

Ordinance No.: 17-52
Zoning Text Amendment No.: 14-09
Concerning: Zoning Ordinance
Rewrite – Updates,
Clarifications, and
Corrections
Draft No. & Date: 2 – 9/23/14
Introduced: July 29, 2014
Public Hearing: September 9, 2014
Adopted: September 30, 2014
Effective: October 30, 2014

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

By: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance that is effective October 30, 2014 to:

- clarify language and correct errors;
- add the substance of text amendments approved by Council since March 11, 2014;
- address issues raised in the course of approving District Map Amendment G-956; and
- generally amend the Zoning Ordinance that will be in effect on October 30, 2014

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

DIVISION 59-1.4.	“DEFINED TERMS”
Section 59-1.4.1.	“Rules of Interpretation”
Section 59-1.4.2.	“Specific Terms and Phrases Defined”
Division 59-2.1.	“Zones Established”
Section 59-2.1.3.	“Establishment of Zones”
DIVISION 59-2.2.	“Zoning Map”
Section 59-2.2.1.	“Zoning Maps”
DIVISION 59-3.1.	“USE TABLE”
Section 59-3.1.6.	“Use Table”
DIVISION 59-3.2.	“AGRICULTURAL USES”
Section 59-3.2.3.	“Community Garden”
Section 59-3.2.9.	“Urban Farming”
Section 59-3.2.10.	“Winery”
Section 59-3.2.12.	“Temporary Agricultural Uses”

DIVISION 59-3.3.	“RESIDENTIAL USES”
Section 59-3.3.1.	“ <u>Household Living</u> ”
Section 59-3.3.2.	“Group Living”
DIVISION 59-3.4.	“CIVIC AND INSTITUTIONAL USES”
Section 59-3.4.2.	“Charitable, Philanthropic Institution”
DIVISION 59-3.5.	“COMMERCIAL USES”
Section 59-3.5.7.	“Medical and Dental”
Section 59-3.5.8.	“Office and Professional”
Section 59-3.5.10.	“Recreation and Entertainment”
Section 59-3.5.11.	“Retail Sales and Service”
Section 59-3.5.14.	“Accessory Commercial Uses”
DIVISION 59-3.6.	“INDUSTRIAL USES”
Section 59-3.6.5.	“Mining, Excavation”
Section 59-3.6.8.	“Warehouse”
DIVISION 59-3.7.	“MISCELLANEOUS USES”
Section 59-3.7.2.	“Solar Collection System”
DIVISION 59-4.1.	“RULES FOR ALL ZONES”
Section 59-4.1.4.	“Building Types Allowed by Zone in the Agricultural, Rural Residential, and Residential Zones”
Section 59-4.1.7.	“Measurement and Exceptions”
Section 59-4.1.8.	“Compatibility Requirements”
DIVISION 59-4.2.	“Agricultural Zone”
Section 59-4.2.1.	“AR Zone”
DIVISION 59-4.4.	“RESIDENTIAL ZONES”
Section 59-4.4.1.	“Standard Method Development”
Section 59-4.4.2.	“Optional Method Development”
Section 59-4.4.7.	“R-200 Zone”
Section 59-4.4.8.	“R-90 Zone”
Section 59-4.4.9.	“R-60 Zone”
DIVISION 59-4.5.	“COMMERCIAL/RESIDENTIAL ZONES”
Section 59-4.5.2.	“Density and Height Allocation”
Section 59-4.5.3.	“Standard Method Development”
Section 59-4.5.4.	“Optional Method Development”
DIVISION 59-4.6.	“EMPLOYMENT ZONES”
Section 59-4.6.2.	“Density and Height Allocation”
Section 59-4.6.3.	“Standard Method Development”
Section 59-4.6.4.	“Optional Method Development”
DIVISION 59-4.7.	“OPTIONAL METHOD PUBLIC BENEFITS”
Section 59-4.7.3.	“Public Benefit Descriptions and Criteria”
DIVISION 59-4.8.	“INDUSTRIAL ZONES”
Section 59-4.8.2.	“Density and Height Allocation”
DIVISION 59-4.9.	“OVERLAY ZONES”
Section 59-4.9.4. to Section 59-4.9.18.	
DIVISION 59-5.1.	“IN GENERAL”
Section 59-5.1.3.	“Applicability”
DIVISION 59-6.2.	“PARKING, QUEUING, AND LOADING”

Section 59-6.2.3.	“Calculation of Required Parking”
Section 59-6.2.5.	“Vehicle Parking Design Standards”
DIVISION 59-6.4.	“GENERAL LANDSCAPING AND OUTDOOR LIGHTING”
Section 59-6.4.3.	“General Landscaping Requirements”
DIVISION 59-7.2.	“DISTRICT COUNCIL APPROVALS”
Section 59-7.2.1.	“Local Map Amendment”
DIVISION 59-7.3.	“REGULATORY APPROVALS”
Section 59-7.3.1.	“Conditional Use”
Section 59-7.3.2.	“Variance”
Section 59-7.3.3.	“Sketch Plan”
Section 59-7.3.4.	“Site Plan”
DIVISION 59-7.4.	“ADMINISTRATIVE APPROVALS”
Section 59-7.4.1.	“Building Permit”
Section 59-7.4.4.	“Sign Variance”
DIVISION 59-7.6.	“SPECIAL PROVISIONS”
Section 59-7.6.1.	“Board of Appeals”
DIVISION 59-7.7.	“EXEMPTIONS AND NONCONFORMITIES”
Section 59-7.7.1.	“Exemptions”
Section 59-7.7.2.	“Nonconforming Use”
DIVISION 59-8.1.	“IN GENERAL”
Section 59-8.1.2.	“Modification of Zones”
DIVISION 59-8.3.	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-8.3.6.	“PCC 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.*

OPINION

Zoning Text Amendment No. 14-09 was introduced on July 29, 2014, sponsored by Councilmember Floreen. This purpose of the ZTA was to:

- clarify language and correct errors;
- add the substance of text amendments approved by Council since March 11, 2014;
- address issues raised in the course of approving District Map Amendment G-956; and
- generally amend the Zoning Ordinance that will be in effect on October 30, 2014.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved with amendments.

The County Council held a public hearing on September 9, 2014 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on September 22, 2014 to review the amendment in light of the Staff memorandum prepared for that meeting. The Committee recommended a number of revisions documented in the memorandum to Council for its September 30, 2014 worksession. Those recommended changes were as follows:

- 1) Section 59-3.5.10.E.2 should be revised to read as follows, to clarify the basis to determine the limitation on health clubs:

E. Health Clubs and Facilities

* * *

2. Use Standards

- b. In the NR zone, the maximum size is 40% of the gross floor area in non-residential use. The gross floor area in non-residential use must be calculated after any reconstruction or enlargement.

- 2) Revise Section 3.6.5.A to prohibit fracking and read as follows:

Mining, Excavation

A. Defined

Mining, Excavation means any use that extracts rocks, minerals, and other natural resources from the ground. Mining, Excavation only includes borrow pit and gravel mining.

- 3) Section 4.4.8.C.1.a should allow a site of any size to use the cluster option if it abuts an existing cluster development in the same zone and it would be a compatible extension of the neighboring development.

- 4) Section 4.5.2.A.3 (Density and Height Allocation of the Commercial/Residential zones) should be revised to allow the CRT zone to be mapped at a density of 0.25 FAR, rather than requiring that the CRT zone be mapped at a density of at least 0.5 FAR.
- 5) Add to the end of Section 4.5.3.C.3 Standard Method Development

Modification to Build-to Area

a. The Build-to Area maximum front or side street setback may be increased by the minimum setback necessary to avoid a platted public transportation or utility easement, or a platted public transportation or utility reservation.

- 6) Section 6.2.3.F (which ZTA 14-09 will change from 6.2.3.F to 6.2.3.G) should have the following provision added:

An applicant may satisfy the required number of vehicular parking spaces if the property is within the boundary of a duly established Municipal Shared Parking Program and the municipality confirms that the property will participate in that Program.

- 7) Section 59-7.2.1. Local Map Amendment should read as follows:

* * *

B. Application Requirements

* * *

2. The applicant must submit the following for review:

* * *

- g. For a Floating zone, a floating zone plan depicting:

* * *

- v. the following additional information:

- (a) current and proposed zone;
- (b) a plan certified by a licensed professional, showing existing site conditions and vicinity within 100 feet, including total tract area; existing topography; watershed in which the site is located; Special Protection or Primary Management areas; any floodplain, wetland, or perennial or intermittent stream, and any associated buffers; whether or not rare, threatened, or endangered species were observed on the property; whether or not the property is on the Locational Atlas and Index of Historic Sites; the aerial extent of forest and tree cover on the property; and date(s) field work was conducted;

- 8) Section 7.3.2.E should be revised to prohibit use variances by adding the following provision:

Granting the variance may only authorize a use of land allowed by the underlying zone.

- 9) Section 7.3.2.E.6 should be revised to include confronting properties as follows:

Granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

- 10) Section 7.3.2.F.2 should be revised to delete the sentence, "*If a decision on a variance is appealed to a court, this time limit runs from the date of the final court order in the appeal.*" and relocate the sentence to Section 7.3.2.G.1, which will allow an extension of the variance's validity period.

- 11) Section 7.7.1.B.5 should read as follows:

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

- a. Any development allowed on property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment must satisfy any binding elements until:
- i. the property is subject to a Sectional Map Amendment that implements a master plan approved after October 30, 2014;
 - ii. the property is rezoned by Local Map Amendment; or
 - iii. the binding element is revised by a development plan amendment under the procedures in effect on October 29, 2014.
- b. Any development on a property that was zoned H-M on October 29, 2014 must include 45 percent green area, under the zoning in effect on October 29, 2014, until the property is subject to a sectional map amendment or rezoned by local map amendment. The green area required under this provision satisfies, and is not in addition to, any open space requirement of the property's zoning on October 30, 2014.

- 12) Section 7.7.1.C (Expansion of Floor Area Existing on October 30, 2014) should read as follows to allow Council approved development plan amendments to expand the allowable floor area under procedures in the current code:

3. Prior Floating Zones

- a. A property where the zoning on October 29, 2014 was the result of a Local Map Amendment with an approved development plan may expand as allowed under Section 7.7.1.C.3.b. Any expansion must satisfy Section 7.7.1.C.1.

- 13) Revise ZTA 14-09 to reflect the technical and editorial changes as proposed by Staff in the memorandum prepared for the September 22, 2014 Planning, Housing, and Economic Development Committee meeting.

The District Council reviewed Zoning Text Amendment No. 14-09 at a worksession held on September 30, 2014 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 14-09 will be approved as amended.

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. TABLE OF CONTENTS is amended as follows:**

2 Table of Contents

3 **Article 59-4. Development Standards for Euclidean Zones**

4 * * *

5 **DIVISION 4.9. OVERLAY ZONES**

6 SECTION 4.9.1. IN GENERAL

7 SECTION 4.9.2. BURTONSVILLE EMPLOYMENT AREA (BEA) OVERLAY ZONE

8 SECTION 4.9.3. CHEVY CHASE NEIGHBORHOOD RETAIL (CCNR) OVERLAY ZONE

9 SECTION 4.9.4. CLARKSBURG EAST ENVIRONMENTAL (CEE) OVERLAY ZONE

10 SECTION 4.9.5. CLARKSBURG WEST ENVIRONMENTAL (CWE) OVERLAY ZONE

11 SECTION [4.9.4] 4.9.6. COMMUNITY-SERVING RETAIL (CSR) OVERLAY ZONE

12 SECTION [4.9.5] 4.9.7. FENTON VILLAGE (FV) OVERLAY ZONE

13 SECTION [4.9.6] 4.9.8. GARRETT PARK (GP) OVERLAY ZONE

14 SECTION [4.9.7] 4.9.9. GERMANTOWN TRANSIT MIXED USE (GTMU) OVERLAY
15 ZONE

16 SECTION [4.9.8] 4.9.10. REGIONAL SHOPPING CENTER (RSC) OVERLAY ZONE

17 SECTION [4.9.9] 4.9.11. RIPLEY/SOUTH SILVER SPRING (RSS) OVERLAY ZONE

18 SECTION [4.9.10] 4.9.12. RURAL VILLAGE CENTER (RVC) OVERLAY ZONE

19 SECTION [4.9.11] 4.9.13. SANDY SPRING/ASHTON RURAL VILLAGE (SSA) OVERLAY
20 ZONE

21 SECTION [4.9.12] 4.9.14. TAKOMA PARK/EAST SILVER SPRING COMMERCIAL
22 REVITALIZATION (TPESS) OVERLAY ZONE

23 SECTION [4.9.13] 4.9.15. TRANSFERABLE DEVELOPMENT RIGHTS (TDR) OVERLAY
24 ZONE

25 SECTION [4.9.14] 4.9.16. TWINBROOK (TB) OVERLAY ZONE

26 SECTION [4.9.15] 4.9.17. UPPER PAINT BRANCH (UPB) OVERLAY ZONE

27 SECTION [4.9.16] 4.9.18. UPPER ROCK CREEK (URC) OVERLAY ZONE

28 * * *

29 **Sec. 2. DIVISION 59-1.4 is amended as follows:**

30 **Division 59-1.4. Defined Terms**

31 **Section 59-1.4.1. Rules of Interpretation**

32 The following rules of interpretation apply to this Chapter.

33 * * *

34 **L. Use of "Section"**

35 In this Chapter, [[where the word]] "Section" [[precedes a reference to a
36 subsection, it may mean the subsection referenced]] means section or
37 subsection, as the context indicates.

38 **Section 59-1.4.2. Specific Terms and Phrases Defined**

39 * * *

40 **Coverage:** See Section [4.1.7.B.5] 4.1.7.B.4

41 * * *

42 **Gross Floor Area (GFA):** The sum of the gross horizontal areas of all floors of all
43 buildings on a tract, measured from exterior faces of exterior walls and from the
44 center line of walls separating buildings. Gross floor area includes:

- 45 1. basements;
- 46 2. elevator shafts and stairwells at each floor;
- 47 3. floor space used for mechanical equipment with structural headroom
48 of 6 feet, 6 inches or more, except as exempted in the LSC and
49 Industrial zones;
- 50 4. floor space in an attic with structural headroom of 6 feet, 6 inches or
51 more (regardless of whether a floor has been installed); and
- 52 5. interior balconies and mezzanines.

53 Gross floor area does not include:

- 54 1. mechanical equipment on rooftops;
- 55 2. cellars;
- 56 3. unenclosed steps, balconies, and porches;
- 57 4. [structured] parking;
- 58 5. floor area for publicly owned or operated uses or arts and
- 59 entertainment uses provided as a public benefit under the optional
- 60 method of development;
- 61 [6. floor area for an historic resource recommended in the master plan to
- 62 be preserved and reused, which does not occupy more than 10% of the
- 63 gross floor area;]
- 64 [7] 6. interior balconies and mezzanines for common, non-leasable area in a
- 65 regional shopping center; and
- 66 [8] 7. in the LSC and Industrial zones, floor space used for mechanical
- 67 equipment.

68 * * *

69 **Impervious Surface:** Any [covering] surface that prevents or significantly
70 impedes the infiltration of water into the underlying soil, including any structure,
71 building, patio, [deck,] sidewalk, compacted gravel, pavement, asphalt, concrete,
72 stone, brick, tile, swimming pool, or artificial turf. Impervious surface also
73 includes any area used by or for motor vehicles or heavy commercial equipment
74 regardless of surface type or material, any road, [road shoulder,] driveway, or
75 parking area.

76 * * *

77 **Permeable Area:** Any surface that allows the infiltration of water into the
78 underlying soil. Permeable area does not include any structure, building, patio,
79 [deck,] sidewalk, compacted gravel, pavement, asphalt, concrete, stone, brick, tile,
80 swimming pool, artificial turf, or any area used by or for motor vehicles or heavy
81 commercial equipment, regardless of surface type or material, including any road,
82 [road shoulder,] driveway, or parking area.

83 * * *

84 **Road, [Residential] Primary Residential:** See Chapter 49.

85 * * *

86 **Sec. 3. DIVISION 59-2.1 is amended as follows:**

87 **Division 59-2.1. Zones Established**

88 * * *

89 **Section 2.1.3. Establishment of Zones**

90 * * *

91 **G. Overlay Zones**

92 1. There are [15] 17 Overlay zone classifications:

- 93 a. Burtonsville Employment Area (BEA),
- 94 b. Chevy Chase Neighborhood Retail (CCNR),
- 95 c. Clarksburg East Environmental (CEE),
- 96 d. Clarksburg West Environmental (CWE),
- 97 [c] e. Community-serving Retail (CSR),
- 98 [d] f. Fenton Village (FV),
- 99 [e] g. Garrett Park (GP),
- 100 [f] h. Germantown Transit Mixed Use (GTMU),
- 101 [g] i. Regional Shopping Center (RSC),

- 102 [h] j. Ripley/South Silver Spring (RSS),
- 103 [i] k. Rural Village Center (RVC),
- 104 [j] l. Sandy Spring/Ashton Rural Village (SSA),
- 105 [k] m. Takoma Park/East Silver Spring Commercial Revitalization
- 106 (TPESS)
- 107 [l] n. Transferable Development Rights (TDR)
- 108 [m] o. Twinbrook (TB),
- 109 [n] p. Upper Paint Branch (UPB), and
- 110 [o] q. Upper Rock Creek (URC).

2. Building types, uses, density, height, and other standards and requirements may be modified by the Overlay zones under Section 4.9.2 through Section [4.9.16] 4.9.18.

* * *

Sec. 4. DIVISION 59-2.2 is amended as follows:

Division 2.2. Zoning Map

Section 2.2.1. Zoning Maps

A. Adoption of Zoning Map

* * *

4. The Planning Director must file an offline digital copy of the digital map and must provide a digital copy of the District Council approved map to the Director of DPS, the Hearing Examiner, the [[clerk]] Clerk of the Circuit Court, and the Executive Director of the Board of Appeals on October 30, 2014.

* * *

C. Changes to be Recorded on the Digital Zoning Layer

127 * * *

128 3. When the digital zoning layer is changed, the Planning Director must
129 file an offline digital copy of the digital map and must provide a new
130 digital copy of the map to the Director of DPS, the Hearing Examiner,
131 the [[clerk]] Clerk of the Circuit Court, and the Executive Director of
132 the Board of Appeals within 10 days of the District Council's action.

133 * * *

134 **F. Zoning on October 29, 2014**

135 A property's zoning on October 29, 2014 may be determined by the October
136 29, 2014 digital zoning map, which will be permanently kept and maintained
137 by the Planning Department on their website.

138 * * *

139 **Sec. 5. DIVISION 59-3.1 is amended as follows:**

140 **Division 59-3.1. Use Table**

141 * * *

142 **Section 59-3.1.6. Use Table**

143 The following Use Table identifies uses allowed in each zone. Uses may be
144 modified in Overlay zones under Division 4.9.

145 * * *

162 4. The maximum [[total]] gross floor area of all structures, including
163 aquaculture tanks or pools but excluding greenhouses, is 10% of the
164 lot or parcel on any urban farm.

165 * * *

166 **Section 59-3.2.10. Winery**

167 * * *

168 **B. Use Standards**

169 * * *

170 2. Where a Winery is allowed as a conditional use, it may be permitted
171 by the Hearing Examiner under Section 7.3.1, Conditional Use, and
172 the following standards:

173 * * *

174 c. The lot must front on and have access to a road built to primary
175 residential or higher standards.

176 * * *

177 **Section 59-3.2.12. Temporary Agricultural Uses**

178 * * *

179 **B. Seasonal Outdoor Sales**

180 * * *

181 **2. Use Standards**

182 Where Seasonal Outdoor Sales is allowed as a limited use, it must
183 satisfy the following standards:

184 * * *

185 e. In the Agricultural, Rural Residential, Residential, LSC, and
186 EOF zones:

- 187 i. The property must be vacant or used for nonresidential
188 purposes.
- 189 ii. Except where Seasonal Outdoor Sales occur on the site of
190 a Religious Assembly use, the site must front on and
191 have access to a road built to primary residential or
192 higher standards.

193 * * *

194 **Sec. 7. DIVISION 59-3.3 is amended as follows:**

195 **Division 59-3.3. Residential Uses**

196 **Section 59-3.3.1. Household Living**

197 * * *

198 **B. Single-Unit Living**

199 * * *

200 **2. Use Standards**

201 Where Single-Unit Living is allowed as a limited use, it must satisfy
202 the following standards:

- 203 a. In the GR, NR, and EOF zones, the gross floor area of all
204 Household Living uses ~~[[on a site]]~~ is limited to 30% of the
205 ~~[[total]]~~ gross floor area on the subject site.

206 * * *

207 **C. Two-Unit Living**

208 * * *

209 **2. Use Standards**

210 * * *

211 d. In the GR, NR, and EOF zones, the gross floor area of all
212 Household Living uses [[on a site]] is limited to 30% of the
213 [[total]] gross floor area on the subject site.

214 * * *

215 **D. Townhouse Living**

216 * * *

217 **2. Use Standards**

218 * * *

219 d. In the GR, NR, and EOF zones, the gross floor area of all
220 Household Living uses [[on a site]] is limited to 30% of the
221 [[total]] gross floor area on the subject site.

222 * * *

223 **E. Multi-Unit Living**

224 * * *

225 **2. Use Standards**

226 Where Multi-Unit Living is allowed as a limited use, it must satisfy
227 the following standards:

228 a. In the GR, NR, and EOF zones, the gross floor area of all
229 Household Living uses [[on a site]] is limited to 30% of the
230 [[total]] gross floor area on the subject site.

231 * * *

232 **Section 59-3.3.2. Group Living**

233 * * *

234 **E. Residential Care Facility**

235 * * *

236 **2. Use Standards**

237 * * *

238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263

c. Residential Care Facility (Over 16 Persons)

* * *

ii. Where a Residential Care Facility (Over 16 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

~~(f)~~ In the R-10 and R-20 zones, the development standards of the apartment building type apply, except as modified by Section 3.3.2.E.2.c.

~~[(f)]~~ (g) Independent dwelling units must satisfy the MPDU provisions of Chapter 25 (Section 25.A-5).

~~[(g)]~~ (h) In a continuing care retirement community, occupancy of any independent dwelling unit is restricted to persons 62 years of age or older, with the following exceptions:

* * *

~~[(h)]~~ (i) Height, density, coverage, and parking standards must be compatible with surrounding uses [and]; the Hearing Examiner may modify any standards to maximize the compatibility of the building with the residential character of the surrounding neighborhood.

~~[(i)]~~ (j) In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

264 * * *

265 **Sec. 8. DIVISION 59-3.4 is amended as follows:**

266 **Division 59-3.4. Civic and Institutional Uses**

267 * * *

268 **Section 59-3.4.2. Charitable, Philanthropic Institution**

269 * * *

270 **B. Use Standards**

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

274 * * *

275 3. In the AR, R, RC, and RNC:

276 * * *

277 b. The site fronts on and has direct access to a public road built to
278 arterial or higher road standards. Frontage on and access to an
279 arterial or higher standard is not required where the Hearing
280 Examiner finds that road access by a primary residential or
281 secondary residential road will be safe and adequate for the
282 anticipated traffic to be generated.

283 * * *

284 7. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:

285 a. The site fronts on and has direct access to a road built to
286 primary residential road or higher standards. Access to a corner
287 lot may be from an abutting primary street, constructed to
288 primary residential standards, if the Hearing Examiner finds

289 this access to be appropriate and not detrimental to existing
290 residential uses on that primary residential street.

291 * * *

292 **Sec. 9. DIVISION 59-3.5 is amended as follows:**

293 **Division 59-3.5. Commercial Uses**

294 * * *

295 **Section 59-3.5.7. Medical and Dental**

296 **A. Clinic (Up to 4 Medical Practitioners)**

297 * * *

298 **2. Use Standards**

299 Where a Clinic (Up to 4 Medical Practitioners) is allowed as a
300 conditional use, it may be permitted by the Hearing Examiner under
301 Section 7.3.1, Conditional Use, and the following standards:

302 * * *

303 c. The site must front on and have direct access to a business
304 district street or higher classification; however, access to a
305 corner lot may be from an abutting [primary] street built to
306 primary residential standards, if the Hearing Examiner finds the
307 access to be appropriate and not detrimental to existing
308 residential uses on the primary residential street.

309 * * *

310 **Section 59-3.5.8. Office and Professional**

311 **A. Life Sciences**

312 **Defined**

313 Life Sciences means the research, development, and manufacturing activities
314 in one or more of the following scientific fields: biology, biophysics,

315 biochemistry, bioelectronics, biotechnology, biomedical engineering,
316 bioinformatics, medicine, immunology, embryology, clinical engineering,
317 diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug
318 production, genetic testing, or gene therapy activities. Life Sciences also
319 includes a Hospital and uses accessory to a Hospital, other than
320 medical/dental clinic.

321 * * *

322 **B. Office**

323 * * *

324 **2. Use Standards**

325 a. Where an Office is allowed as a limited use, it must satisfy the
326 following standards:

327 i. In the LSC zone, an Office for a company that is not
328 principally engaged in health services, research and
329 development, or high technology industrial activities is
330 limited to 40% of the [[total]] gross floor area on the
331 subject site.

332 * * *

333 **Section 59-3.5.10. Recreation and Entertainment**

334 * * *

335 **E. Health Clubs and Facilities**

336 * * *

337 **2. Use Standards**

338 * * *

339 b. In the NR zone, the maximum size is [14,500 square feet of
 340 gross floor area] 40% of the [[floor area of the]] gross floor area
 341 in [[retail]] non-residential use. The gross floor area in [[retail]]
 342 non-residential use must be calculated after any reconstruction
 343 or enlargement.

344 * * *

345 **G. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000**
 346 **Persons)**

347 * * *

348 **2. Use Standard**

349 Where a Recreation and Entertainment Facility, Outdoor (Capacity up
 350 to 1,000 Persons) is allowed as a conditional use, it may be permitted
 351 by the Hearing Examiner under Section 7.3.1, Conditional Use and
 352 the following standards:

353 a. In the RE-2C zone:

354 * * *

355 v. The site must have direct access to a public road that is
 356 built to primary residential or higher standards.

357 * * *

358 b. In the R-200 zone:

359 * * *

360 v. The site must have direct access to a public road that is
 361 built to primary residential or higher standards.

362 * * *

363 **H. Recreation and Entertainment Facility, Major (Capacity over 1,000**
364 **Persons)**

365 * * *

366 **2. Use Standards**

367 Where a Recreation and Entertainment Facility, Major (Capacity over
368 1,000 Persons) is allowed as a conditional use, it may be permitted by
369 the Hearing Examiner under Section 7.3.1, Conditional Use, and the
370 following standards:

371 a. In the RE-2C zone:

372 * * *

373 v. The site must have direct access to a public road that is
374 built to primary residential or higher standards.

375 * * *

376 **Section 59-3.5.11 Retail Sales and Service**

377 * * *

378 **B. Retail/Service Establishment**

379 **1. Defined**

380 * * *

381 **2. Use Standards**

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

384 * * *

385 iv. In the CRT, CR, GR, and NR zones, where a
386 development is located within ½ mile of a Metro station

387 entrance and has a minimum 50,000 square foot footprint
388 or a minimum of 100,000 square feet of all gross floor
389 area designed for a single user, it must satisfy the
390 following standards:

391 * * *

392 (h) For a project greater than 500,000 square feet of
393 [[total]] gross floor area, the Planning Board may
394 approve a development that does not satisfy
395 Section 3.5.11.B.2.a.iv.(a) through Section
396 3.5.11.B.2.a.iv.(f) if it finds that the project,
397 through an alternative design, results in a more
398 appropriate configuration of the site.

399 * * *

400 v. In the EOF zone, Retail/Service Establishment is limited
401 to a maximum of 30% of the [[total]] gross floor area [of
402 development approved under one application] on the
403 subject site.

404 * * *

405 **Section 59-3.5.14. Accessory Commercial Uses**

406 * * *

407 **D. Commercial Kitchen**

408 * * *

409 **2. Use Standards**

410 Where a Commercial Kitchen is allowed as a limited use, it must
411 satisfy the following standards:

412 a. The Commercial Kitchen must occupy less than 5% of the floor
413 area of [the building in] all buildings on the tract of land under
414 common ownership on which it is located.

415 * * *

416 **Sec. 10. DIVISION 59-3.6 is amended as follows:**

417 **Division 59-3.6. Industrial Uses**

418 * * *

419 **Section 59-3.6.5. Mining, Excavation**

420 **A. Defined**

421 Mining, Excavation means any use that extracts rocks, minerals, and other
422 natural resources from [[land]] the ground. Mining, Excavation only
423 includes borrow pit [and][[,]] and gravel mining [[, and all other methods to
424 gather natural resources]].

425 * * *

426 **B. Use Standards**

427 * * *

428 2. Where Mining, Excavation is allowed as a conditional use, it may be
429 allowed by the Hearing Examiner under Section 7.3.1, Conditional
430 Use, if the use is recommended for the site by the applicable master
431 plan, and the following standards:

432 * * *

433 **Section 59-3.6.8. Warehouse**

434 * * *

435 **E. Storage Facility**

436 * * *

437 **2. Use Standards**

438 Where a Storage Facility is allowed as a limited use, it must satisfy
439 the following standards:

- 440 a. Outdoor storage is prohibited.
- 441 b. In the CRT[,] and CR[,] and EOF] zones, only a facility up to
442 10,000 square feet of gross floor area is allowed.
- 443 c. In the EOF zone, only a facility up to 10,000 square feet of
444 gross floor area is allowed; however, if the facility was legally
445 existing on October 29, 2014, the following are allowed:
 - 446 i. a facility greater than 10,000 square feet of gross floor
447 area; and
 - 448 ii. outdoor storage.

449 * * *

450 **Sec. 11. DIVISION 59-3.7 is amended as follows:**

451 **Division 59-3.7. Miscellaneous Uses**

452 * * *

453 **Section 59-3.7.2. Solar Collection System**

454 * * *

455 **B. Use Standards**

456 Where a Solar Collection System is allowed as a limited use, it must satisfy
457 the following standards:

458 * * *

- 459 4. [In the Commercial/Residential, Employment, and Industrial zones, a
460 roof-mounted system may exceed the maximum height by 8 feet
461 under Section 4.1.7.C.3.] Solar panels may encroach into a setback as

462 allowed under Section 4.1.7.B.5.C and may exceed the maximum
463 height as allowed under Section 4.1.7.C.3.b.

464 * * *

465 **Sec. 12 . DIVISION 59-4.1 is amended as follows:**

466 **Division 59-4.1. Rules for All Zones**

467 * * *

468 **Section 4.1.4. Building Types Allowed by Zone in the Agricultural, Rural**
469 **Residential, and Residential Zones**

470 * * *

471 **Key: * * ***

472 TDR = Allowed in a TDR Overlay zone as part of optional method TDR
473 Development under Section [4.9.13.B] 4.9.15.B

474 * * *

475 **Section 59-4.1.7. Measurement and Exceptions**

476 * * *

477 **B. Placement**

478 * * *

479 **5. Setback Encroachments**

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

482 * * *

483 **c. Solar Panels**

484 A solar panel may project a maximum of 3 feet into any side
485 street or side setback and may project a maximum of 9 feet into
486 any front or rear setback.

487 [c] d. **Other Encroachments**

488 * * *

489 **C. Height**

490 * * *

491 **3. Height Encroachments**

492 Any height encroachment not specifically listed is prohibited.

493 * * *

494 b. The maximum height does not apply to solar panels and any
495 roof structure listed in Section 4.1.7.C.3.a, except that in the
496 TLD, TMD, THD, and R-30 zones, an air conditioning unit or
497 similar structure or mechanical appurtenance may exceed the
498 established height limit by a maximum of 8 feet.

499 * * *

500 **Section 4.1.8. Compatibility Requirements**

501 **A. Setback Compatibility**

502 **1. Applicability**

503 a. Section 4.1.8.A applies to a property in a Residential Multi-
504 Unit, Commercial/Residential, Employment, or Industrial zone
505 that:

506 [a] i. abuts a property in an Agricultural, Rural Residential, or
507 Residential zone that is vacant or improved with an
508 agricultural or residential use; and

509 [b] ii. proposes development of an apartment, multi-use, or
510 general building type.

511 b. On a property in a Residential Multi-Unit,
512 Commercial/Residential, Employment, or Industrial zone

513 [[Where]] for which Section 4.1.8.A.1.a does not apply, the
514 minimum side and rear setback is equal to the setback required
515 for “Side setback, abutting all other zones” and “Rear setback,
516 abutting all other zones” in the applicable standard method
517 development standards tables in Division 4.4 through Division
518 4.8.

519 **2. Setback Required along Side or Rear Lot Line**

520 a. The minimum side and rear setbacks [[equal either 1.5 times the
521 minimum side and rear setback required for a detached house
522 on the abutting property or the minimum side and rear setback
523 required for a detached house on the abutting property]] are as
524 follows:

525 * * *

526 **B. Height Compatibility**

527 **1. Applicability**

528 Section 4.1.8.B applies to a property that:

- 529 a. abuts or confronts a property in an Agricultural, Rural
530 Residential, [[or]] Residential Detached, or Residential
531 Townhouse zone that is vacant or improved with an agricultural
532 or residential use; and
- 533 b. proposes any building type in a Commercial/Residential,
534 Employment, Industrial, or Floating zone.

535 **2. Height Restrictions**

536 a. When the subject property abuts a property in an Agricultural,
537 Rural Residential, [[or]] Residential Detached, or Residential

538 Townhouse zone that is vacant or improved with an agricultural
539 or residential use, any structure may not protrude beyond a 45
540 degree angular plane projecting over the subject property,
541 measured from a height equal to the height allowed for a
542 detached house in the abutting zone at the setback line
543 determined by Section 4.1.8.A.

544 b. When the subject property confronts a property in an
545 Agricultural, Rural Residential, ~~[[or]] Residential Detached, or~~
546 Residential Townhouse zone that is vacant or improved with an
547 agricultural or residential use, any structure may not protrude
548 beyond a 45 degree angular plane projecting over the subject
549 property, measured from a height equal to the height allowed
550 for a detached house in the confronting zone at the front side
551 street setback line determined under Article 59-4.

552 [c. If not applicable under Section 4.1.8.B.1, the maximum height
553 in the zone is not modified by Section 4.1.8.B.2.]

554 * * *

555 **Sec. 13. DIVISION 59-4.2 is amended as follows:**

556 **Division 59-4.2. Agricultural Zone**

557 **Section 4.2.1. Agricultural Reserve Zone (AR)**

558 * * *

559 **D. Special Requirements for the Transfer of Density**

560 **1. In General**

561 Under Section ~~[4.9.13.B]~~ 4.9.15.B and in conformance with a general
562 plan, master plan, or functional master plan, residential density may
563 be transferred at the rate of one development right per 5 acres minus

564 one development right for each existing dwelling unit, from the AR
565 zone to a [[duly designated]] TDR Overlay zone. A development
566 right is not required for the following dwelling units on land in the AR
567 zone as long as the dwelling unit remains accessory to farming:

568 * * *

569 **2. Recording of Development Right**

570 a. A development right may be created, transferred, and
571 extinguished only by an easement and appropriate release, in a
572 recordable form approved by the Planning Board. Any
573 easement must limit the future construction of detached houses
574 on land zoned AR to the total number of development rights
575 allowed by zoning minus all development rights recorded prior
576 to October 30, 2014, all development rights previously
577 transferred under Section 4.2.1.D.1 and Section [4.9.13.B]
578 4.9.15.B, the number of development rights to be transferred by
579 the instant transaction, and the number of existing detached
580 houses on the property.

581 * * *

582 **Sec. 14. DIVISION 59-4.4 is amended as follows:**

583 **Division 59-4.4. Residential Zones**

584 **Section 59-4.4.1. Standard Method Development**

585 **A. Established Building Line**

586 * * *

587 3. The established building line applies if at least 2 buildings described in
588 Section 4.4.1.A.2 and more than 50% of the buildings described in

589 Section 4.4.1.A.2 are set back more than the minimum required by the
590 zone. The established building line is equal to the average front
591 setback of all the buildings described in Section 4.4.1.A.2, excluding
592 those buildings:

- 593 a. in the R-200 zone that are or were ever served by well or septic;
- 594 b. on the subject property;
- 595 c. in a different zone than that of the subject property;
- 596 d. on a through lot that fronts on a street different than that of the
597 subject property;
- 598 e. located on any pipestem, wedge-shaped, or flag-shaped lot; or
- 599 f. approved by permit for demolition, except if a building permit
600 was also approved with the same setback.

601 4. [[Instead of using the established building line]] If the established
602 building line applies, the applicant may choose to use as the front
603 setback:

- 604 a. the established building line;
- 605 b. [[to calculate as a front setback]] the average front setback of
606 the [[two]] 2 abutting lots~~[[,]]~~; or
- 607 c. the front setback of the existing detached house that was
608 established before demolition, excluding any approved
609 variance, if the existing building meets the minimum front
610 setback of the zone.

611 5. All calculations must be based on a survey that is signed and sealed
612 by a Maryland licensed engineer or surveyor.

613 ~~[[4]]~~ 6. If the established building line does not apply, the building must
614 satisfy the minimum front setback of the zone.

615 ~~[[5]] 7.~~ ~~[[Corner lots have two]]~~ A corner lot has 2 front setbacks and must
616 satisfy established building line standards on both streets. At the
617 option of the applicant, a corner lot may use front setbacks of the
618 abutting buildings on both sides of the corner lot.

619 * * *

620 **Section 59-4.4.2. Optional Method Development**

621 * * *

622 **A. Optional Method MPDU Development**

623 * * *

624 **4. Requirements for MPDU Projects with 20 or Fewer Dwelling**
625 **Units**

626 In a Residential Detached zone, an applicant who voluntarily provides
627 at least 12.5% MPDUs in a development with 20 or fewer dwelling
628 units may use the optional method MPDU Development standards,
629 except that:

630 a. the minimum usable area requirement does not apply;

631 ~~[[a]]~~ b. a perimeter lot that is adjacent, abutting, or confronting
632 one or more existing detached house dwellings must satisfy the
633 dimensional standards under the standard method of
634 development;

635 ~~[[b]]~~ c. the MPDU buildings must be similar in size and height to
636 the market rate dwellings in that development; and

637 ~~[[c]]~~ d. the maximum percentage of townhouses is 40% of the
638 total residential dwellings in that development, unless a
639 development in which up to 100% of the units consist of
640 townhouses is approved by the Planning Board upon a finding
641 that the increased use of townhouses is more desirable for

642 environmental reasons and the increased use of townhouses is
643 compatible with adjacent development.

644 * * *

645 **Section 59-4.4.7. Residential - 200 Zone (R-200)**

646 * * *

647 **B. [RE-200] R-200 Zone, Standard Method Development Standards**

648 * * *

649 **C. [RE-200] R-200 Zone, Optional Method Development Standards**

650 * * *

651 **Section 59-4.4.8. Residential - 90 Zone (R-90)**

652 * * *

653 **B. [RE-90] R-90 Zone, Standard Method Development Standards**

654 * * *

655 **C. [RE-90] R-90 Zone, Optional Method Development Standards**

656 **Specification for Site under Cluster Development**

657 a. The Planning Board may allow development to proceed under
658 optional method Cluster Development on a smaller site than
659 allowed in Usable Area if:

660 i. the subject property is recommended for cluster
661 development in a master plan; or

662 ii. [[if]] it finds that cluster development on a smaller site
663 would be more suitable than standard method
664 development for environmental reasons; or

665 iii. the development abuts an existing cluster development in
666 the same zone and the Planning Board finds it would be a
667 compatible extension of the neighboring development.

668 * * *

669 **Section 59-4.4.9. Residential – 60 Zone (R-60)**

670 * * *

671 **C. [RE-60] R-60 Zone, Optional Method Development Standards**

672 * * *

673 **Sec. 15. DIVISION 59-4.5 is amended as follows:**

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

675 * * *

676 **Section 59-4.5.2. Density and Height Allocation**

677 **A. Density and Height Limits**

678 * * *

679 3. The following limits apply unless additional total FAR, residential
 680 FAR, or height is allowed under Section 4.5.2.C and Section
 681 4.7.3.D.6.c:

CRN	0.25 to 1.5	0.00 to 1.5	0.00 to 1.5	25' to 65'
CRT	[[0.5]] 0.25 to 4.0	0.25 to 3.5	0.25 to 3.5	35' to 150'
CR	0.5 to 8.0	0.25 to 7.5	0.25 to 7.5	35' to 300'

682 * * *

683 **B. FAR Averaging**

684 * * *

685 4. If the Planning Board approves a site plan for a development project
 686 using FAR averaging [[that covers]] across two or more lots, the
 687 maximum density on certain lots in the development project will be
 688 less than or greater than the zone allows, as indicated in the site plan.
 689 To provide additional notice of the FAR averaging, before the
 690 Planning Board approves a certified site plan for such a project or, if
 691 plat approval is required, before plat approval, the applicant must state
 692 the gross square footage taken from any lot with reduced density in an

693 instrument approved by the Planning Board and must record the
 694 instrument in the Montgomery County land records.

695 * * *

696 **Section 59-4.5.3. Standard Method Development**

697 * * *

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

699 * * *

2. Lot and Density							
Lot area	1,000 SF	1,000 SF	500 SF	800 SF	n/a	n/a	n/a
Lot width at front building line	25'	25'	12.5'	12'	n/a	n/a	n/a
Lot width at front lot line	10'	10'	10'	n/a	n/a	n/a	n/a
CRN Density, FAR	mapped						
CRT Density, FAR	The lesser of: mapped FAR or the greater of 10,000 SF or 1.0 FAR						
CR Density, FAR	The lesser of: mapped FAR or the greater of 10,000 SF or 0.5 FAR						
a.	[An] <u>In the CR zone, a historic resource recommended in the applicable master plan to be preserved and reused, which does not occupy more than 10% of the gross floor area, is excluded from the FAR calculation.</u>						
Lot	90%	90%	90%	90%	n/a	n/a	n/a

700 * * *

701 **3. Placement**

702 * * *

Section 59-4.5.3. Standard Method Development

a. The Build-to Area maximum front or side street setback may be increased by the minimum setback necessary to avoid a platted public transportation or utility easement, or a platted public transportation or utility reservation.

703 **4. Height**

704 * * *

705

706 **Section 59-4.5.4. Optional Method Development**

707 * * *

708 **B. Development Standards**

709 * * *

710 **2. Lot, Density, and Height**

711 a. Lot standards for detached house, duplex, and townhouse
712 building types are determined by the site plan approval process
713 under Section 7.3.4.

714 b. The maximum total, nonresidential, and residential FARs and
715 the maximum height are established by the mapped zone unless
716 increased under Section 4.5.2.C and Section 4.7.3.D.6.c.

717 c. In the CR zone, a designated historic resource [[recommended
718 in the applicable master plan to be preserved and reused,
719 which]] that does not occupy more than 10% of the gross floor
720 area[.] is excluded from the FAR calculation.

721 * * *

722 **Sec. 16. DIVISION 59-4.6 is amended as follows:**

723 **Division 59-4.6. Employment Zones**

724 * * *

725 **Section 59-4.6.2. Density and Height Allocation**

726 * * *

727 **B. FAR Averaging**

728 * * *

729 4. If the Planning Board approves a site plan for a development project
730 using FAR averaging [[that covers]] across two or more lots, the
731 maximum density on certain lots in the development project will be
732 less than or greater than the zone allows, as indicated in the site plan.
733 To provide additional notice of the FAR averaging, before the
734 Planning Board approves a certified site plan for such a project or, if

735 plat approval is required, before plat approval, the applicant must state
736 the gross square footage taken from any lot with reduced density in an
737 instrument approved by the Planning Board and must record the
738 instrument in the Montgomery County land records.

739 **C. Special Provisions for “T” Zones Translated from Certain Zones**
740 **Existing Before October 30, 2014**

741 * * *

742 2. For Employment-zoned properties designated with a T, the following
743 provisions apply:

744 * * *

745 b. In the LSC zone, to allow construction of all workforce housing
746 units on-site, residential density may be increased by a
747 maximum of 5% and building height may be increased up to a
748 maximum building height of 200 feet. Density and building
749 height may only be increased to the extent required for the
750 number of workforce housing units that are constructed.

751 c. In any case, to achieve a density bonus under Section 4.6.2.C.2,
752 at least one more MPDU than would be required at 12.5% must
753 be provided.

754 [c] d. Any density increase under Section 4.6.2.C requires site plan
755 approval under Section 7.3.4.

756 * * *

757 **Section 59-4.6.3. Standard Method Development**

758 * * *

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

760 * * *

761 **2. Lot and Density**

762 * * *

763 **Specification for Density**

764 **a.** Gross floor area of all Household Living uses [[on a site]] is limited to
765 30% of the [[total]] gross floor area on the subject site.

766 * * *

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

768 * * *

769 **2. Lot and Density**

770 * * *

771 **Specification for Density**

772 * * *

773 **b.** For a tract larger than 5 acres:

774 A) A minimum of 40% of the gross floor area proposed must be
775 for Life Sciences and related uses. The proposed gross floor
776 area used for the purpose of calculating the minimum
777 percentage of Life Sciences uses excludes[: (1) a Hospital and
778 the Hospital's accessory uses; and (2)] educational facilities.

779 * * *

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

781 * * *

782 **2. Lot and Density**

783 * * *

784 **Specification for Density**

785 a. Gross floor area of all Household Living uses [[on a site]] is limited to
786 30% of the [[total]] gross floor area on the subject site.

787 * * *

788 **Section 59-4.6.4. Optional Method Development**

789 * * *

790 **B. Development Standards**

791 * * *

792 **2. Lot, Density, and Height**

793 * * *

794 c. In the GR, NR, and EOF zones, gross floor area of all
795 Household Living uses [[on a site]] is limited to 30% of the
796 [[total]] gross floor area on the subject site.

797 d. In the LSC zone:

798 i. For tracts larger than 5 acres:

799 (a) A minimum of 40% of gross floor area proposed
800 must be for Life Sciences and related uses. The
801 proposed gross floor area used for the purpose of
802 calculating the minimum percentage of Life
803 Sciences uses excludes[: (1) a Hospital and the
804 Hospital's accessory uses; and (2)] educational
805 facilities.

806 * * *

807 **Sec. 17. DIVISION 59-4.7 is amended as follows:**

808 **Division 59-4.7. Optional Method Public Benefits**

809 * * *

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

811 * * *

812 **F. Protection and Enhancement of the Natural Environment**

813 * * *

814 **6. Transferable Development Right:** For a property that is in a TDR
815 Overlay zone, up to 20 points for the purchase of TDRs under Section
816 [4.9.13.B] 4.9.15.B. Every TDR purchased is worth 1 point.

817 * * *

818 **Sec. 18. DIVISION 59-4.8 is amended as follows:**

819 **Division 59-4.8. Industrial Zones**

820 * * *

821 **Section 59-4.8.2. Density and Height Allocation**

822 * * *

823 **B. FAR Averaging**

824 * * *

825 **4.** If the Planning Board approves a site plan for a development project
826 using FAR averaging across two or more lots, the maximum density
827 on certain lots in the development project will be less than or greater
828 than the zone allows, as indicated in the site plan. To provide
829 additional notice of the FAR averaging, before the Planning Board
830 approves a certified site plan for such a project or, if plat approval is
831 required, before plat approval, the applicant must state the gross
832 square footage taken from any lot with reduced density in an

833 instrument approved by the Planning Board and must record the
834 instrument in the Montgomery County land records.

835 **Sec. 19. DIVISION 59-4.9 is amended as follows:**

836 **Division 59-4.9. Overlay Zones**

837 * * *

838 **Section 59-4.9.4. Clarksburg East Environmental (CEE) Overlay Zone**

839 **A. Purpose**

840 The purpose of the CEE Overlay zone is to:

- 841 1. [[Protect]] protect the water quantity, water quality, habitat, and
842 biological diversity of the Ten Mile Creek watershed and its
843 tributaries[.];
- 844 2. [[Regulate]] regulate the amount and location of impervious surfaces
845 to maintain levels of groundwater, control erosion and water
846 temperature, and retain as many of the functions provided by natural
847 land as possible[.];
- 848 3. [[Regulate]] regulate development that could adversely affect this
849 high quality stream system[.]; and
- 850 4. [[Implement]] implement the recommendations of the 2014 Ten Mile
851 Creek Area Limited Amendment to the Clarksburg Master Plan and
852 Hyattstown Special Study Area.

853 **B. Exemptions**

- 854 1. Any impervious surface lawfully existing under a building permit or
855 sediment control permit issued before August 4, 2014 that exceeds the
856 applicable impervious surface restriction may continue or be
857 reconstructed with the same or less impervious surface area under the

858 development standards in effect when the building permit or sediment
859 control permit was issued.

860 2. An impervious surface resulting from an addition to an existing
861 detached house or an accessory structure to a detached house, not
862 approved as part of a site plan under Section 7.3.4, is exempt from this
863 Overlay zone's impervious surface restriction.

864 3. On any lot or parcel with an area less than 2 acres as of January 1,
865 2014, any development is exempt from this Overlay zone's
866 impervious surface restriction.

867 4. Impervious surface for any publicly funded road or bikeway identified
868 by the Ten Mile Creek Area Limited Amendment to the Clarksburg
869 Master Plan and Hyattstown Special Study Area is exempt from this
870 Overlay zone's impervious surface restriction.

871 **C. Land Uses**

872 The land uses and use standards of the underlying zone apply, except that if
873 the underlying zone is R-90, Two-Unit Living, Townhouse Living, and
874 Multi-Unit Living are also permitted.

875 **D. Development Standards**

876 1. Except as allowed under Section 4.9.4.B, the maximum total
877 impervious surface area for any development after August 4, 2014
878 [[must be a maximum of]] is 15% of the total area under application
879 for development.

880 2. All environmental buffer areas or natural resources recommended for
881 protection in the Ten Mile Creek Area Limited Amendment to the
882 Clarksburg Master Plan and Hyattstown Special Study Area must be

883 regulated as environmentally sensitive areas, just as other areas
884 identified environmentally sensitive in law, regulations, or in the
885 Planning Board's Guidelines for the Environmental Management of
886 Development, as amended.

887 3. All environmentally sensitive areas must be included in the required
888 open space area.

889 4. The minimum area devoted to open space must be 80% of the total
890 area under application for development. For the purpose of this
891 Overlay zone, open space is defined as rural open space as described
892 and managed under Section 6.3.4.A.2, Section 6.3.4.A.4.b, and
893 Section 6.3.4.B.

894 5. If the underlying zone is R-90:

895 a. the maximum density without MPDU bonus density is 3
896 dwelling units per acre;

897 b. the maximum density with MPDU bonus density is 3.66
898 dwelling units per acre;

899 c. any type of dwelling unit is permitted, up to the maximum
900 number allowed;

901 d. the maximum building height is:

902 i. 35 feet for a detached house;

903 ii. 50 feet for a duplex or townhouse; and

904 iii. 65 feet for an apartment building or any non-residential
905 building; and

906 e. when site plan approval is required, the minimum lot area, lot
907 dimensions, building coverage, and building setbacks of the R-

908 90 zone do not apply. [[Any such requirements must be
909 determined by the Planning Board during the site plan approval
910 process]] Such requirements are determined during the site
911 plan approval process under Section 7.3.4.

912 **E. Site Plan**

- 913 1. Any development that must file a preliminary plan of subdivision
914 under Chapter 50 requires approval of a site plan by the Planning
915 Board under Section 7.3.4, unless excluded under Section 4.9.4.E.2.
916 2. A lot or parcel that is occupied by a detached house and that has not
917 changed in size or shape since January 1, 2014 is excluded from the
918 site plan approval requirement.

919 **Section 59-4.9.5. Clarksburg West Environmental (CWE) Overlay Zone**

920 **A. Purpose**

921 The purpose of the CWE Overlay zone is to:

- 922 1. [[Protect]] protect the water quantity, water quality, habitat, and
923 biological diversity of the Ten Mile Creek watershed and its
924 tributaries[.];
925 2. [[Regulate]] regulate the amount and location of impervious surfaces
926 to maintain levels of groundwater, control erosion and water
927 temperature, and retain as many of the functions provided by natural
928 land as possible[.];
929 3. [[Regulate]] regulate development that could adversely affect this
930 high quality stream system[.]; and

- 931 4. [[Implement]] implement the recommendations of the 2014 Ten Mile
932 Creek Area Limited Amendment to the Clarksburg Master Plan and
933 Hyattstown Special Study Area.

934 **B. Exemptions**

- 935 1. Any impervious surface lawfully existing under a building permit or
936 sediment control permit issued before August 4, 2014 that exceeds the
937 applicable impervious surface restriction may continue or be
938 reconstructed with the same or less impervious surface area under the
939 development standards in effect when the building permit or sediment
940 control permit was issued.
- 941 2. An impervious surface resulting from an addition to an existing
942 detached house or an accessory structure to a detached house, not
943 approved as part of a site plan under Section 7.3.4, is exempt from this
944 Overlay zone's impervious surface restriction.
- 945 3. On any lot or parcel with an area less than 2 acres as of January 1,
946 2014, any development is exempt from this Overlay zone's
947 impervious surface restriction.
- 948 4. Impervious surface for any publicly funded road or bikeway identified
949 by the Ten Mile Creek Area Limited Amendment to the Clarksburg
950 Master Plan and Hyattstown Special Study Area is exempt from this
951 Overlay zone's impervious surface restriction.

952 **C. Land Uses**

953 The land uses and use standards of the underlying zone apply.

954 **D. Development Standards**

- 955 1. Except for County owned land or land under a conservation easement
956 granted to the benefit of the County and development exempted under
957 Section 4.9.5.B, the maximum total impervious surface area for any
958 development after August 4, 2014 [[must be a maximum of]] is 6% of
959 the total area under application for development.
- 960 2. County owned land or land under a conservation easement granted to
961 the benefit of the County that is not managed as parkland by the
962 Maryland-National Capital Park and Planning Commission may not
963 add any impervious surface.
- 964 3. [[Any number of lots may be of any size, without regard to varying
965 lot]] Lot size requirements in the underlying zone do not apply.
- 966 4. When site plan approval is required, the minimum lot area, lot
967 dimensions, building coverage, and building setbacks of the
968 underlying zone do not apply. Such requirements are determined
969 during the site plan approval process under Section 7.3.4. [[Any such
970 requirements must be determined by the Planning Board during the
971 site plan approval process.]]
- 972 5. All environmental buffer areas or natural resources recommended for
973 protection in the Ten Mile Creek Area Limited Amendment to the
974 Clarksburg Master Plan and Hyattstown Special Study Area must be
975 regulated as environmentally sensitive areas, just as other areas
976 identified environmentally sensitive in law, regulations, or in the
977 Planning Board's Guidelines for the Environmental Management of
978 Development, as amended.

979 6. All environmentally sensitive areas must be included in the required
980 open space area.

981 7. The minimum area devoted to open space must be 80% of the total
982 area under application for development. For the purpose of this
983 Overlay zone, open space is defined as rural open space as described
984 and managed under Section 6.3.4.A.2, Section 6.3.4.A.4.b, and
985 Section 6.3.4.B.

986 **E. Site Plan**

987 1. Any development that must file a preliminary plan of subdivision
988 under Chapter 50 requires approval of a site plan by the Planning
989 Board under Section 7.3.4, unless excluded under Section 4.9.5.E.2 or
990 Section 4.9.5.E.3.

991 2. A lot or parcel that is occupied by a detached house and that has not
992 changed in size or shape since January 1, 2014 is excluded from the
993 site plan approval requirement.

994 3. Any detached house that is served by a septic facility is excluded from
995 the site plan approval requirement.

996 **Section 59-[4.9.4] 4.9.6. Community-serving Retail (CSR) Overlay Zone**

997 * * *

998 **Section 59-[4.9.5] 4.9.7. Fenton Village (FV) Overlay Zone**

999 * * *

1000 **C. Development Standards**

1001 1. Building Height

1002 * * *

1003 b. Maximum building height is 60 feet along any street
1004 confronting any block that includes property in a Residential
1005 Detached zone and, when a building is allowed to be higher
1006 than 60 feet under Section [4.9.5.C.1.c] 4.9.7.C.1.c, each
1007 additional foot in building height above 60 feet requires at least
1008 an additional one foot setback from the front of the building
1009 along Fenton Street;

1010 * * *

1011 e. For properties with frontage on both Wayne Avenue and Fenton
1012 Street, in spite of the height limitations in Section [4.9.5.C.1.b]
1013 4.9.7.C.1.b through Section [4.9.5.C.1.d] 4.9.7.C.1.d, maximum
1014 building height may be increased by 15 feet for a building that
1015 includes residential uses or a mix of residential and commercial
1016 uses, if such additional height is not more than 200 feet from
1017 the right-of-way line for Fenton Street as recommended in the
1018 Approved and Adopted 2000 Silver Spring CBD Sector Plan;
1019 however, any building using additional height must be set back
1020 from abutting Residentially zoned land no less than the setback
1021 required in the abutting Residential zone or the height of the
1022 building, whichever is greater.

1023 f. Building heights may be approved under the standards of
1024 Section [4.9.5.C.1] 4.9.7.C.1 without regard to the building
1025 height recommendations of the master plan.

1026 * * *

1027 **Section 59-[4.9.6] 4.9.8. Garrett Park (GP) Overlay Zone**

1028 * * *

1029 **C. Land Uses**

1030 The land uses and use standards of the underlying zone are applicable unless
1031 the development standards in Section [4.9.6.D] 4.9.8.D are more restrictive,
1032 in which case[[,]] Section [4.9.6.D] 4.9.8.D must be followed.

1033 * * *

1034 **Section 59-[4.9.7] 4.9.9. Germantown Transit Mixed Use (GTMU) Overlay**
1035 **Zone**

1036 * * *

1037 **Section 59-[4.9.8] 4.9.10. Regional Shopping Center (RSC) Overlay Zone**

1038 * * *

1039 **D. Site Plan**

1040 Site plan approval under Section 7.3.4 is required for any increase in
1041 building height under Section [4.9.8.C.1] 4.9.10.C.1.

1042 **E. Parking**

1043 * * *

1044 **2. Pedestrian Access**

1045 The major point of pedestrian access for an off-street parking facility
1046 that occupies contiguous land area integral to the regional shopping
1047 center property may extend more than 500 feet walking distance from
1048 an entrance to the center to satisfy the number of spaces required
1049 under Section [4.9.8.E.1.a] 4.9.10.E.1.a.

1050 * * *

1051 **Section 59-[4.9.9] 4.9.11. Ripley/South Silver Spring (RSS) Overlay Zone**

1052 * * *

1053 **C. Development Standards**

1054 1. Building Height

1055 * * *

1056 b. [The] For a property zoned CR and mapped at 200 feet, the
1057 Planning Board may approve a maximum building height of
1058 200 feet only in [[any]][CR] an optional method development
1059 project that provides ground floor retail. If no ground floor
1060 retail is provided, the maximum building height is 145 feet.
1061 Any structure or device used to collect or radiate
1062 electromagnetic waves, including a satellite dish, must not be
1063 included in calculating building height under this paragraph.

1064 * * *

1065 4. In the CR zone, under the standard method of development, the
1066 maximum FAR is 1.0 if approved by site plan under Section 7.3.4.

1067 5. Under standard method development, the public open space
1068 requirement may be transferred to other properties within the Overlay
1069 zone if approved by a site plan under Section 7.3.4.

1070 * * *

1071 **Section 59-[4.9.10] 4.9.12. Rural Village Center (RVC) Overlay Zone**

1072 * * *

1073 **C. Development Standards**

1074 1. Where a lot is either partially or totally in a Commercial/Residential
1075 zone:

1076 * * *

1077 e. In addition to the parking requirements in Division 6.2:

1078 * * *

1079 iii. For any cumulative enlargement of a surface parking
1080 facility that is greater than 50% of the total parking area
1081 approved before November 4, 2002, the entire off-street
1082 parking facility must be brought into conformance with
1083 Section [4.9.10] 4.9.12.

1084 * * *

1085 **D. Site Plan**

1086 * * *

1087 2. Site plan approval is not required for a detached house exempt from
1088 subdivision or for a property that is exempt from platting requirements
1089 under Section 50-9(j).

1090

1091 **Section 59-[4.9.11] 4.9.13. Sandy Spring/Ashton Rural Village (SSA) Overlay**
1092 **Zone**

1093 * * *

1094 **Section 59-[4.9.12] 4.9.14. Takoma Park/East Silver Spring Commercial**
1095 **Revitalization (TPESS) Overlay Zone**

1096 * * *

1097 **B. Land Uses**

1098 1. [Multi-Unit Living is only allowed in a multi use building type unless
1099 this requirement is waived by the Planning Board.]

1100 Residential Uses

- 1101 a. In the CRT zone, residential density may be increased above
1102 the number following the R on the zoning map, up to the
1103 maximum total mapped density.
- 1104 b. In the NR zone, Household Living uses may exceed 30% of the
1105 [[total]] gross floor area on the subject site, up to the maximum
1106 mapped density.
- 1107 c. Residential uses must be in a multi-use building type with the
1108 ground floor devoted to commercial uses, unless [[this
1109 requirement is waived by]] the Planning Board waives this
1110 requirement.
- 1111 2. In the CRT [zone] and NR zones, the following additional Recreation
1112 and Entertainment Facility, Indoor (Capacity up to 1,000 Persons)
1113 uses are permitted: bowling alley and theater.
- 1114 3. In the CRT [zone] and NR zones, the following uses, as allowed in the
1115 underlying zone, are allowed in the Overlay zone only if the use does
1116 not abut or confront land in a Residential Detached zone:
- 1117 a. Car Wash;
- 1118 b. Filling Station;
- 1119 c. Funeral Home, Undertaker;
- 1120 d. Light Vehicle Sales and Rental (Indoor);
- 1121 e. Light Vehicle Sales and Rental (Outdoor);
- 1122 f. Repair (Major); and
- 1123 g. Repair (Minor).
- 1124 4. In the NR zone, the following additional uses are permitted:
- 1125 a. Clinic (More than 4 Medical Practitioners);
- 1126 b. Cultural [[Institutions]] Institution;

- 1127 c. Research and Development; and
- 1128 d. Artisan Manufacturing and Production.

1129 **C. Development Standards**

- 1130 1. The maximum building height is 30 feet; however, the Planning
- 1131 Board may allow a building height:
- 1132 [1] a. up to 42 feet for commercial development[,]; and
- 1133 [2] b. up to 50 feet to accommodate residential development if the
- 1134 Planning Board finds that such buildings are compatible with
- 1135 the neighborhood and substantially conform with the intent of
- 1136 the applicable master plan.
- 1137 2. Household Living uses must meet the development standards of the
- 1138 underlying zone, but the required open space may be adjusted to
- 1139 assure compatibility of uses[.]] or to provide adequate area to
- 1140 accommodate housing, if appropriate.
- 1141 3. In the NR zone, surface parking must be behind the front building
- 1142 line.

1143 **D. Site Plan**

1144 * * *

- 1145 2. During site plan review, the Planning Board may:
- 1146 a. [where recommended in the master plan, allow direct pedestrian
- 1147 access for all uses from the exterior of a structure in the EOF or
- 1148 CRT zone; and] waive the requirements for parking setbacks
- 1149 and the number of spaces where it finds that such waivers will
- 1150 accomplish the goals of the master plan, including
- 1151 revitalization, enhancing the pedestrian environment, and
- 1152 encouraging the use of transit;

1153 b. waive the building setbacks in the NR zone;
 1154 c. where recommended in the master plan, allow direct pedestrian
 1155 access for all uses from the exterior of a structure in the EOF or
 1156 CRT zone; and

1157 [b] d. reduce building setbacks to accomplish master plan objectives.

1158 3. For any addition, reconstruction, or alteration that changes a building
 1159 by less than 1,000 square feet ~~[[that]]~~ and does not require site plan
 1160 approval under Section ~~[4.9.12.D.1.c]~~ 4.9.14.D.1.c, ~~[[there will be a~~
 1161 review of the building permit by]] the Planning Board or its designee
 1162 must review the building permit to determine compliance with master
 1163 plan recommendations and the provisions of this Overlay zone. If an
 1164 existing building is located on the site or on an adjacent property, the
 1165 minimum setback of the zone may be reduced to conform to the
 1166 existing setback on the site or on the adjacent property.

1167 * * *

1168 **Section 59-[4.9.13] 4.9.15. Transferable Development Rights (TDR) Overlay**
 1169 **Zone**

1170 * * *

1171 **B. Optional Method**

1172 **1. In General**

1173 The TDR Overlay optional method of development permits an
 1174 increase in the maximum residential density, if the development
 1175 satisfies the requirements for optional method development using
 1176 Transferable Development Rights under Section ~~[4.9.13.B]~~ 4.9.15.B.

1177
1178
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201

a. Applicability

The procedures and requirements in Section [4.9.13.B] 4.9.15.B apply to the transfer of development rights from land in the AR zone to land in a Transferable Development Rights (TDR) Overlay zone. The Planning Board may approve subdivision of such land at densities up to the maximum density allowed in the applicable TDR Overlay zone and substantially conforming to the recommendations in the applicable master plan.

* * *

c. Recording of Development Right

* * *

ii. A final record plat for a subdivision using transferred development rights must contain a statement including the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance as required by Section [4.9.13.B] 4.9.15.B.

d. Development with Moderately Priced Dwelling Units

- i. A property developed under Section [4.9.13.B] 4.9.15.B must satisfy Chapter 25A.
- ii. A density bonus allowed under Chapter 25A is calculated after the base density of the property has been increased under Section [4.9.13.B] 4.9.15.B through TDRs.
- iii. In a Rural Residential or Residential zone, development using TDRs and providing MPDUs above 12.5% must

1202 follow the requirements under optional method MPDU
1203 Development.

1204 **e. Additional Findings**

1205 In addition to the findings required for approval of a site plan
1206 under Section 7.3.4, for projects developed under Section
1207 [4.9.13.B] 4.9.15.B, the Planning Board must find that the
1208 proposed development provides an appropriate range of
1209 housing types that takes advantage of existing topography and
1210 environmental features and achieves a compatible relationship
1211 between the proposed development and adjoining land uses.

1212 * * *

1213 **Section 59-[4.9.14] 4.9.16. Twinbrook (TB) Overlay Zone**

1214 * * *

1215 **Section 59-[4.9.15] 4.9.17. Upper Paint Branch (UPB) Overlay Zone**

1216 * * *

1217 **B. Exemptions**

1218 The following are exempt from Section [4.9.15] 4.9.17:

1219 * * *

1220 **C. Land Uses**

1221 1. Except as listed in Section [4.9.15.C.2] 4.9.17.C.2 and Section
1222 [4.9.15.C.3] 4.9.17.C.3, the land uses of the underlying zone [[are
1223 applicable]] apply. The use standards of the underlying zone [[are
1224 applicable]] apply unless the development standards in Section

1225 [4.9.15.D] 4.9.17.D are more restrictive, in which case Section
1226 [4.9.15.D] 4.9.17.D must be followed.

1227 * * *

1228 3. If validly existing on July 1, 1997, the uses in Section [4.9.15.C.2]
1229 4.9.17.C.2 may be continued under the requirements in effect at the
1230 time the use was established. Any expansion requires compliance with
1231 the UPB Overlay zone.

1232 * * *

1233 **E. Waiver**

1234 The applicable review body may grant a waiver of the development standards
1235 in Section [4.9.15.D] 4.9.17.D if it finds that:

1236 * * *

1237 4. Alternative water quality and control techniques are used to meet the
1238 purposes of Section [4.9.15] 4.9.17.

1239 **Section 59-[4.9.16.] 4.9.18. Upper Rock Creek (URC) Overlay Zone**

1240 * * *

1241 **B. Exemptions**

1242 The following are exempt from Section [4.9.16] 4.9.18:

1243 * * *

1244 **D. Waiver**

1245 The applicable review body may grant a waiver of the development
1246 standards in Section [4.9.16.C] 4.9.18.C if it finds that:

1247 * * *

1248 4. Alternative water quality and quantity control techniques are used to
 1249 meet the purposes of Section [4.9.16] 4.9.18.

1250 * * *

1251 **Sec. 20. DIVISION 59-5.1 is amended as follows:**

1252 **Division 59-5.1. In General**

1253 * * *

1254 **Section 59-5.1.3. Applicability**

1255 **A.** A Floating zone must not be approved for property that is in an Agricultural
 1256 or Rural Residential zone.

1257 **B.** If a Floating zone is recommended in a master plan, there are no
 1258 prerequisites for an application. For properties with a master plan
 1259 recommendation for a Floating zone [[that can no longer be applied for]] for
 1260 which an application can no longer be made as of October 30, 2014, the
 1261 following table identifies the equivalent Floating zones [[that can be applied
 1262 for]] for which an applicant may apply:

<u>Master Plan Recommended Floating Zone</u>	<u>Equivalent Floating Zone</u>
<u>C-Inn</u>	<u>None (See Use Table under Section 3.1.6)</u>
<u>R-MH</u>	<u>RDF</u>
<u>RT-6.0, RT-8.0, RT-10.0, RT-12.5, RT-15.0</u>	<u>TF</u>
<u>R-H, R-4plex</u>	<u>AF</u>
<u>P-D</u>	<u>AF or CRNF</u>
<u>C-T</u>	<u>CRNF</u>
<u>MXN, MXPD, PNZ, PRC, T-S</u>	<u>CRTF</u>
<u>H-M, TS-M, TS-R</u>	<u>CRF</u>
<u>C-3, PCC</u>	<u>GRF</u>
<u>C-P, I-3, O-M</u>	<u>EOFF</u>
<u>RS</u>	<u>IMF</u>

1263 * * *
 1264

1265 **Sec. 21. DIVISION 59-6.2 is amended as follows:**

1266 **Division 59-6.2. Parking, Queuing, and Loading**

1267 * * *

1268 **Section 59-6.2.3. Calculation of Required Parking**

1269 The minimum number of vehicle and bicycle parking spaces required in all zones
1270 is the sum of the number of spaces required for each applicable land use in the
1271 tables in Section 6.2.4.B and Section 6.2.4.C, unless the total number is reduced
1272 under Section [6.2.3.H] 6.2.3.I.

1273 * * *

1274 **D. Car-Share Spaces**

1275 * * *

1276 **E. Spaces for Charging Electric Vehicles**

1277 Any parking facility constructed after May 12, 2014, containing 100 parking
1278 spaces or more, must have a minimum of one parking space ready to be
1279 converted to a station for charging electric vehicles[[. One additional
1280 charging station ready parking space is required for each additional 100
1281 parking spaces in the facility]] for every 100 parking spaces.

1282 **[E] F. Bicycle Parking**

1283 * * *

1284 3. The maximum number of bicycle parking spaces listed in the bicycle
1285 parking table under Section 6.2.4.C is the maximum required of the
1286 applicant; however, the applicant may choose to exceed the
1287 maximum.

1288 **[F] G. Off-Site Parking by Agreement**

1289 1. An applicant may satisfy the required number of vehicular parking
1290 spaces through off-site parking on property located within ¼ mile of
1291 the subject property if the off-site property is plat-restricted, deed-

1292 restricted, or is under a joint use agreement. The plat or deed
1293 restrictions must specify that the property provides the required
1294 number of parking spaces for a use on another property. The plat or
1295 deed restrictions may be lifted if substitute off-site parking is
1296 provided[[,]] or if the use requiring the parking ceases to exist. A joint
1297 use agreement must:

1298 [[1]] a. be for a property under the control of the involved
1299 parties;

1300 [[2]] b. be approved by the deciding body;

1301 [[3]] c. have a minimum term of 5 years; and

1302 [[4]] d. require the parties to notify DPS within 3 days after any
1303 changes to the joint use arrangement and provide DPS with a
1304 minimum of one month notice of any pending termination of
1305 the agreement.

1306 [[5]] e. If the parking available under a joint use agreement is
1307 reduced, the use-and occupancy permit for the development that
1308 was approved in reliance on the joint use agreement must be
1309 amended[[,]] or revoked, as appropriate, due to the reduced
1310 parking unless an alternative compliance plan is approved.

1311 [[6]] f. A property owner must obtain a new use-and-occupancy
1312 permit, including proof of sufficient parking, if there is a
1313 change in use of the property or in the joint use agreement.

1314 2. An applicant may satisfy the required number of vehicular parking
1315 spaces if the property is within the boundary of a duly established
1316 Municipal Shared Parking Program and the municipality confirms that
1317 the property will participate in that Program.

1318 * * *

1319 **[G] H. Parking Minimums and Maximums**

1320 **1. Parking Lot District**

1321 a. In a Parking Lot District, an applicant may provide fewer
1322 parking spaces than required, after all adjustments are made
1323 under Section [6.2.3.H] 6.2.3.I, if payment is made under
1324 Chapter 60.

1325 * * *

1326 **2. Reduced Parking Area**

1327 a. In a Reduced Parking Area, an applicant may provide fewer
1328 parking spaces than required, after all adjustments are made
1329 under Section [6.2.3.H] 6.2.3.I, only under Alternative
1330 Compliance (see Division 6.8).

1331 * * *

1332 **[H] I. Adjustments to Vehicle Parking**

1333 **1. In General**

1334 a. Reduced parking rates under Section [6.2.3.H] 6.2.3.I are not
1335 mandatory. The maximum number of parking spaces allowed in
1336 a Parking Lot District or Reduced Parking Area is based on the
1337 baseline maximum in the parking table under Section 6.2.4.B.

1338 b. Adjustments under Section [6.2.3.H] 6.2.3.I to the minimum
1339 number of required parking spaces must not result in a
1340 reduction below 50% of the baseline parking minimum or
1341 shared parking model minimum.

1342 **2. Special Uses**

1343 **a.** The parking minimum resulting from a Special Uses adjustment
1344 may not be further reduced by additional adjustments under
1345 Section [6.2.3.H] 6.2.3.I.

1346 * * *

1347 **c. Religious Assembly**

1348 **i.** The deciding body may reduce the required number of
1349 parking spaces:

1350 **(a)** to [0] 0.15 spaces per fixed seat for a Religious
1351 Assembly located within 500 feet of any
1352 commercial or industrial parking lot where
1353 sufficient spaces are available during the time of
1354 services to make up the difference; or

1355 * * *

1356 **3. Shared Parking**

1357 * * *

1358 **b.** The minimum number of required parking spaces under the
1359 shared parking model may be adjusted under Section
1360 [6.2.3.H.4] 6.2.3.I.4 through Section [6.2.3.H.6] 6.2.3.I.6.

1361 * * *

1362 **Section 59-6.2.5. Vehicle Parking Design Standards**

1363 * * *

1364 **F. Spaces for Charging Electric Vehicles**

1365 An electric vehicle charging station ready parking space must be:

- 1366 1. located in a preferential, highly visible area within the parking
1367 facility;
1368 2. a minimum width of 9 feet;
1369 3. designed so that the space and pathways for the future installation of
1370 at least a 120 volt charging station and associated infrastructure are
1371 provided; and
1372 4. constructed such that all conduits leading to the electrical room,
1373 including electrical service conduit, service size, and the electrical
1374 room are appropriately sized to accommodate future electrical
1375 equipment necessary for the number of electric vehicle charging
1376 station ready parking spaces required.

1377 * * *

1378 **[F] G. Drive Aisles**

1379 * * *

1380 **[G] H. Parking Separation**

1381 * * *

1382 **[H] I. Walkways**

1383 * * *

1384 **[I] J. Drainage**

1385 * * *

1386 **[J] K. Facilities for Conditional Uses in Residential Detached Zones**

1387 * * *

1388 **[K] L. Commercial Vehicle Parking for Properties with a Residential Use**

1389 1. **In General**

1390 * * *

1391 c. A commercial vehicle under Section [6.2.5.K] 6.2.5.L must be
1392 owned or used by an occupant of the dwelling.

1393 * * *

1394 **3. RE-2, RE-2C, and RE-1 Zones**

1395 * * *

1396 b. Any property zoned RE-1 that does not have a minimum lot
1397 area of 40,000 square feet[~~,]~~ must satisfy the requirements for
1398 Surface Parking in R-200, R-90, and R-60 under Section
1399 [6.2.5.L] 6.2.5.M.

1400 * * *

1401 **[L] M. Surface Parking in R-200, R-90, R-60, and R-40 Zones**

1402 1. Parking for any vehicle or trailer in the area between the lot line and
1403 the front building line must be on a surfaced parking area.

1404 2. Except as provided in Section [6.2.5.L.3] 6.2.5.M.3, the maximum
1405 surfaced parking area between the lot line and the front building line,
1406 excluding the surfaced parking area in a driveway on a pipestem or
1407 flag-shaped lot, is:

1408 a. in the R-200 and R-90 zones, 30% or 320 square feet,
1409 whichever is greater; and

1410 b. in the R-60 and R-40 zones, 35% or 320 square feet, whichever
1411 is greater.

1412 3. A surfaced parking area may exceed the size limits in Section
1413 [6.2.5.L.2] 6.2.5.M.2 if:

1414 * * *

1415 **Sec. 22, DIVISION 59-6.4 is amended as follows:**

1416 **Division 59-6.4. General Landscaping and Outdoor Lighting**

1417 * * *

1418 **Section 6.4.3. General Landscaping Requirements**

1419 * * *

1420 4. To satisfy Section 6.2.9, Division 6.3, and Division ~~[[6.6]]~~ 6.5, a
1421 property owner must not place plant material in any utility,
1422 stormwater management, or other easement that may result in removal
1423 of the plantings, except as allowed under Section 6.2.9, Division 6.3,
1424 and Division ~~[[6.6]]~~ 6.5.

1425 * * *

1426 **Sec. 23. DIVISION 59-7.2 is amended as follows:**

1427 **Division 59-7.2. District Council Approvals**

1428 **Section 59-7.2.1. Local Map Amendment**

1429 * * *

1430 **B. Application Requirements**

1431 * * *

1432 2. The applicant must submit the following for review:

1433 a. ~~[[An]]~~ an application form and fees approved by the District
1434 Council~~[[.]]~~;

1435 b. ~~[[The]]~~ the identity of each person who has a substantial interest
1436 in the property under the application, including any person with
1437 a share in the property amounting to 5% or more (whether held
1438 in an individual or corporate capacity) of the full cash value of
1439 the property after subtracting all mortgages, deeds of trusts,
1440 liens, and encumbrances. The application must also contain the
1441 names of any contract purchaser or person holding a mortgage,
1442 deed of trust, or option to purchase the property~~[[.]]~~;

- 1443 c. ~~[[A]]~~ a statement disclosing political contributions to the
1444 treasurer or political committee of any candidate for County
1445 Council and County Executive or slate that contributes to
1446 candidates for County Council or County Executive, under
1447 State law. The applicant must submit the disclosure statement
1448 on a form approved by the District Council~~[[.]]~~;
- 1449 d. ~~[[A]]~~ a statement explaining how the proposed development
1450 satisfies the criteria to grant the application~~[[.]]~~;
- 1451 e. a certified zoning map;
- 1452 f. a description by metes and bounds, courses and distances of
1453 land or, if the boundaries conform to lot boundaries within a
1454 subdivision for which a plat is recorded in the land records of
1455 the County, then the lot, block, and subdivision designations
1456 with appropriate plat reference;
- 1457 g. ~~[[For]]~~ for a Floating zone, a floating zone plan depicting:
1458 i. building location, density, massing, height, and
1459 anticipated use;
1460 ii. locations of open spaces and preliminary stormwater
1461 management strategy;
1462 iii. pedestrian, bicycle, and vehicular circulation, parking,
1463 and loading;
1464 iv. any binding element on the application. An applicant
1465 who proposes a binding element must submit an
1466 unexecuted covenant suitable for filing in the land
1467 records reflecting any restriction on the development
1468 standards, development program, or use that will be

- 1469 applicable to the property if the District Council approves
1470 the application; and
1471 v. the following additional information:
1472 (a) current and proposed zone;
1473 (b) a plan certified by a licensed professional, showing
1474 existing site conditions and vicinity within 100
1475 feet, including total tract area; existing topography;
1476 watershed in which the site is located; Special
1477 Protection or Primary Management areas; any
1478 floodplain, wetland, or perennial or intermittent
1479 stream, and any associated buffers; whether or not
1480 rare, threatened, or endangered species were
1481 observed on the property; whether or not the
1482 property is on the Locational Atlas and Index of
1483 Historic Sites; the aerial extent of forest and tree
1484 cover on the property; and date(s) field work was
1485 conducted;
1486 (c) existing or approved adjacent land uses, buildings,
1487 and rights-of-way;
1488 (d) a Traffic Study under the Planning Board's LATR
1489 Guidelines if the incremental increase in vehicular
1490 peak-hour trips between the density of the base
1491 zoning and the density of the requested floating
1492 zone meets the minimum applicability requirement
1493 in the LATR Guidelines; and

1494 (e) general phasing of structures, uses, rights-of-way,
1495 sidewalks, dedications, and future preliminary and
1496 site plan applications[.];

1497 [[f]] h. [[For]] for a Euclidean zone application, exhibits
1498 showing:

1499 * * *

1500 **Sec. 24. DIVISION 59-7.3 is amended as follows:**

1501 **Division 59-7.3. Regulatory Approvals**

1502 **Section 59-7.3.1 Conditional Use**

1503 * * *

1504 **F. Decision**

1505 **1. Hearing Examiner**

1506 * * *

1507 c. Any party of record or aggrieved party may[, no later than 10
1508 days after the transmittal of notification that the Hearing
1509 Examiner's report and decision are available for review,] file a
1510 written request to present oral argument before the Board of
1511 Appeals within 10 days after the Office of Zoning and
1512 Administrative Hearings issues the Hearing Examiner's report
1513 and decision. The filing of such a request transfers jurisdiction
1514 over the matter from the Hearing Examiner to the Board of
1515 Appeals.

1516 * * *

1517 **2. Board of Appeals**

1518 a. If the Board of Appeals is deciding the application, it must
1519 make the necessary findings under Section 7.3.1.E and must:

- 1520 i. vote in public session to approve, approve with
- 1521 conditions, or deny the application, or to remand the
- 1522 application to the Hearing Examiner for additional
- 1523 evidence or clarification. An affirmative vote of 4
- 1524 members of the Board of Appeals is required to approve
- 1525 a conditional use when 5 members are present, otherwise
- 1526 an affirmative vote of 3 members is required. Any Board
- 1527 of Appeals member who votes on a conditional use and
- 1528 was not present for any portion of the [[hearing]] oral
- 1529 argument must read and sign the transcript of that portion
- 1530 of the [[testimony and must review all exhibits
- 1531 introduced at the hearing]] oral argument; and
- 1532 ii. issue a resolution reflecting the Board of Appeals'
- 1533 decision no later than 30 days after voting on the matter,
- 1534 unless such time is extended by the Board of Appeals.
- 1535 b. All matters decided under Section 7.3.1.F.2 must be decided on
- 1536 the basis of the evidence [[or]] of record, but the Board of
- 1537 Appeals may decide any matter heard by the Hearing Examiner
- 1538 and presented to the Board of Appeals for decision solely on the
- 1539 basis of the Hearing Examiner's report and decision.

1540 * * *

1541 **K. Amendments**

1542 * * *

1543 **2. Minor Amendment**

1544 * * *

- 1545 b. When a minor amendment is granted, the Board of Appeals or
- 1546 Hearing Examiner must send a copy of the resolution or

1547 decision, as applicable, to the applicant, the Board of Appeals
 1548 or Hearing Examiner, as appropriate, the Planning Board, DPS,
 1549 the Department of Finance, all parties entitled to notice at the
 1550 time of the original filing, and current abutting and confronting
 1551 property owners. The resolution or decision, as applicable,
 1552 must state that any party may[, within 15 days after the
 1553 resolution is sent,] request a public hearing on the Board of
 1554 Appeals' or Hearing Examiner's action within 15 days after the
 1555 [[Office of Zoning and Administrative Hearings issues the]]
 1556 resolution or decision is issued. ...

1557 * * *

1558 **Section 59-7.3.2. Variance**

1559 * * *

1560 **E. Necessary Findings**

1561 Granting the variance may only authorize a use of land allowed by the
 1562 underlying zone. To approve a variance, the Board of Appeals must find
 1563 that:

- 1564 1. [[Denying]] denying the variance would result in no reasonable use of
 1565 the property; or
- 1566 2. each of the following apply:
 - 1567 a. [[One]] one or more of the following unusual or extraordinary
 1568 situations or conditions exist:
 - 1569 [[a]] i. exceptional narrowness, shallowness, shape,
 1570 topographical conditions, or other extraordinary
 1571 conditions peculiar to a specific property;
 - 1572 [[b]] ii. the proposed development uses an existing legal
 1573 nonconforming property or structure;

1601 1. The applicant must submit an application for a building permit, site
1602 plan, or conditional use within 12 months after the issuance of a
1603 variance. If a decision on a variance is appealed to a court, this time
1604 limit runs from the date of the final court order in the appeal.

1605 **H. Recording Procedures**

1606 The Board of Appeals must maintain any resolution concerning a variance in
1607 its permanent files[. The applicant for a variance must] and must record an
1608 approved variance in the land records within 30 days after approval.

1609 **Section 59-7.3.3. Sketch Plan**

1610 * * *

1611 **E. Necessary Findings**

1612 To approve a sketch plan, the Planning Board must find that the following
1613 elements are appropriate in concept and appropriate for further detailed
1614 review at site plan. The sketch plan must:

- 1615 1. meet the objectives, general requirements, and standards of this
1616 Chapter;
- 1617 2. substantially conform with the recommendations of the applicable
1618 master plan;
- 1619 3. satisfy under Section 7.7.1.B.5 the binding elements of any
1620 development plan or schematic development plan in effect on October
1621 29, 2014;
- 1622 4. under Section 7.7.1.B.5, for [[properties]] a property [[whose]] where
1623 the zoning classification on October 29, 2014 was the result of a Local
1624 Map Amendment, satisfy any green area requirement in effect on
1625 October 29, 2014; any green area under this provision includes and is

1626 not in addition to any open space requirement of the property's zoning
1627 on October 30, 2014;

1628 [4] 5. achieve compatible internal and external relationships between
1629 existing and pending nearby development;

1630 [5] 6. provide satisfactory general vehicular, pedestrian, and bicyclist
1631 access, circulation, parking, and loading;

1632 [6] 7. propose an outline of public benefits that supports the requested
1633 incentive density and is appropriate for the specific community; and

1634 [7] 8. establish a feasible and appropriate phasing plan for all structures,
1635 uses, rights-of-way, sidewalks, dedications, public benefits, and future
1636 preliminary and site plan applications.

1637 * * *

1638 **G. Subsequent Actions**

1639 If a sketch plan is approved, a site plan under Section 7.3.4 must be
1640 submitted within 36 months after the date ~~[[of the sending of]]~~ the resolution
1641 is sent, unless a longer period is established by the resolution.

1642 * * *

1643 **Section 59-7.3.4. Site Plan**

1644 * * *

1645 **E. Necessary Findings**

1646 1. When reviewing an application, the approval findings ~~[[of approval~~
1647 only]] apply only to the ~~[[area encompassed]]~~ site covered by the
1648 application.

1649 2. To approve a site plan, the Planning Board must find that the
1650 proposed development:

- 1651 a. satisfies any previous approval that applies to the site[,
1652 including any development plan or schematic development plan
1653 in effect on October 29, 2014];
- 1654 b. satisfies under Section 7.7.1.B.5 the binding elements of any
1655 development plan or schematic development plan in effect on
1656 October 29, 2014;
- 1657 c. satisfies under Section 7.7.1.B.5 any green area requirement in
1658 effect on October 29, 2014 for [[properties]] a property
1659 [[whose]] where the zoning classification on October 29, 2014
1660 was the result of a Local Map Amendment;
- 1661 [b] d. satisfies applicable use standards, development standards, and
1662 general requirements under this Chapter;
- 1663 [c] e. satisfies the applicable requirements of:
 - 1664 i. Chapter 19, Erosion, Sediment Control, and Stormwater
1665 Management; and
 - 1666 ii. Chapter 22A, Forest Conservation.
- 1667 [d] f. provides safe, well-integrated parking, circulation patterns,
1668 building massing and, where required, open spaces and site
1669 amenities;
- 1670 [e] g. substantially conforms with the recommendations of the
1671 applicable master plan and any guidelines approved by the
1672 Planning Board that implement the applicable plan;
- 1673 [f] h. will be served by adequate public services and facilities
1674 including ...

1675 * * *

1676 [g] i. on a property in a Rural Residential or Residential zone, is
1677 compatible with the character of the residential neighborhood;
1678 and

1679 [h] j. on a property in all other zones, is compatible with existing and
1680 approved or pending adjacent development.

1681 * * *

1682 **H. Duration of Approval**

1683 1. A site plan expires unless a certified site plan, as defined and
1684 reviewed by the Planning Director, is approved within 24 months after
1685 [[Planning Board approval]] the date the resolution is sent.

1686 * * *

1687 **K. Compliance and Enforcement**

1688 * * *

1689 2. If the Planning Board or its designee finds that the applicant has failed
1690 to comply with a compliance program approved under Section
1691 7.3.4.k.1.c, the Planning Board may, without holding any further
1692 hearing, take any of the actions identified in Section 7.3.4.k.1.a.
1693 through Section 7.3.4.k.1.e.

1694 3. If the Planning Board suspends or revokes a site plan, DPS must
1695 immediately suspend any applicable building permit under which
1696 construction has not been completed, or withhold any applicable use-
1697 and-occupancy permit, until the Planning Board reinstates the site
1698 plan or approves a new site plan for the development.

1699 [3] 4. The Planning Board may require the applicant to post a commercially
1700 acceptable form of surety securing compliance with and full
1701 implementation of specified features of the certified site plan in an
1702 amount set by the Planning Board. If such surety is required, DPS

1703 must not issue a building permit or use-and-occupancy permit until
1704 such surety is accepted.

1705 **Sec. 25. DIVISION 59-7.4 is amended as follows:**

1706 **Division 59-7.4. Administrative Approvals**

1707 **Section 59-7.4.1. Building Permit**

1708 * * *

1709 **C. Review and Recommendation**

1710 DPS must submit the application to the Planning Director for review for any
1711 building permit that requests:

1712 * * *

1713 3. construction that increases the gross floor area of any residential
1714 structure by more than [500 square feet] 50% of the existing gross
1715 floor area.

1716 * * *

1717 **Section 59-7.4.4. Sign Variance**

1718 * * *

1719 **C. Necessary Findings**

1720 * * *

1721 6. The Sign Review Board may approve a variance for a sign on
1722 property with a conditional use approval if the Hearing Examiner or
1723 Board of Appeals, as applicable, has approved the sign. Nothing in
1724 Section 7.4.4 prevents the Sign Review Board from imposing more
1725 restrictive conditions than the Hearing Examiner or Board of Appeals,
1726 but the Sign Review Board must not approve a sign variance
1727 [[which]] that is less restrictive than any condition set by the Hearing
1728 Examiner or Board of Appeals.

1729 * * *

1730 **Sec. 26. DIVISION 59-7.6 is amended as follows:**

1731 **Division 59-7.6. Special provisions**

1732 **Section 7.6.1. Board of Appeals**

1733 * * *

1734 **C. Filing of Appeals**

1735 * * *

1736 5. When an administrative appeal is made, the Board of Appeals must
1737 send notice of the hearing within 5 days of the request for appeal to
1738 DPS, the State Highway Administration, the County Board of
1739 Education, all abutting and confronting property owners, civic and
1740 homeowners associations within ½ mile, any municipality within ½
1741 mile, and pre-submittal attendees if applicable. A condominium's
1742 council of unit owners may be notified instead of the owner and
1743 residents of each individual condominium.

1744 * * *

1745 **Sec. 27. DIVISION 59-7.7 is amended as follows:**

1746 **Division 59-7.7. Exemptions and Nonconformities**

1747 **Section 59-7.7.1. Exemptions**

1748 **A. Existing Structure, Site Design, or Use on October 30, 2014**

1749 **1. Structure and Site Design**

1750 A legal structure or site design existing on October 30, 2014 that does
1751 not meet the zoning standards on or after October 30, 2014 is
1752 conforming and may be continued, renovated, repaired, or
1753 reconstructed if the floor area, height, and footprint of the structure is
1754 not increased, except as provided for in Section 7.7.1.C for structures

1755 in Commercial/Residential, Employment or Industrial zones, or
1756 Section 7.7.1.D.5 for structures in Residential Detached zones.

1757 **2. Use**

1758 [Any] Except for a Registered Living Unit, any use that was
1759 conforming or not nonconforming on October 29, 2014 and that
1760 would otherwise be made nonconforming by the application of zoning
1761 on October 30, 2014 is conforming, but may not expand.

1762 **B. Application Approved or Filed for Approval before October 30, 2014**

1763 **1. Application in Progress before October 30, 2014**

1764 Any development plan, schematic development plan, diagrammatic
1765 plan, concept plan, project plan, sketch plan, preliminary plan, record
1766 plat, site plan, special exception, variance, or building permit filed or
1767 approved before October 30, 2014 must be reviewed under the
1768 standards and procedures of the Zoning Ordinance in effect on
1769 October 29, 2014. Any complete Local Map Amendment application
1770 submitted to the Hearing Examiner by May 1, 2014, must be reviewed
1771 under the standards and procedures of the Zoning Ordinance in effect
1772 on October 29, 2014. If the District Council approves such an
1773 application after October 30, 2014 for a zone that is not retained in
1774 Chapter 59, then the zoning will automatically convert to the
1775 equivalent zone as translated under DMA [G-95] G-956 when the
1776 Local Map Amendment is approved. The approval of any of these
1777 applications or amendments to these applications [approved before
1778 October 30, 2014] will allow the applicant to proceed through any
1779 other required application or step in the process within the time

1780 allowed by law or plan approval, under the standards and procedures
1781 of the Zoning Ordinance in effect on October 29, 2014.

1782 * * *

1783 **5. Development with a Development Plan or Schematic Development**
1784 **Plan Approved before October 30, 2014**

1785 a. Any development allowed on property [subject to the binding
1786 elements of a District Council approved development plan or
1787 schematic development plan on October 30, 2014] ~~[[whose]]~~
1788 where the zoning classification on October 29, 2014 was the
1789 result of a Local Map Amendment must satisfy [those binding
1790 elements] ~~[[the green area requirements of the zone in effect on~~
1791 October 29, 2014 and]] any binding elements until [the property
1792 is]:

1793 ~~[[a]]~~ i. the property is subject to a Sectional Map
1794 Amendment that implements a master plan approved
1795 after October 30, 2014;

1796 ~~[[b]]~~ ii. the property is rezoned by Local Map Amendment;
1797 or

1798 ~~[[c]]~~ iii. the binding element is revised by a [major]
1799 development plan amendment under the procedures in
1800 effect on October 29, 2014.

1801 b. Any development on a property that was zoned H-M on
1802 October 29, 2014 must include 45 percent green area, under the
1803 zoning in effect on October 29, 2014, until the property is
1804 subject to a sectional map amendment or rezoned by local map
1805 amendment. The green area required under this provision

1806 satisfies, and is not in addition to, any open space requirement
1807 of the property's zoning on October 30, 2014.

1808 * * *

1809 **C. Expansion of Floor Area Existing on October 30, 2014**

1810 **1. Limited Rights under Zoning before October 30, 2014**

1811 Until October 30, 2039, on land that is located in a
1812 Commercial/Residential, Employment, or Industrial zone, an
1813 applicant for an amendment to an application listed in Section
1814 7.7.1.B.1 may increase the floor area on the site [by the lesser of 10%
1815 of the gross floor area approved for the site on October 30, 2014 or
1816 30,000 square feet, except for properties with 2,000 square feet or less
1817 of floor area, which may expand up to 30% of the gross floor area
1818 approved for the site on October 30, 2014,] under Section 7.7.1.C.2 or
1819 7.7.1.C.3 following the [[procedure]] procedures and standards of the
1820 property's zoning on October 29, 2014[, if]:

- 1821 a. [The] if the building does not exceed the height limits and
1822 density of the property's zoning in effect on October 29, 2014;
- 1823 b. [Any] if any building on the site is no closer to property in a
1824 Residential Detached zone that is vacant or improved with a
1825 Single-Unit Living use than any existing structure on the site on
1826 October 30, 2014, or satisfies the setbacks of the current
1827 zoning; and
- 1828 c. [If] when a site plan or site plan amendment is required by the
1829 property's zoning on October 29, 2014, [then] a site plan or a
1830 site plan amendment is approved under the standards of site
1831 plan approval on October 29, 2014.

1832 **2. All prior zones**

1833 [[Any applicant]] Existing development in a Commercial/Residential,
1834 Employment, or Industrial zone may [[seek approval for]] expand by
1835 up to the lesser of 10% of the gross floor area approved for the site on
1836 October 30, 2014 or 30,000 square feet, except for properties with
1837 2,000 square feet or less of floor area, which may expand by up to
1838 30% of the gross floor area approved for the site on October 30, 2014.
1839 Any expansion must satisfy Section 7.7.1.C.1.

1840 **3. Prior Floating Zones**

1841 a. [[Any applicant]] A property [[whose]] where the [[property]]
1842 zoning on October 29, 2014 was the result of a Local Map
1843 Amendment [[and the]] with an approved development plan
1844 [[lacks without any binding elements,]] may [[seek approval for
1845 an increase in floor area of any amount under Section
1846 7.7.1.C.3.B.]] expand as allowed under Section 7.7.1.C.3.b.
1847 Any expansion must satisfy Section 7.7.1.C.1.

1848 b. If the District Council approves a development plan amendment
1849 larger than allowed under Section 7.7.1.C.2, the zoning of the
1850 property subject to the amendment will automatically convert
1851 and be remapped to the equivalent zone as translated under
1852 DMA G-956, with the density and height approved in the
1853 amendment.

1854 **4. Expansion above Section [7.7.1.C.1 or Amendment after**
1855 **Section 7.7.1.B.3.a] 7.7.1.C.2**

1856 Any portion of an enlargement that exceeds Section [7.7.1.C.1]
1857 7.7.1.C.2 must satisfy the applicable standards and procedures for the
1858 current zoning. After October 30, 2039, any amendment to a

1859 previously approved application must satisfy the applicable standards
1860 and procedures for the current zoning to the extent of (a) any
1861 expansion, and (b) any other portion of an approved development that
1862 the amendment changes.

1863 **D. Residential Lots and Parcels**

1864 * * *

1865 **6. Exempted Lots and Parcels in the RE-2C Zone**

1866 A lot or parcel in the RE-2C zone, in addition to other exemptions in
1867 this subsection, is exempt from the area and dimension requirements
1868 of the RE-2C zone, but must satisfy the requirements of the zone
1869 applicable to it before its classification to the RE-2C zone if:

- 1870 a. the property owner held title to the property before March 17,
1871 1982;
- 1872 b. a reduced lot size is required for a lot created for a detached
1873 house;
- 1874 c. the child of the property owner, or the spouse of a child, or the
1875 parents of the property owner will reside in the house on the
1876 additional lot; and
- 1877 d. the overall density of the tract owned on March 17, 1982 is 1.1
1878 units per acre or lower.

1879 **7. Exempted Lots and Parcels in the Rural Zone**

1880 A lot or parcel in the Rural zone, in addition to other exemptions in
1881 this subsection, is exempt from the area and dimension requirements
1882 of the Rural zone, but must satisfy the requirements of the zone
1883 applicable to it before its classification to the Rural zone if:

- 1884 a. the property owner can establish that the owner had legal title
- 1885 on or before June 4, 1974;
- 1886 b. the child of the property owner, or the spouse of a child, or the
- 1887 parents of the property owner will reside in the house on the
- 1888 additional lot; and
- 1889 c. the overall density of the property does not exceed one dwelling
- 1890 unit per 5 acres in any subdivision.

1891 **8. Exempted Lots and Parcels in the Rural Cluster Zone**

1892 A lot or a parcel in the Rural Cluster (RC) zone, in addition to other

1893 exemptions in this subsection, is exempt from the minimum area

1894 requirements and dimension requirements of the Rural Cluster zone,

1895 but must satisfy the requirements of the zone applicable to it before its

1896 classification to the RC zone if:

- 1897 a. the property owner held title to the property before June 4,
- 1898 1974;
- 1899 b. a reduced lot size is required for a lot created for a detached
- 1900 house; and
- 1901 c. the child of the property owner, or the spouse of a child, or the
- 1902 parents of the property owner will reside in the house on the
- 1903 additional lot.

1904 **Section 59-7.7.2. Nonconforming Use**

1905 A lawful nonconforming use may be continued[[],] under the following limits:

1906 **A. Expansion**

1907 A lawful nonconforming use of a structure or lot must not be expanded [in

1908 any way].

1909 **B. Abandonment of Use**

1910 [If a nonconforming use is abandoned, it must not be reestablished unless it
1911 is a historic resource and satisfies Section 7.7.2.C. A] Except for a
1912 Registered Living Unit allowed under the code in effect on October 29,
1913 2014, which may be abandoned, removed, or terminated under the code in
1914 effect on October 29, 2014, a nonconforming use or a use deemed to be
1915 conforming under Section 7.7.1.A.2 is abandoned if [[the nonconforming
1916 use]] it ceases for at least 6 consecutive months. If a nonconforming use or
1917 a use deemed to be conforming under Section 7.7.1.A.2 is abandoned, it
1918 must not be reestablished unless it is a historic resource and satisfies Section
1919 7.7.2.C.

1920 * * *

1921 **Sec. 28. DIVISION 59-8.1 is amended as follows:**

1922 **Division 59-8.1. In General**

1923 * * *

1924 **Section 59-8.1.2. Modification of Zones**

1925 **A. Amending a Development Plan**

1926 An amendment to an approved development plan or schematic development
1927 plan in any zone in Article 59-8 must follow:

- 1928 1. the procedures for [amending a floating zone plan under Section
1929 7.2.1.1] amendment of a development plan under the zoning ordinance
1930 in effect on October 29, 2014;

1931 * * *

1932 **Sec. 29. DIVISION 59-8.3 is amended as follows:**

1933 **Division 59-8.3. Planned Unit Development Zones**

1934 * * *

1935 **Section 59-8.3.6. Planned Cultural Center Zone**

1936 * * *

1937 **C. Development Standards**

1938 * * *

1939 **2. Coverage and Public Open Space**

1940 a. The maximum building coverage is 30%. The building
1941 coverage may be increased to a maximum of 40% if such
1942 additional building coverage is developed and used for above-
1943 ground, structured parking.

1944 b. A minimum of 30% of the total site area included in the
1945 development plan must be maintained as public open space;
1946 however, the District Council may reduce this requirement if it
1947 finds that comparable amenities or facilities provided in lieu of
1948 open space are sufficient to accomplish the purposes of the zone
1949 and would be more beneficial to the proposed development than
1950 strict adherence to the specific public open space requirements.

1951 * * *

1952 **Sec. 30. Effective date.** This ordinance becomes effective October 30,
1953 2014.

1954

1955 This is a correct copy of Council action.

1956

1957 Linda M. Lauer

1958 Linda M. Lauer, Clerk of the Council