

**Questions and Answers**  
**Avondale Estates Proposal Zoning Code**  
3/16/21

The staff has provided answers to questions to the February 5, 2021 Version of the Proposed Zoning Codes as posed by residents, developers, elected officials, and staff over the last 60-days. The questions below are broken into two groups: questions primarily about the review process and those about the development and design requirements. The staff will update and share the next iteration of the draft code in mid-March for recommendation by the Planning and Zoning Board and Adoption by the Board of Mayor and Commissioners.

**Process and Procedures**

**What is the rationale for eliminating the Architectural Review Board (ARB) and shifting those responsibilities to the Planning and Zoning Board (PZB)?**

Consolidating the design and development review into one advisory board creates efficiencies and standardization in the process. While a community design review is valuable, the proposed process, which consolidates the roles of the ARB and PZB into one board, balances the need for that review with a desire to offer a fair and manageable process for applicants, the community, and staff. Importantly, the proposed process closely mirrors state requirements for zoning decisions and establishes a clear and predictable process.

As proposed, the responsibility for design review will be handled by the PZB and based on the regulations. Today, the ARB uses adopted Architectural Guidelines as a basis for their decisions. The current architectural guidelines are incorporated into the new code as minimum standards required to be met by applicants, making the guidelines regulations rather than suggestions. It is important to clarify that State law outlaws dictating some design decisions such as paint color.

Additionally, the Zoning Audit, a study commissioned by the City to serve as a guiding document for the Zoning re-write process, recommended incorporating the Design Guidelines into the new zoning ordinance and to transfer the responsibility of design review from the Architectural Review Board to staff.

Some have suggested that they would like to have an early opportunity in the permitting process to review concepts and provide comments to a property owner about their proposed ideas. Applicants, whether they are residents, commercial property owners, or developers, are generally not very receptive to random suggestions and design ideas, given in a public forum, about their projects that are not backed by code. As proposed this process offers professional staff an opportunity to provide direction based on the code and to suggest ideas that are based on experience and education in a less threatening environment.

**If the BOMC eliminates the ARB could the Board of Mayor and Commissioners (BOMC) include at least two design professionals on the PZB and could the BOMC change the name of the PZB to the Planning, Architecture, Zoning Board?**

Yes- The BOMC has discussed adding a provision to the code that would reserve two spots on the PZB for design professionals whenever possible. The new code will include the following language:

“Where practicable, at least two members of the PZB, shall be appointed from among professionals in the disciplines of architecture, landscape architecture, urban planning, or an applicable design field and shall have demonstrated special interest, competence, or knowledge in urban design and city planning.”

Yes. The BOMC could change the name of the PZB to the Planning, Architecture, Zoning Board (PAZB). In the next iteration of the proposed code staff will make this change. As a note, for the remainder of this document, it will still be referenced as the PZB.

**What is the purpose of the Planned Unit Development (PUD) District, and what are the requirements outlined in the code?**

The purpose of a PUD is to provide the flexibility to consider projects that meet the long-range vision of the City but might not fit well within an existing zoning district. The minimum threshold for a PUD is two (2) acres or larger lot (increased from the one (1) acre in the current draft) and a minimum mix of at least two uses.

Through the regular rezoning process, a city can - PUD or No PUD - re-zone a property. A PUD is a rezoning, and as such, is a legislative decision recommended by staff and the PZB and ultimately decided by the BOMC. For approval, the applicant is required to demonstrate how they meet the criteria required of a rezoning application.

The PUD district requires an applicant to draft a completely new and unique zoning district that is tailor-made for the subject property, tied to a plan, and consistent with the City’s vision and long-range plans. The application submittal requirements of a PUD zoning are far more significant than those of a standard rezoning application. The applicant must outline the minimum standards (e.g.: maximum height, allowable uses, maximum lot coverage, an area dedicated to open space, etc.). Further, PUD district applications require a series of plans (site, landscaping, pedestrian circulation, grading, phasing, etc.), elevations, streetscape, a hardscape manual, and other design documents that fully articulate the proposed development to a level of detail beyond a typical rezoning.

An example of where a PUD might be considered is on one of the properties now zoned as Institutional and used as a church. If the church were to sell the property to a developer what

would the zoning be and is there an existing code that makes sense? If not, PUD would be an appropriate tool. While the City could consider a rezoning that selected another zoning classification such as CBD-1, it would then likely result in a laundry list of variances and conditions. In this case, the PUD is the better tool in that the PUD would be tailored for this piece of property.

### **Does the PUD override the basic zoning ordinance including the street grid?**

A PUD is a completely new zoning designation and would allow the BOMC to override or change the street grid. The BOMC could overturn any portion of the street grid through any rezoning. This power is not unique to a PUD. A PUD is connected to a specific plan and a written set of zoning guidelines, as if it is a district spelled out in the zoning ordinance. It, therefore, provides more protection than a rezoning that uses an existing zoning category.

### **Did the audit recommend against PUDs?**

The audit suggests PUDs allow for control over large site developments but question whether they are necessary with the adoption of the new code. Through consideration of public input, in-depth analysis of visioning documents, and consideration of procedural and zoning options, the zoning consultant and staff is recommending that additional structure and documentation be required in a PUD application, but that the PUD be retained as a tool within the zoning codes.

### **Are there Public Notice and Review of PUD Proposals?**

Yes. A PUD is zoning change, so it is reviewed in accordance with the City's zoning ordinances and with the state Zoning Procedures Law.

### **Why not make the threshold size higher for a PUD?**

Given that the most likely sites for which a PUD would be used are larger, the staff will increase the necessary lot size from 1 acre to 2 acres, making it consistent with the Development of Community Impact (DCI) thresholds in the next iteration of the proposed code.

### **Can you increase the Min % of building uses and add to the number of uses for a PUD?**

The staff does not recommend increasing the percentage of building uses or adding a requirement for more uses. PUDs are used in unique situations and to insist on a higher building use percentage would not guarantee a better outcome. For example, many places around the country required ground floor retail through their zoning code in locations where there was not enough demand. Many of those spaces were built to meet the zoning code but were left vacant or filled with undesirable tenants. Without knowing the location of the PUD application, staff would be adding an arbitrary proportion of uses that could easily lead to a less desirable and less appropriate project. A proposed project should be appropriate under the circumstances or based on the rezoning criteria, and if not, it can and should be denied.

**With the new BOMC Mtg schedule would there be work session discussion and announcement of zoning items before Public Hearings?**

Yes. The process would start with a staff review. The project and staff report would then be presented to the PZB. The PZB could delay their recommendation by 1 cycle. Once reviewed and a recommendation made, it is presented at a Work Session which would serve as the public hearing, followed by a regular meeting two weeks later. It is at the second BOMC meeting that the decision would be rendered.

For variances, this process represents an increase in meetings from one to three. To prevent meeting fatigue, the BOMC should consider mirroring the Conditional Use Permit (CUP) process for variances, wherein it will be reviewed by staff, an introduction and public hearing before the BOMC at the Work Session, then a final decision at the BOMC business meeting approximately two weeks later.

**What is the impact of using the PZB to make recommendation on zoning variances and giving the BOMC the responsibility of making the decision rather than eliminating the Board of Appeals?**

Important decisions that impact the future of the City are made by the BOMC and not an appointed board (i.e., the BOA) and appealed to a court that has no relationship to the City's elected leadership. The decision-making process currently proposed represents an increase in the amount of time and number of meetings before a final decision is rendered.

**Since the BOMC approves projects, should not there be a route for 3rd party review?**

A review by the PZB provides the BOMC with a 3rd party review without taking away the decision-making power of the BOMC. The PZB members are asked and vetted based on their understanding of zoning, the downtown master plans, and general city building criteria and therefore are well equipped to provide a thoughtful examination of the zoning issues.

The reasons to give the BOMC's decision-making power to another board (i.e. BOA) are not because of a 3rd party review but out of concern that the BOMC might be called on to make very difficult decisions that could be unpopular. Additionally, in some communities, the sheer volume of variance requests makes it infeasible for the elected officials to review and make decisions; that is not true in Avondale Estates where the volume of variances is, on average, 3 or 4 a year.

**Are there opportunities for citizen notice, education, and input?**

Yes. The proposed process offers more opportunity for public comment. The notification process mirrors the process used today and is clear and predictable.

**How does the public learn about a project?**

The same way they would learn about a project today under the current code—posting on the agenda, website, signs, written notices, PZB agendas, PZB discussion, BOMC work session agendas, regular meeting agenda, BOMC agendas.

**Does the timeline allow the public to research and prepare comments?**

Yes. The timeline provides more time for the public to prepare comments than it does under the current system. Today, a variance can be presented on and voted on in one meeting. The downside of the proposed process is that the review and decision-making process is longer and includes 3 meeting. As proposed, a request is presented to the PZB, then to the work session, and then at the subsequent regular meeting. Public Notice must be given 15 days before each public hearing, which is currently proposed for both variances and amendments before the PZB and the BOMC.

The rezoning process remains the same in the new code as in the current code, but the two BOMC monthly meetings creates a longer time-period between a request heard at a work session and then voted on at a regular meeting (the result of moving from five days between meetings to two weeks).

**What are venues for the public to learn about major projects, express concerns, and make suggestions while project changes are easy?**

The public has every opportunity to learn about these projects. The code outlines timelines and mechanisms to inform the community about proposals.

This question suggests that changes are easy if you just ask soon enough. It is a misnomer to think that they are. The staff is in the best position to shape projects if a developer calls and expresses an interest in building in Avondale early. Rarely is the developer or property owner interested in having someone else design their project. Zoning is intended to provide the property owner with the requirements and circumventing that to “help” design someone’s project is not well received.

**In losing the ARB when would the City also lose the opportunities for early reviews and discussions that can catch and resolve opportunities and concerns on projects?**

No. The PZB review of a project would be at the same point in the process that the ARB currently is. So, there is no difference in the opportunity. It is a misnomer to believe that changes are easy, even in the planning phase before engineering begins.

**27.4.5 public notice of the pre-application meeting? Could there be a provision for the ARB or similar group to share non-binding reviews as part of concept reviews and pre-application**

**discussions? Recommendations could be provided for staff to use or not. Or a public hearing for Development of Community Impact (DCI)?**

The staff would not advise that the BOMC take this approach. Such a review would add to the review time, inflame applicants – particularly residential property owners, and deter development. Further, the staff is trained and is vetted, and better equipped to provide that initial review than a random board or member of the community.

**Could the city mail letters to nearby property owners and post signs for minor administrative variances and tier 1 waivers?**

The point of a minor administrative variance (or a tier 1 waiver) is to reduce the bureaucracy and help the community differentiate between something worth their time and something that is perfunctory and not. There is a balance between the level of notification and the need to manage City resources (staff time, and money). Staff does not recommend adding additional notification for these minor administrative approvals.

**What is the deadline for comments or dates for Public Hearings?**

Public comments must be sent within 10-days of the posting or public hearing.

**Should notice of Tier 2 Waivers and DCIs be mailed to nearby property owners?**

It seems reasonable that a property owner would see the posted sign on their neighbor's property. There is a balance between the level of notification and the need to manage City resources (staff time, and money). Mailing letters is particularly time-consuming for the staff. If the BOMC wishes to add this additional layer of administration, an additional staff member will be needed to manage it.

**Developments of Community Impact, DCIs, are triggered at 2-acres, why not at 1 acre?**

A DCI is simply a safeguard such that the PZB and the BOMC review a project over a certain size when it meets ALL zoning regulations. Meeting all the zoning requirements is a very high bar to cross and the BOMC would be overwhelmed, and applicants incensed – especially neighbors if their house which happened to sit on a 1-acre lot had to go through a 6-week review process. This should be reserved for mid-size projects and not for every project.

**Who has standing to appeal a decision?**

The applicant or the property owner has standing. The staff is not proposing a change to the current policy. The staff has reviewed the proposed code with the City attorney and his edits will be included in the next version of the proposed code.

## Technical Requirements

**What is the projected density of downtown with the new code and how does that related to the projections in the Downtown Master Plan?**

Including what has been built, the Downtown Master Plan (page 50) anticipates up to 1,400 units for the downtown area. Staff estimates that the new code would generate a similar number of units and would be consistent with the Downtown Master Plan.

**According to the new zoning code, would a wireless provider be able to install small cell antennae in the residential part of Avondale Estates?**

Since the small cell facilities are placed in the ROW and not on private property, it's more appropriately regulated in another chapter that addresses City-owned property (and not in the zoning code). The BOMC has discussed but not yet adopted an ordinance addressing small cell antennas.

**Is the Artisan use, a subset of Fabrication and Production, permitted in both R-24 and R-12?**

Artisan uses are permitted as a use by right in all commercial and mixed-use districts. Artisan uses refer to a form of light manufacturing. Smaller-scale art production would not likely be considered an artisan use but would be considered a home occupation permitted in residential districts.

**Are Airbnb rentals permitted in residential zoning districts?**

Short-term rentals are not permitted in R-12 and R-24 districts – that use is where Air BnBs would fall. They are permitted in commercial districts.

In the proposed code, a bed and breakfast use is defined separately from a short-term rental and is permitted with supplemental regulations in the three commercial districts (O-I, GC, CBD). In R-12 and R-24, bed and breakfasts must meet the supplemental standards and go through the conditional use permit process to operate in R-districts. For background, the current code allows bed and breakfasts by conditional use in all districts. In either version (existing or proposed), the conditional use process allows the BOMC to decide if the request is appropriate on a particular residential zoned site.

The reason for the distinction between AirBnB and bed and breakfast is that a bed and breakfast is owner-operated, manages the business on-site, and thus has more accountability than the temporary shifting of short-term renters in an AirBnB. While the owner of a rented AirBnB could be involved and living on the property, that's not always the case. Bed and breakfasts typically contribute to the character of a community and provide options for lodging that support local downtowns.

**Are backyard chickens/ducks mentioned in the code?**

The February version of the draft codes did not include any provisions that allow backyard chickens. However, based on questions and requests from residents, supplemental regulations will be added to the next draft to address backyard keeping of chickens.

**Can you please describe the requirements for Accessory Dwelling Units (ADU)?**

There were several questions and comments about Accessory Dwelling Units. Based on those comments, the staff will adjust the requirements for ADUs in the subsequent draft of the code. Those provisions are as follows:

- Maximum 576 footprint.
- Maximum floor area – 1,200 or 50 percent of primary structure.
- Minimum setbacks – 20-feet from rear and 12 feet from sides.
- Maximum height – 24’
- Sanitation fees for long-term rentals – add a supplemental regulation for long-term rentals that requires two sanitation accounts.

**a. Maximum # of units allowed- confirm one per lot?**

There is a maximum of 1 ADU permitted per lot. There is a maximum of two accessory structures per lot. A lot can have an ADU and a shed; a pool and a shed, an ADU and a pool, but never two ADUs.

**b. Allowed for attached dwellings/MFR? (p44)?**

No. Some adjustments will be made in the next draft that clarify this.

**c. Can an existing accessory building such as garage that does not meet minimum setbacks be enlarged or added to create an ADU?**

No, not by right. The applicant could apply for a variance. Whether it was given or not would probably depend on the situation.

**d. Mailed notice to nearby property owners for ADU?**

Not if they meet the zoning codes. If you the BOMC would like to add additional employees, the staff would consider alerting all property owners every time a permit is given.

**e. Required screening to protect privacy of adjacent yards for ADUs?**

There is a required 20-foot setback from the rear property line. There are no additional landscape requirements within the 20-feet.

**f. Disruption of surface drainage or swales for ADUs?**

Standard requires apply based on lot coverage.

**g. Does the City have an inventory of properties containing ADUs?**

No.

**Can the building heights be varied by up to 5-feet in the Central Business District (CBD) from the Tudor Elevations without exceeding the total number of stories allowed?**

The February version of the draft codes did not allow for this flexibility. However, after testing the potential application of this flexibility and considering the potential impact, staff found that allowing a little variation in the height allowed for more interesting roof lines without adding additional density or an additional floor. Further, it was concluded that the additional few feet would not be visible from any one person standing in front of Tudor Village. The next version of the code will include this provision.

**Can swimming pools be built in the front or side yards and what is the setback?**

No. Swimming pools can only be built in the side yard with a 20' setback from the rear. Pools are considered accessory structures. Staff will clarify this requirement in the next version of the code.

**Why the variation in lot coverage in the CBD and can it be standardized and established at 85% to decrease potential run-off issues caused by too much impervious surface?**

Yes. In the next version of the code, the maximum lot coverage in each of the Central Business District sub-areas will be standardized and set at a maximum of 85%.

**What are the street material standards for new streets?**

The next version of the code will reference DeKalb street construction standards.

**Would you allow curb cuts on Type B streets in CBD?**

Staff reviewed this design criterion and decided that it was reasonable to allow for one curb cut per side of development on type B and C streets.

**Can you restrict garage doors on the front of townhouses?**

Yes. To reduce the prominence of the garage but still allow for functionality, the staff is recommending that garage doors be behind the front plane of the house but still be allowed to be accessed from the front.

**Would the staff consider substituting the Avondale Tree Board's adopted tree species list for the list currently in the appendix?**

Yes.

**Can you add a Spec for dark sky-compliant fixtures for streetlights?**

Yes. However, the zoning code control private property and not public.

**Can you add provision to limit donation bins?**

Yes

**Can you change the designation of two eastern parcels on CBD map to R-12 to be consistent with an earlier decision by the BOMC?**

Yes.

**Can you remove requirement to comply with supplemental standards; remove minimum lot size requirement for 100+ occupant uses but maintain the street frontage requirement for art facilities with fewer than 100 attendees as to encourage arts uses?**

Yes

**Many residents in Avondale operate small arts and services businesses out of their homes. Can you add a little more flexibility to the regulations to allow regular customers a few at a time?**

Yes, the staff will adjust the definitions of home occupations to allow up to two visits a week from customers for Type A (by-right) homes occupations. Additional clarifications will be added for how instructional uses and non-resident employees will be handled. Type B home occupations will be defined as anything beyond the two visits and would require a conditional use permit.

**Can parking garages front Type B streets in the CBD?**

Yes. Parking garages will be able to front Type B streets with additional landscaping requirements and design requirements. The cars must not be visible from the street, Parking deck lights cannot shine on to adjacent properties. The parking structure must have horizontal lines and have the

appearance of a building. Opening in the deck must have grates, windows, mesh coverings or a similar material.

**Can supplemental zones be counted toward open space requirements?**

Yes

**Please explain vertical transition height planes?**

The 75' is measured from the edge of the residential property. If there is ROW, the ROW is counted in the horizontal distance. If the subject building is located 50' feet from the residential property, the maximum height of the building is 45', until the portion of the building that is another 25' back from the front, then the height can taper up at a 45-degree angle. A new diagram Figure 3.2.12.F. has been inserted into the code.