

TO: Plan Commission

FROM: Joel Strassman, Planning and Zoning Officer

DATE: March 11, 2021

Subject: **Public Hearing:** Amendments to the Text of the Zoning Code
Chapters 2.1, 2.6, 4.1, 4.2, 4.4, 6
City of Batavia, applicant

Background: Staff has scheduled a Public Hearing for several Zoning Code text amendments at the March 16 Plan Commission meeting. Proposed amendments generally would add or adjust regulations to better address land uses and site improvements in response to recent Commission/Council approvals and/or staff application of the Zoning Code.

Proposed zoning text amendments address:

- Attached garage setback and rooming houses (Chapter 2.1 Single Family Districts)
- Towing Establishments (Chapter 2.6 Employment Districts)
- Outdoor storage (Chapter 2.6 Employment Districts)
- Merchandise display (Chapter 4.1 Site Regulations)
- Sight Distance Triangle and Easements (Chapter 4.1 Site Regulations)
- Parking supply for Convenience Retail Use (Chapter 4.2 Off-Street Parking)
- Menu signage (Chapter 4.4 Sign Regulations)
- Definitions (Chapter 6 Glossary)

Proposed Amendments and Analysis

Attached Garage Setback: Adoption of the current Zoning Code in 2010 established the 6 foot and 12-foot attached garage setbacks from the front of single-family residences. In the years leading up to 2010 to try to improve architectural and neighborhood aesthetics, the City Council approved a few single-family subdivision annexations that required attached garage setbacks when the Zoning Regulations effective at the time did not require the setback. Among those annexations are Tanglewood Hills (for non-side load garages), Windemere, and Pinegate. On the heels of those Council actions, the 2010 Zoning Code was adopted with the current single-family attached garage setbacks.

While many subdivisions annexed in the 1990s were still being completed since adoption of the 2010 Code, their annexation agreements froze most zoning requirements to the regulations effective at the time of annexation that did not require the garage setback. Staff has learned from homebuilders that the garage setback requirement though thoughtful to aesthetics, is not necessarily what homebuyers want – as was explained in both Winding Creek proposals. Given staff and the Commission recommendations for garage setback relief for both Winding Creek iterations, and the COW/City Council’s actions to granting that relief, it is apparent the attached garage setback is a zoning requirement generally no longer supported by the City. To that end, staff is proposing to remove attached garage setback requirements.

Towing Establishments: Towing establishments, by nature of their business, often have severely damaged or unlicensed vehicles on site that are visible from the street or from adjacent properties. Additionally, hours of operation can be problematic if the property is proximate to residences and site design for security purposes should be sensitive to residents and other businesses.

Staff is proposing to require approval of a Conditional Use Permit for all towing establishments in the LI and GI Districts (now only required for properties without a building), and to require a building on the

property. Through Conditional Use the City can review site and building design, hours of operation, site lighting, and mitigation of audible alarms. Additionally, all vehicles unlicensed or in need of repair must be inside of a solid fence, enclosed area. Existing towing establishments can continue without Conditional Use approval. The proposed regulations would apply to new establishments or to re-establish a towing service business if an existing one is abandoned.

Outdoor Storage and Incidental Display: The Zoning Code requires solid fence enclosures for outdoor storage, except for rear and interior side exposure on GI General Industrial-zoned properties that abut the same. This exception can allow for significant visibility to storage areas from streets and other areas generally accessible to the public. Appearance of industrial property storage areas varies widely from orderly to unsightly. To provide greater screening, staff is proposing to remove the aforesaid exemption.

Recently the City Council heard from an industrially zoned business owner that City zoning requirements do not allow for display of the home improvement product the business sells. The City Council felt some opportunity should be provided for such display and directed staff to propose a Zoning Code change proposing to allow such display. In response to that directive, staff is proposing a new Glossary term to define "Incidental Display" to differentiate it from outdoor storage and allowed temporary uses. The allowance for Incidental Display would be limited to items sold on the premises and to require pavement for display areas and for vehicle maneuvering to/from the display area. Additionally, the display area would be limited to 200 square feet, not diminishing pedestrian ways/fire lanes/access aisles, and would limit the height of displayed goods.

Sight Distance Triangle and Easements: Reduced pedestrian, cyclist, and driver visibilities become problematic at the intersection of sidewalks, paths, and vehicle use areas. To eliminate taller items that can block visibility, a new Code Section 4.111 is proposed that creates the "Sight Distance Triangle" and limits the presence of things in the triangle that can block visibility and compromise safety for all.

The Sight Distance Triangle would extend 20 feet from the intersections of the paved areas specified above. The measurement would be taken along the right-of-way line if present, otherwise along proximate property lines or along the pavement. Landscaping would be limited to 2 feet in height and tree canopies must extend to 5 feet above grade in the triangle.

Staff is proposing a house-cleaning item regarding easements. Per Section 4.110, no structure other than fences can be located on public utility, open space, conservation, or drainage easements. This language could be interpreted as applying to public utility or drainage structures. Staff is proposing to eliminate this potential conflict, thus allowing appropriate structures in those easements. For instances where zoning and easement provisions conflict, easement provisions prevail.

Parking Supply for Convenience Retail Use: Convenience Retail Use is defined as a retail establishment less having less than 3,000 square feet of selling a limited number of items; it is intended to cover a retail store that is part of a gas station. Convenience retail use has a unique parking requirement of 1 space for every 125 square feet of floor area (1:125) while most other retail has a 1:250 requirement. Staff feels the 1:250 should apply to convenience retail establishments. A significant number of gas station retail customers are also gas customers who almost always park at the pump. The 100% greater parking requirement simply is not needed. Newer gas station retail stores for Speedway and Casey's both exceed 3,000 square feet and were not subject to the 1:125 requirement. Staff is proposing to amend Table 4.204 to apply the parking requirement of 1:250 for Convenience Retail Use.

Menu Signage: The Code has no allowance for menu signs for businesses other than restaurants or for very small signage near building entrances. Staff is proposing Section 4.406.B.3.h (see page 17 in Zoning Code [Chapter 4.4: Sign Regulations](#)) applicable to drive-through restaurant menu signs also apply to menu signs for all drive-through businesses.

Temporary Signs: Staff is proposing clarifications to allowed temporary signs in the Downtown Mixed Use District (DMU). The proposed amendments will clarify that the current specified DMU signs in Section 4.411.H are in addition to those allowed in the districts specified in 4.11.D and E.

Rooming Houses: The City has received inquiries regarding one or more single-family residences having activity uncharacteristic of other residences in the neighborhood. Staff discovered the residence(s) may be occupied by several individuals all of whom are under individual leases (as opposed to a short-term rental agreement or a single lease for the whole home) with the owner not residing on the premises. This situation is commonly known as a boarding house or rooming house.

The Zoning Code has no provisions to allow or prohibit these, or to regulate them. The City does have regulations for other residential and non-residential uses of single-family residences such as home occupations, short-term rentals/B&Bs, and secondary dwellings. A reason for additional regulation is to control the level of activity at the property and to require improvements when needed so occupants can use the property in compliance with the Zoning Code.

With ever-changing housing markets and non-traditional living arrangements, the City should be equipped to accommodate a variety of housing options. Regulating housing from site improvement and operational standpoints can help ensure housing quality, safety, and neighborhood character.

To allow and regulate rooming houses in specific zoning districts, staff is proposing first to add a definition for Rooming Houses in Chapter 6 Glossary. Rooming Houses are proposed to be allowed only in the R1-H Single-Family High Density District, with approval of an Administrative Use Permit (AUP). This is the same zoning approval required for secondary dwellings and short-term rentals, and requires the applicant to notify the owners of several properties in close proximity.

A property proposing a Rooming House cannot have more than one dwelling unit or Guest Quarters (a non-dwelling unit used for temporary housing), and must provide one compliant paved parking space for each lease offered. Nobody in the Rooming House can be granted a City-issued Overnight Parking Permit. All requirements are part of a proposed new Section 2.106.N.

With this approval process and regulation, staff feels owners and occupants of Rooming Houses can know the City requirements and be able to abide by the requirements. Additionally, the immediate neighbors will know how the residence is used. Adding the proposed regulations would broaden housing opportunities, allowing Rooming Houses to blend with the neighborhood.

Staff Recommendation

Staff recommends the Commission open and conduct the public hearing. The Commission should consider the proposed amendments to the Zoning Code and information/testimony provided at the hearing. The Commission can take positive or negative action on any or all the amendments in the attached proposed amendments, including any changes. The Commission also may continue the hearing to a date certain for one or more individual amendments if additional information is needed.

Attachment: Proposed Amendments to the Zoning Code

- c Mayor and City Council
- Media

ATTACHED GARAGE SETBACK

Table 2.104: Lot Development Regulations – Single Family Residential Districts					
Standards	R0	RI-L	RI-M	RI-H	Additional Regulations
Minimum Lot Area (sq. ft.)	14,000	9,500	7,200	5,000	
Minimum Lot Width (ft.)	95	80	60	45	
Maximum Height (ft.)					
House	35	35	30	30	
Accessory Structure	25	25	25	25	
Maximum Floor Area Ratio (FAR)	0.35	0.40	0.45	0.50	
Front Setback (ft.)	30	30	25	20	
House	30	30	25	20	
Attached Garage	(A)	(A)	(A)	(B)	See 2.106.j
Rear Setback (ft.)	30	30	30	25	
Interior Side Setback (ft.)	15	12	10	7.5 (LI)	
Corner Side Setback (ft.)	30	30	12	10	
Accessory Structure Setbacks (ft.)					See 2.106.A
Front	30	30	30	30	(CA)
Rear	10	6	3	3	(DB)
Interior Side	10	6	3	3	(DB)
Corner Side	30	30	12	10	(DB)
Principal Structure	10	10	10	10	(EC)
Maximum Percentage of Building Frontage as Garage with Vehicle Door(s)	50	50	50	50	(FD)
<p>(A) Attached garages shall be set back a minimum of 6 feet from the front plane of the house.</p> <p>(B) Attached garages shall be set back a minimum of 12 feet from the front plane of the house.</p> <p>(AC) Detached garages shall be located at least 6 feet behind the front plane of the principal structure</p> <p>(BD) Rear and interior side setbacks shall be increased by 1 foot for each 1 foot or fraction thereof in excess of 15 feet in height.</p> <p>(EC) Structure may be located closer in compliance with applicable Building and Fire codes</p> <p>(FD) Unroofed porches wider than the enclosed building shall be excluded from the width of the building frontage</p> <p>(LI) Interior side setbacks on corner lots shall be a minimum of 5 feet</p>					

~~J. Attached Garage Setback:~~

- ~~1. Garages attached to the principal structure shall be set back as set forth in Table 2.104.~~
- ~~2. Attached garages having vehicle doors facing the closest side property line and not on the building frontage:

 - ~~a. may extend up to 10 feet forward from the front plane of the house, provided the building frontage wall of the garage has a minimum of 20 square feet of vision glass window area on the first floor; and~~
 - ~~b. shall not extend into any required setback.~~~~

TOWING SERVICE ESTABLISHMENTS

Table 2.603 Land Use Regulations – Employment Districts

	O	SB	LI	GI	
Towing Service Establishment	--	C	P, L4C, L8	P, L4C, L8	
Vehicle Services, Heavy	--	C	P	P	
Vehicle Services, Light	--	C	P	--	
Video Gaming Establishment	C, L7	C, L7	C, L7	C, L7	See City Code Title 3, Chapter 26
Warehousing					
Freight/Truck Terminal and Warehouse	--	--	P	P	
Petroleum and Gas Storage	--	--	P	P	
Information	C	--	P	P	
Waste Management					
Hazardous Waste Collection and Transfer Facility	--	--	--	C	
Hazardous Waste Disposal Facility	--	--	--	C	
Non-Hazardous Waste Collection and Transfer Facility	--	--	--	P	
Non-Hazardous Waste Disposal Facility	--	--	--	C	
Non-Hazardous Material Recycling Collection Facility	--	--	--	C	
Wireless Communication Facilities	--	--	A	A	

Table 2.603 Land Use Regulations – Employment Districts					
Use Classification	O	SB	LI	GI	Additional Regulations
Limitations					
L1:	Only as a use incidental to the principal use of the property.				
L2:	Drive-through facilities prohibited.				
L3:	Only as a use incidental to the principal use of the property. Retail uses shall not exceed 1000 sq. ft. Gross Floor Area (GFA).				
L4:	Permitted on properties with a principal structure. A Conditional Use for properties without a principal structure.				
L5:	Only as an incidental use to Vehicle Services, Light and Vehicle Services, Heavy. Motor Vehicle Sales and Leasing shall be conducted indoors and limited to 10 percent of the GFA of the principal use.				
L6:	Permitted as an Accessory Use to a Brewery Use				
L7:	Conditional Use Permit is required for either a principal or accessory/incidental use.				
L8:	<u>Allowed on properties with a principal structure. Unlicensed, damaged, or inoperable vehicles shall be kept in a solid fence enclosed area.</u>				

INCIDENTAL DISPLAY AND OUTDOOR STORAGE

Chapter 6 Glossary

Incidental Display. A limited area on a property not in an outdoor storage area or associated with a Temporary Use, on which merchandise otherwise offered for sale on the premises may be located and intended to be visible from the street.

Table 2.603 Land Use Regulations – Employment Districts

	O	SB	LI	GI	
Incidental Display		P	P		See Section 4.104
Instructional Services, Specialized	P	P	P	--	
Laboratories, Commercial	P	P	--	--	

4.104 Outdoor Business Property Storage and Incidental Display

The purpose of this section is to regulate outdoor storage of business property and incidental display of goods of business property. This section does not apply to Outdoor Personal Property Storage or display of goods associated with an allowed Temporary Use. Unless otherwise provided for in a specific base zoning district, outdoor storage and incidental display of goods shall comply with the following requirements:

- A. Business property storage shall be limited to inventory, stock, supplies, equipment, and similar material not displayed for sale, rental, or lease. Incidental display shall be limited to goods sold on the premises.
 - B. The maximum percentage of a lot that may be used for outdoor storage is set forth in each base zoning district.
 - C. Outdoor storage areas shall be enclosed by a solid fence or wall, ~~except that the fence need not be solid in Industrial districts on a property where an interior side or rear setback area abuts an interior side or rear setback area of a lot in an Industrial district.~~
 - D. The height of the fence or wall is set forth in each base zoning district.
 - E. Stored materials shall not exceed the height of the fence or wall, except in the General Industrial and Public Facilities/Institutional zoning districts.
 - F. Outdoor storage and incidental display areas in all districts shall not be located in a required landscape area.
 - G. Outdoor storage areas are prohibited in building setback areas in all zoning districts, except in the Light Industrial and General Industrial districts.
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- H. Incidental display areas shall be surfaced with concrete or asphalt or modular paver material installed pursuant to an issued building permit. Outdoor storage areas shall be surfaced with concrete, asphalt, gravel, or other approved dust free surface.
 - I. Unless otherwise required by the Fire Marshal, access aisles to outdoor storage areas shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.
 - J. All driveways accessing outdoor storage and incidental display areas shall be paved with asphalt or concrete.
 - K. All areas for vehicle parking or where vehicles maneuver to access storage and incidental display areas shall be paved with asphalt or concrete.
 - L. The outer perimeter of gravel areas shall be enclosed by a curb consistent with Section 11-5-6.P of the Subdivision Code or alternative design approved by the City Engineer.
 - M. Goods in incidental display areas shall not exceed 8 feet in height including a trailer on which the goods are located or 6 feet in height if goods are not on a trailer.
 - N. Incidental display areas shall not occupy more than 200 square feet.
 - O. Incidental display areas shall not encroach on pedestrian ways, fire lanes, or access aisles.
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EASEMENTS AND SIGHT DISTANCE TRIANGLE

Chapter 4.1: Site Regulations

Sections:

- 4.101 Encroachments Into Building Setback and Interior Building Separation Areas
- 4.102 Projections Above Height Limits
- 4.103 Lighting Standards
- 4.104 Outdoor Business Property Storage and Incidental Display
- 4.105 Screening of Mechanical and Electrical Equipment
- 4.106 Refuse and Recycling Enclosures
- 4.107 Swimming Pools
- 4.108 Fences
- 4.109 Recycling Collection Bins
- 4.110 Limitations for Structures on Easements
- 4.111 Sight Distance Triangle

4.110 Limitations for Structures on Easements

No structure, other than fences allowed by this Zoning Code, may be placed on Easements for Public Utility, Open Space, Conservation or Drainage purposes, except for structures

related to public utilities or drainage. Structures on all ~~other~~ easements shall not alter drainage or grade of the property without City approval and shall be subject to the requirements specified in the easement document, except for pools which are prohibited by this Code on all easements.

4.111 Sight Distance Triangle

Wherever a vehicle or bicycle use area intersects a vehicle, bicycle, or pedestrian use area, a Sight Distance Triangle shall be maintained. This area shall extend along the right-of-way line if present, otherwise along proximate property lines or along the edge of pavement if no proximate property line is present, for a distance of 20 feet with a line connecting the ends of this distance opposite the intersection to form an approximate triangular shape.

There shall not be located at any time in the Sight Distance Triangle any building, structure, sign, fence, or other object that may in any way interfere with the line of sight of operators of vehicles or bicycles, or pedestrians in these use areas. Landscaping in these use areas shall be maintained to not exceed a height of no more than two (2) feet. Trees shall maintain a canopy that is a minimum of five (5) feet above the grade of the higher of the proximate vehicle/bicycle or pedestrian use area.

PARKING FOR CONVENIENCE RETIAL USE

Table 4.202

Secondary Dwelling	2 spaces per 2 or more bedroom units; 1 additional space
Retail Sales, Convenience	1 space per 125-250 sq. ft.
Retail Sales, Furniture	1 space per 500 sq. ft.
Retail Sales, General	1 space per 250 sq. ft.

MENU SIGNS

Section 4.402

D. *Signs Not Requiring a Building Permit.*

1. One Building Identification Sign per building entrance, 6 square feet or less in area.
 2. Legal notices, building or site identification signs, directional and traffic control signs erected or required by a governmental entity.
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3. Permanent parking signs 6 square feet or less in area and a maximum of 6 feet in height.
 4. Permanent Informational Signs 6 square feet or less in area.
 5. Nameplates, not exceeding two square feet.
 6. Menu Signs 6 square feet or less in area, and a minimum of 4 feet in height, not including Drive-Through ~~Restaurant~~ Signs, displayed within 10 feet of the business entry.

Section 4.406.B.3

h. Drive-Through ~~Restaurant~~ Menu Signs

- (1) Number. Drive-Through ~~Restaurant~~ Menu Signs shall be limited to 2 per drive-through lane.
- (2) Area. Signs shall be no greater than 50 square feet in area and 7 feet in height.
- (3) Location. Location shall be approved through Design Review as part of a Design Review plan.
- (4) Design. Drive-Through ~~Restaurant~~ Menu Signs shall be constructed with a solid base, complimenting the materials and colors of the restaurant.
- (5) Visibility. The Plan Commission through Design Review (or the Historic Preservation Commission through COA where applicable) may require screening be added to the site to minimize visibility of Electronic *Changeable Message Signs* from streets or adjacent residentially used or zoned properties.

TEMPORARY SIGNS

D. *Temporary and Limited Duration Signs in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts:*

- #### E. *Other Non-Permanent Signs, Banners, and Flags in Commercial, Downtown Mixed Use, Mixed Use, and Public Facilities/Institutional Districts.* Other non-permanent signs, banners, and advertising flags are permitted in Commercial, Mixed Use, and Public Facilities/Institutional Districts as follows:

H. *Temporary and Limited Duration Signs in the Downtown Mixed Use Districts:*

1. Temporary Signs and Limited Duration Signs in Downtown Mixed Use Districts:
 - a. Freestanding Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
 - i. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage.
 - ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
 - iii. Height: Each sign shall have a maximum height of six (6) feet.
 - b. Wall mounted Temporary Signs are permitted in Downtown Mixed Use Districts as follows:
 - i. Duration and Number: Wall mounted Temporary Signs may be displayed for a maximum duration of 30 consecutive days with twelve (12) signs permitted per one year period per tenant or occupant.
 - ii. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
 - iii. Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs are permitted in Downtown Mixed Use Districts as follows:
 - a. Duration and Number: Limited Duration signs may be displayed up to a maximum duration of one year, with one (1) posting permitted per year per street frontage.
 - b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
 - c. Height: Each sign shall have a maximum height of six (6) feet.
 - d. Permit Required: Any Limited Duration Sign exceeding six (6) square feet will require a permit under Section 4.412.B.
3. Other non-permanent signs, Banners, and Flags are permitted in DMU Districts pursuant to the Commercial regulations in 4.412. E.

I. *Temporary and Limited Duration Signs in the Parks and Open Space Districts:*

1. Temporary Signs:
 - a. Duration and Number: Freestanding Temporary Signs may be displayed for a maximum duration of 30 consecutive days with one (1) sign permitted per 300 feet of frontage. No Temporary Signs may be installed 30 days prior to the installation of a new sign.
 - b. Area: Each sign shall have a maximum area of thirty-two (32) square feet.
 - c. Height: Each sign shall have a maximum height of six (6) feet.

2. Limited Duration Signs:
 - a. One (1) Limited Duration Sign is permitted per property in Parks and Open Space Districts. One additional sign may be permitted

ROOMING HOUSES

Chapter 6 Glossary

Rooming House. A nonowner-occupied dwelling that is not operated as a Bed and Breakfast Establishment, or as a Group Home or Nursing Home, or as a residence intended for permanent residency by one lease holder at a time, that is offered for rent to, or occupied by more than one lease holder. A Rooming House may also be known as a boarding house or multi-tenant house.

Table 2.103

	R0	R1-L	R1-M	R1-H
<i>Two-Family Residential</i>	--	C	--	--
Rooming House	--	--	--	A
Satellite Dish Antenna, Large	P, LI	P, LI	P, LI	P, LI

Section 2.106

N. Rooming House.

1. Administrative Use Permit Required. Rooming Houses shall require an Administrative Use Permit (AUP). A current plat of survey shall accompany the application for AUP. Mailed notice of application for an Administrative Use Permit shall be given to adjacent property owners, including properties directly across a street from the property, and owners of properties adjoining front and side property lines to those properties. Notice shall be mailed no later than 15 days before a decision is made on the application.
 2. Rooming Houses shall not be located on properties with a nonconforming number of dwelling units.
 3. Rooming Houses shall not be located on properties having Guest Quarters.
 4. Parking Required. Rooming Houses shall provide the following minimum parking improvements on the Zoning Lot:
 - a. One (1) parking space shall be provided for each lease offered.
 - b. Parking shall be located in a garage or on a conforming paved driveway that provides pavement to the street.
 - c. Parking shall not extend over a sidewalk.
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- d. Owners, occupants, and guests of Rooming Houses shall not be granted a City-issued Overnight Parking Permit.