

Chapter 24

**ZONING**

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

DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT

**Sec. 24-160G.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:
  - (b) *Prohibited uses.* All of the following uses are prohibited in the CD Zone:
    - (1) Automobile, motorcycle, marine, and truck body repair shops.
    - (2) Landscaping and excavation contractor business involving the storage and use of heavy trucks and equipment.
    - (3) Pawn shops.
    - (4) Production/manufacturing/assembly/processing uses set forth in section 24-136C of this Code, except those uses allowed in subsections (3), (4) and (14) of section 24-136C.
    - (5) Retail establishments involving the sale of adult only oriented videos, books, magazines, and marital aides which occupy more than fifty (50) percent of the gross floor area of the establishment.
    - (6) Tattoo parlors.
    - (7) Fortune telling businesses.
- (c) *Special exception uses.*
  - (1) Boarding homes.
  - (2) Group residential facilities operated by a nonprofit or public entity.
  - (3) Laboratories provided such uses meet all federal, state and local safety and fire regulations.
- (d) *Conditional uses.*
  - (1) Any use listed or permitted as a conditional use in any zoning district.

**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 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 otherwise approved by the mayor and city council within the context of a schematic development plan.

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

Except as otherwise provided in the land use element or other element of the applicable corridor development area master plan as set forth in special regulations or requirement relating to design, construction building height, setbacks, parking, lighting, signage and streetscaping that may be adopted by resolution of the city council, the following standards shall apply:

(a) *Height of buildings and structures.* No building or structure in this zone shall exceed the following heights, exclusive of decorative elements, mechanical, communications or other equipment placed upon the roof.

- (1) Any residential district identified in a corridor development area master plan three (3) stories and not to exceed thirty-five (35) feet in height.
- (2) Any commercial district identified in a corridor development area master plan four (4) stories and not to exceed forty-five (45) feet in height.
- (3) Any employment district identified in a corridor development area master plan six (6) stories and not to exceed sixty-five (65) feet in height.

(b) *Building and structure placement.*

- (1) All buildings and building frontages shall be sited so as to front the nearest public street or public right-of-way with pedestrian entrances along the building frontage line. Buildings on a corner lot shall have the front of the building facing the major street.
- (2) Screen walls may be allowed in the absence of a building facade with concurrence of the city council and planning commission.
- (3) Loading docks, service areas and ancillary structures shall be located to the rear of a building and shall be screened by sight-tight fencing, walls and/or natural vegetation.

- (4) A setback may be required along residential side streets, to be determined by the mayor and city council or planning commission at the time of schematic development plan or final site plan approval.
- (c) *Building and/or structure setbacks.* Shall be as specified in the applicable 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:
- (1) No part of any building or structure shall be located on land which is currently a public right-of-way or which is indicated on an approved and adopted master plan or other approved planning document for the corridor development area as a right-of-way or walkway, sidewalk or bikeway.
  - (2) If a proposed building is abutting a lot or parcel containing an existing building with windows facing the proposed building, the setback shall be at least fifteen (15) feet.
  - (3) If the adjoining lot or parcel is in a residential zone and is not recommended for commercial, industrial or buffer zoning on an adopted master plan or approved planning document for the corridor development area, the setback shall be at least fifteen (15) feet.
- (d) *Building design.*
- (1) New development and redevelopment which includes new building facades shall incorporate the design theme and criteria, if any, in the applicable corridor development area master plan for building appearance, signage, streetscape, parking, and sidewalks.
  - (2) Except as provided hereinafter any side of a building that faces either a public street or private access drive shall have a building entrance and the appearance of a building front to the extent possible: No customer entrance to a retail or restaurant use shall face or be visible to abutting property in a single family residential zone. The City Council in the approval of a schematic development plan or the city planning commission at the time of site development plan approval, may require more than one side of a building to be finished with architectural elements found on the building front due to the high visibility of the building on multiple sides.
  - (3) A sign package for all schematic development plan and site plan submittals in the CD zone is required.

- (e) *Parking and access.* Parking shall be in accordance with the general requirements and special computation schedule set forth within article XI of this chapter. The requirements may be waived in whole or in part by the city council as part of a schematic development plan approval or by the planning commission if only site plan approval is required. Such waiver shall be based upon the criteria and findings applicable in [section 24-222A](#) of this Code.

Notwithstanding the provisions contained in article XI of this chapter, the following requirements shall apply in all new development, redevelopment involving demolition of more than thirty (30) percent of an existing building or expansion of the floor area of an existing building by at least thirty (30) percent.

- (1) All off-street parking shall be set back not less than twenty (20) feet behind the front building line.
  - (2) All parking areas shall contain a ten (10) foot landscape perimeter between the parking area and public space or between differing uses. This ten (10) foot area may be shared by adjacent properties with like uses. Interior landscaping within parking islands separating separate sections of parking areas shall also be provided.
  - (3) All parking areas shall contain dedicated pedestrian ways from street and parking areas to building entrances.
  - (4) When feasible, interior access drives with allowance for interconnection between abutting properties and/or shared access to the nearest roadway shall be provided. This should be provided in the rear of properties by alleyways or parking lot connections in order to avoid extensive service drives that make pedestrian access to buildings more difficult.
  - (5) Direct pedestrian access from rear lot parking areas to the closest public street shall be provided.
- (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 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.

- (g) *Buffers.* Adequate buffers shall be required between existing and proposed uses when needed. These buffers shall be in the form of fences, hedges, or walls that adequately buffer views and noise.

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

(a) The city council may, by resolution, waive the building and structure height requirements [in any district] in the corridor development zone (CD zone) as follows:

- (1) For a residential district to allow a height not to exceed four (4) stories, or forty-eight (48) feet.
- (2) For a commercial district between Summit Avenue and Odendhal Avenue to allow a height not to exceed five (5) stories, or sixty (60) feet.
- (3) For a commercial district between Odendhal Avenue and Montgomery Village Avenue to allow a height not to exceed ten (10) stories or 135 feet.
- (4) For an employment district to allow a height not to exceed eight (8) stories, or ninety (90) feet.

(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 land use plan for Gaithersburg, or attract an appropriate and compatible type or caliber of user; and
- (3) The additional height will be compatible with existing and proposed adjacent land uses and would not detrimentally impact those uses or public facilities serving a specific corridor.

(c) The city council may, by resolution, waive setback requirements in the CD zone, upon a finding that:

- (1) The applicant will provide either on-site or off-site public amenities to further enhance the specified corridor and the purposes of the CD zone; and
- (2) The reduced setback is necessary to implement the master plan and a specific corridor plan for Gaithersburg or attract an appropriate and compatible type or caliber of user; and

- (3) The reduced setback will not detrimentally impact light and air to adjacent buildings.

**Sec. 24-160G.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. In addition the applicant shall submit for approval as part of the application for separate approval a concept plan, scaled at one inch equals 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. Approve or deny the CD zone and concept plan, with or without conditions. In the case of approval of the concept plan, no schematic development plan shall be required and the applicant may proceed to site development plan approval; or
    - b. Approve the CD Zone 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. The city council may condition its approval of the CD zone and/or concept plan.
- (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 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.

- (2) An application for CD zone approval and schematic development plan approval shall be subject to joint public hearings before the mayor and city council and city planning commission. The city planning commission shall thereafter submit its recommendation to the city council and the city council shall render a final decision. The city council may set conditions on the approval of the schematic development plan which are in the public interest.
- (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 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. The concept plan shall be subject to the same public hearing notification procedures as required for local map amendments.
    - 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.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. The city council decision shall be in the form of a written opinion and resolution.
  - (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 thirty (30) feet and shall contain at a minimum all information and material set forth in section 24-160D.9(b)(1) of this chapter, provided that the city staff may waive the requirements for submitting items b. and d. thereof, if existing information is sufficient to process the plan.

- b. The schematic development plan shall be subject to the same public hearing notification procedures as required for local map amendments.
  - c. The city council shall conduct a public hearing or joint public hearing with the city planning commission and shall after receiving the recommendation of the commission either approve the plan, with or without conditions or deny the plan.
  - d. The city council decision shall be in the form of a written opinion and resolution.
- (3) The requirements for filing a schematic development plan or concept plan shall not apply to repairs and maintenance to property zoned CD.
- (d) Amendments to a schematic development plan or concept plan. property within the CD zone shall be governed by the process set forth in section 24-198(c) of the City Code.
- (e) 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:
- (1) All information and documentation required pursuant to **section 24-169** of this Code.
  - (2) Proposed phasing or staging plan of development and information regarding such plan's consistency with the provision of public facilities.
  - (3) 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.
  - (4) Demonstration of compliance with the approved schematic development plan or concept plan.
  - (5) Demonstration of compliance with any architectural, signage, lighting, streetscape, landscape, parking or other regulations, requirements and guidelines approved by the city council for development in the relevant corridor area.
  - (6) A proposed covenant, suitable for filing in the land records for Montgomery County, which shall indicate in specific language that

the property which is the subject of the application is restricted in its use and/or development standards to the schematic development plan and any accompanying or qualifying text material submitted with such plan, as such plan may be approved or modified by the planning commission at the time of final site plan review. The covenant to be filed in the land records shall also indicate that such restrictions shall be in effect until such time as the property may be rezoned, at which time such restrictions shall be removed.

Approvals, processes, procedures and amendments to site plans shall be in accord with Article V of this [chapter 24](#) of the Code.

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

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

- (1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and
- (2) The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan; and
- (3) The application and schematic development plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned areas and adjacent areas.

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

- (1) The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the city council for the applicable corridor area.
- (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and
- (3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and
- (4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and
- (5) The existing or planned public facilities are adequate to service the proposed development contained in the plan; and

- (6) The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and
- (7) The plan, if approved, would be in the public interest.
- (8) The existing buildings with historic significance are considered for preservation and retention pursuant to the city's historic preservation ordinance.

(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.

(d) The city planning commission may approve a final site plan consistent with the findings required in sections 24-170 and 24-170A of this Code, and upon considerations, determinations and powers set forth in section 24-171 of this Code. The city planning commission shall, as a condition of its approval, require the posting of all necessary bonds or other security instruments, the execution of required agreements, and recording of covenants.

**Sec. 24-160G.8. 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.9. 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 any applicable city master plans.