

MEMORANDUM

November 5, 2015

TO: Planning Housing and Economic Development Committee

FROM: Jeff Zyontz, Senior Legislative Analyst

SUBJECT: Worksession 2 – Zoning Text Amendment 15-09,
Zoning Rewrite – Revisions, Clarifications, and Corrections

Issues unresolved from September 21:

1. Accessory apartment provisions; Section 3.3.3.A and B
 - A. The Planning Board proposed text would limit the scope of the findings the Hearing Examiner must make for an accessory apartment conditional use application when the applicant seeks a deviation from the on-site parking or spacing requirements.

In view of the Hearing Examiner's interpretation of the Planning Board proposed limited inquiry on accessory apartments, the Committee directed the Planning Board to provide clarifying text to the Committee. Staff, over the objections of the Hearing Examiner¹, would recommend the following text to implement the Committee's recommendation:

Section 3.3.3.A.2.c

Where an Accessory Apartment conditional use application is filed under Section 3.3.3.A.2.b, the Hearing Examiner may approve a conditional use for the Accessory Apartment under Section 7.3.1, except that the findings under Section 7.3.1.E are not applicable to this type of conditional use. The limited use standards of Section 3.3.3.A.2.a and Section 3.3.3.A.2.c apply to all accessory apartment conditional use applications. In addition, the limited use standards of Section 3.3.3.B.2 apply to Attached Accessory Apartment applications, and the limited use standards of Section 3.3.3.C.2.a apply to Detached Accessory Apartment applications.

¹ On September 21, the Committee was made aware of the Hearing Examiner's idea to require DHCA to make a determination on the adequacy of parking and proximity issues. Under this idea, disputes would only go to the Hearing Examiner by an objection to a DCHA finding, not as a conditional use. Staff relayed the Director of DCHA's objection to making a finding on a subjective standard. The Committee instructed Staff to revise the Planning Board's proposed text. The Hearing Examiner is insistent that the conditional use process does not make sense without all of the general findings. He would not suggest retaining the general findings as currently required, but that with the limited scope, the objection process makes more sense to him. Staff met again with DHCA leadership on November 5. DHCA does not recommend making the significant change recommended by the Hearing Examiner at this time.

- B. In addition, the Committee expressed concern with adding the minimum home ownership requirement of 5 years as a conditional use standard for a Detached Accessory Apartment (as existed under the old code). Planning Staff was directed to review the intent of this requirement.

The minimum home ownership of 5 years was added back into the Accessory Apartment ZTA by Councilmember Berliner during the Council's meeting on February 5, 2013 (ZTA 12-11). His concern was that speculative builders could potentially construct duplex units, basically circumventing the intent of the legislation. He believed that we could minimize the potential abuse by keeping the 5-year minimum age of the structure to ensure that an accessory apartment is established in an existing detached dwelling unit. He also believed that this amendment would do no harm to the overall goal of the legislation. The Council voted 8:1 (Councilmember Floreen voting against the amendment) to add the following language in Section 3.3.3.B.2.b:

The detached house in which the Accessory Apartment is to be created or to which it is to be added must be at least 5 years old on the date of application for a license or a conditional use.

The Planning Board noted that this provision was inadvertently missing from the provision on detached accessory apartments.

2. Retail square footage allowed in the R-10 Zone: Section 3.5.11.B.2.a.i

The Planning Board's post-introduction recommendation included an expansion of the Retail/Service Establishment use allowed in the R-10 zone from 5,000 square feet to 10,000 square feet. The change was prompted by a request from an existing retail establishment in the Grosvenor Apartments that currently occupies more than 5,000 square feet of space. The Committee agreed with the Planning Board's recommendation; however, if objections to the recommended change to allow 10,000 square feet of retail use were made, the Committee wanted to revisit its recommendation.

In the record of the ZTA, a representative of the Grosvenor Market recommended approval of the Planning Board suggestion to allow up to 10,000 square feet of retail in the R-10 zone. This was supported by the Grosvenor Park III Condominium Board of Directors.

No other testimony was received. The attached draft ZTA includes the increased floor area for retail in the R-10 zone.

3. The determination on building height in Commercial/Residential, Employment, and Industrial zones: Section 4.1.7.C.2.a

At the request of DPS, the Planning Board recommended modifying the definition of *Building Height in Commercial/Residential, Employment, and Industrial Zones* to establish a uniform process for measuring building height on corner lots, regardless of lot size.² The ZTA also includes

² Building height is always measured from the level of approved curb grade opposite the middle of the front of a building to the highest point of roof surface of a flat roof or to the mean height level between eaves and ridge of a pitched roof. If a building

a clarification that building height must always be measured from the curb grade opposite the middle of the front of the building, even if the building is on a corner lot.

The Committee directed Planning staff to bring alternative language to the next worksession that would allow some flexibility on the measuring point for building height for consideration.

2. ***Building Height in Commercial/Residential, Employment, and Industrial Zones***

- a. *[[Building]] For a building located within 35 feet of a street right-of-way, building height is [[always]] measured from the level of approved curb grade opposite the middle of the front of a building to the highest point of roof surface of a flat roof or to the mean height level between eaves and ridge of a pitched roof. If a building is located on a terrace, the height may be increased by the height of the terrace. [On a corner lot exceeding 20,000 square feet, the height of the building may be measured from either adjoining curb grade.] For a corner lot or a lot extending through from street to street, the height [may] [[must be]] is measured from [either] the curb grade opposite the middle of the [[front of a]] building façade along either right-of-way; however, under Section 7.3.4, Site Plan, the Planning Board may approve an alternative point of measurement. The alternative measurement point must be taken from the approved curb grade along either right-of-way. In approving an alternative point of measurement, the Planning Board must consider compatibility and building height variation on the site.*

Testimony

An attorney who represents development interests, Pat Harris, argued against the changes to the new provision to determine building height limits on a corner lot. She suggested that, in practice under the old code, the Planning Board had the ability to request a different measuring point in their review of development applications.³ Under the proposed provisions, that flexibility would not be in the code.

Staff opinion

The issue for the Council is the amount of flexibility it wishes to delegate for determining the height measuring point (any point along the frontage vs. the mid-point of the building). The Planning Board's recommendation gives some flexibility to the developers, but describes a particular point. (Even with that flexibility, the Board retains the authority to declare the proposed height incompatible with its surroundings in the site plan process. The Planning Board lacks that authority when no site plan is required.) The text proposed by Ms. Harris, whose client has a building height determination that would be changed by the proposed text, is more flexible but less certain. Staff agrees with the Planning Board's changes as submitted.

is located on a terrace, the height may be increased by the height of the terrace. [On a corner lot exceeding 20,000 square feet, the height of the building may be measured from either adjoining curb grade.] For a corner lot or a lot extending through from street to street, the height [may] must be measured from [either] the curb grade opposite the middle of the front of a building.

³ The following is the core of the text suggested with editorial changes:

On a corner lot exceeding 20,000 square feet, the height of the building may be measured from either adjoining curb grade, if the site measuring point is identified on the Sketch, Preliminary, and Site Plan, and any plan submitted for a building permit. For a lot extending through from street to street, the height [may] must be measured from either curb grade, if the site measuring point is identified on the Sketch, Preliminary, and Site Plan, and any plan submitted for a building permit.

4. Surface parking in the “build to” area: Section 4.1.7.B.2.b

The Committee directed Planning Staff to provide additional information on the problems and possible solutions for parking placement. The Committee expressed concern with potentially inconsistent language between the Build-to Area definition and the parking setback standards. Planning staff was directed to review the information and bring clarifying language back to the Committee. Planning Staff proposed the following changes:

2. *Build-to Area
Defined*

- a. *The build-to area is the area on the lot from ~~[[the edge of]]~~ the lot line or right-of-way to the maximum setback where a certain percentage of the front or side street building facade must be located, measured as a range from the edge of the lot line].*
- b. *A ~~[[surface parking lot and a]]~~ drive aisle ~~[[are]]~~ is prohibited in the build-to area. All other structures and uses customarily allowed on the lot are allowed in the build-to area, ~~[except a surface parking lot]~~ including an access driveway perpendicular to the right-of-way.*

5. Determining when site approval for standard method projects is required: Section 7.3.4.A

The Committee was confused about the proposed text recommended by the Planning Board that precedes the table indicating when a Site Plan is required under the standard method of development. Planning staff was directed to review the proposed text and may propose modifications for clarity.

A. *Applicability and Description*

* * *

- 8. *A site plan is required under standard method development for any new construction or expansion of an existing structure, where the proposed intensity, described in the table below, includes ~~[[any]]~~ both the existing structure and ~~[[the]]~~ any expansion, as follows:*

Subject Property's Zone	Proposed Use	Proposed Intensity (units, gross floor area in SF, or building height in feet)	Abutting or Confronting Property's Zone (determined by base zone, not Overlay zone)	Site Plan Required
Agricultural, Rural Residential, or Residential Detached	Permitted	Any	Any	No
	Limited	Any	Any	Yes, if required for the use under Article 59-3; otherwise, site plan requirement follows the Permitted use requirement for same zone in this table.

6. Editorial change to Section 4.5.2

There are separate provisions to allow height and total density and residential density above the stated numbers in a CR zone for zones with a “T” and zones without a “T”. Section 4.5.2 says that: “The number following the classification is the maximum ... unless additional {height, residential floor area, or total floor area} is allowed under Section 4.5.2.C and Section 4.7.3.D.6.c.” As enacted, an attorney was confused as to whether both provisions in Section 4.5.2.C and Section 4.7.3.D.6.c., which are mutually exclusive, must be satisfied. Staff recommends changing the “and” to an “or”, even though Staff is less confused than others on the meaning of the provision.

Committee Recommendations from September 21

Section 1.4.2

The definition of Bay Window would be revised to conform to DPS’s current interpretation. The revision to the definition of Right-of-Way ensures that any building located on a private street, whether platted or under easement, is treated as a right-of-way with respect to any applicable development standards. The Committee did not object to these recommended changes.

Section 3.3.1.D

The Committee agreed to change the Townhouse Living limited use standards for Design for Life such that the minimum area required should be based on tract not site.

Section 3.3.2

Staff noted the Planning Board’s recommendation to delete the requirement for a minimum tenancy of 30 days for Group Living. This modification was proposed to allow the continuation of short-term group living uses with tenancies of less than 30 days that currently operate within the County and provide a valuable social service. The Committee supported this change.

Section 3.5.11

The Committee agreed with the Planning Board’s recommendation to allow up to 10,000 square feet of retail in the R-10 zone in the face of no opposition.

Section 4.1.7.D

As proposed by the Planning Board, entrance spacing would be defined as the maximum distance between entrances. An angled entrance may be provided at either corner to meet the street-facing entrance requirements. The Committee had no objection to the proposed text clarifying entrance spacing requirements.

Section 4.3.5; Section 4.4.1 through 4.4.15; Section 4.5.3; and Section 4.6.3

The modifications to the townhouse building types in several zones were proposed to better align the requirement for common open space to the prior requirement for green area, in light of the changes to the design and configuration of common open space compared to green area. The Committee had no objection to the modifications.

Section 4.4.5

Following the transmittal of ZTA 15-09, the Planning Board proposed certain exemptions from the frontage requirements in residential zones as part of the rewrite of the Subdivision Regulations. The Planning Board requested that “except as exempt under Chapter 50” be added to the frontage requirement for consistency with the Subdivision Regulations. The Committee had no objection to this modification.

Section 4.7.3

The Planning Board recommended clarifying the fact that public benefit points for proximity to a transit stop may only be granted to an applicant for *one* transit stop. The Committee supported this change.

Section 5.3.1; Section 5.4.1; and Section 5.5.1

The proposed change would limit the density classification in C/R, Employment, and Industrial Floating zones to increments of .25 FAR and height to increments of 5 feet. This would be the same as the increments recommended for the Euclidean zones. The Committee supported this modification.

Section 6.2.4

The Committee agreed with both the proposed change to clarify that a fraction of the metric used to determine parking (1,000 square feet of office) may still have a minimum amount of required parking and the revision of required parking for Life Science land uses.

Section 6.4.3

The Committee agreed with deleting the 4 foot limit on the height of fences in a residential front yard.

Section 6.7.4

The Committee supported the revised provisions for prohibited signs to allow signs not visible from a property line to contain off-site information.

Section 6.8.1

The Committee supported the proposed revision to add “use characteristic” as a reason to allow alternative compliance.

Section 7.2

The Committee supported the ZTA Advisers’ recommendation to revise the local map amendment necessary findings to simplify the investigation and report required of the Hearing Examiner.

Section 7.3.2

The Board of Appeals requested a revision to require DPS to provide a letter denying a building permit application before the Board accepts an application for a variance. The Committee did not object to this modification.

Section 7.3.4.J

The Planning Board recommended modifying the site plan amendment text to make it more consistent with the prior zoning code. The Committee did not object to this revision.

Section 7.4.1.C.3

Council Staff recommended deleting the requirement for referrals of building permits for additions to the Planning Board. The Committee agreed.

Section 7.5.1

Council Staff noted for the Committee that, in the Noticing Table under Section 7.5.1, the cells requiring Resolution Notice for a Local Map Amendment, Correctional Map Amendment, and a Sector/District Map Amendment should contain an “x”. The Committee agreed.

Section 7.5.1; Section 7.5.2.D; and Section 7.5.2.E.1

The Committee agreed to several procedural modifications related to noticing that would more closely match the requirements under the old code; however, the Planning Board also recommended adding a provision to allow the deciding body to require additional application notice according to approved rules of procedure. The Committee did not agree with allowing additional noticing under the rules and procedures of the deciding body.

Section 7.5.2.C

The Committee agreed to modifications related to posting the application, including: the requirement that the application sign be posted *before* an application is accepted; the requirement that the applicant use the sign template provided by the Planning Department; and the removal of the requirement that the application sign include the date of filing (the sign must be posted before the date of filing for sketch plans, site plans, and major site plan amendments).

Section 7.7.1 A-B

The Planning Board proposed a clarifying change to say, “A use located in a building or structure deemed conforming under this Section (Section 7.7.1.A.1) may be converted to any permitted, limited, or conditional use up to the density limits for the use established by the current zoning.” The Committee did not object to the inclusion of this text in subsection B.

The Committee did not support the provision to apply all future ZTA provisions to grandfathered applicants as suggested by the Civic Federation. The Committee noted that the Council can, on a case-by-case basis, determine if a subsequent change should apply regardless of any grandfathering.

Section 7.7.1.C.4

The Committee supported the Planning Board modification of grandfathering for expansions of buildings in Commercial/Residential, Employment, or Industrial zones requiring that any applicant wishing to exceed the expansion threshold under Section 7.7.1.C.2 (typically the lesser of 10% of the gross floor area approved for the site or 30,000 square feet) must meet the standards of the existing zone for the entire expansion.

Section 7.7.1.D

The Committee agreed to the Planning Board’s recommended reviving of previously allowed exemptions in the RE-1, RE-2, Rural, Rural Cluster, and AR zones.

Division 8.2

The Committee supported changing the references to “open space” in all retained zones to “green area”, which is in line with the old code.

Editorial changes

The Committee recommended approval of all editorial changes recommended by Staff.

This Packet Contains

ZTA 15-09 as amended by Staff

Planning Staff Report

Planning Board Transmittal Memo

Planning Board Recommendation

© number

1 – 114

115 – 133

134 – 135

136 – 137

Zoning Text Amendment No.: 15-09
Concerning: Zoning Rewrite –
Revisions, Clarifications,
and Corrections
Draft No. & Date: 4 – 10/28/15
Introduced: May 21, 2015
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Leventhal at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the definition of right-of-way;
- amend the definition of building height in regards to corner lots;
- amend the standard method development standards in the LSC and EOF zone to allow for greater flexibility, through site plan, of the Build-to Area, Transparency, Building Orientation, and Parking Setbacks for Surface Parking Lots requirements;
- amend the process for a site plan amendment
- amend the noticing standards for sketch plan, site plan, and major site plan amendments;
- amend the grandfathering language regarding expansions above the grandfathered amount
- clarify language and correct errors;
- and generally amend the Zoning Ordinance

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code effective October 30, 2014:

DIVISION 1.4.	“DEFINED TERMS”
Section 1.4.2.	“Specific Terms and Phrases Defined”
DIVISION 3.1.	“USE TABLE”
Section 3.1.5.	“Transferable Development Rights”
DIVISION 3.3.	“RESIDENTIAL USES”
Section 3.3.1.	“Household Living”
Section 3.3.2.	“Group Living”
Section 3.3.3.	“Accessory Residential Uses”
<u>DIVISION 3.4.</u>	<u>“CIVIC AND INSTITUTIONAL USES”</u>

<u>Section 3.4.5.</u>	<u>“Educational Institution (Private)”</u>
DIVISION 3.5.	“COMMERCIAL USES”
Section 3.5.1.	“Animal Services”
Section 3.5.2.	“Communication Facility”
Section 3.5.4.	“Funeral and Interment Services”
<u>Section 3.5.11.</u>	<u>“Retail Sales and Service”</u>
Section 3.5.14.	“Accessory Commercial Uses”
DIVISION 3.6.	“INDUSTRIAL USES”
Section 3.6.5.	“Mining, Excavation”
DIVISION 4.1.	“RULES FOR ALL ZONES”
Section 4.1.2.	“Compliance Required”
Section 4.1.7.	“Measurement and Exceptions”
Section 4.1.8.	“Compatibility Requirements”
DIVISION 4.3.	“RURAL RESIDENTIAL ZONES”
Section 4.3.2.	“Optional Method Development”
Section 4.3.4.	“Rural Cluster Zone (RC)”
Section 4.3.5.	“Rural Neighborhood Cluster Zone (RNC)”
DIVISION 4.4.	“RESIDENTIAL ZONES”
Section 4.4.1.	“Standard Method Development”
Section 4.4.2.	“Optional Method Development”
Section 4.4.5.	“Residential Estate – 2C Zone (RE-2C)”
Section 4.4.6.	“Residential Estate – 1 Zone (RE-1)”
Section 4.4.7.	“Residential – 200 Zone (R-200)”
Section 4.4.8.	“Residential – 90 Zone (R-90)”
Section 4.4.9.	“Residential – 60 Zone (R-60)”
Section 4.4.10.	“Residential – 40 Zone (R-40)”
Section 4.4.11.	“Townhouse Low Density Zone (TLD)”
Section 4.4.12.	“Townhouse Medium Density Zone (TMD)”
Section 4.4.13.	“Townhouse High Density Zone (THD)”
Section 4.4.14.	“Residential Multi-Unit Low Density – 30 Zone (R-30)”
Section 4.4.15.	“Residential Multi-Unit Medium Density – 20 Zone (R-20)”
Section 4.4.16.	“Residential Multi-Unit High Density – 10 Zone (R-10)”
<u>DIVISION 4.5.</u>	<u>“COMMERCIAL/RESIDENTIAL ZONES”</u>
<u>Section 4.5.2.</u>	<u>“Density and Height Allocation”</u>
<u>Section 4.5.3.</u>	<u>“Standard Method Development”</u>
DIVISION 4.6.	“EMPLOYMENT ZONES”
Section 4.6.3.	“Standard Method Development”
Section 4.6.4.	“Optional Method Development”
DIVISION 4.7.	“OPTIONAL METHOD PUBLIC BENEFITS”
Section 4.7.1.	“General Provisions”
Section 4.7.3.	“Public Benefit Description and Criteria”
DIVISION 4.8.	“INDUSTRIAL ZONES”
Section 4.8.3.	“Standard Method Development”
DIVISION 4.9.	“OVERLAY ZONES”
Section 4.9.8.	“Garrett Park (GP) Overlay Zone”

Section 4.9.14.	“Takoma Park/East Silver Spring Commercial Revitalization (TPSS) Overlay Zone”
Section 4.9.15.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.18.	“Upper Rock Creek (URC) Overlay Zone”
DIVISION 5.1.	“IN GENERAL”
Section 5.1.2.	“Intent Statement”
<u>DIVISION 5.2.</u>	<u>“RESIDENTIAL FLOATING ZONES”</u>
<u>Section 5.2.5.</u>	<u>“Development Standards”</u>
DIVISION 5.3.	“COMMERCIAL/RESIDENTIAL FLOATING ZONES”
Section 5.3.1.	“Zones”
DIVISION 5.4.	“EMPLOYMENT FLOATING ZONES”
Section 5.4.1.	“Zones”
<u>Section 5.4.5.</u>	<u>“Development Standards”</u>
DIVISION 5.5.	“INDUSTRIAL FLOATING ZONES”
Section 5.5.1.	“Zones”
<u>Section 5.5.5.</u>	<u>“Development Standards”</u>
DIVISION 6.2.	“PARKING, QUEUING, AND LOADING”
Section 6.2.2.	“Applicability”
Section 6.2.3.	“Calculation of Required Parking”
Section 6.2.4.	“Parking Requirements”
Section 6.2.5.	“Vehicle Parking Design Standards”
Section 6.2.10.	“Parking Waiver”
<u>DIVISION 6.3.</u>	<u>“OPEN SPACE AND RECREATION”</u>
<u>Section 6.3.5.</u>	<u>“Common Open Space”</u>
DIVISION 6.4.	“GENERAL LANDSCAPING AND OUTDOOR LIGHTING”
Section 6.4.3.	“General Landscaping Requirements”
<u>Division 6.7.</u>	<u>“SIGNS”</u>
<u>Section 6.7.4.</u>	<u>“Prohibited Signs”</u>
DIVISION 6.8.	“ALTERNATIVE COMPLIANCE”
Section 6.8.1.	“Alternative Method of Compliance”
DIVISION 7.2.	“DISTRICT COUNCIL APPROVALS”
Section 7.2.1.	“Local Map Amendment”
DIVISION 7.3.	“REGULATORY APPROVALS”
Section 7.3.1.	“Conditional Use”
Section 7.3.2.	“Variance”
Section 7.3.3.	“Sketch Plan”
Section 7.3.4.	“Site Plan”
DIVISION 7.4.	“ADMINISTRATIVE APPROVALS”
Section 7.4.1.	“Building Permit”
DIVISION 7.5.	“NOTICE STANDARDS”
Section 7.5.1.	“Notice Required”
Section 7.5.2.	“Notice Specifications”
DIVISION 7.6.	“SPECIAL PROVISIONS”
Section 7.6.1.	“Board of Appeals”
DIVISION 7.7.	“EXEMPTIONS AND NONCONFORMITIES”
Section 7.7.1.	“Exemptions”

DIVISION 8.1.	“IN GENERAL”
Section 8.1.1.	“Applicability”
DIVISION 8.2.	“RESIDENTIAL FLOATING ZONES”
Section 8.2.4.	“RT Zone General Requirements and Development Standards”
Section 8.2.5.	“R-H Zone General Requirements and Development Standards”
DIVISION 8.3.	“PLANNED UNIT DEVELOPMENT ZONES”
Section 8.3.2.	“PD Zone”
Section 8.3.5.	“Planned Retirement Community Zone”
Section 8.3.6.	“Planned Cultural Center Zone”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance

1 **Sec. 1. DIVISION 1.4. is amended as follows:**

2 **Division 1.4. Defined Terms**

3 * * *

4 **Section 1.4.2. Specific Terms and Phrases Defined**

5 * * *

6 **Bay Window:** A window, primarily made of glass, that projects from the wall of a
7 building and forms an alcove of a room. It may have its foundation in the
8 ground[[.]] or be supported on corbels or otherwise. An oriel window is a type of
9 bay window that is cantilevered (does not have its foundation in the ground).

10 * * *

11 **Build-to[-] Area (BTA):** See Section [4.1.7.B.3] 4.1.7.B.2

12 * * *

13 **Entrance Spacing:** See Section 4.1.7.D.3

14 * * *

15 **Home Occupation and Home Health Practitioner, Eligible Area:** The total
16 number of square feet of floor area, measured horizontally between interior faces
17 of walls, in any building on a lot, including the area of a basement and any
18 accessory building on the same lot but excluding the area of any cellar, uncovered
19 steps, and uncovered porches. Eligible area does not include any addition to any
20 building or any accessory building that was constructed within 18 months after
21 DPS approved a Home Occupation or a Home Health Practitioner on the lot.

22 * * *

23 **Lot Line, Front:** A lot line abutting a [[front]] right-of-way or common open
24 space. On a corner lot, the owner must elect which lot line is the front lot line.

25 **Lot Line, Side:** A lot line adjoining or generally perpendicular to the front lot line
26 [[that abuts]] and abutting another lot line or common open space.

27 **Lot Line, Side Street:** A lot line abutting a [[side street]] right-of-way that is not
28 the front lot line.

29 * * *

30 **Reduced Parking Area:** A designated area defined by a property’s zoning and
31 location, including any property not in a Parking Lot District, and

- 32 1. in a CR, CRT, LSC, EOF, or equivalent Floating zone, or
- 33 2. in a CRN, NR, GR, or equivalent Floating zone that is within 1 mile
34 of a transit station or stop, as defined by Transit proximity.

35 * * *

36 **Right-of-Way:** Land [dedicated to] [[reserved]] for the passage of people,
37 vehicles, or utilities as shown on a record plat [[as separate and distinct from the
38 abutting lots or parcels, or as shown in an easement]].

39 * * *

40 **Site Element:** A feature, including trash receptacle; outdoor furniture; full cutoff
41 light fixture; bike rack/locker; recreation equipment; plant container; deck, patio,
42 [or] sidewalk, or paved surface up to 625 square feet; water feature; compost bin;
43 and trash/recycling enclosure.

44 * * *

45 **Sec. 2. DIVISION 3.1. is amended as follows:**

46 **Division 3.1. Use Table**

47 * * *

48 **Section 3.1.5. Transferable Development Rights**

49 A. The following uses are prohibited if the lot or parcel on which the use is
50 located is in the AR zone and is encumbered by a recorded Transfer of
51 Development Rights easement:

52 * * *

53 **3. Civic and Institutional**

54 [a. Ambulance, Rescue Squad (Private)]

55 [b] a. Charitable, Philanthropic Institution

56 [c] b. Group Day Care (9 – 12 Persons)

57 [d] c. Day Care Center (13 – 30 Persons)

58 [e] d. Day Care Center (Over 30 Persons)

59 [f] e. Private Club, Service Organization

60 [g] f. Religious Assembly

61 * * *

62 **Sec. 3. DIVISION 3.3. is amended as follows:**

63 **Division 3.3. Residential Uses**

64 **Section 3.3.1. Household Living**

65 * * *

66 **D. Townhouse Living**

67 * * *

68 **2. Use Standards**

69 * * *

70 b. Where Townhouse Living is allowed as a conditional use, it
71 may be permitted by the Hearing Examiner under Section 7.3.1,
72 Conditional Use, and the following standards:

73 * * *

74 vi. The minimum [[site]] tract size is 2 acres.

75 * * *

76 viii. Reducing the number of required parking spaces through
77 [alternative compliance under Division 6.8] a parking
78 waiver under Section 6.2.10 is prohibited.

79 * * *

80 **Section 3.3.2. Group Living**

81 **A. Defined, In General**

82 Group Living means the residential occupancy of a structure by a group of
83 people that does not meet the definition of any Household Living use under
84 Section 3.3.1 [[, where tenancy is arranged on a monthly or longer basis]].

85 * * *

86 **C. Independent Living Facility for Seniors or Persons with Disabilities**

87 * * *

88 **2. Use Standards**

89 * * *

90 b. Where an Independent Living Facility for Seniors or Persons
91 with Disabilities is allowed as a conditional use, it may be
92 permitted by the Hearing Examiner under all limited use
93 standards, Section 7.3.1, Conditional Use, and the following
94 standards:

95 * * *

96 iv. [Height, density, coverage, and parking standards must
97 be compatible with surrounding uses and the Hearing
98 Examiner may modify any standards to maximize the
99 compatibility of buildings with the residential character
100 of the surrounding neighborhood.] The maximum
101 building height of an Independent Living Facility for
102 Seniors or Persons with Disabilities is 60 feet and the
103 maximum density is determined by the Hearing
104 Examiner under the development standards of Section

105 3.3.2.C.2.b.vi through Section 3.3.2.C.2.b.ix, [[in spite
106 of]] without regard to any other limitation in this
107 Chapter.

108 v. [The maximum building height of an Independent Living
109 Facility for Seniors or Persons with Disabilities is 60 feet
110 in spite of any other limitation in this Chapter.] Height,
111 density, coverage, and parking [[standards]] must be
112 compatible with surrounding uses and the Hearing
113 Examiner may modify [[any standards]] height, density,
114 coverage, and parking to maximize the compatibility of
115 buildings with the residential character of the
116 surrounding neighborhood.

117 * * *

118 **Section 3.3.3. Accessory Residential Uses**

119 **A. Accessory Apartment, In General**

120 * * *

121 **2. Use Standards for all Accessory Apartments**

122 * * *

123 c. Where an Accessory Apartment conditional use application is
124 filed under Section 3.3.3.A.2.b, [[the Accessory Apartment may
125 be permitted by the Hearing Examiner under the limited use
126 standards in Section 3.3.3.A.2.a, Section 3.3.3.B.2, or Section
127 3.3.3.C.2.a, under Section 7.3.1, Conditional Use (excluding
128 Section 7.3.1.E), and the following standards:]] the Hearing
129 Examiner may approve a conditional use for the Accessory
130 Apartment under Section 7.3.1, except that the findings under
131 Section 7.3.1.E are not applicable to this type of conditional

132 use. The limited use standards of Section 3.3.3.A.2.a and
133 Section 3.3.3.A.2.c apply to all accessory apartment conditional
134 use applications. In addition, the limited use standards of
135 Section 3.3.3.B.2 apply to Attached Accessory Apartment
136 applications, and the limited use standards of Section
137 3.3.3.C.2.a apply to Detached Accessory Apartment
138 applications.

139 * * *

140 **B. Attached Accessory Apartment**

141 * * *

142 **2. Use Standards**

143 Where an Attached Accessory Apartment is allowed as a limited use,
144 it must satisfy the use standards for all Accessory Apartments under
145 Section 3.3.3.A.2 and the following standards:

146 a. A separate entrance is located:

147 * * *

148 iii. at the front of the principal dwelling, if it is a single
149 entrance door for use of the principal dwelling and the
150 Attached Accessory Apartment[;].

151 * * *

152 c. In the RE-2, RE-2C, RE-1, and R-200 zones, the Attached
153 Accessory Apartment is located at least 500 feet from any other
154 Attached or Detached Accessory Apartment, measured in a line
155 from side lot line to side lot line along the same block face[;].

156 d. In the RNC, R-90, and R-60 zones, the Attached Accessory
157 Apartment is located at least 300 feet from any other Attached

158 or Detached Accessory Apartment, measured in a line from side
159 lot line to side lot line along the same block face[;].

160 **C. Detached Accessory Apartment**

161 * * *

162 **2. Use Standards**

163 a. Where a Detached Accessory Apartment is allowed as a limited
164 use, it must satisfy the use standards for all Accessory
165 Apartments under Section 3.3.3.A.2 and the following
166 standards:

167 * * *

168 iv. The detached house associated with the Detached
169 Accessory Apartment must be at least 5 years old on the
170 date of application for a license or a conditional use.

171 b. Where a Detached Accessory Apartment is allowed only as a
172 conditional use, it may be permitted by the Hearing Examiner
173 under all limited use standards and Section 7.3.1, Conditional
174 Use.

175 * * *

176 **Sec. 4. DIVISION 3.4. is amended as follows:**

177 **Division 3.4. Civic and Institutional Uses**

178 * * *

179 **Section 3.4.5. Educational Institution (Private)**

180 * * *

181 **B. Exemptions**

182 A conditional use is not required for:

183 1. [[The conditional use standards in Section 3.4.5.C.2 do not apply for]]
184 any private educational institution or parochial school that is located

185 in a building or on premises owned or leased by any church or
 186 religious organization~~[[,]]~~; the government of the United States~~[[,]]~~;
 187 the State of Maryland or any State agency~~[[,]]~~; Montgomery County;
 188 or any incorporated village or town within Montgomery County. This
 189 exemption does not apply to any Educational Institution (Private) that
 190 received conditional use approval by the Hearing Examiner to operate
 191 in a building or on a property that was not owned or leased by any
 192 church or religious organization at the time the decision of the
 193 Hearing Examiner was issued.

194 2. ~~[[A conditional use is not required for]]~~ any Educational Institution
 195 (Private) that is located in a building or on land that has been used for
 196 a public school or that is owned or leased by the County; however,
 197 site plan approval is required under Section 7.3.4~~[[,]]~~ for:

198 a. construction of an Educational Institution (Private) on vacant
 199 land owned or leased by the County; or

200 b. any cumulative increase that is greater than 15% or 7,500
 201 square feet, whichever is less, in the gross floor area, as it
 202 existed on February 1, 2000, of an Educational Institution
 203 (Private) located in a building that has been used for a public
 204 school or that is owned or leased by Montgomery County. Site
 205 plan approval is not required for:

206 ~~[[i]]~~ i. an increase in floor area of an Educational
 207 Institution (Private) located in a building that has been
 208 used for a public school or that is owned or leased by
 209 Montgomery County if a request for review under
 210 mandatory referral was submitted to the Planning Board
 211 on or before February 1, 2000, or

212 ~~[[ii]]~~ ii. any portable classroom used by a private
213 educational institution that is located on property owned
214 or leased by Montgomery County and that is in place for
215 less than one year.

216 * * *

217 **Sec. 5. DIVISION 3.5. is amended as follows:**

218 **Division 3.5. Commercial Uses**

219

220 * * *

221 **Section 3.5.1. Animal Services**

222 * * *

223 **B. Animal Boarding and Care**

224 * * *

225 **2. Use Standards**

226 * * *

227 b. Where Animal Boarding and Care is allowed as a conditional
228 use, it may be permitted by the Hearing Examiner under
229 Section 7.3.1, Conditional Use, and the following standards:

230 i. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1, and R-200
231 zones:

232 * * *

233 [(m) In the AR zone, this use may be prohibited under
234 Section 3.1.5, Transferable Development Rights.]

235 * * *

236 **Section 3.5.2. Communication Facility**

237 * * *

238 **C. Telecommunications Tower**

239 * * *

240 **2. Use Standards**

241 * * *

242 b. Where a Telecommunications Tower is allowed as a conditional
243 use, it may be permitted by the Hearing Examiner under all
244 applicable limited use standards, Section 7.3.1, Conditional
245 Use, and the following standards:

246 * * *

247 ii. A Telecommunications Tower must be set back from the
248 property line, as measured from the base of the support
249 structure, as follows:

250 (a) A Telecommunications [Towers] Tower is
251 prohibited in any scenic setback indicated in a
252 master plan.

253 (b) In the Agricultural, Rural Residential, and
254 Residential Detached zones, a distance of one foot
255 for every foot of height or 300 feet from an
256 existing dwelling, whichever [is greater] provides
257 the greater setback.

258 (c) In the Employment [and Industrial] zones, a
259 distance of one-half foot for every foot of height
260 when abutting Commercial/Residential,
261 Employment, or Industrial zoned properties, and
262 one foot for every foot of height when abutting

263 Agricultural, Rural Residential, or Residential
264 zoned properties.

265 * * *

266 **Section 3.5.4. Funeral and Interment Services**

267 **A. Cemetery**

268 * * *

269 **2. Use Standards**

270 Where a Cemetery is allowed as a conditional use, it may be permitted
271 by the Hearing Examiner under Section 7.3.1, Conditional Use, and
272 the following standards:

273 * * *

274 d. In the AR, R, and RC zones, a family burial site is allowed only
275 as an accessory use on a residentially developed property and
276 may only be approved on a lot or parcel that is appropriate to
277 the circumstances and is a minimum of 25 acres in size. A
278 family burial site must be set back a minimum of 100 feet from
279 any abutting property in a Residential zone and a minimum of
280 50 feet from any existing or master-planned street. The use of
281 any property for a family burial site must be recorded in the
282 [lands] land records of Montgomery County. A family burial
283 site is not restricted by Section 3.1.5, Transferable
284 Development Rights.

285 e. In the AR zone, a cemetery may be prohibited under Section
286 3.1.5, Transferable Development Rights.

287 * * *

288 **Section 3.5.11. Retail Sales and Service**

289 * * *

290 **B. Retail/Service Establishment**

291 * * *

292 **2. Use Standards**

293 a. Where a Retail/Service Establishment is allowed as a limited
294 use, it must satisfy the following standards:

295 i. In the R-10 zone:

296 (a) The apartment building type must contain a
297 minimum of 150 dwelling units, be a minimum of
298 60 feet in height, and be on a site with a minimum
299 of 5 acres.

300 (b) A maximum of 10% of the gross floor area of the
301 building or ~~[[5,000]]~~ 10,000 square feet, whichever
302 is less, may be used for the Retail/Service
303 Establishment use.

304 * * *

305

306 **Section 3.5.14. Accessory Commercial Uses**

307 * * *

308 **C. Antenna on Existing Structure**

309 * * *

310 **2. Use Standards**

311 * * *

312 e. When located at least 60 feet from a detached [residential
313 dwelling] house or a duplex building type, a small cell antenna

314 that satisfies Section 3.5.14.C.2.a.iv may be installed on any
315 existing structure, at a minimum height of 15 feet, in any zone
316 where an antenna on an existing structure is allowed.

317 * * *

318 **G. Lawn Maintenance Service**

319 * * *

320 **2. Use Standards**

321 * * *

322 d. In the AR zone, this use may be prohibited under Section 3.1.5,
323 Transferable Development Rights.

324 * * *

325 **Sec. 6. DIVISION 3.6. is amended as follows:**

326 **Division 3.6. Industrial Uses**

327 * * *

328 **Section 3.6.5. Mining, Excavation**

329 **A. Defined**

330 Mining, Excavation means ~~[[any]]~~ a use that extracts rocks, minerals, and
331 other natural resources from the ground. Mining, Excavation only includes
332 borrow pit, rock extraction, and gravel mining.

333 * * *

334 **Sec. 7. DIVISION 4.1. is amended as follows:**

335 **Division 4.1. Rules for All Zones**

336 * * *

337 **Section 4.1.2. Compliance Required**

338 * * *

339 B. Every new building must be located on a lot, except as allowed under
340 Section 7.7.1.D.2 or [[as]] unless exempt from the platting requirements
341 under Chapter 50.

342 * * *

343 **Section 4.1.7. Measurement and Exceptions**

344 The rules in Section 4.1.7 apply to all zones unless stated otherwise.

345 * * *

346 **B. Placement**

347 **1. Structure Setbacks**

348 * * *

349 **b. Measurement of Setbacks**

350 There are front, side street, side, and rear setbacks. Through lots
351 have 2 front setbacks. A lot abutting an alley is not a through
352 lot.

353 * * *

354 [v. Where a setback is expressed as 2 numbers separated by
355 "or" (such as 4' or 20'), a property owner may build either
356 to the lesser setback, or no closer to the lot line than the
357 greater setback. A setback between the 2 numbers is
358 prohibited.]

359 **2. Build-to Area**

360 **Defined**

361 a. The build-to area is the area on the lot from [[the edge of]] the
362 lot line or right-of-way to the maximum setback where a certain
363 percentage of the front or side street building façade must be
364 located[, measured as a range from the edge of the lot line].

365 b. A [[surface parking lot and a]] drive aisle [[are]] is prohibited in
366 the build-to area. All other structures and uses customarily
367 allowed on the lot are allowed in the build-to area, [except a
368 surface parking lot] including an access driveway perpendicular
369 to the right-of-way.

370 **3. Parking Setbacks**

371 * * *

372 **b. Measurement of Parking Setbacks**

373 There are front, side street, side, and rear parking setbacks.

374 Through lots have 2 front parking setbacks. A lot abutting an
375 alley is not a through lot.

376 i. The front and side street parking setback is measured
377 from the edge of the lot line or right-of-way to a surface
378 parking lot.

379 * * *

380 **4. Coverage**

381 **a. Defined**

382 * * *

383 ii. Coverage does not include paved areas such as a
384 driveway, a pedestrian walkway, a bay window
385 measuring 10 feet in width or less and 3 feet in depth or
386 less, an uncovered porch or patio, deck, a swimming
387 pool, or roof overhang.

388 **5. Setback Encroachments**

389 Any building or structure must be located at or behind the required
390 building setback line, except:

391 **a. Building Features**

392 i. Any unenclosed porch, deck, terrace, steps, or stoop may
393 project a maximum of 3 feet into any side setback, or any
394 side street setback of less than 25 feet [or side setback]
395 and may project a maximum of 9 feet into any front
396 setback, [or] rear setback, or any side street setback
397 where the side street setback is a minimum of 25 feet.
398 This encroachment includes an unenclosed roofed porch
399 or terrace.

400 ii. Any roofed and unenclosed steps or stoop may project a
401 maximum of 3 feet into any side setback, or any side
402 street setback of less than 25 feet [or side setback] and
403 may project a maximum of 9 feet into any front setback,
404 [or] rear setback, or any side street setback where the side
405 street setback is a minimum of 25 feet. Any roof covering
406 unenclosed steps or a stoop may project a maximum of 3
407 feet into any setback.

408 * * *

409 viii. Any bay window, oriel, entrance, vestibule, or balcony,
410 10 feet in width or less, may project a maximum of 3 feet
411 into any setback. The total [[area]] length of all bay
412 windows and oriels on a building façade is a maximum
413 of 50% of the linear footage of the façade.

414 * * *

415 **c. Solar Panels**

416 A solar panel may project a maximum of 3 feet into any side
417 setback, or any side street setback of less than 25 feet [or side
418 setback] and may project a maximum of 9 feet into any front

419 setback, [or] rear setback, or any side street setback where the
420 side street setback is a minimum of 25 feet.

421 * * *

422 **C. Height**

423 **1. Building Height in Agricultural, Rural Residential, and**
424 **Residential Zones**

425 a. Building height is measured from the average grade either to
426 the mean height level between the eaves and ridge of a gable,
427 hip, mansard, or gambrel roof or to the highest point of roof
428 surface, [of a flat roof] regardless of roof type.

429 * * *

430 **2. Building Height in Commercial/Residential, Employment, and**
431 **Industrial Zones**

432 a. ~~[[Building]]~~ For a building located within 35 feet of a street
433 right-of-way, building height is ~~[[always]]~~ measured from the
434 level of approved curb grade opposite the middle of the front of
435 a building to the highest point of roof surface of a flat roof or to
436 the mean height level between eaves and ridge of a pitched
437 roof. If a building is located on a terrace, the height may be
438 increased by the height of the terrace. [On a corner lot
439 exceeding 20,000 square feet, the height of the building may be
440 measured from either adjoining curb grade.] For a corner lot or
441 a lot extending through from street to street, the height [may]
442 ~~[[must be]]~~ is measured from [either] the curb grade opposite
443 the middle of the ~~[[front of a]]~~ building façade along either
444 right-of-way; however, under Section 7.3.4, Site Plan, the
445 Planning Board may approve an alternative point of

446 measurement as part of site plan approval. The alternative
447 measurement point must be taken from the approved curb grade
448 along either right-of-way. In approving an alternative point of
449 measurement, the Planning Board must consider compatibility
450 and building height variation on the site.

451 * * *

452 **D. Form**

453 * * *

454 **3. Entrance Spacing**

- 455 a. Entrance spacing is the maximum distance between entrances.
456 One entrance must be provided for a specified length of
457 building façade fronting a street or open space, as indicated in
458 Division 4.5 and Division 4.6.
- 459 b. An angled entrance may be provided at either corner of a
460 building along the street to meet the street-facing entrance
461 requirements.

462 **Section 4.1.8. Compatibility Requirements**

463 * * *

464 **B. Height Compatibility**

465 **1. Applicability**

466 Section 4.1.8.B applies to a property that:

- 467 a. abuts or confronts a property in an Agricultural, Rural
468 Residential, Residential Detached, or Residential Townhouse
469 zone that is vacant or improved with an agricultural or
470 residential use; and

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
* * *	
Coverage (max)	
Lot	10%
Specifications for Coverage	
* * *	
b. The total impervious surface area of any proposed preliminary plan must not exceed any impervious surface area limits recommended by the master plan. A preliminary plan approved before December 24, 2012 may be built or altered if the coverage of any lot is 10% of the lot or less, without a limit on total impervious surface area, <u>unless otherwise limited by a condition of approval.</u>	
* * *	

496 * * *

497 **D. RC Zone, Optional Method Development Standards**

	Cluster Development	
	Detached House	
* * *		
2. Lot		
* * *		
Specification for Coverage		
a. The total impervious surface area of [a] <u>any</u> proposed preliminary plan must [satisfy] <u>not exceed</u> any impervious surface area [limit] <u>limits</u> recommended by the master plan. [A project which has had a preliminary plan approved before December 24, 2012 may be built or altered without a limit on impervious surface area.] A preliminary plan approved before December 24, 2012 may be built or altered if the coverage of any lot is 10% of the lot or less, without a limit on total impervious surface area, <u>unless otherwise limited by a condition of approval.</u>		
3. Placement		
Principal Building Setbacks (min)		

	Cluster Development
	Detached House
* * *	
Rear setback, alley	4' [or 20']
* * *	

498 **Section 4.3.5. Rural Neighborhood Cluster Zone (RNC)**

499 * * *

500 **C. RNC Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
1. Site				
* * *				
[Specifications] <u>Specification</u> for Site Coverage				
a. In development with a townhouse building type, site coverage is calculated based on the area of the site minus any area for detached house <u>and duplex</u> lots.				
2. Lot and Density				
Lot (min)				
Lot area	25,000 SF	12,500 SF	25,000 SF	[1,400] <u>1,100</u> SF
* * *				
3. Placement				
Principal Building Setbacks (min)				
* * *				
Front setback, private street or open space	40'	40'	40'	4' [or 20']
* * *				
[Specification] <u>Specifications</u> for Principal Building and Accessory Structure Setbacks				

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
* * *				

501 **D. RNC Zone, Optional Method Requirements**

502 * * *

503 4. The RNC zone also allows for an optional method of development
 504 without the provision of MPDUs above those required by Chapter
 505 25A, if recommended in the applicable master plan. The maximum
 506 density for this type of optional method development is 1 dwelling
 507 unit per acre, unless a lesser density is recommended by the applicable
 508 master plan.

509 **E. RNC Zone, Optional Method Development Standards**

	MPDU Development		
	Detached House	Duplex	Townhouse
1. Site			
* * *			
Density (max)			
Density, <u>as recommended in the master plan</u> (units/acre of usable area)	1.22		
Open Space (min)			
Rural open space (% of usable area) (See Section 6.3.4)	65%		
Common open space (% of usable area) (See Section 6.3.5)	5%		
<u>Specification for Open Space</u>			
a. <u>The minimum lot size for a developed lot intended to provide any portion of the rural open space requirement is 10 acres, and a substantial majority of the lot must be encumbered by the instrument regulating the rural open space.</u>			
<u>Site Coverage (max)</u>			
<u>Site coverage</u>	<u>n/a</u>	<u>n/a</u>	<u>30%</u>
<u>Specification for Site Coverage</u>			
a. <u>In development with a townhouse building type, site coverage is calculated based on the area of the site minus any area for detached house and duplex lots.</u>			
2. Lot			
Dimensions (min)			
Lot area	4,000 SF	3,500 SF	[1,500] <u>1,200</u> SF
* * *			
Coverage (max)			
Lot	35%	35%	[50%] <u>n/a</u>
3. Placement			
Principal Building Setbacks (min)			
* * *			
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']
* * *			

510 **Sec. 9. DIVISION 4.4. is amended as follows:**

511 **Division 4.4. Residential Zones**

512 **Section 4.4.1. Standard Method Development**

513 The RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40, TLD, TMD, THD, R-30, R-20,
514 and R-10 zone allow development under the standard method. Site plan approval
515 may be required under Section 7.3.4.A.8.

516 * * *

517 **B. Residential Infill Compatibility**

518 * * *

519 **2. Coverage**

520 The maximum area that may be covered by any building, including any
521 accessory building and any weatherproofed floor area above a porch, but not
522 including any bay window measuring 10 feet in width or less and 3 feet in
523 depth or less, chimney, porch, or up to 240 square feet of a detached garage,
524 if the garage is less than 350 square feet of floor area and less than 20 feet in
525 height, must vary with the lot area as follows:

526 * * *

527

528 **Section 4.4.2. Optional Method Development**

529 * * *

530 **A. Optional Method MPDU Development**

531 This optional method of development is permitted where moderately priced
532 dwelling units (MPDUs) are included in a development above the minimum
533 required by Chapter 25A, to facilitate the construction of those units. Optional
534 method MPDU Development [allows an increase in density above the total number
535 of dwelling units allowed by the standard method of development;] allows

536 additional building types[;] and provides more flexibility for certain dimensional
 537 standards.

538 * * *

539 **B. Optional Method Cluster Development**

540 The cluster method of development provides an optional method of development
 541 that encourages the provision of community open space for active or passive
 542 recreation as well as the preservation and enhancement of natural resources.

543 Optional method Cluster Development allows flexibility in lot layout and for
 544 variety in the types of residential buildings. [The density of dwelling units per acre
 545 and open space requirements are not changed.] The character of the existing
 546 neighborhood is protected, and open space for common use is provided. To
 547 accomplish these objectives, certain changes in lot areas and dimensions and a
 548 greater variety of building types are allowed. An applicant's use of this method of
 549 development, and site plan approval for portions of such development, are subject
 550 to approval by the Planning Board.

551 * * *

552 **Section 4.4.4. Residential Estate – 2 Zone (RE-2)**

553 * * *

554 **B. RE-2 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	2 acres
Lot width at front building line	150'
Lot width at front lot line	25'

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
<u>Frontage on street or open space</u>	<u>Required</u>
Specification for Lot	
* * *	

555

556 **Section 4.4.5. Residential Estate – 2C Zone (RE-2C)**

557 * * *

558 **B. RE-2C Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	2 acres
Lot width at front building line	150'
Lot width at front lot line	25'
<u>Frontage on street or open space</u>	<u>Required</u>
Specification for Lot	
* * *	

559 **C. RE-2C Zone, Optional Method Requirements**

560 * * *

561 **2. Optional Method Cluster Development**

562 Under optional method Cluster Development, lots may front on a
 563 private cul-de-sac if the Planning Board finds, as part of the cluster
 564 subdivision plan approval, that the private cul-de-sac:

- 565 a. provides safe and adequate access;
- 566 b. has sufficient width to accommodate the proposed dwelling
- 567 units;
- 568 c. will protect significant environmental features on- and off-site
- 569 better than would a public road; and
- 570 d. has proper drainage.

571 Each private cul-de-sac must satisfy Chapter 50 (Section 50-25(h))
 572 concerning private roads. [Site plan approval under Section 7.3.4 may
 573 also be required for a subdivision with lots fronting on a private cul-
 574 de-sac.]

575 **D. RE-2C Zone, Optional Method Development Standards**

	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
1. Site				
* * *				
Specification for Site under Cluster Development				
a. The Planning Board may allow development to proceed under optional method Cluster Development on a smaller site than allowed in Usable Area if: <ul style="list-style-type: none"> i. the subject property is recommended for cluster development in a master plan; or [if] ii. it finds that cluster development on a smaller site would be more suitable than standard method development for environmental reasons[.]; or iii. <u>the development abuts an existing cluster development in the same zone, and the Planning Board finds it would be a compatible extension of the neighboring development.</u> 				
Density (max)				
Density (units/acre of usable area)		0.48		0.4
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)		5%		5%
<u>Site Coverage (max)</u>				
<u>Site coverage</u>	n/a	n/a	40%	n/a

	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
Specification for <u>[[Open Space and]] Site Coverage</u>				
a. <u>In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u>				
2. Lot				
Dimensions (min)				
Lot area	12,000 SF	7,500 SF	[1,500] 1,200 SF	15,000 SF
* * *				
Coverage (max)				
Lot	35%	35%	[50%] n/a	[15] 25%
3. Placement				
Principal Building Setbacks (min)				
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
* * *				

576 **Section 4.4.6. Residential Estate – 1 Zone (RE-1)**

577 * * *

578 **B. RE-1 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	40,000 SF
Lot width at front building line	125'
Lot width at front lot line	25'

<u>Frontage on street or open space</u>	<u>Required</u>
Specification for Lot	
* * *	

579 * * *

580 **D. RE-1 Zone, Optional Method Development Standards**

581

	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
1. Site				
* * *				
Specification for Site under Cluster Development				
a. The Planning Board may allow development to proceed under [the] optional method Cluster Development on a smaller site than allowed in Usable Area if: <ul style="list-style-type: none"> i. the subject property is recommended for cluster development in a master plan; or [if] ii. it finds that cluster development on a smaller site would be more suitable than standard method development for environmental reasons[.]; or iii. the development abuts an existing cluster development in the same zone and the Planning Board finds it would be a compatible extension of the neighboring development. 				
Density (max)				
Density (units/acre of usable area)		1.22		1
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)		10%		10%
Site Coverage (max)				
<u>Site coverage</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>	<u>n/a</u>
Specification for [[Open Space and]] Site Coverage				
a. <u>In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u>				
2. Lot				
Dimensions (min)				
Lot area	9,000 SF	4,500 SF	[1,500] 1,200 SF	12,000 SF

* * *				
Coverage (max)				
Lot	35%	35%	[50%] <u>n/a</u>	15%
3. Placement				
Principal Building Setbacks (min)				
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
* * *				

582 **Section 4.4.7. Residential – 200 Zone (R-200)**

583 * * *

584 **B. R-200 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	20,000 SF
Lot width at front building line	100'
Lot width at front lot line	25'
<u>Frontage on street or open space</u>	<u>Required</u>
Density (max)	
* * *	

585

586 **C. R-200 Zone, Optional Method Development Standards**

	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
1. Site				
* * *				
Specification for Site under Cluster Development				
a. The Planning Board may allow development to proceed under optional method Cluster Development on a smaller site than allowed in Usable Area if: <ul style="list-style-type: none"> i. the subject property is recommended for cluster development in a master plan; or [if] ii. it finds that cluster development on a smaller site would be more suitable than standard method development for environmental reasons[.]; or iii. <u>the development abuts an existing cluster development in the same zone and the Planning Board finds it would be a compatible extension of the neighboring development.</u> 				
Density (max)				
Density (units/acre of usable area)		2.44		2
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)		20%		20%
<u>Site Coverage (max)</u>				
Site coverage	n/a	n/a	40%	n/a
<u>Specification for [[Open Space and]] Site Coverage</u>				
a. <u>In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u>				
2. Lot				
Dimensions (min)				
Lot area	6,000 SF	3,000 SF	[1,200] 1,000 SF	9,000 SF
* * *				
Coverage (max)				
Lot	35%	35%	[50%] n/a	25%
3. Placement				
Principal Building Setbacks (min)				
* * *				

Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Accessory Structure Setbacks (min)				
* * *				
[Specifications] <u>Specification</u> for Accessory Structure Setbacks under Cluster Development				
a. In addition to the front setback minimum, accessory structures must be located behind the rear building line of the principal building.				
* * *				

587 **Section 4.4.8. Residential – 90 Zone (R-90)**

588 * * *

589 **B. R-90 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	9,000 SF
Lot width at front building line	75'
Lot width at front lot line	25'
<u>Frontage on street or open space</u>	<u>Required</u>
Density (max)	
* * *	
3. Height	
Height (max)	
Principal building[.]]	
≡ measured to highest point of [a flat] roof surface, regardless of roof type; or	35'

≡ [[Principal building,]] measured to mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof	20'
* * *	

590 C. R-90 Zone, Optional Method Development Standards

	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
1. Site						
* * *						
Open Space (min)						
Common open space (% of usable area) (See Section 6.3.5)	[30%] <u>15%</u>			[30%] <u>15%</u>		
<u>Site Coverage (max)</u>						
<u>Site coverage</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>
<u>Specification for [[Open Space and]] Site Coverage</u>						
a. <u>In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u>						
2. Lot						
Dimensions (min)						
Lot area	4,000 SF	2,000 SF	[1,200] <u>1,000</u> SF	5,000 SF	2,500 SF	[1,500] <u>1,200</u> SF
* * *						
Coverage (max)						
Lot	50%	50%	[60%] <u>n/a</u>	30%	30%	[75%] <u>n/a</u>
3. Placement						
Principal Building Setbacks (min)						
* * *						
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']

* * *

592 **Section 4.4.9. Residential – 60 Zone (R-60)**

593 * * *

594 **B. R-60 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
1. Lot and Density	
Lot (min)	
Lot area	6,000 SF
Lot width at front building line	60'
Lot width at front lot line	25'
<u>Frontage on street or open space</u>	<u>Required</u>
Density (max)	
* * *	
3. Height	
Height (max)	
Principal building[[,]]	
≡ measured to highest point of [a flat] roof <u>surface, regardless of roof type;</u> <u>or</u>	35'
≡ measured to mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof	30'
* * *	

595

596 **C. R-60 Zone, Optional Method Development Standards**

	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
1. Site						
* * *						
Specification for Site under Cluster Development						
<p>a. The Planning Board may allow development to proceed under optional method Cluster Development on a smaller site than allowed in Usable Area if:</p> <ul style="list-style-type: none"> i. the subject property is recommended for cluster development in a master plan; or [if] ii. it finds that cluster development on a smaller site would be more suitable than standard method development for environmental reasons[.]; or iii. <u>the development abuts an existing cluster development in the same zone and the Planning Board finds it would be a compatible extension of the neighboring development.</u> 						
Density (max)						
Density (units/acre of usable area)	6.1			5		
Open Space (min)						
Common open space (% of usable area) (See Section 6.3.5)	[40%] <u>20%</u>			[40%] <u>20%</u>		
<u>Site Coverage (max)</u>						
<u>Site coverage</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>
<u>Specification for [[Open Space and]] Site Coverage</u>						
<p>a. <u>In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u></p>						
2. Lot						
Dimensions (min)						
Lot area	3,000 SF	1,500 SF	[1,200] <u>1,000</u> SF	3,000 SF	1,500 SF	[1,500] <u>1,200</u> SF
* * *						
Coverage (max)						
Lot	60%	60%	[60%] <u>n/a</u>	35%	35%	[75%] <u>n/a</u>
3. Placement						
Principal Building Setbacks (min)						

* * *						
Rear setback, alley	4' [or 20']					
* * *						

597 **Section 4.4.10. Residential – 40 Zone (R-40)**

598 * * *

599 **B. R-40 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over
* * *			
2. Lot and Density			
Lot (min)			
Lot area	6,000 SF	4,000 SF	8,000 SF
Lot width at front building line	60'	40'	80'
Lot width at front lot line	25'	10'	25'
<u>Frontage on street or open space</u>	<u>Required</u>		
Density (max)			
* * *			
4. Height			
Height (max)			
Principal building[[,]]			
≡ measured to highest point of [a flat] roof	35'	35'	35'

<u>surface, regardless of roof type; or</u>			
= measured to mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof	30'	35'	35'
* * *			

601 C. R-40 Zone, Optional Method Development Standards

	MPDU Development		
	Detached House	Duplex	Townhouse
1. Site			
* * *			
Open Space (min)			
Common open space (% of usable area) (See Section 6.3.5)		[40%] 20%	
<u>Site Coverage (max)</u>			
<u>Site coverage</u>	<u>n/a</u>	<u>n/a</u>	<u>40%</u>
<u>Specification for [[Open Space and]] Site Coverage</u>			
a. In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.			
2. Lot			
Dimensions (min)			
Lot area	3,000 SF	1,500 SF	[1,200 SF] <u>n/a</u>
* * *			
Coverage (max)			
Lot	60%	60%	[60%] <u>n/a</u>
3. Placement			
Principal Building Setbacks (min)			
* * *			

Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']
* * *			

602 **Section 4.4.11. Townhouse Low Density Zone (TLD)**

603 * * *

604 **B. TLD Zone, Standard Method Development Standards**

605

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
1. Site				
* * *				
Open Space (min)				
Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[50] <u>25%</u>
Site Coverage (max)				
Site coverage	n/a	n/a	n/a	[35] <u>40%</u>
[Specifications] <u>Specification</u> for Open Space and Site Coverage				
a. In development with a townhouse building type, open space and site coverage are calculated based on the area of the site minus any area for detached house and duplex lots.				
2. Lot and Density				
Lot (min)				
Lot area	4,800 SF	2,400 SF	4,800 SF	[1,600] <u>1,250</u> SF
Lot width at front building line	30'	15'	30'	n/a

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
Lot width at front lot line	10'	10'	10'	n/a
<u>Frontage on street or open space</u>	<u>Required</u>			
Density (max)				
* * *				
3. Placement				
Principal Building Setbacks (min)				
Front setback, public street	20'	20'	20'	20'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Side street setback	15'	15'	15'	[15] <u>5'</u>
* * *				
Side setback between lot and site boundary	n/a	n/a	n/a	[8] <u>5'</u>
Rear setback	20'	20'	20'	20'
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Rear setback between lot and site boundary	n/a	n/a	n/a	[20] <u>10'</u>
Accessory Structure Setbacks (min)				
Front setback, behind front building line	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15] <u>5'</u>
* * *				

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
* * *				

606 C. TLD Zone, Optional Method Development Standards

	MPDU Development		
	Detached House	Duplex	Townhouse
1. Site			
Dimensions (min)			
Usable area	[20,038] 20,000 SF		
Density (max)			
Density (units/acre of usable area)	9.76		
Open Space (min)			
Common open space (% of usable area) (See Section 6.3.5)	[45] 20%		
Site Coverage (max)			
Site coverage	n/a	n/a	40%
Specification for [[Open Space and]] Site Coverage			
a. In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.			
2. Lot			
* * *			

Coverage (max)			
Lot	60%	60%	[60%] n/a
3. Placement			
Principal Building Setbacks (min)			
Front setback from public street	10'	10'	10'
Front setback from private street or open space	[6']4'	[6']4'	[6']4'
Side street setback	10'	10'	[10]5'
* * *			
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']
Accessory Structure Setbacks (min)			
* * *			
[Coverage (max)]			
[Lot]	[60%]	[60%]	[60%]
* * *			

607 **Section 4.4.12. Townhouse Medium Density Zone (TMD)**

608 * * *

609 **B. TMD Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
1. Site				
* * *				
Open Space (min)				

Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[45] 20%
Site Coverage (max)				
Site coverage	n/a	n/a	n/a	[35] 40%
[Specifications] <u>Specification for Open Space and Site Coverage</u>				
a. In development with a townhouse building type, open space and site coverage are calculated based on the area of the site minus any area for detached house and duplex lots.				
2. Lot and Density				
Lot (min)				
Lot area	3,600 SF	1,800 SF	3,600 SF	[1,400] 1,100 SF
Lot width at front building line	30'	15'	30'	n/a
Lot width at front lot line	10'	10'	10'	n/a
<u>Frontage on street or open space</u>	<u>Required</u>			
Density (max)				
* * *				
3. Placement				
Principal Building Setbacks (min)				
Front setback, public street	20'	20'	20'	20'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Side street setback	15'	15'	15'	[15]5'
* * *				
Side setback, end unit	n/a	n/a	n/a	[4]3'

Side setback between lot and site boundary	n/a	n/a	n/a	[8] <u>5'</u>
Rear setback	20'	20'	20'	20'
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Rear setback between lot and site boundary	n/a	n/a	n/a	[20] <u>10'</u>
Accessory Structure Setbacks (min)				
Front setback, behind front building line	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15] <u>5'</u>
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
* * *				

610 C. TMD Zone, Optional Method Development Standards

	MPDU Development		
	Detached House	Duplex	Townhouse
1. Site			
Dimensions (min)			
Usable area	[20,038] <u>20,000</u> SF		
Density (max)			
Density (units/acre of usable area)	15.25		
Open Space (min)			
Common open space (% of usable area) (See Section 6.3.5)	[45] <u>20%</u>		
Site Coverage (max)			

	MPDU Development		
	Detached House	Duplex	Townhouse
Site coverage	n/a	n/a	40%
Specification for [[Open Space and]] Site Coverage			
a. In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.			
2. Lot			
Dimensions (min)			
* * *			
Coverage (max)			
Lot	60%	60%	[60%] n/a
3. Placement			
Principal Building Setbacks (min)			
Front setback from public street	10'	10'	10'
Front setback from private street or open space	[6']4'	[6']4'	[6']4'
Side street setback	10'	10'	[10]5'
* * *			
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']
* * *			

611 **Section 4.4.13. Townhouse High Density Zone (THD)**

612 * * *

613 **B. THD Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
1. Site				

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
* * *				
Open Space (min)				
Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[40] <u>20%</u>
Site Coverage (max)				
Site coverage	n/a	n/a	n/a	[35] <u>40%</u>
[Specifications] <u>Specification for [[Open Space and]] Site Coverage</u>				
a. In development with a townhouse building type, <u>[[open space and]] site coverage [[are]] is</u> calculated based on the area of the site minus any area for detached house and duplex lots.				
2. Lot and Density				
Lot (min)				
Lot area	2,900 SF	1,450 SF	2,900 SF	[1,200] <u>1,000</u> SF
Lot width at front building line	30'	15'	30'	n/a
Lot width at front lot line	10'	10'	10'	n/a
<u>Frontage on street or open space</u>	<u>Required</u>			
Density (max)				
* * *				
3. Placement				
Principal Building Setbacks (min)				
Front setback, public street	20'	20'	20'	20'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Side street setback	15'	15'	15'	[15] <u>5'</u>

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse
* * *				
Side setback, end unit	n/a	n/a	n/a	[5]3'
Side setback between lot and site boundary	n/a	n/a	n/a	[10]5'
Rear setback	20'	20'	20'	20'
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
Rear setback between lot and site boundary	n/a	n/a	n/a	[25]10'
Accessory Structure Setbacks (min)				
Front setback, behind front building line	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15]5'
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']
* * *				

614 C. THD Zone, Optional Method Development Standards

	MPDU Development		
	Detached House	Duplex	Townhouse
1. Site			
Dimensions (min)			
Usable area	[39,204] 39,200 SF		
Density (max)			
Density (units/acre of usable area)	18.30		
Open Space (min)			

	MPDU Development		
	Detached House	Duplex	Townhouse
Common open space (% of usable area) (See Section 6.3.5)	[30] 15%		
Site Coverage (max)			
Site coverage	n/a	n/a	40%
Specification for [[Open Space and]] Site Coverage			
a. In development with a townhouse building type, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.			
2. Lot			
Dimensions (min)			
* * *			
Coverage (max)			
Lot	75%	75%	[75%] n/a
3. Placement			
Principal Building Setbacks (min)			
Front setback from public street	10'	10'	10'
Front setback from private street or open space	[6']4'	[6']4'	[6']4'
* * *			
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']
* * *			

615 **Section 4.4.14. Residential Multi-Unit Low Density – 30 Zone (R-30)**

616 * * *

617 **B. R-30 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
1. Site					
* * *					
Open Space (min)					
Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[65] <u>35</u> %	[65] <u>50</u> %
Site Coverage (max)					
Site coverage	n/a	n/a	n/a	[18] <u>25</u> %	18%
[Specifications] Specification for [[Open Space and]] Site Coverage					
a. In a development with townhouse or apartment building types, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.					
2. Lot and Density					
Lot (min)					
Lot area	3,000 SF	1,500 SF	3,000 SF	[1,200] <u>1,000</u> SF	12,000 SF
Lot width at front building line	30'	15'	30'	n/a	75'
Lot width at front lot line	10'	10'	10'	n/a	n/a
<u>Frontage on street or open space</u>	<u>Required</u>				
Density (max)					
* * *					
3. Placement					
Principal Building Setbacks (min)					

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
Front setback, public street	20'	20'	20'	20'	30'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	20'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	10'
* * *					
Side setback, end unit	n/a	n/a	n/a	[5'] <u>3'</u>	n/a
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					
Accessory Structure Setbacks (min)					
Front setback, behind front building line	10'	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	15'
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					

618 C. R-30 Zone, Optional Method Development Standards

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
1. Site				
Dimensions (min)				
Usable area	[11,761] <u>11,700</u> SF			
Density (max)				
Density (units/acre of usable area)	17.69			
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)	[35] <u>25%</u>			
Site Coverage (max)				
Site coverage	n/a	n/a	30%	18%
Specification for <u>[[Open Space and]] Site Coverage</u>				
a. <u>In a development with townhouse or apartment building types, <u>[[open space and]] site coverage</u> <u>[[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u></u>				
2. Lot				
Dimensions (min)				
* * *				
Coverage (max)				
Lot	75%	75%	[75%] <u>n/a</u>	[18%] <u>n/a</u>
3. Placement				
Principal Building Setbacks (min)				
Front setback from public street	10'	10'	10'	Determined at site plan
Front setback from private street or open space	[6'] <u>4'</u>	[6'] <u>4'</u>	[6'] <u>4'</u>	Determined at site plan
Side street setback	10'	10'	[10'] <u>5'</u>	Determined at site plan
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	n/a

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
* * *				

619 **Section 4.4.15. Residential Multi-Unit Medium Density – 20 Zone (R-20)**

620 * * *

621 **B. R-20 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
1. Site					
* * *					
Open Space (min)					
Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[60]30%	[60]45%
Site Coverage (max)					
Site coverage	n/a	n/a	n/a	[18]25%	18%
[Specifications] Specification for Open Space and Site Coverage					
* * *					
2. Lot and Density					
Lot (min)					
Lot area	2,000 SF	1,000 SF	2,000 SF	1,000 SF	16,000 SF
Lot width at front building line	25'	12.5'	25'	n/a	85'
Lot width at front lot line	10'	10'	10'	n/a	n/a

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
<u>Frontage on street or open space</u>	<u>Required</u>				
Density (max)					
3. Placement					
Principal Building Setbacks (min)					
Front setback, public street	20'	20'	20'	20'	30'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	20'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	10'
* * *					
Side setback, end unit	n/a	n/a	n/a	[5'] <u>3'</u>	n/a
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					
Accessory Structure Setbacks (min)					
Front setback, behind front building line	10'	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	15'
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					

622 C. R-20 Zone, Optional Method Development Standards

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
1. Site				
Dimensions (min)				
Usable area	[15,682] <u>15,600</u> SF			
Density (max)				
Density (units/acre of usable area)	26.47			
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)	[35] <u>25</u> %			
Site Coverage (max)				
Site coverage	<u>n/a</u>	<u>n/a</u>	<u>30%</u>	<u>18%</u>
Specification for <u>[[Open Space and]] Site Coverage</u>				
a. <u>In a development with townhouse or apartment building types, <u>[[open space and]] site coverage</u> <u>[[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u></u>				
2. Lot				
Dimensions (min)				
* * *				
Coverage (max)				
Lot	75%	75%	[75%] <u>n/a</u>	[18%] <u>n/a</u>
3. Placement				
Principal Building Setbacks (min)				
Front setback from public street	10'	10'	10'	Determined at site plan
Front setback from private street or open space	6'	6'	[6'] <u>4'</u>	Determined at site plan
Side street setback	10'	10'	[10'] <u>5'</u>	Determined at site plan

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	n/a
* * *				

623 **Section 4.4.16. Residential Multi-Unit High Density -10 Zone (R-10)**

624 * * *

625 **B. R-10 Zone, Standard Method Development Standards**

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
1. Site					
* * *					
Open Space (min)					
Common open space (% of site) (See Section 6.3.5)	n/a	n/a	n/a	[50]30%	[50]40%
Site Coverage (max)					
Site coverage	n/a	n/a	n/a	[12]20%	12%
[Specifications] Specification for Open Space and Site Coverage					
* * *					
2. Lot and Density					
Lot (min)					
Lot area	2,000 SF	1,000 SF	2,000 SF	800 SF	20,000 SF

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
Lot width at front building line	25'	12.5'	25'	n/a	100'
Lot width at front lot line	10'	10'	10'	n/a	n/a
<u>Frontage on street or open space</u>	<u>Required</u>				
Density (max)					
* * *					
3. Placement					
Principal Building Setbacks (min)					
Front setback, public street	20'	20'	20'	20'	30'
Front setback, private street or open space	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	20'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	10'
* * *					
Side setback, end unit	n/a	n/a	n/a	[5'] <u>3'</u>	n/a
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					
Accessory Structure Setbacks (min)					

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
Front setback, behind front building line	10'	10'	10'	10'	10'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	15'
* * *					
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'
* * *					
5. Form					
* * *					
Building Orientation					
Entrance facing street or open space	n/a	n/a	n/a	required	required
[Entrance spacing (max)]	[n/a]	[n/a]	[n/a]	[n/a]	[n/a]
* * *					

626 C. R-10 Zone, Optional Method Development Standards

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
1. Site				
Dimensions (min)				
Usable area	[20,038] <u>20,000</u> SF			
Density (max)				
Density (units/acre of usable area)	53.07			

	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Open Space (min)				
Common open space (% of usable area) (See Section 6.3.5)	[35] <u>25%</u>			
Site Coverage (max)				
Site coverage	n/a	n/a	<u>25%</u>	<u>12%</u>
Specification for [[Open Space and]] Site Coverage				
a. <u>In a development with townhouse or apartment building types, [[open space and]] site coverage [[are]] is calculated based on the area of the site minus any area for detached house and duplex lots.</u>				
2. Lot				
Dimensions (min)				
* * *				
Coverage (max)				
Lot	75%	75%	[75%] <u>n/a</u>	[12%] <u>n/a</u>
3. Placement				
Principal Building Setbacks (min)				
Front setback from public street	10'	10'	10'	Determined at site plan
Front setback from private street or open space	6'	6'	[6'] <u>4'</u>	Determined at site plan
Side street setback	10'	10'	[10'] <u>5'</u>	Determined at site plan
* * *				
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	n/a
* * *				

627 **Sec. 10. DIVISION 59-4.5. is amended as follows:**

628 **Division 59-4.5. Commercial/Residential Zones**

629 * * *

630 **Section 4.5.2. Density and Height Allocation**

631 **A. Density and Height Limits**

- 632 1. Density is calculated as an allowed floor area ratio (FAR).
 633 2. Each CRN, CRT, and CR zone classification is followed by a number
 634 and a sequence of 3 additional symbols: C, R, and H, each followed
 635 by another number where:
 636 a. The number following the classification is the maximum total
 637 FAR allowed unless additional FAR is allowed under Section
 638 4.5.2.C [[and]] or Section 4.7.3.D.6.c;
 639 b. The number following the C is the maximum nonresidential
 640 FAR allowed;
 641 c. The number following the R is the maximum residential FAR
 642 allowed unless additional residential FAR is allowed under
 643 Section 4.5.2.C [[and]] or Section 4.7.3.D.6.c; and
 644 d. The number following the H is the maximum building height in
 645 feet allowed unless additional height is allowed under Section
 646 4.5.2.C [[and]] or Section 4.7.3.D.6.c.
 647 3. The following limits apply unless additional total FAR, residential
 648 FAR, or height is allowed under Section 4.5.2.C [[and]] or Section
 649 4.7.3.D.6.c:

650 * * *

651 **Section 4.5.3. Standard Method Development**

652 **C. CRN, CRT, and CR Zones, Standard Method Development Standards**

	Detached House	Duplex – Side	Duplex – Over	* * *
1. Site				
Open Space (min)				

Open space, [[site]] <u>tract</u> ≤ 10,000 SF	n/a	n/a	n/a	
Open space, [[site]] <u>tract</u> > 10,000 SF	n/a	n/a	n/a	
* * *				

653 **Sec. 11. DIVISION 4.6. is amended as follows:**

654 **Division 4.6. Employment Zones**

655 * * *

656 **Section 4.6.3. Standard Method Development**

657 The GR, NR, LSC, and EOF zone allow standard method development under the
658 following limitations and requirements.

659 **A. In General**

660 1. In the GR and NR zone, the maximum total FAR and maximum
661 height for any property is set by the zone shown on the zoning map.

662 **[B.]** 2. In the LSC and EOF zones, the maximum standard method height for
663 any property is the height set by the zone shown on the zoning map;
664 the maximum total standard method FAR for any property is the limit
665 indicated in the following table, unless shown as lower on the zoning
666 map:

Zone	Total Density (max)
LSC	The greater of 0.5 FAR or 10,000 SF of gross floor area
EOF	The greater of 1.0 FAR or 10,000 SF of gross floor area

667 **B. Procedure for Approval**

668 1. Site plan approval may be required under Section 7.3.4.A.8.

669 2. An applicant may file a site plan application to modify the Parking
670 Setbacks for Surface Parking Lots, Build-to Area, Building

671 Orientation, or Transparency requirements under Section 4.6.3.D and
 672 Section 4.6.3.E.

673 **C. GR and NR Zones, Standard Method Development Standards**

	Detached House	Duplex – [Side] [[Over]] <u>Side</u>	Duplex – [Over] [[Side]] <u>Over</u>	Town- house	Apartment	Multi Use	General
1. Site							
Open Space (min)							
Open space, [[site]] tract ≤ 10,000 SF	n/a	n/a	n/a	[20] <u>10%</u>	0%	0%	0%
Open space, [[site]] tract > 10,000 SF	n/a	n/a	n/a	[20] <u>10%</u>	10%	10%	10%
Specifications for all Open Space							
a. In a development with townhouse, apartment, multi use, or general building types, open space is calculated on the area of the site minus any area for detached house and duplex lots.							
b. Open space for the townhouse building type is common open space (see Section 6.3.5), and for other building types is amenity open space (see Section 6.3.7).							
2. Lot and Density							
Lot (min)							
Lot area	1,000 SF	[[1,000]] <u>500 SF</u>	[[500]] <u>1000 SF</u>	900 SF	n/a	n/a	n/a
Lot width at front building line	25'	[[25']] <u>12.5'</u>	[[12.5']] <u>25'</u>	12'	n/a	n/a	n/a
Lot width at front lot line	10'	[[10']] <u>n/a</u>	[[n/a]] <u>10'</u>	n/a	n/a	n/a	n/a
* * *							
Coverage (max)							
Lot	90%	90%	90%	[90%] <u>n/a</u>	n/a	n/a	n/a
* * *							
a. Gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.							
3. Placement							
* * *							
Side setback, end unit	n/a	n/a	n/a	[4'] <u>2'</u>	n/a	n/a	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	[8'] <u>4'</u>	n/a	n/a	n/a

	Detached House	Duplex – [Side] [[Over]] <u>Side</u>	Duplex – [Over] [[Side]] <u>Over</u>	Town- house	Apartment	Multi Use	General
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	[15'] <u>5'</u>	n/a	n/a	n/a
Accessory Structure Setbacks (min)							
Front setback, behind front building line	5'	5'	5'	5'	0'	0'	0'
Side street setback	15'	15'	15'	[15'] <u>5'</u>	0'	0'	0'
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
* * *							

674 **D. LSC Zone, Standard Method Development Standards**

	Detached House	Duplex – [Side] [[Over]] <u>Side</u>	Duplex – [Over] [[Side]] <u>Over</u>	Town- house	Apartment	Multi Use	General
1. Site							
Open Space (min)							
Open space, [[site]] <u>tract</u> ≤ 10,000 SF	n/a	n/a	n/a	[20] <u>10%</u>	0%	0%	0%
Open space, [[site]] <u>tract</u> > 10,000 SF	n/a	n/a	n/a	[20] <u>10%</u>	10%	10%	10%
* * *							
2. Lot and Density							
Lot (min)							
Lot area	1,000 SF	[[1,000]] <u>500 SF</u>	[[500]] <u>1,000 SF</u>	900 SF	n/a	n/a	n/a
Lot width at front building line	25'	[[25']] <u>12.5'</u>	[[12.5']] <u>25'</u>	12'	n/a	n/a	n/a
* * *							
Coverage (max)							

	Detached House	Duplex – [Side] – [[Over]] Side	Duplex – [Over] – [[Side]] Over	Town-house	Apartment	Multi Use	General
Lot	90%	90%	90%	[90%] n/a	n/a	n/a	n/a
3. Placement							
Principal Building Setbacks (min)							
* * *							
Side setback, end unit	n/a	n/a	n/a	[4'] 2'	n/a	n/a	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	[8'] 4'	n/a	n/a	n/a
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	[15'] 5'	n/a	n/a	n/a
Accessory Structure Setbacks (min)							
Front setback, behind front building line	5'	5'	5'	5'	0'	0'	0'
Side street setback	15'	15'	15'	[15'] 5'	0'	0'	0'
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
Parking Setbacks for Surface Parking Lots (min)							
Front setback	n/a	n/a	n/a	n/a	must be behind front building line of building in the BTA		
Side street setback	n/a	n/a	n/a	n/a	must be behind [front] side street building line of building in the BTA		
* * *							
Build-to Area (BTA, max setback and min % of [lot width] building facade)							
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							
a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a business district street or a build-to[[-]] line is recommended in the							

	Detached House	Duplex – [Side] [[Over]] Side	Duplex – [Over] [[Side]] Over	Town-house	Apartment	Multi Use	General
<p>applicable master plan. [If a site plan approval is required, the] <u>The Planning Board may [waive] modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4 [[if it finds that the alternative design satisfies the intent of the zone and]]. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from [[those]] the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the [[characteristics of the subject property]] physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.</u></p>							
* * *							
5. Form							
* * *							
Specification for Building Orientation and Transparency							
<p>a. Building Orientation and Transparency requirements only apply when the development fronts on a business district street or a build-to[[-]] line is recommended in the applicable master plan. [If a site plan approval is required, the] <u>The Planning Board may [waive] modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4 [[if it finds that the alternative design satisfies the intent of the zone and]]. In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from [[those]] the Building Orientation and Transparency requirements only to the extent necessary to accommodate the [[characteristics of the subject property]] physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.</u></p>							
* * *							

675 **E. EOF Zone, Standard Method Development Standards**

	Detached House	Duplex – [Side] [[Over]] Side	Duplex – [Over] [[Side]] Over	Town-house	Apartment	Multi Use	General
1. Site							
Open Space (min)							
Open space, [[site]] tract ≤ 10,000 SF	n/a	n/a	n/a	[20] 10%	0%	0%	0%
Open space, [[site]] tract > 10,000 SF	n/a	n/a	n/a	[20] 10%	10%	10%	10%
* * *							
2. Lot and Density							

	Detached House	Duplex – [Side] [[Over]] <u>Side</u>	Duplex – [Over] [[Side]] <u>Over</u>	Town- house	Apart- ment	Multi Use	Genera l
Lot (min)							
Lot area	1,000 SF	[[1,000]] <u>500 SF</u>	[[500]] <u>1,000</u> SF	900 SF	n/a	n/a	n/a
Lot width at front building line	25'	[[25']] <u>12.5'</u>	[[12.5']] <u>25'</u>	12'	n/a	n/a	n/a
* * *							
Coverage (max)							
Lot	90%	90%	90%	[90%] <u>n/a</u>	n/a	n/a	n/a
* * *							
3. Placement							
Principal Building Setbacks (min)							
* * *							
Side setback, end unit	n/a	n/a	n/a	[4'] <u>2'</u>	n/a	n/a	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	[8'] <u>4'</u>	n/a	n/a	n/a
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	[15'] <u>5'</u>	n/a	n/a	n/a
Accessory Structure Setbacks (min)							
Front setback, behind front building line	5'	5'	5'	5'	0'	0'	0'
Side street setback	15"	15'	15'	[15'] <u>5'</u>	0'	0'	0'
* * *							
Rear setback, alley	4' [or 20']	4' [or 20']	4' [or 20']	4' [or 20']	4'	4'	4'
Parking Setbacks for Surface Parking Lots (min)							
Front setback	n/a	n/a	n/a	n/a	must be behind front building line of building in the BTA		

	Detached House	Duplex – [Side] – [[Over]] Side	Duplex – [Over] – [[Side]] Over	Townhouse	Apartment	Multi Use	General
Side street setback	n/a	n/a	n/a	n/a	must be behind [front] side street building line of building in the BTA		
* * *							
Build-to Area (BTA, max setback and min % of [lot width] building facade)							
* * *							
Specification for Parking Setbacks for Surface Parking Lots and Build-to Area							
<p>a. Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a business district street or a build-to[[-]] line is recommended in the applicable master plan. [If a site plan approval is required, the] The Planning Board may [waive] <u>modify</u> the Parking Setbacks for Surface Parking Lots and Build-to Area requirements <u>during site plan review under Section 7.3.4</u> <u>[[if it finds that the alternative design satisfies the intent of the zone and]]</u>. <u>In approving a site plan submitted under Section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from [[those]] the Parking Setbacks for Surface Parking Lots and Build-to Area requirements only to the extent necessary to accommodate the [[characteristics of the subject property]] physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.</u></p>							
* * *							
5. Form							
* * *							
Specification for Building Orientation and Transparency							
<p>a. Building Orientation and Transparency requirements only apply when the development fronts on a business district street or a build-to[[-]] line is recommended in the applicable master plan. [If a site plan approval is required, the] The Planning Board may [waive] <u>modify</u> the Building Orientation and Transparency requirements <u>during site plan review under Section 7.3.4</u> <u>[[if it finds that the alternative design satisfies the intent of the zone and]]</u>. <u>In approving a site plan submitted under section 4.6.3.B.2, the Planning Board must find that the plan: (1) deviates from [[those]] the Building Orientation and Transparency requirements only to the extent necessary to accommodate the [[characteristics of the subject property]] physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces, such as streets, sidewalks, and parks.</u></p>							
* * *							

676 **Section 4.6.4. Optional Method Development**

677 * * *

678 **B. Development Standards**

679 **1. Open Space**

680 a. A developer must provide open space based on the [lot] tract
681 area and number of frontages as described in the following
682 table.

[Lot] <u>Tract</u> Area	# of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	1	2	3	4 or more
	% of Site Required to be Dedicated for Open Space			
≤ 0.50 acres	0%	0%	0%	5%
0.51 to 1.00 acres	0%	0%	5%	10%
1.01 to 3.00 acres	0%	5%	10%	10%
3.01 to 6.00 acres	5%	10%	10%	10%
≥ 6.01 acres	10%	10%	10%	10%

683 * * *

684 **Sec. 12. DIVISION 4.7. is amended as follows:**

685 **Division 4.7. Optional Method Public Benefits**

686 **Section 4.7.1. General Provisions**

687 * * *

688 **B. General Public Benefit Considerations**

689 Granting points as a public benefit for any amenity or project feature
690 otherwise required by law is prohibited. In approving any incentive FAR
691 based on the provision of public benefits, the Planning Board must consider:

- 692 1. the recommendations and objectives of the applicable master plan;
- 693 2. the [CR] Commercial/Residential and Employment Zone Incentive
694 Density Implementation Guidelines;

695 * * *

696 **Section 4.7.3. Public Benefit Descriptions and Criteria**

697 * * *

698 **B. Transit Proximity**

699 1. Transit proximity points are granted for proximity to existing or
 700 master planned transit stops based on transit service level and CRT,
 701 CR, LSC, and EOF zones. Public benefit points can only be granted
 702 for one transit stop.

703 * * *

704 **E. Quality Building and Site Design**

705 * * *

706 **5. Public Art:** Up to 15 points for installing public art reviewed for
 707 comment by the Art Review Panel under The Public Art Guidelines
 708 approved by the Planning Board, or [[by]] for paying a fee accepted
 709 by[,] the Public Arts Trust Steering Committee [[PATSC]].

710 * * *

711 **Sec. 13. DIVISION 4.8. is amended as follows:**

712 **Division 4.8. Industrial Zones**

713 * * *

714 **Section 4.8.3. Standard Method Development**

715 The IL, IM, and IH zones allow development only under the standard method. Site
 716 plan approval may be required under Section 7.3.4.A.8.

717 **A. IL and IM Zones, Standard Method Development Standards**

	Multi Use	General
1. Site		
Open Space (min)		

Amenity open space, [[site]] tract ≤ 10,000 SF (see Section [7.3.7] 6.3.7)	5%	5%
Amenity open space, [[site]] tract > 10,000 SF (see Section [7.3.7] 6.3.7)	10%	10%
<u>Specification for Open Space</u>		
<u>a. Open space is calculated on the area of the site.</u>		
* * *		

718 **B. IH Zone, Standard Method Development Standards**

	Multi Use	General
1. Site		
Open Space (min)		
Amenity open space, [[site]] tract ≤ 10,000 SF (see Section [7.3.7] 6.3.7)	5%	5%
Amenity open space, [[site]] tract > 10,000 SF (see Section [7.3.7] 6.3.7)	10%	10%
<u>Specification for Open Space</u>		
<u>a. Open space is calculated on the area of the site.</u>		
* * *		

719 **Sec. 14. DIVISION 4.9. is amended as follows:**

720 **Division 4.9. Overlay Zones**

721 * * *

722 **Section 4.9.8. Garrett Park (GP) Overlay Zone**

723 * * *

724 **D. Development Standards**

725 The development standards in the GP Overlay zone are the same as those in
726 the R-90, except as follows:

727 1. The minimum front and side street setback for a main building is 30
728 feet, and if the abutting lots are occupied by buildings with a front or
729 side street setback greater than this requirement, no building hereafter
730 erected or any addition to an existing building may project beyond the
731 line previously established by the buildings on the abutting lots.

732 2. A [front] porch added to a main building existing as of February 15,
733 2000 may project a maximum of 8 feet into the front and side street
734 setback and may be covered, but not enclosed.

735 * * *

736 **Section 4.9.14. Takoma Park/East Silver Spring Commercial Revitalization**
737 **(TPESS) Overlay Zone**

738 * * *

739 **D. Site Plan**

740 * * *

741 2. During site plan review, the Planning Board may:

742 * * *

743 c. where recommended in the master plan, allow direct pedestrian
744 access for all uses from the exterior of a structure in the [EOF
745 or] CRT zone; and

746 * * *

747 **Section 4.9.15. Transferable Development Rights (TDR) Overlay Zone**

748 * * *

749 **B. Optional Method**

750 * * *

751 **2. Rural Residential and Residential Zones**

752 * * *

753 **c. Development Standards**

754 The following table indicates the required development standards for each TDR
 755 density designation:

TDR Density Designation	Development Standards
* * *	
3-5	May utilize the R-60 optional method MPDU Development standards, see Division 4.4. <u>The minimum usable area does not apply.</u>
6 or more	Determined at site plan

756 **3. Commercial/Residential and Employment Zones**

757 * * *

758 **b. Calculation of TDRs Required in the**
 759 **Commercial/Residential or Employment Zones**

760 * * *

761 iii. For optional method development, the Planning Board
 762 may grant a maximum of 20 public benefit points for
 763 TDRs under Section [4.7.3.F.7] 4.7.3.F.6.

764 * * *

765 **Section 4.9.18. Upper Rock Creek (URC) Overlay Zone**

766 * * *

767 **B. Exemptions**

768 1. The following are exempt from Section 4.9.18:

769 * * *

770 f. Development in any Industrial or Commercial/Residential zone.

771 g. Development not served by community sewer.

772 * * *

773 **Sec. 15. DIVISION 5.1 is amended as follows:**

774 **Division 5.1. In General**

775 * * *

776 **Section 5.1.2. Intent Statement**

777 * * *

778 B. Encourage the appropriate use of land by:

779 * * *

780 3. ensuring that development satisfies basic sustainability requirements,
781 including[:] open space standards and environmental protection and
782 mitigation; and

783 [a. locational criteria,

784 b. connections to circulation networks,

785 c. density and use limitations,

786 d. open space standards,

787 e. environmental protection and mitigation; and]

788 * * *

789 **Sec. 16. DIVISION 5.2. is amended as follows:**

790 **Division 5.2. Residential Floating Zones**

791 **Section 5.2.5. Development Standards**

792 * * *

793 **B. Setback and Height**

794 * * *

795 2. [[Maximum height and setbacks]] Setbacks from the site boundary
796 and maximum height are established by the floating zone plan. All
797 other setbacks are established by the site plan approval process under
798 Section 7.3.4.

799 * * *

800 **C. Lot Size**

801 Minimum lot sizes are established by the [[floating zone plan]] site plan
802 approval process under Section 7.3.4.

803 **D. [[Coverage]] Open Space**

804 * * *

805

806 **Sec. 17. DIVISION 5.3 is amended as follows:**

807 **Division 5.3. Commercial/Residential Floating Zones**

808 **Section 5.3.1. Zones**

809 * * *

810 B. Commercial/Residential Floating zones are mapped using the zone's initials
811 followed by the maximum allowed total, commercial, and residential
812 densities and maximum allowed height as limited by Division 5.3. Zones are
813 established at density increments of 0.25 FAR and height increments of 5
814 feet.

815 * * *

816 **Section 5.3.5. Development Standards**

817 * * *

818 **B. Setback and Height**

819 * * *

820 2. [[Maximum height and setbacks]] Setbacks from the site boundary
821 and maximum height are established by the floating zone plan. All
822 other setbacks are established by the site plan approval process under
823 Section 7.3.4.

824 * * *

825 **C. Lot Size**

826 Minimum lot sizes are established by the [[floating zone plan]] site plan
827 approval process under Section 7.3.4.

828 * * *

829 **Sec. 18. DIVISION 5.4 is amended as follows:**

830 **Division 5.4. Employment Floating Zones**

831 **Section 5.4.1. Zones**

832 * * *

833 B. Employment Floating zones are mapped using the zone's initials followed by
834 the maximum allowed total density and maximum allowed height as limited
835 by Division 5.4. Zones are established at density increments of 0.25 FAR
836 and height increments of 5 feet.

837 * * *

838 **Section 5.4.5. Development Standards**

839 * * *

840 **B. Setback and Height**

841 * * *

842 2. [[Maximum height and setbacks]] Setbacks from the site boundary
843 and maximum height are established by the floating zone plan. All
844 other setbacks are established by the site plan approval process under
845 Section 7.3.4.

846 * * *

847 **C. Lot Size**

848 Minimum lot sizes are established by the [[floating zone plan]] site plan
849 approval process under Section 7.3.4.

850 * * *

851 **Sec. 19. DIVISION 5.5 is amended as follows:**

852 **Division 5.5. Industrial Floating Zones**

853 **Section 5.5.1. Zones**

854 * * *

855 B. Industrial Floating zones are mapped using the zone's initials followed by
856 the maximum allowed total density and maximum allowed height as limited
857 by Division 5.5. Zones are established at density increments of 0.25 FAR
858 and height increments of 5 feet.

859 * * *

860 **Section 5.5.5. Development Standards**

861 * * *

862 **B. Setback and Height**

863 * * *

864 2. ~~[[Maximum height and setbacks]]~~ Setbacks from the site boundary
865 and maximum height are established by the floating zone plan. All
866 other setbacks are established by the site plan approval process under
867 Section 7.3.4.

868 * * *

869 **C. Lot Size**

870 Minimum lot sizes are established by the ~~[[floating zone plan]]~~ site plan
871 approval process under Section 7.3.4.

872 * * *

873 **Sec. 20. DIVISION 6.2 is amended as follows:**

874 **Division 6.2. Parking, Queuing, and Loading**

875 * * *

876 **Section 6.2.2. Applicability**

877 * * *

878 B. An applicant must not reduce the area of an existing off-street parking
879 facility below the minimum number of parking spaces required under
880 Division 6.2 unless [an alternative compliance plan] a parking waiver under
881 Section 6.2.10 is approved.

882 * * *

883 **Section 6.2.3. Calculation of Required Parking**

884 * * *

885 **D. Car-Share Spaces**

886 1. A parking facility with 50 to 149 parking spaces must have a
887 minimum of one car-share parking space. One additional car-share
888 parking space is required for each 100 parking spaces more than 149,
889 or fraction thereof, up to a maximum requirement of 5. A parking
890 facility may provide more car-share parking spaces than required.

891 * * *

892 **E. Spaces for Charging Electric Vehicles**

893 Any parking facility constructed after May 12, 2014, containing 100 parking
894 spaces or more, must have a minimum of one parking space ready to be
895 converted to a station for charging electric vehicles for every 100 parking
896 spaces, or fraction thereof.

897 * * *

898 **G. Off-Site Parking by Agreement**

899 1. An applicant may satisfy the required number of vehicular parking
900 spaces through off-site parking on property located within ¼ mile of
901 the subject property if the off-site property is plat-restricted, deed-
902 restricted, or is under a joint use agreement. The plat or deed
903 restrictions must specify that the property provides the required
904 number of parking spaces for a use on another property. The plat or
905 deed restrictions may be lifted if substitute off-site parking is provided
906 or if the use requiring the parking ceases to exist. A joint use
907 agreement must:

908 * * *

909 e. If the parking available under a joint use agreement is reduced,
910 the use-and-occupancy permit for the development that was
911 approved in reliance on the joint use agreement must be
912 amended or revoked, as appropriate, due to the reduced parking
913 unless [an alternative compliance plan] a parking waiver under
914 Section 6.2.10 is approved.

915 * * *

916 **H. Parking Minimums and Maximums**

917 * * *

918 **2. Reduced Parking Area**

919 a. In a Reduced Parking Area, an applicant may provide fewer
920 parking spaces than required, after all adjustments are made
921 under Section 6.2.3.I, only [under Alternative Compliance (see
922 Division 6.8)] if a parking waiver under Section 6.2.10 is
923 approved.

924 b. In a Reduced Parking Area, an applicant may provide more
925 parking spaces than allowed by the maximum if all of the
926 parking spaces provided in excess of the maximum number
927 allowed are made available to the public and are not reserved,
928 or if [approved under Alternative Compliance (see Division
929 6.8)] a parking waiver under Section 6.2.10 is approved.

930 * * *

931 **Section 6.2.4. Parking Requirements**

932 **A. Using the Parking Tables**

933 Uses on the parking table match the allowed uses and use groups in Article
934 59-3. The number of required spaces is based on a metric specific to each
935 use[, such as 1,000 square feet of gross floor area (GFA)]. If the proposed

936 intensity of the use is less than the metric in the tables in subsection B and C,
 937 the baseline minimum is calculated using a fraction of that metric. The
 938 number of vehicle parking spaces required also depends upon whether the
 939 property is located in or outside of a Parking Lot District or Reduced
 940 Parking Area.

941 * * *

942 **B. Vehicle Parking Spaces**

USE or USE GROUP	Metric	Agricultural, Rural Residential, and Industrial Zones	Commercial/Residential and Employment Zones		
			Within a Parking Lot District or Reduced Parking Area		Outside a Parking Lot District or Reduced Parking Area
		Baseline Minimum	Baseline Minimum	Baseline Maximum	Baseline Minimum
* * *					
CIVIC AND INSTITUTIONAL					
* * *					
Educational Institution (Private)	Student (Grades 9 – 12 <u>or age 16+</u>)	0.25	0.15	0.25	0.25
	Employee	1.00	0.25	0.50	0.50
* * *					
COMMERCIAL					
* * *					
Office and Professional					
[[Life Sciences]] Office	1,000 SF of GFA	2.80	2.00	3.00	2.25

[[Research and Development]]					
<u>Life Sciences Research and Development</u>	<u>1,000 SF of GFA</u>	<u>1.50</u>	<u>1.00</u>	<u>3.00</u>	<u>1.50</u>
* * *					

943

944 **Section 6.2.5. Vehicle Parking Design Standards**

945 * * *

946 **M. Surface Parking in R-200, R-90, R-60, and R-40 Zones**

947 1. Parking for any vehicle or trailer in the area between the lot line and
 948 the front or side street building line must be on a surfaced parking
 949 area.

950 2. Except as provided in Section 6.2.5.M.3, the maximum surfaced
 951 parking area between the lot line and the front or side street building
 952 line, excluding the surfaced parking area in a driveway on a pipestem
 953 or flag-shaped lot, is:

954 * * *

955 3. A surfaced parking area may exceed the size limits in Section
 956 6.2.5.M.2 if:

957 a. the surfaced parking area existed before October 26, 2010 and
 958 is not increased in size;

959 b. the property has primary access from a primary residential
 960 street, minor arterial road, major highway, arterial, or any state
 961 road, and is equal to or less than 50% of the area between the
 962 lot line and the front or side street building line;

963 * * *

964 4. Parking a vehicle in the area between the lot line and front or side
965 street building line on a non-surfaced parking area or on less than 160
966 square feet of surfaced parking area for each vehicle is prohibited.

967 * * *

968 **Section 6.2.10. Parking Waiver**

969 The deciding body may waive any requirement of Division 6.2, except the required
970 parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design
971 satisfies Section 6.2.1. Any request for a waiver of the vehicle parking space
972 requirement under Section 6.2.4.B requires application notice under Section
973 7.5.2.D.

974 * * *

975 **Sec. 21. DIVISION 6.3 is amended as follows:**

976 **Division 6.3. Open Space and Recreation**

977 * * *

978 **Section 6.3.5. Common Open Space**

979 **A. General Requirements**

980 **1. Applicability**

981 Common open space is required for any:

982 a. optional method development in an RNC or Residential

983 [[Detached]] zone;

984 b. standard method development with a townhouse or apartment

985 building type in a Residential Townhouse or Residential Multi-

986 Unit zone;

987 * * *

988 **Sec. 22. DIVISION 6.4 is amended as follows:**

989 **Division 6.4. General Landscaping and Outdoor Lighting**

990 * * *

991 **Section 6.4.3. General Landscaping Requirements**

992 * * *

993 **C. Fences and Walls**

994 * * *

995 **2. Height and Placement**

996 [a. The maximum height of a fence or wall in any front setback in
997 a Residential zone is 4 feet.]

998 [b] a. A fence, wall other than retaining wall, terrace, structure,
999 shrubbery, planting, or other visual obstruction on a corner lot
1000 in a Residential zone can be a maximum height of 3 feet above
1001 the curb level for a distance of 15 feet from the intersection of
1002 the front and side street lines.

1003 [c] b. A deer fence on a corner lot in a Residential zone must not be
1004 located closer to the street than the face of the building.

1005 [d] c. A wall or fence must not be located within any required
1006 drainage, utility or similar easement, unless approved by the
1007 agency with jurisdiction over the easement.

1008 **3. Exemptions from Building Line and Setbacks**

1009 Building line and setback requirements do not apply to:

1010 * * *

1011 c. any other wall or fence that is 6.5 feet or less in height[[,]] [is
1012 behind the front building line][[,]] and is not on a property
1013 abutting a national historic park;

1014 * * *

1015 **Sec. 23. DIVISION 59-6.7. is amended as follows:**

1016 **Division 59-6.7. Signs**

1017 * * *

1018 **Section 6.7.3. Exempt Signs**

1019 The following signs are exempt from Division 6.7:

- 1020 A. A sign on private property does not require a permit when the area of the
1021 sign is 2 square feet or less, and:
- 1022 1. the sign is on private property customarily associated with residential
1023 living or decoration.
 - 1024 2. the sign is part of a mailbox or newspaper tube and satisfies
1025 government regulations.
 - 1026 3. the sign is a warning to the public about trespass, danger, or safety
1027 considerations.

1028 B. A sign legally affixed to a bus shelter or transit center information kiosk
1029 under an approved franchise agreement, or located in a public parking
1030 structure and not visible beyond the property line, does not require a permit.

1031 * * *

1032 **Section 6.7.4. Prohibited Signs**

1033 A sign not authorized in Division 6.7 is prohibited. ~~[[The]]~~ Except for a sign that is
1034 not visible beyond the property lines of the property where the sign is located, the
1035 following signs are specifically prohibited and must not be erected or retained. The
1036 Sign Review Board must not grant a variance permitting their erection, installation,
1037 or maintenance. A prohibited sign must be removed within 24 hours after
1038 notification by DPS that the sign must be removed.

1039 * * *

1040 **F. Sign in the Public Right-of-Way**

1041 A sign in the right-of-way is prohibited, except for the following:

1042 * * *

- 1043 5. A sign approved as part of a sign concept plan for an optional method
1044 development project located in an urban renewal area.

1045 Section 6.7.4.F does not affect the authority of the appropriate transportation
1046 jurisdiction to regulate signs in its right-of-way or the authority of the
1047 Department of Transportation to otherwise regulate the right-of-way. The
1048 appropriate transportation jurisdiction or DPS may remove any sign in the
1049 public right-of-way that is prohibited under Section 6.7.4.F.

1050 * * *

1051 **Sec. 24. DIVISION 6.8 is amended as follows:**

1052 **Division 6.8. Alternative Compliance**

1053 **Section 6.8.1. Alternative Method of Compliance**

1054 The applicable deciding body may approve an alternative method of compliance
1055 with any requirement of Division 6.1 and Division 6.3 through Division 6.6 if it
1056 determines that there [are] is a unique site, [or] a use characteristic, or a
1057 development [constraints] constraint, such as grade, visibility, an existing building
1058 or structure, an easement, or a utility line[, or use restrictions]. The applicable
1059 deciding body must also determine that the unique site, use characteristic, or
1060 development constraint [preclude] precludes safe or efficient development under
1061 the requirements of the applicable Division, and the alternative design will:

1062 * * *

1063 **Sec. 25. DIVISION 7.2 is amended as follows:**

1064 **Division 7.2. District Council Approvals**

1065 **Section 7.2.1. Local Map Amendment**

1066 * * *

1067 **E. Necessary Findings**

1068 * * *

1069 2. For a Floating zone application, the District Council must find that the
1070 floating zone plan will:

- 1071 a. substantially conform with the recommendations of the
1072 applicable master plan, general plan, and other applicable
1073 County plans;
1074 b. further the public interest;
1075 c. satisfy the intent[[, purposes,]] and standards of the proposed
1076 zone and, to the extent the Hearing Examiner finds it necessary
1077 to ensure compatibility, meet other applicable requirements of
1078 this Chapter;

1079 * * *

1080 **Sec. 26. DIVISION 7.3 is amended as follows:**

1081 **Division 7.3 Regulatory Approvals**

1082 **Section 7.3.1. Conditional Use**

1083 * * *

1084 **B. Application Requirements**

1085 * * *

1086 2. The applicant must submit the following for review:

1087 * * *

- 1088 f. list of any civic, [[renters, and]] homeowners, and renters
1089 associations that are registered with the Planning Department
1090 and located within 1/2 mile of the site;

1091 * * *

1092 **E. Necessary Findings**

1093 1. To approve a conditional use application, the Hearing Examiner must
1094 find that the proposed development:

- 1095 a. satisfies any applicable previous approval on the subject site or,
1096 if not, that the previous approval must be amended;

1097 b. satisfies the requirements of the zone, use standards under
1098 Article 59-3, and to the extent the Hearing Examiner finds
1099 necessary to ensure compatibility, meets applicable general
1100 requirements under Article 59-6;

1101 * * *

1102 **F. Decision**

1103 1. Hearing Examiner

1104 * * *

1105 b. The Hearing Examiner must ~~[[notify]]~~ issue a notice, on the day
1106 the report and decision is issued, to the Board of Appeals, the
1107 applicant, and all parties ~~[[who participated in the hearing]]~~ of
1108 record that the report and decision ~~[[are]]~~ is complete and
1109 available for review. If a timely request for oral argument is not
1110 received under Section 7.3.1.F.1.c, the Hearing Examiner's
1111 report and decision becomes the final decision.

1112 * * *

1113 **I. Duration of Approval**

1114 * * *

1115 2. ~~[[The]]~~ After the decision, the Board of Appeals or the Hearing
1116 Examiner may extend the time limit for a conditional use to be
1117 established or obtain a building permit if the evidence of record
1118 establishes that drawing of architectural plans, preparation of the land,
1119 or other factors involved in the particular use will delay the start of
1120 construction or the establishment of the use beyond the period of
1121 validity. An individual extension must not exceed 12 months. If the
1122 Board of Appeals or the Hearing Examiner grants an extension, it

1123 must set a date by which the erection or alteration of the building must
1124 begin or the use must be established.

1125 * * *

1126 **K. Amendments**

1127 * * *

1128 2. Minor Amendment

1129 * * *

1130 b. When a minor amendment is granted, the Board of Appeals or
1131 Hearing Examiner must send a copy of the resolution or
1132 decision, as applicable, to the applicant, the Board of Appeals
1133 or Hearing Examiner, as appropriate, the Planning Board, DPS,
1134 the Department of Finance, all parties entitled to notice at the
1135 time of the original filing, and current abutting and confronting
1136 property owners. Except for an amendment for a
1137 Telecommunications Tower, [The] the resolution or decision, as
1138 applicable, must state that any party may request a public
1139 hearing on the Board of Appeals' or Hearing Examiner's action
1140 within 15 days after the resolution or decision is issued. The
1141 request for public hearing must be in writing, and must specify
1142 the reason for the request and the nature of the objection or
1143 relief desired. If a request for a hearing is received, the deciding
1144 body must suspend its administrative amendment and conduct a
1145 public hearing to consider whether the amendment substantially
1146 changes the nature, character, or intensity of the conditional use
1147 or its effect on the immediate neighborhood. If the Board of
1148 Appeals or Hearing Examiner determines that such impacts are
1149 likely, then the amendment application must be treated as a

1150 major amendment application. A decision of the Hearing
1151 Examiner may be appealed on the basis of the Hearing
1152 Examiner's record to the Board of Appeals. Any amendment to
1153 a Telecommunications Tower is also a minor amendment.

1154 * * *

1155 **Section 7.3.2. Variance**

1156 * * *

1157 **B. Application Requirements**

1158 * * *

1159 2. The applicant must submit the following for review:

1160 * * *

- 1161 g. list of any civic, [[renters, and]] homeowners, and
1162 renters associations that are registered with the Planning
1163 Department and located within 1/2 mile of the site;
- 1164 h. scale plans, illustrations, sections, elevations, or specifications
1165 showing all existing and proposed buildings and structures;
1166 [[and]]
- 1167 i. supplementary documentation to be introduced in support of the
1168 application[[.]]; and
- 1169 j. a letter from the Department of Permitting Services denying a
1170 building permit application.

1171 * * *

1172 **Section 7.3.3. Sketch Plan**

1173 * * *

1174 **B. Application Requirements**

1175 * * *

1176 3. The applicant must submit the following for review:

1177 * * *

1178 e. list of any civic, [[renters, and]] homeowners, and renters
1179 associations that are registered with the Planning Department
1180 and located within 1/2 mile of the site;

1181 * * *

1182 h. illustrative plans showing:

1183 * * *

1184 v. relationships [between existing or] of proposed [adjacent]
1185 buildings to adjacent existing or proposed buildings and
1186 rights-of-way;

1187 * * *

1188 **C. Hearing Date**

1189 The Planning Board must schedule a public hearing to begin within 90 days
1190 after the date an application was accepted. If a sketch plan application is
1191 accepted for concurrent review with a preliminary plan, the Planning Board
1192 may schedule the public hearing to begin within 120 days after the date the
1193 applications were accepted. The Planning Director may postpone the public
1194 hearing by up to 30 days once without Planning Board approval. The
1195 Planning Director or applicant may request an extension beyond the original
1196 30 days with Planning Board approval. Any extension of the public hearing
1197 must be noticed by mail and on the hearing agenda with the new public
1198 hearing date indicated.

1199 * * *

1200 **I. Amendments**

1201 [During site plan review, the Planning Board may approve an amendment to
1202 any binding element or condition of an approved sketch plan.] An
1203 amendment to any binding element or condition of an approved sketch plan

1204 must follow the same procedures, meet the same criteria, and satisfy the
1205 same requirements as the original sketch plan application, unless the sketch
1206 plan is amended during site plan review. If the sketch plan is [[amending]]
1207 amended during site plan review:

1208 1. An amendment to a binding element or condition of an approved
1209 sketch plan must be:

1210 * * *

1211 **Section 7.3.4. Site Plan**

1212 **A. Applicability and Description**

1213 1. [Development under the optional method requires approval of a site
1214 plan after approval of a sketch plan.] Site plan approval is required as
1215 indicated in the table in Section 7.3.4.A.8 and as specified in this
1216 Chapter.

1217 2. [Development under a Floating zone requires approval of a site plan
1218 after approval of a floating zone plan.] Reserved

1219 3. [Development under the standard method requires site plan approval
1220 as indicated in the table in Section 7.3.4.A.8.] Reserved

1221 * * *

1222 8. A site plan is required under standard method development for any
1223 new construction or expansion of an existing structure, where the
1224 proposed intensity, described in the table below, includes [[any]] both
1225 the existing structure and [[the]] any expansion, as follows:

1226 * * *

1227 **B. Application Requirements**

1228 * * *

1229 2. The applicant must submit the following for review:

1230 * * *

1231 e. list of any civic, ~~renters, and~~ homeowners, and renters
1232 associations that are registered with the Planning Department
1233 and located within 1/2 mile of the site;

1234 * * *

1235 1. plans of proposed development showing:
1236 i. use, footprints, ground-floor layout, and heights of all
1237 building buildings and structures;

1238 * * *

1239 **G. Subsequent Actions**

1240 * * *

1241 **2. Permits Exempt from Conformance to Approved Site Plans**

1242 * * *

1243 c. On a property where a site plan was approved, any owner or
1244 owners' association may, without finding of conformance to the
1245 approved site plan, change landscaping that was not required as
1246 a condition of approval for screening or install a site element or
1247 construct a [paved surface or] structure other than a building
1248 that meets all applicable development standards under Article
1249 59-4 and general requirements under Article 59-6 and does not
1250 conflict with any conditions of approval. A structure allowed
1251 under ~~this Section (I)Section 7.3.4.G.2.c(I)~~ must not conflict
1252 with any necessary finding required for site plan approval.

1253 * * *

1254 **J. Amendments**

1255 Any property owner may apply for a site plan amendment to change a
1256 certified site plan. There are two types of amendments~~[[.]]~~: a major and a
1257 minor amendment.

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1. **Major Amendment**

- [A major amendment to an approved site plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original site plan, except as modified under Section 7.3.4.J.1.b.]
- a. A major amendment includes any request to increase density or height; change a use; decrease open space; [or to make a change to any condition] deviate from a binding element or a condition of approval; or alter a basic element of the plan.
 - b. [The Planning Board may approve an uncontested major amendment on its consent agenda if the Planning Director publishes a report and recommendation on the amendment a minimum of 10 days before the Planning Board meeting.] Public notice is required under Division 7.5.
 - c. A major amendment must follow the same hearing procedures and satisfy the same necessary findings as the original site plan.
 - [[d. Additional requirements may be established by the Planning Department.]]

2. **Minor Amendment**

- a. [The Planning Director may approve a minor amendment to an approved site plan.] A minor amendment includes any change to a parking or loading area, landscaping, sidewalk, recreational facility or area, configuration of open space, or any other plan element that will have a minimal effect on the overall design, layout, quality or intent of the plan. A minor amendment also includes a reduction in approved parking to satisfy Article 59-6.
A minor amendment [includes] does not include any change that [does not increase] increases density or height[[;]]

1285 [decrease a setback abutting a detached residential use; or alter
1286 the intent, objectives, or requirements of the Planning Board in
1287 approving the site plan] or prevents circulation on any street or
1288 path. [A minor amendment may also be approved to reduce the
1289 approved parking to satisfy Article 59-6.]

1290 [a] b. Public notice is required under Division 7.5.

1291 [b] c. A minor amendment may be approved by the Planning Director
1292 without a public hearing if no objection to the application is
1293 received within 15 days after the application notice is sent. If an
1294 objection is received within 15 days after the application notice
1295 is sent, and the objection is considered relevant, [A] a public
1296 hearing is required [if an objection to the application is received
1297 within 15 days after the notice of the filed application is sent].
1298 A public hearing must be held under the same procedures as an
1299 original application. [If an objection to the application is not
1300 received within the 15 days, a public hearing is not required.]

1301 * * *

1302 **Sec. 27. DIVISION 7.4 is amended as follows:**

1303 **Division 7.4. Administrative Approvals**

1304 **Section 7.4.1. Building Permit**

1305 * * *

1306 **C. Review and Recommendation**

1307 DPS must submit the application to the Planning Director for review for any
1308 building permit that requests:

- 1309 1. construction of a new principal structure; or
- 1310 2. construction that increases the gross floor area of an existing
1311 commercial structure[[]; or]]

1312 [[3. construction that increases the gross floor area of any residential
 1313 structure by more than 50% of the existing gross floor area]].

1314 The Planning Director must confirm in writing that the application satisfies
 1315 this Chapter and that the property has all necessary approvals required by the
 1316 Planning Department and Planning Board.

1317 * * *

1318 **Sec. 28. DIVISION 7.5 is amended as follows:**

1319 **Division 7.5. Notice Standards**

1320 **Section 7.5.1. Notice Required**

1321 Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting

Regulatory Approvals								

Sketch Plan		x	x	<u>x</u>	x	x		x
Site Plan		x	x	<u>x</u>	x	x		x

Amendments to Approvals								

Major Site Plan Amendment			x	<u>x</u>	x	x		x

1322 **Section 7.5.2. Notice Specifications**

1323 * * *

1324 **B. Pre-Submittal Meeting**

1325 1. Before an application may be accepted, the applicant must hold a
1326 public meeting to present the proposed application and respond to
1327 questions and comments. The meeting must be held no more than 90
1328 days before filing the application.

1329 2. The applicant must post a sign advertising the pre-submittal meeting,
1330 equivalent to the requirement for an application sign, a minimum of
1331 15 days before the meeting[, but no more than 90 days before filing
1332 the application].

1333 3. The applicant must send notice advertising the pre-submittal meeting
1334 to the same recipients required under Section 7.5.2.E.1, [[hearing
1335 notice]] Hearing Notice, a minimum of 15 days before the meeting.

1336 4. The notices must include the date and place of meeting, applicant,
1337 application number and name, location of property, property size,
1338 zone, proposed use, and density of development[, and phone and
1339 website for the applicable intake agency].

1340 * * *

1341 **C. Application Sign**

1342 1. The applicant must post at least one sign along every frontage [within
1343 5 days after an application is accepted]; if the frontage is more than
1344 500 feet, a sign must be posted at least every 500 feet.

1345 a. For a sketch plan, site plan, or major site plan amendment
1346 application, the sign must be posted before an application is
1347 accepted.

1348 b. For a Local Map Amendment, conditional use, or variance
1349 application, the sign must be posted within 5 days after an
1350 application is accepted.

1351 2. The sign must meet the following specifications:

1352 a. For a sketch plan, site plan, or major site plan amendment
1353 application, the applicant must use the sign template provided
1354 by the Planning Department.

1355 b. For a Local Map Amendment, conditional use, or variance
1356 application, [The] the sign must:

- 1357 i. be made of a durable material;
- 1358 ii. be a minimum of 24 inches tall by 36 inches wide;
- 1359 iii. have a white or yellow [[in]] background color; and
- 1360 iv. [[with]] have black lettering and characters at least 2
1361 inches in height.

1362 3. The sign must include:

- 1363 [a. the date of filing;]
- 1364 [b] a. application number and name;
- 1365 [c] b. requested zone, if a Local Map Amendment;
- 1366 [d] c. proposed use, density, or structure description, if not a Local
1367 Map Amendment; and
- 1368 [e] d. [and] telephone number and website for the applicable intake
1369 agency.

1370 **D. Application Notice**

1371 1. When an application is accepted, the applicant must send notice of the
1372 application to all abutting and confronting property owners[[,]]; civic,
1373 [[renters, and]] homeowners, and renters associations that are
1374 registered with the Planning Board and located within 1/2 mile of the

1375 site[[,]]; any municipality within 1/2 mile[[,]]; and, if applicable, pre-
 1376 submittal meeting attendees [if applicable] who request to be a party
 1377 of record. A condominium’s council of unit owners may be notified
 1378 instead of the owner and residents of each individual condominium.
 1379 [[The deciding body may require additional noticing according to its
 1380 approved rules of procedure.]]

1381 2. The notice must [include] identify the applicant[,] and include the
 1382 application type, number, and project name[[,]]; location of
 1383 property[[,]]; property size[[,]]; zone (and requested zone, if
 1384 applicable)[[,]]; proposed use and density of development[[,]];
 1385 [[items]] changes covered by the proposed amendment, if
 1386 applicable[[,]]; and telephone number and website for the applicable
 1387 intake agency.

1388 **E. Hearing Notice**

1389 1. [The deciding body must send notice of the hearing within 5 days
 1390 after an application is accepted to] Hearing notice must be sent to all
 1391 abutting and confronting property owners[[,]]; civic, [[renters, and]]
 1392 homeowners, and renters associations that are registered with the
 1393 Planning Board and located within 1/2 mile[[,]] of the site; any
 1394 municipality within 1/2 mile[[,]]; and, if applicable, pre-submittal
 1395 meeting attendees [if applicable] who request to be a party of record.
 1396 A condominium’s council of unit owners may be notified instead of
 1397 the owner and residents of each individual condominium. [[The
 1398 deciding body may require additional noticing according to its
 1399 approved rules of procedure.]]

1400 a. The District Council, Hearing Examiner, and Board of Appeals,
 1401 as applicable, must send notice of the hearing [[within 5 days

1402 after an application is accepted]] a minimum of 30 days before
1403 the scheduled hearing date.

1404 b. The Planning Board must send notice of the hearing a minimum
1405 of 10 days before the scheduled hearing date.

1406 * * *

1407 4. A hearing may be postponed or continued if the time and place of the
1408 continued hearing is publicly announced at the time of the
1409 adjournment or notice is given to all parties of record [[as required for
1410 the original application]] a minimum of 10 days before the next
1411 scheduled hearing date.

1412 * * *

1413 **F. Resolution Notice**

1414 1. The deciding body or its designee must [[provide]] issue notice of the
1415 approved resolution or opinion to [[all parties that were notified of the
1416 hearing]] the applicant and any additional parties of record [[within 10
1417 days after]] on the day a resolution or opinion is issued.

1418 * * *

1419 **H. Website Posting**

1420 * * *

1421 2. [When the Planning Director provides a recommendation report on an
1422 application decided by the Planning Board, the Planning Director
1423 must post the recommendation report on the Planning Board's website
1424 a minimum of 10 days before the Planning Board hearing. In cases
1425 where an application is decided by the Hearing Examiner, the Board
1426 of Appeals, or the District Council, the Planning Director's
1427 recommendation report must be posted on the Planning Board's
1428 website a minimum of 7 days before the Planning Board meeting.]

1429 When the Planning Director provides a recommendation report for the
1430 Planning Board, the report must be posted on the Planning Board's
1431 website, as indicated in Division 7.2 and Division 7.3.

1432 * * *

1433 **Sec. 29. DIVISION 7.6 is amended as follows:**

1434 **DIVISION 7.6. Special Provisions**

1435 **Section 7.6.1. Board of Appeals**

1436 * * *

1437 **C. Filing of Appeals**

1438 * * *

1439 5. When an administrative appeal is made, the Board of Appeals must
1440 send notice of the hearing [[within 5 days of the request for appeal]] a
1441 minimum of 30 days before the scheduled hearing date to DPS[[,]];
1442 the State Highway Administration[[,]]; the County Board of
1443 Education[[,]]; all abutting and confronting property owners[[,]];
1444 civic, [[renters, and]] homeowners, and renters associations that are
1445 registered with the Planning Department and located within ½
1446 mile[[,]]of the site; any municipality within ½ mile[[,]]; and pre-
1447 submittal attendees [if applicable] who request to be a party of record.
1448 A condominium's council of unit owners may be notified instead of
1449 the owner and residents of each individual condominium.

1450 * * *

1451 **Sec. 30. DIVISION 7.7 is amended as follows:**

1452 **DIVISION 7.7. Exemptions and Nonconformities**

1453 **Section 7.7.1. Exemptions**

1454 **A. Existing Structure, Site Design, or Use on October 30, 2014**

1455 **1. Structure and Site Design**

1456 A legal structure or site design existing on October 30, 2014 that does
 1457 not meet the zoning standards on or after October 30, 2014 is
 1458 conforming and may be continued, renovated, repaired, or
 1459 reconstructed if the floor area, height, and footprint of the structure
 1460 [[is]] are not increased, except as provided for in Section 7.7.1.C for
 1461 structures in Commercial/Residential, Employment, or Industrial
 1462 zones, or Section 7.7.1.D.5 for structures in Residential Detached
 1463 zones. ~~[[A use located in a building or structure deemed conforming~~
 1464 under this Section (Section 7.7.1.A.1) may be converted to any
 1465 permitted, limited, or conditional use up to the density limits for the
 1466 use established by the current zoning.]]

1467 * * *

1468 **2. Use**

1469 a. Except for a Registered Living Unit, any use that was
 1470 conforming or not nonconforming on October 29, 2014 and that
 1471 would otherwise be made nonconforming by the application of
 1472 zoning on October 30, 2014 is conforming, but may not expand.

1473 b. Any allowed use, up to the density limits established by the
 1474 current zoning, may be located in a building or structure
 1475 deemed conforming under Section 7.7.1.A.1.

1476 **B. Application Approved or Filed for Approval before October 30, 2014**

1477 **1. Application in Progress before October 30, 2014**

1478 Any development plan, schematic development plan, diagrammatic
 1479 plan, concept plan, project plan, sketch plan, preliminary plan, record
 1480 plat, site plan, special exception, variance, or building permit filed or
 1481 approved before October 30, 2014 must be reviewed under the
 1482 standards and procedures of the [[Zoning Ordinance in effect]]

1483 property's zoning on October 29, 2014, unless an applicant elects to
 1484 be reviewed under the property's current zoning. Any complete Local
 1485 Map Amendment application submitted to the Hearing Examiner by
 1486 May 1, 2014[[,]] must be reviewed under the standards and
 1487 procedures of the [Zoning Ordinance in effect] property's zoning on
 1488 October 29, 2014. If the District Council approves such an application
 1489 after October 30, 2014 for a zone that is not retained in Chapter 59,
 1490 then the zoning will automatically convert to the equivalent zone as
 1491 translated under DMA G-956 when the Local Map Amendment is
 1492 approved. The approval of any of these applications or amendments to
 1493 these applications under Section 7.7.1.B.1 will allow the applicant to
 1494 proceed through any other required application or step in the process
 1495 within the time allowed by law or plan approval, under the standards
 1496 and procedures of the Zoning Ordinance in effect on October 29,
 1497 2014. The gross tract area of an application allowed under [[this
 1498 Section (]]Section 7.7.1.B.1[[]]] may not be increased.

1499 * * *

- 1500 **3. [Plan] Amendment of an Approved Plan [for Plans Approved] or**
 1501 **Modification of an Application Pending before October 30[.], 2014**
 1502 a. Until October 30, 2039, an applicant may apply to amend any
 1503 previously approved [application] plan or modify an application
 1504 pending before October 30, 2014 (listed in Section 7.7.1.B.1 or
 1505 Section 7.7.1.B.2)[,] under the development standards and
 1506 procedures of the property's zoning on October 29, 2014, if the
 1507 amendment:
 1508 i. does not increase the approved density or building height,
 1509 unless allowed under Section 7.7.1.C; and

- 1510 ii. either:
 - 1511 (a) retains at least the approved setback from property
 - 1512 in a Residential Detached zone that is vacant or
 - 1513 improved with a Single-Unit Living use; or
 - 1514 (b) satisfies the setback required by its zoning on the
 - 1515 date the amendment or the permit is submitted[.];
 - 1516 and
 - 1517 iii. does not increase the [[gross]] tract area.
- 1518 b. An applicant may apply [[for a minor site plan amendment]] to
- 1519 amend the parking requirements of a previously approved
- 1520 application (listed in Section 7.7.1.B.1 or 7.7.1.B.2) in a manner
- 1521 that satisfies the parking requirements of Section 6.2.3 and
- 1522 Section 6.2.4.

1523 * * *

1524 **5. Development with a Development Plan or Schematic Development**
1525 **Plan Approved before October 30, 2014**

- 1526 a. Any development allowed on property where the zoning
- 1527 classification on October 29, 2014 was the result of a Local
- 1528 Map Amendment must satisfy any binding elements until:
 - 1529 i. the property is subject to a Sectional Map Amendment
 - 1530 that implements a master plan approved after October 30,
 - 1531 2014 and obtains approval for development under the
 - 1532 SMA-approved zoning;
 - 1533 ii. the property is rezoned by Local Map Amendment; or
 - 1534 iii. the binding element is revised by a development plan
 - 1535 amendment under the procedures in effect on October 29,
 - 1536 2014.

1537

* * *

1538

C. Expansion of Floor Area [Existing on October 30, 2014]

1539

1. Limited Rights under Zoning before October 30, 2014

1540

Until October 30, 2039, on land that is located in a

1541

Commercial/Residential, Employment, or Industrial zone, an

1542

applicant for an amendment to an existing approval or development,

1543

or a modification of an application listed in Section 7.7.1.B.1 may

1544

increase the floor area on the site under Section 7.7.1.C.2 or 7.7.1.C.3

1545

following the procedures and standards of the property's zoning on

1546

October 29, 2014:

1547

* * *

1548

2. [All Prior] Commercial/Residential, Employment, and Industrial

1549

Zones

1550

Existing development in a Commercial/Residential, Employment, or

1551

Industrial zone may expand by up to the lesser of 10% of the gross

1552

floor area approved for the site on October 30, 2014 or 30,000 square

1553

feet, except for properties with 2,000 square feet or less of floor area,

1554

which may expand by up to 30% of the gross floor area approved for

1555

the site on October 30, 2014. Any expansion must satisfy Section

1556

7.7.1.C.1. The gross floor area in a pending application listed in

1557

Section 7.7.1.B.1 may be expanded up to the full amount allowed

1558

under the property's zoning on October 29, 2014, but once the

1559

application is approved, the gross floor area may expand by up to the

1560

lesser of 10% of the gross floor area or 30,000 square feet.

1561

* * *

1562

4. Expansion above Section 7.7.1.C.2

1563 [Any] If any [[portion of an enlargement]] expansion [that] exceeds
1564 Section 7.7.1.C.2, then the entire [[enlargement]] expansion must
1565 satisfy the applicable standards and procedures for the current zoning.
1566 After October 30, 2039, any amendment to a previously approved
1567 application must satisfy the applicable standards and procedures for
1568 the current zoning to the extent of (a) any expansion, and (b) any other
1569 portion of an approved development [that the amendment changes]
1570 associated with the expansion.

1571 **D. Residential Lots and Parcels**

1572 **1. Residential Lot**

1573 Unless adjoining lots have merged by virtue of ownership and zoning
1574 requirements, DPS may issue a building permit for a detached house
1575 on any Residential or Rural Residential zoned lot or parcel identified
1576 either on a plat recorded before October 30, 2014 or a deed recorded
1577 before June 1, 1958, without regard to the street frontage and lot size
1578 requirements of its zoning, except as provided in Section 7.7.1.D.3.b.

1579 * * *

1580 **6. Exempted Lots and Parcels in the RE-2, RE-2C, and RE-1 [Zone]**
1581 **Zones**

- 1582 a. A lot or parcel in the RE-2, RE-2C, or RE-1 zone, in addition to
1583 other exemptions in this subsection, is exempt from the lot area
1584 and [[dimension]] lot width requirements of its zone, but must
1585 satisfy the requirements of the zone applicable to it before its
1586 classification to the RE-2, RE-2C, or RE-1 zone if:
- 1587 i. the record lot was approved for recordation by the
1588 Planning Board before the approval date of the most

- 1589 recent Sectional Map Amendment that included the lot;
1590 or
1591 ii. the lot was created by deed on or before the earlier of
1592 either the approval date of the most recent Sectional Map
1593 Amendment that included the lot or October 30, 2014.
- 1594 b. A lot or parcel in the RE-2C zone, in addition to other
1595 exemptions in this subsection, is exempt from the area and
1596 dimension requirements of the RE-2C zone, but must satisfy the
1597 requirements of the zone applicable to it before its classification
1598 to the RE-2C zone if:
- 1599 [a] i. the property owner held title to the property before
1600 March 17, 1982;
- 1601 [b] ii. a reduced lot size is required for a lot created for a
1602 detached house;
- 1603 [c] iii. the child of the property owner, or the spouse of a child,
1604 or the parents of the property owner will reside in the
1605 house on the additional lot; and
- 1606 [d] iv. the overall density of the tract owned on March 17, 1982
1607 is 1.1 units per acre or lower.

1608 **7. Exempted Lots and Parcels in the Rural Zone**

- 1609 a. A lot or parcel in the Rural zone, in addition to other
1610 exemptions in this subsection, is exempt from the lot area and
1611 ~~[[dimension]]~~ lot width requirements of the Rural zone, but
1612 must satisfy the requirements of the zone applicable to it before
1613 its classification to the Rural zone if:
- 1614 ~~[[a]]~~ i. the property owner can establish that the owner had legal
1615 title on or before June 4, 1974;

1669 A lot or [[a]] parcel in the Agricultural Reserve (AR) zone, in addition
1670 to other exemptions in this subsection, is exempt from the minimum
1671 lot area requirements and [[dimension]] lot width requirements of the
1672 AR zone, but must satisfy the requirements of the zone applicable to it
1673 before its classification to the AR zone if:

- 1674 a. the lot or parcel was created [[by deed executed]] before [[the
1675 approval date of the most recent Sectional Map Amendment
1676 that initially zoned the property to the RDT zone]] January 6,
1677 1981; or
- 1678 b. the [[record]] recorded lot has an area of less than 5 acres and
1679 was created after [[the approval date of the Sectional Map
1680 Amendment that initially zoned the property to the RDT zone,]]
1681 January 6, 1981 by replatting 2 or more lots, provided that the
1682 resulting number of lots is not greater than the number of lots
1683 that were replatted.

1684 * * *

1685 **Sec. 31. DIVISION 8.1 is amended as follows:**

1686 **Division 8.1. In General**

1687 **Section 8.1.1. Applicability**

1688 The zones in Article 59-8 were applied by Local Map Amendment before this
1689 Zoning Ordinance was adopted. These zones may appear on the digital zoning
1690 map, but they cannot be requested by any property owner under a Local Map
1691 Amendment or confirmed or applied to any [additional] property under a Sectional
1692 Map Amendment adopted after October 30, 2014.

1693 * * *

1694 **Section 8.1.2. Modification of Zones**

1695 **A. Amending a Development Plan**

1696 An amendment to an approved development plan or schematic development
1697 plan in any zone in Article 59-8 must follow:

- 1698 1. the procedures for amendment of a development plan under the
- 1699 zoning ordinance in effect on October 29, 2014;
- 1700 2. the parking, queuing, and loading standards in Division 6.2; and
- 1701 3. the signage standards in Division 6.7.

1702 Division 7.7 does not apply to the zones in Article 59-8.

1703 * * *

1704 **Sec. 32. DIVISION 8.2 is amended as follows:**

1705 **Division 8.2. Residential Floating Zones**

1706 * * *

1707 **Section 8.2.4. RT Zone General Requirements and Development Standards**

1708 **A. RT Zone, In General**

1709 **1. Combined Tracts**

1710 A tract in the RT zone may be combined with a tract in another
1711 Residential zone, with site plan approval under Section 7.3.4, if:

1712 * * *

- 1713 c. the amount of [common open space] green area in the combined
- 1714 tract is, at a minimum, the total required for the separate tracts;

1715 * * *

1716 **B. RT Zone Standard Method**

1. Tract and Density	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0
* * *					
[Open Space] <u>Green Area</u> (min)					
[Common open space] <u>Green Area</u> (% of tract)	50%	50%	50%	50%	30%

* * *					
-------	--	--	--	--	--

1717 **C. RT Zone Development Including MPDUs**

1718 * * *

1719 **1. Development Standards**

1720 a. The development standards in Section 8.2.4.B may be modified
1721 as follows:

	RT-6.0	RT-8.0	RT-10.0	RT-12.5	RT-15.0
[Open Space] <u>Green Area</u> (min)					
[Common open space] <u>Green Area</u> (% of tract)	45%	45%	45%	45%	30%
* * *					

1722 **Section 8.2.5. R-H Zone General Requirements and Development Standards**

1723 * * *

1724 **B. R-H Zone Standard Method Development Standards**

1. Lot	R-H
* * *	
[Common Open Space] <u>Green Area</u> (min)	
[Common open space] <u>Green Area</u> (% <u>[t]</u> of lot)	55%
* * *	

1725 **C. R-H Zone Special Regulations for a Development with MPDUs**

1726 * * *

1727 1. The [common open space] green area may be reduced to a minimum
1728 of 35%, if required to accommodate the construction of all workforce
1729 housing units on-site.

1730 * * *

1731 **Sec. 33. DIVISION 8.3 is amended as follows:**

1732 **Division 8.3. Planned Unit Development Zones**

1733 * * *

1734 **Section 8.3.2. PD Zone**

1735 * * *

1736 **C. Development Standards**

1737 1. The maximum density allowed, and minimum [open space] green area
 1738 required for the PD zone, are indicated in the following table:

Density Category	Maximum Density (Dwelling Units per Acre)	[Open Space] <u>Green Area</u> (Percent of Gross Area)
* * *		
Specification for [Open Space] <u>Green Area</u>		
[In residential areas, common open space is required. In commercial areas, public open space is required. Open space] <u>Green area</u> may be reduced to 35% for “Medium High” and “High” densities and to 20% for “Urban High” densities to allow the construction of all workforce housing units on site.		

1739 * * *

1740 **Section 8.3.5. Planned Retirement Community Zone**

1741 * * *

1742 **C. Development Standards**

1743 * * *

1744 **4. Coverage and [Common Open Space] Green Area**

1745 a. In a development of 750 acres or more:

1746 i. a maximum of 15% of the gross area may be covered by
 1747 residential buildings; and

1748 ii. a minimum of 65% of the gross area must be devoted to
 1749 [common open space] green area.

1750 b. In a development of less than 750 acres, a minimum of 50% of
1751 the gross area must be devoted to [common open space] green
1752 area.

1753 * * *

1754 **Section 8.3.6. Planned Cultural Center Zone**

1755 * * *

1756 **C. Development Standards**

1757 * * *

1758 **2. Coverage and [Public Open Space] Green Area**

1759 * * *

1760 b. A minimum of 30% of the total site area included in the
1761 development plan must be maintained as [public open space]
1762 green area; however, the District Council may reduce this
1763 requirement if it finds that comparable amenities or facilities
1764 provided in lieu of [open space] green area are sufficient to
1765 accomplish the purposes of the zone and would be more
1766 beneficial to the proposed development than strict adherence to
1767 the specific [public open space] green area requirements.

1768 * * *

1769 **Sec. 34. Effective date.** This ordinance becomes effective 20 days after the
1770 date of Council adoption.

1771

1772 This is a correct copy of Council action.

1773

1774 _____

1775 Linda M. Lauer, Clerk of the Council

Zoning Text Amendment - Modifications, Corrections and Clarifications



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Description

This Zoning Text Amendment (ZTA) clarifies language, corrects errors, and generally amends language in the new zoning ordinance. The changes requested by this ZTA have been brought to Planning Staff's attention over the past 6 months, since the effective date of the new code. For this reason, it is appropriate for the Planning Board to request introduction of this ZTA instead of the County Council.

Summary

Staff recommends transmittal of the Zoning Text Amendment (ZTA) to County Council for introduction. The ZTA includes clarifications and corrections based on implementation of the new zoning ordinance by the Planning Department, the Department of Permitting Services (DPS), the Office of Zoning and Administrative Hearings (OZAH), and other stakeholders.

Background/Analysis

The new zoning ordinance was adopted on March 5, 2014, and became effective on October 30, 2014. ZTA 14-09, which addressed initial corrections and clarifications to the zoning ordinance, was adopted on September 30, 2014, and also became effective on October 30, 2014. Since its effective date, widespread use of the new zoning ordinance has revealed text in need of clarification or correction, as well as a few substantive concerns. While a majority of the proposed revisions are minor in nature, some notable modifications to the code are also proposed.

The substantive issues addressed in this ZTA include:

- Revision of the definition of right-of-way and building height.
- Limit the application of the general conditional use standards for an accessory apartment.

- Modification of the *Build-to Area, Transparency, Building Orientation, and Parking Setbacks for Surface Parking Lots* requirements under the standard method of development in the EOF and LSC zones for consistency with ZTA 15-05.
- Modifications to the process for amending a site plan.
- Amendment of the noticing standards for projects approved by the Planning Board (sketch plan, site plan, and major site plan amendments).
- Clarification of the provision for expansions above the amount “grandfathered” under a prior zone (typically the lesser of 10% or 30,000 square feet).

Each of these issues, and the language proposed to address each concern, is summarized in the “Substantive Changes” section below.

In addition to the more substantive change this ZTA proposes revisions to correct editorial errors characterized as unintentional changes from the prior zoning code. The ZTA also clarifies provisions that have been noted as confusing or unclear. Such changes, except those that only correct formatting or grammatical errors, are summarized in the “Language Clarification and Error Correction” section of this report.

SUBSTANTIVE CHANGES

- 1) Section 1.4.2: Add language to the definition of *Right-of-Way* to clarify that a private road located in an easement, but not necessarily placed in a separately platted lot or parcel, is also considered a right-of-way. Adding this language ensures that any building located on a private street, whether platted or under easement, is treated as a right-of-way with respect to any applicable development standards. Recent work on the rewrite of the Subdivision Regulations motivated this proposed revision when it became evident that requiring separately platted lots or parcels for private roads would make it difficult, if not impossible, to build desirable urban features, such as an underground parking garage under more than a single building .

***Right-of-Way:** Land [dedicated to] reserved for the passage of people, vehicles, or utilities as shown on a record plat as separate and distinct from the abutting lots or parcels, or as shown in an easement.*

- 2) Section 3.3.3.A.2.c: Add language to limit the scope of the findings the Hearing Examiner must make when reviewing an accessory apartment conditional use application that is filed to deviate from the on-site parking or spacing requirements. While the Hearing Examiner would not make any of the general conditional use findings under Section 7.3.1.E, the Hearing Examiner would still verify that the application satisfied all applicable limited use standards. The Planning Department has received feedback that the scope of the conditional use approval for this type of accessory apartment application is too onerous given that accessory apartments are an

important component of the County's affordable housing stock. In addition, while the Planning Board is unclear if this change modifies the Council's intent when it approved ZTA 12-11, the Board feels this change is consistent with the general intent of that ZTA, which was to make the review process for an accessory apartment less onerous. Also clarify that the limited use standards in Section 3.3.3.B.2. or Section 3.3.3.C, as applicable, must be satisfied when an *Accessory Apartment* conditional use application is filed under this Section.

- c. *Where an Accessory Apartment conditional use application is filed under Section 3.3.3.A.2.b, the Accessory Apartment may be permitted by the Hearing Examiner under the limited use standards in Section 3.3.3.A.2.a, Section 3.3.3.B.2, or Section 3.3.3.C.2.a, [and] under Section 7.3.1, Conditional Use (excluding Section 7.3.1.E), and the following standards:*

- 3) Section 4.1.7.C.2.a: At the request of DPS, modify the definition of *Building Height* in *Commercial/ Residential, Employment, and Industrial Zones* to establish a uniform process for measuring building height on corner lots, regardless of lot size. The ZTA also includes a clarification that building height must always be measured from the curb grade opposite the middle of the front of the building, even if the building is on a corner lot.

- a. *Building height is always measured from the level of approved curb grade opposite the middle of the front of a building to the highest point of roof surface of a flat roof or to the mean height level between eaves and ridge of a pitched roof. If a building is located on a terrace, the height may be increased by the height of the terrace. [On a corner lot exceeding 20,000 square feet, the height of the building may be measured from either adjoining curb grade.] For a corner lot or a lot extending through from street to street, the height [may] must be measured from [either] the curb grade opposite the middle of the front of a building.*

- 4) Section 4.6.3.D.3; Section 4.6.3.D.5; Section 4.6.3.E.3; Section 4.6.3.E.5: Modify language in the placement and form specifications for the LSC and EOF zones under the standard method development. Similar to ZTA 15-05, the amended language would allow the Planning Board flexibility to modify some of the form standards, in this instance *the Parking Setbacks for Surface Parking Lots, Build-to Area, Building Orientation, and Transparency* requirements, under site plan review provided certain findings can be made.

Specification for Parking Setbacks for Surface Parking Lots and Build-to Area

- a. *Parking Setbacks for Surface Parking Lots and Build-to Area requirements only apply when the development fronts on a business district street or a build-to-line is recommended in the applicable master plan. [If a site plan approval is required, the] The Planning Board may [waive] modify the Parking Setbacks for Surface Parking Lots and Build-to Area requirements during site plan review under Section 7.3.4 if it finds that the alternative design satisfies the intent of the zone and deviates from*

those requirements only to the extent necessary to accommodate the characteristics of the subject property or the proposed use.¹

Specification for Building Orientation and Transparency

- a. *Building Orientation and Transparency requirements only apply when the development fronts on a business district street or a build-to-line is recommended in the applicable master plan. [If a site plan approval is required, the] The Planning Board may [waive] modify the Building Orientation and Transparency requirements during site plan review under Section 7.3.4 if it finds that the alternative design satisfies the intent of the zone and deviates from those requirements only to the extent necessary to accommodate the characteristics of the subject property or the proposed use.*²
- 5) Section 7.3.4.J: Modify the site plan amendment language to make it more consistent with the prior zoning code. The new zoning code introduced a process for amending a site plan that was found to be both inefficient and overly burdensome once implemented.

J. Amendments

Any property owner may apply for a site plan amendment to change a certified site plan. There are two types of amendments, a major and a minor amendment.

I. Major Amendment

[A major amendment to an approved site plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original site plan, except as modified under Section 7.3.4.J.1.b.]

- a. *A major amendment includes any request to increase density or height; change a use; decrease open space; [or to make a change to any condition] deviate from a binding element or a condition of approval; or alter a basic element of the plan.*
- b. *[The Planning Board may approve an uncontested major amendment on its consent agenda if the Planning Director publishes a report and recommendation on the amendment a minimum of 10 days before the Planning Board meeting.] Public notice is required under Division 7.5.*
- c. *A major amendment must follow the same hearing procedures and satisfy the same necessary findings as the original site plan.*

^{1,2} ZTA 15-05 proposes modifications to the Placement and Form standards for the C/R zones. Following adoption of ZTA 15-05 similar modifications to the Placement and Form standards for the LSC and EOF zones should be made for consistency.

d. Additional requirements may be established by the Planning Department.

2. Minor Amendment

a. [The Planning Director may approve a minor amendment to an approved site plan.] A minor amendment includes any change to a parking or loading area, landscaping, sidewalk, recreational facility or area, configuration of open space, or any other plan element that will have a minimal effect on the overall design, layout, quality or intent of the plan. A minor amendment also includes a reduction in approved parking to satisfy Article 59-6. A minor amendment [also includes] does not include any change that [does not increase] increases density or height; [decrease a setback abutting a detached residential use; or alter the intent, objectives, or requirements of the Planning Board in approving the site plan] or prevents circulation on any street or path. [A minor amendment may also be approved to reduce the approved parking to satisfy Article 59-6.]

[a.]b. Public notice is required under Division 7.5.

[b.]c. A minor amendment may be approved by the Planning Director without a public hearing if no objection to the application is received within 15 days after the application notice is sent. If an objection is received within 15 days after the application notice is sent, and the objection is considered relevant, [A] a public hearing is required [if an objection to the application is received within 15 days after the notice of the filed application is sent]. A public hearing must be held under the same procedures as an original application. [If an objection to the application is not received within the 15 days, a public hearing is not required.]

6) . Division 7.5. Notice Standards

- Section 7.5.1; Section 7.5.2.D; Section 7.5.2.E.1: For sketch plan, site plan, and major site plan amendment applications, add a requirement to the table in Section 7.5.1 that requires an applicant to send out an application notice when the application is accepted (instead of the Planning Board sending out hearing notice when the application is accepted). Modify hearing notice so that Planning Board must send notice 10 days prior to the scheduled hearing. Also add a provision allowing the deciding body to require additional application notice according to approved rules of procedure.

The Planning Department has found that application noticing by the applicant, which was the practice under the old code, is more efficient than the procedure in the new code, which requires the Planning Department to send out hearing notice when the

application is accepted. Although the Planning Department is working toward a 120 day review period, a thirty day extension can be approved by the Director based on the circumstances of the case, and longer extensions can be granted by the Board. Any change from the original date would have to be re-noticed, and this could be both frustrating and confusing to the public. For purposes of transparency, the Planning Department also wants the option to once again require that application notice be mailed to homeowner and civic associations located within one mile of the property proposed for redevelopment. Thus, language has been added to allow any deciding body the ability to require additional noticing according to its approved rules of procedures. In addition, Section 7.5.2.D.2 includes a clarification that application noticing for amendments should include a summary of the proposed amendment. Section 7.5.2.D and Section 7.5.2.E have also been modified to include renters associations in the list of associations receiving notice.

D. Application Notice

1. *When an application is accepted, the applicant must send notice of the application to all abutting and confronting property owners, civic, renters, and homeowners associations within 1/2 mile, any municipality within 1/2 mile, and pre-submittal meeting attendees [if applicable] who request to be a party of record. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium. The deciding body may require additional noticing according to its approved rules of procedure.*
2. *The notice must [include] identify the applicant[,] and include the application number and project name, location of property, property size, zone (and requested zone, if applicable), proposed use and density of development, items covered by the proposed amendment, if applicable, and telephone number and website for the applicable intake agency.*

E. Hearing Notice

1. *[The deciding body must send notice of the hearing within 5 days after an application is accepted to] Hearing notice must be sent to all abutting and confronting property owners, civic, renters, and homeowners associations within 1/2 mile, any municipality within 1/2 mile, and pre-submittal meeting attendees [if applicable] who request to be a party of record. A condominium's council of unit owners may be notified instead of the owner and residents of each individual*

condominium. The deciding body may require additional noticing according to its approved rules of procedure.

a. The Hearing Examiner and Board of Appeals must send notice of the hearing within 5 days after an application is accepted.

b. The Planning Board must send notice of the hearing a minimum of 10 days before the scheduled hearing date.

- Section 7.5.2.C: For sketch plan, site plan, and a major site plan amendment add a requirement that the application sign be posted *before* an application is accepted, and require that the applicant use the sign template provided by the Planning Department. Also remove the requirement that the application sign include the date of filing, because the sign must be posted prior to the date of filing for sketch plan, site plans, and major site plan amendments.

C. Application Sign

1. *The applicant must post at least one sign along every frontage [within 5 days after an application is accepted]; if the frontage is more than 500 feet, a sign must be posted at least every 500 feet.*

a. For a sketch plan, site plan, or major site plan amendment application, the sign must be posted before an application is accepted.

b. For a Local Map Amendment, conditional use, or variance application, the sign must be posted within 5 days after an application is accepted.

2. *The sign must meet the following specifications:*

a. For a sketch plan, site plan, or major site plan amendment application, the applicant must use the sign template provided by the Planning Department.

b. For a Local Map Amendment, conditional use, or variance application, [The] the sign must be made of a durable material; a minimum of 24 inches tall by 36 inches wide; white or yellow in background color; with black lettering and characters at least 2 inches in height.

3. *The sign must include:*

[a. the date of filing;]

[b]a. application number and name;

[c]b. requested zone, if a Local Map Amendment;

*[d]c. proposed use, density, or structure description, if not a
Local Map Amendment; and*

*[e]d. telephone number and website for the applicable intake
agency.*

- 7) Section 7.7.1.C.4: Modify the grandfathering language regarding expansions of buildings in Commercial/ Residential, Employment, or Industrial zones that existed or were approved prior to October 30, 2014. If an applicant wishes to exceed the expansion threshold under Section 7.7.1.C.2 (typically the lesser of 10% of the gross floor area approved for the site, or 30,000 square feet), then any new development, including the “grandfathered” amount, must meet the standards of the existing zone. This modification will make the application, review, and approval process for the expansion more straightforward for all stakeholders. As currently drafted, only the expansion above the grandfathered amount is required to meet the standards of the current zone thus requiring the application of two zoning ordinances for one expansion.

4. Expansion above Section 7.7.1.C.2

[Any] If any portion of an enlargement [that] exceeds Section 7.7.1.C.2, then the entire enlargement must satisfy the applicable standards and procedures for the current zoning. After October 30, 2039, any amendment to a previously approved application must satisfy the applicable standards and procedures for the current zoning to the extent of (a) any expansion, and (b) any other portion of an approved development [that the amendment changes] associated with the expansion.

Language Clarification and Error Correction

Article 59-1

- Section 1.4.2. Specific Terms and Phrases Defined
 - Per request of DPS, add a definition of *Bay Window*, and include a requirement that it be primarily made of glass. This definition helps clarify the intent of the setback encroachment allowed for bay windows.

- Add a definition of *Entrance Spacing* (referenced in Section 1.4.2. and defined in Section 4.1.7.D.3) to clarify the intent of the entrance spacing requirement in C/R, EOF, and LSC zones.
- Correct the definition of *Home Occupation and Home Health Practitioner, Eligible Area* to also reference *Home Health Practitioner* at the end of the definition.
- Add definitions for *Lot Line, Side Lot Line, Side Street*; and clarify the definition of *Lot Line, Front*. These definitions clarify the setback and build-to area requirements.
- Modify the definition of *Site Element* to include a “paved surface” up to 625 square feet. This change will limit the amount of paved surface that may be added to a property with an approved site plan without the need for a site plan amendment.

Article 59-3

- Section 3.1.5.A.3: Remove *Ambulance, Rescue Squad (Private)* from the list of uses that are prohibited if a property in the AR zone is encumbered by a recorded TDR. *Ambulance, Rescue Squad (Private)* is a prohibited use in the AR zone making it unnecessary to state that the use is prohibited if the property is encumbered by a recorded TDR.
- Section 3.3.1.D.2.b.viii: In the conditional use standards for *Townhouse Living*, replace the reference to “alternative compliance” with a reference to a “parking waiver” to be consistent with the addition of the parking waiver provision in this ZTA (see Section 6.2.10).³
- Section 3.3.2.C.2.b: In the conditional use standards for *Independent Living Facility for Seniors or Persons with Disabilities*, add language to clarify that the maximum density is determined by the Hearing Examiner based on the development standards in the applicable zone. Also switch the order of standards iv. and v. to improve the readability of this Section.
- Section 3.3.3.C.2.a.iv.: Add the requirement that a detached house associated with a *Detached Accessory Apartment* must be at least 5 years old on the date of application. This correction is consistent with the intent of County Council when ZTA 12-11 was adopted.
- Section 3.5.1.B.2.b.i.(m): Delete the reference to Section 3.1.5 (Transferable Development Rights) in the use standards for *Animal Boarding and Care*. The use is allowed in the AR zone even if a property is encumbered by a TDR. This correction is consistent with the old zoning code.

³ Section 3.3.1.D.2.b. was adopted by ZTA 15-02 on April 21, 2015.

- Section 3.5.2.C.2.b.ii.: Clarify the required setback for a *Telecommunication Tower* from an existing dwelling in the Agricultural, Rural Residential and Residential zones. The setback is the greater of one foot for every foot of tower height or 300 feet. Also remove the reference to Industrial zones from the conditional use standards, as a *Telecommunication Tower* is a limited use in the Industrial zones.
- Section 3.5.4.A.2: Add a cross reference to Section 3.1.5. (Transferable Development Rights) to clarify that a *Cemetery* is prohibited if a property in the AR zone is encumbered with a TDR. Also add language to clarify that a family burial site *is* allowed if a property is encumbered by a TDR. These corrections are consistent with the old zoning code.
- Section 3.5.14.C.2.e: In the use standard for *Antenna on Existing Structure*, replace “detached residential dwelling” with “detached house” so the building type language is consistent throughout the code.
- Section 3.5.14.G.2.d. Add a cross reference to Section 3.1.5. (Transferable Development Rights) to clarify that *Lawn Maintenance Service* is prohibited if a property in the AR zone is encumbered with a TDR.
- Section 3.6.5.A: Correct the definition of *Mining, Excavation* to allow rock extraction to occur in the zones where *Mining, Excavation* is allowed.

Article 59-4

- Section 4.1.2.B: Add language to clarify that properties exempt from the platting requirements in Chapter 50 are also exempt from the requirement that “every new building must be located on a lot.” This correction is consistent with the old zoning code.
- Section 4.1.7.B.1.b.v: Remove the explanation of how to interpret a setback expressed as 2 numbers. This ZTA modifies all setbacks that are expressed as 2 numbers, so the explanation is no longer necessary (i.e. 4’ or 20’ is changed to 4’ for certain setbacks in Section 4.3.2. through Section 4.6.3.).
- Section 4.1.7.B.2: Clarify that the build-to area requirement also applies to the side street building façade, and that the build-to area for a front or side street building façade can also be measured from the right-of-way. Also clarify that drive aisles are prohibited in the build-to area, but access driveways perpendicular to the right-of-way are allowed. In addition, reorganize the language to clarify the definition of build-to area.
- Section 4.1.7.B.3.b: Clarify that the front or side street parking setback can also be measured from the right-of-way.

- Section 4.1.7.B.5.a.i; Section 4.1.7.B.5.a.ii; and Section 4.1.7.B.5.c: Clarify that the maximum encroachment allowed for certain building features into a side street setback is based on the width of the setback. On corner lots with a side street setback of at least 25', these building features may project 9 feet (instead of 3 feet) into the setback. This correction is consistent with the old zoning code.
- Section 4.1.7.B.5.a.vii: Per request by DPS, limit the total area of all bay windows and oriels on a building façade to 50% of the façade. This restriction will prevent house designs with an unreasonable amount of bay windows encroaching into setbacks.
- Section 4.1.7.C.1: Per request by DPS, modify the definition of *Building Height in Agricultural, Rural Residential, and Residential zones* to match the definition of *Height of a residential building in the R-60 and R-90 zones* from the old code. Height can be measured to the highest point of a roof surface, regardless of roof type.
- Section 4.1.7.C.2: Clarify that building height in Commercial/ Residential, Employment, and Industrial zones is always measured from the level of approved curb grade opposite the middle of the front of the building, even for corner lots.
- Section 4.1.7.D.3: Add a definition for *Entrance Spacing* to clarify that an entrance must be provided for a specified length of building façade, as specified in Division 4.5 and Division 4.6.
- Division 4.1 through Division 4.6: Replace the 4' or 20' requirement for *Front setback, private street or open space* and *Rear setback, alley* with a 4' requirement. The 4' or 20' requirement causes confusion and was found to be an impractical standard for many types of developments.

Rural Residential and Residential Detached Zones

- For standard method development in the R-90 (Section 4.4.8.B), R-60 (Section 4.4.9.B) and R-40 (Section 4.4.10.B) zones, modify the height language to match the old code (the maximum height, as measured to the highest point of a roof surface, regardless of roof type, is 35').
- For optional method cluster development in the RE-2C (Section 4.4.5.D.1), RE-1 (Section 4.4.6.D.1), R-200 (Section 4.4.7.C.1), and R-60 (Section 4.4.9.C) zones, add a provision from the old code to *Specification for Site under Cluster Development*. This provision allows the Planning Board to approve an optional method cluster development if the site abuts an existing cluster development in the same zone, even if the site does not satisfy the minimum usable area requirement. ZTA 14-09 added the same language for the R-90 zone.
- For optional method development in the RNC (Section 4.3.5.E), RE-2C (Section 4.4.5.D), RE-1 (Section 4.4.6.D), R-200 (Section 4.4.7.C), R-90 (Section 4.4.8.C), R-60 (Section 4.4.9.C), and R-40 (Section 4.4.10.C) zones, replace the lot coverage requirement for townhouses with a site coverage requirement, add a specification explaining how site coverage is calculated if

townhouses are included in a development, and reduce the townhouse lot area requirement for consistency with other townhouse development standards in the code.

- For optional method development in the R-90 (Section 4.4.8.C), R-60 (Section 4.4.9.C), and R-40 (Section 4.4.10.C) zones, reduce the common open space requirement by half. This change is a response to feedback that an optional method development including townhouses would be extremely difficult to develop due to the onerous open space requirements. Because common open space requirements in the new code have more stringent design criteria than the green area requirements under the old code, reducing the percentage requirement satisfies the intent to provide usable open space for the residents of the community in an amount equivalent to that required by green area in the old zoning ordinance.
- Section 4.3.2.B: Remove the statement that open space requirements are not changed in Optional Method Cluster Development, as the statement is not accurate.
- Section 4.3.4.D: For RC optional method, correct the specification for coverage to match the language in the RC standard method specification for coverage.
- Section 4.3.5.D: Add language to clarify that the RNC zone allows an optional method of development without the provision of MPDUs above those required in Chapter 25A, if recommended in a master plan. This optional method of development was allowed in the old code and inadvertently left out of the new code.
- Section 4.3.5.E: For RNC optional method, add language from the old code requiring that a developed lot that provides any portion of the rural open space be a minimum of 10 acres.
- Section 4.4.1: Clarify that standard method development in the Residential zones may require site plan approval according to the chart in Section 7.3.4.A.8.
- Section 4.4.2.A: For optional method MPDU development in Residential zones, delete the phrase "an increase in density above the total number of dwelling units allowed by standard method development." In some cases, the mathematical density decreases in optional method.
- Section 4.4.2.B: For optional method cluster development in Residential zones, delete the sentence "The density of dwelling units per acre and open space requirements are not changed" as the sentence is not accurate.
- Section 4.4.5.C: Remove the sentence in optional method cluster development in RE-2C that says "site plan approval may also be required..." since site plan is now always required for optional method development in the Residential zones.
- Section 4.4.5.D: For RE-2C optional method cluster, increase the maximum lot coverage for a detached house. This correction is consistent with the old zoning code.

Townhouse Zones

- For standard method development in the TLD (Section 4.4.11.B), TMD (Section 4.4.12.B), and THD (Section 4.4.12.B) zones, correct the following development standards:
 - Reduce common open space requirement. This change is a response to feedback that a townhouse development would be extremely difficult to build due to the onerous open space requirements. Because common open space requirements in the new code have more stringent design criteria than the green area requirements under the old code, reducing the percentage requirement satisfies the intent to provide usable open space for the residents of the community in amounts equivalent to that required by green area in the old zoning ordinance.
 - Increase site coverage for townhouses
 - Reduce lot area requirement for townhouses
 - Reduce the side street setback; the side setback, end unit (in TMD, THD only); the side setback between lot and site boundary; and the rear setback between lot and site boundary
 - Reduce the side street setback for an accessory structure

The Euclidean townhouse zone development standards under the new code were reviewed in more detail and applied to several approved projects – revealing that as written these standards are extremely difficult to satisfy.

- For optional method development in the TLD (Section 4.4.11.C), TMD (Section 4.4.12.C), and THD (Section 4.4.12.C) zones, correct the following development standards:
 - Modify usable area requirement
 - Reduce common open space requirement for the same reason described for the standard method Townhouse zones.
 - Replace lot coverage for townhouses with site coverage
 - Add a specification explaining how site coverage is calculated if townhouses are included in a development
 - Reduce the front setback from private streets or open space and reduce the side street setback
 - Delete coverage for all building types under placement (this was a mistake in the TLD zone only)

Multi-Unit Zones

- For standard method development in the R-30 (Section 4.4.14.B), R-20 (Section 4.4.15.B), and R-10 (Section 4.4.16.B) zones:

- Reduce common open space requirements for townhouses and apartments. This change is a response to feedback that a townhouse development would be extremely difficult to build due to the onerous open space requirements. Because common open space requirements in the new code have more stringent design criteria than the green area requirements under the old code, reducing the percentage requirement satisfies the intent to provide usable open space for the residents of the community in amounts equivalent to that required by green area in the old zoning ordinance.
 - Increase site coverage for townhouses
 - Reduce lot area requirements for townhouses (R-30 and R-20 only)
 - Reduce the side street setback, and the side setback, end unit for townhouses
 - Reduce the side street setback for an accessory structure for townhouses
 - Remove entrance spacing requirement from R-10 because it is not required for any building types in this zone
- For optional method development in the R-30 (Section 4.4.14.C), R-20 (Section 4.4.15.C), and R-10 (Section 4.4.16.C) zones:
 - Modify usable area requirement
 - Reduce common open space requirement for the same reason described for the standard method Multi-Unit zones
 - Replace lot coverage requirement for townhouses and apartments with site coverage requirement
 - Add a specification explaining how site coverage is calculated if townhouses or apartment buildings are included in a development
 - Reduce the front setback from private street or open space for townhouses (also for detached houses and duplexes in R-30)
 - Reduce the side street setback for townhouses

Employment Zones

- Section 4.6.3.B.1: Add a reference to the table in Section 7.3.4.A.8 that indicates when site plan is required under standard method development so that applicants know they may have to go through site plan.
- Section 4.6.3.B.2: Add a provision that allows an applicant to file a site plan application to modify the Parking Setbacks for Surface Parking Lots, Build-to Area, Building Orientation, and Transparency requirements under EOF and LSC standard method development. This language mimics the language proposed for C/R standard method in ZTA 15-05, with the exception of the parking setbacks - the Employment zones already contained language to allow modifications by the Board.
- For standard method development in the GR and NR (Section 4.6.3.C), LSC (Section 4.6.3.D), and EOF (Section 4.6.3.E) zones:

- Correct the headers for duplex-over and duplex-side columns - they were reversed
 - Reduce the open space requirement for townhouses
 - Remove the lot coverage requirement for townhouses
 - Reduce the side setback, end unit; side setback between lot and site boundary; and rear setback between lot and site boundary for townhouses
 - Reduce the side street setback for an accessory structure for townhouses
- For standard method development in the LSC (Section 4.6.3.D) and EOF (Section 4.6.3.E) zones, also do the following:
 - Clarify that the front and side street parking setback must be behind the building line of the building located in the build-to area. This mimics a similar clarification made for C/R standard method in ZTA 15-05.
 - Modify the side street parking setback to indicate that a surface parking lot must be behind the *side street* building line to be consistent with the intent and definition of the build-to area. This mimics a similar clarification made for C/R standard method in ZTA 15-05.
 - Clarify the header for build-to area to indicate that a minimum percentage of the building façade must be located in the build-to area. This mimics a similar clarification made for C/R standard method in ZTA 15-05.
 - Section 4.6.4.B.1.a: For the open space requirements in optional method EOF and LSC, replace “lot” with “tract”. This was an error that was corrected in ZTA 15-05 for the C/R zones as well.

Public Benefits

- Section 4.7.1.B.2: Correct the reference to “CR Zone Incentive Density Guidelines” to reference “Commercial/Residential and Employment Zone Incentive Density Guidelines”.
- Section 4.7.3.E.5 Correct the public art language to match the current practice of the Art Review Panel.

Industrial Zones

- Section 4.8.3: Add a reference to the table in Section 7.3.4.A.8 that indicates when site plan is required for standard method development so that applicants know they may have to go through site plan in an Industrial zone. Also correct the numbered reference to amenity open space in the development standards table.

Overlay Zones

- Section 4.9.8.D.1: Clarify language in the Garrett Park Overlay to be consistent with old code. For buildings on a corner lot, add a reference that the side street setback must be equal to or greater than the front setback of a building on an abutting lot that fronts on the side street.
- Section 4.9.14.D.2.c: In the Takoma Park/East Silver Spring Commercial Revitalization Overlay, remove the reference to the EOF zone since there is no longer any land classified in the EOF zone within this Overlay.
- Section 4.9.15.B.2.c: Clarify, in the table for the TDR Overlay zone, that the minimum usable area of the R-60 optional method MPDU development standards do not apply.
- Section 4.9.18.B.1: Add language from the old zoning code to the Upper Rock Creek Overlay zone to indicate that development not served by community sewer is exempt from the requirements of the overlay zone.

Article 59-5

- Section 5.1.2.B.3: Correct this floating zone intent statement; it references terms used in an old draft of the new zoning code, and some of the language is redundant.
- Section 5.3.1.B; Section 5.4.1.B; Section 5.5.1.B: Clarify that the mapping increments (0.25 for density and 5' for height) apply to the C/R, Employment, and Industrial Floating zones.

Article 59-6

- Section 6.2.2.B: Modify the applicability language so it refers to a parking waiver instead of alternative compliance. A parking waiver provision is added via Section 6.2.10 of this ZTA.
- Section 6.2.3.D.1 and Section 6.2.3.E: Clarify the language for calculating the minimum number of car-share and electric vehicle charging spaces required.
- Section 6.2.3.G.1.e: Modify the off-site parking language so it refers to a parking waiver instead of alternative compliance. A parking waiver provision is added via Section 6.2.10 of this ZTA.
- Section 6.2.4: Clarify how the metrics in the parking table work in terms of calculating the baseline minimum (per Hearing Examiner request).
- Section 6.2.5.M: Clarify that the requirements for surface parking in the R-60 and R-90 zones also apply to the side street, not just the front street.

- Section 6.2.10: Add language to allow the deciding body to grant a parking waiver, similar to the old code.
- Section 6.4.3.C.2.a; Section 6.4.3.C.3.c: Remove the provision which prohibits fences and walls above 4 feet tall in the front setback of a Residential zone; fence height would generally be restricted to 6' 6" anywhere on a property. The 4 foot restriction was added by the consultant who produced the original drafts of the new zoning code. After implementation of the new code, DPS realized that many fences above 4 feet currently exist in the front setbacks of many Residential neighborhoods, and residents continue to want to repair these existing fences or request new privacy fences taller than 4' in height. Further, swimming pools, which can be located in the side yard of a corner lot, require 5' fences to comply with pool safety requirements.
- Section 6.8.1: Clarify the language in alternative compliance and remove the reference to Division 6.2, since the parking waiver (included in Section 6.2.10 of this ZTA) now applies to that Division.

Article 59-7

- Section 7.3.1.B.2: Add renters to the list of associations under Application Requirements.
- Section 7.3.1.K.2: Modify the conditional use minor amendment to accommodate the 60 day time frame for amending a *Telecommunications Tower* conditional use as required under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a). With the modified language, noticing is required for a *Telecommunications Tower* minor conditional use amendment, but a hearing cannot be requested.
- Section 7.3.2.B.2: Add renters to the list of associations under Application Requirements.
- Section 7.3.3.B.3.e: Add renters to the list of associations under Application Requirements.
- Section 7.3.3.B.3.h.v: Clarify language in sketch plan application requirements.
- Section 7.3.3.C: Clarify that if a sketch and preliminary plan come in together the timeframe to review the application follows the longer time frame (120 days).
- Section 7.3.3.I. Add language to clarify the sketch plan amendment process.
- Section 7.3.4.A: Clarify that site plan approval is required as indicated in the table in Section 7.3.4.A.8 and as specified in the Chapter, and remove the references to specific types of applications that require site plan approval. Also clarify that site plan approval is required for new construction or the expansion of an existing structure, but not for a new use relocating to

an existing building. Finally, when calculating the intensity of a proposed building expansion to determine if site plan approval is required, both the existing structure and the expansion must be included.

- Section 7.3.4.B.2.e: Add renters to the list of associations under Application Requirements.
- Section 7.3.4.B.2.l.i: Add “use” to the list of elements that an applicant must show on a proposed site plan.
- Section 7.3.4.G.2.c: Clarify that only “a structure other than a building” that does not conflict with any finding required for site plan approval is exempt from conformance to an approved site plan. Remove “paved surface” from the list of things that are exempt from conformance to approved site plans as it is now captured under the definition of site element and limited in size.
- Section 7.4.1.C: Clarify that the Planning Director must confirm that a property has all necessary approvals from the Planning Board and Planning Director before a building permit is issued.
- Section 7.5.2.B: Clarify that the pre-submittal meeting must be held within 90 days of filing the application, and remove the requirement that a pre-submittal meeting notice include phone and website info for intake agency. At the time of the pre-submittal meeting, the Planning Department is generally unaware of the details of the application, so including the agency’s contact information on the pre-submittal meeting sign will cause confusion for the public and the Planning Department staff.
- Section 7.5.2.H: Remove language that contradicts, or is redundant with, language in Division 7.2 and Division 7.3. Also clarify that a recommendation report provided by the Planning Director to the Planning Board must be posted on the Planning Board’s website.
- Section 7.6.1.C.5: Add renters to the list of associations under Application Requirements and clarify that pre-submittal meeting attendees only get noticed if they requested to be a party of record.
- Section 7.7.1.A.1: Clarify that a new use can locate in a building or structure deemed conforming under this section.
- Section 7.7.1.B.1: Clarify that the gross tract area of an application in progress prior to October 30, 2014 may not be increased. This prevents applicants from incrementally adding gross floor area to a project by using density transfers.
- Section 7.7.1.B.3: Clarify the use of the words “amended” vs “modified” when referring to applications and plans; an application is modified, while a plan is amended. This terminology is used by the Planning Department, so modifying the language will reduce confusion. Also clarify that any amendment to an application filed under the old code cannot add additional gross floor area with a density transfer recorded after October 30, 2014.

- Section 7.7.1.B.5: Add language to clarify that binding elements associated with a Local Map Amendment approved prior to October 30, 2014 apply until a property is rezoned through a Sectional Map Amendment and a new application is approved.
- Section 7.7.1.C.1: Clarify the amendment vs. modification language as described above.
- Section 7.7.1.C.2: Modify the header to clarify that this Section only applies to properties in Commercial/ Residential, Employment, and Industrial zones. Also clarify that an *application* pending on October 29, 2014 may expand up to the full amount allowed under the property's zoning on October 29, 2014, but once the application is approved, any expansion under the prior zone is limited to the lesser of 10% of the gross floor area or 30,000square feet.
- Section 7.7.1.D.6.a: Add language from the old code that allows lots and parcels in the RE-2, RE-2C, and RE-1 zones to develop under the area and dimensional requirements of a prior zone if a lot was approved on or before the date of the most recent Sectional Map Amendment.
- Section 7.7.1.D.7: Add language from the old code that allows a lot or parcel in the Rural zone to develop under the area and dimensional standards of a prior zone if the lot was created by June 1974, or if lots under 5 acres were created by replatting 2 or more lots.
- Section 7.7.1.D.8: Add language from the old code that allows a lot or parcel in the RC zone to develop under the area and dimensional standards of a prior zone if the lot was created before the approval of the most recent Sectional or Local Map Amendment, or if lots under 5 acres were created by replatting 2 or more lots.
- Add language from the old zoning ordinance that, under certain circumstances, would exempt lots or parcels in the AR, Rural, RC, RE-2, RE-2C, and RE-1 zones from the area and dimensional requirements of the current zone. The exemption generally applies to lots and parcels created by deed before the approval of the most recent Sectional Map Amendment that included the subject property.

Article 59-8

- Section 8.1.1: Clarify that the zones nominally retained from the previous ordinance (RT, R-H, PD, T-S, PNZ, and PRC) must be rezoned during the master plan process.
- Section 8.2.4; Section 8.2.5; Section 8.3.2; Section 8.3.5; Section 8.3.6: For consistency with the old zoning ordinance, replace the "open space" requirement in the RT, RH, PD, PRC, PCC zones with a "green area" requirement.



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

May 18, 2015

The Honorable George Leventhal
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council for Introduction of
Zoning Text Amendment to revise the Zoning Ordinance for
Modifications, Corrections and Clarifications.

Dear President Leventhal:

On May 14, 2015, by a vote of 5-0 the Board recommended transmitting the attached omnibus Zoning Text Amendment (ZTA) to the County Council for introduction. The ZTA includes clarifications and corrections based on implementation of the new zoning ordinance by the Planning Department, the Department of Permitting Services (DPS), the Office of Zoning and Administrative Hearings (OZAH), and other stakeholders.

Background

The new zoning ordinance was adopted on March 5, 2014, and became effective on October 30, 2014. ZTA No. 14-09, which addressed initial corrections and clarifications to the zoning ordinance, was adopted on September 30, 2014, and also became effective on October 30, 2014. Since its effective date, widespread use of the new zoning ordinance has revealed text in need of clarification or correction, as well as a few substantive concerns. While a majority of the proposed revisions are minor in nature, some notable modifications to the code are also proposed.

Proposed ZTA

The substantive issues addressed in this ZTA include:

- Revision of the definition of right-of-way and building height.
- Limiting the application of the general conditional use standards for an accessory apartment.

134

The Honorable George Leventhal
May 18, 2015
Page 2

- Modification of the *Build-to Area, Transparency, Building Orientation, and Parking Setbacks for Surface Parking Lots* requirements under the standard method of development in the EOF and LSC zones for consistency with ZTA 15-05.
- Modifications to the process for amending a site plan.
- Amendment of the noticing standards for projects approved by the Planning Board (sketch plan, site plan, and major site plan amendments).
- Clarification of the provision for expansions above the amount “grandfathered” under a prior zone (typically the lesser of 10% or 30,000 square feet).

In addition to the more substantive changes, this ZTA proposes revisions to correct editorial errors characterized as unintentional changes from the prior zoning code. The ZTA also clarifies provisions that have been noted as confusing or unclear. The more “Substantive Changes” and the revisions to correct editorial errors are summarized in the attached technical staff report.

The Planning Board and its staff will be available to assist the Council in the review of the proposed zoning code revisions.

Sincerely,



Casey Anderson
Chair

CA:gr

Attachments:

Technical Staff Report including proposed ZTA

cc: Planning Board Commissioners
Rose Krasnow
Gwen Wright



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

The Maryland-National Capital Park and Planning Commission

July 13, 2015

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 15-09

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment (ZTA) No. 15-09 at our regular meeting on July 9, 2015. By a vote of 3:0, the Planning Board recommends approval of the text amendment as modified by Planning Staff and depicted in the ZTA separate from the technical staff report. The technical staff report clarifies language, corrects errors, generally amends language in the new zoning ordinance for consistency with recently approved ZTAs, and addresses feedback received since the introduction of ZTA 15-09. The additional modifications made to the ZTA by the Board were minor clarifications to the text.

Since the effective date of the new zoning code, widespread use of the ordinance has revealed text in need of clarification or correction, as well as a few substantive concerns. To address the need for changes to the new zoning ordinance, the Planning Board transmitted a proposed ZTA to the County Council on May 15, 2015. Since the introduction of ZTA 15-09, Planning Staff has received feedback on the language, as well as comments on other issues that have emerged with the implementation of the new zoning code. Modifications to ZTA 15-09 proposed by Planning Staff and approved by the Board are summarized in the technical staff report, with the exception of plain language edits, the correction of grammatical and spelling errors, and a few minor clarifications recommended by the Planning Board.

During its review, the Board discussed a proposal by Martin Grossman, the Director of the Office of Zoning and Administrative Hearings (OZAH). Mr. Grossman suggested eliminating the accessory apartment conditional use process. In his proposal, where an accessory apartment is allowed as a limited use, any challenge to an accessory apartment

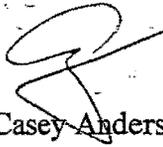
136

license rejection by the Department of Housing and Community Affairs (DHCA) based on a lack of onsite parking or proximity to other accessory apartments would be the subject of the existing objection process by which accessory apartment license applicants (or opponents) challenge a finding of the DHCA Director. Objections on these grounds would still be handled by OZAH (as with other DHCA objection cases), but it would be DHCA that would supply the knowledge and expertise about adequate or inadequate on-street parking and the proximity of other accessory apartments. The Hearing Examiner would still assess the impact on the community from the DHCA information and the testimony of the applicant and any opposition. Furthermore, Mr. Grossman recommends that where an accessory apartment is allowed only as a conditional use, it be allowed as a limited/conditional use so that the proposed review process described above applies in all zones.

The Planning Board supports Mr. Grossman's proposal with respect to modifying the limited use review process for accessory apartments; however, because this change directly affects DHCA, requiring them to assume the review and recommendation responsibility of all accessory apartments that cannot meet the parking or spacing requirements, the Board suggests this change be made after consultation and agreement by DHCA. Planning Staff will brief DHCA Staff on ZTA 15-09 prior to the PHED committee worksession.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, July 9, 2015.


Casey Anderson
Chair

CA:pd