



Urban Research & Development Corporation

81 Highland Ave., Suite 120 • Bethlehem, Pennsylvania 18017 • 610-865-0701 • www.urdc.com

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TO: Borough of Jessup Officials
FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)
SUBJECT: **Summary of the Proposed Jessup Borough Zoning Ordinance**

This memo summarizes the draft policies in the new Zoning Ordinance.

This memo is not intended to provide legal advice, which is the responsibility of the Borough Solicitor.

The Zoning Ordinance works with the Borough Subdivision and Land Development Ordinance (SALDO). The Zoning Ordinance is much more policy oriented than the SALDO, which is more a technical document used by engineers and surveyors on larger developments to design streets and other improvements.

Overview of Zoning

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the “MPC”) provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

Ways to Address Different Uses

In each zoning district, different uses are allowed or prohibited. There are three different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer,
- as a special exception use, with the zoning approved by the Zoning Hearing Board, and
- as a conditional use, with the zoning approved by the Council.

Intense and potentially controversial uses should only be permitted as special exception or conditional uses. This results in a public meeting that allows public comment. Under these processes, the Zoning Hearing Board or Borough Council can carefully review the application to make sure that it meets Borough ordinances. Also, conditions can be placed upon these types of approvals, such as to protect public safety.

- However, a special exception or conditional use is still an “allowed” use. Therefore, under the law, it is difficult to reject a special exception or conditional use if the applicant proves they meet all of the specific requirements of the zoning ordinance. Generally, in such case, the application could only be rejected if an opponent or the Borough was able to prove that the application violated a “general” requirement of the Ordinance. For example, it might be possible to prove that a certain type of industrial use would generate a major public safety hazard.
- The Borough of Jessup currently uses a mix of special exception and conditional use processes for complex or controversial uses, which is proposed to be continued. (Note - With a special exception, the Council can provide testimony before the Zoning Hearing Board, and Council can appeal the Board’s decisions.)
- Also, the number of conditional/special exception uses should be held to a reasonable minimum. If the process is overused, it becomes a burden in time and expense to both the Borough and applicants. Moreover, if an applicant fears that the process may be time-consuming, it can make it harder to attract desirable types of businesses.

Nonconformities

Zoning primarily regulates **new** development, expansions of uses and changes in uses. Under State law, an existing use that was legal when it was first established can continue to operate, regardless of zoning regulations that are later enacted. An existing legal use that would not be permitted to be newly established under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

For example, an auto repair garage may have existed before the Borough adopted zoning. It is located in a residential district. It may be changed to a store, which would be less intense. However, it could not be changed to an asphalt plant, which would be more intense.

Likewise, in most cases, existing vacant lots that were legally established may be built upon – even if they do not meet the minimum size requirements of a zoning ordinance. However, any building would still need to meet setback, wetland and floodplain regulations.

However, if a use was not legal when it first started, it has no right to continue. For example, if a house was illegally converted into apartments twenty years ago, it is still illegal, and can be required to be de-converted.

Lot Sizes

Please keep the following lot sizes in mind:

One acre = 43,560 square feet (such as 150 by 290 feet)

One-half acre = approximately 22,000 square feet (such as 125 by 175 feet)

One-quarter acre = approximately 11,000 square feet (such as 80 by 135 feet)

Major Goals and Objectives

The following major goals and objectives provide direction for the Borough’s development policies:

- Provide for compatible land uses, including mixes of uses where appropriate, while protecting the livability of residential neighborhoods.
- Work to enhance the attractive “small town” character of the Borough.
- Promote a pedestrian-friendly environment.

- Provide for a variety of housing opportunities, while seeking to attract additional owner-occupied housing.
- Promote additional business activity, to provide increased tax revenues and expanded employment opportunities.
- Direct new uses that generate significant truck traffic to locations south of the Casey Highway and that are accessible to Casey Highway interchange, where they are unlikely to impact residential areas.
- Carefully control uses that threaten significant nuisances or hazards, and maintain the livability of residential neighborhoods.
- Conserve natural resources, including the Lackawanna River, lakes and creeks.

Zoning Map

A new Zoning Map is being proposed as part of this project. The districts and land areas are described below.

Avoiding Over-Regulation of Routine Changes

To avoid over-regulation of routine changes, it is desirable to make some adjustments. The intent is to establish reasonable setback and coverage requirements to make sure that we do not make it too difficult to expand a one family house, add a deck or shed or a porch, or make a modest addition onto a church or business.

Excessive regulations upon routine changes can create great aggravation to residents and a large workload for the Borough staff and the Zoning Hearing Board. If a certain type of variance is commonly requested and approved, then the ordinance should be changed so that a type of variance is not needed.

User-Friendliness of the Zoning Ordinance

The proposed new Zoning Ordinance is intended to make greater use of tables and graphics to make it easier to use. The use of tables listing land uses allowed in each district minimize the wordiness of an ordinance, and make it easier to compare provisions while reviewing the ordinance in draft form. The adopted ordinance will be posted on the Borough's website, which will allow word searches. There also is an index. The goal is also to have a zoning ordinance that is very clear and predictable for developers and builders, and that does not result in unnecessary delays for desirable types of development in appropriate locations.

Apartment Conversions

Most cities and boroughs are becoming more restrictive in apartment conversions of one family homes. The goal is to maintain some owner-occupied units, reduce transiency, avoid maintenance problems from absentee landlords and avoid parking shortages.

Currently, in the R-2 district, a single family home can be converted into two units if there is a 7,000 square foot minimum lot.

The draft ordinance would specifically state that an existing one family dwelling (including a rowhouse or townhouse) in a residential district cannot be converted into two or more apartments. An exception would apply to unusually large existing houses (over 3,000 square feet of pre-existing heated building floor area).

Conversions of existing industrial or institutional buildings (such as a vacant church) into apartments would be allowed with Zoning Hearing Board approval in the R-2 and R-3 districts.

Summary of the Zoning Districts

The following summarizes the proposed zoning districts in the Borough.

R-1 Low Density Residential District

The R-1 District would continue to be the lowest density residential district and includes the largest land areas. The district is proposed to include: a) the Winton neighborhood between Archbald and the river, b) a neighborhood west of Blakely St., and c) a neighborhood near the river including along Olga St. R-1 is proposed to continue to mainly allow single family detached dwellings on 10,000 square foot (1/4 acre) lots.

Places of worship (including churches) would continue to be allowed with Zoning Hearing Board approval. A larger lot size would be established in residential districts (25,000 sq.ft.) for a place of worship so that a standard residential lot on a residential street is not converted into a church.

R-2 Medium Residential District

The R-2 district would continue to include most residential areas of the Borough, including most areas near Hill and Church Streets that are not part of the downtown. The district would mainly allow single family detached, two family homes, and townhouses.

This district would continue to allow single family detached on 7,000 square foot lots. Two side-by-side semi-detached houses would be allowed with a 6,000 square foot lot for each home. Townhouses would be allowed at an average of 6,000 square feet per unit, which is an average of 7 homes per acre.

This district would allow a higher density for housing for persons over 55, but the height would be reduced from the current 6 story maximum.

Homes currently must be at least 25 feet from the street-of-way, which would be reduced to 20 feet to allow more usable rear yard area.

Currently, townhouse standards are mixed in with apartment standards. A new set of standards would be added for rowhouses/townhouses. The goal is to encourage rear access from an alley wherever it is practical. The alley could connect to a parking pad, a rear parking court, a garage door at the back of the home (possibly with a deck above it) or a detached garage. If a townhouse has driveways or garage doors in the front yard, a wider unit width should be required. The intent is to avoid townhouses with the entire front yards covered with vehicle parking and the entire facades covered with garage doors. That type of pattern is not only unattractive, but also leaves no room for on-street parking. In fact, front driveways can actually cause a net reduction of the amount of parking available in a neighborhood.

Parking lots as the primary use of the property would need special exception approval in these areas. There are cases in which a new parking lot could be desirable, such as to serve a church on a nearby lot, or where this district is near a business in a business district. However, parking lots in a residential district could not be used for commercial truck storage, and the Zoning Hearing Board could reject an application for parking to serve late night operations (such as a nightclub).

R-3 Medium High Density Residential District

This district would include blocks immediately adjacent to the downtown, such as southwest of Bughetto Street. It would allow all types of housing at up to 8 homes per acre.

TC Town Center District

This district would apply to the Downtown along Church St. The district would allow most types of commercial uses, except new vehicle repair, vehicle sales and gas stations.

The goal of this district would be to mainly allow types of commercial uses that would be good neighbors for nearby residents. Many lower intensity businesses can be compatible with homes, such as banks, many types of retail sales, offices, personal service uses, day care, and bed and breakfast inns.

“Live Work Units” can allow flexible use of business and residential space, provided that the operator of the business lives within the same building area. A Live Work Unit functions like a home-based business, but without limits on the percentage of the floor area used for the business. These uses would be allowed in the downtown.

For lots along Church St., new apartments would only allowed be if there is a street-front commercial use. New buildings would be required to be placed close to the street, with parking located to the side or rear of the building.

A higher density would be allowed for housing that is age-restricted (such as age 55 and older, or age 62 and older).

The current downtown district has a maximum height of 35 feet. The draft would allow a 55 feet maximum height or 4 stories, whichever is more restrictive.

IC Interchange Commercial District

This district would continue to include most of the lands along both sides of Hill Street north of the Route 6 interchange, and lands west of Route 247 south of Route 6.

The district would continue to allow almost all types of commercial uses, including auto sales and hotels. It would no longer allow apartments or townhouses.

A commercial center is proposed by SLIBCO in part of this district west of the Route 247/Valley View Road intersection.

The proposed height for commercial buildings is proposed to be increased to 50 feet. The added height could help to attract uses such as hotels and health care uses. Health care uses have a taller average height per story than most other uses.

Landscaping standards would be added for all business districts.

MU Mixed Use District

Much of the land north of Route 6 east of Hill Street and south of Breaker Street was changed from an industrial district to the Interchange Commercial district. Upon further discussion, the Borough is now proposing that these areas be within a new Mixed Use District. The applicant would be provided with choice of developing tracts of land under: a) the R-2 zoning or b) for selected types of businesses if there is a development tract of more than 3 acres and if there is compatibility with existing and proposed dwellings in the vicinity.

These areas would no longer allow large warehouses and other uses that would generate large amounts of tractor trailer traffic. This is because there is not direct access to reach a Route 6 interchange without using a steep road and without passing through residential areas.

LI Light Industrial District

Jessup currently has 4 industrial districts, which is not necessary. It is logical to have two industrial districts—a light and a general. The Light Industrial district would allow for most industrial uses and selected complementary commercial uses. The General Industrial district would allow all of the uses of the light district, plus uses that need special controls because of potential nuisances or hazards. Under State court decisions, each municipality is supposed to have buildable locations that allow for every legitimate land use. Therefore, there needs to be at least one district that allows uses such as a trash transfer station or a chemical plant, which should be the general industrial district.

The LI district would include the Mid-Valley Industrial Park, the Valley View Business Park and most adjacent lands south of Route 6. Larger warehouse/distribution centers and trucking company terminals would be limited to lands south of the Casey Highway, to avoid traffic issues and conflicts with homes in the main residential areas of Jessup.

Some complementary commercial development would also be allowed in these areas. The uses that are less likely to cause nuisances and hazards should be permitted by right, while the more intensive and potentially hazardous uses should need Zoning Hearing Board approval.

GI General Industrial District

The GI district would allow almost all types of industrial uses. It would include the Lackawanna Energy Facility and adjacent land along Route 6.

As a general policy, less intense industrial uses would be permitted by right, but more intense uses would need Zoning Hearing Board or Borough Council approval.

The heaviest industrial uses should only be allowed in an area that is further from homes, versus the current Heavy Industrial district is relatively close to many homes, west of Veterans Memorial Drive north of Route 6.

Under Federal law, every municipality must allow locations for strip clubs and other adult uses. This currently is the C-2 district, but would be changed to the GI district. The Borough would continue to use large setbacks from churches, parks and residential districts, which is the standard way to address these uses. An additional set of requirements is proposed to be added for these uses, such as wider buffers and limits on hours of operation.

CR Conservation Recreation District

This district would mainly include the Nature Conservancy land, as well as land near three former reservoirs and adjacent creek valleys. These reservoirs within Jessup are mainly used as reserve sites and are not actively used as public water supplies.

Billboards

The current zoning ordinance allows billboards in all of the commercial and industrial districts except C-1 (which includes Church St.). Under State court decisions, billboards need to be allowed in at least one zoning district. Under the draft, billboards would be limited to the Light Industrial district. Billboards would be limited to a medium size of 300 square feet, which is less than half the size of the 672 square foot billboards that are currently allowed. (and that are typically found along interstate highways).

Flood-prone Areas

The 100-year floodplain includes land areas expected to be flooded during the worst storm in an average 100-year period. The floodplain mainly exists along the Lackawanna River and Grassy Island Creek.

The Borough of Jessup has a separate Floodplain ordinance that meet the minimum federal and state regulations on development in the 100-year floodplain. The “floodway” is the main channel that carries the deepest flood waters. The rest of the floodplain is known as the flood-fringe and may be covered by less deep flood waters. These areas function as “overlays” to the regular zoning districts, which means they apply more restrictive provisions for certain matters.

Please contact us if there are any questions or comments.