

**MEMORANDUM**

July 10, 2013

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz,  Legislative Attorney

SUBJECT: Worksession #5 – Overlay Zones  
Zoning Text Amendment 13-04, Zoning Ordinance - Revised  
District Map Amendment G-956

Alert: The future schedule for the Committee worksessions are as follows:  
July 19 – Floating zones  
July 26 – Parking/Signs (General Development Requirements)  
September 13 – Administration and Procedures  
September 20 – Wrap-up, including any outstanding implementation issues

The Committee's directions for staff from the July 2 worksession (only changes in the Committee's directions are noted) are as follows:

- 1) Correct the chart describing CRT/CR and LSC/EOF public benefit points required for projects between 10,000 square feet and 1.25 million square feet by replacing 3.25 max FAR with 3.5 max FAR.
- 2) Add Combination Retail as a land use for establishments greater than 85,000 square feet of floor area and require conditional approval for the use in all zones where an establishment over 85,000 square feet is allowed.
- 3) Agree with the proposed draft concerning the application of the CR family of zones without a specific recommendation in a master plan (2-1, Councilmember Elrich dissenting).
- 4) Change the proposed zoning on property going to the CR family of zones to reflect the height and density recommendations of the applicable master plan.
- 5) Delete the phrase "while minimizing their reliance on automobiles" from the purpose clause of every zone.
- 6) Change the word "intensity" in the intent statement and replace it with "density".
- 7) Repeat the density standards that are in §2.1.6.A.4 in §4.5.1.A, §4.6.1.A, §4.7.1.A, §6.4.2.B, and §6.5.2.B.
- 8) Delete the phrase "apartment/condo" and replace with the word "apartment" or a term acceptable to Council and Planning staff.

- 9) Add a sentence to the definition of Transit Proximity: “All distances for transit proximity are measured from the nearest transit station entrance or bus stop entrance.” Remove “and that is more than one mile from any other transit station serving a dedicated, fixed path transit facility” from the public benefit points description of Transit Proximity.
- 11) In the intent statement of employment zones, remove the word “policy” in the phrase “policy recommendations of the applicable master plan” and remove the phrase “reduce dependence on the automobile”.
- 12) In the intent statement for GR zones, delete the phrase “central urban”.
- 13) Retain the status (conforming or non-conforming) of the Topaz House to whatever its status is today.
- 14) Revise the definition of a filling station as follows:  

A Filling Station is a facility used primarily to dispense motor vehicle fuels or otherwise provide energy to consumer’s vehicles by any technology [to the consumer]. Filling Station includes minor repair services as an accessory use and an accessory car wash where mechanical or hand-operated facilities used for the cleaning, washing, polishing, or waxing of motor vehicles are limited to 2 bays. Any other use permitted in the applicable zone may be included as an accessory use. Filling Station does not include storage or parking offered for rent.
- 15) Delete the minimum lot size for a filling station.
- 16) Amend §6.6.3.F.1.b.ii concerning BLTs in the LSC zone as follows:  

An applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 50% of the incentive density floor area under the following parameters:

  - (a) For any floor area above 0.50 FAR, one BLT, equivalent to 9 points, must be purchased or an equivalent payment made for:
    - (1) each 31,500 square feet of floor area of residential, nonresidential, and Life Sciences between 0% and 40% of the project's floor area; and
    - (2) each 60,000 square feet of Life Sciences between 40% and 50% of the project's floor area....

The Committee requested that the following items come back to the Committee:

- 1) Planning Staff was directed to provide more description of a general building in residential zones.  

This is available in Attachment II (© 19 - 20).
- 2) Planning Staff was directed to summarize affordable housing aspects of ZTA 13-04.

**Zones that currently allow density bonuses for MPDUs will continue to allow them.**

The proposed zone translations (e.g., CBD to CR) preserve the current density bonus allowed when a development provides greater than the required 12.5% of units as Moderately Priced Dwelling Units (MPDUs). In addition, the proposed code requires at least one additional MPDU be provided in exchange for the bonus density. This eliminates the possibility of additional density being awarded without the provision of an additional unit due to rounding.

Also, zones that currently allow additional height for workforce housing will continue to allow it. Zones that translate under these provisions include a 'T' after the C/R zone formula.

**The zoning rewrite introduces a new incentive for providing MPDUs and Workforce Housing.**

Existing C/R zones will have an added incentive to provide more than the required 12.5% of units as MPDUs - the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR. Because more market rate units can be built, this exemption allows a developer to recoup some of the costs associated with providing extra MPDUs.

The proposed zoning ordinance introduces Workforce Housing as an optional public benefit in the C/R and Employment zones.

**More housing equals more opportunities for affordability and MPDUs.**

The proposed zone translation has the potential to increase the housing supply in the County because housing will be allowed in commercial zones where it is currently prohibited or allowed only under very limited circumstances. By increasing the overall number of units in the County, it follows that the total number of MPDUs will also increase.

One criticism of the proposed zone translation is that multi-family housing will be allowed in locations inaccessible to transit, allowing for "un-smart growth." While many of the places where housing is being introduced as a permitted or limited use are not adjacent to metro stations, they are often on Metrobus routes with frequent service. Furthermore, the land is typically less expensive in these areas and the cost of developing new housing could be less expensive - thus providing more market-rate affordable housing, and for projects building more than 20 units, 12.5% of construction will be MPDUs.

**Greater zoning flexibility allows for more housing options.**

Introducing building types across all zones allows for development of small detached houses on small lots in areas zoned for mixed-use, townhouse or multi-family units. This does not increase the density within these zones but allows for a smaller scale detached house – a housing type not seen much within the County but becoming more popular with older adults and young couples as these units are typically more affordable.

In a similar fashion, for MPDU optional method development in the Rural Residential and Residential zones, the minimum lot size per unit has been slightly reduced while the percentage of open space required has been increased. The density of such development has not changed, but the reduced lot size allows for greater flexibility in siting and construction while the increase in open space allows for a greater buffer area around new development.

- 3) DPS was directed to work with Planning Staff to determine what aspect of §3.1.1.D.2 should be amended.

DPS recommends that §3.1.2.D read as follows:

1. Uses listed are general. The DPS Director or the Director's designee must determine whether a specific use falls within the general use or is similar in impact, nature, function and duration. Uses that are not allowed as permitted, limited or conditional are prohibited.
2. Some factors DPS may consider in determining if a proposed use is similar in impact, nature, function and duration to an existing use include but are not limited to:
  - a. The type of items or services sold and the nature and quantity of inventory on the premises;
  - b. Any processing done on the premises including assembly, manufacturing, and distribution;
  - c. The amount and nature of any adverse impacts generated on the premises, including but not limited to noise, smoke odor, illumination, glare, vibration, radiation and fumes;
  - d. Any hazardous materials used on site;
  - e. The number of employees and customers in relation to business hours and employment shifts;
  - f. The type and size of structures; and
  - g. Parking requirements, turnover and the potential for shared parking with other use types.

- 4) Direct DPS to recommend standards for "Seasonal Outdoor Sales" uses to address pedestrian and vehicle safety, traffic management, and duration of sales.

DPS proposed Use Standards are as follows:

- A temporary use permit from DPS is required. Temporary use permit duration must not exceed 45 days.
- The property must be vacant or used for nonresidential purposes.
- Except where Seasonal Outdoor Sales occur on the site of a Religious Assembly use, the site must front on and have access to a road built to primary or higher standards.
- A plan must be submitted by the applicant demonstrating adequate vehicular circulation, parking and queuing.
- Obstructions which adversely affect visibility at intersections or to the Seasonal Outdoor sales driveways are prohibited.

- 5) Direct Planning Staff to propose text to limit retail, office, and restaurant uses such that the combination of those uses may not exceed 50% of the FAR.

Staff needs clarification of the intent of the limitation on Office, Retail/Service Establishment, and Restaurants uses in the IL and IM zones.

Would the Committee allow a stand alone retail or office building as long as the total is less than 50% of the allowed FAR?

In the alternative, would the Committee only allow retail and office as a portion of an industrial use?

The following draft would allow independent retail, office, or restaurant buildings.

- a. Where an Office is allowed as a limited use, it must satisfy the following standards:
    - i. In the LSC zone ...
    - ii. In the IL and IM zone, a maximum of 50% of the [allowed] gross floor area of development approved under one application may be for Office use or a combination of Office, Retail/Service Establishment, or Restaurant uses.
  
  - a. Where a Retail/Service Establishment is allowed as a limited use, it must satisfy the following standards:

\* \* \*

    - vii. In the IL and IM zones, a Retail/Service Establishment is limited to:
      - (a) building and food service supply, home design and furnishings, wholesale or retail;
      - (b) computer programming and software sales and service, including data banks, and data retrieval; and
      - (c) wholesale trades limited to sale or rental of products intended for industrial or commercial users[, and].
      - [(d) Other Retail/Service Establishment uses that occupy] A maximum of 50% of the [allowed] gross floor area of development approved under one application may be for other Retail/Service Establishment uses or a combination of other Retail/Service Establishment, Office, or Restaurant uses.
  
  - a. Where a Restaurant is allowed as a limited use, it must satisfy the following standards:
    - i. In the CRN zone, ...
    - ii. In the IL and IM zone, a maximum of 3,500 square feet or 25% of the [allowed] gross floor area of development approved under one application, whichever is greater, may be for Restaurant use or a combination of Restaurant, Office, or Retail/Service Establishment uses.
- 6) Make “Educational Institutions” a limited use in the IL and IM zones, with a description of the limitation to be provided by Planning Staff.

Where an Educational Institution (Private) is allowed as a limited use, it must satisfy the following standards:

- a. If it is abutting or confronting property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, site plan approval is required under Sec. 8.3.4.
- b. In the IL and IM zones, Educational Institution (Private) is limited to trade, artistic, or technical instruction.

- 7) Revise the standards for a filling station to describe how access off of a residential street may be allowed and how car rental service may be allowed.

Although Planning Staff is prepared to address this issue, the representative of the filling station association asked for this issue to be resolved on July 19.

- 8) Get assurance from Planning Staff that “height of the curb” is established in the development process for use in determining the height of non-residential buildings.

Curb grade is indicated on the plans (certified site plan or building permit) used for DPS inspection enforcement. The use of the curb grade as part of the method of measuring building heights does not cause a change in the review process, only a change to the location of measurement.

- 9) Clarify that a general building on 3 acres in the AR zone will not result in a 3 acre non-residential lot in the AR zone.

This will be prepared for the Committee’s July 19<sup>th</sup> meeting.

## **OVERLAY ZONE**

### *Introduction to Overlay Zones*

Every so often (16 times in the current code), a master plan found that the 120 zones in the current code were inadequate to regulate land uses or development characteristics (density, impervious surface, building height, setbacks, parking, or impervious surface) in a manner that would accomplish the goals of the master plan. When the menu of zones had nothing that came close to the plan’s aspirations, the Planning Board would propose a new zone. When a zone was close to the aspirations of a master plan, the Planning Board persuaded the Council to create an overlay zone.

As the name implies, an overlay zone is placed on top of an underlying zone. An overlay zone may modify any aspect of the underlying zone but need not change any standard. From a legal perspective, an overlay zone is a new zone. An overlay zone, although generally more restrictive than the underlying zone, could be more permissive than the underlying zone.

The proposed code retains most overlay zones, adds 4 new overlays, and deletes 4 current zones. The zones are established in Sec. 2.1.9, described in Division 4.8, and some zone aspects are detailed in Division 6.3.

### *Complications*

There are 3 ZTAs before the Council that would amend 3 different overlay zones. In one case, there is a proposal to amend the Cherry Hill Overlay zone (which would be deleted by the proposed code). (An overlay zone is not recommended to be retained in the staff draft of the master plan.) One would amend the definition of impervious surface and would affect the Upper Rock Creek and Upper Paint Branch Overlay zones. The third would amend building height limits in the Fenton Street Village Overlay zone. Staff assumes that, if any of the pending ZTAs is approved by Council, the Committee would want

identical changes to ZTA 13-04. That would not be possible for the Cherry Hill overlay zone, where the zone would be deleted.

*Headlines*

- 1) Most overlay zones are proposed to be retained with the same standards.
- 2) Overlay zones are proposed to be categorized.
- 3) Some overlay zones are proposed to be added.
- 4) Some overlay zones are proposed to be eliminated.

**1) Most overlay zones are proposed to be retained with the same standards.**

The following overlay zones currently exist and will be retained:

- Burtonsville Employment Area
- Chevy Chase Neighborhood Retail
- Neighborhood Retail
- Takoma Park/East Silver Spring Commercial Revitalization
- Fenton Village
- Garrett Park
- Ripley Street/South Silver Spring
- Rural Village
- Sandy Spring/Ashton Rural Village
- Upper Paint Branch
- Upper Rock Creek

Where the underlying zone was changing to a new zone (the CR family of zones, employment zones, or industrial zone) the Planning Board was presented with the challenge of amending the overlay zone to the new underlying zone. For example, Fenton Street Village is currently in CBD zones. The proposed zoning is for the CR family of zones. The changed underlying zone may mean that some provisions in the overlay zone are already provided for in the proposed underlying zone.

Grandfathering provisions are provided for in 10 of the 15 proposed overlay zones.<sup>1</sup> Zone specific grandfathering is common in the current code. **Staff questions the necessity of any zone specific grandfather provisions given the proposed general grandfathering provisions.**

Where as some design standards such as the location of surface parking was absent before (Ripley Street), the new CR family of zones has those standards. **Planning Staff should explain why any design standards that are addressed in the CR family of zones are still necessary.**

Some Overlay zones have maximum FAR (Sandy Spring and Rural Villages. **Planning staff should review the zones proposed for these areas to make sure that the FAR allowed matches these FAR limits.** If FAR limits are the same, then there is no need to repeat the FAR limit in the Overlay zone.

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<sup>1</sup> Garrett Park, Ripley Street, Burtonsville, Upper Paint Branch, Chevy Chase, Fenton Street, Takoma Park, Rural Village, Upper Rock Creek, and Upper Paint Branch.

2) **Overlay zones are proposed to be categorized.**

Commercial Preservation  
Industrial Mixed-Use  
Neighborhood Protection  
Special Protection Area  
Transferable Development Rights  
Germantown Mixed-Use

The usefulness of these sub-classifications is questionable. Three of the six classifications only have one zone within them.

Each overlay zone has the following characteristics, which need not be repeated for every major category:

- The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;
- The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone;
- Building types, uses, density, height, and other standards and requirements may be modified; and
- The review process may be modified notwithstanding the review process required by any applicable criteria in the underlying zone.

If there were unique standards or rules for each sub-classification (as there are for Residential zones, for example) the sub-classifications would be appropriate. **Staff suggests the sub-classification of overlay zones makes it more difficult to locate the section for any particular overlay zone.** As a general matter, most overlay zones have a place name in their title. Simply alphabetizing the Overlay zones would make sense.

3) **Some overlay zones are proposed to be added.**

- Regional Shopping Center
- Transferable Development Rights (TDRs)
- Germantown Transit Mixed-Use
- Industrial Mixed-Use – Twinbrook

Each of these proposed new Overlay zones is worth the Committee's attention.

*Regional Shopping Center*

The Planning Board proposes an Overlay for the County's two remaining regional malls (Wheaton and Montgomery) that would otherwise be zoned GR. Regional Malls currently have special provisions for height (90 feet for theaters) and land use (130 feet for hotels) in the C-2 zone. These provisions would be allowed under the new overlay zone. To date, Montgomery Mall has triggered site plan review, but Wheaton Plaza has not. The overlay zone would require site plan review for any increase in building height.

The number of parking spaces required for retail use starts at 5.5 per 1,000 square feet of leasable area. Currently, both malls have waivers that require only 4 spaces per 1,000 square feet of leasable area.

**Planning Staff should explain why:**

- **the parking provision is not 4.0 per 1,000;**
- **the parking requirements cannot be in the parking table in Article 7;**
- **the Parking Space Size standards should be any different than the size standards in Article 7.**

*Transferable Development Rights (TDRs)*

Currently, a number of zones have separate provisions for TDRs. The proposed code seeks to avoid repetition by making TDR receiving areas a separate overlay zone, with the maximum TDR density indicated on the map. Just as they are currently, development with TDRs would allow development to use cluster options.

Whereas the CR, Employment, and Industrial zones each indicate that each zone is a unique sequence of maximum FAR and height, there is no such indication for the TDR overlay zone in §2.1.9. There is an indication the TDR should have a density maximum in §6.3.D.1. **Staff recommends amending §2.1.9 to indicate that a TDR Overlay will be followed by a number for maximum dwelling units per acre.**

*Germantown Transit Mixed-Use*

This overlay zone required the purchase of BLTs for 50% of the optional method density in the CR zones. This is closer to the LSC zone requirement for BLTs than it is for the general CR zones requirement.

*Industrial Mixed-Use – Twinbrook*

Currently, much of Twinbrook is zoned I-4. The Twinbrook Overlay zone is proposed to retain some of the land use and development standards that currently apply to Transit Station Development Areas in I-4.

**4) Some overlay zones are proposed to be eliminated.**

The following Overlay zones are proposed for deletion:

- Wheaton Central Business District
- Arlington Road District of Bethesda CBD
- US 29/Cherry Hill Road Employment Area
- Chevy Chase Comparison Retail

Overlay zone in the current code	Disposition in the proposed code
Retail Preservation Overlay Zone for the Wheaton Central Business District	Removed from zoning maps with the approval of the Wheaton Sector Plan, but Overlay zone text was not removed.
Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central	Not retained, development standards captured in zone conversion (explanation below).

Overlay zone in the current code	Disposition in the proposed code
Business District	
US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan	Under review as part of the White Oak Science Gateway Master Plan – Planning Staff recommend removal.
Chevy Chase Comparison Retail Overlay Zone	Not retained, development standards captured in zone conversion (explanation below).

*The Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central Business District Sector Plan*

Currently, under this overlay, uses are limited to those uses allowed in the underlying C-2 zone (either permitted or by special exception). All development standards must comply with those of the C-2 zone except that, for any building in the overlay zone, the gross floor area cannot exceed FAR 0.5. All retail uses must be directly accessible from the sidewalk, plaza or other public space. In addition, a site plan is required for any new construction, addition of floor area, or any addition of off-street parking.

Properties under the Arlington Road District Overlay are proposed to convert to CRT 0.5 (C 0.5, R 0.25, H 45). Each property in the current overlay would be limited to 0.5 FAR as mapped. Height, limited to 45 feet as per the master plan recommendation, would also be mapped in the zone. Uses in the CRT zone are comparable to the uses in the C-2 zone.

The site plan requirement under the current overlay would be replaced by the site plan requirement under the CRT zone.

*Chevy Chase Comparison Retail Overlay zone*

The purposes of this overlay zone are directly related to the recommendations of the master plan which, as proposed in the Planning Board Draft, are a consideration of every site plan. Standard method development through zone conversion will be capped at a lower maximum square footage than that established in the current overlay zone. The mix of development, as indicated in the overlay, will be set by the commercial FAR (C), residential FAR (R), and height (H) elements in the new zone. Under the current overlay zone, site plan is required for new construction, additions and other exterior improvements that increase floor area, and the addition of off-street parking spaces or revisions to parking facilities. Following the proposed code, new construction, development over 10,000 SF or more than 10 units, or structures greater than 40 feet in height will require a site plan (if property under the overlay abuts or confronts property in a residential zone). Additions and improvements that increase floor area will require a site plan amendment. Furthermore, the addition of off-street parking spaces or revisions to parking facilities will be captured under building permit regulations.

**Appendix**

**Circle number**

- I. Changes to the Overlay zones in the Planning Board Draft      1 – 18
- II. Planning Staff recommended description of General Buildings      19 – 20

# Changes to the Overlay zones in the Planning Board Draft

## Overlay Zones

### Article 59-2: Zoning Districts

Section 2.1.9.A establishes the Overlay zones. There are six families of Overlay zones: Commercial Preservation Overlay, Industrial Mixed-Use Overlay, Neighborhood Protection Overlay, Special Protection Area Overlay, Transferable Development Rights Overlay, and Germantown Transit Mixed-Use Overlay.

#### I. Overlay Zones

##### 1. Commercial Preservation (CP) Overlay Zones

a. There are 5 Commercial Preservation Overlay zone classifications:

- i. Commercial Preservation- Burtonsville Employment Area (CP-BEA),
- ii. Commercial preservation- Chevy Chase Neighborhood Retail (CP-CCR),
- iii. Commercial Preservation- Neighborhood Retail (CP-NR),
- iv. Commercial Preservation – Regional Shopping Center (CP-RSC), and
- v. Commercial Preservation- Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Commercial Preservation Overlay zones under Div. 4.8.

c. The CP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

##### 2. Industrial Mixed-Use (IMU) Overlay Zone

a. There is one Industrial Mixed-Use Overlay zone classification:

- i. Industrial Mixed-Use – Twinbrook (IMU-TB).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Industrial Mixed-Use Overlay zone under Div. 4.8.

c. The IMU Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.

##### 3. Neighborhood Protection (NP) Overlay Zones

a. There are 5 Neighborhood Protection Overlay zone classifications:

- i. Neighborhood Protection- Garrett Park (NP-GP),
- ii. Neighborhood Protection- Fenton Village (NP-FV),
- iii. Neighborhood Protection- Ripley/South Silver Spring (NP-RSS),
- iv. Neighborhood Protection- Rural Village Center (NP-RVC), and
- v. Neighborhood Protection- Sandy Spring/Ashton Rural Village (NP-SSA).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Neighborhood Protection Overlay zones under Div. 4.8.

c. The NP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

##### 4. Special Protection Area (SPA) Overlay Zones

a. There are 2 Special Protection Area Overlay zone classification:

- i. Special Protection Area - Upper Paint Branch (SPA-UPB), and
- ii. Special Protection Area – Upper Rock Creek (SPA-URC).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Special Protection Area Overlay zones under Div. 4.8.

- c. *The SPA Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.*
- 5. *Transferable Development Rights (TDR) Overlay Zone*
  - a. *There is one Transferable Development Rights Overlay zone classification:*
    - i. *Transferable Development Right- (TDR).*
  - b. *Building types, uses, density, height, and other standards and requirements may be modified by the Transferable Development Rights Overlay zone under Div. 4.8.*
  - c. *The TDR Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.*
- 6. *Germantown Transit Mixed-Use(GTMU) Overlay Zone*
  - d. *There is one Germantown Transit Mixed-Use Overlay zone classification:*
    - ii. *Germantown Transit Mixed-Use - (GTMU).*
  - e. *Building types, uses, density, height, and other standards and requirements may be modified by the GTMU Overlay zone under Div. 4.8.*
  - f. *The GTMU Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.*

Section 2.1.9.B provides the intent statements for the Overlay zones.

A. *In General*

*The CP, IMU, NP, SPA, TDR, and GTMU Overlay zones provide regulations and standards that are necessary to achieve the planning goals and objectives for development of a particular area.*

B. *Commercial Preservation (CP) Overlay*

1. *The CP Overlay zone is intended to:*

- a. *Provide for a compatible mix of residential and neighborhood-serving commercial uses; and*
- b. *Regulate land uses, development standards, and review process over the restrictions and allowances of the underlying zone.*

2. *Each mapped CP Overlay zone will be given a subsection in Article 4 establishing:*

- a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
- b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and*
- c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.*

C. *Industrial Mixed Use (IMU) Overlay*

1. *The IMU Overlay zone is intended to allow residential uses in the IL zone if it is located near a metro transit station.*

2. *Each mapped IMU Overlay zone will be given a subsection in Article 4 establishing:*

- a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
- b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and*
- c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.*

- D. *Neighborhood Protection (NP) Overlay*
1. *The NP Overlay zone is intended to:*
    - a. *Preserve the distinct character of a neighborhood through uses, intensity of development, and unique design attributes; and*
    - b. *Regulate land uses, development standards, general requirements, and review process over the restrictions and allowances of the underlying zone.*
  2. *Each mapped NP Overlay zone will be given a subsection in Article 4 establishing:*
    - a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
    - b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone;*
    - c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone; and*
    - d. *The general requirements required or permitted notwithstanding the required or permitted general requirements of the underlying zone.*
- E. *Special Protection Area (SPA) Overlay*
1. *The SPA Overlay zone is intended to:*
    - a. *Protect the water quality and quantity in the applicable watershed and its tributaries, as well as the biodiversity within the area;*
    - b. *Regulate the amount and location of impervious surfaces in order to maintain levels of groundwater, control erosion, and allow the ground to filter water naturally and control temperature; and*
    - c. *Regulate land uses that could adversely affect the applicable stream system resources.*
  2. *Land uses that are restricted in these areas and general requirements for resource protection are specified in Article 4.*
  3. *Additional controls on impervious surfaces and environmental protections may also be specified by the applicable master or sector plan.*
- F. *Transferable Development Rights (TDR) Overlay*
1. *The TDR Overlay zone is intended to allow the purchase of development rights from the Agricultural Reserve (AR) zone in order to protect the County's agricultural and rural heritage.*
  2. *The TDR Overlay zone is mapped on particular areas in the County where the purchase of transferable development rights (TDRs) from the AR zone is permitted.*
  3. *In any specified area, the applicable master or sector plan must specify the number of TDRs that may be purchased in exchange for increased density and more flexible development standards intended to supersede the underlying zone classification.*
  4. *Additional residential building types may be allowed but development standards and general requirements are finalized through an approved site plan based on evaluation of compatibility and impacts on surrounding communities.*
  5. *A minimum site area is required for development under the TDR Overlay zone; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.*
- G. *Germantown Transit Mixed Use (GTMU) Overlay*
1. *The GTMU Overlay zone is intended to establish the priority of Building Lot Terminations in the optional method of development for properties in the CR zone under the Germantown Master Plan.*
  2. *The GTMU Overlay zone will be given a subsection in Article 59-4.*

Section 2.1.9.A. and Section 2.1.9.B Changes from Current Code

Several of the existing overlay zones have been retained in the proposed code. Four overlay zones have been created in the rewrite process: the Commercial Preservation – Regional Shopping Center Overlay, the Industrial Mixed-Use – Twinbrook Overlay, the Transferable Development Rights Overlay, and the Germantown Transit Mixed-Use Overlay. The Commercial Preservation – Regional Shopping Center Overlay allows particular development standards intended only for the regional shopping malls. The Industrial Mixed Use – Twinbrook Overlay allows the continuation of residential development within the specified area without opening up other I-4 land to this use. The Transferable Development Rights Overlay eliminates the need for individual zones that act as an overlay over base zoning, and provides one location in the ordinance for the regulations, development standards, etc... that govern the zone. The Germantown Transit Mixed-Use Overlay establishes Building Lot Terminations as a priority in the optional method of development for properties in the Commercial Residential (CR) Zone under the Germantown Master Plan. Two overlay zones are recommended for removal as the basic elements of the overlay can be captured through zone conversion.

The current ordinance provides a purpose section for each existing overlay zone. The Planning Board has proposed intent statements for each family of overlay zones based on a generalization of the purpose provided for each existing zone within the overlay family. Intent statements for the four new overlay zones are proposed. In Div. 4.8, the purpose for each individual overlay zone is provided.

**Article 59-4: Euclidean Zoning District Regulations**

New Overlay zones

Commercial Preservation - Regional Shopping Center (CP-RSC) Overlay Zone

*D. Commercial Preservation - Regional Shopping Center (CP-RSC) Overlay Zone*

*1. Purpose*

*The purpose of the CP-RSC Overlay zone is to:*

- a. Provide flexibility of development standards to facilitate certain uses compatible with a regional shopping center.*
- b. Provide parking design standards and requirements compatible with the function and circulation needs of regional shopping centers.*

*2. Land Uses*

*The following uses are permitted as part of a Regional Shopping Center:*

- a. Hotel, Motel*
- b. The following Recreation and Entertainment Facility use: theater complex*

*3. Development Standards*

- a. To accommodate development at a regional shopping center with a gross leasable area that is greater than or will be greater than (if approved by site plan) 1,200,000 square feet, building height may be increased to:
  - i. 90 feet for a building that includes a theater complex, and*
  - ii. 130 feet for a Hotel, Motel.**
- b. For any increase in building height, that portion of the building must be set back from the nearest Residential zone a minimum of 3 feet for each 1 foot of building height.*

*4. Site Plan*

*A site plan is required for any increase in building height under Sec.4.8.2.D.3.a;*

5. Parking

a. Requirement

- i. The parking requirement for a regional shopping center is 5.5 parking spaces for each 1,000 square feet of gross leasable area and may be reduced by 15% if an entrance to a regional shopping center is within 1,600 feet of a Metrorail station entrance, defined as the straight-line distance between a main pedestrian entrance of a building for which the parking reduction is to be granted and a station entrance controlled by the W.M.A.T.A. A station entrance is defined as the street-level entrance of any escalator or the gate or similar barrier of any station entrance that has no escalator.
- ii. The parking requirement for separate standing office and professional buildings is under Div. 7.2.
- iii. All storage space that exceeds 35% of the total gross leasable area shall be excluded in calculating the number of required parking spaces. The owner must submit an annual report specifying the amount of storage space that is greater than 35% of the gross leasable area.

b. Pedestrian Access

The major point of pedestrian access for an off-street parking facility that occupies contiguous land area integral to the regional shopping center property may extend more than 500 feet walking distance from an entrance to the center in order to satisfy the number of spaces required under Sec. 4.8.2.D.5.a.i.

c. Parking Space Size

DPS or the Planning Board may approve smaller than standard size parking spaces for up to 20% of the total parking spaces at the regional shopping center. Any modified standard size space must be for employee use only. Such spaces may be allowed in addition to small car spaces and must be located in a separate area marked for employee parking only. Any modified standard size space must have the following minimum dimensions:

Angle of Parking Space to Drive Aisle	Width	Length
0° (parallel)	6.5'	20.5'
45° - 59°	11'	22.5'
60° - 75°	9'	22'
90° (perpendicular)	8'	17.5'

d. Off-site Parking

Off-site parking spaces may be allowed under the following circumstances:

- i. The off-site parking facility will be used only by employees of the regional shopping center during seasonal peak periods to help satisfy peak parking requirements.
- ii. The off-site parking facility will contain a maximum of 20% of the total parking spaces provided for the regional shopping center.
- iii. DPS or the Planning Board must find that there are appropriate contractual or lease agreements guaranteeing the continued availability, for specified peak shopping periods, of such off-site parking spaces for the regional shopping center.

- iv. *DPS or the Planning Board must find that appropriate administrative mechanisms exist to ensure that employees will be required to use the off-site parking facility during specified peak shopping periods.*

Industrial Mixed Use - Twinbrook (IMU-TB) Overlay Zone

*A. Industrial Mixed Use - Twinbrook (IMU-TB) Overlay Zone*

*1. Purpose*

*The purpose of the IMU-TB Overlay zone is to allow residential uses in the IL zone in areas near the Twinbrook Metro Station.*

*2. Land Uses*

*Multi-Unit Living is permitted in the IMU-TB Overlay zone. All residential uses must be located above the first floor and must be less than 40% of the total floor area of the building.*

*3. Development Standards*

- a. One main building and one accessory building may be located on a lot that is smaller than one acre but at least 5,000 square feet; however, more than one main building and accessory building may be located on such a lot if the Planning Board finds this to result in a better design for the lot.*
- b. The minimum setback from any Commercial/Residential, Employment, or Residential zone is 50 feet. The Planning Board may approve a lesser setback if it finds a lesser setback would not have an adverse impact on abutting property zoned Residential, Commercial/Residential, or Employment.*
- c. The Planning Board may approve any building to be set back a minimum of 10 feet from:
  - i. an arterial road that separates the industrial area from a Commercial/Residential or Employment zone; or*
  - ii. an arterial road, local street, or private right-of-way within the industrial area.**
- d. Any site that includes residential uses must have a minimum of 10% common open space.*
- e. The Planning Board may waive the minimum parking setback requirement to achieve a better design.*
- f. The Planning Board may approve a reduction of the amenity open space requirement to a minimum of 10% of the site. A maximum of 50% of the required amenity open space may be located off-site within the IMU-TB Overlay zone.*
- g. The parking standards for multi-unit living in Sec. 7.2.4.B apply. A parking space for any dwelling unit must be located behind the front building line.*
- h. Before issuance of a building permit, the property owner must sign a declaration of use, including all the standards for the use as approved, to provide notice to future owners of the property of its status as a limited residential use under the conditions of the approval.*

*4. Site Plan*

*A site plan is required for any development with residential uses or if required under Sec. 8.3.4.A.8.*

Transferable Development Rights (TDR) Overlay Zone

*Sec. 4.8.6. Transferable Development Rights (TDR) Overlay Zone*

- A. Standard Method Development in the TDR Overlay zone is allowed under the standard method of development without the use of Transferable Development Rights and must comply with the requirements for development and density limitations contained in the underlying zone (see Div. 4.3 - Div. 4.6). In addition, standard method development in the TDR Overlay zone may be approved under the cluster development procedures of Div. 6.2 or the procedures for development including moderately priced dwelling units as contained in Div. 6. 1, if the property satisfies the minimum requirements for these development options per the underlying zone.*
- B. Optional Method Optional method development is allowed in the TDR Overlay zone under Div. 6.3.*

Germantown Transit Mixed Use (GTMU) Overlay

*Sec. 4.8.7. Germantown Transit Mixed Use (GTMU) Overlay Zone*

- A. Purpose*  
*The purpose of the GTMU Overlay zone is to establish the priority of Building Lot Terminations in the optional method of development for properties in the C/R zone under the Germantown Master Plan.*
- B. Land Uses*  
*The land uses and use standards of the underlying zone apply.*
- C. Development Standards*  
*The development standards of the underlying zone apply.*
- D. Optional Method*  
*Optional method development under the CR zone and the GTMU Overlay zone must provide public benefits under Sec. 6.6.3.F.1.a except that the applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 50% of the incentive density floor area.*

Div. 4.8. Changes from Current Code

Below is a table listing the overlay zones as they appear in the current code, and the recommendation for each zone with respect to the proposed code. Following the table is a more detailed review of each overlay zone.

Overlay zone in the current code	Disposition in the proposed code
Retail Preservation Overlay Zone for the Wheaton Central Business District	Removed with the approval of the Wheaton Sector Plan.
Residential and Open Space Preservation Overlay Zone for the Town of Garrett Park	Retained as Neighborhood Protection – Garrett Park (NP-GP) Overlay zone.
Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central Business District	Not retained, development standards captured in zone conversion (explanation below).
US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan	Under review as part of the White Oak Science Gateway Master Plan –planning staff recommend removal.
Overlay Zone for the Burtonsville Employment Area of the Fairland Master Plan	Retained as Commercial Preservation – Burtonsville Employment Area (CP-BEA) Overlay zone.
Environmental Overlay Zone for the Upper Paint Branch Special Protection Area	Retained as Special Protection Area – Upper Paint Branch (SPA-UPB) Overlay zone.
Chevy Chase Comparison Retail Overlay Zone	Not retained, development standards captured in zone conversion (explanation below).
Chevy Chase Neighborhood Retail Preservation Overlay Zone	Retained as Commercial Preservation – Chevy Chase Retail (CP-CCR) Overlay zone.
Sandy Spring/Ashton Rural Village Overlay Zone	Retained as Neighborhood Protection – Sandy Spring/Ashton Rural Village (NP-SSA) Overlay zone.
Fenton Village Overlay Zone	Retained as Neighborhood Protection – Fenton Village (NP-FV) Overlay zone.
Ripley/South Silver Spring Overlay Zone	Retained as Neighborhood Protection – Ripley/South Silver Spring (NP-RSS) Overlay zone.
Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone	Retained as Commercial Preservation – Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS) Overlay zone.
Neighborhood Retail Overlay Zone	Retained as Commercial Preservation – Neighborhood Retail (CP-NR) Overlay zone.
Rural Village Center Overlay Zone	Retained as Neighborhood Protection – Rural Village (NP-RV) Overlay zone.
Environmental Overlay Zone for the Upper Rock Creek Special Protection Area	Retained as Special Protection Area – Upper Rock Creek (SPA-URC) Overlay zone.

- **The Retail Preservation Overlay Zone for the Wheaton Central Business District** - This overlay zone has been removed by the recent approval of the Wheaton Sector Plan.
- **Residential and Open Space Preservation Overlay for the Town of Garrett Park** – This overlay zone has been retained and renamed the Neighborhood Protection - Garrett Park Overlay zone. None of the current requirements of the overlay have been removed or modified, other than minor changes to the wording of the text.
- **The Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central Business District Sector Plan** – Currently, under this overlay, uses are limited to those uses allowed in the underlying C-2 zone (either permitted or by special exception). All development standards must comply with those of the C-2 zone except that for any building in the overlay zone, the gross floor area cannot exceed FAR 0.5. All retail uses must be directly accessible from the sidewalk, plaza or other public space. In addition, a site plan is required for any new construction, addition of floor area, or any addition of off-street parking.

Properties under the Arlington Road District Overlay are proposed to convert to CRT 0.5 (C0.5, R0.25, H45). Each property in the current overlay would be limited to 0.5 FAR as mapped. Height, limited to 45 feet as per the master plan recommendation, would also be mapped in the zone. Uses in the CRT zone are comparable to the uses in the C-2 zone.

The site plan requirement under the current overlay would be replaced by the site plan requirement under the CRT zone. Below is the text in the current code regarding site plan.

**59-C-18.123. Procedure for application and approval.**

A site plan for any development in the Arlington Road District overlay zone must be approved under the provisions of Division 59-D-3. Development includes the following:

- (a) construction of new buildings;
- (b) additions and other exterior improvements to existing buildings that increase the amount of development floor area on a site; and
- (c) addition of off-street parking spaces or revisions to parking facilities that require the approval of a new parking facilities plan under Section 59-E-4.1.

Under the proposed code, new construction that is over 10,000 SF, more than 10 units, or greater than 40' in height would require a site plan under the CRT zone (note: all 3 parcels that fall within the overlay abut or confront property in a residential zone). Additions and improvements that increase floor area would require a site plan amendment. And, the addition of off-street parking spaces or revisions to parking facilities will be captured under building permit regulations.

Currently the information required for site plans in the Planning Board draft requires much of the information currently required by the overlay. The criteria for Board approval is also covered by the necessary findings recommend in the proposed code. For reference, both the site plan requirements and the approval criteria for the Arlington Road Overlay and the submittal requirements and necessary findings for all sites plans from the Planning Board Draft are copied below.

Current Code:

**59-C-18.124. Site plan contents and exemptions.**

- (a) Sections 59-D-3.22 and 59-D-3.23 do not apply in the Arlington Road District overlay zone.
- (b) A site plan for development in the Arlington Road District overlay zone must include:
  - (1) the location, height, ground coverage, and use of all structures;
  - (2) for each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes;
  - (3) the floor areas of all nonresidential buildings and the proposed use of each;
  - (4) the location of recreational and green areas and other open spaces;
  - (5) calculations of building coverage, density, green area, number of parking spaces and areas of land use;
  - (6) the location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks;
  - (7) a landscaping plan (or final forest conservation plan, if required under Chapter 22A), showing all man-made features and the location, height, or caliper, and species of all plant materials;

- (8) an exterior lighting plan, including all parking areas, driveways and pedestrian ways, and the height, number, and type of fixtures with a diagram showing their light distribution characteristics; and
- (9) a development program with the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping, and recreational facilities are to be developed. The applicant must designate the point in the development program sequence when the applicant will ask the Planning Board to inspect for compliance with the approved site plan.

**59-C-18.125. Planning Board approval.**

- (a) The Board must find that all retail uses proposed in new buildings must be directly accessible from a sidewalk, plaza, or other public space before approving a site plan for the Arlington Road District overlay zone.
- (b) The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following findings:
  - (1) the site plan does not conflict with the recommendations in the Bethesda Central Business District Sector Plan;
  - (2) the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

Proposed Code:

**B. Application Requirements**

The applicant must submit the following:

- a. application form and fees required by the Planning Director;
- b. vicinity map at 1" = 200';
- c. site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic resources, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
- d. list of abutting and confronting property owners in the County tax records;
- e. list of any civic and homeowners associations within 1/2 mile;
- f. documentation of interest in the proposed development site under Sec. 8.3.4.B.2;
- g. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application;
- h. verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public under the Planning Department's Development Review Manual;
- i. Traffic Statement or Study accepted by the Planning Director, if not submitted with a previous or concurrent application;
- j. environmental documentation or exemption for:
  - i. an approved Natural Resources Inventory/Forest Stand Delineation;
  - ii. Stormwater Management Concept Application or, if required, a Water Quality Plan Application; and
  - iii. a final Forest Conservation Plan application;
- k. existing and proposed dry and wet utility plan;
- l. plans of proposed development showing:

- i. footprints, ground-floor layout, and heights of all building and structures;
- ii. required open spaces and recreational amenities;
- iii. detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
- iv. grading;
- v. landscaping and lighting; and
- vi. documentation demonstrating how the application satisfies previous approvals and applicable requirements.
- m. a development program and inspection schedule detailing the construction phasing for the project;
- n. if a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points approved for each; and
- o. if common open space is required, a description of how the common use and adequate maintenance of common open space will be assured.

#### **E. Necessary Findings**

To approve a site plan, the Planning Board must find that the proposed development:

1. satisfies any previous approval that applies to the site and Sec. 8.7.1.A.6.b and Sec. 8.7.1.A.6.c;
  2. satisfies applicable use standards, development standards, and general requirements under this Chapter;
  3. meets the requirements of other applicable sections of the Montgomery County Code under jurisdiction of the Planning Board, including:
    - a. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
    - b. Chapter 22A, Forest Conservation.
  4. provides safe, well-integrated circulation patterns and building massing and, where required, open spaces and site amenities;
  5. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan; and
  6. is compatible with existing and approved or pending adjacent development.
- **US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan** – This overlay is under review as part of the pending White Oak Science Gateway Master Plan and has been recommended for removal in the Staff draft.
  - **Overlay Zone for the Burtonsville Employment Area of the Fairland Master Plan** – This overlay has been retained and renamed the Commercial Preservation – Burtonsville Employment Area Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay sets forth an extensive list of prohibited and allowed uses. The consolidation of uses in the Planning Board Draft requires modification of the list of prohibited uses to correspond to the proposed draft. Below is a table showing the new use category that covers each prohibited use.

List of Prohibited Uses (Current Code)	(Corresponding Use in the proposed code)
Adult entertainment business	Adult Entertainment
Agricultural uses	Urban Farming, Animal Husbandry, Community Garden, Ag Processing, Farm Market On-Site
Aircraft parts, sales and services, including the sale of fuel for aircraft only	Repair (Commercial Vehicle)
Automobile parts, sales and services, including but not limited to tire sales and transmission service	Light Vehicle Sales and Rental (Indoor and Outdoor); Repair (Minor) and Repair (Major)
Automobile filling stations	Fuel Sales
Automobile repair and services	Repair (Minor) and Repair (Major)
Automobile sales, indoors and outdoors	Light Vehicle Sales and Rental (Indoor and Outdoor)
Automobile, truck and trailer rentals	Light Vehicle Sales and Rental (Outdoor);
Bakery	Light Manufacturing and Production
Blacksmith shops and machinery shops	Light Manufacturing and Production
Bottling plant	Light Manufacturing and Production
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Confectionery production	Light Manufacturing and Production
Contractor's storage yards	Contractor Storage Yard
Dry cleaning plants	Dry Cleaning Facility
Electroplating and manufacturing of small parts such as coils, condensers, transformers, and crystal holders	Light Manufacturing and Production
Food production, packaging, packing and canning	Light Manufacturing and Production
Fuel storage yards	Storage Facility
Highway fuel and food service	Fuel Sales
Laundry plants	Dry Cleaning Facility
Lumberyards	Contractor Storage Yard
Manufacturing of light sheet metal products	Light Manufacturing and Production
Manufacturing, compounding, assembling or treatment of articles from the following previously prepared materials: bone, cellophane, plastic, canvas cloth, cork, feathers, felt, fiber, fur, hair, horn, leather textiles, yarns, glass, precious or semi-precious metals or stones, and tobacco	Light Manufacturing and Production
Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development	Medical/Scientific Manufacturing and Production
Manufacturing, fabrication and/or subassembly of aircraft or satellite parts, components, and equipment	Light Manufacturing and Production
Manufacturing of musical instruments toys, novelties, and rubber and metal stamps	Light Manufacturing and Production
Manufacturing of paint not employing a boiling or rendering process	Light Manufacturing and Production
Manufacturing of pottery and figurines or other products using previously pulverized clay and kilns fired only by electricity or gas	Artisan Manufacturing and Production
Off-loading and transfer sites for storage of sand, gravel or rocks	Mineral Storage
Paper products manufacturing	Light Manufacturing and Production
Recycling facility	Recycling Collection and Processing
Rifle or pistol ranges, indoor	Shooting Range (Indoor)

Sawmills	Agricultural Processing
Stoneworks	Light Manufacturing and Production
Storage, outdoor	Storage Facility
Tinsmith and roofing services	Light Manufacturing and Production
Trucking terminals	Freight Movement
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility
Wholesale trades limited to sale or rental of products intended for industrial or commercial users	Retail/Service Establishment
Wood products manufacturing	Light Manufacturing and Production

Several of the prohibited uses fall under the proposed use *Light Manufacturing and Production*, however, a few uses that have also been consolidated under *Light Manufacturing and Production* are not specifically prohibited by the overlay. To avoid prohibiting these manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production uses are allowed: manufacturing and assembly of electronic components, instruments, and devices; manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment; manufacturing and assembly of semi-conductors, microchips, circuits, and circuit boards; manufacturing of yeasts, molds, and other natural products necessary for medical and biotechnical research and development; and printing and publishing.*

The overlay zone also provides a limited set of allowed commercial uses of a retail nature. The proposed code recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service Establishment* uses are delineated by size. To retain the specific retail uses allowed under the overlay the following language has been included:

*The following Retail/Service Establishments are allowed: antique shops, handicrafts, or art sales; barber or beauty shop; banks; bookstores; drugstore; express or mailing offices; florist; food and beverage store; newsstand; photographic and art supply stores; and shoe repair shops.*

Development standards regarding setbacks, parking, and floor area have been retained. Other minor revisions were made to reduce redundant language, such as removing the general requirement that all development must comply with the standards of the underlying zone, except as modified by the overlay zone, since this text appears as a condition for all overlay zones.

- **Environmental Overlay Zone for the Upper Paint Branch Special Protection Area** – This overlay has been retained and renamed the Special Protection Area – Upper Paint Branch Overlay zone. None of the current requirements of the overlay have been changed.
- **Chevy Chase Comparison Retail Overlay zone** - The purposes of this overlay zone are directly related to the recommendations of the master plan, which as proposed in the Planning Board Draft, are a consideration of every site plan. Standard method development through zone conversion will be capped at a lower maximum square footage than that established in the current overlay zone. The mix of development, as indicated in the overlay, will be set by the commercial FAR (C), residential FAR (R), and height (H) elements in the new zone. Under the current overlay zone, site plan is required for new construction, additions and other exterior improvements that increase floor area, and the addition of off-street parking spaces or

revisions to parking facilities. Following the proposed code, new construction, development over 10,000 SF or more than 10 units, or structures greater than 40' in height will require a site plan (property under the overlay abuts or confront property in a residential zone). Additions and improvements that increase floor area will require a site plan amendment. And, the addition of off-street parking spaces or revisions to parking facilities will be captured under building permit regulations.

- **Chevy Chase Neighborhood Retail Preservation Overlay zone** – This overlay has been retained and renamed the Commercial Preservation – Chevy Chase Retail Overlay zone. None of the current requirements of the overlay have been changed. The overlay provides a limited list of uses that are permitted in the ground floor space. The Planning Board draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. To retain specific retail uses, as well as other specific uses permitted under the overlay, the following language has been included:

*The following uses are permitted at the ground floor level, including entrance lobbies and common areas:*

- Cultural Institution;*
- Day Care Facility;*
- The following Office uses: personal service office uses such as travel agency, real estate office, optician, and similar neighborhood-serving office uses;*
- Playground, Outdoor Area (Private);*
- Restaurant; and*
- The following Retail/Service Establishment uses: antique shops, handicraft, or art sale; appliance repair shop; banks and financial institutions; barber and beauty shops; book store; drug store; dry cleaning and laundry pickup station; duplicating service; florist; food and beverage store; gift shop; grocery store; hardware store; newsstand; pet shop; photographic studio; photographic and art supply store; shoe repair shop; specialty shops, such as jewelry store; variety and dry goods store, including wearing apparel; and tailoring or dressmaking shop.*

- **Sandy Spring/Ashton Rural Village Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Sandy Spring/Ashton Rural Village Overlay zone. None of the current requirements of the overlay has been removed. However, the overlay provides an extensive list of prohibited uses. The consolidation of uses in the Planning Board draft requires modification of the list of prohibited uses so that it corresponds to the proposed draft. Below is a table showing the new proposed use category for each prohibited use.

List of Prohibited Uses (Current Code)	(Corresponding Use in the proposed code)
Adult entertainment business	Adult Entertainment
Automobile filling stations	Fuel Sales
Automobile fluid maintenance station	Repair (Minor)
Automobile repair and services	Repair (Minor) and Repair (Major)
Automobile sales, indoors and outdoors	Light Vehicle Sales and Rental (Indoor and Outdoor)
Automobile, truck and trailer rentals	Light Vehicle Sales and Rental (Outdoor);
Baseball driving range	Recreation Facility, Outdoor
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Car wash	Car wash
Combination retail	Retail/Service Establishment over 50,000sf
Department stores	Retail/Service Establishment over 50,000sf

Dry cleaning plants	Dry Cleaning Facility
Eating and drinking establishments, drive-in	Drive-thru facility in connection with a restaurant
Fairgrounds, circuses, and amusement parks	Recreation Facility, Outdoor
Furniture stores, carpet, or related furnishing sales or service	Retail/Service Establishment
Golf driving ranges	Recreation Facility, Outdoor
Heliports	Helipad/Heliport
Helistops	Helistop
Laboratories	R&D, Medical/Dental Lab, and Animal Research Facility
Newspaper, printing, and publishing	Light Manufacturing and Production
Parking garages, automobile, for off-site uses	Structured Parking
Parking lots, automobile, for off-site uses	Surface Parking for use in zone, Surface Parking for commercial use in Historic District
Pawnshops	Retail/Service Establishment
Pipelines, above ground	Pipelines (Above Ground)
Radio and television broadcasting stations and towers	Media Broadcast Tower
Rifle or pistol ranges, indoor	Shooting Range (Indoor)
Roller and ice skating rinks	Recreation Facility, Indoor and Outdoor
Stadiums or arenas	Recreation Facility, Major
Swimming pools, commercial	Recreation Facility, Indoor and Outdoor
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility

One of the prohibited uses falls under the proposed use *Light Manufacturing and Production*, however, the majority of the uses that are also consolidated under *Light Manufacturing and Production* are not specifically prohibited by the overlay. To avoid prohibiting these manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production use (is prohibited): Newspaper, printing and publishing shops.*

The overlay zone also prohibits a limited number of retail uses. The Planning Board draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service Establishment* uses are delineated by size. To prohibit only the specific retail uses recommended by the overlay the following language has been included:

*The following Retail/Service Establishments [are prohibited]: building materials and supplies; furniture stores, carpet, or related furnishing sales or service; and pawnshops;*

Other minor revisions were made to reduce redundant language covered by either the general requirements for all overlay zones or the standard requirements of all site plans.

- **Fenton Village Overlay zone** – This overlay has been retained and renamed the Neighborhood Protection – Fenton Village Overlay zone. None of the current requirements of the overlay have been changed.
- **Ripley/South Silver Spring Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Ripley/South Silver Spring Overlay zone. None of the current requirements of the overlay have been changed.

- **Takoma Park/East Silver Spring Commercial Revitalization Overlay zone** - This overlay has been retained and renamed the Commercial Preservation - Takoma Park/East Silver Spring Commercial Revitalization Overlay zone. None of the current requirements of the overlay have been removed. Reference to the underlying C-1 zoning is replaced with a reference to the CRT zone as the C-1 properties under this overlay are proposed to convert to this zone. A list of additional uses allowed under the overlay has been compared to the list of uses allowed under the CRT zone. Where a use is not allowed in the CRT zone, or the use is allowed as a conditional use, language to allow the additional use as a permitted use under the overlay has been retained.
- **Neighborhood Retail Overlay zone** - This overlay has been retained and renamed the Commercial Preservation - Neighborhood Retail Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay provides a long list of retail uses allowed under the overlay.

The Planning Board draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service Establishment* uses are delineated by size. To allow only the specific retail uses recommended by the overlay the following language has been included:

*Retail/Service Establishment uses are allowed in a Multi-Unit zone where designated as suitable in the applicable master plan. The following are the allowed Retail/Service Establishment uses:*

- i. *banks or savings and loan offices; barber and beauty shops; book stores; drug stores; dry cleaning and laundry pick-up stations; florists; food and beverage stores; gift shops; jewelry stores; laundromats; newsstands; offices, banking; restaurants; and variety and dry goods stores.*

As with the other retained overlay zones, minor revisions were made to reduce redundant language related to general overlay zone or site plan requirements.

- **Rural Village Center Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Rural Village Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay provides a list of prohibited uses under the overlay. As in the other overlay zones, the consolidation of uses in the Planning Board draft requires modification of the list of prohibited uses so that it corresponds to the proposed draft. Below is a table showing the proposed use category for each prohibited use.

List of Uses Prohibited in the commercial zones (Current Code)	(Corresponding Use in the proposed code)
Amusement center	Recreation Facility
Animal boarding place	Animal Boarding and Care
Appliance repair shops	Retail/Service Establishment
Automobile fluid maintenance station	Repair (minor)
Automobile, light truck and light trailer rentals, outdoor	Vehicle/Equipment Sales and Rental
Automobile parts, supplies, and tire stores	Vehicle/Equipment Sales and Rental
Automobile sales, indoors and outdoors	Vehicle/Equipment Sales and Rental (Indoor and Outdoor)
Baseball driving range	Recreation Facility
Boat sales, indoors	Vehicle/Equipment Sales and Rental
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Eating and drinking establishments, drive-in	Drive-thru facility in connection with a restaurant
Heliports	Helipad/Heliport

Helistops	Helistop
International organizations	Office. Do not want to prohibit all office uses
Newspaper, printing, and publishing shops	Light Manufacturing and Production
Rifle or pistol ranges, indoor	Shooting Range (Indoor)
Roller and ice skating rinks	Recreation Facility
Stadiums or arenas	Recreation Facility
Swimming pools, commercial	Recreation Facility
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility

List of Uses Prohibited in the residential zones (Current Code)	(Corresponding Use in the proposed code)
Child day care center	Day Care Center (13 to 30 persons), Day Care Center (over 30 persons)
Golf course or country club	Golf Course, Country Club
Hospital	Hospital
Life Care Facility	Residential Care Facility (over 16 persons)
Nursing Home	Residential Care Facility (over 16 persons)

As in the Sandy Spring/Ashton Rural Village Overlay, the only *Light Manufacturing and Production* use prohibited under this overlay is *Newspaper, printing and publishing shops*. To avoid prohibiting other manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production use (is prohibited): Newspaper, printing and publishing shops.*

The overlay zone also prohibits a limited number of retail uses. To prohibit only those specific retail uses as set forth in the overlay, the following language has been included:

*The following Retail/Service Establishments (are prohibited): appliance store; appliance repair shop; and building materials and supplies;*

Other minor revisions were made to reduce redundant language covered by the general requirements for all overlay zones and the standard requirements of all site plans.

- **Environmental Overlay for Upper Rock Creek Special Protection Area** - This overlay has been retained and renamed the Special Protection Area – Upper Rock Creek Overlay zone. The requirements of the overlay have not been changed.

## Article 59-6: Optional Method of Development

### Div. 6.3. Changes from the Current Code

Transferable Development Rights (TDR) receiving areas are determined through the master plan process. To establish a receiving area a new zone is created designating the receiving area as the base zone/TDR. The master plan, in most cases, recommends a TDR density designation for each receiving area. This density may be

less than the density designation provided in the zoning ordinance. The Planning Board draft retains the TDR density designation in the current code. The delineation of receiving areas as an overlay, rather than a single zone, is a change from the current code. In the proposed code it is recommended that mapping of each TDR receiving area contain the TDR density recommendation provided in the master plan.

Attachment II

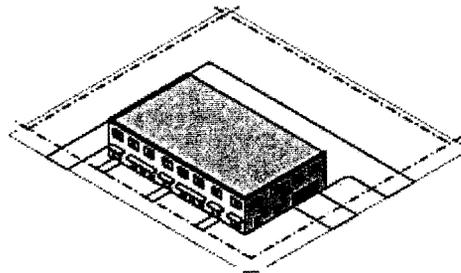
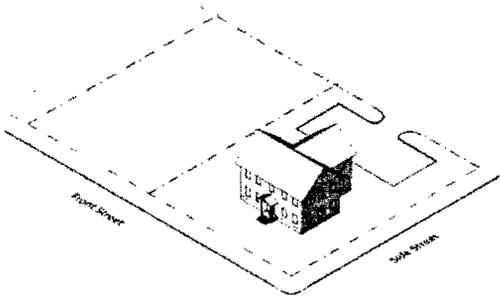
Planning Staff was directed to provide more description of a general building in residential zones.

Building Types

Modify Sec. 4.1.3.

F. General Buildings

A building [typically containing] that accommodates nonresidential uses including office, commercial, industrial, civic and institutional, or public uses. A general building accommodates only the permitted, limited, and conditional uses allowed in the applicable zone under Article 59-3, Uses and Use Standards. [When a general building is approved for a limited or conditional use in a Residential Detached zone, the building and site design must, to the maximum extent practicable, have the exterior appearance of a detached house.]



a) In Agricultural, Rural Residential, and Residential zones, a general building has limits on FAR, larger setbacks, parking restrictions, and may have additional screening requirements that are not applicable to a detached house under Article 59-4, Euclidean Zone Requirements: General and Standard Method, and Article 59-7, General Development Requirements. Any agricultural building is exempt from the development standards of this Article.

b) In C/R, Employment and Industrial zones a general building usually accommodates a single type of nonresidential use including office, commercial, industrial, civic and institutional, or a public use.

Additional text for consideration:

- a. When a non-residential use is:
  - i. in an R-90, R-60, or R-40 zone;
  - ii. subject to a site plan or conditional use application under Article 59-8, Administration and Procedures;
  - iii. not accommodated in an existing detached house, as allowed under Sec. 4.1.3.A, Detached House; and
  - iv. abutting residential uses,

all buildings and sites should have an exterior appearance and character harmonious with the neighborhood.

Modify findings:

#### Conditional Uses

Modify Sec. 8.3.1.E.2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood. [whenever practicable, have the exterior appearance of a detached house, duplex, or townhouse building type as allowed in the zone].

#### Site Plan

Modify Sec. 8.3.4.E.6. On a non-residentially-zoned property, is compatible with existing and approved or pending adjacent development; and

Add Sec. 8.3.4.E.7. On a residentially-zoned property, is compatible with the character of the residential neighborhood.