

DIVISION 12. - C-2 ZONE, GENERAL COMMERCIAL

Mayor and City Council
X-9510-2023
Exhibit #39

Sec. 24-116. - Purpose of zone.

The C-2 Zone is meant to include commercial uses serving the regional and local area, together with normal supplemental uses and other uses compatible with a cohesive and attractive shopping and office area.

(Ord. No. O-2-65, art. 3, § 1)

Sec. 24-117. - Uses permitted by right.

The following uses are permitted by right in the C-2 Zone:

- (1) Retail stores and shops such as grocery stores, drugstores, variety stores and bakeries, provided that goods baked on the premises shall be sold only on the premises and at retail.
- (2) Personal service businesses such as shoe repair shops, beauty parlors and barbershops, and laundries and dry cleaning establishments which are self-service or pick-up stations only.
- (3) Banks, offices, restaurants (Class A and Class C), bars and similar services.
- (4) Offices for professional or business purposes, including but not limited to medical, law, real estate, insurance and manufacturer's representatives' offices.
- (5) Private clubs, lodges and fitness centers.
- (6) Animal hospitals, animal boarding places and pet shops.
- (7) Repair and business services, including but not limited to carpenter, cabinet, plumbing or electrical shops, laundry or dry cleaning establishments, bicycle, appliance or other local repair shops and printing or publishing shops.
- (8) Sales and service of automobiles, mobile homes, farm equipment and marine equipment.
- (9) Cocktail lounges, theaters, and indoor amusement and recreational facilities.
- (10) Motels.
- (11) Funeral homes that do not provide cremation services on site.
- (12) Research, experimental or testing laboratories.
- (13) Retail, service and general commercial uses similar to the foregoing.
- (14) Accessory uses and structures in compliance with section 24-163 of this Code.
- (15) Automatic automobile car wash, subject to the following provisions:
 - a. Minimum frontage: One hundred twenty-five (125) feet.
 - b. Minimum net area: Fifteen thousand (15,000) square feet.

- c. Minimum green area: Ten (10) percent.
 - d. Maximum lot coverage: Twelve (12) percent.
 - e. Driveway: Each driveway shall be at least twelve (12) feet wide and each driveway shall be separated from each other by a minimum four-foot-wide median with barrier or curb; except, that such median shall not be required within thirty (30) feet of the paving of the access highway or car wash structure.
 - f. Restriction of these facilities: Access shall not be permitted from roads which are in excess of sixty (60) feet right-of-way or eighty (80) feet right-of-way if dualized from an existing service lane which has a minimum of twenty-four (24) feet of paving.
 - g. Criteria of eligibility for this use: The site shall be developed in such a manner as to provide the following automobile stacking capacity:
 - 1. Ingress automobile stacking capacity per bay shall be three (3) times the number of minutes required for one complete cycle of the mechanical equipment for those installations which do not employ attendants to supplement the washing, drying or vacuuming of the automobiles. All installations which employ such attendants shall provide two and one-half (2½) times more automobile stacking capacity. However, a minimum of six (6) spaces shall be provided per bay.
 - 2. Egress automobile stacking capacity per bay shall equal the number of minutes required for one complete cycle of the mechanical equipment for those installations which do not employ attendants to supplement the washing, drying or vacuuming of the automobiles. All installations which employ such attendants shall provide two (2) times more automobile stacking capacity. However, a minimum of two (2) spaces shall be provided per bay.
 - h. Materials: The exterior vertical surfaces of the building shall be faced with textured concrete, wood, brick, stone, glass or aluminum curtain wall.
- (16) Restaurants (Class B), subject to the following provisions:
- a. Each such restaurant shall be located on a lot containing at least thirty thousand (30,000) square feet and having a minimum width of one hundred fifty (150) feet.
 - b. No such restaurant shall have more than one vehicular access to any one street. Such access shall be located no less than sixty (60) feet from the point of curvature on the file of the nearest intersecting street.
 - c. No such restaurant shall be hereafter established so that any lot line of the lot on which such restaurant is located is less than four hundred (400) feet from the nearest lot line of any other restaurant or automobile filling station; provided, that this limitation shall not apply where two (2) or more restaurants are located within the same project.
 - d.

Each such restaurant shall be screened by an unbroken six-foot brick wall along each lot line, except as otherwise provided:

1. Along any lot line adjacent to a street such wall need only be two and one-half (2½) feet in height.
 2. Along any lot line which adjoins land zones in a commercial or industrial classification, a wooden fence may be used in lieu of a brick wall.
 3. No wall or fence shall be required along any portion of a lot line where there is located a building or structure serving the same purpose. Where such building or structure is located on property adjacent to the lot accepted by such restaurant, such building or structure shall be protected from damage by vehicles using the lot occupied by such restaurant.
- e. Such restaurants shall not be permitted in the core area of the city, as shown on the master plan for the city, unless they are located within a shopping center.
- (17) Restaurants of all classes shall be permitted where all three (3) classes of restaurants are housed within the same structure and have common access and one of them occupies at least two thousand five hundred (2,500) square feet.
- (18) Fire stations.
- (19) Automobile, truck and transport vehicle rental.
- (20) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of [section 24-167A](#) of this Code, but excluding such buildings, structures and uses in connection with the operation of commercial radio or television broadcasting stations.
- (21) Automobile service center.
- (22) Child and/or adult day care centers.
- (23) Automobile filling stations, subject to the prior issuance of a conditional use permit under the requirements of article I, [section 24-10](#), and further subject to the following provisions:
- a. Uses permitted in conjunction with an automobile filling station are limited to:
 1. Incidental automotive repair, limited to four (4) bays, and not including repair involving painting, burning, welding, body or machine shop work.
 2. Incidental snack shop/food mart, not to exceed one thousand (1,000) square feet in area.
 3. Incidental car wash.
 - b. Minimum lot or parcel frontage: One hundred seventy-five (175) feet. This requirement shall not apply to the location of this use within a shopping center.
 - c. Minimum lot or parcel size:

1. Filling station use only: Thirty-five thousand (35,000) square feet.
 2. Filling station and snack shop/food mart: Thirty-five thousand (35,000) square feet.
 3. Filling station and incidental car wash (with or without snack shop/food mart): Forty thousand (40,000) square feet.
- d. Minimum green area: Ten (10) percent, which, where practicable, shall be in the form of a landscaped area along the frontage of the property, except for access points.
- e. Maximum lot coverage: Thirty-five (35) percent.
- f. Minimum yard requirements: No yards are required; provided, that where a side or rear yard adjoins property in a residential zone, no building, structure or gasoline pump islands shall be erected or maintained within thirty (30) feet of any property line or within one hundred (100) feet of any residential building, and shall be screened by a six-foot high solid decorative fence, wall, compact evergreen plantings or other suitable buffer, as determined by the planning commission.
- g. Safety restrictions: All buildings and all structures, including, but not limited to, storage tanks, gasoline pumps and pump islands, shall conform to all applicable fire safety and building code regulations, as well as other applicable state and federal laws and regulations with respect to such use. There shall be no discharge of any petroleum or chemical products into any public or private sewage disposal system, stream, or into the ground. Lighting facilities shall be so arranged or screened that they neither disturb the occupants of nearby residential properties nor interfere with traffic movement.
- h. Additional parking, loading and access requirements:
1. When a use enumerated in this section occupies a corner lot, the ingress and egress driveways shall be located at least seventy-five (75) feet from the point of intersection of the street line and the corner arc.
 2. Outdoor storage of motor vehicles or trailers, except those currently being serviced or temporarily awaiting service within the next twenty-four (24) hours, is prohibited.
 3. Vehicular access to any residential street is prohibited.
- i. Additional standards and findings applicable to consideration of issuance of conditional use permit for this use. All automobile filling stations, accessory uses thereto, and all buildings or structures in connection with this use, must not:
1. Preempt frontage on a major highway in such a manner as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use which is oriented to the same highway.
 - 2.

Impair the movement of through traffic along an adjoining thoroughfare through congestion and reduction of street capacities or cause the storage or backup of vehicles in the public right-of-way while awaiting service on the property in question.

3. Cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.
4. Result in a fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with an adjoining highway and adversely affecting the orderly development of the surrounding neighborhood.
5. Preempt the use of any parking spaces, on-site driveways or cause vehicles to back up into adjacent service drives or public roads by vehicles waiting for service.
6. By approval of this use at the location proposed, result in a multiplicity or situation of similar uses in the same general neighborhood.

(24) Public uses which do not include any residential use, including but not limited to single-family or multiple-family dwellings.

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

(26) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of section 24-167A(D)(1).

(27) Hotel, full service.

(28) Hotel, limited service.

(29) Hotel, extended stay.

(30) Small cell telecommunications facilities, subject to the requirements of section 24-167A(E).

The city council shall also be required to find that, for the public convenience and service, a need exists for the proposed use due to an insufficient number of similar uses presently available to serve existing residents and workers in the city.

(Ord. No. O-2-65, Art. 3, § 1; Res. No. R-8-67, § 1; Res. No. R-25-68; Ord. No. O-2-73, § 4; Ord. No. O-7-73, §§ 3—5; Ord. No. O-9-74; Ord. No. O-5-75, § 2; Ord. No. O-2-76, § 1; Ord. No. O-8-76, § 3; Ord. No. O-10-81, § 5; Ord. No. O-14-83, § 1, 7-18-83; Ord. No. O-20-87, 9-8-87; Ord. No. O-3-88, 3-24-88; Ord. No. O-3-90, 3-5-90; Ord. No. O-17-90, 9-4-90; Ord. No. O-18-91, 12-16-91; Ord. No. O-5-93, 4-12-93; Ord. No. O-17-93, 11-15-93; Ord. No. O-21-97, 11-17-97; Ord. No. O-14-02, 12-16-02; Ord. No. O-5-04, 1-20-04; Ord. No. O-8-13, 9-3-13; Ord. No. O-5-15, 7-20-15; Ord. No. O-1-17, 1-3-17; Ord. No. O-12-17, 11-20-17; Ord. No. O-2-21, 2-1-21; Ord. No. O-6-21, 7-19-21)

Footnotes:

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Editor's note— *The city attorney has expressed the opinion that department stores are permitted by right in the C-2 Zone.*

Sec. 24-118. - Uses permitted as special exceptions.

The following uses are permitted in the C-2 Zone as special exceptions after approval by the board of appeals in accordance with the provisions of section 24-189, or by the city council in accord with section 24-167A(C) as to subparagraph (9) below:

- (1) Dwelling units which are part of buildings intended for and serve as an accessory to a commercial use; provided, that:
 - (i) Rear yards shall be provided in accordance with requirements in the R-20 Zone.
 - (ii) Appropriate fire separation between use groups, and the installation of sprinklers as approved by the Montgomery County Fire Marshal in accordance with the 13 Sprinkler System, and required secondary egress must be provided pursuant to other standards set forth by the BOCA Building Code.
 - (iii) Parking spaces for residential units shall be reserved for each dwelling unit on the same lot.
- (2) Outdoor amusement and recreational facilities, carnivals, and fairs.
- (3) Drive-in theaters; provided, that ingress and egress points are satisfactory in relation to the major access road and nearby residential areas, and that suitable turning lanes are provided from the access roads.
- (4) Assembling from prepared materials of electronic devices and electrical appliances; provided, that:
 - (i) The use involves only normal shipping operations, excluding heavy trucking which could cause traffic congestion,
 - (ii) The structure or use shall not disturb the commercial environment, either by reason of traffic, noise or other nuisances.
- (5) Automobile paint and body repair shops.
- (6) Care homes.
- (7) Towers, poles, antennas and ancillary buildings, in connection with the operation of a commercial radio or television broadcasting station subject to the standards and procedures in section 24-167A(b).
- (8) Telecommunications facilities, subject to the requirements of section 24-167A(d)(2).
- (9) Fortunetelling businesses.

(Ord. No. O-2-65, art. 3, § 1; Ord. No. O-4-65, § 4; Res. No. R-20-66; Res. No. R-8-67, § 2; Ord. No. O-4-72; Ord. No. O-1-79; Ord. No. O-5-81, § 2; Ord. No. O-12-82; Ord. No. O-17-82, § 2; Ord. No. O-8-83; Ord. No. O-16-87, 7-20-87; Ord. No. O-3-90, 3-5-90; Ord. No. O-21-97, 11-17-97; Ord. No. O-9-02, 11-4-02; Ord. No. O-1-13, 1-22-13; Ord. No. O-8-13, 9-3-13; Ord. No. O-1-17, 1-3-17; Ord. No. O-07-19, 10-21-19)

Sec. 24-118A. - Conditional uses.

The following uses in the C-2 zone are subject to the conditional use provisions in section 24-10 of this Code.

- (1) Cremation services as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within five hundred (500) feet of any property that contains a residential use.

(Ord. No. O-6-21, 7-19-21)

Sec. 24-119. - Yard requirements.

In the C-2 Zone, no yards are required; provided, that where a side yard in a C-2 district adjoins a residential zone, a side yard shall be provided in the C-2 Zone equal to the requirements of the adjoining residential zone.

(Ord. No. O-2-65, art. 3, § 1)

Sec. 24-120. - Height and FAR restrictions.

No structure or building in the C-2 Zone shall exceed a floor area ratio of 1.5; provided, however, no building or structure in this zone may exceed a total of ten (10) stories in height exclusive of mechanical or [other] equipment placed upon the rooftop except as hereafter permitted pursuant to the provisions of section 24-121 of this Code.

(Ord. No. O-2-65, art. 3, § 1; Ord. No. O-16-83, § 2, 8-15-83)

Sec. 24-121. - High-rise optional approval.

The city council is authorized to approve developments in the C-2 Zone which exceed the maximum floor area ratio and height limitations set forth in section 24-120 of this Code pursuant to the procedures and standards hereinafter specified in this section.

(A) *Application:*

- (1) An application for optional approval in the C-2 Zone shall be filed with the city planning department by any person with a financial, contractual or proprietary interest in the property. The applicant shall have the burden of proof on all requirements for approval

and all issues to be determined by the city council.

- (2) An application for optional approval may be submitted and considered by the city council with an application for rezoning to the C-2 Zone, but such submission may be approved or disapproved separately from the application for C-2 zoning. An approved application for optional approval shall constitute concept site development plan approval as may be required by procedures to implement Article V of Chapter 24 of this Code.
- (3) In order to ensure that the development will include the public facilities, amenities, approximate layout and dimensions of buildings, parking, access and greenspace that will create a development compatible with the surrounding environs and public facilities capacities, as well as an environment capable of supporting a greater height and/or floor area ratio than permitted under section 24-120 of this Code, the applicant shall submit a development plan for optional approval prior to the issuance of a building permit. The fact that the development plan submitted meets all the purposes and requirements of this section shall not be deemed to create a presumption that the proposed development would be desirable or compatible and shall not be sufficient to require the approval of the application.
- (4) The development plan submitted for optional approval shall contain:
 - (a) All information, items and features required by section 24-169(a), (b) and (c) of this Code; and
 - (b) All information, items and features required by section 24-198(a)(5); and
 - (c) The gross floor area of buildings by types of use, and the FAR of the development; and
 - (d) The location of land to be dedicated to public use, and land devoted to quasi-public, common or amenity use and any restriction, agreement or other documents indicating the manner in which it will be held, restricted and maintained; and
 - (e) A statement and analysis demonstrating the manner in which the development would result in a more efficient and desirable development than could be accomplished without optional approval; and
 - (f) A development program indicating the sequence in which all buildings, structures, amenities, vehicular and pedestrian circulation systems will be developed; and
 - (g) The relationship, if any, of the development program to any city, county or state capital program necessary to or pertinent to accommodation of the development.
- (5) An application for optional approval shall be accompanied by a fee to be established by resolution of the city council and a proposed covenant, suitable for recording in the land records, which shall indicate that the proposed development of the property is restricted

in its development features and standards to the approved plan and any accompanying or qualifying text material as such plan may be approved or modified by the city council or planning commission.

(B) *Public hearing and notification:*

- (1) A public hearing shall be held by the city planning commission on each application for optional approval. Written notification of the application shall be sent to all adjacent property owners not less than fifteen (15) days prior to the date of the public hearing.
- (2) The city planning department shall analyze the application and submit its findings, comments and recommendations to the planning commission at least five (5) days prior to the public hearing conducted by the commission.
- (3) The city planning commission shall forward its recommendation to the city council as promptly as circumstances shall permit, together with the recommendations of the city planning department. The commission's recommendations may include, but shall not be limited to:
 - (a) Recommendations to approve, approve with modifications, withdrawal, deferral or denial;
 - (b) Recommendations as to any conditions to be imposed upon an optional approval;
 - (c) Recommendations as to whether the city council should or should not conduct further hearings. Failure to deliver a recommendation to the city council within thirty (30) days following the closing of the commission's hearing record shall permit the city council to act without such recommendation.
- (4) Joint public hearings may be conducted by the city council and city planning commission on any application for optional approval.
- (5) The council may conduct a separate public hearing on any application for optional approval; provided, however, the notification requirements specified in subsection (B)(1) shall additionally be imposed.

(C) *Basis for consideration and findings required*

- (1) In reaching a decision on an application for optional approval and in making the required findings, the city council shall consider the following:
 - (a) The nature of the proposed site and development, including its size and shape, and the proposed size, shape, height, floor area ratio, arrangement and design of buildings and structures; and
 - (b) Whether open space and public amenities are so planned, designed and situated as to function as necessary physical and aesthetic open areas among and between individual structures and adjoining uses, and whether the buildings, walkways and

parking areas are so located and of sufficient dimension to provide for adequate light, air, pedestrian circulation and necessary vehicular access; and

- (c) Whether the vehicular circulation system, including access and off-street parking and loading, is so designed as to provide an efficient, safe and convenient transportation system; and
 - (d) The adequacy of landscaping, screening, parking and loading areas and service areas, lighting and signs, with relation to the type of use proposed and their relation to adjoining uses; and
 - (e) The adequacy of public facilities to handle the increased intensity of use; and
 - (f) The staging program and schedule of development.
- (2) The fact that an application may comply with all of the specific considerations set forth in subsection (C)(1) above shall not be deemed to create a presumption that the application shall be approved. The city council shall approve, or approve subject to modifications or conditions only upon the finding that the proposed development would meet all of the following requirements:
- (a) Because of its location, size, intensity, design, operational characteristics and staging, it would be compatible with and not detrimental to existing or potential development in the general neighborhood; and
 - (b) It would not overburden existing public services and facilities nor those programmed for availability within the reasonable foreseeable future; and
 - (c) It would not adversely affect the health or safety of persons residing or working on the subject property or surrounding neighborhood; and
 - (d) It would not be incompatible or inharmonious with other existing uses or with existing and proposed adjacent development; and
 - (e) It would be more efficient and desirable than could be accomplished by the development of the property without optional method approval.
- (D) *Decision:* The city council shall have the final decision-making authority on all applications for optional approval. The city council, by majority vote of those present and voting, and based upon the evidence and testimony contained in the record, may approve, approve subject to modifications and conditions, disapprove or defer an application for optional approval. Nothing contained herein shall be construed as a waiver of the necessity of any applicant to comply with the provisions for preliminary and final site development plan approval pursuant to Article V of Chapter 24 of this Code.
- (E) *Amendments:* An application for optional approval may be amended:
- (1) At any time before review and recommendation by the planning commission.

- (2) At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendations.
- (3) Subsequent to council action to approve as follows:
 - (a) A minor amendment not involving an increase in floor area ratio, building height or location of buildings by submission to the planning commission for evaluation and approval in accordance with Article V of this chapter.
 - (b) Major modifications involving an increase in floor area ratio, building height or location of buildings, or any change in any condition imposed by the city council shall be subject to the same procedures as a new application.
- (4) The final site plan, as required by Article V of this chapter, must be in conformance with the optional approval development plan, as approved by the city council, with the exception of amendments or modifications as permitted above.

(Ord. No. O-4-72; Ord. No. O-7-73, § 6; Ord. No. O-2-76, § 1; Ord. No. O-10-81, § 6; Ord. No. O-16-83, § 3, 8-15-83)

Sec. 24-121.1. - Reserved.

Editor's note— Ord. No. O-07-19, adopted October 21, 2019, repealed § 24-121.1, which pertained to the traditional neighborhood design (TND) option and derived from Ord. No. O-3-99, adopted January 19, 1999.

DIVISION 22. - CD ZONE, CORRIDOR DEVELOPMENT

Mayor and City Council
X-9510-2023
Exhibit #40

Sec. 24-160G.1. - Purpose.

It is the purpose of the Corridor Development Zone to:

- (a) Encourage a form of development, consistent with the goals and provisions of the respective master plans for the city that will achieve the physical characteristics necessary to enhance the economic vitality, planned visual character and quality of life within an identified transportation corridor in the city.
- (b) Create a more attractive and cohesive development pattern and to enhance the city's sense of place through the creation of individual character associated with the corridor in the applicable corridor master plan.
- (c) Encourage development and redevelopment and renovation of declining or underutilized properties along the corridor.
- (d) Encourage the use of consistent, compatible and attractive architecture, streetscape and visual themes.
- (e) Create a streamlined process for zoning and plan approvals.
- (f) Provide an appropriate scale of development and mix of retail, service, employment and residential uses as recommended in the applicable corridor plan.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10)

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) Fortunetelling businesses.
- (8) Self-service storage facilities, except that any self-service storage facility permitted before May 5, 2014 shall be considered a conforming use for ten (10) years from the May 25, 2014 effective date of Text Amendment CTAM-4779-2014.

(c) *Special exception uses.*

- (1) Boarding homes.
- (2) Care homes.
- (3) Laboratories provided such uses meet all federal, state and local safety and fire regulations.
- (4) Family day care facilities in dwelling units other than single-family dwellings accommodating not more than eight (8) individuals, or in single-family dwellings accommodating more than eight (8) but no more than twelve (12) individuals.

(d) *Conditional uses.* The following uses are subject to the conditional use provisions in section 24-10 of this Code notwithstanding the fact that such specified use may be allowed as a permitted use in any other zones referred to in the above subsection (a):

- (1) All uses listed as solely a conditional use and not listed as a permitted or by-right use in any zoning district unless otherwise prohibited under subsection (b).
- (2) Cremation services, as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within five hundred (500) feet of any property that contains a residential use.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10; Ord. No. O-03-13, 5-6-13; Ord. No. O-5-14, 5-5-14; Ord. No. O-12-17, 11-20-17; Ord. No. O-6-21, 7-19-21)

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 or concept site plan.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10)

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.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-3-04, 1-5-04; Ord. No. O-5-10, 4-5-10)

Editor's note— It should be noted that the amendments enacted by Ord. No. O-3-04 [subsection 24-160G.4(d)(2)] shall not apply to any building, property or use for which a final use and occupancy certificate was issued before January 26, 2004.

Sec. 24-160G.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 one hundred thirty-five (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.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-13-06, 12-4-06; Ord. No. O-15-07, 10-15-07; Ord. No. O-5-10, 4-5-10; Ord. No. O-25-10, 11-1-10, eff. 11-22-10)

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

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10; Ord. No. O-03-13, 5-6-13)

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.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10)

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.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10; Ord. No. O-03-13, 5-6-13)

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.

(Ord. No. O-12-00, 8-7-00; Ord. No. O-5-10, 4-5-10; Ord. No. O-03-13, 5-6-13)