

Checking in on the city's Green Code

With development in the city becoming the new normal, the timing could not be better for the arrival of the long-anticipated Buffalo Green Code, the overhaul of the city's land use plan and zoning code which has been in process since 2010.

The Green Code builds upon the city's 2006 Comprehensive Plan and consists of several component documents including a Land Use Plan, a Unified Development Ordinance (UDO), a Local Waterfront Revitalization Plan, Brownfield Opportunity Area designations and urban renewal plans.



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The UDO is the first comprehensive rewrite of the city's zoning code since 1953. Similar to the current zoning code, it is

organized by neighborhoods, districts and corridors.

However, unlike the current zoning code, it is place-based and form-based and is intended to emphasize neighborhood character and encourage smart growth, walkability and mixed-use development. The document includes pictorial representations of the building types and designs permitted in each area.

A "developer-friendly" code?

The city has often portrayed the Green Code as an opportunity to encourage development and economic investment in Buffalo by providing clear guidelines to make the development process more predictable. This has raised concerns from some members of the public that the Green Code is too "developer-friendly."

However, the benefit to developers from the change to the UDO is that the zoning rules will now more closely align with the values of the community, as a whole, and the individual communities recognized within the UDO. This does not mean that every development project will face an easy path to approval or that a developer need not respond to community concerns.

Similar to the current zoning code, most projects will still undergo a site plan review process, even if the use is permitted by right. Such projects will face review by the Planning Board, public hearings and detailed approval standards that the Planning Board must abide by which address the surrounding communities.

As the city's zoning code currently stands, the rules are not necessarily consistent with the values of the public. Certain businesses or styles of development are not permitted, or even contemplated, under the regulations.

Designs that are permitted, however, are often out of step with what is preferred by the community (for instance, buildings set back from the street with lots of parking in front). Accordingly, there is significant uncertainty under the current zoning process.

For example, a developer may invest significant resources into design of a project that is permitted under the regulations,

only to find out during the review process that the community desires something very different and not necessarily contemplated in (or even consistent with) the regulations, resulting in further delays and increased costs.

The Green Code helps to codify the values of each community noted, and the city as a whole, along with the values included in the Comprehensive Plan and Land Use Plan, while also providing clarity and transparency in the zoning process. The end goal is that developers will have a clear understanding of the process up-front and specific guidelines for what types of projects are desired. Such clarity should bring additional development to the city.

The status of the Green Code

The Draft Generic Environmental Impact Statement (DGEIS), which analyzes the environmental impacts of all components of the Green Code, was accepted by the Common Council on Feb. 16. A formal public comment period on the DGEIS was held from Feb. 22 to April 22.

The city estimates that it has interacted with at least 6,000 individuals during the opportunities for public input on the Green Code, and the city is reviewing and responding to the plentiful comments received to date. The vast majority of comments received on the DGEIS appear to focus on the Elmwood Village area and the Outer Harbor, a sign that while there may be some issues to work through in those areas, concerns about the Green Code as a whole are somewhat limited.

The city is currently working to revise aspects of the Green Code in connection with the comments received. The changes are expected to be focused on the discrete areas of concern raised, rather than a total overhaul of the Green Code.

However, some major changes may be expected. For example, concerns have been raised regarding building heights in the Elmwood Village. Any changes to the Green Code to address these height concerns are likely to have an impact on all areas throughout the city with the same "N-2C — Mixed-Use Center" designation as the Elmwood Village.

Once that process is complete, the Green Code component documents and the Final GEIS (FGEIS) will be submitted to the Common Council for adoption. The city is targeting late summer or early fall for the final adoption of the Green Code by the Common Council.

Final opportunity for comment

In the meantime, both the legal and development communities should keep the Green Code on their radar, as there will be one more chance for public comment and input on the revised version prior to adoption.

The Common Council plans to hold legislative hearings on the Green Code after completion of the FGEIS. This will be a final opportunity for the development community to provide comment as to how any final revisions may impact development and economic investment within the city.

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