



RECOMMENDATION

Elisa Tinti, City Clerk
City of Kingston
420 Broadway
Kingston, N.Y. 12401

REFERRAL NO: 2023-012

DATE REVIEWED: 2/1/2023

Re: Kingston Forward Draft 3.0 – Zoning Map and Statute Amendments

Summary

The City is conducting a complete overhaul of its zoning regulatory structure through the development of a form-based code and accompanying regulating maps that will divide the City into “transects” and will have an additional regulatory framework established with overlays for specific, locationally related, regulations and activities that they will be requiring.

The following materials were received for review:

- Referral Form
- Coversheet
- Committee Report
- Draft Rezoning Version 3.0
- Memo from Housing Initiative
- Regulating Map
- Resolution 23 of 2023
- Special Districts and Parks Map
- Special Requirements Map
- Street Types Map
- Floodplain Map
- Email from Elisa Tinti
- Resolution of Referral

Discussion

The Ulster County Planning Department (UCPD) congratulates the city for undertaking this effort to update its zoning code and its decision to do so using a form-based code. In our reviews of zoning statutes, we have consistently urged communities to craft legislation that provides more certainty, is easy to understand for local officials, applicants, and the public alike, creates a broader class of “as of right” uses, and is adaptable to change. The form-based format and the City’s proposal of it meet those essential provisions. We note the inclusion of graphics to explain the differences between the transects and the clear language associated with each. Both will serve the City well in obtaining desired outcomes as the code is implemented.

The Board is supportive of the major elements of the proposed code. The use of transects links well with the Ulster County Community Design Manual. The areas chosen for the transects are contextual to existing land uses in the City and the design and architectural standards will help ensure that new development also compliments the City’s built environment down to the smaller details.

Version 3.0 of the draft code incorporated many of the UCPB’s staff’s comments, particularly our suggestion to embrace greater density and building heights in the Cornell/Broadway areas and the proportional increase for affordable housing set-asides for larger projects with set thresholds. The Code, by removing the “ownership”

*2023-012 Form-Based Code
Zoning Staute and Map Amendments*

language from its regulation of short-term rentals, provides a creative way to regulate these in compliance with the recent Hignell-Stark v. The City of New Orleans decision.

The County Planning Board continues to offer its support for the proposed legislation and offers the following comments building off the Board's staff's previous comments.

Recommendations

Lighting

The UCPB acknowledges that the form-based code will be utilizing lighting levels by transect, but notes that in some instances the Code will allow the use of "partially shielded light fixtures."

Required Modifications

The UCPB recommends all fixtures be fully shielded as a requirement and that the City considers becoming an International Dark Sky Community to reduce the light pollution created in the County's most urbanized area.

405.21 P Telecommunication Facilities

The code's telecommunication standards lack the detail typically found for the regulation of these facilities. We have previously provided several samples of local wireless statutes for consideration that we have reviewed and supported previously as being compliant with federal regulations and providing the necessary analysis, particularly as it relates to demonstrating need and minimizing visual impacts. We also call attention to the most recent court case of the ExteNet vs. the Village of Flower Hill.

Additionally, this is an opportunity to consider these facilities in a context-based style and to include them from a visual impact/design style within each transect.

Required Modifications

At a minimum, the Code should require consideration of visual impacts associated with wireless facilities and their placement as freestanding vs. on-building. A focus on utilizing existing structures and/or buildings to host such facilities is recommended. As a policy, the County Planning Board has favored multiple facilities at lower heights or just above the tree line rather than larger facilities that create a greater visual impact.

Referrals to Ulster County Planning

The latest version of the form-based code has responded to staff comments and corrected its references to refer to General Municipal law 239 L through M and the Ulster County Administrative Code. However, the City's draft code now contains a verbatim version of the UCPBs "Referral Exception Agreement, Schedule B". As the Ulster County Planning Board updates this agreement on a semi-regular basis in response to the evolution of the land use review process, as part of its agreements with Planning, Zoning, and local governing bodies throughout the county, it is not recommended this be included in the Code.

Required Modification

The verbatim language of the existing Referral Exception agreement between the City Planning and Zoning Board should be removed and replaced with a reference to the most recent agreement allowing it to be changed without amending the Code.

Auto-Oriented Uses

UCPB staff recommended the form-based code include a building-type standard that addressed auto-oriented services. The response received stated that "per 405.16.E. There are additional standards in 405.20.I intended to address auto-oriented services." Our reading of this section failed to note any standards.

*2023-012 Form-Based Code
Zoning Staute and Map Amendments*

Required Modification

The UCPB continues to recommend the addition of a building type that is context-sensitive to the transects that allow “auto-oriented” uses and examples of designs for these uses be included within the statute. In other words, requirements of placement of parking, fueling stations, and drive-thru lanes where they are allowed should be clearly defined via an image(s). The standard should strongly provide that additional curb cuts for drive-thrus and/or other multi-curb cut proposals be discouraged.

Parking

Parking requirements found in most current zoning statutes reflect the auto-centric thinking from the 1970s. Communities are exploring new ways to meet mobility demands that include fewer cars, more bikes, complete streets, and transit-oriented development. The UCPB understands that other U.S. Cities have accomplished the abolition of parking minimums which in turn helps to reduce the costs of development, places existing parking at a premium and helps to encourage alternative modes of transportation. There is, however, another trend that focuses on the flexibility that includes shared parking, allowing on-street parking to count towards meeting parking requirements, locational and/or peak hour premium parking, as well as recognition of the context of older development with the use of liner buildings and parking garages as described in this draft code.

Required Modifications

The UCPB recommends, however, that a developer should be responsible to meet the basic parking needs of the intended use, utilizing the flexibility methods mentioned above. Where basic needs cannot be met options are available to the developer such as a payment in lieu whereby the City moves to expand municipal parking or has shared use agreements with landowners whose parking exceeds their needs. Finally, certain classes of uses can be given a pass on parking such as reusing existing buildings, affordable housing, and/or transit-oriented development. To establish basic needs the City could use the ITE Parking Generation manual or developer/city parking studies for similar uses.

Required Submissions

A form-based code requires a more complete understanding of the submittals to the reviewing body so that an understanding is reached quickly as to compliance with the Code. In addition, today’s technology offers a great deal more opportunity to understand impacts that may occur to surrounding land uses, community character, etc. The technology also provides better communication when explanations are needed for orientation purposes or on how the changes will impact items such as access, historic resources, or even migratory travel corridors.

Required Modification

The City should take a hard look at the submittal requirements to ensure that the issues discussed above can be visualized in submittals. The Town of Rochester offers an example (below) that includes the use of high-resolution aeriels combined with site plans. Other additions could be required drone flights, and photo simulations, particularly in historic districts or when a height bonus is being considered. Having these upfront ensures a more comprehensive understanding of the context of the submission which is critical when utilizing a form-based code. Other considerations would be a requirement to provide a written narrative of the proposal with highlights as to how it meets the design guidelines and other portions of the code.

“Aerial photo base map with site plan overlay. Aerial photos at a minimum of 50 cm resolution showing existing conditions shall be provided such as but not limited to aerial photos obtainable on Ulster County Parcel Viewer, NYS DEC Natural Resources Mapper, Google Earth, or others. (Can be obtained free of charge online from several sources).”

2023-012 Form-Based Code
Zoning Staute and Map Amendments

Affordable Housing

The Code now incorporates staff’s comments regarding increasing the proportion of rental units set aside for affordable housing as well as for fluctuations in an affordable housing unit resident’s salary. However, the need for affordable housing should also include homeownership that may be in the form of townhouses or condominiums as well as single-family units and these remain unaddressed.

Required Modifications

The Board recommends that the standard for affordable set-asides be expanded to require new developments slated for sales (non-rental) such as condominiums or townhouses. The threshold for for-sale units should be designed so that the mortgage plus insurance payments are no more than thirty percent of the purchaser's gross annual income.

Accessory Dwelling Units

Accessory Dwelling units are an excellent means to allow existing housing stock to work harder as well as provide affordability in new construction. UCPB staff strongly supported version 2.0 of the draft zoning statute including the prohibition on ADUs from being utilized as short-term rentals.

Required Modifications

The original language in the Code that provided a prohibition for their use as STRs on all newly constructed ADUs going forward should be reinstated to allow ADUs to meet their intended purpose consistent with the goals found in 405.18.A.

Waterfront Overlay Standards

The proposed waterfront overlay standards reflect the broad understanding and considerable effort that the city has put forth on planning for its Rondout Waterfront and regulating the uses along it. That said, Esopus Creek waterfront deserves that same level of concern and protection and should be added to this district. While the UCPB understands and strongly supports Esopus Creek as not being an area of urban development like that of the Rondout, the “D. Development Standards” with exceptions of the allowable use types in D.4 and D.6 appear to be the only standards that would appear inappropriate or unnecessary for the Esopus Creek area. The other standards, however, have relevance and should apply equally to Esopus.

Required Modifications

The two waterfronts are recommended to be included in the waterfront overlay district with D.4 and D.6 only applicable to the Rondout Creek area. The Board would note that the City’s Open Space Plan identifies this area as one that should be conserved as open space and includes recommendations for trail locations all along it. The proposed code should not ignore the recommendations in this adopted plan.

Billboards – Advisory Comments

The UCPB is pleased to see that version 3.0 of the draft has been amended to consider roof signs that operate as off-premises signs shall be treated as billboards. The UCPB still recommends the City put in place a process of amortization, over a period (10 years for example) to eventually remove all billboards (and roof signs) from the City as nonconforming uses.

Reviewing Officer



Robert A. Leibowitz, AICP
Principal Planner