



Item C-1: Correct Omissions relating to MXE District

When the MXE (Mixed Use Employment) district was established, it was not integrated throughout the zoning ordinance. This text amendment corrects that oversight.

Current Situation:

The MXE Zoning District (Mixed Use Employment District) was established in 2007 by Ordinance 27-O-07. With the establishment of the MXE district happening 14 years after the general overhaul of the City of Evanston Zoning Code, certain procedures to implement the MXE district were overlooked. The MXE District was incorporated into the Zoning Code through the establishment of an MXE section and subsequent zoning map amendments; however, the MXE District was mistakenly not referenced in pertinent places throughout the Zoning Ordinance. The identified zoning sections below reference zoning code districts similar to the MXE district, such as MU and MUE, but do not currently include the MXE district:

- 6-4-4-5 *Residential Care Homes (category I- Four to Eight Residents) Authorized As Special Uses in Certain Residential And Nonresidential Districts*
References MUE District
- 6-4-4-7 *Residential Care Homes (Category II- Nine To Fifteen Residents) Authorized As Special Uses In Certain Residential and Nonresidential Districts*
References MUE
- 6-4-5-3 *Transitional Treatment Facility (Category I-Four To Eight Residents) Authorized As Special Uses In Certain Residential Districts*
References MU, MUE
- 6-4-5-4 *Transitional Treatment Facility (Category II-Nine To Fifteen Residents) Authorized As Special Uses In Certain Residential Districts*
References MU, MUE
- 6-4-6-7 *Special Regulations Applicable To Fences*
(F)
References MU
(G)
References nonresidential use in the MUE District
- 6-4-9 *Office*
(A)
References MU, MUE
- 6-13-1-8 *Outdoor Storage As An Accessory Use*
References MU and MUE
- 6-16-1-4 *Exemption of Required Parking Spaces*
References MUE



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Issue:

When implemented, the MXE ordinance only provided for a new MXE zoning code section and did not include any provision to add MXE references to relevant sections of the Zoning Ordinance. This omission has unintended negative impacts for MXE District property owners. For example, the MXE district is not referenced in Section 6-16-1-4 “Exemption of Required Parking Spaces” even though the section identifies MU and MUE districts as eligible districts. This exemption allows the first two thousand (2,000) square feet for any building on a nonresidential lot in the business to be exempt in calculating the parking requirement. At present, MXE district property owners are not eligible for this exemption.

Proposal:

Staff proposes to correct the inadvertent omission of the MXE district in applicable zoning code sections where other, similar zoning districts have been referenced. Staff proposes to use the MU and MUE zoning districts as indicators of where MXE should be included.

Item C-2: Townhouse Orientation

Allow flexibility in townhouse orientation.

Current Situation:

Townhouse developments are limited in the orientation in which they may be developed. The Lot Width section of Zoning Districts R4, R4a, R5 and R6 states, with regard to three or more single family attached dwelling units, that “each dwelling unit requires frontage on a public street”.

Issue:

The requirement of three or more attached dwelling units to have frontage along a street constrains development of potentially innovative designs and can limit the number of units that may be developed on a parcel. Under current zoning regulations, the below project example could not be developed.



Proposal:

At present, townhouse orientation is not one of the six eligible major variance scenarios. Staff proposes to allow for the approval of townhouse orientation away from the front lot line as an additional Major Variance scenario. This regulation change would provide development flexibility and allow City and community oversight and input into the appropriateness of such a design. The major variance public hearing process would permit input of neighboring properties on a design’s appropriateness. Further, as with all major variances, this regulation change would mandate such proposals be allowed only if they meet the major variance standards, an additional application of community oversight for this proposed design flexibility.



Item C-3: Special Use Expiration

Allow Special Use Permits to Expire upon Lapse of Use

Current Situation:

Once implemented, Special Use permits do not expire even if a property sits vacant from a defunct use. This is in contrast to how a special use permit can expire if the permit holder fails to act upon being granted initial permit approval, “*no special use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or unless a certificate of occupancy is issued and a use commenced within that period or unless a longer time is requested and granted by the City Council*” However, once in use a Special Use Permit does not expire even if a business/entity goes defunct and the property sits vacant. A new owner can enter the picture and operate the same special use under the granted permit no matter the time the space is vacant.

Issue:

Communities change over time which may make some special uses, which were appropriate at one time, incompatible with the current surrounding community. Special Use Permits are defined as, “*...those uses that, because of their potential adverse impact upon the immediate neighborhood and the City, as a whole, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location.*” As a use defined as needing a special use permit seeks to inhabit a vacant space a community should have the ability to exercise a renewed degree of scrutiny.

Proposal:

Staff proposes that special use permits expire after six months of inactivity. The existing sunset provision in the initial granting of a special use permits speaks to the intent that such permits should not be granted in perpetuity. Further, Special Use permits that expire, depending on zoning district, would still be eligible to be granted by the City. The process of a new application would provide the community and city oversight into the granting of the permit to ensure the use is again compatible with the surrounding community.



Item C-4: Restate Standard for Variances Requiring “Minimum Change Necessary”

Rewrite the standards for granting both minor and major variances that require the request to be the “minimum change necessary.”

Current Situation:

The Zoning Ordinance specifies the following standard (among others) for variances:

For Minor Variations (Section 6-3-8-12 (A)(5)): “The requested variation is limited to the minimum change necessary to alleviate the practical difficulty that affects the property.”

For Major Variations (Section 6-3-8-12 (E)(7)): “The requested variation is limited to the minimum change necessary to alleviate the particular hardship or practical difficulty which affects the property.”

For Family Necessity Variations (Section 6-3-8-12 (D)(5)): “The requested variation is limited to the minimum change necessary to alleviate the particular practical difficulty or inconvenience that affects the family.”

Issue:

The problem with the text as written is that the requirement for the variation to be the “minimum change necessary” can never be substantiated. Regardless of how small the requested change is, it can never be shown or stated with any certainty that there is not another alternative that involves a smaller change. Therefore any affirmative finding of this standard is always open to challenge.

Proposal:

Revise the text of the standard to reference the “alternative that requires the smallest deviation from the regulation among the feasible options that are identified.”

For Minor Variations (Section 6-3-8-12 (A)(5)): The requested variation requires the smallest deviation from the regulation among the feasible options that are identified.”

For Major Variations (Section 6-3-8-12 (E)(7)): “The requested variation requires the smallest deviation from the regulation among the feasible options that are identified.

For Family Necessity Variations (Section 6-3-8-12 (D)(5)): “The requested variation requires the smallest deviation from the regulation among the feasible options that are identified



Item C-5: Allow Second-Floor Additions to Existing Non-Conforming Residences to be Eligible for Minor Variance

Make most projects that include upper-floor additions to structures having existing non-conforming sideyards eligible for minor variance.

Current Situation:

Many properties in the R1-R3 districts that were improved prior to the adoption of the 1960 Zoning Ordinance (which increased the minimum side yard setback from 3 feet to 5 feet) are at present legally non-conforming, having side yard setbacks between 3 and 5 feet. Second floor additions to these structures that continue the side exterior walls upward are not permitted without a variation, since adding any permanent elements in the (now) required (five-foot) side yard, at any elevation, constitutes an increase in the degree of non-conformance. Such additions on properties having existing side yards from 3.25 feet to 5.00 feet are eligible for minor variations. Those having existing side yards from 3.00 to 3.25 feet, however, must apply for a major variation, since 3.25 feet is the 35% threshold between minor and major variations.

Issue:

For a second floor addition, there is often no sound structural alternative to extending the existing exterior bearing walls upward. In situations of existing legal non-conformance, as described above, property owners are often surprised to learn that they cannot construct a second story addition by right. In cases involving a setback of 3 feet, applicants are often incredulous and sometimes angry that they must apply for a major variation – a process that will forestall the issuance of any building permit by at least two months,. Such major variations are almost invariably granted by the Zoning Board of Appeals.

Proposal:

Expand eligibility for minor variations to required side yard setbacks for projects proposing second floor additions which extend the exterior walls of existing legally non-conforming first floor structures having existing side yards of 3.0 feet or more.

6-3-8-3: AUTHORIZED VARIATIONS:

The following variations from this ordinance are authorized:

(A) Minor Variations: Minor variations consisting of the following types shall be for single-family and two-family uses only and may be granted up to a maximum of thirty five percent (35%) unless specified differently below:

1. Yards and Setbacks

- a. Front and rear yards and setbacks.
- b. Side yards and setbacks, including proposals for second floor additions which extend the exterior walls of existing legally non-conforming first floor structures having existing interior side yards of 3.0 feet or more.



Item C-6: Expand Eligibility of Certain Requirements of oCSC Central Street Corridor Overlay Zoning District for Variance

Allow oCSC requirements for Pedestrian Area and Active Ground Floor Uses to be eligible for variance for lots meeting specified conditions.

Current Situation:

The oCSC Central Street Corridor overlay district was adopted in 2008 and introduced for the first time in the Evanston Zoning Ordinance specific requirements for pedestrian areas and other elements of urban design. In particular, Section 6-15-14-12 requires a minimum pedestrian area width of 30 feet in subarea 6. Section 6-15-14-7 requires active ground floor uses in subareas 3-7 along primary streets for a minimum depth of 50 feet.

Issue:

Since adoption of the oCSC overlay, the Zoning Office has reviewed proposals for development that, because of the location, shape, size or configuration of the lot, having to conform with certain requirements, particularly the required width of pedestrian areas, and the required depth of active ground-floor uses, has constituted a practical difficulty or hardship, leading to the inability to develop projects that in all other ways would be considered desirable and supportive of the purpose of the underlying district and the Central Street Master Plan. Allowing variations to the two sections cited above would have allowed these projects to move forward.

Proposal:

Allow variations to Section 6-15-14-12 (A), (B), and (C) Pedestrian Area Requirements for projects in subarea 6 that are located on corner lots.

Allow variations to Section 6-15-14-7 Active Ground Floor Uses for projects on shallow lots (“shallow lot” to be defined)/