

# City of Rochester



**Rochester 2034** *Moving Forward*

## Status Report to the City Planning Commission

March 31, 2021

## Contents

<b>I. Introduction</b> .....	1
<b>II. Rochester 2034 - the foundation for ZAP</b> .....	1
<b>III. Stakeholder Meetings</b> .....	2
<b>IV. ZAP Goals</b> .....	4
<b>A. HOUSING DIVERSITY (HL, EQ, RS, HO)</b> .....	4
<b>B. “ZONING FOR JOBS” (EQ, RS, PR, MM, FG)</b> .....	5
<b>C. SUSTAINABILITY (HL, EQ, RS, PR, FG, HO, MM)</b> .....	6
<b>V. Improve Code Functionality</b> .....	7
<b>A. UNIFIED DEVELOPMENT CODE</b> .....	7
<b>B. USE OF GRAPHICS</b> .....	8
<b>C. USE TABLE</b> .....	9
<b>D. STAND-ALONE DOCUMENT</b> .....	9
<b>VI. Proposed Code Direction and Changes</b> .....	9
<b>A. DISTRICTS</b> .....	9
<b>B. USES</b> .....	16
<b>C. GENERAL DEVELOPMENT STANDARDS</b> .....	16
<b>D. ACCESSORY STRUCTURES AND USES</b> .....	17
<b>E. OFF-STREET PARKING AND LOADING</b> .....	17
<b>F. SIGNS</b> .....	18
<b>G. ZONING APPROVALS AND APPLICATIONS</b> .....	19
<b>H. ENFORCEMENT OF PROJECT OBLIGATIONS</b> .....	20
<b>VII. Next Steps</b> .....	20

## I. Introduction

The Zoning Alignment Project (ZAP), the drafting of a new Zoning Code consistent with and reflecting the goals of the *Rochester 2034* Comprehensive Plan, is at a point where the City Planning Commission is being asked to weigh in on the progress made over the last several months. Sections I through V of this Progress Report provide a broad overview of input received and changes being considered, while Section VI provides a more in-depth look at specific changes being considered.

The proposed Code is moving toward a more balanced and flexible approach to land use regulations – protecting people and the environment while allowing the economy to flourish and the City to grow with vitality. The ZAP process will reform the Zoning Code and Map into a modern user-friendly code that is balanced and flexible while achieving the following overarching goals:

- **Encourage diverse housing options by permitting increased flexibility in the types of housing that can be developed and where they can be located;**
- **Advance “Zoning for Jobs” through greater flexibility of regulations to create opportunity for job generation; and**
- **Support sustainability through design and regulations that encourage sustainable uses and multimodal transportation alternatives.**

## II. Rochester 2034 - the foundation for ZAP

These *Rochester 2034* Guiding Principles provide the lenses through which the new Code is being prepared:

Policy Principles	Placemaking Principles
<b>HL</b> Healthy Living	<b>PS</b> Design at the Pedestrian Scale
<b>EQ</b> Equity	<b>BS</b> Create Beautiful Spaces
<b>RS</b> Resilience	<b>HO</b> Provide Diverse Housing Options
<b>PR</b> Prosperity	<b>CA</b> Celebrate Assets
<b>PT</b> Partnership	<b>MM</b> Strengthen Multi-Modal Travel
	<b>FG</b> Focus Growth

Throughout this document, the acronyms referenced in the above table are used to indicate when a particular Guiding Principle is relevant.

The Placemaking Plan of *Rochester 2034* serves as both the future land use plan and guide for land use regulations. The plan was subject to robust public review and was unanimously adopted into Code (Chapter 130) by City Council in November 2019. The Placemaking Plan map provides direction for future zoning districts and the Action Plan provides direction for amending the Zoning Code. Examples include:

- *PMP-1a - Update the Zoning Code regulations and map to reflect the vision expressed in the Character Areas of the Placemaking Plan.*
- *PMP-2d - In the future zoning district reflective of the Low Density Character Area, permit existing legal two-family homes (as-built or converted) as of right.*

- *PMP-2e - Revise dimensional requirements in residential areas to allow for restoring historic forms and densities.*
- *PMP-3b - Permit the use of as-built commercial spaces as offices and specified types of commercial uses in all residential zoning districts.*
- *PMP-3c - Through revised zoning districts and regulations, encourage the re-use and construction of two- to four-family homes in areas consistent with the Placemaking Plan Map.*
- *PMP-3d - Subject new commercial, mixed-use, and largescale housing development in all Mixed-Use Character Areas to a “transportation access plan”, applicable to projects above a scale identified during the Zoning Code update process, transitioning away from traditional minimum parking requirements.*
- *PMP -3f - Update zoning regulations in residential districts to provide more flexibility for home occupations while not compromising the character of their surroundings.*
- *PMP-4a - Consider expanding use of form-based code outside of downtown into mixed-use areas identified in The Placemaking Plan, allowing for some variation among the districts to recognize desired differences in scale and neighborhood impacts.*
- *PMP-4c - Revise regulations, code, and policies so as to encourage the continuation of scale and form that define Rochester’s historic neighborhoods.*
- *PMP-4j - Consider regulating commercial activity according to occupancy rather than by use type.*
- *PMP-4k - Consider creating a maximum lot size for residential properties.*
- *PMP-4n - During the Zoning Code amendment process, establish a definition and appropriate regulations for conversion of an entire dwelling unit to a short-term rental use that is consistently rented to visitors for less than 30 days at a time.*

### III. Stakeholder Meetings

Recognizing that the public engagement during the *Rochester 2034* preparation did not go in depth into specific zoning regulatory and administration issues, the ZAP team conducted some initial outreach with a number of groups that have specific interest in the Zoning Code and Map. During the months of November and December 2020, the ZAP team met with the following stakeholder groups:

- Neighborhood Presidents
- Business Presidents
- Landlords
- Developers
- Historic Preservation Advocates
- Urban Agriculture and Health Advocates
- Sustainability/Urbanism Advocates
- Land Use Lawyers
- Boards and Commissions Chairs and Vice Chairs
- City Hall staff for Housing Accessibility
- City Hall staff for Enforcement/Licensing
- City Hall staff discussing the potential for a Unified Development Code
- City Hall staff for code administration and customer service

The following findings resulted from the stakeholder meetings and include broad input across many topics.

### **Process & Code Design**

- Make the Code clearer, easier to predict processes, and easier to administer.
- The Project Review Committee brings about better projects. Needs clearer parameters and needs to be more diverse in its point of view.
- Need regular comprehensive review of Zoning Code to see where amendments may be needed. Maybe every two years.
- Could there be exemptions from Special Approval processes for accessibility and sustainability installations/upgrades?
- Administrative SPR/SEQR works very well.
- Need clearer distinction between Major and Minor SPR
- More graphics, robust search function, and tagging is needed as part of the online Code.
- Enforcement of the zoning regulations and board decisions is deficient and needs to be bolstered. Enforcement is critical to success.
- Reconcile Noise Ordinance and Zoning Code. One of the most common issues in the city is noise.
- Need solid messaging around ZAP, the importance of zoning, and why people should get involved
- Need to revise current area and use variance standards language to be more consistent with NYS law.

### **Urban Design**

- Sign regulations need more flexibility. Monument signs are better than pole signs.
- The ROW should be better utilized and beautified to help businesses.
- Balance height along commercial corridors with height of adjacent residential neighborhood.
- Allow some level of security for business frontage windows and doors, and window protection, while keeping in mind egress requirements in fire code.
- Zero setbacks do not provide enough space between building and public realm.
- More flexibility. Utilize established ranges rather than minimums, identify “desired outcome” rather than trying to be too prescriptive.
- Make dwelling unit conversion standards more reasonable.
- Need to implement more accessibility requirements.
- Regulate lighting and increase pedestrian-level lighting.
- Maybe set a coverage limit rather than sq ft limit for urban ag season-extending structures.
- CCD Regs too prescriptive around design
- Requirements for green infrastructure, e.g. parking lots

### **Land Use**

- Accommodate car sales, with controls.
- Regulate hours of convenience stores and other stores.
- Need to allow conversion of commercial use to residential use by right.
- Need more flexibility around uses. Less separation of uses.
- Preexisting conditions need to be easily recognized as pre-existing.
- Allow easier live-work arrangements.
- Keep PD’s – both existing and ability to do new ones.
- Tiny homes should be allowed.
- Urban Ag should be broadly allowed.

- Move away from strictly single family districts and support a diversity of housing options in all districts
- Allow ADUs in more places

#### **Historic Preservation**

- More education on what it means to be in Preservation District. More guidelines on what is appropriate.
- Focus regulation and required Board Review on what is really important. Overregulating hurts the cause.
- Maintain/expand exemptions and administrative review if proposal meets design guidelines.
- Rear yards – more flexibility - additional exemptions or administrative review is appropriate for certain projects.
- Landscaping – more flexibility - additional exemptions or administrative review is appropriate based on size and location. Need to prioritize retention of mature trees.
- Window Replacement – still needs board approval. Don't want to encourage replacement over repair. Need more guidance/education.
- Landmark properties need more scrutiny than District properties.
- Accessibility improvements - continue to allow, but regulate location and style. Detailed design standards could allow administrative approval if met.
- DBHV list is large – focus on most important properties.
- DBHV list is intended as a “Preservation Lite” program. It should be less restrictive than Preservation District properties.
- NRHP – federal program is intended as honorary/incentive based, not regulatory. Related SEQR and funding restrictions are adequate.
- RPB should be able to approve Landmarks/Districts without CPC
- Be cognizant of equity when regulating. Regulations/approvals can impact neighborhoods differently.

#### **Transportation & Parking**

- Eliminate forced parking minimums. Encourage shared parking.
- De-emphasize vehicles and put more emphasis on multi-modal functionality.
- Make parking maximums less flexible.

## **IV. ZAP Goals**

This section explains the direction of proposed zoning regulations across key topics that are important drivers of needed Code changes. For a table that correlates existing zoning districts with proposed zoning districts, refer to page 10 in Section VI.

### **A. HOUSING DIVERSITY (HL, EQ, RS, HO)**

#### **Reduction in the R-1, Low-density District**

A fundamental principle of *Rochester 2034* is to preserve our existing housing stock while also providing more diverse, accessible options within all neighborhoods that expand our range of housing types, densities, and prices. Shifting acres of land from low-density residential zoning to medium-density zoning is a key mandate from *Rochester 2034* to achieve housing diversity. Currently, approximately 33% of the land area in the City is zoned R-1, Low-Density Residential. It is estimated, based on the *Rochester 2034* Character Areas that the district will be reduced to about 25% of the City, spread across all four quadrants. LDR districts in

Rochester, unlike other larger metro areas, remain relatively affordable and are not concentrated in only the affluent parts of the City. This is a district that remains desirable and provides a housing type that is part of a range of housing types available to residents.

#### **Elimination of the prohibited variance**

The section of the Zoning Code that allows some uses to be prohibited without any form of relief (described in Section V.G. below) will be removed which will open opportunities for allowing greater options in the LDR district when a hardship is demonstrated. Removing this restrictive provision is intended to be more flexible and to recognize that many uses can be permitted if their potential adverse impacts are addressed. This more flexible approach and the concern that this section prohibits property owners from exercising their full due process rights by applying for a variance from specified provisions of the Zoning Code has led to the determination that the prohibited variance language should be removed from the Code.

#### **Permanent legalization of pre-existing legal 2-family residences**

Allowing the permanent legalization of pre-existing legal 2-family residences in the LDR district and allowing them to be rebuilt if destroyed will help retain housing diversity in the LDR while avoiding the potential for vacant buildings caused by financing, insurance, or reoccupancy issues.

#### **Increase three and four-unit residences**

Three and four-unit residences are being recognized as an important component of a diverse housing market. The current Medium-Density Residential District (R-2) only allows homes with up to 2 units, as of right. It is proposed that the new Medium-Density Residential District, to be named MDR in the proposed Code, will raise the maximum number of units allowed per property, as of right, to 4 units. Additionally, through the mapping process, the amount of land found in the Medium-Density Residential district will more than double from what is currently R-2, providing more land area for the development of one to four-unit residences.

#### **De-regulate lot size**

The proposed code will de-regulate lot size which would allow for the creation of small houses on small lots thereby creating opportunity for additional affordability. Residential design standards would remain, but will be more flexible to allow for development of small homes.

### **B. “ZONING FOR JOBS” (EQ, RS, PR, MM, FG)**

#### **Creating a business pipeline**

Zoning for jobs is a term that was coined as part of the *Rochester 2034* planning process. While land use regulations cannot create jobs, it can reduce barriers for job development and job growth and position the City for growth. Small businesses must be given the opportunity to incubate, grow, and expand so promoting pipeline business development is a goal of the new Zoning Code. This entails ensuring that home occupations are allowed to flourish (while respecting the limitations of a residential district), live-work opportunities are broadened, outdoor market/vending is permitted, and urban agriculture is recognized as a business incubation opportunity. In addition, buildings designed for commercial and industrial uses will be allowed to be re-occupied with commercial and industrial uses, regardless of the district in which they are located, a change that will reduce vacancy and blight while bringing jobs to a neighborhood.

#### **Emerging job-producing industrial uses**

The proposed Code will recognize emerging job-producing industrial uses that can be integrated into mixed-use areas, which because of their low operational impacts, do not need to be isolated in a Manufacturing or Regional Commercial zoning district. The Code teases apart manufacturing into heavy industrial, light

industrial, and craft production, allowing light industrial and craft production in the new mixed-use districts and in buildings designed for commercial or industrial uses. This creates more opportunities for job creation and growth. Additionally, the proposed Code will continue to recognize the value of current manufacturing zones for light and heavy industrial uses. These areas are generally along railroad lines and in areas where manufacturing is already established.

### **Flexible Mixed-Use (FMU) district**

Creating more areas where light industrial uses can be established is important for job creation. The Flexible Mixed-Use (FMU) district will breathe new life into areas with legacy industrial buildings by providing the opportunity for a flexible mix of uses that respond to the market and will bring job opportunities and access to services to the neighborhoods.

## **C. SUSTAINABILITY (HL, EQ, RS, PR, FG, HO, MM)**

### **Multi-Modal Transportation**

The new Zoning Code must continue to encourage multi-modal transportation choices in the City, consistent with many of the Principles, Goals, and Strategies of *Rochester 2034*. During the development of *Rochester 2034*, lessening the community's dependence on driving and making the City more walkable, bikeable, and transit-friendly was one of the most consistent and passionate perspectives expressed by community members.

Promoting a mix of uses, rather than a strict separation of uses, has an inherently positive impact on transportation choices. Mixed-use neighborhoods allow and encourage people to walk, bike, and use transit for their various trips. The draft Code proposes transitioning most commercial districts to mixed-use districts and supporting this "rebranding" with more flexibility of allowable uses. A form-based approach, similar to the existing CCD regulations, will be applied to all mixed-use districts, with some customization based on local context. This approach is further supported by one of the most important changes to the Zoning Map – eliminating most R-1 (now LDR) districts from our transit corridors, so that additional density and economic activity is supported and focused in these areas.

Another significant proposed change recommended in *Rochester 2034* is the removal of requirements for minimum parking spaces. There will be thresholds for certain uses, above which a "Transportation Access Plan" (TAP) will be required. TAPs will be reserved for when projects are anticipated to have significant adverse effects on the on-street parking capacity of residential streets. Below that threshold, the Plan concludes that traditional minimum parking requirements are often arbitrary and work against the community's economic development and mobility choice goals.

The TAP process will also ensure that development projects are mindful of those who cannot or choose not to drive, and address where vehicular infrastructure negatively impacts the public realm. This is an equity issue, as approximately 26% of households in Rochester do not own a car. Complementing this new approach to parking regulations will be more progressive requirements for bicycle parking.

### **Energy Conservation**

Conservation of energy and promoting alternative energy is being addressed in the proposed Zoning Code by promoting compact development along transit corridors and de-emphasizing the automobile. Proposed regulations for the mixed-use districts will promote density, require pedestrian-oriented design, prohibit the proliferation of drive-throughs, eliminate minimum parking requirements for most projects, and require bicycle parking. Furthermore, the proposal is to allow additional height in the new Code in

exchange for community benefits including enhanced design elements or other enhancements such as alternative energy installations, provided that there will be minimal impact on adjacent properties. Lastly, to promote the advancement and utilization of alternative energy, regulations for solar and wind energy installation will be flexible, EV charging stations may be required for new parking lots, and minimum bicycle parking requirements will be enforced.

### **Food Access**

Urban agriculture is currently only listed in the Zoning Code as a temporary use. Recognizing that growing food is a critical part of a healthy and sustainable community, the proposed Code will list agriculture, as a principal, accessory use and temporary use permitted or specially permitted across the City. Specifically, community gardens, as a principal use will be allowed in all residential districts. Urban Farming, as a principal use, will be allowed through a Special Permit in all of the residential districts and the Flexible Mixed Use (FMU) district. This places urban agriculture close to the homes that will benefit from the community-building activities and the produce.

The goal in the Neighborhood Mixed Use (NMU) and Boutique Mixed Use Districts (BMU), and especially along transit corridors, is density of residents and businesses, which are critical to promoting transit and building economic vitality. The configuration and location of the NMU and BMU districts would not lend themselves to urban agriculture and so situating this use within residential districts and the FMU district is proposed, rather than within the NMU and BMU districts.

### **Neighborhood Vitality**

The Zoning Code can create opportunity for vitality in mixed-use areas through provisions such as making it easier to re-occupy vacant buildings, allowing greater density, and reducing barriers for outdoor operations. In addition, restoring rights to nonconforming buildings in residential districts brings jobs and services into neighborhoods rather than forcing a building, not designed for residential uses, into vacancy and decline.

While the specific design standards have not yet been developed, the focus on design rather than uses in the proposed mixed-use districts will allow for greater vitality. Creating opportunity for gentle density increases throughout the City will increase the number of residents needed to support local businesses, which are essential to neighborhood vitality. As discussed previously, designing the MDR district to allow up to 4 units, rather than 2 units as currently allowed by the Zoning Code will help to increase density. The proposed Code will permit multifamily residential as of right in the BMU while the current Code does not.

In addition, as stated above, allowing buildings designed for commercial and industrial uses to be re-occupied with commercial and industrial uses, regardless of the district in which they are located, can reduce vacancy and blight and bring jobs to a community, thereby revitalizing areas where vacancy may be a problem.

## **V. Improve Code Functionality**

### **A. UNIFIED DEVELOPMENT CODE**

The ZAP team is exploring the option of creating a unified development code (UDC). A UDC is a regulatory document that brings together two major sets of land development regulations - zoning and subdivision. It further brings in additional City codes that regulate public improvements.

Based upon a review of Rochester’s codes, it is anticipated that if a UDC is created, it would incorporate the following items:

- Chapter 120, Zoning Code
- Chapter 128. Land Subdivision Regulations
- Chapter 104. Streets and Street Encroachments (select provisions)
- Key policies from the Comprehensive Access and Mobility Plan (CAMP) e.g. street design guidelines

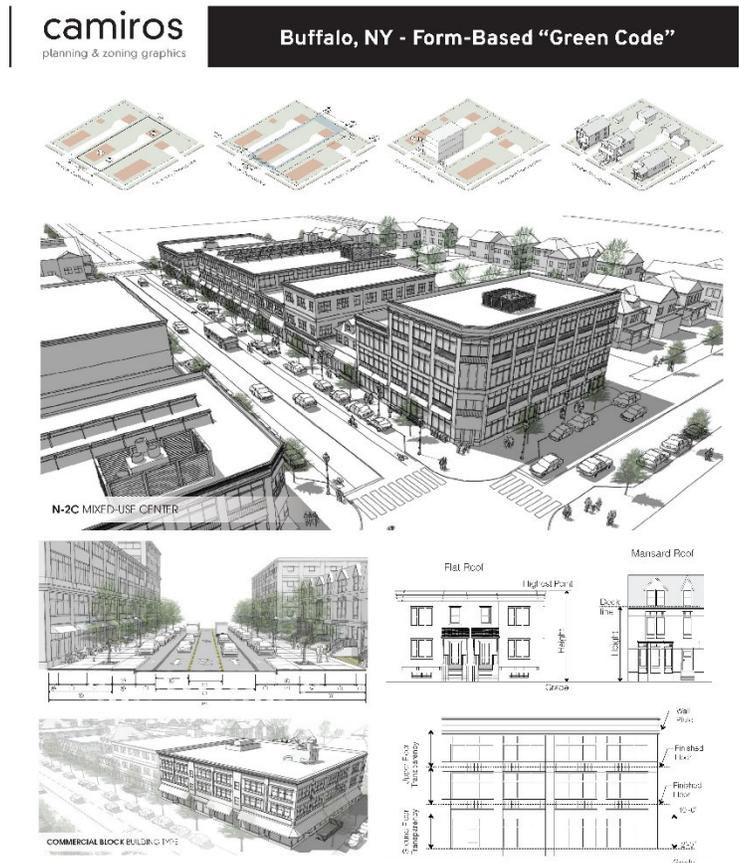
There are numerous benefits to creating a UDC. It creates one unified “book” for land development. This allows for coordination and alignment of select common provisions, such as definitions, lot configuration standards, and public realm design. One of the most significant benefits for the City of Rochester would be the incorporation of street design standards. This would implement Walkable City Action 1.3 of the CAMP: *“Create a Unified Development [Code] to harmonize street design and building design standards and to create a more appealing and convenient pedestrian environment.”* Currently there are a variety of right-of-way standards throughout various documents, which can create confusion for users and staff. Right-of-way standards are found in:

- Comprehensive Access and Mobility Plan
- The Complete Streets Policy (104-29 Complete Streets Policy)
- The Zoning Ordinance’s CCD District (City, district, neighborhood)
- Land Subdivision Regulations
- Parts of Chapter 104. Streets and Street Encroachments: Complete Streets, Neighborhood Calming, Encroachments, Curb Cuts/Driveways (partial)

With a UDC, the same departments, boards, and commissions would continue to control reviews and applications. Requirements for more complex non-zoning projects, such as street design and construction, would be maintained. (Engineering specifications and the Building Code are not part of a UDC).

## B. USE OF GRAPHICS

A zoning code is a municipal code that is used by more people in the community than any other code. The Code, therefore, must be understandable and user-friendly. Illustrations will be an



Example graphics that visualize design regulations.

important tool for communicating the regulations in the new Code. For instance, the regulatory focus in the mixed-use districts is proposed to be more about design and scale and less about prohibited/allowable uses. Graphics will play an important role in communicating these design and scale requirements. This mostly form-based code approach, similar to the existing CCD regulations, will be applied to all mixed-use districts, with some customization based on local context.

Additionally, the yard, space, and bulk regulations in all districts will be enhanced with more graphics. The illustrations will clearly show how to apply the regulations and how to take measurements.

### C. USE TABLE

A major proposed change in the Code format is the introduction of a single table showing permitted and specially permitted uses across all districts. This is a format being used in code reform all across the state and country and provides a clear and comprehensive display of the uses allowed in each district. In addition to the general ease of use for the public and staff alike, the use table is particularly useful for project planning. The ability to easily see where a use is first permitted without flipping through pages and pages of regulations makes it much easier for an applicant to figure out where their dream could become a reality. This table is under development and will be available at a future CPC meeting.

A major departure from the current Code is the newly created “all commercial uses indoors.” Rather than focusing on listing all imaginable commercial uses, this new terminology allows the focus of regulations to be primarily on the outdoor components of an operation, which are more likely to be the cause of negative impacts on adjoining properties. With respect to the indoor operations, occupancy limitations and regulations would primarily come from the Building Code, cutting down on the potential for inconsistent regulations or mixed messaging.

### D. STAND-ALONE DOCUMENT

It is proposed that the new Code will be included in the City Code by reference and a link rather than incorporated. This is what the City of Buffalo did in 2016 and what Saratoga Springs is doing with their code now. This allows for the Zoning Code to be more accessible and easier to use. This will take the Code out of the rigid format of the City Code, making it easier to read, search, print, etc. In addition, the use of graphics is facilitated and the document can be included on the City website outside of the online “e-code” making it more accessible.

## VI. Proposed Code Direction and Changes

Moving beyond the objectives explored above, this section describes in more detail the specific Code language or direction that is currently under consideration. This covers only the progress made to date. There is still Code language that is being developed and will be reported on later.

### A. DISTRICTS

The ZAP intends to translate the City of Rochester’s current zoning districts into a new palette of districts that respond to and implement the vision for the future of the City as articulated through the Character Areas and Placemaking Plan within *Rochester 2034*. This requires an evaluation of the current districts in comparison to the Character Areas articulated within the Plan, to ensure that established development patterns continue to be acknowledged, and that new or emerging forms of development are also accommodated.

It is important that the new districts are applied using consistent criteria across the City, based on the existing character of an area. For example, the Boutique Mixed-Use district (akin to C-1) is meant to be applied to small scale, mixed-use areas that are nodal in nature, like single intersection districts. In contrast, the Neighborhood Mixed-Use district (akin to C-2) is intended for medium-scale development that is corridor in nature, often thought of as a traditional “Main Street” level of activity that stretches for several blocks. In the current Code, the use of C-1 versus C-2 is somewhat inconsistent, not always correlating with an intersection versus a corridor. A more consistent application driven by existing character will be used on the new Zoning Map.

Please note that the district analyses below generally do not address uses, which are discussed in V.C. above. Analysis within this section focuses primarily on district structure, dimensional standards, and design controls. The table below shows the approximate relationship between existing districts and proposed districts.

Existing Zoning Districts	Proposed Zoning Districts
<b>R-1</b> Low-Density Residential	<b>LDR</b> Low-Density Residential
<b>R-2</b> Medium-Density Residential	<b>MDR</b> Medium-Density Residential
<b>R-3</b> High-Density Residential	<b>HDR</b> High-Density Residential
<b>C-1</b> Neighborhood Center	<b>BMU</b> Boutique Mixed-Use
<b>C-2</b> Community Center	<b>NMU</b> Neighborhood Mixed-Use
<b>C-3</b> Regional Destination Center	<b>RC</b> Regional Commercial
<b>CCD</b> Center City	<b>DMU</b> Downtown Mixed-Use
<b>V-C</b> Village Center	<b>VC</b> Village Center*
<b>M-1</b> Industrial	<b>IND</b> Industrial
<b>O-S</b> Open Space	<b>OS</b> Open Space
<b>O-A, O-B, O-O, O-LH</b> Overlays	<i>TBD</i>
<b>U-R</b> Urban Renewal	<b>UR</b> Urban Renewal*
<b>T-P</b> Transitional Parking	<i>will be removed</i>
<b>PD</b> Planned Development	<b>PD</b> Planned Development
<b>NEW DISTRICTS</b>	
<i>(based primarily on a mix of M-1 and C-2)</i>	<b>FMU</b> Flexible Mixed-Use

\* These districts will be carried over from the existing Code. It is not anticipated that they will change significantly.

## Residential Districts

### District Structure

The Zoning Code currently controls all residential land in Rochester through three residential zoning districts. These are the R-1, R-2, and R-3 Districts, representing a gradation of development intensity from predominantly single-family dwellings in the R-1, to multi-family dwellings permitted by-right in

the R-3 District. *Rochester 2034* similarly splits residential character areas in the Placemaking Plan into three classifications – Low Density Residential (LDR), Medium Density Residential (MDR), and High Density Residential (HDR). It is anticipated that these three classifications will supplant the former residential districts, modifying standards and introducing new design controls while maintaining the overall three-tiered structure.

## **Dimensional Standards**

Currently, the district dimensional standards operate in an additive fashion based upon the uses permitted within each district. Within this structure, the R-1 district establishes the standard for single-family dwellings, which is inherited by the subsequent districts. The R-2 district establishes the standard for two-family dwellings, inherited by the R-3 district which in turn establishes a series of standards for multi-family dwellings. In essence, the gradation of density within the three residential districts is established not through their dimensional standards, but simply by which dwelling types are permitted in each.

Moving forward, and in acknowledgement of the recommendations of *Rochester 2034*, the residential districts will accommodate a gradation of density both through the types of dwellings they permit, as well as through modification of the dimensional standards - both to accommodate historic development patterns within the City, and the creation of new forms of housing. Preliminary recommendations related to dimensional standards are included below:

### **1. Minimum lot frontage, lot area, and lot coverage**

- a. Lot Frontage** - To create flexibility in the creation of new lots that continue to meet the established pattern of a neighborhood, the averaging provision for lot frontage should be maintained, however, flexibility will be added by establishing a range of permitted frontage width, based upon the average lot frontage widths on the block. Such a provision may appear as follows: *Required minimum lot frontage is calculated as the average frontage of all lots on the subject block face. This frontage may be reduced or increased by no more than 20% of the average frontage width of the block face, not to exceed ten feet.*
- b. Lot Area** – In line with the recommendations of *Rochester 2034*, the minimum lot area for each district will be oriented toward achieving and reinforcing the established development patterns within the City. Currently, GIS analysis of all lots within the R-1 Zoning District indicates that though the district itself comprises over 75% of all the parcels in the City, nearly half of the lots of record in R-1 (49%) do not meet the minimum 5,000 square foot lot area required by the current Code. Simply adjusting this one standard to 4,000 square feet would bring 13,895 parcels into conformance with required lot area, totaling nearly 80% of all R-1 lots.
- c. Lot Coverage** - Lot coverage requirements will be maintained to ensure they are promoting sustainability goals without hindering the ability for property owners to reasonably develop their property. Use of permeable materials and green infrastructure (such as green roofs) will be encouraged through an incentive structure that discounts (e.g., 50%) or offsets such surfaces from the calculation of coverage.

## **2. Required Setbacks**

- a. Standards are developed to ensure they allow continuation of the City's as-built development pattern and accommodation of a range of housing and development forms.
- b. Requirements for both a minimum front setback and a maximum front setback are establishing a de facto build-to zone within the residential districts. This is an effective tool for ensuring compatibility and continuity of rhythm and pattern across a block face. The Code requirements will establish a build-to zone as +/- 20% of the average front setback of the adjacent lots. If the parcels are vacant on either side, then the historic setback of the street, using Sanborn Maps, will be used to calculate the build-to zone.
- c. Corner side yard setbacks will be included within the dimensional standards to address the corner lot condition on a block. The current Code treats corner lots as having two front yards. Particularly with an averaging provision for the front setback, two front yards is problematic. This provision will be replaced with a requirement for a corner side yard, and an accompanying definition that specifies which frontage is the front, and which is the corner side. This alleviates confusion and eases application of the setback standards, with a particular impact on the location of fences.
- d. Required setbacks for accessory structures are best handled based upon the structures that are being regulated. As such, the new Code will remove these standards from the district dimensional tables and put them in a separate article where controls can be tailored to address the potential impacts of the individual structures.

## **3. Building Height**

- a. The new Code will move away from controlling building height by stories and transition to a control that simply regulates height in feet. This both provides more predictability and more flexibility in terms of building design and floor-to-floor heights for a variety of different uses and configurations.
- b. The new Code will increase height of accessory structures to a more common regulation being 20 feet and no higher than that of the principal structure.
- c. For the HDR, the Code will create a sliding scale setback at the side and rear yard to allow for more height in exchange for increased setback.

## **4. Residential Districts Design Standards**

- a. Residential design standards applicable to single-family and two-family development will be simplified and focused. The context and compatibility standards for single-family, two-family, and townhouse development are quite prescriptive, and on their face seem more suited to a narrow application designed to preserve existing identified historic character. As such, the broad applicability of these standards pose difficulties in their administration and enforcement. Modern standards for these development forms trend toward allowing greater architectural diversity, while maintaining the overall rhythm, bulk, and pattern of existing neighborhoods. Therefore, standards will be focused upon relationship of the building to the street, placement of parking and building entries, transparency, etc.

- b. Floor area controls on single-family and two-family dwellings included in the current Code may unintentionally inhibit desired dwelling types or new forms of development, such as tiny homes. Standards related to building placement/setback, lot coverage, and bulk should work to control the size of development, and maintain the pattern and scale, without a need for prescriptive standards related to unit floor area.
- c. The current standards applicable to multi-family development are quite limited. The new Code will have a more comprehensive approach to regulating the design (i.e., transparency, façade treatments, building materials, and open space) of these structures.

## Mixed-Use and Commercial Districts

### **Boutique Mixed-Use**

The Boutique Mixed-Use character area is anticipated to translate to a BMU Boutique Mixed-Use Zoning District. Such a district would promote both horizontal and vertical mixed-use development, allowing multi-family residential uses, residential uses above the ground floor, and commercial uses with a limitation on square footage of commercial space. As envisioned, the BMU District would constitute a reorientation of the Current C-1 District toward a focus on mixed-use. It will be applied to small-scale, single intersection districts, rather than multi-block corridors.

- 1. Allowable square footage per use may increase through the addition of design standards.**
  - a. Allow more commercial square footage in exchange for a higher level of design quality. For instance, a provision within the dimensional standards for the BMU District could allow commercial space to exceed 3,000 square feet if a series of other standards are met, such as step-down building height for better transition to adjacent residential lots.
  - b. Preexisting buildings that are over 3,000 square feet will be deemed conforming so can be reoccupied, even after an extended vacancy, without the need for further approvals.
- 2. Incorporate form standards, such as build-to zone requirements, minimum heights, and required parking location.**
  - a. The current C-1 dimensional standards contain a build-to zone of zero to five feet. This should be tailored to the uses permitted within the district. For example, ground-floor residential uses may want more than five feet of setback to accommodate a stoop or other entry feature.
  - b. Other form standards, such as minimum transparency requirements, blank wall limitations, and ground floor heights will be incorporated to ensure that new development within the BMU district complements existing development patterns and reinforces the vision for these areas.

- 3. Limit building height in the BMU District.**

The current C-1 District regulations contain no maximum height limitation, rather they contain a minimum height, and a maximum height for detached accessory uses or structures. Translating this district into the vision for the Boutique Mixed-Use District, a maximum building height will be established. This height recommendation is 40 feet, typical for relatively low-intensity commercial districts, compatible with the maximum building height for adjacent residential areas, and, importantly, the vision as articulated within *Rochester 2034* that illustrates these areas as predominantly one to three stories in height. Such a limitation ensures that new development

respects the existing character and maintains compatibility with the scale of surrounding development.

### Neighborhood Mixed-Use

The NMU District is an evolution of the current C-2 Community Center District, focused on achieving a horizontal and vertical mixture of residential uses, commercial uses, and even some light artisan industrial or craft uses, such as microbreweries. Increasing flexibility for new types of uses necessitates a close look at dimensional and design standards to ensure that new development complements existing form and reinforces the goals and priorities for its mixed-use neighborhood areas. It will be applied to medium-scale, multi-block corridors, rather than single intersection mixed-use areas.

**1. Incorporate form standards to ensure high-quality, harmonious new development.**

Similar to the recommendation for the BMU District, the NMU District would benefit from the creation of a series of form standards to control the placement of structures, their bulk and height in alignment with the vision for BMU. Build-to zones will be included within the district standards for both residential and nonresidential uses, and parking location and access should be controlled to ensure a comfortable and safe environment for pedestrians. Other form elements, such as minimum ground floor heights, minimum entry spacing, and minimum transparency will help to encourage high-quality walkable development in these areas.

**2. Create height controls that allow flexibility, but respect adjacent neighborhoods.**

a. Much like the current C-1 District, the C-2 district contains a minimum building height, but no building height maximum. A base height of 50 feet is recommended, to allow for more verticality in these nodes of neighborhood mixed-use development. Height controls should also respond to varying contexts within the NMU District. Residential district adjacency, for instance may require additional setback to achieve the maximum height, or a transition via stepping back of the building façade.

b. A process will be considered to allow for additional height within the NMU District. Such a bonus structure could allow development to go higher in exchange for higher design quality, green building techniques, or public civic or green space.

**3. Clarify maximum square footage limitation for a principal use or structure.**

The current C-2 District limits nonresidential development to no more than 6,000 square feet. Moving forward, as suggested in *Rochester 2034*, this maximum will be 9,000 square feet for square footage of commercial uses. As within the BMU District, it is also recommended to allow this square footage to be exceeded via additional design or massing considerations, without the need for a variance process.

### Flexible Mixed-Use

The FMU District, as envisioned within *Rochester 2034*, is a new district intended to foster the creation of mixed-use neighborhoods that take advantage of the City's unique post-industrial heritage and wealth of legacy commercial and industrial buildings that may no longer suit their original purposes. It encourages mixed-use development including commercial and residential development, as well as compatible light-industrial uses in a walkable urban environment.

**1. Form and design standards can ensure compatibility while allowing for maximum flexibility.**

As its name implies, the Flexible Mixed-Use District should allow new development to take advantage of the possibilities presented by these areas of the City through a flexible series of regulations. However, standards are still needed to ensure that development complements existing patterns and respects its context. Similar to the Boutique and Neighborhood Mixed-Use Districts, the FMU should contain standards that address the placement of structures on a lot, their massing and height, and their design. Such standards can maintain flexibility needed to accommodate reuse of existing structures, but must nonetheless ensure that new development or additions/expansions to existing structures result in high-quality, walkable mixed-use development.

**2. New construction standards related to building height and length can avoid monolithic development.**

- a. While flexibility is key within the FMU, maximum building height control is necessary to avoid allowing these areas to develop out-of-scale with their surroundings, and not to dilute the importance of the development potential embodied within the Downtown Mixed-Use District. Maximum building height standards will relate to the context of the existing buildings on the site and immediately adjacent to the site.
- b. In coordination with a maximum building height, a maximum building length standard may be worth considering, to ensure that as new development occurs, it continues to prioritize a logical site design and block structure, particularly as this district may be applied to large formerly industrial parcels. Such a control can help to promote walkability as these areas undergo reuse and redevelopment, and can be calibrated based upon considerations of typical block length or other factors.

### Regional Commercial

The Regional Commercial District is intended to accommodate a mix of commercial and service uses in a predominantly auto-oriented environment. While acknowledging that automobile access is the primary mode within this district, standards should continue to encourage the creation of high quality pedestrian-oriented site and building design.

Current C-3 standards will need to be adjusted to ensure that the Regional Commercial District functions as intended. These areas currently lack a cohesive pattern or design character and accommodate a mixture of small auto-oriented retail development, automotive and industrial-type uses. Dimensional standards can help to ensure a logical pattern and coordinated scale as redevelopment occurs within these areas. Standards would be developed around minimum lot frontage and lot area, setbacks, and height controls. Further, limited design standards will be included to encourage high-quality development within these areas of the City.

### Downtown Mixed-Use

While form and character are a critical feature of any new regulations for downtown, the granular aspect of the current CCD structure may be outdated given current community desires and market realities. The Downtown Mixed-Use character area presents a much more cohesive, clear picture of the vision for its downtown. Though there may continue to be a need for subdistricts to address areas that require special attention, such as the riverfront (to ensure that high-quality design is a priority both from the street and along the riverfront), and the residential district – the overall approach to regulation within downtown should be simplified. Design standards, including ground floor and entry design, transparency, modulation of facades, building materials, and parking structure design and access will continue to play a key role in regulations for downtown.

## Village Center Districts

The Village Center Districts constitute an important designation for those areas of the City with a unique development character and/or mixture of uses, and it is anticipated that they will be retained.

## Industrial Districts

With the creation of the Flexible Mixed-Use District, there is a tool to designate areas for reuse and/or transition from purely industrial to a more mixed-use orientation. The purpose of the industrial zoning districts should become one of maintaining and growing those areas of the City where active industrial uses remain or may locate in the future.

## Planned Development (PD) Districts + Institutional Districts

### 1. Existing PD Districts are legally established and will remain in effect.

Any changes to the PD District process or zoning map changes that place a district over an existing PD District do not impact the pre-existing PD Districts.

### 2. With respect to PD Districts, treat the PD as an approval process, rather than a district.

*(Still being conceptualized development)*

Currently, the Zoning Code treats a PD as a district. A different approach is to treat the PD as an approval process, rather than a district. In this approach, the underlying district standards and uses apply unless modified as part of the PD approval. This allows for flexibility in the application of zoning requirements based upon detailed review of individual proposals for significant developments in exchange for additional benefits to the City and the public. Then, if the use changes, the district reverts to the underlying district standards. A key aspect of a PD should be that public benefits and amenities that enhance the city would be required. PD is a negotiation between the developer/applicant and the City, therefore the city should receive public benefits and amenities in exchange for the flexibility offered.

## B. USES

As discussed in Section V.C. above, the new use table (under development), provides a clear and comprehensive display of the uses allowed in each district. Users can readily see where a use is permitted, specially permitted, or prohibited. Being able to easily see in which district a use is first permitted is useful for project planning.

In this section, it is proposed that, along with the use table, the use definitions and the use limitations would be included. All provisions pertaining to uses will be in this section for easy cross referencing.

## C. GENERAL DEVELOPMENT STANDARDS

General development standards are those regulations that apply generally to a number of or all districts.

These are standards such as:

- Number of structures on a lot
- Applicability of yards and setbacks
- Applicability of dimensional requirements
- Specific exceptions to dimensional standards
- Line of sight requirements
- Site grading
- Landscaping
- Noise

- Odors
- Glare and heat
- Vibration
- Dust and air pollution
- Fire and explosion hazards

The intent is not to be overly prescriptive on the standards but to include either cross-references to relevant parts of the City Code or state regulations, such as the noise and air quality sections, or create a general standard that allows for enforcement in cases where a use may be causing an adverse impact to adjacent property.

#### D. ACCESSORY STRUCTURES AND USES

Accessory structure and use provisions will be consolidated into one article. This would include Sections 120-163 (accessory structures and uses), 120-165 (dumpsters), 120-167 (fences and walls), 120-175 (outdoor storage), 120-176 (outdoor retail display), etc. The current standards generally regulate permitted location, such as only in the rear yard, but do not address size, height, and placement. Common accessory structures and uses addressed in a zoning code with specific standards include the following:

- |                           |                           |  |
|---------------------------|---------------------------|--|
| • Amateur Radio Equipment | • Gazebo                  | • Rain Barrels and other green infrastructure techniques |
| • Apiary                  | • Home Occupation         | • Shed   |
| • Arbor                   | • Mechanical Equipment    | • Solar Panels (Private)                                 |
| • Carport                 | • Outdoor Sales & Display | • Swimming Pool  |
| • Chicken Coops           | • Outdoor Storage         | • Vehicle Charging Station                               |
| • Coldframe Structures    | • Patio                   | • Water Features   |
| • Deck                    | • Pergola                 | • Wind Turbine (Private)                                 |
| • Fences                  |                           |  |
| • Garage, Detached        |                           |  |

#### E. OFF-STREET PARKING AND LOADING

##### 1. Minimum parking requirements.

This section would consolidate Sections 120-172, 120-173, and 120-174 of the Zoning Code. Taking direction from *Rochester 2034*, parking minimums will no longer be the primary regulatory tool in the Zoning Code. Rather, the construction of parking will be left to the marketplace, except for a list of uses and thresholds where the intensity of the use may warrant a Transportation Access Plan (TAP). The TAP will describe how multimodal access will be accommodated (i.e., bike parking, proximity to bus stops, access to the public sidewalk), how vehicle access- drop off can be accommodated, and justifying the applicant’s parking demand. The TAP will also be the process through which a proposed construction of excessive parking spaces will be examined. The TAP will combine the current Parking Demand Analysis and Alternative Parking Plan into one document. The TAP will be used for the following projects and accounts for the only parking requirement proposed for the new Code:

- Establishment of a place of assembly per the NYS Building Code (e.g., bars, restaurants, theaters) with an occupancy posting of more than 75 people.
- For all other commercial uses, when proposed on-site parking exceeds a maximum parking allowance of 2 per 1,000 square feet.
- Establishment of the following uses when located within a LDR or MDR District:
  - Homeless Residential Facility

- Hospice Residence
- Nursing Home/Assisted Living/Rehabilitation Center/Hospice Care
- Residential Care Facility
- Conversion of a two-family home to four units in the MDR District.
- Conversion of a single-family home to three or four units in the MDR District.

The TAP will be subjected to an administrative approval that has yet to be determined.

## **2. Sustainability standards.**

With respect to creating standards for sustainability, the following topics will be covered in this section:

- Requirements for the installation of EV-ready spaces in larger developments with significant parking demand.
- Requirements for bicycle parking.

## **F. SIGNS**

The sign regulations of Section 120-177 will be comprehensively revised to be flexible to the form of districts, to respond to regulatory issues of the current Code, and to ensure content neutrality. A recent Supreme Court decision, feedback from the community, and a review of the variances that have been routinely approved since 2003 will direct revisions to the current sign regulations. Based on a preliminary review, the following are recommendations for reorganization and significant revisions:

### **1. General Standards**

General standards should be added that address installation and construction of signs. This would reorganize and enhance the standards of items E (sign location), F (design standards), and G (maintenance of signs) of Section 120-177.

- Prohibited sign locations. The Code should clearly state where signs cannot be erected or mounted, including egress/ingress locations, architectural features, and site triangle areas. This section should also state that signs cannot be placed on public or private property without permission.
- Construction standards. These standards should address wind pressure and direct load minimums, permitted glass and lettering materials, mounting requirements, etc.
- Maintenance requirements. Maintenance requirements should require repair and/or removal of unsafe or damaged signs, and upkeep of the sign structure and the area around the sign (litter removal, painting of rusted areas, etc.).
- Illumination regulations. Sign illumination standards will identify the types of signs that may be internally and/or externally illuminated, standards for uplighting and downlighting signs, which can be tailored to district and sign type. These standards are intended to prevent the nuisance effects of glare and light trespass, as well as the aesthetic character of districts.

### **2. Prohibited Signs**

There currently is not a clear section that outlines prohibited signs, with prohibitions incorporated into other sections. Prohibited signs should have their own section to ensure that all undesired sign types are identified. In some cases, the prohibition may be specific to certain districts.

### **3. Exempt Signs**

Currently grouped within the “Allowed Signs” section of the current Code, certain signs should continue to be exempt from sign permit requirements. A proposed set of these types of signs include (some are already

regulated as exempt), such as multiple-tenant building signs, construction activity signs, real estate signs, etc.

Even though these signs are exempt from permits, standards will be included, such as maximum size and height, required setback, number per lot, permitted display period for temporary signs, sign construction materials, and/or those uses allowed to install them.

#### **4. Signs Requiring a Permit**

It is recognized that the current sign regulations are too rigid. Keeping that in mind, the regulations for permanent signs will continue to address all aspects of the sign's character and location - maximum height and sign area, minimum setback, vertical clearance, maximum projection, and allocations to corner buildings and multi-tenant centers, but will be tailored to the different districts and building design types. The specific regulations have not been drafted, yet.

#### **5. Alternative Sign Program**

The current Alternative Sign Program is a useful tool for providing more flexibility and coordinating signs within a development. It will be maintained. However, rather than requiring a Special Permit which is currently required, the Administrative Adjustment is the recommended approval process.

#### **6. Additional Considerations**

The new Code should incorporate a classic sign designation. This type of provision preserves specific historic and/or unique signs within the City, and protects those signs from nonconformity status. To this end, the City would need to establish a designation process for classic signs that would remove these specifically designated signs from nonconformity status, and allow them to continue and be maintained/repaired.

### **G. ZONING APPROVALS AND APPLICATIONS**

Most of the sections of the current Code that relate to procedures will be fine-tuned without many substantive changes. The goal for this section is to clarify wording that is confusing and make minor modifications in response to consistent issues experienced over the years. There are two substantive changes, however, that are being proposed.

The first is the proposed codification of a long-standing practice of separating the Use Variance process into two public hearings of the Zoning Board:

- First public hearing- The applicant must establish that carrying out the strict letter of the provisions of the Code would create an unnecessary hardship that is not self-created.
- Second public hearing – The applicant presents plans and documentation to prove that the variance would not result in impacts to the surrounding properties.

This two-step process, which will be the applicant's choice, avoids forcing the applicant to spend time and money on project design before getting approval on the hardship test.

As described in IV.A. above, the other substantive change is to eliminate Zoning Code Section 120-195B.(5) Prohibited Variances. The current list of prohibited variances includes uses that were determined to have the potential for such an adverse impact on adjoining properties that they could never be allowed. The proposed new Zoning Code is intended to be more flexible and to recognize that many uses can be permitted if their potential adverse impacts are addressed. This more flexible approach and the concern that this section prohibits property owners from exercising their full due process rights by applying for a

variance from specified provisions of the Zoning Code has led to the determination that the prohibited variance language should be removed from the Code.

#### H. ENFORCEMENT OF PROJECT OBLIGATIONS

City staff heard repeatedly from the community and many stakeholder groups that enforcement of the Zoning Code and land use board decisions is critical and needs increased focus in the new Code. The draft regulations will reinforce the use of financial security requirements for guaranteeing the completion of project improvements and conditions of approval. The use of Letters of Credit or other forms of security have not been routinely used as an enforcement tool in the past. The new Code, along with training, will make this tool an effective way to get conditions of approval and project obligations accomplished. Enforcing the Code will increase confidence around expectations for city living and will lead to an increase in vitality.

### VII. Next Steps

As stated in the introduction, the Zoning Alignment Project (ZAP) is at a point where the City Planning Commission is being asked to weigh in on the progress made over the last several months. The ZAP Team will discuss this document at the City Planning Commission pre-meetings at the of April 12th and May 10th meetings. As the pre-meetings are public meetings, the public will have an opportunity to view the presentation on the Mayor's Office YouTube page. This report will also be placed on the ZAP website.

A special meeting will be scheduled by the City Planning Commission for June at which the Commission members and the public will have an opportunity to provide oral and written feedback. Written comments can be submitted to the City Planning Commission email address, [planningcommission@cityofrochester.gov](mailto:planningcommission@cityofrochester.gov). These comments will be provided to the City Planning Commission, as well as the Zoning Alignment Project Team.