STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: June 7, 2006

TEXT AMENDMENT: **T-376**

TITLE: **DEVELOPMENT REQUIREMENTS IN THE MXD ZONE**

REQUEST: **RECOMMENDATION TO M&CC**

ADDRESS: N/A

ZONE: MXD (Mixed Use Development) Zone

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

STAFF PERSON: Greg Ossont, Director
Planning and Code Administration

Enclosures:

Staff Comments
Exhibit 2: Draft Text Amendment Ordinance
Exhibit 6: Joint Public Hearing Cover Sheet, January 17, 2006
Exhibit 7: E-mails from Richard Arkin dated January 17, 2006
Exhibit 8: Joint Work Session Cover Sheet and Background Materials, September 12, 2005
Exhibit 9: January 17, 2006 Joint Public Hearing Minutes

STAFF COMMENTS

A joint work session has held on September 12, 2005. A joint public hearing was held on January 17, 2006. The Planning Commission record was held open until May 30, 2006 and is now closed. There are nine exhibits in the record including background material from the joint work session and the joint public hearing.

This is an ordinance to amend Chapter 24 of the City Code entitled "Zoning," Division 19, entitled "MXD Zone, Mixed Use Development, Section 24-160D.1 entitled "Purpose and Objectives," Section 24-160D.2 entitled "Minimum Location and Development Requirements," and Section 24-160D.9 entitled "Application and Processing Procedures," so as to require smaller parcels to demonstrate compatibility with adjacent MXD parcels through detailed sketch plans, provide internal and external compatibility among MXD parcels, while not requiring all uses within all MXD parcels.

Staff has reviewed the requirements and standards for development within MXD properties and identified a common interpretation that development under the MXD zone must consist of a "multi-use development" and not be limited to single uses. Staff has provided additional language that more clearly defines the objectives and requirements of future development in the MXD zone. The proposed language also clarifies requirements for single parcels of less than 10 acres.

This proposed text amendment is limited to only 3 sections of the Mixed Use Development.

Section 24-160D.1, Purpose and Objectives Section

Subsection A
The proposed text amendment replaces the phrase "Multi-Use Center" with the word "Development." Since an application may or may not include "multi uses" the language simply states "Development."

Subsection B
This text change keeps the language consistent with Section A. It also establishes a reference for the definition of a "Multi Use Development" which is provided in the Section D

Subsection D
The language currently states "...to ensure the integration and internal compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by commercial, recreational, open space, employment and institutional uses and amenities within all land use components of the multi-use project."

A literal interpretation of this section has been that **all** of the mentioned uses must be found within **all** components of the project. This is the language that is proposed to be amended in order to clarify. The text amendment introduces the phrase "and

external..." to ensure both internal and external compatibility. The amendment also includes the phrase "uses such as..." to clarify that all uses are not necessarily required.

Finally, it clearly defines a "multi-use development" as either a **single** parcel or **group of contiguous** parcels zoned MXD including residential, commercial, recreational, open space, employment, institutional and amenities.

Section 24-160D.2 – Minimum Location and Development Requirements

The changes within Section 24-160D.2 are limited to the minimum area requirements. Staff identified this subsection as another section that could be bolstered to more clearly state the expectations and requirements for smaller parcels seeking MXD zoning.

This amendment would add the language "**Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).**"

Section 24-160D.9 – Application and Processing Procedures

The changes to Section 24-160D.9(a)(1) would apply to application requirements when an applicant is seeking MXD zoning and Sketch Plan approval. The standards include: boundaries, road networks, proposed uses, densities, size and heights, staging, sensitive areas and compliance with Master Plan recommendations.

By applying these standards in the development requirements for smaller parcels, very clear standards are established in demonstrating that a smaller parcel is "harmoniously integrated" to the surrounding area if it is not proposed to contain multiple uses.

Finally, staff suggests that an 8th standard in the "Application and Processing Procedures" section be added to provide clear language that an applicant must demonstrate how their MXD application integrates into the contiguous MXD areas. The amendment would add:

- **(h)** 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.

This item is on your agenda for a transmittal of a recommendation to the Mayor and Council.

ORDINANCE No._____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED, "ZONING," DIVISION 19, ENTITLED, "MXD ZONE, MIXED USE DEVELOPMENT," SECTION 24-160D.1, ENTITLED, "PURPOSES AND OBJECTIVES," SECTION 24-160D.2, ENTITLED, "MINIMUM LOCATION AND DEVELOPMENT REQUIREMENTS," AND SECTION 24-160D.9, ENTITLED, "APPLICATION AND PROCESSING PROCEDURES,", SO AS TO REQUIRE SMALLER PARCELS TO DEMONSTRATE COMPATIBILITY WITH ADJACENT MXD PARCELS THROUGH DETAILED SKETCH PLANS, PROVIDE INTERNAL AND EXTERNAL COMPATIBILITY AMONG MXD PARCELS WHILE NOT REQUIRING ALL USES AT ALL MXD PARCELS

Text Amendment **T-376**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, Division 19, Sections 24-160D.1, D.2, and D.9 are hereby amended to read as follows:

ARTICLE III. DIVISION 19, MXD ZONE, MIXED USE DEVELOPMENT

* * * * * * *

Section 24-160D.1. Purposes and Objectives

* * * * * * *

(a) To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual [multi-use center] development proposal, ...

(b) To encourage orderly, staged development of large scale comprehensively planned multi-use [centers] developments....

* * * * * * *

(d) To ensure the integration and internal and external compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by uses such as commercial, recreational,

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by Amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

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JOINT EXHIBIT
#2
T-376
1-17-06

open space, employment and institutional uses and amenities within [all land use components of the] a multi-use [project] development. A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities.

* * * * * * *

24-160D.2 Minimum Location and Development Requirements

* * * * * * *

(a) Minimum area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).

* * * * * * *

24-160D.9 Application and Processing Procedures

* * * * * * *

(h) 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.

* * * * * * *

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Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by Amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

ADOPTED this ____ day of _____, 2005 by the City Council of Gaithersburg, Maryland.

_____
SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ___ day of _____, 2006. APPROVED by the Mayor of the City of Gaithersburg, this _____ day of _____, 2006.

_____
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of_____, 2006, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the ____ day of _____, 2006. This Ordinance will become effective on the ____ day of _____, 2006.

_____
David B. Humpton, City Manager

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by Amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 17, 2006

CALL TO PODIUM:

Greg Ossont, Director
Planning and Code Administration
RESPONSIBLE STAFF:

Greg Ossont, Director
Planning and Code Administration

Cathy Borten, City Attorney
AGENDA ITEM:
(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	01/04/2006
	01/11/2006
Hearing Date	01/17/2006
Record Held Open	
Policy Discussion	

TITLE:

JOINT PUBLIC HEARING – T-376
AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED "ZONING," DIVISION 19, ENTITLED "MXD ZONE, MIXED USE DEVELOPMENT, SECTION 24-160D.1, ENTITLED "PURPOSES AND OBJECTIVES," SECTION 24-160D.2, ENTITLED "MINIMUM LOCATION AND DEVELOPMENT REQUIREMENTS," AND SECTION 24-160D.9, ENTITLED "APPLICATION AND PROCESSING PROCEDURES," SO AS TO REQUIRE SMALLER PARCELS TO DEMONSTRATE COMPATABILITY WITH ADJACENT MXD PARCELS THROUGH DETAILED SKETCH PLANS, PROVIDE INTERNAL AND EXTERNAL COMPATABILITY AMONG MXD PARCELS WHILE NOT REQUIRING ALL USES AT ALL MXD PARCELS.

SUPPORTING BACKGROUND:

The Mixed Use Zone (MXD) has been discussed during a number of public hearings and work sessions as it relates to the internal and external compatibility of adjacent properties. Specifically, discussions have focused on compatibility and whether or not development projects under the MXD zone should require a mix of uses within all land use components of a multi use project.

In T-376, staff has reviewed the requirements and standards for development within MXD properties and the interpretation that development under the MXD zone must consist of a "multi-use development" and not be limited to single uses. Staff has provided additional language that more clearly defines the objectives and requirements of future development within the MXD zone. The proposed language also clarifies requirements for single parcels of less than 10 acres.

Finally, although the draft presented at the work session included language that would provide expirations for approved schematic development plans, staff is suggesting that this language be deleted from the amendment and the issue deferred.

The proposed amendments were discussed during a joint work session on November 28, 2005.

Presentation: 5 Minutes
Attachments: Index of Memoranda and Exhibits

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JOINT EXHIBIT
#6
T-376
1-17-06

DESIRED OUTCOME:

Planning Commission record open 21 days, close February 7, 2006
Planning Commission recommendation on February 15, 2006.
City Council record open 31 days, close February 17, 2006
City Council policy discussion February 21, 2006
City Council final action on March 6, 2006

From: <richardarkin@aol.com>
To: <skatz@gaithersburgmd.gov>, <gedens@mckennalong.com>, <SESMA@aol.com>, <hmarraffa@starpower.net>, <salster@gaithersburgmd.gov>, <jschlichting@jbg.com>
Date: 01/17/2006 6:22:22 AM
Subject: Hearing: T-375 and T-376

Your Honor and Members of the City Council:
Mr. Chairman and Members of the Planning Commission:

I am writing to comment on two items on tonight's hearing agenda:

1. Joint - T-375, Proposal to Amend Chapter 24 of the City Code Entitled "Zoning," Article III, Entitled, "Regulations Applicable to Particular Zones," Division 14, Entitled, "I-1 Zone, Light Industrial," Division 15, Entitled, "I-3 Zone, Industrial and Office Park," and to Correct Typographical Errors and to Require Adherence to Additional Regulations When Building in an Industrial Zone That Abuts Residential Uses; and

2. Joint - T-376, Proposal to Amend Chapter 24 of the City Code, Entitled, "Zoning," Division 19, Entitled, "MXD Zone, Mixed Use Development," Section 24-160d.1, Entitled, "Purposes and Objectives," Section 24-160d.2, Entitled, "Minimum Location and Development Requirements," and Section 24-160d.9, Entitled, "Application and Processing Procedures," so as to Require Smaller Parcels to Demonstrate Compatibility With Adjacent MXD Parcels Through Detailed Sketch Plans, Provide Internal and External Compatibility Among MXD Parcels While Not Requiring All Uses at All MXD Parcels.

Both proposals appear to have been generated from discussions at a Joint Work Session to discuss the G.E. Technology Park Special Study Area of the Master Plan update on Monday, November 28, 2005. No final decisions came out of that worksession and there was no clear direction to staff during the public portion of the meeting to generate such text amendments. Moreover, the record remains open on the master planning exercise for that special study area and no final decisions have been made that would require zoning actions or amendments for implementation. Further, despite staff's assertion to the contrary in the "supporting background" section of the staff reports, there was no true discussion of the two text amendments at the worksessions. Finally, the sudden presence of these proposals on the hearing agenda would seem to short-circuit decisionmaking in the planning process for this tract.

Thus, it seems at best that the proposed text amendments are both extremely premature and quite prejudicial.

For these reasons, as well as other policy concerns, I strongly oppose both proposed amendments.

Further, I would request their withdrawal at this time and ask that any further submission of text amendments or zoning action designed to implement a plan for this special study area await clearer direction and decisionmaking at the end of the process.

Sincerely,

PENGAD 800-631-6989
JOINT EXHIBIT
#7
T-376
1-17-06

Richard L. Arkin
121 Selby Street
Gaithersburg, MD 20878

CC: <gossont@gaithersburgmd.gov>, <DHumpton@gaithersburgmd.gov>, <cityhall@gaithersburgmd.gov>, <richardarkin@aol.com>, <rarkin@cvm.fda.gov>

From: Greg Ossont
To: Kirk Eby; Myriam Gonzalez; Rob Robinson
Date: 01/20/2006 9:22:08 AM
Subject: Fwd: Re: Text Amendment Cover Sheets

for records on get, t375 and t376. thanks all.

Greg Ossont, Director
Planning and Code Administration

301-258-6330
301-258-6336 FAX

31 South Summit Avenue
Gaithersburg, Maryland 20877

gossont@gaithersburgmd.gov -- http://www.gaithersburgmd.gov

The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council

>>> <RichardArkin@aol.com> 01/20/2006 12:43:17 AM >>>

Mr. Ossont:

I appreciate your note. I still believe that my comments are appropriate and again request that they be included in the record and that appropriate responses be issued.

Please advise if the closing date has been extended beyond that which was already announced and if the Council has made any decision on holding a Town meeting, as requested by Jim Wakefield and me, or any other further planning exercise.

Thank you very much.

Dick Arkin

In a message dated 1/19/2006 3:39:31 P.M. Eastern Standard Time, GOssont@gaithersburgmd.gov writes:

Mr. Arkin:

Please note the cover sheets for text amendments T-375 and T-376 have been revised to accurately reflect the date of the work session. A point of correction was made during the public hearing for each text amendment as well.

Greg Ossont, Director
Planning and Code Administration

301-258-6330
301-258-6336 FAX

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 12, 2005

CALL TO PODIUM:

Greg Ossont, Director
Planning and Code
Administration

RESPONSIBLE STAFF:

Greg Ossont, Director
Planning and Code
Administration

Cathy Borten, City Attorney

AGENDA ITEM:
(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
X	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE: JOINT WORK SESSION

Discussion on Proposed Text Amendments to the I-1, I-3 and MXD Zones

SUPPORTING BACKGROUND:

Staff has been asked to review the Industrial Use zones and how each zone relates to adjacent and abutting properties. Specifically, staff reviewed the I-1 and I-3 zones for existing language that ensures compatible development in industrial zones that would potentially effect existing residential development.

Staff has identified specific areas within the I-1 and I-3 zones where language could be amended and in sections where additional language and standards could be introduced to ensure compatible and harmonious new development and redevelopment in these industrial zones.

In addition, the Mixed Use Zone (MXD) has been discussed during a number of public hearings and work sessions as it relates to the internal and external compatibility of adjacent properties.

As you are aware, the City's most successful projects were developed under the MXD zone. In order to ensure future mixed use developments are of continued success, staff has identified certain sections within the code that will foster quality development in the future.

Specifically, staff has reviewed the requirements and standards for development within MXD properties and the interpretation that development under the MXD zone must consist of a "multi-use development" and not be limited to single uses. Staff has provided additional language that more clearly defines the objectives and requirements of future development within the MXD zone.

Lastly, staff has developed language that would provide expirations for approved schematic development plans.

DESIRED OUTCOME:

Provide staff guidance.

PENGAD 800-631-6989
JOINT EXHIBIT
#8
T-376
10-17-01

MEMORANDUM TO:	Mayor and City Council
VIA:	David B. Humpton, City Manager DH
FROM:	Greg Ossont, Director Planning and Code Administration GP
DATE:	September 6, 2005
SUBJECT:	MXD Zone – Text Amendments

Attached please find a draft text amendment for revisions to the MXD Zone. The draft addresses issues raised over the past several months related to the internal and external compatibility of adjacent parcels and the life span of schematic development plans. In summary, the draft:

1. Re-defines what is considered an MXD area and what must be included on a parcel zoned MXD, providing for internal and external compatibility among adjacent parcels comprising an MXD area (*see,* 24-160D.1);

2. Allows smaller parcels to be zoned MXD without the requirement that all use types be included on the parcel as long as the development contributes to an MXD area (*see,* 24-160D.2);

3. Requires that such smaller parcels submit sketch plans with sufficient detail to demonstrate harmonious integration into contiguous existing MXD areas (*see,* 24-160D.9); and

4. Adds a provision that approval of a schematic development plan expires five years from the date of approval (*see,* 24-160D.9).

I hope this information is helpful. If you have any questions, please contact me at 301-258-6330.

Attachment

ORDINANCE NO._____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED "ZONING," DIVISION 19, ENTITLED "MXD ZONE, MIXED USE DEVELOPMENT, SECTION 24-160D.1, ENTITLED "PURPOSES AND OBJECTIVES," SECTION 24-160D.2, ENTITLED "MINIMUM LOCATION AND DEVELOPMENT REQUIREMENTS," AND SECTION 24-160D.9, ENTITLED "APPLICATION AND PROCESSING PROCEDURES," SO AS TO REQUIRE SMALLER PARCELS TO DEMONSTRATE COMPATABILITY WITH ADJACENT MXD PARCELS THROUGH DETAILED SKETCH PLANS, PROVIDE INTERNAL AND EXTERNAL COMPATABILITY AMONG MXD PARCELS WHILE NOT REQUIRING ALL USES AT ALL MXD PARCELS, AND TO PROVIDE AN EXPIRATION DATE FOR APPROVED SCHEMATIC DEVELOPMENT PLANS.

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code, Division 19, Sections 24-160D.1, D.2, and D.9 are hereby amended to read as follows:

CHAPTER 24
ZONING

DIVISION 19, MXD ZONE, MIXED USE DEVELOPMENT

* * * * * * *

Section 24-160D.1. Purposes and Objectives

* * * * * * *

(a) To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual [multi-use center] <u>development</u> proposal, ...

(b) To encourage orderly, staged development of large scale comprehensively planned multi-use [centers] <u>developments</u>....

* * * * * * *

(d) To ensure the integration and internal <u>and external</u> compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by commercial, recreational, open space, employment and institutional uses and amenities within [all land use components of the] a multi-use [project] <u>development</u>. <u>A multi-use development is defined as a single parcel or a group of contiguous parcels of land zoned MXD which, among the various parcels comprising that contiguous area, include residential, commercial, recreational, open space, employment and institutional uses and amenities</u>.

* * * * * * *

24-160D.2 Minimum Location and Development Requirements

* * * * * * *

(a) Minimum area. No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone. Such parcels are not required to contain multiple uses but should contribute to a multi-use development and are subject to the provisions of 24-160D.9(a)(1).

24-160D.9 Application and Processing Procedures

(a) * * * * * * *

(1) * * * * * * *

(a)-(g) * * * * * * *

(h) 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.

(b) * * * * * *

(1) – (3) * * * * * *

(4) The approval of a schematic development plan shall substitute for preliminary site plan approval, and shall expire after a period of five (5) years from date of approval.

ADOPTED this ____ day of _____, 2005 by the City Council of Gaithersburg, Maryland.

_____
SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this ___ day of _____, 2005. APPROVED by the Mayor of the City of Gaithersburg, this _____ day of _____, 2005.

_____
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the ____ day of_____, 2005, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the ____ day of _____, 2005. This Ordinance will become effective on the ____ day of _____, 2005.

_____
David B. Humpton, City Manager

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets]	*Deleted from existing law by original bill.*
Double underlining	*Added by Amendment.*
[[Double boldface brackets]]	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

Hospitals.

Private clubs.

Public utility buildings and public utility structures.

Radio and television broadcasting stations, towers and accessory structures.

Recreational or entertainment establishments, commercial.

Service organizations.

Telecommunications facilities, subject to the requirements of section 24-167A(C)(2).
(Ord. No. O-1-85, 3-4-85; Ord. No. O-21-97, 11-17-97)

Sec. 24-160C. Development standards and requirements.

All uses in the E-2 Zone shall comply with the development standards and requirements set forth in section 24-152 through and including section 24-160, inclusive of this Code. Provided, however, the Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.
(Ord. No. O-1-85, 3-4-85; Ord. No. O-3-99, 1-19-99)

Sec. 24-160D. Reserved.

DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT

Sec. 24-160D.1. Purposes and objectives of zone.

It is the objective of this zone to establish procedures and standards for the implementation of master plan land use recommendations for comprehensively planned, multi-use projects. It is also intended that this zone provide a more flexible approach to the comprehensive design and development of multi-use projects than the procedures and regulations applicable under the various conventional zoning categories. In so doing, it is intended that this zoning category be utilized to implement existing public plans and pertinent city policies in a manner and to a degree more closely compatible with said city plans and policies than may be possible under other zoning categories. The specific purposes of this zone are:

(a) To establish standards and procedures through which the land use objectives and guidelines of approved and adopted master plans can serve as the basis for evaluating an individual multi-use center development proposal, as well as ensuring that development proposed will implement the adopted master plan and other relevant planning and development policies and guidelines for the area considered for MXD zoning.

(b) To encourage orderly, staged development of large-scale comprehensively planned, multi-use centers by providing procedures for various zoning and plan approvals, including development phasing.

(c) To encourage design flexibility and coordination of architectural style of buildings and signage.

(d) To ensure the integration and internal compatibility of applicable residential and nonresidential uses by providing a suitable residential environment that is enhanced and complemented by commercial, recreational, open space, employment and institutional uses and amenities within all land use components of the multi-use project.

(e) To assure compatibility of the proposed land uses with internal and surrounding uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories and to provide a superior quality of development exceeding that which could be achieved under conventional zoning regulations and procedures.

(f) To encourage the efficient use of land by: locating employment and retail uses convenient to residential areas; reducing reliance upon automobile use and encouraging pedestrian and other nonvehicular circulation systems; retaining and providing useable open space and active recreation areas close to employment and residential populations; and providing for the development of comprehensive nonvehicular circulation networks, separated from vehicular roadways, which constitute a system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities.

(g) To provide a superior natural environment by the preservation of trees, natural topographic and geologic features, wetlands, watercourses and open spaces.

(h) To allow development only in a phased or staged fashion to ensure the adequacy of the provision of public facilities and the concurrent implementation of community amenities.

This zone and any accompanying development plan(s) may be approved upon findings that the application is proper for the comprehensive and systematic development of the city, is capable of accomplishing the purposes of this zone, is an internally and externally compatible form of development and is consistent with the applicable master plan, special conditions within such plan relating to the property under consideration, and other applicable planning and land use policies. In order to enable the city council or the city planning commission to evaluate the conformance with the standards contained herein and elsewhere within Division 19, specific sets of plans shall be submitted in accord with section 24-160D.9, and the city council and/or the commission, as authorized pursuant to this Division 19, may approve said plan(s) if they find the plans capable of accomplishing the above purposes and in compliance with the standards and requirements of this zone.
(Ord. No. O-11-88, 11-7-88)

Sec. 24-160D.2. Minimum location and development requirements.

(a) *Master plan.* No land shall be classified in the Mixed Use Development Zone unless the land is within an area for which there is an approved and adopted master plan which recommends mixed use development for the land which is the subject of the application, or

unless the proposed development otherwise satisfies the purposes and objectives of the MXD Zone. Approval of the MXD Zone for land which is not recommended for this zone in an approved master plan shall require the affirmative vote of four (4) members of the city council.

(b) *Minimum area.* No land shall be classified in the Mixed Use Development Zone unless it contains a minimum of ten (10) acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zoned area and may be harmoniously integrated into the MXD area, consistent with the objectives and purposes of this zone.

(c) *Location.* Such land shall be located adjacent to and readily accessible from existing or planned highways that are in an approved construction program and are adequate to service the proposed development. It is intended that adequate access be available to such sites so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.

(d) *Public water and sewer.* No development shall be permitted unless served by public water and sewer.

(e) *Signage.* Signage shall be coordinated between adjoining uses and be thematic in approach, in accord with the purposes of this zone and overall character of the surrounding area.

(f) *Frontage on public streets.* Anything to the contrary notwithstanding in any regulation in this Code, lots in this zone shall not be required to have direct access to a public street provided that such condition will promote the creation of affordable housing, or will be designed in such a way as to foster the purposes and objectives of this zone, provided that satisfactory access to a public street is provided over private rights-of-way.
(Ord. No. O-11-88, 11-7-88; Ord. No. O-16-90, 8-6-90; Ord. No. O-3-93, 3-1-93)

Sec. 24-160D.3. Uses permitted.

(a) *Residential.* All types of residential uses allowed by right in Chapter 24 of this City Code shall be permitted, as well as all accessory uses thereto.

(1) The various residential housing types must be planned and constructed in accordance with recommendations and special conditions, if any, of the approved and adopted master plan.

(2) The location and type of all residential uses proposed on the site must be shown on the plans submitted in accordance with the requirements of section 24-160D.9 and Article V of this chapter, with the level of specificity increasing at each level of plans review.

(3) Residential uses should be a prominent element in any Mixed Use Development Zone where the applicable master plan specifically recommends that residential development is to be an integral component of a proposed multi-use project.

(4) Residential uses may be mixed with proposed commercial/industrial/employment uses, rather than located in a separate residential area on the site, upon a finding by the city council that combining residential and nonresidential uses at one location, within a site, will not adversely affect the overall development proposed.

(5) A lot intended for use for a single-family attached or detached dwelling unit may contain both a principal dwelling unit and an urban cottage, under the following restrictions and conditions.

(i) Maximum floor area of an urban cottage shall be one thousand two hundred (1,200) square feet in size.

(ii) Maximum height of an urban cottage shall be two and one-half (2½) stories or thirty (30) feet.

(iii) There shall be not more than one (1) urban cottage per lot.

(iv) Parking for an urban cottage shall be determined in accordance with section 24-219(b).

(v) Urban cottages shall be counted toward the maximum number of dwelling units permitted in an MXD zoned development, if such a maximum number is specified in an approved sketch plan, schematic development plan or final site plan in accordance with the following formula:

Unit Size	*Dwelling Unit Count*
0 to 699 square feet	0.25/DU
700 to 899 square feet	0.50/DU
900 to 1200 square feet	0.75/DU

(vi) In addition to compliance with all applicable city codes and regulations including, but not limited to, those dealing with buildings, fire safety, health and sanitation, property maintenance and rental housing licensing, the construction, occupancy and use of urban cottages shall be controlled by the following restrictions:

(aa) At least one dwelling unit on a lot containing an urban cottage shall be occupied by an owner of the lot.

(bb) There shall be only one cooking facility in an urban cottage.

(cc) Occupancy of an urban cottage shall be in accordance with the following schedule:

Unit Size	*Maximum Number of Occupants*
0 to 699 square feet	2
700 to 899 square feet	3
900 to 1200 square feet	4

(b) *Commercial/employment/industrial.* All uses allowed by right in any of the following zone: R-B, C-B, C-1, C-2, C-3, E-1, E-2 and I-3 Zones are permitted uses. The following uses are specifically prohibited:

Adult-oriented business.

Automobile paint and body repair shops.

Body piercing establishments

Drive-in theaters.

Hotel, extended stay.

Manufacture, compounding, and processing of goods or articles.

Pawnshops.

Tattoo parlor.

(1) The approximate location and general type of commercial, employment and industrial uses proposed on the site must be shown on sketch plan and schematic development plan submitted in accord with section 24-160D.9 and Article V, with the level of specificity increasing at each level of plans review.

(2) In order to establish an appropriately mixed character within the entire MXD zoned area, the following percentages of floor area proposed on site as shown on a sketch plan shall not exceed:

Retail commercial	60%
Employment/office	65%
Other commercial/institutional	15%

Individual percentages may be exceeded by approval of the city council upon application by an applicant and for good cause shown; provided, however, the cumulative total of all categories shall not exceed one hundred (100) percent.

(c) *Bed and breakfast.* Bed and breakfast subject to the requirements contained in section 24-167B.

(d) *Special exception uses.* The following uses shall be special exception uses in the MXD zone subject to approval by the city board of appeals notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsections (a) and (b):

Amusement center, whether operated separately or in conjunction with any other permitted or special exception use[1].

Assembling from prepared materials of electronic devices and electrical appliances.

Boarding homes.

Care homes.

Cemeteries.

Child or elderly care facilities in dwelling units other than single-family detached or duplexes accommodating not more than eight (8) individuals.

Child or elderly care facilities for accommodating more than eight (8) individuals.

Clinics.

Commercial parks and other outdoor places of amusements, including miniature golf courses, driving ranges, carnivals and fairs.

Funeral parlors and undertaking establishments.

Group residential facilities operated by nonprofit or public entities.

Hospitals.

Nursing and care homes.

Private clubs.

Public utilities uses, such as electric substations and offices, excluding the storage of material and trucks and repair facilities.

Radio and television broadcasting stations, towers and accessory structures.

Telecommunications facilities.

Towers, poles, antennas, buildings or other structures intended for use in connection with the operation of a commercial radio or television broadcasting station.

(Ord. No. O-11-88, 11-7-89; Ord. No. O-12-89, 9-5-89; Ord. No. O-17-93, 11-15-93; Ord. No. O-21-97, 11-17-97; Ord. No. O-9-02, 11-4-02; O-15-02, 12-16-02; Ord. No. O-6-04, 2-17-04)

[1] Amusement centers in the MXD Zone shall not be required to comply with the standard of subsections (1), (2) and (3) of section 24-144(a) of this Code.

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) *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.
(Ord. No. O-11-88, 11-7-88; Ord. No. O-5-91, 3-11-91)

Sec. 24-160D.5. Compatibility standards.

(a) All uses shall conform to the purposes of the Mixed Use Development Zone and shall be compatible with all uses, existing or proposed, in the vicinity of the area covered by the proposed planned development. In order to assist in accomplishing such compatibility, the following requirements shall apply:

(1) All right-of-way requirements, setbacks, height limits, open space or buffer areas recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas shall be incorporated into all plans subject to approval under the zone.

(2) Where setback, height limits, open space or buffer areas are not recommended in an area master plan or special conditions or requirements stated therein to protect properties adjacent to the MXD zoned areas, the following requirements shall be incorporated into all plans subject to approval under this zone.

a. No buildings other than single-family detached dwellings shall be constructed within one hundred (100) feet of adjoining property not zoned MXD or in a residential category that is developed with one-family detached homes unless the city planning commission finds that topographical features permit a lesser setback. In all other situations, setbacks from adjoining properties may be less than one hundred (100) feet, with the setback approved by the city planning commission.

b. No building proposed for commercial/employment/industrial use shall be constructed less than one hundred (100) feet from any adjoining property not zoned MXD recommended for residential zoning and land use on the applicable master plan. The setbacks shall be determined as part of the final site plan approval.

c. No building shall be constructed to a height greater than its distance from any adjoining property not zoned MXD recommended for residential zoning and land use on the applicable master plan, unless the city planning commission finds that approval of a waiver of this requirement will not adversely affect adjacent property.

(b) Telecommunications facilities in residential MXD Zones must be enclosed in existing structures.

(c) Compliance with these requirements shall not in and of itself be deemed to create a presumption of compatibility.
(Ord. No. O-11-88, 11-7-88; Ord. No. O-21-97, 11-17-97)

Sec. 24-160D.6. Minimum green area, landscaping and amenity requirements.

(a) The amount of green area, including designated parks, public and private open space, active and passive recreational areas, required for the residential portion of a mixed use development shall be not less than forty (40) percent of the total area shown for residential use. The minimum green area requirement, which shall include designated parks, public and private open space, active and passive recreational areas, for the commercial/employment/industrial portion of a mixed use development shall be not less than twenty-five (25) percent of the total area devoted to commercial/employment/industrial uses, except that comparable amenities and/or facilities may be provided in lieu of green area if the city council determines that such amenities or facilities are sufficient to accomplish the purposes of the zone, and would be more beneficial to the proposed development than strict adherence to the specific green area requirement.

(b) All recreation areas, facilities and amenities, and all open space and landscaped areas shall be reflected on the final site plans for approval by the city planning commission. With respect to such areas, facilities and amenities, the site plan or accompanying documents shall reflect:

(1) That such areas, facilities or amenities shall not be constructed, converted or used for any purposes other than reflected and designated on the site plan unless amended by consent of the city planning commission.

(2) A staging or construction timetable specifying the construction of all recreational areas, facilities and amenities. This staging or construction timetable may be related to the number of residential units under construction or complete, or population levels, or other appropriate standard. The adherence to the performance of such timetable shall be secured by appropriate bond, letter of credit or security acceptable to the city. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city the return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.

(3) A detailed plan with copies of proposed supporting covenants to be filed among the land records prior to the issuance of building permits for each phase of development, which shall enumerate the property owner's and all successors' obligations for perpetual maintenance of all common areas, green space, recreation areas, facilities and amenities, and all common landscaped areas.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-13-95, 7-24-95)

Sec. 24-160D.7. Public facilities and utilities.

(a) A mixed use development should conform to the facilities recommended for the site by the approved and adopted master plan, including granting such easements or making such dedications to the public as may be shown thereon or as shall be deemed necessary by the city to ensure the compatibility of the development with the surrounding area and to assure the ability of the area to accommodate the uses proposed by the application.

(b) All utility lines in the Mixed Use Development Zone shall be placed underground. The developer or subdivider shall ensure final and proper completion and installation of utility lines. Poles and lamps for street lighting shall be provided by the developer in accordance with the approved site plan.

(c) All streets to be dedicated to public use shall be shown on the schematic development plan and the final site plan, respectively. All private streets and alleyways shall also be shown on the schematic development plan and the final site plan, but they will only be allowed where they are found to be more appropriate due to the type and density of development or other applicable factors. All private streets and alleyways are to be constructed to the same width and road code standards as are applicable to public streets unless waivers of any street standard or road code requirement are granted by the council as part of the schematic development plan review or by separate public hearing.

(d) An applicant for approval under the MXD Zone shall demonstrate at the time of filing a schematic development plan, and at time of site plan approval that all public facilities are either presently adequate to service the development requested for approval or will be provided or in place by the completion of construction of the development reflected in the schematic development plan. It is the intent of this provision that development shall be staged in such a manner as to coordinate development with the provision of public facilities, and that such facilities shall be operational at acceptable service levels and capacities.

(e) All public facilities to be provided by an applicant shall be secured at the time of receipt of building permits by a bond or other financial security satisfactory to the city to ensure completion. The city may require as part of site plan approval, written agreements, either secured or unsecured, to be executed to ensure satisfactory completion of all public facilities and project amenities. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to

request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.
(Ord. No. O-11-88, 11-7-88; Ord. No. O-13-95, 7-24-95)

Sec. 24-160D.8. Parking requirements.

Off-street parking shall be provided in accordance with Article XI of this chapter, except as may be authorized below:

(a) The council, at the time of schematic development plan review, shall determine the appropriate approximate number of spaces. At the time of final site plan approval, the commission shall determine the final number of spaces, based upon considerations of safety, convenience, pedestrian and vehicular circulation, and added landscaping within parking lot areas. In addition, the planning commission may reduce the number of spaces required for any use in Article XI, section 24-219(b) of this Code where such reduction will meet the purposes of the MXD Zone.

(Ord. No. O-11-88, 11-7-88)

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. 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.

g. 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.

(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 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.

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

i. 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. 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) 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.

(4) The approval of a schematic development plan shall substitute for preliminary site plan approval.

(c) *Final site plan review.* Following approval of a schematic development plan, an applicant shall submit to the city planning commission a final site plan for approval, which shall be in accord with the approved 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.

(5) A proposed covenant, suitable for filing in the land records of 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.

(6) A site plan enforcement agreement to be signed by the applicant and the city, requiring the applicant to execute all of the features shown on the site plan and the sequence and timing when said features will be completed. The commission may require that performance of the terms of the agreement be secured by a bond, letter of credit or other security acceptable to the city. Subsequent to the completion of work, the city manager is authorized to declare as abandoned and forfeited, any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant or permittee fails to request of the city the return of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant or permittee, its successors, heirs and assigns relinquish all claim to said cash bond.

Approvals, processes, procedures and amendments to site plans shall be in accord with Article V of this Chapter 24 of the Code.

(Ord. No. O-11-88, 11-7-88; Ord. No. O-15-91, 7-1-91; Ord. No. O-23-92, 12-7-92; Ord. No. O-13-95, 7-24-95)

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

(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 sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas.

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

(1) The plan is substantially in accord with the approved sketch plan; and

(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 MXD zoned area and adjacent areas; and

(5) That existing or planned public facilities are adequate to service the proposed development contained in the plan; and

(6) That the development staging or phasing program is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and

(7) That the plan, if approved, would be in the public interest.

(c) The city planning commission shall 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.
(Ord. No. O-11-88, 11-7-88)

Sec. 24-160D.11. Procedures for amendment.

Amendments to a sketch plan or schematic development plan may be permitted, consistent with the procedures for amendment of optional method plans as provided in section 24-198(c) of this Code.
(Ord. No. O-11-88, 11-7-88)

Sec. 24-160D.12. Regulations adopted as part of sketch plans.

(a) The city council may adopt as part of a sketch 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 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 plan area or as otherwise provided in subsection (c) below.

ACCTID	ZONIN	ADDRESS	CITY	ZIPCO	OWNNAME1
160901662221	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	HALICI INC
160901662298	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	HALSEY, JANET P & W
160901662301	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	HALSEY, JANET P & W
160901661990	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	JARRARD, J MICHAEL ET AL TR
160901662004	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	JOY, SHEILA E &
160902279373	I3	18739 GAME PRESERVE ROAD	GAITHERSBURG	20879	KCE LIMITED LIABILITY CO
160901662094	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	KELBAUGH, H PATRICIA
160901662106	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	KELBAUGH, PATRICIA
160901661682	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	LIMPARIS, CHARLES M & D
160901662287	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	LYNCH ASSOCIATES
160901662378	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	LYNCH ASSOCIATES
160902344304	I3	11 METROPOLITAN GROVE ROAD	GAITHERSBURG	20878	METGROVE L L C
160901661842	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	MOLK, MARTIN J & K M
160903229886	I3	65 W WATKINS MILL ROAD	GAITHERSBURG	20878	MOR BEN LLC
160903229897	I3	55 W WATKINS MILL ROAD	GAITHERSBURG	20878	MOR BEN LLC
160903460991	I3	800 FREDERICK AVE	GAITHERSBURG	20879	MR 270 NMD I LLC
160902254442	I3	18775 FREDERICK ROAD	GAITHERSBURG	20879	OFFENBACHER, KARL ET AL TR
160901662334	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	PERRY, TIMOTHY S & L M
160901662345	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	PERRY, TIMOTHY S & L M
160901662356	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	PIPHER, PHILIP C & K L
160901661933	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	RODRIGUEZ, MARIA J ET AL
160901661795	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ROMAN, HENRY J & P
160901661807	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ROMAN, HENRY J & P
160902018585	I3	1 METROPOLITAN CT	GAITHERSBURG	20878	RSI LEASING, INC
160901661897	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	RUIZ, CARMEL B
160901661818	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	SABINS, JOHN J 3RD & J E
160901661875	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	SHAH, KANAIYALAL R & D K
160901661886	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	SHAH, KANAIYALAL R & D K
160901662072	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	SNIDER, MELISSA M
160901662083	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	SNIDER, MELISSA M
160901845871	I3	15 METROPOLITAN GROVE ROAD	GAITHERSBURG	20878	ST OF MARYLAND M V A
160901662015	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662026	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662128	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662130	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662141	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662152	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662163	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662174	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662185	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662196	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	STABLEVIEW ENTERPRISES LLC
160901662367	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	TAIRA, GREGG S
160901662265	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	TAIRA, GREGG S & MARILYN J
160901662276	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	TAIRA, GREGG S & MARILYN J
160901662323	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	TAN, SU H ET AL
160901661773	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	TAN, SU HWA LIANG ET AL
160901662117	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	TUTWILER, LILIANA G
160901498478	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	WHALEN, WILLIAM & D
160901661716	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	WHALEN, WILLIAM M & D C
160901662380	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	WILLIAM A LYNCH ASSOC INC
160901662254	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	WILLIAMS, ROBERT W JR ET AL
160901661784	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	YU, PAUL J &

ACCTID	ZONIN	ADDRESS	CITY	ZIPCO	OWNNAME1
160903310305	I1	25 CHESTNUT ST	GAITHERSBURG	20877	25 CHESTNUT STREET LLC
160903158790	I1	9030 COMPRINT CT	GAITHERSBURG	20877	GAZETTE NEWSPAPER INC
160901782306	I1	300 E DEER PARK DR	GAITHERSBURG	20877	GUARDIAN PROPERTY ASSOC
160903085410	I1	227 E DEER PARK DR	GAITHERSBURG	20877	HOUSING OPP COMM OF MONTG CO
160903085421	I1	231 E DEER PARK DR	GAITHERSBURG	20877	HOUSING OPP COMM OF MONTG CO
160903085408	I1	229 E DEER PARK DR	GAITHERSBURG	20877	MONTGOMERY CO
160900840840	I1	16 CHESTNUT ST	GAITHERSBURG	20877	MONTGOMERY COUNTY
160900819524	I1	14 CHESTNUT ST	GAITHERSBURG	20877	QUINN, JOHN H JR ET AL TR
160902758882	I1	26 W DIAMOND AVE	GAITHERSBURG	20877	SOVRAN ACQUISITION L P
160900820237	I1	4 MEEM AVE	GAITHERSBURG	20877	STANDARD SUPPLIES INC
160900840805	I1	4 MEEM AVE	GAITHERSBURG	20877	STANDARD SUPPLIES INC
160903147967	I3	45 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-25/35/45 W WATKINS CORP
160902774712	I3	50 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-50 W WATKINS MILL LLC
160903147956	I3	9 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-MARYLAND NO 23 LLC
160903279915	I3	1201 CLOPPER ROAD	GAITHERSBURG	20878	ARE-METROPOLITAN GROVE I LLC
160901661658	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTER CORP
160901662243	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORP
160901661751	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901661762	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901662232	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901661911	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BALLA, LOUIS B ET AL TR
160901661922	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BALLA, LOUIS B ET AL TR
160902795598	I3	1101 CLOPPER ROAD	GAITHERSBURG	20878	BOWL AMERICA INC
160901661738	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G .
160901661740	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G
160901661944	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G
160901661660	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BUTT, SAMSON P
160901661647	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CHENKIN, HOWARD
160901661625	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CIARAMELLO, WILLIAM P & P F
160903257235	I3	1649 MAIN ST	GAITHERSBURG	20878	CITY OF GAITHERSBURG
160903257246	I3				CITY OF GAITHERSBURG
160903257257	I3				CITY OF GAITHERSBURG
160903257281	I3				CITY OF GAITHERSBURG
160901661820	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PARTNERSHIP
160901661693	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901661705	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662037	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662048	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662050	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662061	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901661831	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	COUNCIL OF UNIT OWNERS OF
160902795587	I3	2 METROPOLITAN CT	GAITHERSBURG	20878	DANIEL DANIEL & DANIEL
160901662210	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	DARROODI, ALI & M
160903257315	I3				EDISON TECH LLC ET AL
160901661853	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661864	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661955	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661966	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661977	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661988	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901662208	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ESLER, JOHN T JR & V A
160901662312	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	EVANSHAW, MICHAEL R
160903185816	I3	75 W WATKINS MILL ROAD	GAITHERSBURG	20878	FIRST FEDERAL CORPORATION
160902544207	I3	101 ORCHARD RIDGE DR	GAITHERSBURG	20878	FOULGER LAND LTD PTNSHP ET AL
160901662391	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	FUSION POWER ASSOCIATES
160901662403	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	FUSION POWER ASSOCIATES
160901661900	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GEISSLER, DAVID R & T E B
160901661727	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GIST, ROBERT
160901661671	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GOBER, ALAN E & R B
160901661636	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GRAMES, GEORGE M ET AL TR
160902518573	I3	5 METROPOLITAN CT	GAITHERSBURG	20878	HALCYON ASSOCIATES

CTID	VACANT / REDEV	ZONING	ADDRESS	CITY	ZIPCO	OWNNAME1
)903436262	R	I3				CASEY, BETTY B ET AL TR
)903436273	R	I3				CASEY, BETTY B ET AL TR
)903346081	R	I3				CITY OF GAITHERSBURG
)902018563	R	I3	21 METROPOLITAN GROVE ROAD	GAITHERSBURG	20878	DANIEL DANIEL & DANIEL
)903257315	R	I3				EDISON TECH LLC ET AL
)903461016	R	I3	655 WATKINS MILL ROAD	GAITHERSBURG	20879	MONUMENT CORPORATE CENTER LLC
)903461005	R	I3	960 FREDERICK AVE	GAITHERSBURG	20879	MR 270 NMD I LLC
)903257268	R	I3				SFHI LLC
)900818234	R	MXD				CASEY, BETTY B ET AL TR
)900821777	R	MXD				CASEY, BETTY B ET AL TR
)900836698	R	MXD				CASEY, BETTY B ET AL TR
)903436251	R	MXD				CASEY, BETTY B ET AL TR
)903016800	R	MXD	311 KENTLANDS BLVD	GAITHERSBURG	20878	DAAB LLC
)903203814	R	MXD	316 KENTLANDS BLVD	GAITHERSBURG	20878	KENTLANDS II LLC
)903433623	R	MXD	911 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	MEDIMMUNE INC
)903433634	R	MXD				MEDIMMUNE INC
)902711271	R	MXD				MONTGOMERY COUNTY
)900768355	R	MXD				MONTGOMERY COUNTY
)903244450	R	MXD	9711 WASHINGTONIAN BLVD	GAITHERSBURG	20878	ORIX GAITHERSBURG LLC
)902900216	R	MXD	900 WIND RIVER LANE	GAITHERSBURG	20878	QOCC ASSOCIATES
)903203494	R	MXD	30 EXCHANGE ST	GAITHERSBURG	20878	SAUL HOLDINGS LTD PRTNSHP
)903326527	R	MXD	1409 MAIN ST	GAITHERSBURG	20878	SHAARE TORAH INC
)900777953	R	MXD				UNITED STATES AMERICA
)903340860	R	MXD				WASHINGTONIAN NORTH ASSO L P
)903340871	R	MXD	10000 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P
)903198705	V	I1				HOUSING OPP COMM OF MONT CO
)903257292	V	I3	101 EDISON PARK DR	GAITHERSBURG	20878	EDISON TECH LLC ET AL
)902214641	V	I3				THE HUMANE SOCIETY OF THE
)903309090	V	MXD	151 LAKELANDS DR	GAITHERSBURG	20878	151 LAKELANDS LLC
)902960458	V	MXD	4 KENT GARDENS CIR	GAITHERSBURG	20878	BRISCUSO, JEAN ET AL
)900768333	V	MXD				BURNS, EDWARD 4TH ET AL
)903458097	V	MXD				CHURCHILL DEVELOPMENT CORP
)900818644	V	MXD				ENGLAND, JONATHAN S ET AL
)902304605	V	MXD	911 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	GENERAL ELECTRIC REAL EST CREDIT
)903299753	V	MXD				GREAT SENECA DEVELOPMNT CORP
)900771546	V	MXD				HOWARD, KEVIN
)900771752	V	MXD				METROPOLITAN GROVE RD LLC
)901869568	V	MXD				METROPOLITAN GROVE RD LLC
)901869557	V	MXD				METROPOLITAN GROVE RD LLC
)902781967	V	MXD				MONTGOMERY COUNTY
)902900182	V	MXD				QOCC ASSOCIATES
)902304547	V	MXD				QOCC ASSOCIATES
)900774948	V	MXD				ROSENTHAL, ROBERT
)903069330	V	MXD	913 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	S & T KENTLANDS LLC
)900772745	V	MXD				STEWART, ASBY
)903340882	V	MXD	10101 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P
)903340893	V	MXD	10201 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P

Speaker from the public:

Marc Solomon, Finmarc Management, Inc., 4733 Bethesda Avenue, owner of warehouse, stated that the warehouse is currently zone I-3 as part of the GE Special Study Area. He submitted a letter to the City Council, Planning Commission and staff expressing concerns of the rezoning and impact of the his property.

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, that the Planning Commission record on T-375, be held open indefinitely.

Vote: 5-0

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the City Council record on T-375, be held open indefinitely.

Vote: 3-0

2. **Joint – T-376, Proposal to Amend Chapter 24 of the City Code, Entitled, "Zoning," Division 19, Entitled, "MXD Zone, Mixed Use Development," Section 24-160d.1, Entitled, "Purposes and Objectives," Section 24-160d.2, Entitled, "Minimum Location and Development Requirements," and Section 24-160d.9, Entitled, "Application and Processing Procedures," so as to Require Smaller Parcels to Demonstrate Compatibility With Adjacent MXD Parcels Through Detailed Sketch Plans, Provide Internal and External Compatibility Among MXD Parcels While Not Requiring All Uses at All MXD Parcels**

Planning and Code Administration Director Ossont stated that the joint public hearing was advertised in the *Gaithersburg Gazette* issues of January 4 and 11, 2006. A joint work session was held on September 12, 2005, for the proposed amendment and is sponsored by the Mayor and City Council. He stated that the requirements of the Mixed Use Zone (MXD) have been discussed during a number of public hearings and work sessions. He stated that the discussions focused on compatibility and whether or not development projects under the MXD zone should require a mix of uses within all land uses components of a multi-use project. He stated that staff has reviewed the requirements and standards. The propose language more clearly defines the objectives and requirements of future development with the MXD Zone and also clarifies requirements for single parcels of less than 10 acres.

There were no speakers at the hearing.

Motion was made by Commissioner Kaufman, seconded by Commissioner Winborne, that the Planning Commission record on T-376, be held open indefinitely.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Alster, that the City Council record on T-376, be held open indefinitely.

Vote: 3-0

PENGAD 800-631-6989
JOINT EXHIBIT
#9
T-376
1-17-06