

3. **ZOTA 2015-4: AMENDMENT TO ARTICLE 28-6(c): ALTERNATIVE BUILDING FEATURES IN THE MIXED-USE (MU) ZONES** – petition for a Zoning Ordinance text amendment to provide for the use of alternative building features in the Mixed-Use (MU) zones.

REQUESTED BY: Bayer Properties, LLC

PROPOSED TEXT: (Text underlined indicates an addition to the existing Zoning Ordinance; ~~text dashed through~~ indicates a deletion.)

**ARTICLE 28: MIXED USE ZONING CATEGORIES**

**28-6 PROVISIONS APPLICABLE TO ALL MIXED-USE ZONES** - shall be as follows:

**28-6(a) DEVELOPMENT PLAN REQUIRED** - All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed-use zone shall require a finding that the development plan complies with the provisions of Sections 28-6(b) through (g) below.

**28-6(b) PEDESTRIAN ACCOMMODATION** - shall be as follows:

- (1) At least one primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.
- (4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.
- (5) A 6-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.
- (6) For any development within the Downtown Streetscape Master Plan area, the development shall adhere to the provisions of that plan.

**28-6(c) BUILDING FEATURES** - shall be as follows:

- (1) For every primary wall plane;~~a:~~
  - a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every 80 feet of length or fraction thereof; or,
  - b. Implementation of a minimum of two of the following for every sixty (60) feet of length or fraction thereof:
    1. A change of at least eight (8) inches in depth;
    2. A change in wall height of at least sixteen (16) inches;
    3. A change in exterior material type, style, color, finish or orientation;
    4. A minimum of twenty (20) percent of the ground floor building face shall be transparent glass, including windows and doors.
- (2) For every side or rear wall plane;~~a:~~
  - a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every 100 feet in length; or,
  - b. Implementation of a minimum of two of the following for every eighty (80) feet of length or fraction thereof:
    1. A change of at least eight (8) inches in depth;
    2. A change in wall height of at least sixteen (16) inches;
    3. A change in exterior material type, style, color, finish or orientation;
    4. A minimum of twenty (20) percent of the ground floor building face shall be transparent glass, including windows and doors.
- (3) The primary wall plane shall provide at least one of the following features at ground level:
  - a. A balcony at least 4' x 5'.
  - b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
  - c. A covered entrance at least 3' x 3'.
  - d. A porch at least 4' x 6', with a floor at least twelve (12) inches above grade.
  - e. A recessed entrance at least 3' x 5'.
- (4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

\* - Denotes date by which Commission must either approve or disapprove request.

**STAFF ALTERNATIVE TEXT:**

**28-6 PROVISIONS APPLICABLE TO ALL MIXED-USE ZONES** - shall be as follows:

**28-6(a) DEVELOPMENT PLAN REQUIRED** - All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed-use zone shall require a finding that the development plan complies with the provisions of Sections 28-6(b) through (g) below.

**28-6(b) PEDESTRIAN ACCOMMODATION** - shall be as follows:

- (1) At least one primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.
- (4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.
- (5) A 6-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.
- (6) For any development within the Downtown Streetscape Master Plan area, the development shall adhere to the provisions of that plan.

**28-6(c) BUILDING FEATURES** - shall be as follows:

- (1) For every primary wall plane,<sup>a</sup>
  - a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every 80 feet of length or fraction thereof, or,
  - b. Implementation of a minimum of ~~two~~ **three** of the following for every sixty (60) feet of length or fraction thereof:
    1. A change of at least ~~eight (8) inches~~ **one (1) foot** in depth;
    2. A change in wall height of at least ~~sixteen (16) inches~~ **two (2) feet**;
    3. A change in exterior material type, style, ~~or color~~, finish ~~or orientation~~;
    4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
- (2) For every side or rear wall plane,<sup>a</sup>
  - a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every 100 feet in length, or,
  - b. Implementation of a minimum of ~~two~~ **three** of the following for every eighty (80) feet of length or fraction thereof:
    1. A change of at least ~~eight (8) inches~~ **one (1) foot** in depth;
    2. A change in wall height of at least ~~sixteen (16) inches~~ **two (2) feet**;
    3. A change in exterior material type, style, ~~or color~~, finish ~~or orientation~~;
    4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
- (3) The primary wall plane shall provide at least one of the following features at ground level:
  - a. A balcony at least 4' x 5'.
  - b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
  - c. A covered entrance at least 3' x 3'.
  - d. A porch at least 4' x 6', with a floor at least twelve (12) inches above grade.
  - e. A recessed entrance at least 3' x 5'.
- (4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

The Zoning Committee Recommended: Approval of the Staff Alternative Text, for the reasons provided by staff.

The Staff Recommends: Approval of the Staff Alternative text, for the following reasons:

1. The proposed text amendment to Article 28-6 will provide more flexibility to meet the building feature articulation regulations, a requirement in the design of mixed-use developments. The existing language provides for 5-foot by 8-foot building bump-outs or projections to create visual interest and prevent long, blank exterior walls. The proposed amendment maintains this option, but also allows for more creative solutions that visually meet the same objective.
2. These proposed changes to the Zoning Ordinance will minimize the encroachment into the pedestrian space within a mixed-use development, by reducing the minimum projection from five feet to one foot. This will significantly reduce the possibility of "blind spots" that can be detrimental to retail and could unintentionally create some security concerns.
3. The staff alternative text will slightly alter the petitioner's proposal in a manner that will be more consistent with the origi-

\* - Denotes date by which Commission must either approve or disapprove request.

nal *Infill and Redevelopment Design Standards* that prompted this section of the Zoning Ordinance.

**Staff Presentation:** Ms. Wade stated that the petitioner is requesting to add some flexibility and variety to the Mixed-Use zone to allow for different options in articulating building facades. The petitioner contends that allowing that flexibility will have a positive impact on the pedestrian experience in those zones.

Ms. Wade distributed to the Commission members a graphic submitted by the petitioner, which provides examples of how each portion of the proposed text would affect the appearance of a building in the Mixed-Use zone.

Ms. Wade explained that Article 28 was originally written in 2002, with Section 28-6 outlining the requirements for all the Mixed-Use zones, including building features. Those features, which include window requirements, door locations, bump-outs, setbacks, and front porches, are intended to enhance the look and feel of the building for pedestrians. The existing regulations were proposed by the Infill & Redevelopment study, and were adopted almost verbatim from that study. The Zoning Ordinance requires a change in depth along the frontage of both the primary face and the side face of a building of 5', at a length of 8'; this equates to a 40 square-foot area that is projected out from the building. As the petitioner was developing the design for their Mixed-Use development, they found that that change in the façade affected the interior square footage and was onerous. They believed that there might be other options for addressing the same intent of the Zoning Ordinance.

Ms. Wade said that the petitioner's proposed text includes a second option, which would require the selection of at least two of the following design concepts: 1) change the depth of the building at least 8"; 2) change the wall height at least 16"; 3) change an exterior material type, style, color, finish, or orientation; 4) construct a minimum of 20% of the ground floor façade as transparent glass, including windows and doors. The petitioner is also proposing a fifth option to allow for a recessed entrance. The petitioner believed that the proposed options would provide some flexibility in addressing the intent of the regulations, and would also enhance the pedestrian feel of the development. The petitioner contends that 40 square feet of wall interruption can break up the building frontage to the extent that the sidewalk is unsafe and not accommodating to pedestrians.

Ms. Wade said that the staff is in agreement with the petitioner's desire for added flexibility, but they believe that the options presented by the petitioner could still result in a flat building façade. They recommended a Staff Alternative Text to increase those revised dimensions somewhat, and to use round numbers for ease of calculation. In addition, the staff felt that building material color and orientation alone were not enough to provide for an effective change to the façade, so they suggested striking "color" and "orientation" from the proposed list of options. The staff alternative also recommends that three of the four options be used, rather than just two. Ms. Wade stated that the petitioner reviewed the staff's proposed alternative text, and they are in agreement with the proposed changes.

Ms. Wade noted that, since the Zoning Committee meeting three weeks ago, the staff had a conversation about how much the building façade needs to change, with regard to how much exterior material needs to change, and how far up a wall a projection should be located. In the petitioner's example, a change of material is depicted, but the proposed text does not specify for what portion of the wall the change should be effected. The staff believed that it was important to clarify that those material changes and bump-outs should be at least one story high. In agreement with the petitioner, the staff suggested language to clarify that those treatments should be at least one story high, for bump-outs as well as material changes. Ms. Wade stated that the staff is recommending approval of the proposed Staff Alternative Text as distributed today, for the reasons listed in the staff report and on the agenda.

Ms. Wade added that the staff had received a letter in support of this request from the Fayette Alliance, which she distributed to the Commission.

**Commission Question:** Ms. Mundy asked, referring to the petitioner's graphic, if the petitioner could have left off a material change in one area in order to meet the regulations. Ms. Wade answered that, in that case, the petitioner likely met three of the four criteria.

**Petitioner Presentation:** Nick Nicholson, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation, including the proposed Staff Alternative Text. He explained that the petitioner wanted to ensure that developers would not be able to seek the least possible amount of building façade change, which was the reason for the proposed one-story requirement introduced today.

**Commission Question:** Mr. Cravens asked how tall "one story" would be. Ms. Wade answered that it would vary for each building. Mr. Cravens opined that that type of limitation was more appropriate than using a set number of feet. Mr. Nicholson noted that the petitioner suggested one story in order to make it easy for the Division of Building Inspection to interpret the Ordinance and inspect the buildings.

**Action:** A motion was made by Ms. Richardson, seconded by Ms. Plumlee, and carried 9-0 (Brewer and Penn absent) to approve the Staff Alternative Text #2 for ZOTA 2015-4, for the reasons provided by staff.

