

**CITYOF ROCKVILLE**  
**COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT**  
**STAFF REPORT**  
**March 15, 2011**

**TO:** Planning Commission

**FROM:** Jim Wasilak, AICP, Chief of Planning

**PLANNER:** Deane Mellander, Zoning Administrator

**DATE:** March 16, 2011

**SUBJECT:** Zoning Text Amendment TXT2011-00230

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**RECOMMENDATION:** Approval of the proposed text amendment with the revisions recommended by the staff.

**REQUEST:** The applicant, the Mayor and Council of Rockville, authorized the filing of this text amendment for the purposes of addressing certain policy issues and to make corrections and clarifications.

**RELEVANT ISSUES:**

- Revise certain definitions
- Revise the site plan review process to delete the Level 3 site plan review and modify the findings for site plans and project plans
- Modify or delete certain special exception uses in the residential zones

**PREVIOUS RELATED ACTIONS:** At their meeting on November 15, 2010, the Mayor and Council directed the staff to prepare this text amendment to address certain clarification and policy issues raised by Councilmember Pierzchala and also by the Communications Task Force.

**BACKGROUND**

The proposed zoning text amendment (Attachment A) combines two related objectives. The first is to make further corrections and clarifications to the

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ordinance that have been noted over the past year while administering this new code. Most of these are very minor technical corrections. The other objective is to address the issues and comments raised by Councilmember Pierzchala in his detailed review of the code (see Attachment B). The staff initially addressed these issues in a memo dated July 23, 2010 (see Attachment C). The Mayor and Council reviewed these issues at their meeting on November 15. At the November meeting, the Mayor and Council directed staff to prepare a text amendment for authorization to file. The staff prepared the draft text amendment and the Mayor and Council authorized the filing at its meeting on February 14, 2011.

## ANALYSIS

The following proposed amendments are intended to address the general policy issues that were raised by Councilmember Pierzchala and reviewed by the Mayor and Council at the November meeting:

- Definition of “family” (Sec. 25.03.02): The staff had initially recommended that the definition be left as it currently appears in the code. However, we have noted that the definition of family in the Property Maintenance Code is not consistent with the zoning ordinance definition. Further, Mr. Howley, Supervisor of Community Enhancement and Code Enforcement, has requested that there be some clarification inserted into the definition to aid enforcement issues. The current definition in the Property Maintenance Code reads as follows:

Family: An individual, or two (2) or more persons related by blood or marriage, or a group of not more the five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

The two departments along with the City Attorney's Office have worked together and recommend that the definitions in *both* codes be modified to read as follows:

*Family* – An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship and not more than two (2) other persons]; or a group of not more than five (5) persons all of whom are not related to each other by blood, marriage, domestic partnership, adoption,

guardianship or other duly authorized custodial relationship, living together as a single housekeeping group in a dwelling unit.

The intent here is to allow a related family to rent a room (or rooms) to only two other persons. Renting to three or more persons becomes a boardinghouse by zoning ordinance definition, which has been a prohibited use since at least the prior ordinance. In the case of a family of unrelated persons living as a single housekeeping unit, the limitation remains at five persons total.

Please note that because the Property Maintenance Code is a part of Chapter 5 of the City Code, any amendment will be a separate action. Once the Mayor and Council take action on the final zoning text, an ordinance to amend Chapter 5 with the same definition will be introduced.

- Definition of “Dwelling Unit” and “Kitchen” (Sec. 25.03.02): In the discussion with the Mayor and Council in November, the staff had suggested that the definition of “kitchen” be amended to have the presence of a kitchen establish a dwelling unit. After further discussion, it did not seem to make sense to have a kitchen by itself establish a dwelling unit. The recommendation is to leave the “kitchen” definition as is, and make it more explicit in the definition of “dwelling unit” that a kitchen is one of the necessary items to meet the definition of a dwelling unit.
- The Site Plan Review Process – Revisions are recommended in four areas associated with the site plan review process and administration:

Sec. 25.05.07: The proposed amendment makes revisions in two related areas. The first is to allow for some clean-up and flexibility in reviewing minor amendments to existing developments administratively. As now written the text contains several inconsistencies. Currently, minor amendments may only be approved if they are for small adjustments due to site engineering or minor changes to site features, that don’t alter the basic elements of the site plan. However, there is no provision to allow a permitted use in the zone to occupy an existing building without a site plan process even when no site improvements or additional parking are required.

Sec. 25.07.01: The second change revises the language for the findings for both site plan and project plan. The current language is essentially identical for both. However, due to the nature of the project plan, the findings should be more general and tied to the master plan and overall impact of the proposed development. Where a site plan implements a project plan (or portion thereof),

there needs to be a cross-reference to the findings already made in approving the project plan. Also, a cross-reference to site plans implementing approved special exceptions is needed.

Sec. 25.07.02: The third change recommended is to eliminate the Level 3 site plan review process. The only real difference between the Level 2 and Level 3 processes is that the Level 3 process requires a second session before the Planning Commission before they can take action. If the Planning Commission determines that they need additional information or time for consideration, they already have the authority to defer action.

The fourth change involves revisions to the levels of site plan review and how the levels are determined. Based on experience with project reviews over the past year and a half, the staff is recommending that the project implementation points chart in Section 25.07.02.a (see page A-13) be revised to raise the threshold levels for the square footage on nonresidential uses and the percentages of single unit detached residential units within a quarter mile of the project. The recommended changes are as follows:

Square Footage of Non-Residential Space:

- One point – 5,000 or fewer square feet (no change)
- Two points – 5,001 to 25,000 square feet (raised from 10,000 square feet)
- Three points – 25,001 square feet to 100,000 square feet (raised from 50,000 square feet)
- Four points – 100,001 or greater square feet (raised from 50,001 square feet)

Residential Impact Area:

- One point – Up to 10% residential development within ¼ mile
- Two points – Up to 50% residential development within ¼ mile
- Three points – Up to 75% residential development within ¼ mile
- Four points – Development within single-unit detached residential area (no change)

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One example is the Kol Shalom synagogue project. Because of its size as a nonresidential use and location within a single unit detached residential neighborhood, the point count came to 13, which required project plan approval by the Mayor and Council under the current process. The current points table treats this project as if it were a King Farm or Fallsgrove sized project. The Kol Shalom building was 30,379 square feet on a 4.8 acre site. The proposed text revisions would allow such projects to proceed through the Level 2 site plan review process with Planning Commission review but not requiring Mayor and Council review.

- Secs. 25.07.04, 25.07.05, and 25.07.07: As a result of the Communications Task Force report and staff suggestions, revisions have also been made to the review process for site plans and special exception applications. We have reversed the order of the pre-application area meeting and pre-application staff meetings in order to more clearly reflect the change that is already being made administratively. This will require an applicant to meet with the community before meeting with the staff on a proposed project ahead of the formal application.
- Sec. 25.10.03: A number of revisions are proposed to the land use tables involving special exceptions, especially in the single unit detached residential zones. The proposed text amendment would eliminate from the R-40 Zone charitable or philanthropic institutions and private educational institutions. Hospitals are proposed to be deleted entirely from these residential zones. These nonresidential uses can have substantial impacts and should therefore be restricted or eliminated entirely.

The following is a summary of the rest of the recommended changes, most of which are technical or clarifying in nature:

In the Table of Contents, the sections in Article 7 are renumbered as a result of the recommendation to delete the Level 3 site plan review process.

Sec. 25.02.04: In 2009, the State revised the state code regarding the procedures for annexations. As a consequence, Section 25.02.04 has to be revised to reflect the new procedures set forth in the state code. The City Attorney's office has provided the revised language to effect these changes.

Section 25.03.02 – Within the Definitions, several additions and corrections are proposed:

Add a new definition to clarify that a property owner may designate another party to be the applicant for a development action:

Applicant – The person who is authorized by the owner to file an application for any type of development application under this Chapter.

The definitions of Basement and Cellar are revised to provide cross-references to each other.

Revise the definition of Build-To Line to make it clear that the line is established by the applicable master plan and the encroachments are regulated in Sec. 25.09.05.

Dwelling Unit – Revise the definition to include the term kitchen, as opposed to cooking facilities. See the discussion above.

Established Setback – Revise the definition to refer to Sec. 25.10.05.a. (Table of Development Standards)

Definition of Family: See discussion above.

Add a cross-reference entry for Philanthropic Institution

Definition of Project Plan: Provide a reference to Sec. 25.07.02 (Application Procedure for Site Plans, Project Plans and Special Exceptions)

Definition of Use, Accessory: Revise the definition to be consistent with the terminology in Sec. 25.09.01

Section 25.04.02 – Subsection b.2(c) – add a reference to the Plan.

Section 25.04.04 – Correct subsection reference (b to c).

Section 25.04.05 – Subsection c.5 is corrected to make reference to the Board instead of the Commission.

Section 25.04.07 – Chief of Inspection Services – Correct the reference for appeals to the Board of Adjustments and Appeals, as established in Chapter 5.

Section 25.05.07 – Amendments to Approved Development – See the discussion above.

Article 6 – Add the word “Zoning” ahead of the words “Text Amendments” for added clarity.

Sec. 25.06.03 – Subsection c is amended to require the posting of a sign in connection with a variance application. Subsection e is corrected to make the term “granted” rather than “approved” where it appears.

Section 25.06.05 – Subsections f and g are included in the listing, rather than have a separate subsection 4.

Section 25.07.01 – The findings for site plans and project plans have been revised to make it more clear what the differences are in the processes and the procedures to be used. See also the discussion above.

Section 25.07.02 – See the discussion above regarding the changes to the points table and the site plan review levels. This includes the deletion of the Level 3 site plan review process, which necessitates the renumbering of all the following sections (and the listing in the Table of Contents). See also the discussion above regarding the changes in Secs. 25.07.04, .05, .07, and .08 (former Sec. .09) regarding the pre-application process.

Section 25.07.08 : In subsection q, revise to indicate that the pre-application process is not required where a site plan is required following approval of a special exception. The pre-application process was required as part of the initial special exception process, so interested parties will have already been made aware of the application.

Section 25.08.02 – Revisions made for cross-references resulting from the deletion of the Level 3 site plan process.

Section 25.08.03 – Revisions made to make the reference consistent with the terminology in Secs. 25.10.02. and the definition of “Buildable Lot”.

Sections 25.08.08 – Correct typo in subsection a and cross-reference in subsection 2(b)ii.

Section 25.10.03 – Land Use Tables: As per the discussion above, certain uses have been revised or deleted from the tables. Child Care Home is revised to note that up to 8 children are permitted for clarity. Charitable or Philanthropic Institutions have been modified to refer to offices, to aid in limiting the scope of the use. This use is also recommended to be deleted from the R-40 zone. A typo is also corrected to delete the reference to “9 –12 children”. Private Educational Institutions are recommended to be deleted from the R-40 zone, and Hospitals are recommended to be deleted in their entirety from the residential zones. Other corrections are made for cross-references under the conditional requirements column.

Section 25.11.03 – Land Use Tables: Correct terminology of use types for consistency. Revise Child Care Home and Charitable and Philanthropic institutions as discussed above, and delete Hospitals. Make cross-reference corrections for conditional requirements.

Section 25.12.04 – Development Standards Table: Revise the side yard setbacks for nonresidential land abutting for consistency.

Section 25.13.03 – Land Use Tables:

Delete Hospital as a use in the MXT zone.

Add Flea Market as a temporary use.

Insert effective date of the ordinance for Funeral Home

Add Pet Sales as a use, to be consistent with the previous ordinance.

Section 25.13.05 – Revise the cross-references resulting from the deletion of the Level 3 site plan process.

Section 25.14.01.d – Insert cross-references resulting from the deletion of the Level 3 site plan process.

Section 25.14.07.e – Correct the subsection lettering.

Section 25.15.01. – In subsection a.1, revise the cross-reference resulting from the deletion of the Level 3 site plan process.

Section 25.15.02 – Correct typos in subsections c., e., and f.

Section 25.16.03.d. In the parking tables, the residential uses are revised for consistency. A typo is corrected for fast-food restaurants and for supermarkets of more than 30,000 gross square feet or more. For outdoor recreational establishments, a typo is corrected for the additional requirements, and the parking standards for a multi-purpose sport facility is added to the code. This was inadvertently deleted when the revised code was adopted.

Section 25.16.05.b – Delete the word “public” from the language. Any parking space, private or public, must conform to the standards.

Section 25.16.09.c.2.(b)(v) – Typo corrected.

Section 25.17.01.d – Subsection lettering corrected.

Section 25.19.03.a – Typo corrected.

Sec. 25.21.03: The staff is recommending a revision to the process for recording existing single-unit detached residential properties. The intent of this section is to allow for the recordation of properties that have been under unified control since October 1957, when the ordinance was changed to prohibit building across lot lines. This includes old recorded lots that were only 25 feet wide, but have required at least two lots in order to be built upon, as well as deeded properties that meet at least the minimum standards of the original zoning ordinance. The proposed change is to specifically note that the property to be recorded has to have been in common ownership since October 1957.

Section 25.21.10.b - Insert reference to existing and proposed public easements.

Section 25.21.11.d – Correct typo, and include the date of Planning Commission action in the initial notice requirement.

## **ADDITIONAL CHANGES RECOMMENDED**

Subsequent to the filing of the text amendment, two additional suggested changes have been identified. The first has to do with signs. The second has to do with ownership plats.

When the zoning ordinance was revised, the sign regulations were revised to change the zoning designations to be consistent with the new zones. However, no provision was made to address signs in the Planned Development zones. It can be interpreted from the context that the designated equivalent zones shown with each PD zone in Article 14 defines which sign regulation applies. However, it would be more clear if a specific entry was provided in Article 18. The staff therefore recommends that Article 18 be amended to add the following new section:

**25.18.18 - Signs in Planned Development Zones**

Signs in any of the Planned Development zones as set forth in Article 14 will be regulated based on the applicable designated equivalent zones described in each planned development.

Also, an additional item regarding ownership plats has come to light that needs to be addressed. At present there is no limit on how long it can take to record an ownership plat. Recordation of a final record plat must occur within two years of the approval date, with 2 one-year extensions available. The staff recommends that this same implementation requirement apply to ownership plats. As such, the new language should be inserted as follows:

**25.21.13 – Ownership Plats**

\* \* \*

f. *Revocation of Approval* – In the event that the ownership plat is not recorded within two (2) years after receiving approval, due to the failure of the subdivider to comply with any conditions, the application is considered withdrawn and any previous approval is revoked. For good cause shown, not more than two (2) extensions not exceeding one (1) year each may be granted by the Planning Commission; except that the Commission may extend the time for recording the ownership plat to the expiration date of any existing site plan or Project Plan approval.

## RECOMMENDATION

Staff finds that the proposed text amendment, with the additional modifications recommended in this staff report, will provide the necessary additions, clarifications and corrections to meet the intent of the comprehensive revisions to the Zoning Ordinance, and therefore recommends approval of text amendment TXT2011-00230.

/dem

Attachments:       A. Text Amendment Application  
                          B. Pierzchala memo of April 26, 2010  
                          C. Staff memo of July 23, 2010

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February 14, 2011

ATTACHMENT TO APPLICATION  
TO THE CITY OF ROCKVILLE FOR A  
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; [brackets] indicate text to be deleted; \* \* \* indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend the Table of Contents as follows:

TABLE OF CONTENTS

\* \* \*

**Article 7 – Procedures for Site Plans and Project Plans, Special Exceptions, and Other Permits**

- 25.07.01 – Site Plan, Project Plan, and Special Exception Approval Required
- 25.07.02 – Application Procedure for Site Plans, Project Plans, and Special Exceptions
- 25.07.03 - Notice Required; Procedure
- 25.07.04 – Level One (1) Site Plan Review
- 25.07.05 – Level Two (2) Site Plan Review
- [25.07.06 – Level Three (3) Site Plan Review]
- 25.07.[07] 06 – Site Plan Implementation Period
- 25.07.[08] 07 – Project Plan Review
- 25.07.[09] 08 –Special Exceptions
- 25.07.[10] 09 – Temporary Use Permit
- 25.07.[11] 10 – Sign Permit
- 25.07.[12] 11 – Occupancy Permit
- 25.07.[13] 12 – Temporary Occupancy Permit
- 25.07.[14] 13 – Certificate of Approval in Historic Districts
- 25.07.[15] 14 – Additional Permits and Approvals

Amend Article 1, General Information, as follows:

**25.01.02. Purpose**

The purposes of this Chapter are to:

\* \* \*

8. Preserve sites, structures, and districts of historical, archeological, or architectural significance, and their appurtenances and environmental settings;

Amend Article 2, Zoning Map, as follows;

**25.02.04 – Zoning of Annexed Land**

- a. *Petition Filed* – When a petition to enlarge the corporate boundaries of the City is submitted to the Mayor and Council in accordance with the requirements of State law, the City Clerk must transmit a copy to the Chief of Planning.
- b. *Chief of Planning Review* – The Chief of Planning will review the application for conformance with annexation and land use policies of the Plan. The Chief of Planning will then transmit a copy of the petition to the Planning Commission.
- c. *[Preliminary Report] Annexation Plan*
  1. The Planning Commission will study the area proposed to be annexed and prepare a preliminary [report] annexation plan recommending the zoning classification or classifications of such property that would be appropriate if it were to be annexed.
- d. *Planning Commission Public Hearing and Notice* – The Planning Commission must:
  1. Hold at least one (1) public hearing on the preliminary [report] annexation plan[,] in accordance with the provisions of Section 25.04.02.e.2;
  2. Provide at least 15 days’ notice of the time and place of the hearing to be published in a paper of general circulation in the City; and
  3. Provide written notice mailed in accordance with the provisions of Section 25.05.03.
- e. *Final [Report] Annexation Plan* – Following such hearing, the Planning Commission [shall] must submit its final [report] Annexation Plan to the Mayor and Council. The Mayor and Council must adopt the Annexation Plan.
- f. *Mayor and Council Public Hearing and Notice*

1. The Mayor and Council must hold a public hearing on the zoning recommendation and [report] adopted Annexation Plan [of the Planning Commission] in accordance with State law simultaneously with its hearing on the proposed annexation.
2. The City Clerk must send a copy of the adopted Annexation Plan and public hearing notice to the applicable state, county, and regional agencies required by law.
3. Public notice of the Mayor and Council's hearing on the final [report] adopted Annexation Plan must be given in accordance with the requirements of State law.

\* \* \*

Amend Article 3 – Definitions; Terms of Measurement and Calculations, as follows:

**25.03.02 – Words and Terms Defined**

\* \* \*

Applicant – The person who is authorized by the owner to file an application for any type of development application regulated under this Chapter.

\* \* \*

Basement - That portion of a building below the first floor joists, at least half of whose clear ceiling height is above the level of the adjacent finished grade (compare with Cellar).

\* \* \*

Build-To Line – [The line at which construction of a building, excluding permissible encroachments provided in Section 25.09.05, is required to occur on a lot.] A setback line established by the applicable master plan that sets the location of building construction on the lot. A build-to line typically runs parallel to the front property line and is established to create an even building façade line along a street. Encroachments may be allowed in accordance with the provisions of Section 25.09.05.

\* \* \*

Cellar – That portion of a building below the first floor joists at least half of whose clear ceiling height is below the level of the adjacent ground (compare with Basement).

\* \* \*

*Dwelling Unit* – A building or portion thereof providing complete living facilities for not more than one (1) family, including, at a minimum, a kitchen, and facilities for [cooking,] sanitation and sleeping.

\* \* \*

*Established Setback* – Where the majority of lots located on one (1) side of a street between two (2) intersecting streets are occupied by buildings having a front setback different from the standard specified, all buildings must conform to the setback line thus established up to the maximum specified in the zone as set forth in Section 25.10.05.a.

\* \* \*

*Family* – An individual, or two (2) or more persons, all of whom are related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship and not more than two (2) other persons[,]; or a group of not more than five (5) persons all of whom are not related to each other by blood, marriage, domestic partnership, adoption, guardianship or other duly authorized custodial relationship, living together as a single housekeeping group in a dwelling unit.

\* \* \*

*Philanthropic Institution* – See Charitable or Philanthropic Institution

\* \* \*

*Project Plan* - A conceptual plan of development for a major project proposal as determined under the provisions of Section 25.07.02 that must be approved by the Mayor and Council and may encompass multiple buildings or multiple uses, and which may include a phasing plan for completion of the development over time.

\* \* \*

*Use* - The purpose for which a lot or portion thereof or the building or structure thereon or part thereof is designed, arranged, or intended and for which it is or may be used, occupied or maintained.

1. *Use, Accessory* - A use customarily associated with and clearly incidental and subordinate to a permitted, conditional, or special exception use which complies with the conditions for an accessory use in Article 9 of this Chapter.

\* \* \*

**Amend Article 4, Approving Authorities, as follows:**

**25.04.02 – Planning Commission**

\* \* \*

*b. Powers and Duties*

\* \* \*

2. *Responsibility Where Approval is Required* – Where Planning Commission approval is required under this Chapter or other applicable law, the Commission must:

- (a) Consider and act upon any request for approval,
- (b) Consider such request with regard to matters and facts pertinent and applicable thereto, and
- (c) Render its decision in accordance with the requirements, purpose, and intent of this Chapter and the Plan.

\* \* \*

**25.04.04 – Historic District Commission**

\* \* \*

*b. Powers and Duties*

- 1. *Generally* – The Historic District Commission has all those powers and duties conferred and imposed upon it by this Chapter and the provisions of State law, including but not limited to:
  - (a) Identifying and recommending to the Mayor and Council properties and/or areas deemed eligible for historic designation due to their historic, archaeological, or architectural significance;
  - (b) Reviewing applications for Certificates of Approval for sites, buildings or structures within a Historic District zone;
  - ([b] c) Evaluating eligibility for historic designation of any sites, buildings or structures located outside a Historic District Zone which are proposed for demolition;

\* \* \*

**25.04.05 – Sign Review Board**

\* \* \*

c. *Membership*

\* \* \*

5. *Clerk of Sign Review Board* – The Chief of Planning serves as the Clerk of the sign Review Board and will:

(a) Attend all meetings of the Sign Review Board;

(b) Keep a full and accurate account of the proceedings of the Sign Review Board, including but not limited to the official record of all matters filed with the [Commission] Board;

\* \* \*

**25.04.07 – Chief of Inspection Services**

\* \* \*

b. *Appeals*

1. Any person aggrieved by any [other] final decision of the Chief of Inspection Services under the provisions of this Chapter may appeal the same to the Board of Adjustments and Appeals within 30 days of the date on the official letter of notification of the decision.

Amend Article 5, Application and Notification Generally, as follows:

**25.05.07 – Amendments to Approved Development**

\* \* \*

b. *Minor Amendments to Approved Development*

1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Planning under the provisions for a Level 1 site plan as set forth in Sec. 25.07.04.

[2.] (a) Such application may [only] be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to [a change in: (a)] minor adjustments to [due] to site engineering<sub>s</sub> [,]; or (b) a parking or loading areas<sub>s</sub> [,]; or (c)] landscaping, [a] sidewalks<sub>s</sub>, recreational

facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan. Landscaping maintenance does not require an amendment application under this section.

[3.] (b) Modifications that result in a reduction of floor area or other development intensity may be approved by the Chief of Planning [under a Level 1 site plan review process].

2. A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement may also be approved as a minor amendment.

[4] 3. Minor changes are not subject to the provisions for pre-application staff meetings, area meetings, and the notice provisions of Section 25.05.03 or Article 7.

[5] 4. Where the Chief of Planning determines that the change is not minor, it is a major change and the application is referred to the Approving Authority for review.

5. Implementation Period – The approval of a minor amendment is subject to the implementation provisions of Section 25.07.06.

*c. Major Amendments to Approved Development*

\* \* \*

4. Implementation Period – The approval of a major amendment is subject to the implementation provisions of Section 25.07.06.

Amend Article 6, Procedures for Map and Text Amendments, Variances, and Administrative Actions, as follows:

**Article 6 – Procedures for Map and Zoning Text Amendments, Variances, and Administrative Actions.**

\* \* \*

**25.06.02 – Zoning Text Amendments**

a. Scope

\* \* \*

3. Amendments to [the foregoing provisions] sections of this Chapter set forth in subsection a.2 above must be made by ordinance adopted in accordance with the procedures for [amendment] amending other Chapters of the Code.

\* \* \*

**25.06.03 – Variances**

\* \* \*

- c. *Public Notification of Pending Application* – Written notice of a pending variance application must be provided by the Chief of Planning in accordance with the provisions of Section 25.05.03.c and the posting of a sign in accordance with Section 25.05.03.d.

\* \* \*

- e. *Findings* – A variance may be [approved] granted by the Board of Appeals if it finds that:

1. The variance would not be contrary to the public interest;
2. The request for the variance is the result of conditions peculiar to the property and not the result of any action taken by the applicant;
3. Literal application of this Chapter would result in practical difficulty; and
4. The [approval] granting of the variance is not inconsistent with the purposes of this Chapter.

\* \* \*

**25.06.05 – Administrative Adjustments in Single Dwelling Unit Residential Zones.**

- a. *Purpose and Authority* – The Chief of Planning is authorized to determine and make administrative adjustments from the regulations of this Chapter when:
1. It is found to be in harmony with its general purpose and intent provided in Section 25.01.02;
  2. [In] It complies with the specific instances set forth in this Section 25.06.05; and

\* \* \*

**25.06.05 – Administrative Adjustments in Single Dwelling Unit Residential Zones.**

\* \* \*

- e. *Review Criteria and Findings* – An administrative adjustment may not be granted unless the Chief of Planning makes the following findings based upon the evidence of record:

\* \* \*

[4] f. *Notice of Decision* – The Chief of Planning must send notice of the decision in accordance with the provisions of Section 25.05.06.

[f] g. Appeals to the decision of the Chief of Planning must be made to the Board of Appeals in accordance with the provisions of Section 25.04.06.b, except that any appeal must be filed within 10 days of the date of the decision letter.

Amend Article 7, Procedures for Site Plans and Project Plans, Special Exceptions and Other Permits, as follows:

**25.07.01 – Site Plan, Project Plan, and Special Exception Approval Required**

a. *Site Plan Approval*

\* \* \*

3. *Required Findings:* [-]

(a) A site plan application that does not implement a project plan or a special exception, may be approved only if the applicable Approving Authority finds that the application will not:

i. Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development;

ii. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;

iii. Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards;

iv. Adversely affect the natural resources or environment of the City or surrounding areas;

v. Be in conflict with the Plan;

vi. Constitute a violation of any provision of this Chapter or other applicable law[.] ; or

vii. Be incompatible with the surrounding uses or properties.

(b) A site plan that implements all or a portion of an approved project plan is deemed to meet the findings for approval so long as the site plan complies with the conditions and requirements of the approved project plan and where the application will not:

i. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;

ii. Constitute a violation of any provision of this Chapter or other applicable law; or

iii. Be incompatible with the surrounding uses or properties.

(c) A site plan that implements all or a portion of an approved special exception is deemed to meet the findings for approval so long as the site plan complies with the conditions and requirements of the approved special exception and where the application will not:

i. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;

ii. Adversely affect the natural resources or environment of the City or surrounding areas; or

iii. Constitute a violation of any provision of this Chapter or other applicable law.

b. *Project Plan Approval*

\* \* \*

2. *Required Findings* – A Project Plan application[,] may be approved only if the Mayor and Council finds that approval of the application will not:

(a) Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed [use] project;

(b) [Be detrimental to the public welfare or injurious to property or improvements in the neighborhood] Be in conflict with the Plan;

- (c) Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards; [or]
- (d) Constitute a violation of any provision of this Code or other applicable law[.]; or [.]
- (e) Adversely affect the natural resources or environment of the City or surrounding areas[.];
- [(f) Be in conflict with the Plan; or
- (g) Be incompatible with the surrounding uses or properties.]

**25.07.02. Application Procedure for Site Plans, Project Plans, and Special Exceptions**

\* \* \*

a. *Application Procedure, in General* –

1. The level of review for each application is based on a point system, provided in the chart below. Each application must be evaluated on the acreage of the site, the number of dwelling units proposed, the square footage of non-residential space, the residential impact area, and the traffic impact of development proposed. Each of these items is allocated a number of points which are added together to determine the complete point valuation for the project.

<b>Points Elements</b>	<b>1<sup>1</sup></b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>Points</b>
Tract size – Acres	1 or fewer	1.1 to 2.5	2.6 to 5	5.1 or greater	—
Dwelling Units	1 to 5	6 to 50	51 to 150	151 or greater	—
Square Footage of Non-Residential Space	5,000 or fewer square feet	5,001 to [10] 25,000 square feet	[10] 25,001 to [50] 100,000 square feet	[50] 100,001 or greater square feet	—
Residential Area Impact	[No] Up to 10% residential development in a single dwelling unit residential zone within ¼ mile of the project	Up to [35] 50% of area within ¼ mile of the project area is comprised of single-unit detached residential units	Up to [65] 75% of area within ¼ mile of the project area is comprised of single-unit detached residential units	Development is within single-unit detached unit area.	—
Traffic Impact – Net new peak hour trips	Fewer than 30 trips	30 – 74 trips	75 – 149 trips	150 or more trips	—
<i>Points Total</i>					The total of the points determine the level of notification.

<sup>1</sup>In calculating the level of review, where no dwelling units, no non-residential square footage or no increase in peak hour trips are proposed, and where there is no single unit residential development within ¼ mile, no points are assigned to those categories.

2. In cases where a modification to an existing development is proposed, the point total is calculated only on the net additions to the development.

c. *Site Plan Level of Review*

\* \* \*

2. *Level Two (2) – Site Plan Review:* If the elements of the proposed project total seven (7) to [nine (9)] 15 points, the Chief of Planning will review and make a recommendation to the Planning Commission and the Planning Commission will complete a final review of the site plan in accordance with Section 25.07.01.a.3 and 25.07.[04] 05. Site plans that implement an approved planned development as set forth in Article 14, and site plans that implement an approved project plan, will be processed as a Level 2 site plan.

- [3. *Level Three (3) – Site Plan Review:* If the elements of the proposed project total 10 to 12 points, the Chief of Planning will review and make a recommendation to the Planning Commission. The Planning Commission will complete a preliminary and a final review of the site plan in accordance with Section 25.07.01.a.3 and 25.07.05.]

- d. *Project Plan Review* – If the elements of the proposed project total [13] 16 or more points, the development is subject to Project Plan review. The Mayor and Council and Planning Commission will each hold a briefing session on the plan application, the Chief of Planning and Planning Commission will perform a preliminary review and make a recommendation to the Mayor and Council, and the Mayor and Council will then complete a final review of the plan in accordance with Sections 25.07.01.b.2 and 25.07.06. The Planning Commission will thereafter review subsequent site plans implementing the approved Project Plan in accordance with the level two (2) site plan review procedures under Section 25.07.04.

\* \* \*

**25.07.03. Notice Required; Procedure**

The applicant for any site plan, Project Plan or special exception approval must provide notice of all area meetings and public meetings and public hearings of Approving Authorities (including continuance of a public hearing) relating to the subject application in accordance with the provisions of Section 25.05.03.c, and with the following:

- a. Notice must be provided at least 2 weeks prior to the meeting to all property owners, residents, civic associations and homeowner’s associations within the specified distance for each type of review as follows:
  - 1. Level 1 Site Plan – 750 feet.
  - 2. Level 2 Site Plan – 1,000 feet.
  - [3. Level 3 Site Plan – 1,250 feet.]
  - 3. Project Plan – 1,500 feet.

\* \* \*

**25.07.04 – Level One (1) Site Plan Review**

An application for a site plan review with a total of six (6) points or fewer, as determined in Section 25.07.02.b above, is subject to the following provisions:

- 1. [*Pre-Application Staff Meeting* – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] Pre-

Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline and receive comments on the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.

2. [Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.]

Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

**25.07.05 – Level Two (2) Site Plan Review**

An application for a site plan review with seven (7) to nine (9) points, as determined in Section 25.07.02.b above, is subject to the following provisions:

1. [Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline and receive comments on the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.
2. [Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.] Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

\* \* \*

### **[25.07.06 – Level Three (3) Site Plan Review**

An application for a site plan review with 10 to 12 points, as determined in Section 25.07.02.b, is subject to the following provisions:

1. *Pre-Application Staff Meeting* – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.
2. *Pre-Application Area Meeting* – The applicant must hold an area meeting in accordance with the provisions of Section 25.07.03 prior to submitting an application to outline the scope of the project and receive comments.
3. *Application* – The applicant must file an Level Three (3) site plan application and provide a date for a post-application area meeting in accordance with the provisions of Section 25.07.03 and Article 5.
4. *Notice* – The applicant must provide notice of the application filing in accordance with the provisions of Section 25.07.03.
5. *Post-Application Area Meeting* – The applicant must hold an area meeting following submittal of an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03 above.
6. *Planning Commission Preliminary Review* – The Planning Commission must conduct a preliminary review of the application at a public meeting and provide an opportunity for public comment.
7. *Revision to Application* – The applicant must file a revision to the application, if needed, based on comments from the preliminary review, in accordance with the provision of Article 5.
8. *Notice* – The applicant must provide notice of the Planning Commission final review of the application in accordance with the provisions of Section 25.07.03
9. *Planning Commission Final Review*– The Planning Commission must conduct a final review of the application at a public meeting and provide an opportunity for public comment.

10. *Conditions of Approval* – Approvals may be subject to any condition that the Planning Commission finds necessary to protect the public health, safety, and welfare of the community and to ensure that the proposed use or development will be consistent with the purpose and intent of this Chapter. The Planning Commission must make the findings in Section 25.07.01.a.3.
11. *Implementation Period* – The approval of a Level Three (3) site plan is subject to the implementation provisions of Section 25.07.07.
12. *Notice of Decision* – The Chief of Planning must send notice of the Planning Commission's final decision on the Level 3 site plan in accordance with the provisions of Section 25.05.06.
13. *Appeals* – Any person aggrieved by any final decision of the Commission may appeal the same to the Circuit Court for the County. Such appeal must be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.]

#### **25.07.[07] 06. Site Plan Implementation Period**

\* \* \*

- b. *Extensions* – Except as set forth in Section 25.07.[16] 15, the Planning Commission or the Chief of Planning may, for good cause shown, grant no more than two (2) extensions of not more than six (6) months each for any prior approval subject to the provisions of Section 25.05.08, "Extension of Implementation Period". The Planning Commission may require as a condition of approval of an extension that the applicant submit periodic progress reports to the Chief of Planning detailing efforts undertaken to implement the site plan approval.
- c. *Multi-Phase or Multi-Building Site Plan Approval* All phases of a multi-building or multi-phase project which has received site plan approval [has been approved] must be commenced within eight (8) years from the effective date of site plan approval unless another time frame is provided by this Chapter or by the terms of approval. A site plan approval will become void for those buildings or phases within a multiple building or phased development for which construction has not commenced within eight (8) years from the date of the site plan approval or within such other time frame provided by this Chapter or by the terms of approval. Unless otherwise specifically provided by the terms of approval, no extension may be granted from the implementation period set forth in this subsection c.

#### **25.07.[08] 07. – Project Plan Review**

An application for a site plan review with 13 or more points, as determined in Section 25.07.02.b above, is processed as a Project Plan review and is subject to the following provisions:

1. [*Pre-Application Staff Meeting* – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] *Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application, to outline and receive comments on the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.
  
2. [*Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.]  
*Pre-Application Staff Meeting* – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

\* \* \*

15. Findings - The Mayor and Council must make the findings required in Section 25.07.01.[a.3] b.2.

\* \* \*

18. *Project Plan Implementation Period*– A *Project Plan approval expires if:*

\* \* \*

- (b) Except as set forth in Section 25.07.[16] 15, construction on all phases of the approved Project Plan has not commenced within the time period set forth in the Project Plan approval, except that the approval does not terminate with respect to those phases of the Project Plan for which construction has commenced.

\* \* \*

**25.07.[09] 08 –Special Exceptions**

- a. [*Pre-Application Staff Meeting* – The applicant must hold a meeting with the City’s Development Review Committee prior to submitting an application to

outline the scope of the project. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of subsection 25.07.08.b above.

- c. [*Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of subsection 25.07.09.b above.] Pre-Application Staff Meeting – The applicant must hold a meeting with the City’s Development Review Committee prior to submitting an application to outline the scope of the project. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

\* \* \*

- q. *Subsequent Site Plan Review* – If site development or redevelopment is required, all development approved under a special exception is subject to subsequent site plan approval in accordance with the level two (2) site plan review procedures under Section 25.07.05 except that the pre-application process is not required.

**25.07.[10] 09 – Temporary Use Permit**

\* \* \*

**25.07.[11] 10 – Sign Permit**

\* \* \*

**25.07.[12] 11 – Occupancy Permit**

\* \* \*

**25.07.[13] 12 – Temporary Occupancy Permit**

\* \* \*

**25.07.[14] 13 – Certificate of Approval in Historic Districts**

\* \* \*

**25.07.[15] 14 – Additional Permits and Approvals**

\* \* \*

**25.07.[16] 15 – Extension of Implementation Period for Approved Projects**

Amend Article 8, Transitional Provisions, Nonconformities, Nonconforming Alteration Approval, as follows:

**25.08.02 – Transitional Provisions**

b. *Previously Approved Developments*

\* \* \*

2. *Use Permits for Multi-Phase Projects*

- (a) All phases of a multi-phase project for which a use permit or detailed application has been approved as of March 16, 2009 must be commenced within eight (8) years from the date of the approval letter of the Approving Authority or the use permit or detailed application will expire except as may be extended by the provisions of Section 25.07.[16] 15. A use permit or detailed application will become void for those buildings within a multiple building development for which construction has not commenced within eight (8) years from the date of the use permit or detailed application approval letter.
- (b) Any multi-phase project for which a use permit was approved prior to October 25, 1993 that has not commenced construction on all buildings as of March 16, 2009 must commence construction on all buildings within 8 years from March 16, 2009, or the use permit will expire.
- (c) Notwithstanding compliance with subsection 2.(a) above, and as may be extended by the provisions of Section 25.07.[16] 15 for any development located within the Town Center Performance District or within the Twinbrook Metro Performance District the following will apply:
  - ii. Where 30 percent or more of the total approved gross floor area has been constructed within eight (8) years from the date of the issuance of the use permit, the use permit becomes void with respect to any building for which construction has not commenced within 12 years from the date of issuance of the use permit.
  - iii. Where 60 percent or more of the total approved gross floor area has been constructed within 12 years from the date of the issuance of the use permit, the use permit becomes void with respect to any

building for which construction has not commenced within 14 years from the date of issuance of the building permit.

- (d) Nothing herein shall affect the validity of a use permit for a building constructed in accordance with the requirements of the use permit prior to the expiration for the time frames set forth herein, and as may be extended by the provisions of Section 25.07.[16] 15.

\* \* \*

**25.08.03 – R-60 Qualifying [Substandard] Undersized Lots**

Any lot legally recorded by subdivision plat that is at least [40] 35 feet wide but less than 60 feet wide at the building line is deemed to be a buildable lot even though it may have less than the minimum area required in any current residential zone. Such lots may be developed under the zoning development standards in effect when the lot was recorded except that:

\* \* \*

**25.08.08 – Nonconforming Alteration Approval**

- a. *Requirement* – Nonconforming alteration approvals are required for [structure] structural alterations, expansion, or enlargements to a building, structure, or site containing a nonconforming use or development standards nonconformity, as follows:

\* \* \*

*2. Planning Commission Review -*

\* \* \*

- (b) Decision - The Planning Commission may issue a nonconforming alteration approval only if all of the following findings are made:

\* \* \*

- ii The proposed nonconformity alteration does not exceed that amount reasonably necessary to accomplish the purpose of the structural alteration, expansion, or enlargement as permitted by Section 25.08.06.b.[2] 3(b).

Amend Article 10, Single Dwelling Unit Residential Zones, as follows:

\* \* \*

**25.10.03. Land Use Tables**

The uses permitted in the Single Unit Residential Zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

\* \* \*

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
* * *									
<b>e. Institutional uses</b>	Adult day care	S	S	S	S	S	S	S	
<b>Institutional uses (con't.)</b>	Charitable or philanthropic [institution] office	S	S	S	[9 – 12 children] <u>S</u>	S	S	[S] <u>N</u>	See Sec. 25.15.02.e
	Child care home up to 8 children	P	P	P	P	P	P	P	
	Child care center:								Special exception subject to the requirements of Sec. 25.15.02.f
	9 – 12 children	P	P	S	S	S	S	S	
	More than 12 children	S	S	S	S	S	S	S	
	Educational institution, private	S	S	S	S	S	S	[S] <u>N</u>	See Sec. 25.15.02.g
	Group home:								
	Small	P	P	P	P	P	P	P	
Large	S	S	S	S	S	S	S		

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
	[Hospital	S	S	S	S	S	S	S	See 25.15.02.i]
* * *									
g. Temporary Uses	Christmas tree sale	C	C	C	C	C	C	C	Subject to the requirements of Sec. 25.09.04
	Garden produce	C	C	C	C	C	C	C	
	Portable Storage Units	C	C	C	C	C	C	C	
	Temporary building or yard for construction materials or equipment	C	C	C	C	C	C	C	
	Temporary office or model home	C	C	C	C	C	C	C	
	Temporary carnival	C	C	C	C	C	C	C	
h. Accessory Uses		P	P	P	P	P	P	P	See Secs. 25.09.01[&] 02, & 03.

Amend Article 11, Residential Medium Density Zones, as follows:

**25.11.03 – Land Use Tables**

The uses permitted in the Residential Medium Density Zones are shown in the table below. Uses are subject to applicable conditions of site plan approval, and all special exceptions are subject to the requirements of Article 15.

	Uses	Zones			Conditional requirements or related regulations
		Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
<b>a. <u>Residential uses</u></b>	Dwelling, attached	N	P	P	
	Dwelling, semi-detached (duplex)	P	P	P	
	Dwelling, single unit detached	P	C	C	Conditional use subject to the development standards of the R-60 Zone
	<u>Dwelling</u> , [Multi-] multiple-unit [dwelling]	N	P	P	
	<u>Dwelling</u> , Townhouse	P	P	P	
* * *					
	Charitable or philanthropic [institution] <u>office</u>	S	S	S	See Sec. 25.15.02.e
<b>d. Institutional uses</b>	Child care home <u>up to 8 children</u>	P	P	P	
	* * *				
	[Hospital]	S	S	S	See Sec. 25.15.02.i]
* * *					
<b>g. Accessory uses</b>		P	P	P	See Secs. 25.09.01[&] 02, & <u>03</u> .

Amend Article 12, Industrial Zones, as follows:

**25.12.04 – Development Standards**

a. *Table of Development Standards-*

one	Max zone area (acres)	Min. Zone Area (square feet)	Lot Coverage		Setback Requirements						Maximum Height	Conditional requirements or related regulations
					<u>Front Yard</u>	Side Yard			Rear Yard			
			Max. Lot coverage (%)	Min. open area (%)		Min. Front (feet)	Minimum 1 Side			Residential land abutting (feet)	Nonresidential land abut (feet)	
					Side Street abutting (feet)	Nonresidential land abutting (feet)	Residential land abutting (feet)	Residential land abutting (feet)	Nonresidential land abut (feet)			
I-L	N/A	N/A	50	10	25'	10'	[0] <u>None</u> or [at least] 10' if provided	Building height, but not less than 30'	Building height, but not less than 30'	0 or at least 10' if provided	40'	
I-H	N/A	N/A	N/A	10	25'	10' from ROW, or 60' from center-line	[0] <u>None</u> or [at least] 10' if provided	Building height, but not less than 30'	Building height, but not less than 30'	0 or at least 10' if provided	70'	

Amend Article 13, Mixed-Use Zones, as follows:

**25.13.03 – Land Use Tables**

The uses permitted in the Mixed-Use Zones are as shown in the table below. Uses are subject to applicable conditions of site plan approval. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones							Conditional requirements or related regulations
		Mixed-Use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	<u>Mixed-Use Employment</u> (MXE)	Mixed-Use Business (MXB)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	
* * *									
<b>e. Medical services</b>	Hospital	S	S	P	S	S	N	[P] <u>N</u>	Special exception subject to Sec. 25.15.02.i
* * *									
<b>g. Temporary uses</b>	Temporary building or yard for construction materials or equipment	C	C	C	C	C	C	C	Conditional use subject to the requirements of Sec. 25.09.04
	Portable Storage Units	C	C	C	C	C	C	C	
	Temporary office or model home	C	C	C	C	C	C	C	
	Christmas tree sales	C	C	C	C	C	C	C	
	Sale of Garden produce	C	C	C	C	C	C	C	
	Temporary carnival, <u>flea market</u> , or local festival	C	C	C	N	N	C	N	
<b>h. Commercial, office, and industrial uses</b>	<b>Retail sales and services:</b>								
* * *									
<b>Commercial, office, and industrial uses (con't)</b>	Funeral home	C	C	C	C	C	C	C	Cremations permitted only where existing as of [(date of adoption)] <u>March 16, 2009</u>
	Garden supplies	C	C	C	C	C	C	C	Indoor sales only
* * *									

Uses	Zones							Conditional requirements or related regulations
	Mixed-Use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	<u>Mixed-Use Employment</u> (MXE)	Mixed-Use Business (MXB)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	
Pet grooming	N	P	P	P	P	P	P	
<u>Pet Sales</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	
* * *								

**25.13.05. – Development Standards**

*b. Development Standards*

\* \* \*

*2. Building Height*

*(a) MXTD Zone–*

- i. Building facades should have a range of heights of between 45 and 65 feet at the street. Additional height up to 120 feet at the street may be allowed where recommended by the Plan or where approved by the Mayor and Council as part of a Project Plan under Section 25.07.[06] 07. Building facades that exceed 250 feet in length should vary the façade height by at least ten feet (10’) for some distance along the length of the facade in order to avoid a monotonous, monolithic appearance.
- ii. Where recommended in the Plan, or if approved by the Mayor and Council as part of a Project Plan approval in accordance with Section 25.07.[06] 07, building height may be increased beyond 120 feet up to 150 feet under the following conditions:

Amend Article 14, Special Zones, as follows:

**25.14.01 – Historic District Zones**

\* \* \*

*d. Designation of Properties*

\* \* \*

- 6. *Restrictions on Property During Interim Historic Review Period* – No exterior change may be made to any property identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, historic evaluation, or a demolition permit under this Section 25.14.01 until the designation process is complete, unless the property owner first obtains a Certificate of Approval from the Historic District Commission in accordance with the provisions of Section 25.07.[14]

13. The restriction of this subsection will not apply for more than 210 days from the date of the filing of the application that initiated the historic designation review period.

\* \* \*

**25.14.06 – Park Zone**

c. *Land Use Table* – The uses allowed in the Park Zone are as shown in the table below. Uses are subject to applicable conditions of site plan approval. All special exceptions are subject to the requirements of Article 15.

	<u>Uses</u>	Zone	Conditional requirements or related regulations
		Park Zone	
* * *			
<b>c. Institutional uses</b>	Cemetery	P	
	Charitable or philanthropic institution	S	See Sec. 25.15.02.e
	Private club	S	
	Public utility building and/or structure	S	See Sec. 25.15.02.n
	Publicly-owned or publicly-operated buildings and uses, excluding sanitary landfills	C	Subject to a Level [3] 2 Site Plan (Sec. 25.07.05) and the landscaping and screening provisions of Art. 17.
* * *			

Key: P = Permitted Use; S = Special Exception; C = Conditional Use;  
Blank = Not Permitted

\* \* \*

**25.14.07 – Planned Development Zones**

\* \* \*

e. *Amendment of a Planned Development*

1. *Required, General* – The following are Planned Development amendments subject to the Equivalent Zone development standards and will require approval of an amendment to the Planned Development Governing Documents by the Mayor and Council.

(a) Any increase in the intensity of the development (dwelling units, gross square footage, etc.) beyond what is authorized in the Planned Development Governing Documents;

(b) Any increase in building heights beyond what is authorized in the Planned Development Governing Documents;

(c) Addition of new uses not approved in the Planned Development Governing Documents;

([e] d) A major relocation of public streets;

([f] e) A material reduction in the cumulative amount of public or private open space; and

([g] f) Such other proposed change in the project that the Planning Commission determines to be of such significance as to be a substantial deviation from the Planned Development Governing Documents and therefore require an amendment to the Planned Development Governing Documents.

Amend Article 15, Special Exceptions, as follows:

**25.15.01 – Special Exceptions**

a. *Generally*

1. *Application Procedure* – Applications for Special Exceptions must be filed in accordance with Section 25.07.02 and reviewed in accordance with the provisions of Section 25.07.[09] 08.

\* \* \*

**25.15.02 – Additional Requirements for Certain Special Exceptions**

\* \* \*

c. *Automobile Filling Station, Class I; Automobile Filling Station, Class II; Restaurant with Drive-Through and Mechanical Carwash*

\* \* \*

6. *Special Development and Use Requirements for Automobile Filling Station, Class I and Class II*

\* \* \*

(vi) Extinguish all floodlights at the close of business or 11:00 p.m., whichever is is [.] earlier.

\* \* \*

e. *Charitable [and] or Philanthropic Institutions*

1. *Scope* – This Section applies to charitable [and] or philanthropic institutions.

\* \* \*

f. *Child Care Centers*

\* \* \*

2. *Additional Findings and Conditions*

(a) The Board must make the following additional findings:

i. The site provides ample outdoor play space, free from hazard and appropriately equipped for the age and number of children being cared for;

\* \* \*

Amend Article 16, Parking and Loading, as follows:

**25.16.03 – Number of Spaces Required**

\* \* \*

d. Table of Space Requirements – The number of parking spaces for both vehicles and bicycles required for each class of land use are as shown in the following table:

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
Residential	Dwelling, [S] single unit detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, [S] single unit semi-detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, townhouse	For 1 or 2 bedrooms	1.5	Dwelling unit	0	0	
			2				
	Dwelling, single unit attached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, multiple-unit	For 0 (zero) bedrooms	1	Dwelling unit	1 per 50	1 per 3	
1							

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
	Live-work unit	For 2 or more bedrooms	1.5	Unit	1 per 5	1 per 3	
		For 1 or 2 bedrooms	2				
		For 3 or more bedrooms	2				
		Per 2 employees	1				
* * *							
<b>Commercial (con't)</b>	Restaurant, fast food	If located in a free-standing or multi-tenant building	50 and	Square feet of gross floor area	2 per 5,000 SF	2 per 12,000 SF	See Sec. 25.16.03.f Reservoir spaces cannot impede other traffic in the parking lot. Facilities serving only via drive-through windows must provide the same reservoir spaces as a standard fast food restaurant.
		Reservoir spaces for each [prick] pick-up window					
		Reservoir spaces for windows with separate order and pick-up windows					
		Per 2 employees					
* * *							
<b>Commercial (con't)</b>	Retail sales, trade or merchandizing (except furniture stores and supermarkets less than 30,000 SF of GFA)	Per 200 SF GFA	1	Square feet of gross floor area	2 per 5,000 SF	2 per 12,000 SF	See Sec. 25.16.03.f
	Supermarkets, 30,000 SF of GFA or [less] <u>more</u>	Per 200 SF	1 and	Square feet of gross floor area	2 per 5,000 SF	2 per 12,000 SF	See Sec. 25.16.03.f

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
* * *							
Miscellaneous	Recreational establishment, outdoor, commercial	Per every 2 employees	1	Auto spaces	1 per 10	1 per 20	See Sec. 25.16.03.f Additional spaces as determined at the time of Site Plan Review depending [of] <u>on</u> the character of the use. Bicycle parking may also be determined by staff review.
Miscellaneous	<u>Sport facility, multi-purpose, indoor commercial</u>	<u>Per 3 participants based on the legal capacity of the facility; and Per every 2 employees</u>	<u>1</u>	<u>Partici-pants</u>	<u>1 per 30</u>	<u>10 total or 1 per 60</u>	<u>Additional spaces as determined at the time of Site Plan Review depending on the character of the use. Bicycle parking may also be determined by staff review.</u>

\* \* \*

**25.16.05 – Parking Design Standards**

\* \* \*

*b. Parking Spaces*

\* \* \*

4. For purposes of computing the area of any [public] parking space hereunder, a parking space may extend beyond a wheel bumper or curb provided that:

\* \* \*

### **25.16.09 – Bicycle Parking**

\* \* \*

#### *c. Standards*

\* \* \*

#### *2. Long Term Bicycle Parking Standards*

##### *(b) Standards -*

\* \* \*

- (v) Where long-term bicycle parking spaces [~~is~~] are required for office use categories, a minimum of one (1) clothes storage locker per gender must be installed for every long-term bicycle parking space. The lockers must be installed adjacent to the showers in a safe and secured area and be accessible to all tenants.

Amend Article 17, Public Use Space, Landscaping and Screening, Utility Placement and Screening, Lighting, Sidewalks, and Shadows, as follows:

### **25.17.01 – Public Use Space**

\* \* \*

#### *d. Fee in Lieu of Public Use Space Requirements*

1. The Approving Authority may approve the payment of a fee in lieu of some or all of the public use space requirement under any of the following circumstances:
  - (a) The City could use the fee to provide and/or improve another more usable public space in the vicinity of the project;
  - [a.] (b) The site cannot realistically provide the required area for public use and meet all of the other City development standard requirements; or

[b.] (c) The applicable master plan makes specific recommendations on how and where public use space is to be provided on or in the vicinity of the site.

Amend Article 19, Enforcement, as follows:

**25.19.03 – Violations**

a. *Violations Generally* – A violation of this Chapter will occur upon the failure to comply with:

\* \* \*

Amend Article 21, Plats and Subdivision Regulations, as follows:

**25.21.03 – Recordation of an Existing Single Unit Detached Dwelling Residential Lot or [Property]**

\* \* \*

b. *Required Criteria* – The Planning Commission must approve a plat, only when one or more of the following conditions are met and the plat has frontage as required in the zone or public access to a public street:

1. The property being platted is a deeded lot that has existed in the same configuration since at least October, 1957;

2. The property being platted is;

(a) a multiple-lot property that required a minimum of two (2) lots for development at the time the substandard lots were created,

(b) the property has been under common ownership since at least October, 1957, and

(c) the plat seeks to consolidate the lots into a single record lot; or

3. The property being platted is a multiple-lot property that contains an existing house that straddles the common lot line and the plat seeks to consolidate the property into a single record lot.

\* \* \*

**25.21.10 – Plats and Data for Final Approval**

\* \* \*

b. *Information to Include* -

\* \* \*

4. The tract boundary lines, right-of-way lines of streets, existing and proposed public easements, and other rights-of-way and property lines of residential lots and other sites with accurate dimensions, bearings, and distances. A curve table indicating central angle, radius, tangent, arc, chord, and chord bearings for all curves; name and right-of-way width of each street or other right-of-way;

\* \* \*

9. The lot, block and subdivision name of adjacent [plotted] platted land.

\* \* \*

#### **25.21.11 – Final Record Plat Approval Procedures – Generally**

\* \* \*

- d. *Notice* – The applicant [most] must send notice of the application of a Final Record Plat in accordance with the provisions of Section 25.05.03.c to all property owners and residents within 750 feet from the boundaries of the area described in the application. Notification must include the date for action on the plat by the Planning Commission and state that all interested parties have 15 days from the date of the letter to provide comments. [A second notice must be sent ten (10) days prior to Planning Commission scheduled action date.]