

## STAFF REPORT – Text Amendments

Public Hearing Date: May 16, 2024

City Council Meeting: June 3, 2024

**Case:** TA-2024-03

**Proposed Request:** Text Amendments to The City of Forest Park Zoning Code of Ordinance

**Staff Report Compiled By:** James Shelby, Interim Planning Director

**Staff Recommendation:** Approval to amend Zoning Ordinance

### PROPOSED TEXT AMENDMENTS

The Planning & Community Development is proposing a text amendment to increase the number of units per acre by way of a Conditional Use Permit (CUP) in Article B: Zoning Districts, Overlay Districts, and Design Guidelines Established Section 8-8-54 Special Building Standards for Development Subareas in Downtown, Article G: Zoning Amendments Section 8-8-188 Condition Use Process to clarify and add Standards, appeal process, Withdrawal of Application, and introduce new sections 1-5.

### BACKGROUND

The Downtown Development Authority and the City have received several proposals on properties within the Downtown Mainstreet District. The proposals call for higher density than what is allowed in the Mainstreet Subareas. In response, the Planning and Community Development staff is proposing a text amendment to development standards in the Subareas to allow for greater density with the approval of a Conditional Use Permit (CUP). Conditional Use will require discretionary approval from the City.

The CUP will provide a thoughtful approach to development by providing developers with the flexibility needed to obtain the desired mix of commercial, residential, allowable uses and density on the site. Mixed-use projects that are well designed can provide good quality housing and an active and vibrant commercial corridor.

To achieve the desired development, the applicant may be required to meet a set of conditions to receive a permit. The planning staff will review the proposed conditional uses for compatibility with surrounding properties. As part of that review, certain standards must be met to grant a CUP for higher density consistent with Article G: Zoning Amendments Section 8-8-188 Condition Use Process.

The burden of proof is on the applicant to provide “substantial evidence” to demonstrate that the proposed land use can coexist in harmony with the neighborhood and meet all the required standards in Section 8-8-188 Condition Use Process. A proposal to increase the density in a subarea may be denied if the applicant fails to meet one or more of the standards or if the application does not address concerns. Applicants applying for CUP to increase density in a subarea are required to contact the planning staff to discuss the proposal before submitting an application. Conditional Use Permits are given at the discretion of the City. If the property owner does not meet the conditions agreed upon, the CUP can be revoked.

## PROPOSED TEXT AMENDMENT

As defined by the 2021 Downtown Forest Park Livable Centers Initiative Study, any new development or redevelopment should comply with the following standards:

### 8-8-54.8 Special Building Standards for Development Subareas in Downtown

In addition to the general development standards in the Downtown Mainstreet District, four distinct subareas are defined for future mixed-use development. These sub areas are defined and delineated in the Downtown Forest Park Livable Centers Initiative Study adopted by the city in 2021. The map is identified below.

- A. **Traditional Downtown Core:** Low-density mixed-use with retail/commercial and single-family attached.
  - 1. Building Height: 2—3 stories.
  - 2. Residential Density: 6—12 units/acre.
  - 3. Residential Density over twelve (12) units/acre requires a Conditional Use Permit pursuant to Sec. 8-8-188
  - 3. 4. Commercial size: 3,000—5,000 square feet.
  
- B. **Mixed-Use Village:** Medium-density mixed-use with retail/commercial and single-family attached and multi-family.
  - 1. Building Height: 3—4 stories.
  - 2. Residential Density: 15—24 units/acre.
  - 3. Residential Density over twenty-four (24) units/acre requires a Conditional Use Permit pursuant to Sec. 8-8-188
  - 3. 4. Commercial Size: 6,000—15,000 square feet.
  
- C. **Mixed-Use Center:** Higher-density mixed-use.
  - 1. Building height: 5—6 stories.
  - 2. Residential density: 25—35 units/acre.
  - 3. Residential Density over thirty-five (35) units/acre requires a Conditional Use Permit pursuant to Sec. 8-8-188
  - 3. 4. Commercial size: 16,000—40,000 square feet.

**Sec. 8-8-188. - Conditional use process.**

The following standards and procedures applies apply to conditional use petitions:

- (1) Standards. When considering an application for a CUP, the Planning Staff, Planning Commission, Mayor, and City Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at a specific location, and shall consider the extent to which:

(a) The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan.

(b) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations.

(c) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent developments and neighborhoods.

(d) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

(e) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets.

(f) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and the proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and neighborhoods.

(g) The proposed use is based on the site plan in conformity with all space limits, buffers, parking and loading provisions, and other provisions of this article.

(h) The applicant has agreed to any specific limitations or conditions necessary to protect the public interest and assure the continued beneficial use and enjoyment of nearby properties or that no special limitations are necessary to protect the public.

No application for conditional use permit shall be granted by the Mayor and City Council unless satisfactory provisions and arrangements have been made concerning each of the above factors and any other applicable factors for specific conditional use permits authorized by this chapter.

- (2) An applicant aggrieved by a denial of a conditional use permit shall have the right to file an appeal in Clayton Superior Court by way of petition for writ of certiorari in accordance with state law.
- (3) Withdrawal of applications by applicant. Prior to the public hearing by the City Council, an applicant may withdraw a zoning application without prejudice by providing written notice to the

City of such request for withdrawal. This written request shall be received no later than the planned publication of the agenda for such hearing. After such a deadline, the hearing will be deemed to have commenced. After the hearing has commenced, the applicant may request to withdraw an application prior to a final decision by the Mayor and Council. Such withdrawal shall be subject to the approval of the Mayor and Council by vote during the hearing of the case. In any case, no application fees will be refunded.

- (4) ~~(4)~~ *Application*. The petitioner shall submit a conditional use application, affidavit, and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:
- a. A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the conditional use request.
  - b. A letter of intent to the planning commission describing the details of the conditional use request, including, but not limited to:
    1. The ways in which the conditional use shall comply with the applicable development standards of this Code,
    2. The ways in which the conditional use shall be consistent with the required findings of fact described by [section 8-8-186\(1\)](#).
  - c. For proposals using septic systems, a letter from the County Health Department shall be provided verifying that the ~~any~~ proposed new development makes appropriate use of the septic system and will be adequately served.
  - d. For proposals using public sewers, a letter from ~~the service provider~~ [Clayton County Water Authority](#) shall be included verifying that any proposed new development will be served.
- (5) ~~(2)~~ *Notification*. Notification for the scheduled public hearing regarding the conditional use request shall be completed consistent with [section 8-8-185](#), notice of public hearing.
- (6) ~~(3)~~ *Public hearing*. The planning commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the conditional use application, and the required supportive information.
- a. Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.
  - b. The planning commission shall consider a report from the ~~director~~ [Planning Staff](#), testimony from the petitioner, and testimony from the public and interested parties at the hearing.
  - c. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the planning commission.

- d. The planning commission shall either forward the petition to the mayor and city council with a favorable recommendation, a favorable recommendation an unfavorable recommendation, or no recommendation, or table the request.
  - 1. The petition shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed below in this article.
  - 2. The petition shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed below in this article.
  - 3. The petition may be forwarded with no recommendations if, by a majority vote of the commission, it is determined that the petition includes aspects which the commission is not able to evaluate.

(7) (4) *Certification.* The ~~director~~ Planning Staff shall certify the planning commission's recommendation and staff report to the mayor and city council.

(8) (5) *Mayor and city council hearing.* The mayor and city council shall hold a public hearing and vote on the proposed conditional use permit.