

Ordinance No. O-5-10

AN ORDINANCE TO AMEND CHAPTER 24 (CITY ZONING ORDINANCE), ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," DIVISION 19, ENTITLED, "MXD ZONE, MIXED USE DEVELOPMENT," § 24-160D.4 ENTITLED, "DENSITY AND INTENSITY OF DEVELOPMENT," §§ 24-160D.9(a) AND (b) ENTITLED, "APPLICATION AND PROCESSING PROCEDURES," § 24-160D.10(b) ENTITLED, "FINDINGS REQUIRED," § 24-160D.12, ENTITLED, "REGULATIONS ADOPTED AS PART OF SKETCH PLANS," DIVISION 22, ENTITLED, "CD ZONE, CORRIDOR DEVELOPMENT," ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-169 ENTITLED, "SUBMISSION; FEE; REQUIREMENTS OF PLAN," ARTICLE VI, ENTITLED, "ADMINISTRATION AND ENFORCEMENT OF CHAPTER," § 24-177 ENTITLED, "BUILDING PERMITS," ARTICLE VII, ENTITLED, "BOARD OF APPEALS," § 24-188(C)(1) ENTITLED, "GENERAL REQUIREMENTS AND PROCEDURES," ARTICLE VIII, ENTITLED, "AMENDMENT PROCEDURE," § 24-198(a) ENTITLED, "OPTIONAL METHOD OF APPLICATION FOR LOCAL MAP AMENDMENTS," AND ARTICLE XI, ENTITLED, "OFF-STREET PARKING AND LOADING," §§ 24-220(b) AND (e), SO AS TO PROVIDE NEW STANDARDS FOR STORMWATER MANAGEMENT

**Text Amendment T-394**

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24, Articles III, V through VIII, and XI of the City Code be, and they hereby are, amended to read as follows:

**ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES**

\* \* \* \*

**DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT**

\* \* \* \*

**Sec. 24-160D.4. Density and intensity of development.**

~~(a)~~ *Residential*

~~(1)~~ The residential density in the MXD Zone shall not exceed the residential density or total number of dwelling units stated in the applicable master plan, if any. The total number of dwelling units and the corresponding overall density, as well as the approximate location of such units, shall be established at the time of sketch plan approval pursuant to section 24-160D.9(a).

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>Single strikethrough</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
<del>Double boldface strikethrough</del>	<i>Deleted from existing law or the bill by amendment.</i>
****	<i>Existing law unaffected by bill.</i>

(a) The residential density in the MXD Zone shall not exceed the residential density or total number of dwelling units stated in the applicable master plan, if any. The total number of dwelling units and the corresponding overall density, as well as the approximate location of such units, shall be established at the time of sketch plan approval pursuant to section 24-160D.9(a).

(b) *Commercial/employment/industrial.* The commercial/employment/industrial density in the Mixed Use Development Zone shall be compatible with any gross floor area or floor area ratio recommended in the applicable area master plan or special conditions or requirements, if any are stated therein. The maximum density of commercial/employment/industrial development shall be based on the area shown for commercial/employment/industrial uses on the sketch plan or schematic development plan, and shall not exceed a floor area ratio of 0.75; provided, however, that any land zoned to the MXD category prior to January 1, 1991, and any land not exceeding twelve (12) acres in size incorporated into such acreage zoned MXD prior to January 1, 1991, shall have a floor area ratio not to exceed 1.5. The Mayor and City Council may, by separate resolution, waive any or all the floor area ratio development standards when necessary to incorporate environmental site design or implement the master plan.

\* \* \* \*

#### **Sec. 24-160D.9. Application and processing procedures.**

Procedures governing the application for the MXD Zone and approvals necessary to seek building permits shall be subject to the following multistep process:

(a) *Application for the MXD Zone and sketch plan approval.*

- (1) An applicant shall file, together with the prescribed application fee, an application for the MXD Zone pursuant to the provisions of section 24-196 of this Code, and in addition, shall submit for approval as part of the application for separate approval, a sketch plan reflecting at a minimum, the following:
  - a. The boundaries of the entire tract or parcel.
  - b. The requirements of section 24-169(a), except for items (4), (5), (6) and (7)f. Generalized location of existing and proposed external roads and adjacent land use and development.
  - c. ~~Generalized location and description of various internal proposed land use components, including information as to proposed densities and intensities, proposed size and heights of development.~~
  - d. ~~Generalized location, description and timing of proposed roads, proposed dedicated public lands and perimeter setback or buffer areas.~~
  - e. Proposed phasing or staging plan of development, public facilities and information regarding such plan's consistency with provision of master planned or otherwise necessary public facilities.

~~f. Generalized area of woodlands, streams and watercourses and other areas intended for natural preservation, as well as an approved forest stand delineation, as defined in Chapter 22 of this Code, and required by section 22-7 thereof.~~

gd. Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.

he. In addition to the requirements of this subsection, for parcels less than ten (10) acres the sketch plan shall provide sufficient detail to demonstrate harmonious integration into contiguous and existing MXD areas.

(2) The city council and city planning commission shall conduct a public hearing(s) on the application subject to the notification procedures in section 24-196 of this Code. Such hearings may be held jointly by the city council and city planning commission. The planning commission shall deliver its recommendation to the city council within thirty (30) days of the close of the commission's hearing record. The council shall take action on the application within ninety (90) days after the close of the council's hearing record. If the council shall fail to do so, the application shall be deemed denied.

(b) *Application for schematic development plan approval.*

(1) A schematic development plan shall be filed for approval by the city council of all or portions of the area zoned MXD and reflected within the approved sketch plan, together with the required filing fee. The schematic development plan shall include ~~be scaled at one inch equals fifty (50) feet and shall contain, at a minimum,~~ the following:

~~a. Boundary survey and identification plat or survey plat.~~

~~b. The use(s) of all buildings and structures within the schematic development plan area, as well as existing uses of adjacent property external to the MXD zoned area and proposed uses within adjoining MXD zoned areas.~~

~~c. The location, height, approximate dimensions and conceptual elevations of all buildings and structures, and the setbacks and densities and/or square footage thereof.~~

~~d. The location of points of access to the site and all public and private roads, pedestrian and bike paths.~~

~~e. The location and setbacks of parking areas.~~

~~f. Existing topography, including:~~

~~1. Contour intervals of not more than two (2) feet;~~

~~2. An approved forest stand delineation and forest conservation plan, as defined in Chapter 22 of this Code, and required by section 22-7 thereof.~~

~~3. One hundred-year floodplains;~~

~~4. Other natural features, such as rock outcroppings and scenic views;~~

~~5. Utility easements, if any; and~~

~~6. Historic buildings, structures or areas.~~

~~g. All landscaped areas, proposed conceptual screen planting, open spaces, plazas, malls, courts, community identification signage, recreation and amenity areas.~~

a. The requirements of section 24-169(b)

~~h~~b. Proposed phasing or staging plan of development and information relating to such plan's consistency with the provision of public facilities.

~~i~~c. Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.

~~j~~d. A proposed covenant or other form of agreement indicating how the area will be included in any homeowner's association or other organization, and how any open space, community space or amenities located within the area subject to review will be perpetually maintained.

~~(2) Unless a prior waiver is obtained from the city planning commission, a schematic development plan shall contain at a minimum at least two hundred (200) dwelling units and/or one hundred thousand (100,000) square feet of proposed retail/office development, or a comparable equivalent mix of such development. This restriction shall not apply to amendments of schematic development plans.~~

~~(3)(2)~~ \* \* \* \*

~~(4)(3)~~ \* \* \* \*

**Sec. 24-160D.10. Findings required.**

a) The city council shall approve MXD zoning and the accompanying sketch plan only upon finding that:

(1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and

\* \* \* \*

(b) The city council shall approve a schematic development plan only upon the finding that:

\* \* \* \*

2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone, and other requirements of the City Code; and

\* \* \* \*

**Sec. 24-160D.12. Regulations adopted as part of ~~sketch~~ schematic development plans.**

(a) The city council may adopt as part of a ~~sketch~~ schematic development plan in the MXD Zone, all or portions of any proposed regulations, rules or standards specific and unique to the application under consideration.

(b) Such rules, regulations and standards may apply to:

Building/structure setbacks and lot coverage;

The location and type of accessory buildings and structures;

Type and nature of accessory uses;

Appearance of buildings and structures, configuration of building elements and type of building materials.

Provided however, no such rules, regulations and standards shall exceed any maximum development standard or be less than any minimum development standard or permit any use otherwise prohibited in the MXD Zone. All owners of property subject to the ~~sketch~~ schematic development plan and their assigns shall be notified of such rules, regulations and standards at the time of taking title to property located within the ~~sketch~~ schematic development plan area or as otherwise provided in subsection (c) below.

(c) The provisions of this section shall apply to any existing ~~sketch~~ or schematic development plan previously approved by the city council for the MXD Zone which contains such rules, regulations and standards.

\* \* \* \*

**DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT**

**Sec. 160G.1. Purpose**

It is the purpose of the Corridor Development Zone to:

(a) Encourage a form of development, consistent with the goals and provisions of the respective ~~corridor area master plan~~ master plans for the city that will achieve the physical characteristics necessary to enhance the economic

vitality, planned visual character and quality of life within an identified transportation corridor in the city.

\* \* \* \*

**Sec. 160G.2. Uses allowed.**

(a) Permitted uses. All uses listed as permitted and not solely as special exceptions or conditional uses in all zoning districts unless otherwise prohibited except:

\* \* \* \*

**Sec. 24-160G.3. Minimum location requirements.**

(a) No land shall be classified in the Corridor Development Zone unless the land is located within an area so designated on an approved and adopted ~~corridor development area~~ land use master plan.

(b) When undertaking new development or redevelopment in the CD Zone, all uses identified for specific areas or properties within the land use element of a corridor development master plan shall be applied in those areas specified, unless: ~~(1) otherwise approved by the mayor and city council within the context of a schematic development plan or concept site plan, or (2) otherwise exempted from filing a schematic development plan under the provisions of section 24-160G.5(b) of this chapter.~~

**Sec. 24-160G.4. Development standards.**

\* \* \* \*

(c) *Building and/or structure setbacks.* Shall be as specified in the applicable ~~corridor development~~ land use master plan. Where no setbacks are specified in the master plan, the setbacks shall be established by the city council at the time of schematic development plan approval, or in the absence of such schematic development plan approval or establishment thereof, by the city planning commission at site plan approval; provided, however, the following requirements shall be imposed in either case:

\* \* \* \*

(f) *Streetscape and signage.* Streetscape and signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of the zone, the overall character of the surrounding area and any design criteria set forth in ~~the corridor development area~~ an applicable master plan. The city council is authorized to adopt by resolution, guidelines and/or requirements regarding streetscape and signage which shall apply to all site development plan approvals for property in the CD zoning district. This section shall be supplemental and complimentary to the sign ordinance requirements in Article IX of this chapter.

\* \* \* \*

**Sec. 160G.5. Waiver of development standards.**

\* \* \* \*

- (b) The granting of such waiver shall be based on a finding that:
  - (1) The applicant will provide either on-site or off-site public amenities to further enhance the corridor development zone and the purposes of the CD zone; and
  - (2) The additional height is necessary to implement the master plan and a specific ~~corridor~~ land use plan for Gaithersburg, or attract an appropriate and compatible type or caliber of user; and

\* \* \* \*

**Sec. 160G.6. Procedure for application and approval.**

Procedure governing the application for the CD zone and approvals necessary to seek building permits shall be subject to the following process:

- (a) Application for CD zone and concept plan approval.
  - (1) An applicant shall file, together with the prescribed application fee, an application for the CD zone, to be processed pursuant to the provisions of sections 24-196 and 24-197 of this Code ~~subject to modification of procedures set forth in this section 24-160G.5(b).~~ In addition the applicant shall submit for approval as part of the application for separate approval a concept plan, scaled at one inch equals ~~fifty (50)~~ thirty (30) feet and shall meet the requirements of the concept plan checklist established by the city manager or his/her designee.
  - (2) The application for CD zone and concept plan approval shall be subject to joint public hearing before the mayor and city council and city planning commission. The city planning commission shall thereafter submit its recommendation to the city council which may either:
    - (a) ~~\_\_\_\_\_~~ \* \* \* \*
    - (b) ~~Approve or deny~~ the CD zone ~~and require~~ subject to the applicant filing a schematic development plan for separate approval by city council, subject to the provisions of section 24-160G.6(c)(2) of this chapter.
    - (c) ~~\_\_\_\_\_~~ \* \* \* \*
- (b) Application for CD zone and schematic development plan approval.
  - (1) An applicant shall file, together with the prescribed application fee, an application for the CD zone, to be processed pursuant to the provisions of sections 24-196 and 24-197 of this Code, and in addition submit for approval as part of the application for separate approval, a schematic development plan, scaled at one inch equals ~~fifty (50)~~ thirty (30) feet and

shall contain, at a minimum, all documents and information required in section 24-160D.9(b)(1) of this chapter except for items b. and d. thereof.

\* \* \* \*

(c) Applications for concept plan approval or schematic development plan approval only. Applicant seeking to develop, redevelop or improve property zoned CD without an approved schematic development plan or concept plan shall file for approval of either a concept plan or a schematic development plan pursuant to the procedures hereinafter provided:

(1) Concept plan approval only.

{a)} An applicant shall file together with the prescribed application fee a concept plan, scaled at one inch equals ~~fifty (50)~~ thirty (30) feet, and shall contain the information and items described in the concept plan checklist established by the city manager or his/her designee.

{b)} \* \* \* \*

{c)} The city council shall conduct a public hearing and either approve the concept plan, with or without conditions or require the applicant to file a schematic development plan pursuant to section ~~24-160G.5(b)~~ 24-160G.6(c)(2) of this chapter.

{d)} Should the city council approve the concept plan the applicant shall thereafter submit an application for preliminary and final site plan approval directly to the city planning commission.

{e)} \* \* \* \*

(2) Schematic development plan approval only.

{a)} An applicant shall file together with the prescribed application fee a schematic development plan scaled at one inch equals ~~fifty (50)~~ thirty (30) feet and shall contain at a minimum all information and material set forth in section ~~24-160G.5(a)(1)~~ 24-160D.9(b)(1) of this chapter, provided that the city staff may waive the requirements for submitting items ~~a., f., and h.~~ b. and d. of section ~~24-160G.5(a)(1)~~ thereof, if existing information is sufficient to process the plan.

\* \* \* \*

(3) The requirements for filing a schematic development plan or concept plan shall not apply to repairs and maintenance to property zoned CD.

~~(d) The approval of a concept plan or a schematic development plan shall substitute for preliminary site plan approval in the plan review process.~~

~~(e)(d)~~ \* \* \* \*

~~(f)(e)~~ \* \* \* \*

(g)(f) Final site plan review. Following approval of a concept plan or a schematic development plan, an applicant shall submit to the city planning commission a final or preliminary if applicable site plan for approval, which shall be in accord with the approved concept or schematic development plan and shall include the following:

\* \* \* \*

(4) Demonstration of compliance with the approved schematic development plan or concept plan.

\* \* \* \*

**Sec. 24-160G.7. Findings required.**

(a) The city council may approve CD zoning by local map amendment only upon finding that:

\* \* \* \*

~~(4) Compliance with standards for rezoning by local map amendment in Article 66B of the Maryland Code.~~

\* \* \* \*

(c) The city council is empowered to establish reasonable conditions on the approval of a schematic development plan or concept plan and those conditions shall be imposed on any approved site plan.

\* \* \* \*

**Sec. 160G.8. Procedures for amendment.**

Amendments to a schematic development plan or concept plan may be permitted, ~~consistent with the procedures for amendment of optional method plans as provided in section 24-198(c) of this Code.~~ pursuant to the following requirements:

(a) The schematic development plan or concept plan may be amended:

(1) At any time before review and recommendation by the planning commission;

(2) At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation;

(3) At any time following council action granting the approval of a schematic development or concept plan as follows;

a. Change in use involved. By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council. The council

shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.

b. Changes other than to use. By either the filing of a new application or resubmission to the planning commission for further evaluation, public hearing and recommendation to the council when the change to the proposed application:

1. Increases the height of building by ten (10) feet or more, or
2. Materially changes the orientation or siting of buildings, parking accessory uses, or
3. Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater, or
4. Increases by more than ten (10) percent or five (5) units the number of residential dwelling units whichever is greater, or
5. Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes.

The council shall approve or disapprove the recommendation of the planning commission, without the necessity of a public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may, on its own motion, extend such time limit.

#### **Sec. 24-160G.9. Existing buildings and uses.**

Any building or structure for which a building permit was issued and any lawful use which was instituted prior to the adoption of this article shall not be regarded as a nonconforming building or use, and may be structurally altered, restored or repaired either:

- (a) In conformance with the standards and requirements of the CD zone; or
- (b) Following the submission and approval of a schematic development plan or concept plan pursuant to this division at a size and intensity that existed prior to the adoption of this article.

#### **Sec/ 24-160G.10. Special regulations and requirements.**

The city council may adopt, by resolution, special regulations and requirements not inconsistent with provisions of this division 22, relating to design and construction of buildings, structures, canopies, signs, lighting, parking areas and structures, amenities and amenity areas, and landscaping within the central business district. Such regulations and requirements shall be applied by the city council, city planning commission or city planning and code administration for matters within their respective jurisdictions to ensure compliance with the goals and provisions of the any applicable corridor development area master plan city master plans.

\* \* \* \*

## ARTICLE V. SITE DEVELOPMENT PLANS

\* \* \* \*

### Sec. 169. Submission; fee; requirements of plan.

~~Each proposed site development plan shall be submitted in duplicate to the city planning commission on forms provided by the city and shall be accompanied by such fee as shall be hereafter determined by the city council by resolution. A proposed site development plan shall include the following:~~

- ~~(a) One or more drawings at fifty (50) feet or larger scale, clearly showing the following:
  - ~~(1) Location and dimensions of existing and proposed buildings, structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas for use by employees, residents, tenants or the general public.~~
  - ~~(2) Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams and other significant features of the land.~~
  - ~~(3) Proposed traffic circulation system where any part of the land is to be used by motor vehicles.~~
  - ~~(4) The location of all existing and proposed power lines, telephone lines, gas lines, sewer lines and water lines, and the location of any easements to be granted for these utilities.~~~~
- ~~(b) Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.~~
- ~~(c) A statement of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, the total number of parking spaces required by this chapter for the uses proposed, the number of employees expected per shift, the total floor area of proposed commercial uses and the proposed manner of illumination of signs.~~
- ~~(d) A storm drainage study certified by a licensed surveyor or professional engineer and a proposed storm drainage plan.~~
- ~~(e) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.~~

- ~~(f) Prior to final site plan approval, the applicant shall submit, unless waived by the planning commission, a final record plat reflecting the information required under sections 20-37 through 20-43. Such final plat must be approved by the planning commission prior to issuance of a building permit.~~
- ~~(g) An approved forest stand delineation and forest conservation plan, if required pursuant to Chapter 22 of the City Code.~~
- ~~(h) A Natural Resources Inventory (NRI) in substantial compliance with environmental guidelines adopted pursuant to and referenced in section 20-9 of the City Code and any amendments thereto.~~

Each proposed site development plan shall be submitted in duplicate to the city planning commission on forms provided by the city and shall be accompanied by such fee as shall be hereafter determined by the city council by resolution. A proposed site development plan shall include the following:

- (a) For a concept site development plan submission:
  - (1) A Concept Storm Water Management Plan, in accordance with Chapter 8 of the City Code, approved by the Department of Public Works
  - (2) An approved Natural Resources Inventory & Forest Stand Delineation pursuant to Chapter 22 and Section 20-9 of the City Code.
  - (3) A Traffic Impact Study in accordance with the City's Traffic Impact Study Standards and Regulation.
  - (4) A statement demonstrating compliance with the City's Adequate Public Facilities Ordinance.
  - (5) A "Green Building" checklist pursuant to Chapter 5, Section 3110 of the City Code.
  - (6) A preliminary Forest Conservation Plan.
  - (7) One or more drawings at thirty (30) feet or larger Engineer's scale, clearly showing the following:
    - a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas.
    - b. Tentative proposed locations, heights, dimensions of all buildings, driveways, access, parking, easements, green spaces, sidewalks, right-of-way, and proposed streets.
    - c. Generalized location of existing and proposed external roads and adjacent land use and development.
    - d. Zoning data defining of the amount of area of land involved in the site, the percentage of the site proposed to be covered by

buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the square footage of office and/or commercial development, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.

- e. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, 100 year floodplain, and other significant features of the land.
- f. Conceptual building elevation drawings: Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
- g. Conceptual traffic circulation system where any part of the land is to be used by motor vehicles.

(8) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.

(b) For a Preliminary Site Development Plan submission:

- (1) All items required under Section 24-169(a).
- (2) A preliminary affordable housing plan, in accordance with the City's Affordable Housing Ordinance.
- (3) A Preliminary Storm Water Management Plan, in accordance with Chapter 8 of the City Code, approved by the Department of Public Works.
- (4) An approved Final Traffic Impact Study in accordance with the City's Traffic Impact Study Standards and Regulation.
- (5) One or more drawings at thirty (30) feet or larger scale, clearly showing the following:
  - a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas.
  - b. Tentative proposed locations, heights, dimensions of all buildings, driveways, access, parking, easements, green spaces, sidewalks, right-of-way, and proposed streets.
  - c. Zoning data defining of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number

of dwelling units proposed per acre, the square footage of office and/or commercial development, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.

- d. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, 100 year floodplain, and other significant features of the land.
  - e. Proposed building elevation drawings: Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
  - f. Proposed traffic circulation system where any part of the land is to be used by motor vehicles.
  - g. Preliminary street profiles for all proposed dedicated streets.
  - h. Boundary survey, with bearing and distances in Maryland State Plane datum.
  - i. Preliminary landscape, hardscape, and lighting plan.
  - j. Preliminary storm drain and paving plan.
  - k. Preliminary utility plan.
  - l. Any additional submission requirements pursuant to Section 20-36, not already herein defined.
- (6) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.

(c) For a Final Site Development Plan submission:

- (1) All items required under Section 24-169(a) and Section 24-169(b).
- (2) A final affordable housing plan, in accordance with the City's Affordable Housing Ordinance
- (3) A Final Storm Water Management Plan, in accordance with Chapter 8 of the City Code, approved by the Department of Public Works
- (4) Final Forest Conservation Plan.
- (5) One or more drawings at thirty (30) feet or larger scale, clearly showing the following:

- a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas.
- b. Final locations, heights, dimensions of all buildings, driveways, access, parking, easements, green spaces, sidewalks, right-of-way, and proposed streets.
- c. Zoning data defining of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units proposed, the number of dwelling units proposed per acre, the square footage of office and/or commercial development, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.
- d. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, 100 year floodplain, and other significant features of the land.
- e. Building elevation drawings: Drawings showing the final proposed appearance, materials and details of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
- f. Traffic circulation system and traffic marking plan where any part of the land is to be used by motor vehicles, including a turning radii study as applicable.
- g. Final street profiles for all proposed dedicated streets.
- h. Boundary survey, with bearing and distances in Maryland State Plane datum.
- i. Final landscape, hardscape, photometric and lighting plan
- j. Final storm drain and paving plan.
- k. Final utility plan.
- l. Final Sediment and Erosion Control Plan
- m. Final Grade establishment plan
- n. Any additional submission requirements pursuant to Section 20-36, not already herein defined.

(6) A plat of subdivision in accordance with Chapter 20 of the City Code.

- (7) Any applicable sign packages showing location, dimension, and design of project identification, directional, monument, and wall signs.
- (8) A list of proposed street names
- (9) Draft of homeowners association by-laws, articles of incorporation, covenants and restrictions as applicable.
- (10) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.

\* \* \* \*

## ARTICLE VI. ADMINISTRATION AND ENFORCEMENT OF CHAPTER

### Sec. 177. Building permits.

(a) No building or other structure shall be erected, moved, added to or structurally altered without a permit therefore, issued by the city manager or his ~~authorized representative or her designee~~. No building permit shall be issued except in conformity with the provisions of this chapter, chapter 5 of the city code and all other chapters, as required, except after written order from the board of appeals. Each application for a building permit shall be accompanied by: ~~duplicate copies of a plat or site plan as required for all but single-family dwellings, two-family dwellings or semidetached dwellings as noted in section 24-168, and plans drawn to scale showing:~~

- ~~(1) The lot upon which the building is proposed to be erected.~~
- ~~(2) Lot dimensions, lot and block numbers and subdivision name, if any.~~
- ~~(3) Name and width of abutting street or streets.~~
- ~~(4) Location, dimensions and use of all existing buildings and other structures on the lot or lots.~~
- ~~(5) Location, dimensions and proposed use of buildings and other structures for which a permit is requested.~~
- ~~(6) Front, side and rear yard widths.~~
- ~~(7) North point and scale of plan.~~
- ~~(8) The number of families, housekeeping units or rental units the building is designed to accommodate.~~
- ~~(9) Easements and rights of way existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for enforcement of, this chapter~~

(1) The approved site plan or a house location plat of an existing individual single-family dwelling, as defined in section 24-168A, showing the proposed addition drawn to scale.

(2) Construction plans and documents needed to show compliance with chapters 5, 7, and 11 of the city code and any required codes of Montgomery County or the State of Maryland.

(3) Such other additional information as may be reasonably required to show compliance with the city code.

~~(b) All building plans other than family residences shall be signed by a professional architect registered in the state. If the estimated cost of building exceeds fifty thousand dollars (\$50,000.00), plans shall be signed by a professional structural engineer registered in the state.~~

~~(e b) The permit shall be issued in conformity with the provisions of this chapter upon completion of the foregoing requirements.~~

~~(d c) Before any foundation wall of a building or structure is placed upon the footing thereof, the owner of such building or structure shall provide two (2) copies of a location plat, certified by a land surveyor entitled by law to practice land surveying in the state. This plat shall show the actual location of the building or structure walls on the lot, parcel or tract and relation to other structures on the same lot, parcel or tract. If the building or structure is not located in accordance with the original plat and or approved site plan, or is for a use other than that which the building permit was issued, all work thereon, except to correct the noncompliance, shall cease and the building permit shall be withdrawn, ~~and the owner given ten (10) days to correct the violation.~~ A withdrawn building permit may be reinstated upon compliance with the requirements governing its issuance.~~

~~(e) One copy of the plans shall be returned to the applicant by the city manager or his authorized representative, after it is approved or disapproved and attested to same by authorized signature on such copy. If disapproved, reason for such disapproval shall be given in writing to the applicant. The second copy of the plans, similarly marked, shall be retained in the city office.~~

~~(f) If the work described in any building permit has not begun within six (6) months from the date of issuance, such permit shall expire, it shall be cancelled by the city manager or his authorized representative, and written notice thereof shall be given to the persons affected.~~

~~(g) If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, such permit shall expire and shall be cancelled by the city manager or his authorized representative, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.~~

(d) No building permit shall be issued for any new building, structure, or addition to a building or structure without a site development permit for grading and sediment control (in conformance with chapter 8 of the city code), public works development, and/or on-site development and bonds per City Code, Chapter 24, Sec. 24-171(k), unless waived by the city manager or his or her designee due to minimal disturbance.

(e) Upon completion of any new building, structure, or addition to a building or structure, except additions for single family dwellings, and prior to final inspection and

approval of said new building, structure, or addition to a building or structure, the owner of such building or structure shall provide two (2) copies of a final location survey certified by a professional land surveyor duly licensed by the State of Maryland to practice land surveying in the state.

\* \* \* \*

## ARTICLE VII. BOARD OF APPEALS

\* \* \* \*

### Sec. 188. General requirements and procedures.

\* \* \* \*

c) An application for special exception or petition for variance or administrative review shall be accompanied by the following materials and/or information:

(1) *Special exceptions.*

- a. ~~Survey plats, site plans or other accurate drawings showing boundaries, dimensions, area, topography and frontage of the property involved, as well as the location and dimensions of all structures existing and proposed from the nearest property lines~~ Plans and drawings that comply with section 24-169(c).
- b. ~~Plans, architectural drawings, photographs, elevations, specifications of other detailed information depicting fully the exterior appearance of existing and proposed construction, including parking and access, exterior lighting and signs, involved in the petition.~~
- eb. A statement explaining in detail how the special exception is to be operated, including hours of operation, number of anticipated employees, occupants and clientele, equipment involved and any special conditions or limitations which the petitioner proposes for adoption by the board.
- d. ~~An approved forest stand delineation and forest conservation plan, as defined in chapter 22 of this Code, and required by section 22-7 thereof, as well as any proposed landscaping and lighting plan.~~
- ec. ~~Certified eCopy of official the city zoning vicinity map of~~ pertinent to the petition showing a one thousand-foot radius surrounding the subject property and other information to indicate the general conditions of use and existing improvements on adjoining and confronting properties, along with a list of such adjoining and confronting property owners, occupants and all addresses within two hundred (200) feet of the subject parcel.
- fd. If the petitioner is not the owner of the property involved, or the authorized agent of the owner, the lease, rental agreement or contract to purchase by which the petitioner's legal right to prosecute the petition is established.

- ge. Applicable master plan maps reflecting proposed land use, zoning and transportation, together with any other portions of the applicable master plan deemed pertinent by the petitioner.
- hf. All additional exhibits which the petitioner intends to introduce and/or the identification of exhibits intended to be introduced at the public hearing.
- ig. A summary of what the petitioner expects to prove, including the names of petitioner's witnesses, summaries of the testimony of expert witnesses and the estimated time required for presentation of the petitioner's case. All expert reports shall be filed at least fifteen (15) days prior to the public hearing.
- jh. A listing of the names and addresses of all persons required to receive notice pursuant to section 24-188(e) of this Code. If an abutting or confronting property is a condominium, cooperative or is owned by a homeowners' association then notice shall be given to the governing body and resident agent of the condominium cooperative or homeowners' association.

\* \* \* \*

## ARTICLE VIII. AMENDMENT PROCEDURE

\* \* \* \*

### **Sec. 24-198. Optional method of application for local map amendments.**

(a) In addition to the other requirements contained in this article and notwithstanding subsection (c) of section 24-196 of this Code, an applicant for a local map amendment to any zoning district except the R-A Zone and the MXD Zone may select an optional method for such application by so indicating on the appropriate application form and submitting a schematic development plan as part of the rezoning application. The schematic development plan shall be for the purpose of limiting a development standard or standards to less than the maximum permitted in the requested zone and/or limiting the land use of the applicant's subject property to one or more of the permitted uses in the zone. Approval by the council shall not be for a manner of development or use other than that for which has been applied. A schematic development plan shall be submitted consisting of the requirements listed in section 24-169(b). ~~a drawing of appropriate scale submitted for the purpose of limiting a development standard or standards and/or land use shall include upon such plan, as a minimum, the following as applicable to the property:~~

- ~~\_\_\_\_\_ (1) \_\_\_\_\_ The use or uses of all buildings and structures.~~
- ~~\_\_\_\_\_ (2) \_\_\_\_\_ The location, height and approximate dimensions of all buildings and structures.~~
- ~~\_\_\_\_\_ (3) \_\_\_\_\_ The location of points of access to the site.~~
- ~~\_\_\_\_\_ (4) \_\_\_\_\_ The location of parking areas.~~
- ~~\_\_\_\_\_ (5) \_\_\_\_\_ Existing topography, including:~~

- ~~\_\_\_\_\_ a. Contour intervals of not more than five (5) feet;~~
- ~~\_\_\_\_\_ b. An approved forest stand delineation and forest conservation plan, as defined in Chapter 22 and required by section 22-7 of this Code;~~
- ~~\_\_\_\_\_ c. One hundred-year floodplains;~~
- ~~\_\_\_\_\_ d. Other natural features, such as rock outcroppings and scenic views; and~~
- ~~\_\_\_\_\_ e. Utility easements, if any.~~

\* \* \* \*

### ARTICLE XI. OFF-STREET PARKING AND LOADING

\* \* \* \*

**Sec. 24-220. Construction, maintenance, screening, drainage and lighting requirements.**

Every area hereafter constructed and maintained for off-street parking purposes shall comply with the following requirements:

\* \* \* \*

- (b) Every parking lot or other nonstructural off-street parking area shall be paved in accordance with one of the following standards, as deemed appropriate by the city manager or his designee:
  - (1) Two (2) inches of bituminous concrete surface course over a four-inch bituminous concrete base course of an approved subgrade; or
  - (2) One and one-half (1 1/2) inches of bituminous concrete surface course over three (3) inches of bituminous concrete base course over six (6) inches of crushed stone graded aggregate base course on an approved subgrade; or
  - (3) Other materials or construction methods which are demonstrated to the satisfaction of the city manager or his designee to be the equivalent of the structural standards referred to in (1) and (2) of this subsection.
  - (4) The standards set forth above shall be applied in the following manner:
    - a. The thickness of bituminous concrete or crushed stone courses stated in the standards shall be the minimum thickness acceptable.
    - b. When standards with crushed stone courses are used, the thickness of the crushed stone course shall be based on an engineering analysis, prepared by the developer's engineer, of soil type, projected traffic, service life, and other engineering considerations.
    - c. Standard (1) shall be used for all residential parking.

\* \* \* \*

- (e) ~~Commercial, or industrial, or multi-family residential surface~~ parking lots hereafter constructed and existing commercial or industrial parking lots modified to include parking spaces less than ten (10) feet in width or one utilizing a new parking ratio shall meet the following design criteria for the parking lot area only:

<del>Total Spaces</del>	<del>Landscape Separation Required</del>
<del>0-300</del>	<del>None</del>
<del>301-500</del>	<del>Every 100 spaces</del>
<del>501-1000</del>	<del>Every 200 spaces</del>
<del>1000-2000</del>	<del>Every 250 spaces or an alternative design based on the standards listed below must be approved by the planning commission.</del>
<del>Over 2000</del>	<del>None, however, a design that is based on the standards listed below must be approved by the planning commission.</del>

A landscaped separation shall be defined as a single planting strip or group of planting islands and/or environmental site design for stormwater management that serve as an architectural edge which creates smaller parking areas within the overall parking facility and contain shade trees or shrubs.

A minimum of ~~eight (8)~~ ten (10) percent of ~~mixed use and commercial parking lot areas and ten (10) percent of office building and industrial~~ surface parking lot areas shall be devoted to planting area and/or environmental site design for stormwater management. For the purposes of this article, the planting areas shall be defined as all planting islands and corner areas, a minimum of nine (9) feet in width and containing shade trees, that separate parking spaces and drive aisles within a parking lot as shown in Figures A through E of this subsection. This planting area may count toward additional green area requirements called for in other sections of this chapter.

*Parking lot design standards:*

- (1) The design must: demonstrate an effective proposal for screening the proposed use or activity from the adjoining properties, as applicable; enhance views to, from and within the site; create visual interest for the users of the proposed project; define outdoor spaces; complement the proposed architectural style; achieve functional and aesthetic requirements for buffer areas; provide adequate environmental site design for stormwater management; and preserve, wherever possible, existing trees and other significant vegetation.
- (2) Plant material must be used that is: located and properly spaced to achieve required screening, compatible groupings, and other effective

purposes; not injurious to persons or pedestrians or vehicular circulation;  
and enhances natural habitats and wildlife corridors.

\* \* \* \*

ADOPTED by the City Council of Gaithersburg, Maryland, this 5<sup>th</sup> day of April, 2010.

---

SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this 5<sup>th</sup> day of April, 2010. APPROVED by the Mayor of the City of Gaithersburg, Maryland this 5<sup>th</sup> day of April, 2010.

---

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 5<sup>th</sup> day of April, 2010, and the same was APPROVED by the Mayor of the City of Gaithersburg on the 5<sup>th</sup> day of April, 2010. This Ordinance will become effective on the 4<sup>th</sup> day of May, 2010.

---

Angel L. Jones, City Manager