

Guiderland's Proposed Zoning Law

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NOTE: The writer, a regular correspondent for the Enterprise from McKownville, is a member of the Guiderland Planning Board and assisted in drafting the proposed law described below. — Eds.

The Guiderland Town Board is studying a substantial revision of the town's zoning law.

This will be the first major overhaul of the law since the current version was passed in 1971.

The zoning law revision is motivated in part by recommendations in the Western Avenue study by Emanuel Associates, but is also motivated by experience with the current law during the past four years at Town Hall.

The proposed new law was drafted over a period of several months last year by Town Attorney Kenneth Runion and Councilman John Smircich. After some revisions during the fall, the latest draft was circulated within the past three weeks to members of the town, planning and zoning boards for analysis and comment.

Three Stages

Present plans are that the zoning law revision will be the first stage of a three-stage process related to Western Avenue study.

The second stage will be to change the zoning map to reflect the study recommendations.

The third stage will be to respond to the Emanuel recommendations concerning traffic circulation and possible alterations and alternative highways in the Western Avenue area.

The first thing to be noticed about the draft zoning law is that it is organized much more coherently than the present law, and is, at the same time, more comprehensive. Anyone who has had to refer to the present law knows that finding provisions in it is difficult.

For example, someone wanting to understand about special use permits will find that in the current law, regulations applying to special use permits occur in two places, separated by about 40 pages. For another example, under the present law, site plan review is required for apartment developments and shopping centers. But no standards or procedures are provided in the present law for the site plan review process.

The draft law addresses these problems.

The proposed law is an intimidating 150 pages in its single-spaced

typed version, as compared to around two-thirds as many pages in the present law. But much of that additional length is provided in the interest of clarity.

New Classifications

The other obvious change in the draft law, compared with the present law, is in the zoning district classifications.

Substantial changes have been made in the various classifications which apply to land in the town. These changes will somewhat alter the possible ways in which land may be used, compared to the present law.

For example, under the present zoning law, a parcel zoned R-10 can be used for single family residences on 10,000 square foot lots, but could also be used for duplexes, triplexes, quadriplexes, boarding houses and multifamily residences. Under the proposed law, multifamily residences would not be permitted in an R-10 zone, and an owner who wishes to develop a parcel for apartments would need to have the zoning changed to multiple residence before apartments could be built.

The proposed new law keeps these present classifications: A (agriculture), R-20, R-15, R-10, R-7.5 (residential) on 20,000, 15,000, 10,000 and 7,500 square foot or more lots; LI (light industrial), and I (industrial).

The new law offers three new residential classifications: MR, (multiple residence); TH (townhouse dwelling), and MD (mobile dwelling) which are not separate classifications under the current law.

The present law offers two planned unit development zones, PUD-1 and PUD-2. These are retained in the proposed new law, but with a different process for their use.

The present law has six commercial zones, excluding industrial zones, namely, R-PO (residential professional office), R-NB (residential neighborhood business), R-B (residential business), B-1 (local business), B-2 (general business), and COR (conference-office-research).

Under the proposed law, these would be reduced to three: BN-RP (business non-retail professional), LB (local business) and GB (general business).

The changes in the residential zones came about because of a sense that mixing single-family homes, townhouses and multi-family residences in the same zone was undesirable without special controls. A developer who wishes, under the new law, to build a mixed single-family, multiple and townhouse dwelling development, would be urged to offer the proposal as a planned unit development.

The changes in the commercial classifications arose from a sense that the kinds of distinctions the town tried to make with its R-PO, R-NB, COR and R-B classifications weren't successful. In practice, few areas of the town were zoned R-PO, R-NB, R-B or COR.

Other major changes involve the use of site plan approval for all non-single family construction in the town, and the use of environmental protection overlay districts for sensitive areas such as wetlands.

Summary

The proposed zoning law is in four major parts, with a total of 33 articles. A summary of the proposed law follows, article by article.

Introductory Articles: These include a statement of purpose and objectives of the law, and a long article listing definitions of the terms used in the law. The latter range from word usage: "As used in this law, the masculine includes the feminine, the singular includes the plural and the present tense includes the future tense," to substantive definitions which define when certain provisions of the law apply. For example, a new definition is "topographical alteration": "The incidental excavation or deposit of soil product where the intent is to develop a building lot or for agricultural purposes; the time of the project is less than one year; and the volume of material removed is less than 2,000 cubic yards." The significance of this definition is that any soil removal in excess of the limits of this definition requires a soil mining permit from the Zoning Board.

District Regulations: This part of the proposed new law includes the regulations applying to individual zoning districts. These regulations are preceded by an article, "Zoning Districts," which has one section worth singling out. Entitled "Interpretation of District Boundaries," this section specifies that whenever a lot is divided by a district boundary, the entire lot shall be placed in the more restrictive district. This provision replaces a provision in the present law which states that when a lot is split by a district boundary, the

owner can assume that the less restrictive regulations apply up to 30 feet beyond the district boundary, into the more restrictive district. Under the current law, the owner of 50 Fuller Road a couple of years ago came in seeking a commercial use for the property, because it was split down the middle by the boundary dividing the B-2 district of Stuyvesant Plaza from the R-10 district of Providence Street. After the neighbors demonstrated sufficient concern, the zoning board denied a variance for the commercial use, and the town board subsequently moved the boundary to place the entire property in the residential district. Under the proposed law, none of this would have been necessary, for the lot would have been, by definition, within the residential zone.

Articles IV to XV delineate the permitted uses, special uses, dimensional requirements, and other regulations applying to each of the 12 kinds of zoning districts in the new law. The four residential districts are lumped together into one article, as are the two Planned Unit Development districts, and the several environmental protection districts.

Agricultural district regulations are changed very little. Certain commercial uses now permitted in an agricultural zone by special use permit would not be permitted under the proposed law.

Residential zones R-20 through R-7.5 would be single family zones under the proposed law. No longer would duplexes, triplexes, and, in the R-10 zone, multifamily units, be permitted, even by special permit. Single-family townhouses and other forms of clustering would be possible only at the discretion of the Planning Board, as at present.

Multiple Residence District: This is a new classification, in which apartment houses and multiple dwellings would be permitted, but not single family detached homes. No multiple dwellings of more than four units may be built on lots of less than two and one half acres. And in any case, no more than 15 dwelling units per acre would be permitted. Between a multiple dwelling and a residential zone boundary there must be a setback of 100 feet, of which half must be a landscaped buffer. The minimum floor area for apartments is 500 square feet for studios, 600 square feet for one-bedroom, 800 square feet for two-bedroom and 950 square feet for three-bedroom apartments.

Townhouse Dwelling District: Another new district, in which only townhouses would be permitted, at a density of no more than six units per acre (as compared with the present 15 units per acre in an R-7.5 zone). Townhouses shall contain at least 1,000 square feet of living area.

Planned Unit Development Districts: These are of two types, as in the present law. PUD-1 requires a minimum lot area of 20 acres; PUD-2 requires a minimum of five acres. The PUD-2 district would permit all residential types; the larger PUD-1 districts would also permit commercial, service and other non-residential uses, scaled primarily to serve the residents of the PUD-district and the immediately surrounding residential area. The procedure by which a parcel would obtain PUD zoning has been simplified in the proposed new law. A developer would obtain preliminary site plan approval from the planning board, then submit the plans to the town board. The town board would hold a public hearing and, if it found the project acceptable, would rezone the land to PUD. The planning board would then complete the site plan review process. Under the present law, the town board would first rezone, based on a sketch plan approved by the planning board. Then the planning board would conduct a full site plan review, pulling the zoning board into the process of any commercial uses were contemplated. If any changes are made from the sketch plans presented to the town board, the town board would get another shot. The present process is considered sufficiently unwieldy that whenever a naive citizen suggested that a certain development ought to come under a PUD, the response from town officials was condescending laughter. The proposed new process should make PUDs much more practicable, a change which will be in harmony with recommendations of the Emanuel study.

Mobile Dwelling: This is a new zoning classification which codifies the town's year-old ordinance on mobile home parks.

Business Non-Retail Professional is a new commercial district which replaces several commercial zoning classifications in the present law. This district would permit professional, insurance, medical and similar kinds of offices and, by special permit, funeral homes, non-profit institutions, barber and beauty shops, mail order sales, boarding houses, and non-profit schools, nursery schools and day care centers.

Local Business is a district similar to, but more restrictive than, the current B-1. Certain benign uses would be permitted without a special use permit, but with site plan review, such as bakery stores, flower shops, branch banks, and the like. Permitted by special use permit would be sit-down restaurants, high-rise office buildings, and drive-in bank tellers.

General Business is similar to the current B-2 classification.

Light Industrial and Industrial district regulations are essentially the same as in the present law. The laundry list of prohibited uses, ranging from manufacture of acetylene gas to yeast manufacture, is retained.

Environmental Protection Overlay District regulations would include regulations applying to several environmentally sensitive kinds of areas within the town: wetlands, floodplains, watercourses, steep slopes, woodlands and Pine Bush. The regulations applying to wetlands are comprehensive and designed to satisfy the

requirements contains the special setback requirements passed last year for Carman Road, and also includes new provisions for limiting the density of access points on the town's major highways.

Easements codifies the town's right to require drainage, sidewalk and bikeway easements in new developments.

Non-Conforming Uses, structures and lots contains current provisions regarding uses which are in violation of the zoning law.

Dimensional Criteria, effect of provisions, and accessory structures and swimming pools are similar to current law, at least in the present draft.

Excavations and topsoil removal contains provisions related to the removal of topsoil and soil and gravel mining. Except for "topographical alterations," as defined above, all topsoil removal needs a permit from the zoning board. The threshold for needing a permit is much lower than that in the present law. The town has been concerned with certain landowners who have obtained permission for a small residential subdivision and have used that permission as a pretext for a large-scale dune removal and soil mining operation.

The final part of the proposed new zoning law, "Administration and Enforcement," includes provisions related to administration, amendments, variances, special use permits, site plan approval and penalties.

Of these, the largest change is in the site plan approval process. The current law requires site plan review by the planning board only for certain uses in certain zones, such as animal hospitals in business and industrial zones, convents in any zone, crematories in any zone, designed shopping centers, and townhouses and multi-family developments where permitted. The proposed new law requires site plan approval by the planning board for all construction other than single family houses. The proposed law includes a comprehensive set of standards, and the approval process, which includes a public hearing, is quite similar to the subdivision approval process which the planning board exercises for residential development. The division of responsibilities between the planning and state's requirements in order that the town may assume the permitting process for regulated wetlands. Environmental protection districts would be laid over other districts, so that a parcel in a R-15 zone and also in a steep slope zone would have to satisfy the restrictions and regulations of both districts.

General Rules

The next part of the proposed zoning law, "Regulations Applying to All Districts," is divided into eleven articles.

Off-street Parking and loading requirements describes the parking requirements for various kinds of uses, and includes a long section on traffic and parking development and maintenance standards for parking areas in non-single family residential zones.

Signs codifies the town's sign ordinances and, in its present draft form, may undergo more revision in response to the Emanuel Western Avenue study recommendations.

Fences, hedges and screen plantings includes provisions related to fences and buffers. Fences more than six feet high would be permitted only by permit from the zoning board. Only decorative fences (i.e. no chain-link fences) would be permitted in front yards.

Residential Cluster Development and open space codifies current practice and regulations related to the clustering of residences within a subdivision. The main new provision is one which permits the planning board to require clustering under certain circumstances. Currently if a developer wants to cluster, the Planning Board can deny it, but if a developer does not want to cluster, the Planning Board has no discretion to require clustering.

Special Access and setback zoning boards for a development which requires a special use permit as well as site plan approval is still being studied.

The proposed law is likely to undergo a few more changes before it is finally voted upon, probably in April if the present draft is found generally acceptable. Anyone wishing to look the draft over in all its 150-page detail may contact the town supervisor's office at 356-1980.