1, Subdivision A, Section 50-14-7, which contains off-street parking requirements.

Currently, 50-14-7(a)(1) states that “uses in the B5 and PC Districts in the Central Business District, or in the New Center Major Commercial Area” are exempt from minimum off-street parking requirements. The error here is that the B5 and PC Districts are grouped with the Central Business District, which is not a zoning district but is a reference to downtown. This is a critical error in that it means only uses in the B5 and PC Districts that are located in the Central Business District are exempt from minimum off-street parking requirements where the intent is to exempt the B5 and PC Districts citywide, in addition to exempting all uses in the Central Business District and also the New Center Major Commercial Area. Therefore, commas should be added to 50-14-7(a)(1) that separate each of these four areas to meet the existing policy intent that off-street parking is not required in each of these four areas within the city (B5 District, PC District, CBD, NCMCA).

Additionally, amendments are proposed to 50-14-7 subsection (2)c. that includes a minor text addition and deletion that would improve administration of the ZO.

Article XVI, Rules of Construction and Definitions (Group Day Care Home)

The proposed ordinance amends Article XVI, Division 2, Subdivision H, Section 50-16-222, which contains the definition of Group day care home.

Currently, 50-16-222 defines Group day care homes with wording that is not consistent with the definition of Family day care home in 50-16-201, which are closely related uses. Wording should be consistent between these two definitions as Family day care home is generally defined by the ZO and State of Michigan as providing care for one to six children, while Group day care home is generally defined as providing care for seven to 12 children. Since these two uses are closely related as far as ZO and State regulation, the definitions should be as similar as possible, with the exception of the different number of children, so that it is clear what the difference between these two related uses are when administering the ZO.

Article XVI, Rules of Construction and Definitions (Industrial Laundry)

The proposed ordinance amends Article XVI, Division 2, Subdivision K, Section 50-16-284, which contains the definition of Low/medium-impact manufacturing or processing.

Currently, 50-16-284 defines Low/medium-impact manufacturing or processing uses as including Industrial laundry. This is a duplication error as Industrial laundry is already included in the 50-16-262 definition of Industrial service (use category). Therefore, Industrial laundry should be deleted from the 50-16-284 list of uses since Specific Land Uses should not be listed in two Use Categories.

Article XIV, Development Standards (Off-Street Parking Required), Article XVI, Rules of Construction and Definitions, and Appendix A, Assignment of Specific Use Types to General Use Categories (Kennels, commercial)

The proposed ordinance amendments affect two articles and Appendix A addressing Kennels, commercial. Currently, Kennels, commercial are erroneously listed as a retail sales and service (sales-oriented) use in Sections 50-14-58, 50-16-362, and Appendix A.

Given the nature of Kennels, commercial as offering a commercial service for animals, rather than the commercial sale of animals, this ZO should be amended to correct the classification to commercial service in the three noted parts of the ZO. This correction includes the following:

Off-Street Parking Schedule

Deleting Kennel, commercial from 50-14-58 Retail sales and service (sales-oriented)

Adding Kennel, commercial to 50-14-59 Retail sales and service (service-oriented)

Definitions

Deleting Kennel, commercial from 50-16-362 Retail sales and service, sales-oriented

Adding Kennel, commercial to 50-16-362 Retail sales and service, service-oriented

Appendix A

Deleting “sales” and adding “service” to the Kennel, commercial Use Category

Additionally, amendments are proposed to 50-14-58 and 50-16-362 that include minor text additions or deletions that would improve administration of the ZO for this use.

PRELIMINARY CONCLUSION

Staff will provide a final report and recommendation addressing the results of the public hearing at a future meeting.

cc: Antoine Bryant, Director, PDD
Karen Gage, PDD
Greg Moots, PDD
David Bell, Director, BSEED
Jayda Philson, BSEED
James Ribbron, Director, BZA
Conrad Mallett, Corporation Counsel
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Attachments