

Ordinance No. 7-11

ORDINANCE:

To grant Text Amendment
Application No. TXT2011-
00230, Mayor and Council of
Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2011-00230 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," to revise the definition of "family", revise the process for reviewing site plans and project plans, and to make technical corrections and clarifications; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of March 23 and March 30, 2011, and recommended that the text amendment be approved with the exception of the proposed changes to the site plan review process as set forth in a memorandum to the Mayor and Council dated March 31, 2011; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on April 11, 2011, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on April 11, 2011, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF
ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2011-00230, be, and

the same is hereby, granted, as amended, by amending Article 8, "Transitional Provisions, Nonconformities, Nonconforming Alteration Approval," by various section of Chapter 25, "Zoning" as follows:

Section 1. That the Table of Contents be amended as follows:

TABLE OF CONTENTS

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

- 25.07.01 – Site Plan, Project Plan, and Special Exception Approval Required
- 25.07.02 – Application Procedure for Site Plans, Project Plans, and Special Exceptions
- 25.07.03 - Notice Required; Procedure
- 25.07.04 – Level One (1) Site Plan Review
- 25.07.05 – Level Two (2) Site Plan Review
- [25.07.06 – Level Three (3) Site Plan Review]
- 25.07.[07] 06 – Site Plan Implementation Period
- 25.07.[08] 07 – Project Plan Review
- 25.07.[09] 08 –Special Exceptions
- 25.07.[10] 09 – Temporary Use Permit
- 25.07.[11] 10 – Sign Permit
- 25.07.[12] 11 – Occupancy Permit
- 25.07.[13] 12 – Temporary Occupancy Permit
- 25.07.[14] 13 – Certificate of Approval in Historic Districts
- 25.07.[15] 14 – Additional Permits and Approvals
- 25.07.[16] 15 – Extension of Implementation Period for Approved Projects

Section 2. That Article 1, "General Information" be amended as follows

25.01.02. Purpose

The purposes of this Chapter are to:

* * *

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

Section 3. That Article 2, "Zoning Map", be amended as follows;

25.02.04 – Zoning of Annexed Land

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

* * *

Section 4. That Article 3, "Definitions; Terms of Measurement and Calculations", be amended as follows:

25.03.02 – Words and Terms Defined

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

Philanthropic Institution – See Charitable or Philanthropic Institution

* * *

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

* * *

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

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

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Section 5. That Article 4, "Approving Authorities", be amended as follows:

25.04.02 – Planning Commission

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b. *Powers and Duties*

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2. *Responsibility Where Approval is Required* – Where Planning Commission approval is required under this Chapter or other applicable law, the Commission must:
 - (a) Consider and act upon any request for approval,

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

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25.04.04 – Historic District Commission

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b. Powers and Duties

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

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25.04.05 – Sign Review Board

* * *

c. Membership

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5. *Clerk of Sign Review Board* – The Chief of Planning serves as the Clerk of the sign Review Board and will:
 - (a) Attend all meetings of the Sign Review Board;
 - (b) Keep a full and accurate account of the proceedings of the Sign Review Board, including but not limited to the official record of all matters filed with the [Commission] Board;

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25.04.07 – Chief of Inspection Services

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b. *Appeals*

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

Section 6. That Article 5, “Application and Notification Generally”, be amended as follows:

25.05.07 – Amendments to Approved Development

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b. *Minor Amendments to Approved Development*

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

[2.] (a) Such application may [only] be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to [a change in: (a)] minor adjustments to [due] to site engineering_s]; or (b) a] parking or loading areas_s]; or (c)] landscaping, [a] sidewalks_s, recreational facilities, recreational areas_s, public use space, or open area in a manner that does not alter basic elements of the site plan. Landscaping maintenance does not require an amendment application under this section.

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

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

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

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

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

c. Major Amendments to Approved Development

* * *

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

Section 7. That Article 6, “Procedures for Map and Text Amendments, Variances, and Administrative Actions”, be amended as follows:

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

* * *

25.06.02 – Zoning Text Amendments

a. Scope

* * *

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

* * *

25.06.03 – Variances

* * *

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

* * *

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

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

* * *

25.06.05 – Administrative Adjustments in Single Dwelling Unit Residential Zones.

a. *Purpose and Authority* – The Chief of Planning is authorized to determine and make administrative adjustments from the regulations of this Chapter when:

1. It is found to be in harmony with its general purpose and intent provided in Section 25.01.02;
2. [In] It complies with the specific instances set forth in this Section 25.06.05; and

* * *

25.06.05 – Administrative Adjustments in Single Dwelling Unit Residential Zones.

* * *

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

* * *

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

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

Section 8. That Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions and Other Permits”, be amended as follows:

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

a. *Site Plan Approval*

* * *

3. *Required Findings:* [-]

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

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

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

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

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

v. Be in conflict with the Plan;

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

vii. Be incompatible with the surrounding uses or properties.

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

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

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

iii. Be incompatible with the surrounding uses or properties.

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

- i. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- ii. Adversely affect the natural resources or environment of the City or surrounding areas; or
- iii. Constitute a violation of any provision of this Chapter or other applicable law.

b. *Project Plan Approval*

* * *

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

- (a) Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed [use] project;
- (b) [Be detrimental to the public welfare or injurious to property or improvements in the neighborhood] Be in conflict with the Plan;
- (c) Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards; [or]
- (d) Constitute a violation of any provision of this Code or other applicable law[.]; or [.]
- (e) Adversely affect the natural resources or environment of the City or surrounding areas[;] .
- [(f)Be in conflict with the Plan; or
- a. Be incompatible with the surrounding uses or properties.]

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

* * *

a. *Application Procedure, in General* –

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

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

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

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

c. Site Plan Level of Review

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

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

- d. *Project Plan Review* – If the elements of the proposed project total [13] 16 or more points, the development is subject to Project Plan review. The Mayor and Council and Planning

Commission will each hold a briefing session on the plan application, the Chief of Planning and Planning Commission will perform a preliminary review and make a recommendation to the Mayor and Council, and the Mayor and Council will then complete a final review of the plan in accordance with Sections 25.07.01.b.2 and 25.07.06. The Planning Commission will thereafter review subsequent site plans implementing the approved Project Plan in accordance with the level two (2) site plan review procedures under Section 25.07.04.

* * *

25.07.03. Notice Required; Procedure

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

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

* * *

25.07.04 – Level One (1) Site Plan Review

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

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

2. [Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.] Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee (the public is invited to observe, however these are not public hearings and not testimony will be received) prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

25.07.05 – Level Two (2) Site Plan Review

An application for a site plan review with seven (7) to nine (~~9~~15) points, as determined in Section 25.07.02.b above, is subject to the following provisions:

1. [Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline and receive comments on the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.
2. [Pre-Application Area Meeting – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.] Pre-Application Staff Meeting – The applicant must hold a meeting with staff of the City’s Development Review Committee (the public is invited to observe, however these are not public hearings and not testimony will be received) prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

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[25.07.06 – Level Three (3) Site Plan Review

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

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

the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

2. *Pre-Application Area Meeting* – The applicant must hold an area meeting in accordance with the provisions of Section 25.07.03 prior to submitting an application to outline the scope of the project and receive comments.
3. *Application* – The applicant must file an Level Three (3) site plan application and provide a date for a post-application area meeting in accordance with the provisions of Section 25.07.03 and Article 5.
4. *Notice* – The applicant must provide notice of the application filing in accordance with the provisions of Section 25.07.03.
5. *Post-Application Area Meeting* – The applicant must hold an area meeting following submittal of an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03 above.
6. *Planning Commission Preliminary Review* – The Planning Commission must conduct a preliminary review of the application at a public meeting and provide an opportunity for public comment.
7. *Revision to Application* – The applicant must file a revision to the application, if needed, based on comments from the preliminary review, in accordance with the provision of Article 5.
8. *Notice* – The applicant must provide notice of the Planning Commission final review of the application in accordance with the provisions of Section 25.07.03
9. *Planning Commission Final Review*– The Planning Commission must conduct a final review of the application at a public meeting and provide an opportunity for public comment.
10. *Conditions of Approval* – Approvals may be subject to any condition that the Planning Commission finds necessary to protect the public health, safety, and welfare of the community and to ensure that the proposed use or development will be consistent with the purpose and intent of this Chapter. The Planning Commission must make the findings in Section 25.07.01.a.3.
11. *Implementation Period* – The approval of a Level Three (3) site plan is subject to the implementation provisions of Section 25.07.07.

12. *Notice of Decision* – The Chief of Planning must send notice of the Planning Commission's final decision on the Level 3 site plan in accordance with the provisions of Section 25.05.06.
13. *Appeals* – Any person aggrieved by any final decision of the Commission may appeal the same to the Circuit Court for the County. Such appeal must be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.]

25.07.[07] 06. Site Plan Implementation Period

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

25.07.[08] 07. – Project Plan Review

An application for a site plan review with [13] 16 or more points, as determined in Section 25.07.02.b above, is processed as a Project Plan review and is subject to the following provisions:

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

2. [*Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application, to outline the scope of the project. The applicant must provide notice of the meeting in accordance with the provisions of Section 25.07.03.] *Pre-Application Staff Meeting* – The applicant must hold a meeting with staff of the City’s Development Review Committee (the public is invited to observe, however these are not public hearings and not testimony will be received) prior to submitting an application, in order to outline the scope of the project and the scope of the Comprehensive Transportation Review. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

* * *

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

* * *

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

* * *

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

* * *

25.07.[09] 08 –Special Exceptions

- a. [*Pre-Application Staff Meeting* – The applicant must hold a meeting with the City’s Development Review Committee prior to submitting an application to outline the scope of the project. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.] *Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of subsection 25.07.08.b above.
- b. *Notice* – The applicant must provide notice of the Board of Appeals public hearing and any revisions to the application, if applicable, in accordance with the provisions of Section 25.07.03 and with the following:
 1. The area of notice shall be based on the chart in Section 25.07.02.b.

- (a) For applications with zero (0) to six (6) points mailed notice shall be sent to all property owners and residents within 750 feet of the project area.
- (b) For applications with seven (7) to [nine (9)] fifteen (15) points mailed notice shall be sent to all property owners and residents within [1,000] 1,250 feet of the project area.
- (c) [For applications with 10 to 12 points mailed notice shall be sent to all property owners and residents within 1,250 feet of the project area.]
- [(d)]For applications with [13] 16 or more points mailed notice shall be sent to all property owners and residents within 1,500 feet of the project area.

c. *Pre-Application Area Meeting* – The applicant must hold an area meeting prior to submitting an application to outline the scope of the project and receive comments. The applicant must provide notice of the meeting in accordance with the provisions of subsection 25.07.09.b above.] *Pre-Application Staff Meeting* – The applicant must hold a meeting with the City’s Development Review Committee (the public is invited to observe, however these are not public hearings and not testimony will be received) prior to submitting an application to outline the scope of the project. At that meeting, the Chief of Planning will provide the applicant with a non-binding point evaluation for the project, which will be re-evaluated after the application is submitted.

* * *

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

25.07.[10] 09 – Temporary Use Permit

* * *

25.07.[11] 10 – Sign Permit

* * *

25.07.[12] 11 – Occupancy Permit

* * *

25.07.[13] 12 – Temporary Occupancy Permit

* * *

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

* * *

25.07.[15] 14 – Additional Permits and Approvals

* * *

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

Section 9. That Article 8, “Transitional Provisions, Nonconformities, Nonconforming Alteration Approval”, be amended as follows:

25.08.02 – Transitional Provisions

b. *Previously Approved Developments*

* * *

2. *Use Permits for Multi-Phase Projects*

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

- ii. Where 60 percent or more of the total approved gross floor area has been constructed within 12 years from the date of the issuance of the use permit, the use permit becomes void with respect to any building for which construction has not commenced within 14 years from the date of issuance of the building permit.

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

* * *

25.08.03 – R-60 Qualifying [Substandard] Undersized Lots

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

* * *

25.08.08 – Nonconforming Alteration Approval

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

* * *

2. Planning Commission Review -

* * *

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

* * *

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

Section 10. That Article 10, “Single Dwelling Unit Residential Zones”, be amended as follows:

25.10.03. Land Use Tables

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

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	

e. Institutional uses	Adult day care	S	S	S	S	S	S	S	
Institutional uses (con't.)	Charitable or philanthropic [institution] office	S	S	S	[9 - 12 children] S	S	S	[S] N	See Sec. 25.15.02.e
	Child care home up to 8 children	P	P	P	P	P	P	P	
	Child care center:								Special exception subject to the requirements of Sec. 25.15.02.f
	9 - 12 children	P	P	S	S	S	S	S	
	More than 12 children	S	S	S	S	S	S	S	
	Educational institution, private	S	S	S	S	S	S	[S] N	See Sec. 25.15.02.g
	Group home:								
	Small	P	P	P	P	P	P	P	
Large	S	S	S	S	S	S	S		
[Hospital	S	S	S	S	S	S	S	S	See 25.15.02.i]

g. Temporary Uses	Christmas tree sale	C	C	C	C	C	C	C	Subject to the requirements of Sec. 25.09.04
	Garden produce	C	C	C	C	C	C	C	
	Portable Storage Units	C	C	C	C	C	C	C	

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
	Temporary building or yard for construction materials or equipment	C	C	C	C	C	C	C	
	Temporary office or model home	C	C	C	C	C	C	C	
	Temporary carnival	C	C	C	C	C	C	C	
h. Accessory Uses		P	P	P	P	P	P	P	See Secs. 25.09.01[&] 02, & 03.

Section 11. That Article 11, "Residential Medium Density Zones", be amended as follows:

25.11.03 – Land Use Tables

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

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

uses	Uses	Zones			Conditional requirements or related regulations
		Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	

	[Hospital]	S	S	S	See Sec. 25.15.02.i)

g. Accessory uses		P	P	P	See Secs. 25.09.01 [&] 02. & 03.

Section 12. That Article 12, "Industrial Zones", be amended as follows:

25.12.04 – Development Standards

a. Table of Development Standards-

Tax one (res)	Min. Zone Area (square feet)	Lot Coverage		Setback Requirements						Maximum Height	C requ relate
				Front Yard	Side Yard			Rear Yard			
		Max. Lot coverage (%)	Min. open area (%)		Min. Front (feet)	Minimum 1 Side			Residential land abutting (feet)	Nonresidential land abut (feet)	
				Side Street abutting (feet)	Nonresidential land abutting (feet)	Residential land abutting (feet)	Residential land abutting (feet)	Nonresidential land abut (feet)			
V/A	N/A	50	10	25'	10'	[0] None or [at least] 10' if provided	Building height, but not less than 30'	Building height, but not less than 30'	0 or at least 10' if provided	40'	
V/A	N/A	N/A	10	25'	10' from ROW, or 60' from center-line	[0] None or [at least] 10' if provided	Building height, but not less than 30'	Building height, but not less than 30'	0 or at least 10' if provided	70'	

Section 13. That Article 13, "Mixed-Use Zones", be amended as follows:

25.13.03 – Land Use Tables *

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

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

25.13.05. – Development Standards

b. Development Standards

* * *

2. *Building Height*

(a) *MXTD Zone–*

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

Section 14. That Article 14, “Special Zones”, be amended as follows:

25.14.01 – Historic District Zones

* * *

d. Designation of Properties

* * *

6. *Restrictions on Property During Interim Historic Review Period* – No exterior change may be made to any property identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, historic evaluation, or a demolition permit under this Section 25.14.01 until the designation process is complete, unless the property owner first obtains a Certificate of Approval from the Historic District Commission in accordance with the provisions of Section 25.07.[14] 13. The restriction of this subsection will not apply for more than 210 days from the date of the filing of the application that initiated the historic designation review period.

* * *

25.14.06 – Park Zone

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

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

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

* * *

25.14.07 – Planned Development Zones

* * *

e. *Amendment of a Planned Development*

1. *Required, General* – The following are Planned Development amendments subject to the Equivalent Zone development standards and will require approval of an amendment to the Planned Development Governing Documents by the Mayor and Council.
 - (a) Any increase in the intensity of the development (dwelling units, gross square footage, etc.) beyond what is authorized in the Planned Development Governing Documents;
 - (b) Any increase in building heights beyond what is authorized in the Planned Development Governing Documents;
 - (c) Addition of new uses not approved in the Planned Development Governing Documents;
 - ([e] d) A major relocation of public streets;

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

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

Section 15. That Article 15, "Special Exceptions", be amended as follows:

25.15.01 – Special Exceptions

a. *Generally*

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

* * *

25.15.02 – Additional Requirements for Certain Special Exceptions

* * *

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

* * *

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

* * *

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

* * *

e. *Charitable [and] or Philanthropic Institutions*

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

* * *

f. *Child Care Centers*

* * *

2. *Additional Findings and Conditions*

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

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

* * *

Section 16. That Article 16, "Parking and Loading", be amended as follows:

25.16.03 – Number of Spaces Required

* * *

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

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
Residential	Dwelling, [S] single unit detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, [S] single unit semi-detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, townhouse	For 1 or 2 bedrooms	1.5	Dwelling unit	0	0	
		For 3 or more bedrooms	2				
	Dwelling, single unit attached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, multiple-unit	For 0 (zero) bedrooms	1	Dwelling unit	1 per 50	1 per 3	
		For 1 bedroom	1				
		For 2 or more bedrooms	1.5				
	Live-work unit	For 1 or 2 bedrooms	2	Unit	1 per 5	1 per 3	
		For 3 or more bedrooms	2				
Per 2 employees		1					
* * *							

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

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

25.16.05 – Parking Design Standards

b. Parking Spaces

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

* * *

25.16.09 – Bicycle Parking

* * *

c. Standards

* * *

2. Long Term Bicycle Parking Standards

(b) Standards -

* * *

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

Section 17. That Article 17, “Public Use Space, Landscaping and Screening, Utility Placement and Screening, Lighting, Sidewalks, and Shadows”, be amended as follows:

25.17.01 – Public Use Space

* * *

d. Fee in Lieu of Public Use Space Requirements

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

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

Section 18. That Article 18, "Signs", be amended as follows:

25.18.18 – Signs in Planned Development Zones

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

Section 19. That Article 19, "Enforcement", be amended as follows:

25.19.03 – Violations

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

* * *

Section 20. That Article 21, "Plats and Subdivision Regulations", be amended as follows:

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

* * *

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

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

2. The property being platted is:

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

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

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

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

* * *

25.21.10 – Plats and Data for Final Approval

* * *

b. *Information to Include* -

* * *

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

* * *

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

* * *

25.21.11 – Final Record Plat Approval Procedures – Generally

* * *

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

* * *

25.21.13 – Ownership Plats

* * *


- f. *Revocation of Approval* – In the event that the ownership plat is not recorded within two (2) years after receiving approval, due to the failure of the subdivider to comply with any conditions, the application is considered withdrawn and any previous approval is revoked. For good cause shown, not more than two (2) extensions not exceeding one (1) year each may be granted by the Planning

Commission; except that the Commission may extend the time for recording the ownership plat to the expiration date of any existing site plan or Project Plan approval.

NOTE: [Brackets] indicate material deleted
Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

* * * * *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of June 6, 2011.



Glenda P. Evans, City Clerk