



## Mayor and City Council

Hybrid (In-Person / Virtual)  
www.gaithersburgmd.gov/meetings  
City Hall 31 South Summit Avenue  
Gaithersburg, MD 20877

### AGENDA

#### Joint Work Session

Monday, October 9, 2023, 7:30 PM

1. **CALL TO ORDER**
2. **ANNOUNCEMENTS**
  - A. Elections
3. **DISCUSSION TOPICS**
  - A. Retool Gaithersburg: A Presentation from the City's Consultant on the Proposed Changes to Chapter 24
4. **CORRESPONDENCE**  
*(weekly external and internal correspondence; no discussion)*
  - A. Outside
5. **ADJOURNMENT**

All items and pertinent materials on this agenda are subject to change.

To request an ADA accommodation, please email [adameetings@gaitHERSBURGMD.GOV](mailto:adameetings@gaitHERSBURGMD.GOV) or call 301-258-6310 at least two business days prior to the posted meeting.

Please turn off all mobile devices prior to the meeting. Hand held signs may not be displayed in a manner which disrupts the meeting, blocks the view of spectators and cameras or poses a safety concern.

The public is invited to attend and observe this session, but except in instances when the meeting body expressly invites public comments, no member of the public may participate in the discussions. Please visit the [City's Public Meetings](#) page to access and view. The City welcomes citizen involvement on all meeting bodies. Please visit the [City's Boards, Commissions, and Committees](#) page for vacancies.

Electronic versions of materials related to applications are provided as a courtesy to interested parties. This is not the official record of matters before the meeting body and the City cannot guarantee the accuracy of electronic materials. Please visit the City's website to view the City of Gaithersburg Disclosure Statement. Materials provided electronically are submitted by applicants and are not the responsibility of the City. The official record of any matter is available for inspection by the public during regular business hours at City Hall, 31 South Summit Avenue, Gaithersburg, Maryland 20877.

## ANNOUNCEMENT

Gaithersburg residents will cast their ballots for three City Council Members on Tuesday, November 7, 2023.

Mail-in ballot applications and ballots are available. Applications can be picked up from City Hall or completed electronically on the City's website.

There is no registration deadline as the City is offering same-day voter registration. To confirm registration, please contact the Montgomery County Board of Elections at 240-777-VOTE.

An early voting session will be held at the Activity Center at Bohrer Park on Sunday, October 29, 10 a.m. – 5 p.m.

For complete election information go to [www.gaithersburgmd.gov/elections](http://www.gaithersburgmd.gov/elections) or contact Elections Clerk Lauren Klingler at 240-805-1087 or email at [cityelections@gaithersburgmd.gov](mailto:cityelections@gaithersburgmd.gov).



**City of Gaithersburg  
Mayor and City Council  
Agenda Item Request**

---

**Meeting Date: 10/09/2023**

**Type: Discussion Topics**

---

**Agenda Item Title:**

Retool Gaithersburg: A Presentation from the City's Consultant on the Proposed Changes to Chapter 24

**Call to Podium:**

Greg Mann, Community Planning Manager  
Jocelyn Gibson, ZoneCo  
Joseph Helferty, ZoneCo

**Supporting Background / Description of Items:**

Retool is the City's effort to comprehensively review and revise its zoning ordinance with the goals to:

- Improve the organization of the code,
- Incorporate visual aids to simplify the readability of the zoning code,
- Revise zoning code sections to better reflect the City's goals, policies and visions,
- Modernize terminology and definitions used throughout the code, and
- Foster equity and equality.

Jocelyn Gibson and Joseph Helferty of the City's Retool Consultant, ZoneCo, will present their summary Engagement Report discussing the various outreach efforts to date, the direction of the proposed changes to Chapter 24 by Article and listed in their Calibration Chart, and the next steps in the process.

Following ZoneCo's presentation, they and staff will be available to answer questions on the materials presented and will be seeking guidance and support from the Council and Commission for the proposed changes. ZoneCo will begin drafting the reorganized Chapter 24, culminating in a complete revised chapter that incorporates any direction received during the work session. The completed chapter will be presented at a future joint work session to be held early next calendar year. Included in this work session packet are ZoneCo's summary Engagement Report and attachments; their original Diagnostic Report, identifying shortcomings and needed amendments; and worksheets and/or markups of the various articles and their edits.

**Responsible Staff, Department:**

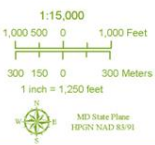
Greg Mann, Planning and Code Administration  
Rob Robinson, Planning and Code Administration

**Desired Outcome from Council:**

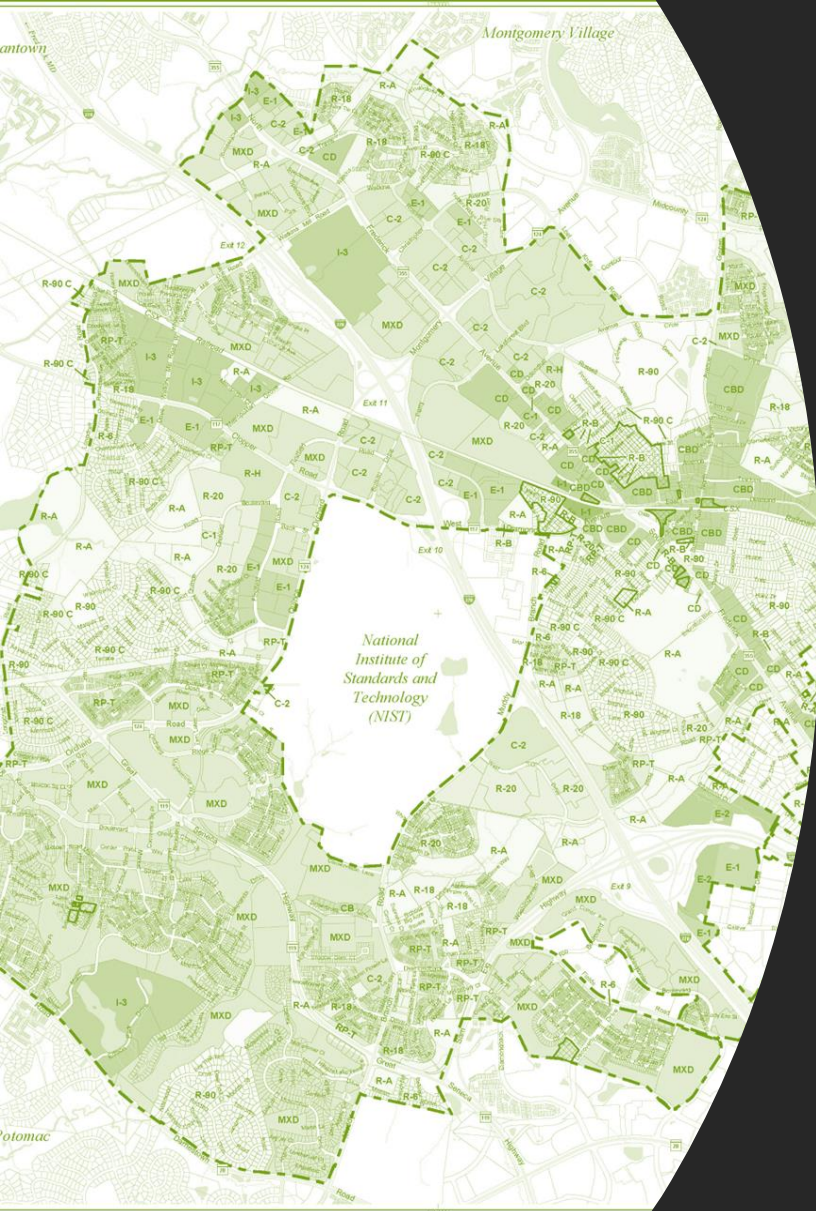
Conduct Joint Work Session and Provide Guidance.



In Article 1, Section 24-3 of the City Code. Where a discrepancy between a resolution or ordinance and the Plan Amendments reflecting Ordinance O-6-22 is identified, the resolution or ordinance shall be amended to conform to the Plan Amendments.



Chapter 24 Zoning	
Interchange Ramps	C-1 Local Commercial
Freeway	C-2 General Commercial
Toll Expressway	C-3 Highway Commercial
State Highway	CB Commercial Buffer
Secondary Roads	CBD Central Business District
Private Streets	CD Corridor Development
Tax Parcels	MXD Mixed Use Development
City Boundary	H-M Hotel-Motel
Other Municipalities	
Historic Districts & Sites	



# Retool Gaithersburg

## Progress Review and Update

October 9<sup>th</sup>, 2023  
Joint Work Session

Attachment: ZoneCo Retool Gaithersburg - PPT - 10092023 (3847 : Retool Gaithersburg

# *Contents*

---

Introduction

---

Overview of Project

---

Engagement

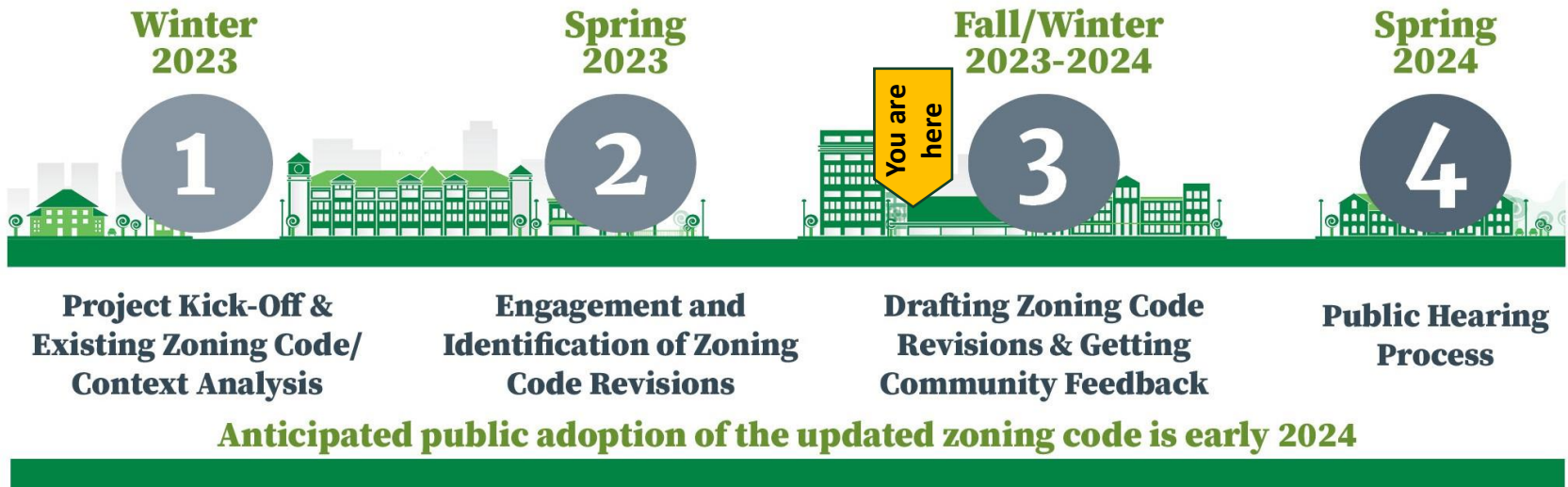
---

Chapter 24: Article-by-Article  
Review of Proposed Changes

---

Discussion

# Project Introduction



# Content of Today's Meeting



Overview of engagement, process, and the proposed updates



Presentation of the proposed updates is organized by article of all of Chapter 24



Some updates are directional, and specifics will be further outlined in the Codification module (next phase of project)



# Engagement Activities



- A. Public Kick-off Meeting Virtual Presentation
- B. Website, Surveys, and Dedicated Email Address
- C. Public Virtual Presentation of Diagnostic Report, two public virtual meetings on June 1st.
- D. Focus Groups
  1. *January 31: Land Use Attorneys*
  2. *July 19: Retail Property Owners / Business Owners*
  3. *July 20: Commercial Property Owners*
  4. *July 31: Open Invitation Discussion*
  5. *August 8 & 31: Residential Developers*
  6. *September 26: Residents*
- E. Meeting with Community Leaders, September 28th, 2023
- F. Bi-Weekly Steering Committee Meetings

# *Engagement & Feedback*



Detailed notes on input from engagement sessions are provided in addenda of engagement report



Proposed updates so far have been informed by past engagement sessions, and will continue to be informed by engagement sessions



We have planned upcoming meetings with community groups/leaders to continue to inform the process\*

\*We will continue with our efforts to receive community feedback to guide our process and recommendations

# *Article-by-Article Review of Proposed Changes*

## *Chapter 24*

# Article 1: In General

---



Attachment: ZoneCo Retool Gaithersburg - PPT - 10092023 (3847 : Retool Gaithersburg

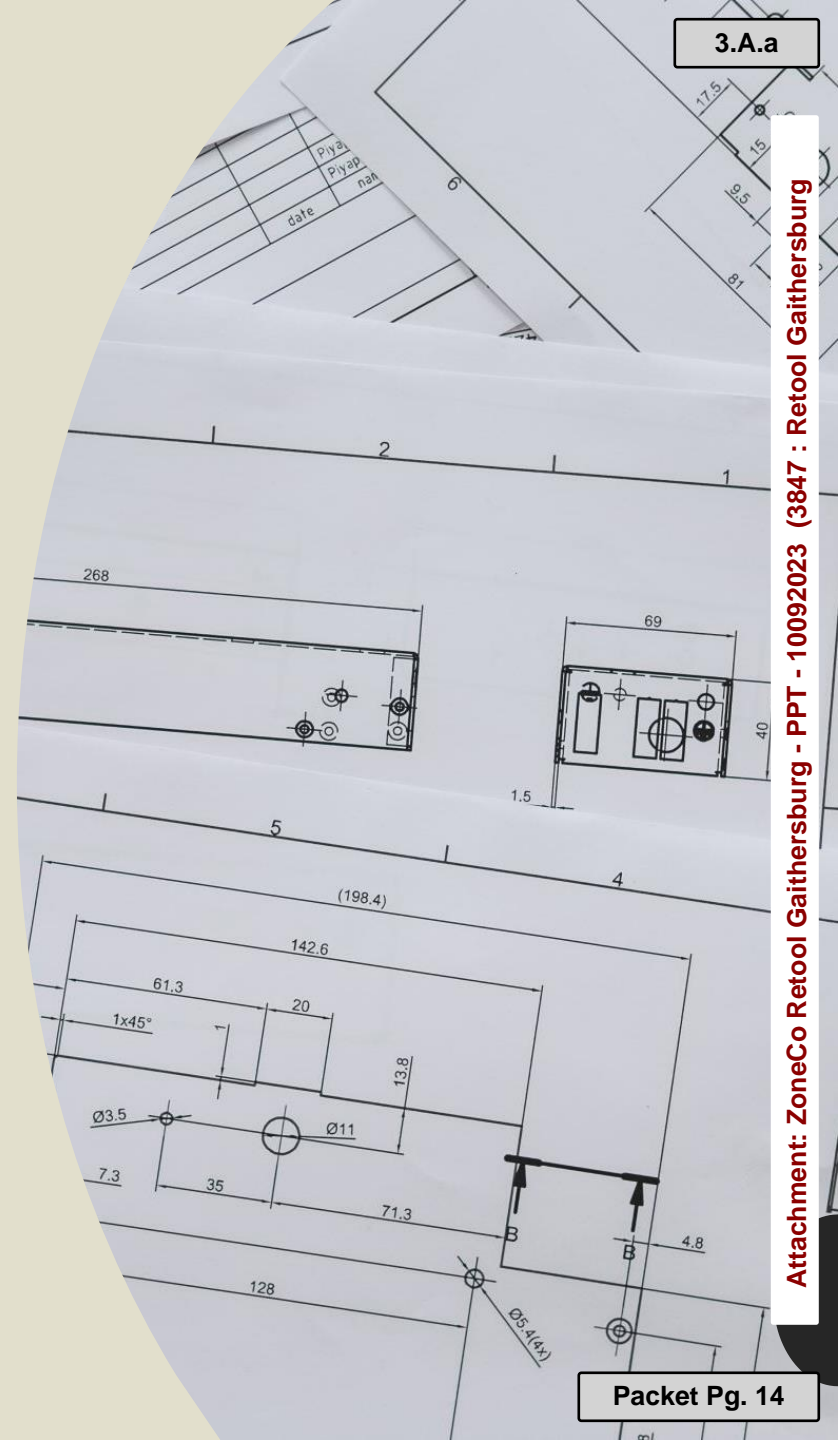


# Definitions

- Per Focus Groups / Steering Committee
  - *Full analysis of uses and their definitions*
  - *Fix terms that require clearer definition like “green area” and “structure”*
- Diagnostic Report recommendations for revisions
  - *Remove regulatory language*
  - *Add previously missing terms and new, modern terms/uses*
  - *Change definition of “family” to “household”*

# Conditional Use Permits

- Clean up language, improve consistency
- Same notification procedures as schematic development applications
- New standards for PC/M&CC action on application (30 days, 90 days)
- More specificity around evidence/standards for approval
- Deviation from an approved conditional use requires resubmission




# *Zoning of Annexed Areas*

---

- Proposed revisions to clarify process and role of PC

# *Floating Zones*

- Process Updates
- Approval of a schematic development plan shall substitute for preliminary site plan approval and serve as preliminary subdivision approval
- Clarification for public hearing process and notification



*Article 2:  
Nonconforming Uses,  
Lots And Structures*

# *Nonconformities*

- Much of the language in this section is positive and protects existing properties with unique scenarios from being deemed non-conforming, per the Diagnostic Report
- Recommendation for some additional flexibility for repairs and maintenance
- Additional legal review through ZoneCo

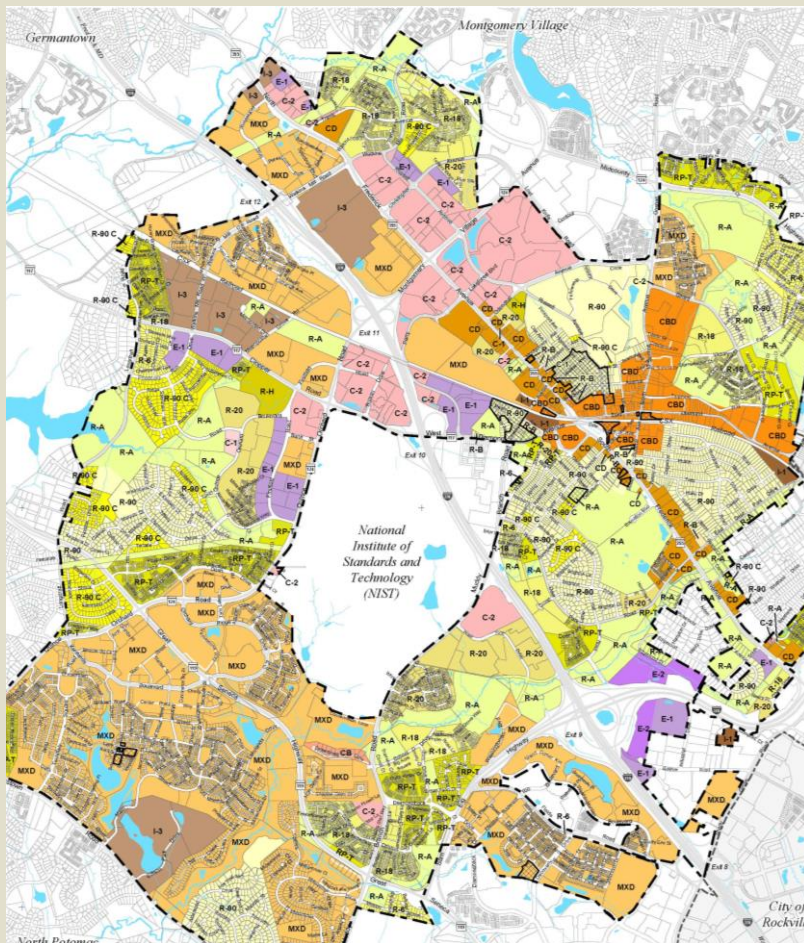




*Article 3: Regulations  
Applicable to Particular  
Zones*



# Zones - General Revisions



- Zones are being streamlined
- Presenting proposal for new floating zone, MCD zone
- Removing several zones that are not mapped
  - *R-O*
  - *C-P*
  - *C-3*
  - *I-4*
  - *H-M*

# *Overview of Use Regulations*

## *Article 3*



# Uses – General Revisions

- One central use table
- Created use categories to assist with flexible administration, especially for floating zones
- Utilizing use categories provides flexibility for SDP and parking table
- Modern uses added
- Addition of missing definitions
- Consolidation and consistency in terminology across districts

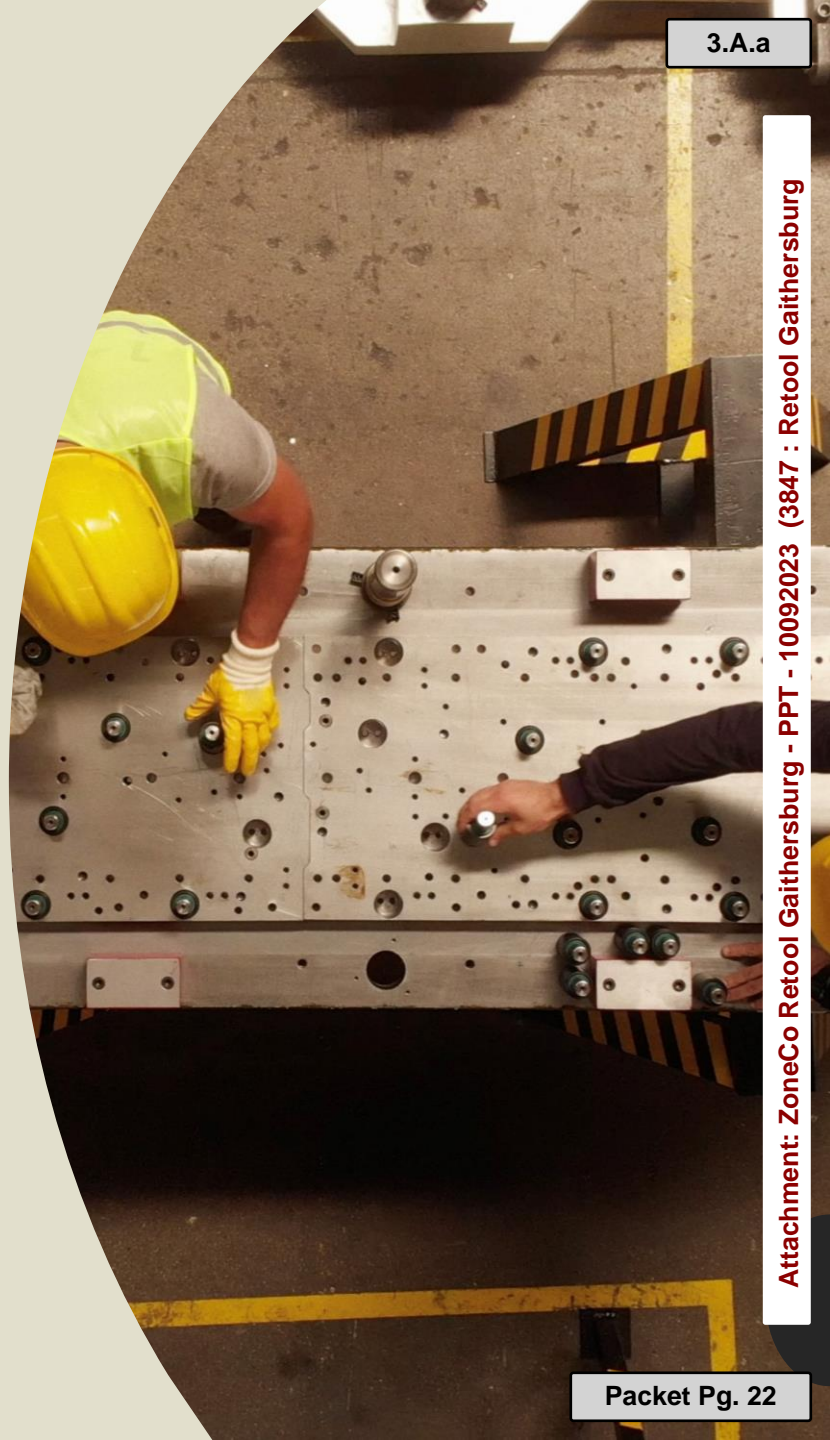
Example Comp. Use Table

Definition	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2
A tract of land comprising an area which is solely devoted to commercial agricultural operations, such as crop production, nurseries, vineyards and other recognized agricultural pursuits, and including														P	P
An agriculture business area larger than 10,000 of which houses agricultural production limited to growing plants and flowers, licensed nurseries, or crops and supportive uses on a large scale entirely indoors in a controlled environment.												P	P	P	P
Agriculture business area 10,000 of or smaller which houses agricultural production limited to growing plants and flowers, licensed nurseries, or crops and supportive uses on a large scale entirely indoors in a controlled environment.												P	P	P	P
An establishment that rents recreational, personal, or commercial vehicles, including machinery and equipment, which may include necessary storage of some vehicles on-site.										P	P				
Any building, structure, or area used for major automobile repair, body work and painting, detailing, tinting, stereo/audio system services, glass repair, or servicing including the accessory sale of oils, grease and candles, or parts, but not including fuel.										RE	RE	P	P		
A principal use consisting of the selling or leasing of personal vehicles, including cars, light trucks and SUVs, motorcycles, RVs, ATVs, motorized recreational equipment and motorized watercraft, which may also include incidental automobile repair.										P	P				
A building or lot having pumps and storage tanks or electrical charging stations at which fuel, oil, electrical charge, or accessories for the use of motor vehicles are dispensed, sold or offered for sale with incidental uses limited to convenience store sales areas of up to 1,000 square feet, automobile repair and service, and carwash. May not include food trucks, carbock rental, overnight storage of vehicles, or vehicle sales.										P	P	P	P		
An establishment where the principal use is the commercial washing of vehicles either by hand or by automated/semi-automated methods. Interior detailing is not allowed.										P	P	P	P		
A principal use where legal licensed indoor lottery operators, qualified horse-racing, simulated betting, sports wagering, and commercial bingo activities are permitted to be licensed or provided. Bait for (pay or voluntary contributions) by means of occult or psychic powers, fortune, or future; numerology, palmistry, astrology, psychometry, sports, mediumship, seership, prophesy, cards, crystals, tarot, scrying, channeling, pendulum, magnetism, tea leaves, magic, numerology, mechanical devices, handwriting analysis, phenology, character readings, or any other similar means. A fortunetelling business shall not be considered allowed as a home occupation, or classified as a church, or other place of worship. This definition shall not apply to fortunetelling at events/festivals, carnivals, scientific routines, fundraisers, or other										RE	RE	RE			
										P	P	P			

# ***New Use Categories***

*(used to categorize individual uses)*

- Agricultural
- Automotive
- Entertainment and Recreation
- Industrial
- Institutional
- Professional Business Services
- Public Use
- Residential
- Retail and Personal Service
- Utilities



# *R Districts: Use Permissions Changes*

- Parks permitted all districts
- Educational institutions permitted as special exceptions in all R districts
- Care Homes permitted in all R districts as either permitted or special exception
- Short-term rentals permitted in all R districts with conditions/standards
- Accessory dwelling units permitted in all R districts if they meet conditions/standards





# *C Zones: Use Permissions Changes*

- Greater definition around the spectrum of low-impact, light industrial, R&D, biotech, and artisan uses with greater flexibility to locate in C zones
- Greater definition and permissions for entertainment and recreational uses
- New definition of small-scale instructional facilities and greater flexibility to operate in C zones
- Increased flexibility for medical uses



## *E & I Districts: Use Permissions Changes*

- Permits full range of more intensive industrial uses
- Permits full range of bio-tech and life sciences uses with greater specificity, clarity, and new definitions for such uses
- Expanded flexibility for some uses ancillary to employment uses (restaurants, personal services, offices, animal grooming/boarding)

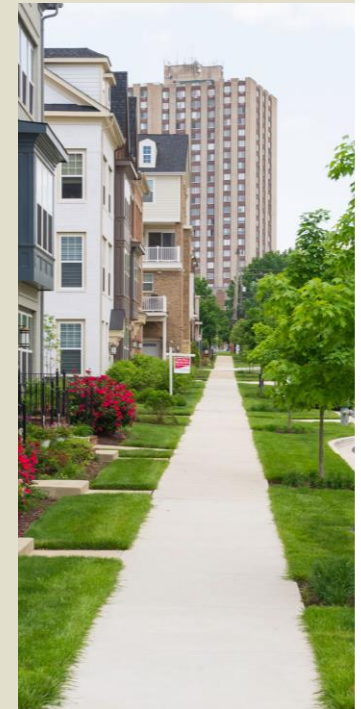
# *Development Standards Overview*

## *Article 3*

# *R Zones*

# R Zones General Changes

- Proposing lot coverage standards that include impervious surface, building coverage, and maximum front yard coverage
  - *Building coverage replaces what was previously called “lot coverage”*
- Ensure setbacks maintain character and flexibility
- Propose: converting current units/acre standards to minimum lot sizes for ease of administration; spatial analysis was done to reduce nonconformities created
- Propose: building heights will be measured in stories for residential structures and feet for commercial structures
- Propose: building height measurements will not include basements

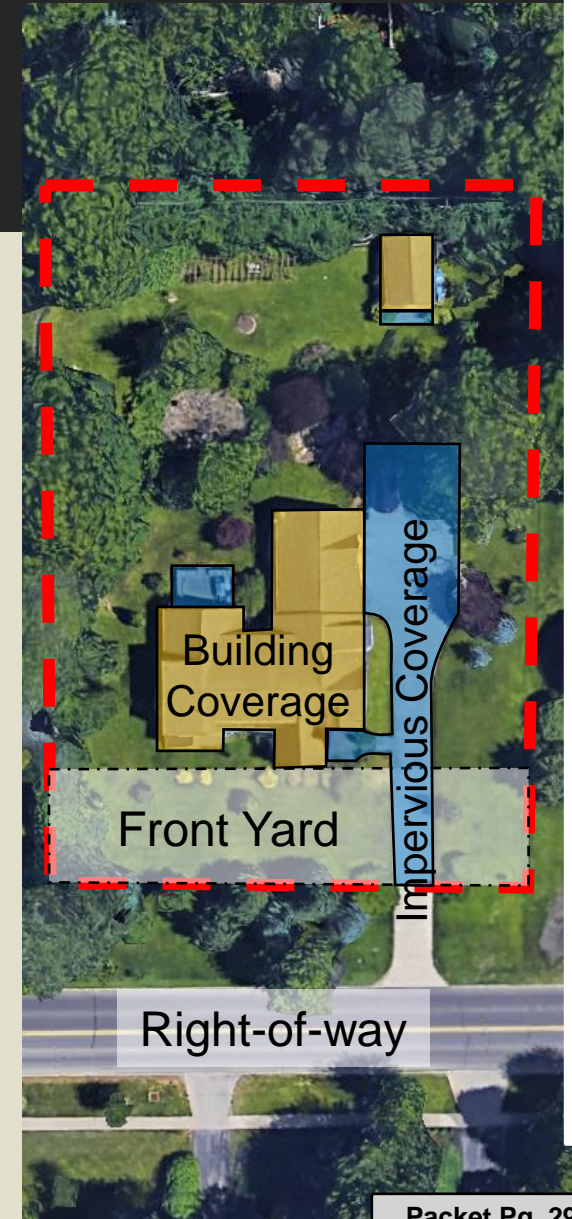




# Proposed Revisions: RA Zone

## RA Zone

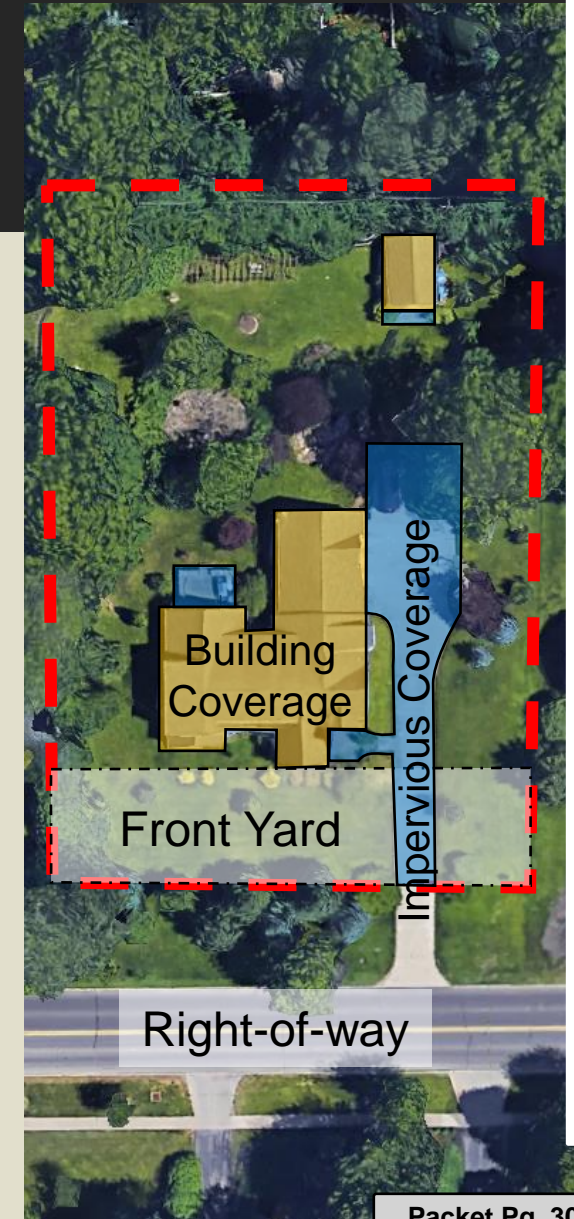
- Min. lot standard of **15,000 sf**, reduces non-conformities (reduction from 20,000 sf for residential, 100,000 sf for “general”)
- Height measured as **3.5 stories** instead of 35’.
- Building and site **max. coverage** regulated through impervious coverage (**50%**), front yard impervious coverage (**35%**), building coverage (**35%**) – previously 25% max building coverage



# Proposed Revisions: R-90 Zone

## R-90 Zone

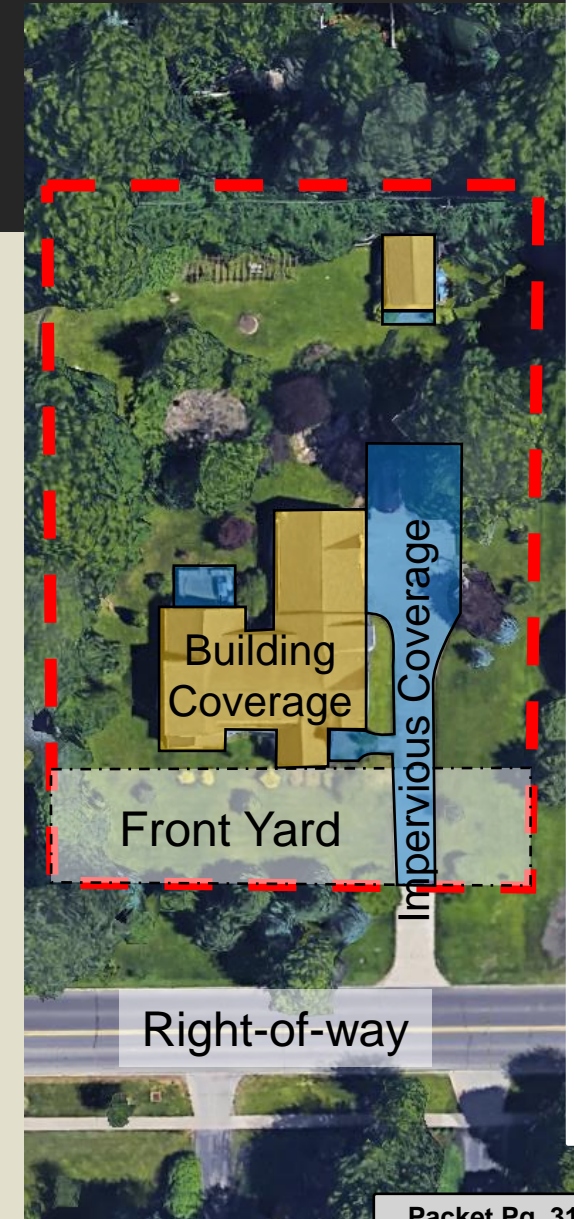
- R-90 Cluster applies R-6 standards
- Minimum lot size reduced to **7,500 sf**
- Height measured as **3.5 stories** instead of 35' or 2.5 stories
- Setbacks reduced to minimize non-conformities, provide flexibility (**Front = 20', Side = 5', Rear = 20'**)
- Building and site **max. coverage** regulated through impervious coverage (**70%**), front yard impervious coverage (**35%**), building coverage (**50%**) – previously 30% building coverage max.



# Proposed Revisions: R-6 Zone

## R-6 Zone

- Min. lot size of **3,000sf** all lots (current, no subdivisions/development plans for less than 20,000sf @ 6 units per acre), new standard creates no non-conformities
- Height measured as **3.5 stories** instead of 35'.
- Building and site **max. coverage** regulated through impervious coverage (**60%**), front yard impervious coverage (**35%**), building coverage (**50%**)





# Proposed Revisions: R-B Zone

## R-B Zone

- Min. lot size **7,250 sf** instead of 6 units per acre, more clarity for property owners, no nonconformities created
- Flexible setbacks (**Front = 10'**, **Side = 5'**, **Rear = 20'**), previously none
- Height measured as **3.5 stories** instead of 40'
- Building and site **max. coverage** regulated through impervious coverage (**75%**), front yard impervious coverage (**35%**), building coverage (**50%**) – previously 30% max.



# Proposed Revisions: RP-T Zone

## RP-T Zone

- Min. lot size **4,000sf/Townhomes 1,400sf** brings all dwellings into conformance
- Flexible setbacks **Front = 0', Side = 0/5', Rear = 0/10'**, previously none
- Height measured as **2.5 stories** instead of 35', townhomes/attached/multi-unit **4 stories**
- Building and site **max. coverage** regulated through impervious coverage (**75%**), where such standard did not previously exist



# Proposed Revisions: R-20 Zone

## R-20 Zone

- Added lot min.: Detached and semi-detached dwellings **4,000sf**; No change recommended for Townhomes
- Standardized setbacks **Front = 10'**, **Side = 5'**, **Rear = 10'**
- Height flexibility for scale of residence (single, middle, multi): **2.5 stories, 4 stories, or 6 stories**
- Building and site **max. coverage** regulated through impervious coverage (**80%**), front yard impervious coverage (**35%**), building coverage (**60%**) – previously 40% max.





# Proposed Revisions: R-18 Zone

## R-18 Zone

- Standardized setbacks **Front = 10'**, **Side = 5'**, **Rear = 10'**
- Height: Townhouses – **4 stories**, **Multi-unit dwellings – 6 stories** (previously 3 stories for townhomes, 80' for multifamily)
- Currently no lot coverage standards; no change recommended



Attachment: ZoneCo Retool Gaithersburg - PPT - 10092023 (3847 : Retool Gaithersburg

# Proposed Revisions: R-H Zone

## R-H Zone

- Maintain 54 DU/acre
- Standardized setbacks **Front = 30'**, **Side = 10'**, **Rear = 20'**
- Currently no lot coverage standards; no change recommended





# *C Zones*

# *Proposed Revisions: CB Zone*

---

- Removal of 6 DU/acre minimum
- Standardized setbacks **Front = 10', Side = 5', Rear = 10'; 20' side setback if next to residential zone**
- Instead of blanket height maximum of 45', change to: **Residential – 5 stories, Commercial – 60'**



# Proposed Revisions: C-1 Zone

- Greater building height flexibility, increased from 45' to **60'**
- More flexibility for setbacks: **Front = 10', Side = 0', Rear = 10'**; Side setback **20'** next to residential
- **Mandatory pedestrian connections on site**



Attachment: ZoneCo Retool Gaithersburg - PPT - 10092023 (3847 : Retool Gaithersburg



# *Proposed Revisions: C-2 Zone*

---

- Remove **FAR**
- **Reduce setbacks to 0'** unless next to residential (30')
- Proposed max. height – **150'**, currently 10 stories
- Lot coverage **70%** (currently no standard)



# *Proposed Revisions: Floating Zones*

- Recommendations for Floating Zones will largely be related to **process**
- Implement **build to lines**
- More clarity around findings to incorporate **equity**
- **Use categories** remove cross-references for permitted uses
- Use categories also provide more **flexibility for calculated parking ratios**, should uses be substituted
- Recommend simplifying the **process for requesting an amendment**, per previous joint work session



# *Proposed Revisions: CD Zone*

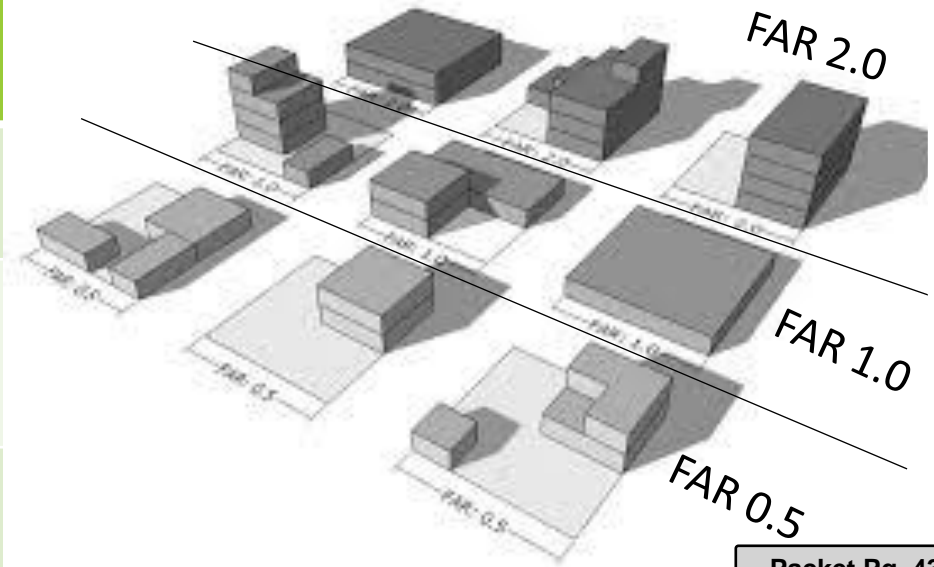
- Amended the purpose of the Zone
- Removed district height restrictions
- Removed concept plan option
- Established setbacks when adjacent to residential zones
- Simplified process (Rezoning requires SDP not two separate applications)



# Proposed Revisions: CD Zone

- Proposed incentive program for aspects including min. parking reduction, max. FAR bonus, and proximity to transit parking reduction
- Layer in additional bonuses for structured parking, desired uses, open space

Base Floor Area Ratios	
Lots less than 30,000 sf in area	0.5 FAR
Lots between 30,000 sf and 80,000 sf	1.0 FAR
Lots greater than 80,000 sf	2.0 FAR



# Proposed Revisions: CBD Zone

- Additional height flexibility – **4 stories to 6 stories**
- **90' height** maximum for non-residential structures
- No setbacks required except as provided in the Master Plan or as established by site plan
- Waiver revised to allow PC to grant, a height not to exceed nine **(9) stories** for residential buildings and **135'** for non-residential buildings



# *Proposed Revisions: MXD Zone*

- Calculation of open area for vertical residential and commercial mixed-use
- Removed redundancies and cross-references
- Parking ratios established at SDP
- Streamlined objectives and standards of the zone
- Clarified submission requirements





# *Proposed New: MCD Zone*

- The **Mixed-Commercial Development** (MCD) zone is to promote and provide design flexibility for new development and redevelopment of non-residential lands that support a concentration of employment uses , by permitting a wide range of commercial industrial, supportive retail, service, and office land uses and that reflect the sectors and salaries ranges desired by the City
- Blends I, E, and C Zone uses
- Residential developments should not be incorporated and the Zone is not intended to create shopping centers, large format, or entertainment centers.



# *I & E Zones*

# *Proposed Revisions: I-1 Zone*

---

- No setbacks, 60' only when abutting residential
- Maintain max. building height at 45'
- Maintain max. lot coverage at 75%



# *Proposed Revisions: I-3 Zone*

- Change min. lot area from 2 acres to **1 acre**
- Rear and side yard depths mins. are **50'** unless property is abutting a residential zone, then **60'**
- Max. building height maintain **110'** (remove shorter restriction abutting residential)
- Increase max. lot coverage from 25% to **75%**



# *Proposed Revisions: E-1 & E-2*

- The development standards for E1/E2 are already similar, propose to combine the zones
- Decrease min. lot size from 1 acre to **20,000 sf**
- Reduce front setback from 30' to **20'**
- Maintain side and rear setbacks at 20', with additional required for building height over 60'
- Increase max. building height from 85' to **90'**
- Maintain 50% max. building coverage of lot





*Article 4:  
SUPPLEMENTARY  
ZONE REGULATIONS*



## Article 4

### *Accessory Structures / Garages*

- *Streamline language; reorganize sections; lot line adjacency flexibility; location language clarified; setbacks at 2' instead of 10'; clarified what is not "accessory structure"*

### *Exceptions Height and Projections*

- *Maintain exceptions with minor additions; reorganize and consolidate section*

### *Fences and Walls*

- *Improve definitions; propose removing permit application notification requirement*

Article 4

ADU

Standards  
Proposed

Permitted in zones that allow residential, but must comply with standards



800sf max. for detached ADUs

One ADU per lot

Shall not exceed the height of the primary structure

Separate entrance required (if part of primary structure)

1 off-street parking space required

Must meet max. lot coverage of zone

Cannot be an STR

HAWP if in historic district

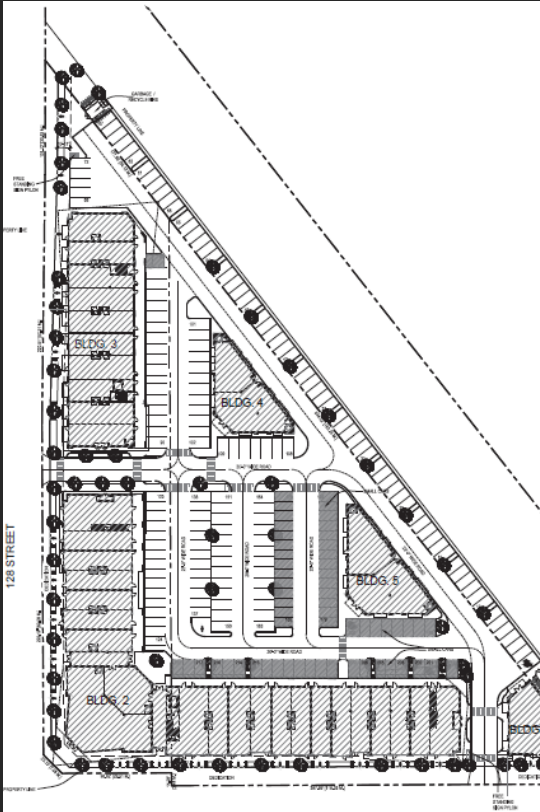
Home-based business permitted with permission from property owner

Setbacks generally at 2' instead of 10'

# *Mobile Vendors*

- Clearly states exempt businesses/business functions, like delivery trucks, produce stands, etc.
- Subject to permit
- Can operate up to four hours at a given location
- Hours of operation 7am to 8pm
- Waste shall not be visible
- Vehicle may be stored at home, but not operated from a home
- Permitted advertising sign and sandwich board sign
- Min. distance between non-food vendors offering same goods/services

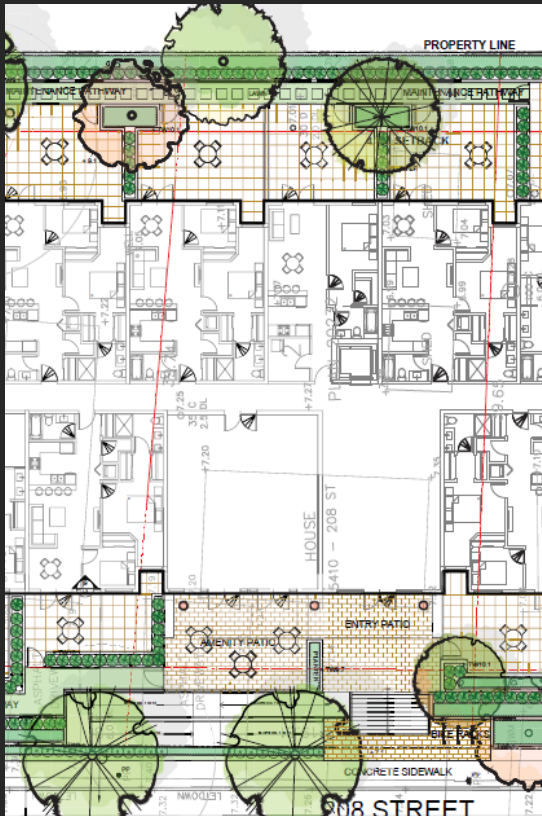
# Article 5: Site Development Plans



- Clarify/clean up submission requirements for concept, preliminary, final plan
- Concept plan is optional
- Statement demonstrating compliance with master plan and/or strategic plan
- Reducing cross-referencing on requirements
- More specificity for conditions of approval
- New finding that the plan must be compatible with master plan recommendations



# Article 5: Site Development Plans (con't)



- Minor amendment process change: updated to conform to guidance during joint work session
- Planning Director can re-assign minor amendment to Planning Commission
- Remove walls and fences from site plan review
- Minor covered outdoor dining is now a minor amendment
- Minor revisions to non-residential buildings that do not increase the building by more than 500 sf

# Article 6: Administration and Enforcement

---

- Clarify language around “use and occupancy permit”, “Conditional use and occupancy permit” versus an “occupancy permit”
- Clarifications for “temporary occupancy permit” process
- Review of complaint-based zoning as a proportion of all enforcement activities. Equity issues can arise from complaint-based enforcement where the intent is “immediately investigate and take action thereon.”
- Remove Olde Towne regulations in this section and consolidate in CBD Zone

# *Article 7:*

## *Board of Appeals*

- Revise unclear or disorganized language
- Provide additional specificity around BOA code of conduct to align with state
- Submission requirements added
- Findings for variances added to provide more clarity
- Add minor amendment process for special exceptions

# Article 8: Amendment Procedure

- To align with recommendations from joint work session on SDP:
  - *Commercial use change flexibility, except if requires change to physical structure or includes residential*
  - *If re-subdivision is required, then applicant must amend SDP*
  - *If Increases the number of multifamily residential dwelling units by more than ten (10) percent must amend SDP*
  - *If Increases non-multifamily residential dwelling units by more than 5 units and/or does not meet the minor subdivision requirements of Chapter 20 must amend SDP*
  - *Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is less must amend SDP*



# Article 8: Amendment Procedure

- Revision of verbose or unclear language
- Improved clarity for notification requirements
- More clarity around process for introduction of an amendment
- Optional method of application for local map amendments:
  - *Recommend addition of preliminary site plan review in place of schematic development plan*
  - *Recommend removal of requirement to submit covenant*

# Article 9: Signs



- Reorganization: General Standards, Standards for Permanent Signs, Standards for Temporary Signs
- Develop general standards for internally and externally illuminated signs
- Revise and improve sign type definitions
- Sign permissions by façade instead of by tenant for multi-tenant structures
- Provide straightforward size limitations for signs that do not require a permit
- More flexibility for building sign area calculation
- Remove regulatory language from definitions for individual sign types
- Provide clarification for min. distances between any ground-mounted sign type

# Article 10: Home Based Business

---

Clarification that an employee's remote work/office not considered to be a home-based business

---

Specify cannabis-related businesses or short-term rentals not permitted as home-based businesses

---

Clarify rental of outdoor facilities on private residential lots is prohibited

---

More flexibility for deliveries given that there can be variation in timing seasonally or monthly (previously a per week cap). Homes receive more deliveries generally than in the past.

# Article 11: Off-Street Parking and Loading

- Proposed parking ratios delineated by use groupings/classifications instead of specific use to provide more flexibility
  - *Some uses with specific parking needs will still have parking ratios delineated for that particular use*
- Established parking ratios for shopping centers
- Revise minimum bicycle parking standards
- Parking lot tree canopy included in this chapter for ease of use
- Proposed reductions for special conditions (e.g. proximity to transit) or incentives (e.g. inclusion of drop-off/pick-up spaces)



## *Article 12: Preservation of Historic Resources*

---

- Language was reviewed and revised for clarity, conciseness, and consistency
- Provide guidance for appeals
- Recommended revisions to some of the language/criteria regarding economic hardship







## *Article 13: Landscaping Standards*

---

- Maintained where applicable
- Defined the relationship to City regulations and Chapters 8, 21, and 22
- Defined goals of landscaping

# *Article 14: City Planning Commission*

- Revision of unclear language
- Revision of incorrect references
- Clarification of notification requirements
- Provide additional clarity around code of conduct to comply with state standards

# *Article 15: Adequate Public Facilities*

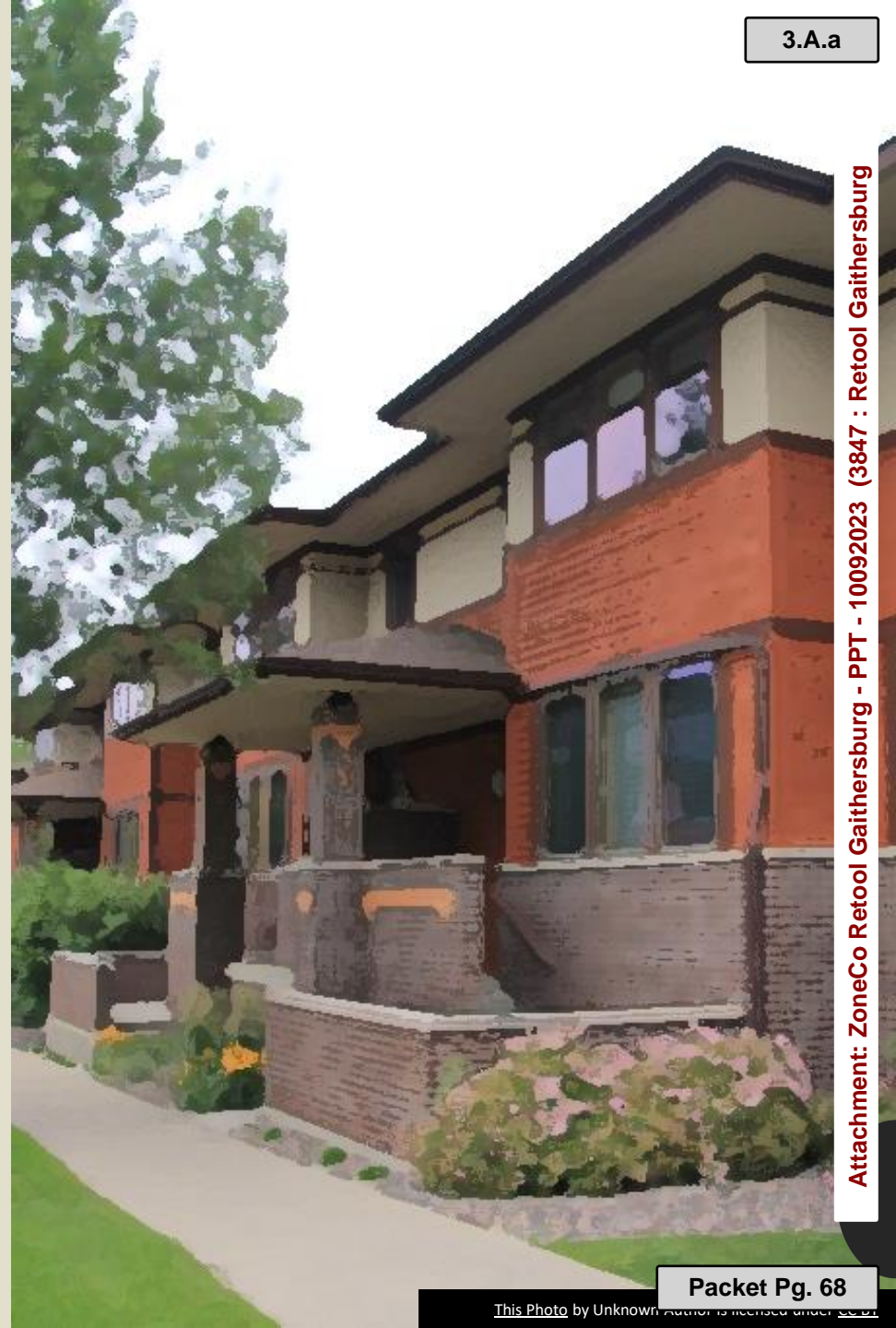
- No changes



## *Article 16: Affordable Housing Requirement*

---

- Clarification of language
- Clarification for the adoption of regulations
- Diagnostic Report assessment of this article was positive
- Recommendation to review waiver of affordable housing requirements, ensure criteria is reasonable but has a high bar





# *Next Steps*

- Integrate recommendations/feedback from tonight's discussion
- Some community conversations are on-going, some additional revisions will come from those meetings
- Begin drafting language of zoning code, design layout, organization (new proposed table of contents included in packet)

*QUESTIONS/  
FURTHER  
DISCUSSION*



Mayor and City Council  
1



# Summary Engagement Report

**Retool Gaithersburg**

Zoning Code Update Project  
October 9<sup>th</sup>, 2023

**ZONE**CO##



Attachment: Retool Gaithersburg - Exhibit 1 Engagement Report and Attachments - 10092023 (3847 : Retool Gaithersburg Proposed Changes)



## 1. Overview

As part of the Retool Gaithersburg effort, the project team, including ZoneCo and the City project team, organized several engagement events and activities. A multi-pronged approach was taken to give a variety of opportunities for feedback and conversation. The sections below provide a summary of these engagement efforts.

## 2. Public Kick-off Meeting Virtual Presentation

As part of the project kick-off activities, two meetings were held at two separate times on February 23<sup>rd</sup> to introduce the community to the Retool Gaithersburg project. The meeting was advertised through an email listserv/email blast and the project website. We communicated the following information at that meeting:

- What exactly is the Retool Gaithersburg project?
- Introduction to the project team
- The timeline of the project
- How to communicate with the team and how to access information on the project's website, which will be a repository for information and deliverables throughout the project
- Where there will be public engagement and opportunities to give public input
- The goals of the project
- What types of policy are covered under the zoning code, and what are not
- What are the next steps?

There was a lengthy question and answer period at the end of the meeting whereby the community was free to ask questions of the consultant team in real-time

## 3. Website, Surveys, and Dedicated Email Address

**Website.** It was important to the project team that the website act as a simple, informative, comprehensive, attractive tool for the community to use for updates on the project, learn about zoning, access information, and find out how to get involved. It provides a consistent means to receive input and for community members to track progress at any given moment. The project website [www.retoolgaithersburg.com](http://www.retoolgaithersburg.com) contains the following pages:

- Homepage
- Project Updates
- Get Involved
- Zoning Tools
- FAQ

**Emails.** Only a few emails have been received so far at the project's dedicated email address, but it is common for email flow to increase as the public responds to drafts of the code or more tangible deliverables (in contrast to the Diagnostic Report, for example). Emails received are included in the appendices of the report.

**Surveys.** The team released three surveys to better understand community perspectives related to the zoning code’s usability, development standards that are most important to them and their neighborhoods, and what aspects of use regulation are most important to them. The number of respondents for each survey varied between 42 and 65 respondents per survey. Below, see high level summary of findings.

*The full survey results are included in the appendices of the report.*

**Uses**

Respondents were asked to list whether they had “no concerns”, “some concerns”, or “major concerns” about a list of uses that are often divisive. The uses that raised major concerns to the greatest degree were:

- 1. Firearm sales
- 2. Adult-oriented businesses
- 3. Check cashing services

Of those uses, when asked what type of restrictions should be placed on them, the most common response was “limits on the location of establishments relative to other uses.”

**Development Standards**

Respondents were asked which development standards they feel are most important to regulate, in order. The most popular responses were:

- 1. Density
- 2. Lot coverage
- 3. Open space

Respondents were then asked follow-up questions, where they listed their preference for the application of side yard setbacks, open space, floor area ratio, and restrictiveness of development standards.

**Zoning Code Overview**

Respondents were asked how they use Gaithersburg’s zoning code, if at all. The top responses were:

- 1. Researched permitted uses in a specific zone
- 2. Researched parking requirements
- 3. I have never used the Zoning Code

There were several follow-up questions, where respondents answered questions about their experience using the Zoning Code, navigating use permissions, navigating dimensional standards, and the types of revisions that would make the code easier to understand.

**4. Public Virtual Presentation of Diagnostic Report**

The Diagnostic Report was an exhaustive review of the existing zoning code through the lens the Strategic Plan and public/Steering Committee feedback regarding the code. The Diagnostic Report was completed and went through several rounds of revisions in the late winter and early spring of 2023. Upon completion of the draft Diagnostic Report, it was presented to the public through two public virtual meetings on June 1<sup>st</sup>. The report was posted on the website in

advance so that residents could review it. After the findings of the report were presented and summarized in the presentation, there was a question-and-answer period whereby the public could ask questions and provide feedback. The project team fielded several questions. The revised, final report was subsequently posted on the project website and the public was encouraged to review the report to understand its findings and recommendations.

## 5. Focus Groups

The project team organized several focus groups, which aimed to gather feedback from groups/individuals that have varied and applied perspectives on the zoning code. Valuable insight related to experiences with the built environment, zoning standards, public planning approvals process, and business activities in Gaithersburg were gathered. The dates and invitees for each focus group are listed below.

1. January 31: Land Use Attorneys
2. July 19: Retail Property Owners / Business Owners
3. July 20: Commercial Property Owners
4. July 31: Open Invitation Discussion
5. August 8 & 31: Residential Developers
6. September 26: Residents

Detailed notes were taken during each focus group, which are available in full within the appendices.

## 6. Meeting with Community Leaders

On September 28<sup>th</sup>, 2023 the first of several meetings with community leaders was held at the Casey Community Center. The goal was to ask community leaders how we could best get input into the zoning code from their organizations, members, or clients. The conversation started with a presentation then there was open conversation. Below is what we learned:

- **Presentation of Information.** Information about the code update project should be presented differently to community members. There should be a clear indication of what issues are trying to be solved within the zoning code when communicating. We should communicate that a portion of the problems to be solved are within the document itself in terms of usability, consistency, clarity, and usability. The other issues/problems to solve relate more to the content of the code and ensuring that the standards and processes are achieving desired outcomes. We need to also ensure that as many materials as possible are translated into multiple languages.
- **Collecting Feedback within Organization.** Organization leaders were open to receiving frameworks for prompts, activities, or feedback forms whereby they could coordinate with the organization broadly to assist with getting feedback. It needs to be as clear as possible what we are asking of them.
- **Clear input into Process.** They were appreciative of the opportunity to be involved but wanted to ensure that their feedback would be meaningfully integrated into the project.
- **Clear Timeline for Engagement.** The project team is creating a timeline/schedule for input from community organizations so that there is clarity around target dates for receiving feedback.

Issues that the organizations/attendees were concerned with covered a broad range of topics like housing, small business support, supportive/emergency shelter, sustainability/resiliency, tenant rights/engagement, food desserts, and mobility.

## 7. Bi-Weekly Steering Committee Meetings

Since the project began, the project team has met with a steering committee comprised of several departments on a bi-weekly basis. This group has provided guidance for all deliverables and engagement. Their input is multi-faceted and multi-disciplinary. Discussion represents various facets of government functioning. Officials are present from various divisions within Community, Neighborhood & Housing Services and Planning & Code Administration departments.



# FOCUS GROUP NOTES

**Stakeholder Meeting: Land Use Attorneys**

**MEETING DATE:** January 13th, 2023

**NOTES**

- 1. **Stuart Barr**
  - Location: Bethesda
  - Active in development work in Montgomery County, Rockville, and Gaithersburg
  - Active with the Chamber of Commerce
- 2. **Scott Wallace**
  - Practices in Montgomery County
- 3. **Matt Gordon**
  - Works with Selzer Gervich
  - Active in Montgomery County and other jurisdictions
- 4. **Phillip Hummel**
  - Works with Scott Wallace
  - Positive experiences with City of Gaithersburg
  - Importance of keeping up with other documents (e.g., building code)
- 5. **Nancy Regelin**
  - Land use attorney at Schullman Rogers in Rockville
  - Emphasizes alignment with the City's strategic plan
  - Importance of clarity in approval processes and validity dates

**Key Themes and Recommendations**

- 1. **Code Organization and Clarity**
  - Simplify and streamline the organization of the zoning code.
  - Ensure clear definitions and processes for different zones and applications.
- 2. **Community Engagement**
  - Consider public engagement requirements similar to other jurisdictions.
  - Explore virtual community engagement options.
- 3. **Parking and Density Standards**
  - Update parking standards, particularly for life sciences.

- Establish uniform density calculation standards.
4. **Grandfathering and Transitioning**
    - Clarify grandfathering rules and non-conforming alterations.
    - Allow projects approved under old code to use new code.
  5. **Review and Remove Redundancies**
    - Review and edit findings to eliminate redundancies.
    - Identify opportunities for consolidating processes.
  6. **Floating Zones**
    - Revisit the MXD zone definition.
    - Explore non-residential floating zones and mixed-use options.
  7. **Process Efficiency**
    - Streamline the approval process with clear timeframes.
    - Define major and minor amendments clearly.
  8. **Flexible Approaches**
    - Consider flexible zoning approaches, especially for creative solutions.
  9. **Learning from Other Municipalities**
    - Prioritize clarity and avoid unnecessary complexity.
    - Learn from the experiences of other municipalities.
  10. **Zoning Ordinance Triage**
    - Focus on improving zoning zones and processes.
    - Maintain robust community engagement.
  11. **Competitive Advantage**
    - Preserve the zoning ordinance's competitive advantage.
  12. **Future Input**
    - Encourage ongoing communication with stakeholders for any proposed changes to the ordinance.

**Title: Commercial Developer Focus Group**

**Date: 07-19-2023**

**Location: Gaithersburg, MD**

**Attendees:**

- Greg Mann
- Heather Madison
- Dan Figueroa (Caller 02)
- Larry (No Last Name Provided)
- John Schlichting
- Anna Myers
- Rob Robinson
- Jocelyn Gibson
- Graham with Selzer Gurvitch
- Sharon Disque
- Dennis Enslinger
- Christine McGuirl – FRIT
- Kevin Rogers
- Mike Magruder
- Bill Magruder
- Terry (Caller 01)

**Discussion Topics:**

1. **Introduction and Affiliation:**
  - Attendees introduced themselves and their affiliations.
  - Notable participants: WRS/Lake Forest, Federal Realty, Peterson Companies, Rappaport, Magruder Companies, Heritage Partners.
2. **Zoning and Use Modernization:**
  - Challenges in defining and accommodating evolving uses.
  - Examples of tutoring services and medical facilities facing zoning hurdles.
  - Desire for updated definitions and flexibility in uses.



**3. Expansion of Commercial Zones (C-2):**

- Discussion on expanding C-2 zone uses to include office and light manufacturing.
- Consideration of balancing retail with non-retail uses.

**4. Drive-Throughs and Delivery Services:**

- Changing dynamics of drive-throughs for grocery stores and delivery services.
- Need for zoning code updates to accommodate modern retail trends.
- Discussion on creating flexible guidelines for drive-throughs.

**5. Parking Requirements:**

- Concerns about parking studies and the desire for clear, up-front rules.
- Adapting parking ratios to accommodate evolving retail models.
- Consideration of electric vehicle (EV) charging infrastructure.

**6. Operational Flexibility:**

- Importance of flexibility to meet operational needs for a healthy retail center.
- Discussion on defining operational requirements and offering incentives for flexibility.

**7. Extended Stay Hotels in MXD Zones:**

- Concerns about prohibiting extended stay hotels in mixed-use zones.
- Need for clarity in the definition of "extended stay."

**8. Adaptive Retail Models:**

- Exploration of mobile or temporary retail uses.
- Experience with different retail models.

**9. Comparison with Other Jurisdictions:**

- Comparisons with zoning regulations in other communities.
- Insights into parking and land use policies elsewhere.

**10. EV Charging Infrastructure:**

- Discussion on the need for EV charging infrastructure.
- Different viewpoints on mandating vs. incentivizing EV charging.
- Consideration of making sites "EV ready."

**Title: Commercial Property Owners Stakeholder Meeting**

**Date: July 20, 2023**

**Location: Gaithersburg, MD**

**Attendees:**

- 1. Brian Morris - Manhattan Companies
- 2. Matt Brady - Scheer Partners
- 3. John Lin - Capstock
- 4. Robert
- 5. Andy C

**Discussion Topics:**

**1. Uses and Zoning:**

- Discussion about accommodating various uses:
  - EV charging and parking standards
  - Scientific research and manufacturing with animal facilities and their restrictions
- Suggested action: Define and expand use categories with flexibility.

**2. Adaptive Reuse:**

- Challenges and opportunities in converting structures.
- Mention of a project in VA as an example.
- Suggested action: Encourage adaptive reuse when possible.

**3. Parking Standards:**

- Debate on existing parking ratios and their relevance.
- The need for flexibility in parking requirements.
- Discussion about differing requirements for adaptive reuse.
- Suggested action: Evaluate parking standards to align with diverse uses.

**4. Pickup/Dropoff Spaces:**

- Discussion on the business model of tenants and parking needs.
- Mention of dedicated spaces for deliveries.
- Suggested action: Consider dedicated spaces for pickup/dropoff.

**5. Approvals Process:**

- Discussion on shortening the site plan approval process.
- Mention of a potential minor amendment process.
- Suggested action: Streamline the site plan approval process.

#### **6. Dimensional Questions:**

- Discussion on realistic building heights and setbacks.
- Consideration of open green areas and employee amenities.
- Exploration of synergistic uses with employment uses.
- Suggested action: Update zoning regulations for future flexibility.

#### **7. Outdoor Storage:**

- Discussion on outdoor storage needs for life science and industrial tenants.
- Mention of difficulties in getting approvals for certain uses.
- Suggested action: Review and update definitions related to outdoor storage.

**Title: Open Invitation Focus Group Meeting**

**Date: July 31, 2023**

**Location: Gaithersburg, MD**

**Attendees:**

*Gaithersburg Team:*

- Gregory Mann
- Sharon Disque
- Rob Robinson
- John Schlichting
- Anna Scott Myers

*Focus Group Invitees:*

- Dave (Property owner in Olde Towne)
- Brett O'Connor (Property owner in Olde Towne)
- Chris Wallis
- Mady (Everyday Canvassing)

*ZoneCo Team:*

- Jocelyn Gibson
- Christopher Myers

**Discussion Highlights:**

1. **Definition of "Structure":**
  - Broad definition of "structure" includes fences and signs.
  - Debate over whether a fence should be considered a structure.
  - Consideration of distinguishing elements such as roofing for structures.
2. **Olde Towne Concerns:**
  - Request for permitting tattoo parlors in the Central Business District (CBD) zone.
  - Discussion of zoning code changes in 2018 affecting grandfathered buildings.
  - Concerns about high fees for special exceptions and the need for clarity in the zoning code.
3. **Community Input and Concerns:**



- Encouragement for community members to express concerns and suggestions.
- Request for clarity in zoning code language regarding permitted and prohibited uses.
- Discussion of tenant advocacy and concerns related to property conditions, rent, and enforcement.

4. **Engaging the Community:**

- Suggested methods for reaching out to a diverse community, including culturally competent approaches.
- Recommendations for building trust and providing incentives for community involvement.

5. **Challenges with Grandfathered Clauses:**

- Surprise and concern over the removal of grandfathering clauses in zoning regulations.

**Title: Residential Developers Focus Group Meeting****Date: August 8, 2023****Location: Gaithersburg, MD****Attendees:**

- Matt (Developer and Gaithersburg Planning Commission)
- David Jacques (VP, Easer Homes)
- Mark Coletta (Aventon Companies)
- Ross Osterander (Pleasants Development)
- Luis Gonzalez (Director of Engineering, EYA)

**Discussion Topics:****1. Mandatory Amenities:**

- Trend of working from home and the need for remote workspaces.
- The importance of amenities for pets, such as pet spas.
- Enhanced bike rooms and larger package rooms.
- Fitness centers as a common amenity.

**2. Open Space Challenges:**

- Balancing density requirements with open space and stormwater management.
- The potential for combining usable open space with stormwater management.

**3. Parking Standards:**

- Challenges in providing parking spaces and changing parking preferences.
- Proximity to transit and demographics influencing parking usage.
- Discussion on structured parking for multifamily housing.

**4. Ground Floor Uses:**

- Reevaluating ground floor retail requirements in apartment complexes.
- Suggesting flexibility in ground floor uses, such as fitness, remote workspaces, and pet spas.
- Consideration of live/work spaces.

**5. Electric Vehicle (EV) Charging:**

- Market-driven approach to EV charging, avoiding codification.

- Challenges related to EV infrastructure and transformer demand.
- Incorporating EV charging into residential developments.
- Embracing solar energy and Tesla roofs.

**6. Residential Development Trends:**

- The impact of working from home on residential design.
- Future-proofing developments to adapt to market shifts.

**7. Senior Housing and Public Realm:**

- Focus on the public realm and the first 20 feet of buildings.
- Retrofitting townhomes for live/work spaces.

**Title: Residential Developer Part II Meeting**

**Date: August 31, 2023**

**Location: Gaithersburg, MD**

**Attendees:**

- Mark Coletta
- Matt Hopkins
- Ross Ostrander

**Discussion Topics:**

**1. Typical Unit Sizes:**

- Unit sizes vary widely, with a focus on urban infill.
- Efficiency in higher-end projects often requires at least 200 units.
- Sweet spot for developments is typically 300-320 units with an average of 850-1000 sq. ft. per unit.

**2. Promoting Smaller Format Housing:**

- Smaller format housing (3-4 units) can attract smaller businesses/developers.
- Challenges include a lack of innovative "missing middle" housing types and limited comparable projects.
- Construction costs for 4-story and below buildings are similar.
- Higher interest locations may be more receptive to atypical housing types.

**3. Incentive Zoning:**

- Developers are open to incentive zoning, especially considering mall redevelopment.
- FAR for lot size consolidation is seen as a good start.
- Simplicity and predictability in zoning regulations are crucial.

**4. Flexibility vs. Certainty:**

- Flexibility in zoning regulations is preferred over strict Euclidean zoning.
- General height and FAR guidelines are supported, with other parameters remaining flexible.
- Flexibility between commercial and residential zones is desired.

**5. Unreasonable Zoning Standards:**

- Concerns about mid-density zoning and proffers.



- FAR may be a suitable tool for Gaithersburg.
- Suggestions to be more aggressive in reducing parking requirements.

**6. Additional Comments:**

- Concerns about LEED lower classifications and their value.
- Caution against over-retailing and the added cost it can bring.
- Discussion on parking code issues and the need for flexibility.
- Lenders may require justification for parking rate waivers.
- Considerations for waiver findings: walkable areas, proximity to services, LEED metrics.
- Reference to Fairfax County's parking code as a potential model.
- Permit fees in the City versus County.
- Want mixed-use buildings, but lower floor retail might not be successful and end up being vacant.

# SURVEY RESULTS

# Retool Gaithersburg Survey-Zoning Code

## Project Engagement

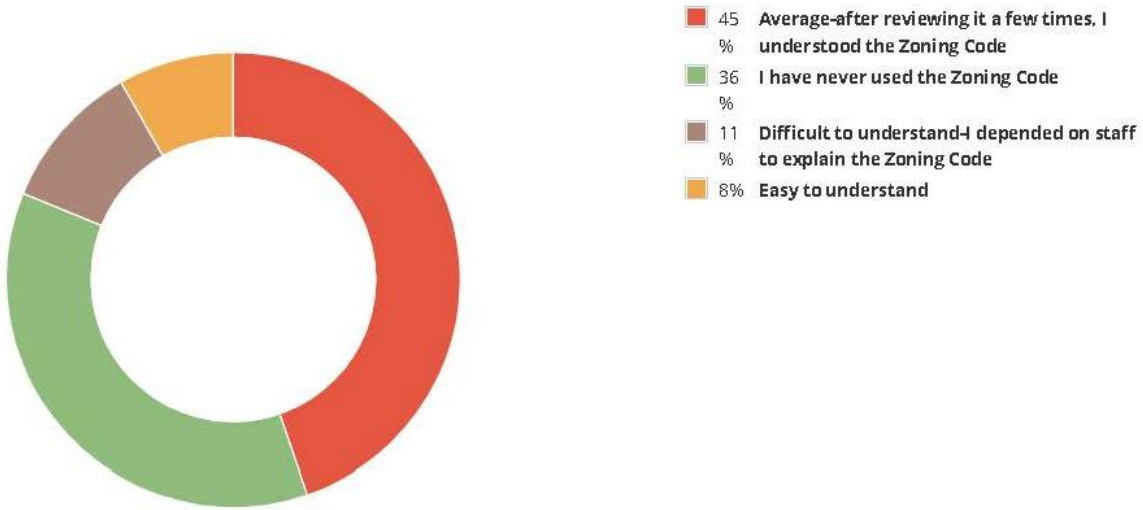
VIEWS	PARTICIPANTS	RESPONSES	COMMENTS
203	89	604	7

1. How have you used Gaithersburg's Zoning Code? Select all that apply.

40%	Researched permitted uses in a specific zone	33 ✓
35%	Researched parking requirements	29 ✓
35%	I have never used the Zoning Code	29 ✓
28%	Researched procedures for making changes to my property	23 ✓
26%	Researched signage requirements	21 ✓
24%	Researched development standards for my home (e.g. yard setbacks, lot coverage, fence height, etc.)	20 ✓
20%	Researched development standards for my commercial property (e.g. height, setbacks, etc.)	16 ✓
10%	Other	8 ✓

82 Respondents

2. If you have used the Zoning Code, which best describes your experience understanding it?



85 respondents



Sec. 24-60. - Yard requirements.



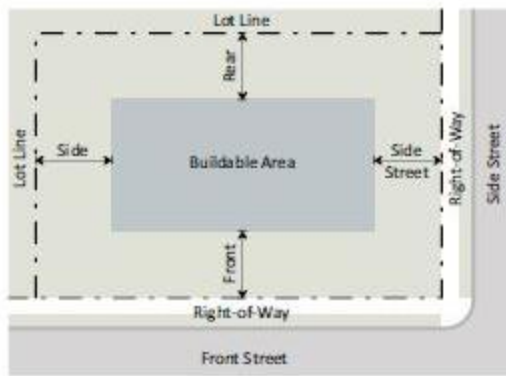
The following yard requirements shall apply in the R-20 Zone:

- (a) *Front.* Each front yard shall be a minimum of thirty (30) feet in depth.
- (b) *Rear.* Each rear yard shall be a minimum of thirty (30) feet in depth, except no rear yard shall be required in the case of townhouses also attached in the rear of said units to the rear of other townhouse units.
- (c) *Side.* Each side yard shall be a minimum of twenty (20) feet in depth, except that no side yard is required for any lot to be occupied by a townhouse, each of the side walls of which is to be a common wall with another townhouse.
- (d) *Increase for height.* Notwithstanding the preceding requirements of this section, whenever a building exceeds thirty (30) feet in height, the required yard depths shall be increased one foot for each foot of building height over thirty (30) feet.

A

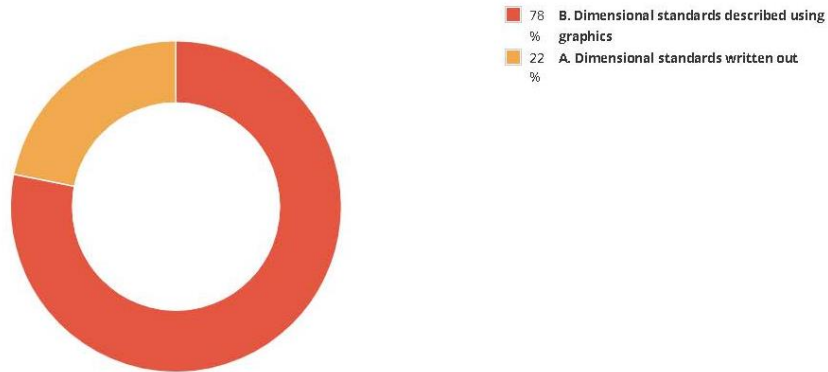
2. Placement

Principal Building Setbacks (min)	
Front setback	50'
Side street setback	50'
Side setback	20'
Rear setback	35'



B

4. If you were to use the Zoning Code, which of the above options would make it easier to understand building dimensional standards?



64 respondents



5. If you have used the Zoning Code, which of the following improvements would you like to see? Select all that apply.

42%	More tables and graphics	27 ✓
36%	Simpler language	23 ✓
34%	More definitions	22 ✓
28%	More intuitive organization	18 ✓
27%	I have never used the Zoning Code	17 ✓
17%	Less duplication	11 ✓

64 Respondents

6. How do you expect to use the Zoning Code in the future? Select all that apply.

55%	For educational purposes to better understand new development projects	36 ✓
42%	To research requirements for improvements to my home (e.g. additions, fences, etc.)	27 ✓
34%	To research requirements for my commercial property or business (e.g. signage, parking, uses allowed, etc.)	22 ✓
8%	I do not plan on using the Zoning Code in the future	5 ✓

65 Respondents

# Retool Gaithersburg Survey-Development Standards

## Project Engagement

VIEWS	PARTICIPANTS	RESPONSES	COMMENTS
106	52	440	0

1. Which of the following development standards is most important in regulating new development?  
Please rank in order of most important to least important.

83%	Density- the maximum number of dwelling units allowed per acre	Rank: 2.66	38 ✓
72%	Lot coverage- the maximum area of a lot that can be covered in buildings or other structures with a roof (such as sheds, covered porches)	Rank: 3.03	33 ✓
76%	Open space- the minimum area of a lot that cannot contain buildings, roads, parking lots, driveways, or other structures like decks	Rank: 3.49	35 ✓
70%	Setbacks- the minimum distance a structure must be from the property boundary	Rank: 3.94	32 ✓
74%	Building height- the maximum height a building can be	Rank: 4.06	34 ✓
72%	Lot size- the minimum square footage or acreage a lot must be in order to build on it	Rank: 4.21	33 ✓
67%	Lot width- the minimum width a lot must be in order to build on it	Rank: 5.39	31 ✓

46 Respondents



A

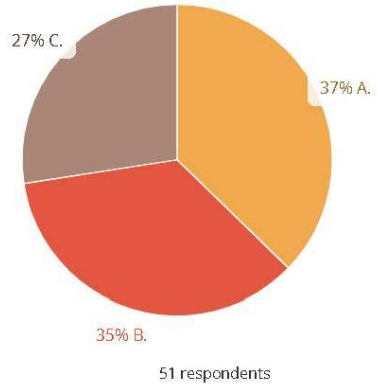


B



C

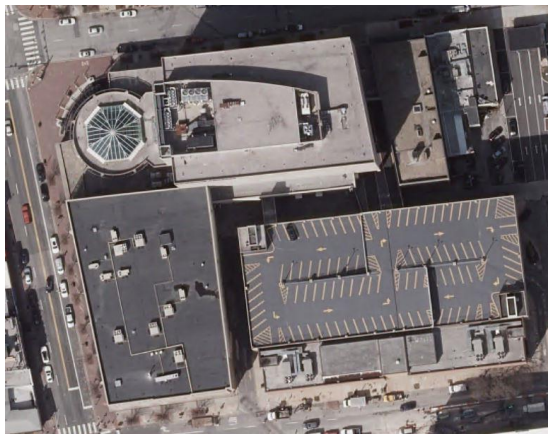
2. The above images show examples of different side yard setbacks. Which of the above would you prefer?



A

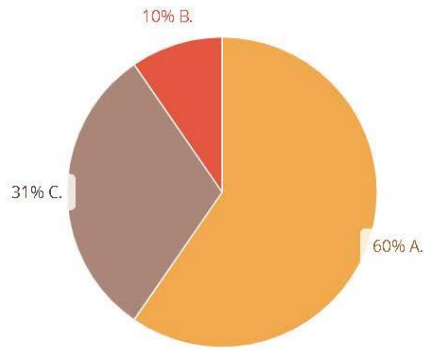


B



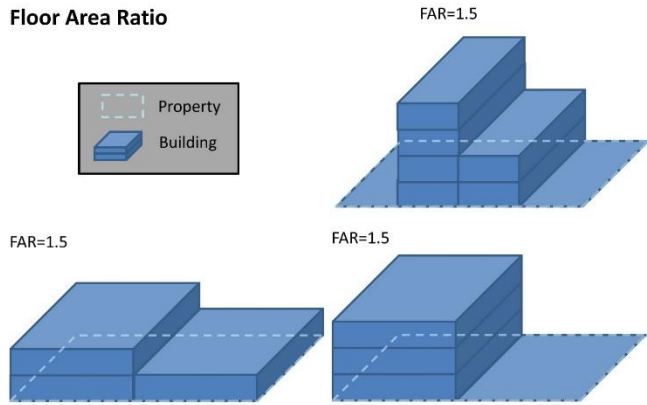
C

3. The above images show examples of different amounts of open space in commercial development. Which of the above would you prefer?



52 respondents

**Floor Area Ratio**



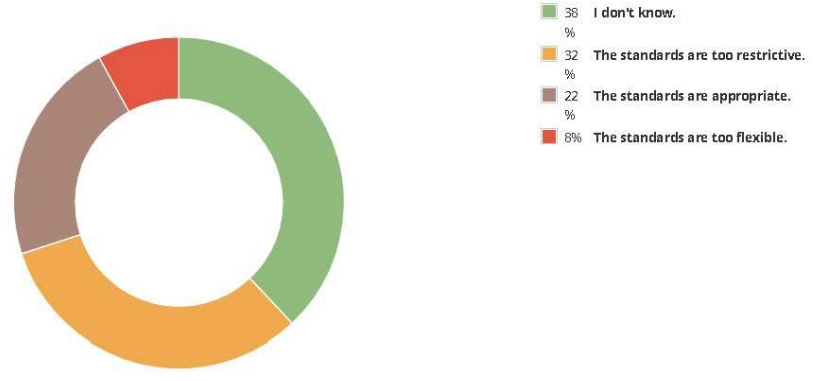
4. Floor area ratio (FAR) is an alternative way to regulate development that is often used in place of the other standards defined above. FAR regulates the size of a building based on the size of the lot, and allows buildings to take many different forms, as seen in the graphic below. FAR is not used very widely in the City's Zoning Code. Is this something the City should explore using more?



51 respondents



5. Overall, how would you characterize the building and development standards in the City's Zoning Code?



50 respondents



# Retool Gaithersburg Survey-Use Restrictions

## Project Engagement

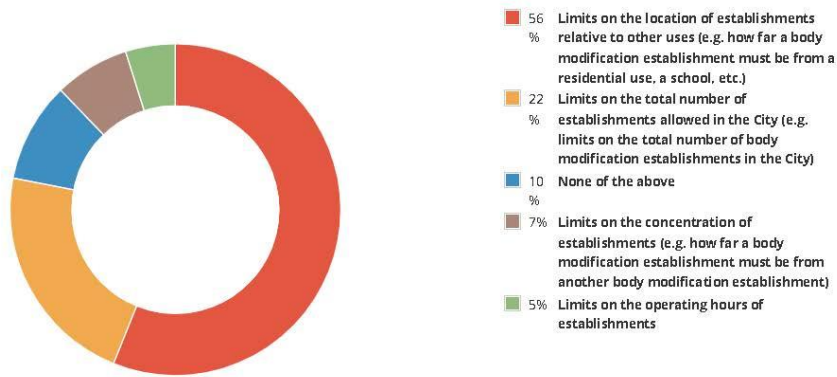
VIEWS	PARTICIPANTS	RESPONSES	COMMENTS
85	43	621	16

1. Please indicate your level of concern with allowing these uses in commercial areas:  
 -no concerns  
 -some concerns (e.g. they should be allowed, but with certain restrictions)  
 -major concerns

	No concerns	Some concerns	Major concerns
Body modification services (tattooing, body piercing)	45% No concerns	36% Some concerns	19% Major concerns
Pawnshops	21% No concerns	40% Some concerns	38% Major concerns
Check cashing services	19% No concerns	36% Some concerns	45% Major concerns
Fortune-telling services	38% No concerns	24% Some concerns	38% Major concerns
Firearm sales	12% No concerns	16% Some concerns	72% Major concerns
Adult-oriented businesses	14% No concerns	33% Some concerns	52% Major concerns
Recreational marijuana sales	36% No concerns	38% Some concerns	26% Major concerns
Off track betting parlors or sports books	19% No concerns	38% Some concerns	43% Major concerns
Carwashes	53% No concerns	35% Some concerns	12% Major concerns
Gas fueling pumps (either stand-alone stations or associated with a store)	49% No concerns	40% Some concerns	12% Major concerns

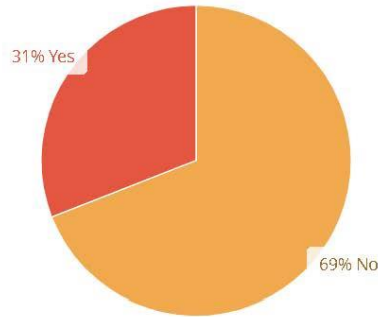
43 respondents

2. If you think some of the above uses should have restrictions on them, which of the following restrictions should the City consider? Please select the option that you think is most important. (Note: In the answer options below, body modification establishments are used as an example only.)



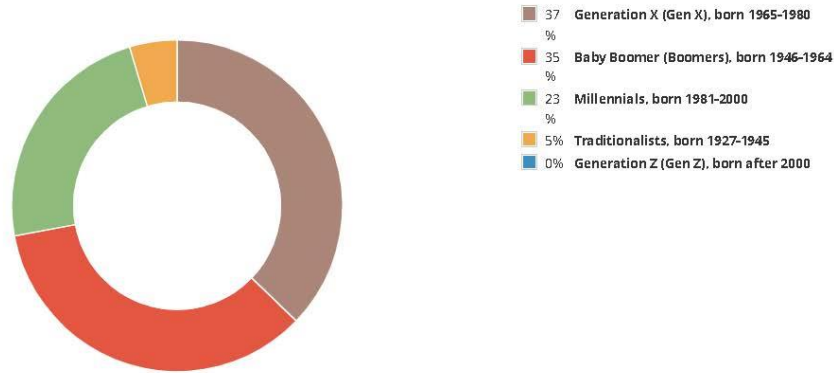
41 respondents

3. Are there any other uses that the City should consider placing restrictions on?



42 respondents

4. The City would like to know a little bit more about who is responding to the surveys. What is your age group?



43 respondents

5. What is your relationship to the City of Gaithersburg? Please select all that apply.

78%	I live in the City	32 ✓
39%	I own property in the City	16 ✓
32%	I work in the City	13 ✓
22%	I own a business in the City	9 ✓
5%	None of the above	2 ✓

41 Respondents

### Equity Breakfast Notes 9/28/2023

- Questions:
  - How much can we influence zoning?
  - What is the process for this effort and where are you currently in the process?
  - What were the challenges and deficiencies identified in the current Code?
  - How will this apply to existing projects/developments?
  - How will this fit in with Montgomery County and Montgomery Village?
  - What does the City see as the big issues with our Code now?
  - Will this lead to any changes to the MPDU program?
  - What is the “ask”? What types of input/feedback do you need from us and our clients?
- Comments:
  - Some families make money by selling their own goods, where can they do that?
    - Could potentially be addressed through the allowance of pop-up shops, mobile and street vending.
  - We need more affordable housing and more housing types such as duplex, triplex. The renting of individual rooms poses safety concerns.
  - Many would like to operate a business out of their home but may have difficulty getting approval. Home-based businesses are a low-cost way to start a business.
  - We need safe, walkable spaces; there have been too many pedestrian deaths.
  - The City should make information available in other languages and make it culturally relevant.
  - Many families struggle with food insecurity; for instance, there are no healthy food options (grocery stores) walking distance around Gaithersburg High School.
    - Potential to allow community gardens.
  - It would be helpful for the City to list out the specific needs they are trying to address with this effort in order to elicit feedback; perhaps separate it into different categories such as “housing”, “food”, “jobs”.
  - We need to increase the supply of housing, allow greater density and height; consider allowing more units on single properties (like they are doing in Arlington).
  - Flexibility in development requirements is important.
  - The housing crisis is getting worse and something major needs to change. We have families whose housing cost burden is 50%-75%-they must rely on other support services like food kitchens because almost all of their income is going towards housing; some families do not have access to housing choice vouchers.
  - “Community character” too often focuses on the visual aspect, we need to focus more on “community”.
    - How can the City create community centers or “15 minute communities” where residents can walk, bike, or take transit to get anything they need within 15 minutes.
  - One strategy used elsewhere was changing “required parking” to “recommended parking” which made a big impact and opened up development to more creativity.
  - The City should maintain a “people-centered” approach.
  - Concerns with safety walking to school.

- There is a need for emergency shelters; Rockville has Stepping Stones-Gaithersburg doesn't have anything like that where people can get information and access to all resources in one place.
  - Some homeowners will volunteer to house victims in need of safe shelter (like safe houses); how can zoning allow that?
- We have day laborers who need safe places to gather, can zoning allow that?
- The Code needs to be more accessible-help us learn how to read Code.
- The communities we serve need to be included in a way that is authentic.
- We (those in attendance) need to talk to our clients/families we serve to ask them how zoning affects them-this is a conversation we've never had with them before.
- Explaining the difference between zoning and the master plan would be helpful.
- The City should use all methods of communication when trying to engage the community, and have both virtual and in-person meetings; Those in attendance can distribute information and materials to their clients- for instance, the City could put together activities for their clients to do to elicit feedback as long as it is in simple language that would be understandable/relevant to them.



# Proposed revisions to Chapter 24

Below please find an overview of the proposed changes for Chapter 24, organized by article. Article 3, the Regulations Applicable to Particular Zones, can be found on separate worksheets which displays changes on a granular level by zone. Proposed updates are based on public input received so far, and feedback/communication received from the Steering Committee and staff.

Section	Proposed Change
<b>Article 1: Definitions</b>	<ul style="list-style-type: none"> <li>• Per Focus Groups / Steering Committee</li> <li>• Full analysis of uses and their definitions</li> <li>• Fix terms that require clearer definition like “green area” to “open area” and “structure.”</li> <li>• Diagnostic Report recommendations for revisions</li> <li>• Remove regulatory language.</li> <li>• Add previously missing terms and new, modern terms/uses</li> <li>• Change definition of “family” to “household”</li> </ul>
<b>Article 1: Conditional use Permits</b>	<ul style="list-style-type: none"> <li>• Clean up language, improve consistency.</li> <li>• Same notification procedures as schematic development applications</li> <li>• New standards for PC/M&amp;CC action on application (30 days, 90 days)</li> <li>• More specificity around evidence/standards for approval</li> <li>• Deviation from an approved conditional use requires resubmission</li> </ul>
<b>Article 1: Zoning of Annexed Areas</b>	<ul style="list-style-type: none"> <li>• Proposed revisions to clarify process and role of PC</li> </ul>
<b>Article 1: Floating Zones</b>	<ul style="list-style-type: none"> <li>• Process Updates</li> <li>• Approval of a schematic development plan shall substitute for preliminary site plan approval and serve as preliminary subdivision approval</li> <li>• Clarification for public hearing process and notification</li> </ul>
<b>Article 2: Nonconformities</b>	<ul style="list-style-type: none"> <li>• Much of the language in this section is positive and protects existing properties with unique scenarios from being deemed non-conforming, per the Diagnostic Report</li> <li>• Recommendation for some additional flexibility for repairs and maintenance</li> <li>• Additional legal review through ZoneCo</li> </ul>
<b>Article 3: Regulations Applicable to Particular Zones</b>	<ul style="list-style-type: none"> <li>• Multiple changes to all zones</li> <li>• See attached worksheets and land use chart</li> </ul>
<b>Article 4: Accessory Structures / Garages</b>	<ul style="list-style-type: none"> <li>• Streamline language; reorganize sections; lot line adjacency flexibility; location language clarified; setbacks at 2’ instead of 10’; clarified what is not “accessory structure”</li> </ul>
<b>Article 4: Exceptions Height and Projections</b>	<ul style="list-style-type: none"> <li>• Maintain exceptions with minor additions; reorganize and consolidate section</li> </ul>
<b>Article 4: Fences and Walls</b>	<ul style="list-style-type: none"> <li>• Improve definitions; propose removing permit application notification requirement</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 2 Full Calibration Chart - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

Section	Proposed Change
<p><b>Article 4: ADU Standards Proposed</b></p>	<ul style="list-style-type: none"> <li>• Permitted in zones that allow residential, but must comply with standards 800sf max. for detached ADUs</li> <li>• One ADU per lot</li> <li>• Shall not exceed the height of the primary structure</li> <li>• Separate entrance required (if part of primary structure)</li> <li>• One off-street parking space required</li> <li>• Must meet max. lot coverage of zone</li> <li>• Cannot be an STR</li> <li>• HAWP in historic districts</li> <li>• Shall not be located on own fee-simple lot</li> <li>• Home-based business permitted with permission from property owner</li> </ul>
<p><b>Article 4: Mobile Vendors</b></p>	<ul style="list-style-type: none"> <li>• Clearly states exempt businesses/business functions, like delivery trucks, produce stands, etc.</li> <li>• Subject to permit</li> <li>• Can operate up to four hours at a given location</li> <li>• Hours of operation 7am to 8pm</li> <li>• Waste shall not be visible</li> <li>• Vehicle may be stored at home, but not operated from a home</li> <li>• Permitted advertising sign and sandwich board sign</li> <li>• Min. distance between non-food vendors offering same goods/services</li> </ul>
<p><b>Article 5: Site Development Plans</b></p>	<ul style="list-style-type: none"> <li>• Clarify/clean up submission requirements for concept, preliminary, final plan</li> <li>• Concept plan is optional</li> <li>• Statement demonstrating compliance with master plan and/or strategic plan</li> <li>• Reducing cross-referencing on requirements</li> <li>• More specificity for conditions of approval</li> <li>• New finding that the plan must be compatible with master plan recommendations</li> <li>• Minor amendment process change: updated to conform to guidance during joint work session</li> <li>• Planning Director can re-assign minor amendment to Planning Commission</li> <li>• Remove walls and fences from site plan minor amendment review</li> <li>• Minor covered outdoor dining is now a minor amendment</li> <li>• Minor revisions to non-residential buildings that do not increase the building by more than 500 sf</li> </ul>
<p><b>Article 6: Administration and Enforcement</b></p>	<ul style="list-style-type: none"> <li>• Clarifications for “temporary occupancy permit” process</li> <li>• Review of complaint-based zoning as a proportion of all enforcement activities. Equity issues can arise from complaint-based enforcement where the intent is “immediately investigate and take action thereon.”</li> <li>• Remove Olde Towne regulations in this section and consolidate in CBD Zone</li> </ul>

Section	Proposed Change
<p><b>Article 7: Board of Appeals</b></p>	<ul style="list-style-type: none"> <li>• Revise unclear or disorganized language</li> <li>• Provide additional specificity around BOA code of conduct to align with state</li> <li>• Submission requirements added</li> <li>• Findings for variances added to provide more clarity</li> <li>• Add minor amendment process for special exceptions</li> </ul>
<p><b>Article 8: Amendment Procedure</b></p>	<ul style="list-style-type: none"> <li>• To align with recommendations from joint work session on SDP: Commercial use change flexibility, except if requires change to physical structure or includes residential</li> <li>• If re-subdivision is required, then applicant must amend SDP</li> <li>• If Increases the number of multifamily residential dwelling units by more than ten (10) percent must amend SDP</li> <li>• If Increases non-multifamily residential dwelling units by more than 5 units and/or does not meet the minor subdivision requirements of Chapter 20 must amend SDP</li> <li>• Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is less must amend SDP</li> <li>• Revision of verbose or unclear language</li> <li>• Improved clarity for notification requirements</li> <li>• More clarity around process for introduction of an amendment</li> <li>• Optional method of application for local map amendments:               <ul style="list-style-type: none"> <li>○ Recommend addition of preliminary site plan review in place of schematic development plan</li> <li>○ Recommend removal of requirement to submit covenant</li> </ul> </li> </ul>
<p><b>Article 9: Signs</b></p>	<ul style="list-style-type: none"> <li>• Reorganization: General Standards, Standards for Permanent Signs, Standards for Temporary Signs</li> <li>• Develop general standards for internally and externally illuminated signs</li> <li>• Revise and improve sign type definitions</li> <li>• Sign permissions by façade instead of by tenant for multi-tenant structures</li> <li>• Provide straightforward size limitations for signs that do not require a permit</li> <li>• More flexibility for building sign area calculation</li> <li>• Remove regulatory language from definitions for individual sign types</li> <li>• Provide clarification for min. distances between any ground-mounted sign type</li> </ul>
<p><b>Article 10: Home Based Business</b></p>	<ul style="list-style-type: none"> <li>• Clarification that an employee’s remote work/office not considered to be a home-based business</li> <li>• Specify cannabis-related businesses or short-term rentals not permitted as home-based businesses</li> <li>• Clarify rental of outdoor facilities on private residential lots is prohibited</li> <li>• More flexibility for deliveries given that there can be variation in timing seasonally or monthly (previously a per week cap). Homes receive more deliveries generally than in the past.</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 2 Full Calibration Chart - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

Section	Proposed Change
<p><b>Article 11: Off-Street Parking and Loading</b></p>	<ul style="list-style-type: none"> <li>• See worksheet for proposed parking minimums</li> <li>• Proposed parking ratios delineated by use groupings/classifications instead of specific use to provide more flexibility</li> <li>• Some uses with specific parking needs will still have parking ratios delineated for that particular use</li> <li>• Established parking ratios for shopping centers</li> <li>• Revise minimum bicycle parking standards</li> <li>• Parking lot tree canopy included in this chapter for ease of use</li> <li>• Proposed reductions for special conditions (e.g. proximity to transit) or incentives (e.g. inclusion of drop-off/pick-up spaces)</li> </ul>
<p><b>Article 12: Preservation of Historic Resources</b></p>	<ul style="list-style-type: none"> <li>• Language was reviewed and revised for clarity, conciseness, and consistency</li> <li>• Provide guidance for appeals</li> <li>• Recommended revisions to some of the language/criteria regarding economic hardship</li> </ul>
<p><b>Article 13: Landscaping Standards</b></p>	<ul style="list-style-type: none"> <li>• Maintained where applicable</li> <li>• Defined the relationship to City regulations and Chapters 8, 21, and 22</li> <li>• Defined goals of landscaping</li> </ul>
<p><b>Article 14: City Planning Commission</b></p>	<ul style="list-style-type: none"> <li>• Revision of unclear language</li> <li>• Revision of incorrect references</li> <li>• Clarification of notification requirements</li> <li>• Provide additional clarity around code of conduct to comply with state standards</li> </ul>
<p><b>Article 15: Adequate Public Facilities</b></p>	<ul style="list-style-type: none"> <li>• No changes anticipated</li> </ul>
<p><b>Article 16 Affordable Housing Requirement</b></p>	<ul style="list-style-type: none"> <li>• Clarification of language</li> <li>• Clarification for the adoption of regulations</li> <li>• Diagnostic Report assessment of this article was positive</li> <li>• Recommendation to review waiver of affordable housing requirements, ensure criteria is reasonable but has a high bar</li> </ul>

Category	Use	Definition
Agricultural	Farms	A tract of land comprising an area which is solely devoted to commercial agricultural operations, such as crop cultivation; nurseries; vineyards and other recognized agricultural pursuits, and including accessory buildings.
Agricultural	Large-scale Indoor Agriculture	An agriculture business area larger than 10,000 sf which houses agricultural production limited to growing plants and fungus, licensed marijuana, or crops and supportive uses on a large scale entirely indoors in a controlled environment.
Agricultural	Small-scale Indoor Agriculture	An agriculture business area 10,000 sf or smaller which houses agricultural production limited to growing plants and fungus, licensed marijuana, or crops and supportive uses on a large scale entirely indoors in a controlled environment.
Automotive	Vehicle Rental Establishments	An establishment that rents recreational, personal, or commercial vehicles, excluding machinery and equipment, which may include accessory storage of rental vehicles on-site.
Automotive	Automobile Repair and Service Establishments	Any building, structure, or area used for major automobile repair, body work and painting, detailing, tinting, stereo/audio system services, glass repair, or servicing including the accessory sale of oils, grease and coolants, or parts, but not including fuel.
Automotive	Automobile Sales Establishments	A principal use consisting of the selling or leasing of personal vehicles, including cars, light trucks and SUVs, motorcycles, RVs, ATVs, motorized recreational equipment, and motorized watercraft, which may also include incidental automobile repair.
Automotive	Automobile Filling Station	A building or lot having pumps and storage tanks or electrical charging stations at which fuel, oil, electrical charge, or accessories for the use of motor vehicles are dispensed, sold or offered for sale with incidental uses limited to convenience store sales areas of up to 1,000 square feet, automobile repair and service, and carwash. May not include food trucks, car/truck rental, overnight storage of vehicles, or vehicle sales.
Automotive	Car Wash	An establishment where the principal use is the commercial washing of vehicles either by hand or by automated/semi-automated methods. Interior detailing may be accessory.
Entertainment and Recreational	Gambling Establishments	A principal use where legal licensed video lottery operators, qualified horse-racing, simulcast betting, sports wagering, and commercial bingo entities operate.



Category	Use	Definition
Entertainment and Recreational	Fortunetelling Businesses	Any attempt to tell fortunes or predict the future (for pay or voluntary contributions) by means of occult or psychic powers, faculties, or forces; necromancy, palmistry, psychic psychometry, spirits, mediumship, seership, prophesy, cards, crystals, talismans, sorcery, charms, potions, magnetism, tea leaves, magic, numerology, mechanical devices, handwriting analyses, phrenology, character readings, or any other similar means. A fortunetelling business shall not be considered allowed as a home occupation, or classified as a church, or other place of worship. This definition shall not apply to fortunetelling at street festivals, carnivals, comedic routines, fundraisers, or other similar entertainment purposes operated on a limited basis and not requiring the issuance of a use an occupancy permit. The term "limited basis" shall mean operation of the use not more than four (4) times per year and not to exceed twelve (12) days in any year.
Entertainment and Recreational	Adult-oriented establishment	An establishment which, for money or any other form of consideration devotes more than ten (10) percent of the total floor area to the sale, exhibition, display, exchange, rental, loan, trade, transfer of one or more of the following: 1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations or sexually-oriented paraphernalia or novelty items which are characterized by an emphasis upon the depiction, description or reproduction of sexual activities or anatomical areas depicting sexual organs; or 2) instruments, devices or paraphernalia that are designed for use in connection with sexual activities involving sexual organs; or 3) features nude adult entertainment performances.
Entertainment and Recreational	Clubs and lodges	Private buildings and facilities owned or operated by a corporation, association, person, or persons for social, educational, or recreational purpose, but not primarily to render service which is normally carried on as a business.

Category	Use	Definition
Entertainment and Recreational	Indoor and Outdoor Amusement and Recreational Facilities	A commercially operated facility at which recreation activities are offered or amusement devices provided to the public as the principal commercial activity of such establishment. This may include, but not be limited to, bingo parlors, dance halls, bowling alleys, skating rinks, billiard or pool halls, miniature golf courses and amusement device arcades. Theaters and commercial fitness centers are not included.
Entertainment and Recreational	Health Clubs	A facility which promotes physical fitness, weight control, and exercise.
Entertainment and Recreational	Theatre	A facility for audio and visual productions (movies) and performing arts (stage productions), excluding adult motion picture theaters and adult entertainment businesses.
Industrial	Small-Scale Recycling	A collection and transportation facility, up to four thousand (4,000) square feet in size within an enclosed structure, used by persons and route collection vehicles to deposit collected paper, glass, plastic, aluminum and other nonferrous metals from off-site into a larger transfer vehicle for transport to a solid waste handling facility.
Industrial	Waste Processing - Private	A privately owned facility that receives, stores and/or processes waste or recycling materials.
Industrial	Data Center or Data/CryptoCurrency Mining	A physical location that stores computing machines and their related hardware equipment. It contains the computing infrastructure that IT systems require, such as servers, data storage drives, and network equipment. It is the physical facility that stores any company's digital data, or provides the "mining" function and executes the associated administrative/accounting tasks for cryptocurrency mining.
Industrial	Equipment and Machinery Sales and Rental Establishment	A principal use consisting of the selling or leasing of construction, excavation, agricultural, landscaping, or similar equipment and machinery.
Industrial	Heavy Industrial	Includes uses primarily for heavy manufacturing and closely related uses, which have the greatest potential for producing undesirable or adverse by-products. These uses have greater amounts of noise, odor, vibration, glare or other objectionable influences than light and medium industrial uses.

Category	Use	Definition
Industrial	Light Industrial	Includes the commercial storage and warehousing of non-hazardous materials, distribution facilities, processing, fabrication, and assembly of materials, and integrated light manufacturing. All activities must be conducted within a building that does not emit fumes, odor, dust, smoke or gas beyond the confines of the building within which the activities occur or produce significant levels of noise or vibration.
Industrial	Medium Industrial	Includes the commercial storage and warehousing of both non-hazardous and hazardous materials, processing, fabrication, and assembly of materials with greater amounts of noise, odor, vibration, glare or other objectionable influences than light industrial uses. All activities must be conducted within the confines of the parcel and must not emit fumes, odor, noise, vibration dust, smoke or gas beyond the parcel limits.
Industrial	Off-street Parking Lot	A privately-owned surface parking lot or structured parking deck that is a standalone, primary use of a property and is not associated with nor required by any buildings located on the property.
Industrial	Self-storage	An establishment offering separate storage areas for rent for personal or business use, designed to allow private access by the tenant.
Institutional	Art and Cultural Centers	Establishments such as museums, art galleries, botanical gardens, and other exhibition and gathering spaces of an historic, educational or cultural interest, along with commonly associated accessory uses.
Institutional	Care Homes	A residential facility established to render domiciliary care for more than five chronic or convalescent patients, including group homes, which may include transitional housing, psychiatric care, substance abuse care, memory care, care for handicapped persons, or hospice, but excluding housing for the elderly. Care must be provided in accordance with applicable state and county laws, rules and regulations, including but not limited to licensing.
Institutional	Cemeteries	Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including mausoleums, but excluding crematoriums and funeral establishments.

Category	Use	Definition
Institutional	Educational Institutions	A private school, including a post-secondary institution, trade school, private nursery school/preschool having regular sessions, with regularly employed instructors and administrators under the supervision of the state or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the state. The curriculum must lead to a degree or professional certification.
Institutional	Hospitals	A public or private facility, including in- and out-patient care, medical/dental services, wards, surgery services, laboratories, physical therapy services, diagnostic services, radiology services, emergency medical services, pharmacy services, administration offices, gift shops, waiting rooms, kitchens (to service hospital patients, staff and visitors), and similar uses; health service and prepaid health maintenance offices; ambulance garages; heliports; and associated parking lots.
Institutional	Religious Uses	Religious activities and events which constitute the principal use of a building that is maintained and controlled by a religious body whose sole purpose is to sustain religious worship. Accessory uses include but are not limited to education, excluding parochial schools; child care; food kitchens; and housing for members of a religious order.
Professional Business Services	Veterinary Hospital and Clinic	A facility for the medical and surgical treatment of animals that may include boarding facilities for patients undergoing treatment and emergency services.
Professional Business Services	Banks	An establishment that provides retail banking services, mortgage lending, or similar financial services such as credit unions and savings and loans, to individuals and businesses. This use type does not include check cashing services, bail bond brokers, investment or brokerage firms, or insurance services.
Professional Business Services	Research, Sciences, and Biomedical Industries.	Biotechnical and biogenetic research; research and development laboratories; vivariums; storage of biological materials; medical laboratories; testing of biomedical products or equipment on organic or fabricated biological subjects; pilot manufacturing; and the storage of products unique to the life sciences sector and ancillary offices and storage.

Category	Use	Definition
Professional Business Services	General Office	Any business whereby services are rendered from offices, including but not limited to professional services and business-to-business services. .
Professional Business Services	Medical Office	A building or portion of a building used exclusively by physicians, dentists, optometrists, and similar personnel for the treatment and examination of patients solely on an outpatient, appointment basis, including treatment centers offering services on an appointment basis, such as radiology and dialysis centers, provided that no over- night patients shall be kept on the premises.
Professional Business Services	Medical Clinic	A building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractic, physical therapy or similar services for outpatients only, with or without shared or common spaces and equipment, where appointments are not required.
Public Use	Public Use	Any use or structure which is open for the use and benefit of the general public, and is operated by a city or county government, the state, or the federal government, or an agent designated by such government, to operate such public use or structure. Uses include but are not limited to public schools, emergency services, government offices, libraries, public utilities, and parks and other recreational facilities.
Residential	Housing for the Elderly	A residential facility established to house more than 5 residents and related accessory facilities, such as dining, recreational services or therapy areas, where the occupancy of the dwellings is restricted to elderly persons as defined herein. Such facilities may include independent living, assisted living, day care, skilled nursing facilities, memory care, or other services to the elderly persons of the community. Any combination of the foregoing uses may be allowed and still be considered as qualifying under this definition.



Category	Use	Definition
Residential	Accessory Dwelling Unit	An accessory dwelling unit (ADU) is a smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs: a. Detached Structures; or b. Accessory units attached to or part of the primary dwelling.
Residential	Dwelling, Duplex	One of 2 dwelling units, arranged horizontally located on abutting walls without openings. Duplexes are considered gap housing.
Residential	Dwelling, Live/Work	A designation applicable to a townhouse structure that permits the dwelling unit to have a separate commercial use that is permitted in the Zoning District.
Residential	Dwelling, Multi-family Attached	One of a group of 5 or more dwelling units contained within a building, which have common shared parking areas and which may or may not share a common entry. This term includes apartment buildings, condominiums and cooperatives.
Residential	Dwelling, Stacked	A vertical and horizontal grouping of dwelling units, where at least 1 dwelling unit within the grouping contains 2 or more stories and is situated over or under another dwelling unit. Each unit has its own ground floor external entrance or shares its entrance with only an adjacent unit. Stacked multifamily dwelling units are commonly referred to as stacked townhomes, one over twos, and two over twos. Stacked dwellings are considered gap housing. Stacked Dwellings which include only four (4) units are considered a quadplex.
Residential	Dwelling, Quadplex	One of 4 dwelling units, arranged vertically or horizontally, located on abutting walls or ceilings without openings. Quadplexes are considered gap housing.
Residential	Dwelling, Triplex	One of a group of 3 dwelling units, arranged vertically or horizontally, located on abutting walls or ceilings without openings. Three unit townhouse sticks are not considered triplexes. Triplexes are considered gap housing.
Residential	Dwelling, Single-Family Detached	A single dwelling unit not structurally connected or attached to any other dwelling and with each building having a separate lot.

Category	Use	Definition
Residential	Dwelling, Townhouse	A type of single-family attached dwelling that is a group of 3 or more single-family attached dwelling units, each of which is attached to at least 1 other townhouse dwelling unit by a party wall that serves as a vertical boundary for both units, with each such unit extending from ground to roof, with no dwelling unit directly above another dwelling unit. Each townhouse dwelling unit consists of multiple floors or levels, with each unit having its own ground floor external entrance or sharing its entrance with only an adjacent unit.
Residential	Dwelling, Bungalow/Cottage Court	Multiple small detached dwellings no greater than 1,200 square feet in size each, located in close proximity to each other in a condominium regime and arranged around a central green or open area. Bungalow courts have shared amenity spaces and no private yards or garages.
Residential	Roominghouse	A dwelling in which lodging is furnished for compensation to at least three (3) but not more than five (5) guests. Any roominghouse lawfully established on October 1, 1985, under regulations previously in effect as to the permissible number of guests, may continue to operate under the requirements in force prior to October 1, 1985, and shall not be considered a nonconforming use.
Residential	Boardinghouse	A dwelling in which, for compensation, lodging and meals are furnished to at least three (3) but not more than five (5) guests. A boardinghouse shall not be deemed a home occupation. Any boardinghouse lawfully established on October 1, 1985, under regulations previously in effect as to the permissible number of guests, may continue to operate under the requirements in force prior to October 1, 1985, and shall not be considered a nonconforming use.
Residential	Renting of Rooms	The renting of rooms to not more than two (2) persons by the occupant of a dwelling for thirty (30) or more consecutive days.

Category	Use	Definition
Residential	Short Term Rentals	The offering of lodging accommodations in a residential dwelling unit or accessory building for periods of less than thirty (30) consecutive days to transient guests. A short-term rental must be accessory and secondary to the primary use of a dwelling unit for residential household living purposes and shall conform to all applicable requirements set forth in the short-term rental regulations adopted pursuant to section 2-10 of this Code.
Retail and Personal Service	Check Cashing and Payday Loan Establishments	An establishment that accepts or cashes, for compensation, a payment instrument (check or a draft ordering a person to pay money) regardless of the date of the payment instrument; and/or offers short-maturity, high-interest loans, regardless of whether the payment of the loan is linked to a borrower's payday. This use does not include banks, trust companies, savings and loan establishments, credit unions, money transfer services, or foreign currency exchange services.
Retail and Personal Service	Day Care Center	An independent facility, excluding large and small family day care, where care, services and social activities are provided for children, elderly persons and/or handicapped persons for less than twenty-four (24) hours a day in compliance with applicable state and county laws, rules and regulations, including but not limited to licensing.
Retail and Personal Service	Small Family Day Care	A facility where care is provided for no more than 8 children, elderly persons and/or handicapped persons in a dwelling unit for less than twenty-four (24) hours a day, in accordance with applicable state and county laws, rules and regulations, including but not limited to licensing. The provider must be a resident of the facility, and the provider's own family members, including children under age thirteen (13), elderly persons and/or disabled persons requiring care, if any, must be counted towards the total number of individuals receiving care.
Retail and Personal Service	Large Family Day Care	A facility where care is provided for 9 to 12 children, elderly persons and/or handicapped persons in a dwelling unit for less than twenty-four (24) hours a day, in accordance with applicable state and county laws, rules and regulations, including but not limited to licensing. The provider must be a resident of the facility, and the provider's own family members, including children under age thirteen (13), elderly persons and/or disabled persons requiring care, if any, must be counted towards the total number of individuals receiving care.

Category	Use	Definition
Retail and Personal Service	Firearm Sales	A property used or designated by a licensed firearms dealer exclusively for the sale, swapping, bartering or exchange of firearms.
Retail and Personal Service	Instructional Facilities	Educational services rendered within individual classrooms or studios that provide instruction to clients to learn or practice activities or skills like yoga, art, music, learning/tutoring, or dance.
Retail and Personal Service	Animal Boarding and Grooming Establishments	The provision of housing and care of an animal in the absence of the owner with the exception of state-inspected veterinary hospitals so long as the boarding area is inspected by the state. This also includes services related bathing, clipping or combing of animals for which a fee is charged.
Retail and Personal Service	Bed and Breakfast	Overnight accommodations in which eight or fewer rooms are set aside within a residential structure for transient guests. Such rooms shall not have separate utilities, provisions for cooking or dormitories for sleeping and must be located within the principal structure.
Retail and Personal Service	Cremation Services	Services provided as a method of final disposition of a human or domestic animal dead body through combustion or dissolution, in which a dead body is reduced to ashes by fire or chemicals. Such services shall be prohibited on property within five hundred (500) feet of any residential use.
Retail and Personal Service	Restaurant	Any establishment that provides as a principal use the preparation and sale of food and/or beverages in a state ready for consumption within the establishment or off-premises

Category	Use	Definition
Retail and Personal Service	Funeral Homes	<p>Any building in which one or more parlors or rooms are maintained for funeral services and the temporary resting place of dead human bodies pending final disposition thereof. Emergency ambulance service must not be provided to or from the building. Such building may also include space and facilities for the following:</p> <p>(1)Embalming and other services used in the preparation of such bodies for burial or other final disposition;(2)The display of the deceased;(3)Conducting religious or memorial services or ceremonies (and in which no emergency ambulance service is provided);(4)The sale and storage of caskets, funeral urns and related funeral supplies;(5)Administrative offices for conducting the business of the home;(6)The housing of equipment, including motor vehicles;(7)The performance of autopsies and similar surgical procedures;(8)Providing cremation services as part of a funeral rite, subject to a conditional use permit where otherwise not prohibited by code; and(9)Living quarters for not more than one family unit who are employees or owners of such funeral home or dependents of such employees or owners.</p>
Retail and Personal Service	General Retail	An establishment serving as a point of sale of merchandise to the general public.
Retail and Personal Service	Artisan Manufacturing	It includes the application, teaching, making, or fabrication of crafts, art, or products by an artist, artisan or craftsperson either by hand or with minimal automation and may include direct sales to consumers. May include makerspaces.
Retail and Personal Service	Hotel, Motel	A building used for the purpose of furnishing for compensation more or less temporary lodging to the public, with or without meals, and having lodging accommodations.
Retail and Personal Service	Hotel-apartment	A building designed for or containing both guest units for transient guests and multiple family dwelling units and that maintains an inner lobby through which all guests and tenants must pass to gain access to dwelling or guest units.



Category	Use	Definition
Retail and Personal Service	Hotel-extended stay	A building or group of buildings containing ten (10) or more guests units where for compensation a majority of the guest units are intended to be used or hired for use by long term transient guests wherein the units contain sleeping and living accommodations including an equipped kitchen or kitchenette. Extended stay hotels may provide a public dining room or common breakfast room area or other public areas which are open and available to persons who are not guests of the establishment. Long-term transient guests are defined as guests whose stays are for a period of one continuous week or longer. An extended stay hotel is not a full service hotel, motel, inn or bed and breakfast, dormitory or rooming house or boarding house.
Retail and Personal Service	Meeting and Banquet Halls	A building, room, or portions thereof, that are used to provide space, whether rented, leased or otherwise made available, to any person, group, or entity for an event or function, that may or may not have food and beverage service, such as a conference or meeting, party, wedding, reception, fundraiser, or other similar occasion.
Retail and Personal Service	Pawn Shops	A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of such property.
Retail and Personal Service	Personal Services	An establishment offering specialized skilled-services for personal improvement or maintenance and repair of small personal goods, including but not limited to barbershops and salons, spas, merchandise repair, dry cleaning, and tailoring and alterations.
Retail and Personal Service	Retail Store with Gas	A retail establishment where gasoline is offered for sale as an accessory use not to exceed 4 stations and/or 8 pumps. Greater than 12 pumps is considered an automobile filling station, not an accessory use. EV charging is permitted as an accessory use. Carwash and auto repair/service are prohibited.
Retail and Personal Service	Body Modification	Any entity that provides body art services such as but not limited to tattooing, body piercing, microblading, and/or permanent for compensation, whether temporary or permanent.
Retail and Personal Service	Wholesale Sales	Any establishment that sells goods to other businesses, retailers, or resellers, rather than selling directly to consumers.

Category	Use	Definition
Utilities	Solar Facility	large-scale solar projects located on a one-acre or larger parcel generating electricity in an amount that exceeds 200% of the consumption of the uses on the parcel upon which they are constructed and whose excess electricity is fed into the electric grid.
Utilities	Broadcasting stations and towers	Broadcasting facility built primarily for the purpose of broadcasting radio, television, and radar signals.
Utilities	Small Cell Telecommunications Facilities	A compact infrastructure installation mounted on structures 50 feet or less in height, including their antennas; Each antenna is no more than three cubic feet in volume; All other associated wireless equipment is no more than 28 cubic feet in volume.
Utilities	Telecommunications Facilities	A telecommunications facility consists of one (1) or more antennas at a fixed location attached to a support structure and related equipment at that location, including but not limited to radio units, cabling, and power supplies. A telecommunications facility, once installed, includes the telecommunications facility support structure to which it is attached; in the case of a building, the telecommunications facility support structure includes only that portion of the building to which attachment is permitted. Equipment may be located on the ground, within a building or an exterior equipment cabinet. The term personal wireless service shall have the same meaning as under federal law. A telecommunications facility must not be staffed.

**Sec. 24-9. Zoning of annexed areas-Annexations**

Annexations applications and process are to be in accordance with the MD annotated code: local government article. Zoning for any area annexed to the city shall be established by and included as part of the adoption of the annexation resolution. The city council shall hear zoning recommendations for the subject area during the required hearing for annexation. The City Council public hearing for annexations shall be conducted following the planning commission’s recommendation and the Montgomery County Planning Board’s determination of land use / zoning consistency. The city planning commission shall submit its written recommendation to the city council at least fifteen (15) days prior to the hearing. The commission’s recommendation to the mayor and city council is limited to the review of the petition and annexation plan and must make recommendations on:

- Is the proposed city zoning appropriate; and
- Does the annexation and annexation plan comply with the City’s Master Plan and City goals; and
- Can the annexation plan be served by existing or planned public facilities?

The city may include in an annexation agreement conditions and limitations on the use of land and density of development otherwise allowed in the zoning district where the land is located.

Posting of notice. The applicant shall erect one or more signs to be supplied by the city giving notice of the number assigned to such application and the application type proposed. Such sign or signs shall be erected by the applicant on the property which is the subject of the application in accordance with the following specifications:

• If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property not more than fifteen (15) feet from the street right-of-way so as to be visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.

• If the property does not have frontage on an improved public street, then a sign shall be placed on the property by the applicant near the boundary of the property and visible from an abutting or confronting property. A second sign shall be placed by the applicant near to, and visible from, the improved portion of the nearest, most traveled street. The second sign shall indicate it is not posted on the subject property.

• The minimum size of each sign shall be two (2) feet in width by three (3) feet in height for all signs to be located abutting streets that are two (2) lanes or smaller. However, the minimum size of each sign shall be four (4) feet in width by three (3) feet in height, for all signs to be located abutting streets that are larger than two (2) lanes.

The sign(s) shall be erected as soon as the public hearing date is set, but in all cases the sign(s) shall be posted a minimum of fourteen (14) calendar days prior to the date of the public hearing. All signs posted shall be conspicuous and legible. The applicant shall file a written statement in the record verifying the posting.

At minimum, the sign shall contain the following information:

- The title of "Mayor and Council Hearing;"
- The type of application pending;
- The annexation application number;
- The date, and place of the hearing; and

- A phone number to call for additional information.

Ordinarily, such sign or signs shall be located on property which is the subject of the application. In the event the applicant is not the owner of the property and the owner refuses to permit a sign to be placed on the property, or in the event a sign on the property cannot be readily seen by the public, the city manager may direct that the sign or signs be placed on property other than the subject property in such locations as will give fair notice of the pendency of the application. All signs shall be posted in accordance with the following rules:

.The applicant shall be responsible for the reasonable maintenance of all signs posted. In the event a sign is removed, falls down, or otherwise is not posted correctly during the pendency of and including the date of the hearing, it shall be the responsibility of the applicant to re-post the sign. Following the hearing, it shall be the responsibility of the applicant to remove all signs posted within a five-day period following the hearing.

Publication of notice. In addition to the posting of notice, the city manager shall cause to be published notice of the time, date and place of the public hearing, together with a summary of the application on the City’s website at least 14 calendar days prior to the hearing date. Public notice of the annexation resolution public hearing shall be published:

- (i) 1. at least four times; or
- 2. if the total area of the proposed annexation is 25 acres or less, at least two times;
- (ii) at not less than weekly intervals; and
- (iii) in at least one newspaper of general circulation in the municipality and the area to be annexed.

With the hearing set no sooner than 15 days after the final required publication of the notice

Mailed notice. All owners and occupants, condominium association, homeowners’ association, or resident manager or management company of a rental project of properties within 200 feet of a property that is the subject of an annexation petition shall receive mailed notice of the public hearing application number, date, time, and location at least seven (7) calendar days prior to the hearing.

**Sec. 24-10. Conditional use permits.**

- (a) *Nature and purpose.* Conditional uses are those uses designated as permitted in specified zones in this chapter, but because of their nature, activities and potential effects, require additional regulations and specific approval, with or without conditions, by the city council by resolution ~~by the issuance of a special permit prior to their establishment.~~
- (b) *Required.* No building, other structure or land shall be used, nor shall any building or structure be constructed or converted, wholly or in part, nor off-street parking or access change made, to any use designated within any zoning district in the city as a conditional use until plans and specifications for such conditional use are approved ~~by the issuance of a conditional use permit~~ by the city council, as provided herein. ~~No building permit or occupancy permit shall be issued until a use permit, if required, has been issued.~~
- (c) *Application procedure.*
  - (1) ~~Conditional Use permit applications petitions shall be filed with the Planning Department separately or together with a sketch or schematic development plan, or a local map amendment application with the city council on forms provided by the city, and with documents, plans and other information that may be required by the city council and planning commission or its designee. The application shall be accompanied by such fee as is determined by resolution of the city council.~~
  - (2) If filed separately a Conditional Use permit applications shall be subject to public hearing before the city planning commission and city council, and shall require the same notification procedures as those applicable to Schematic Development Applications local map amendment applications, as set forth in Article VIII of this chapter. The city planning commission shall provide its recommendations to the city council, which shall become part of the evidence of record. 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.
  - (3) ~~Use permit applications may be filed and considered separately or together with a local map amendment application.~~
  - (4) ~~Approval of a conditional use permit shall constitute concept approval of a site development plan, and shall be followed by preliminary and final plan reviews by the city planning commission.~~
- (d) *Issuance, term, appeals, etc.*
  - (1) A conditional use permit shall be approved issued if the city council finds, based upon the evidence of record, that the use and/or plan of development for such use must ~~will not~~:
    - a. Be incompatible with design, scale and bulk of any proposed new structure or conversion of existing structures; as well as the intensity and of activity, traffic and parking conditions;  
~~Be incompatible or inharmonious with the general character of the neighborhood, considering the location, design, scale and bulk of any proposed new buildings or structures, or additions to existing buildings or structures, or conversion of existing buildings, intensity and character of activity, traffic, access and parking conditions, and number of similar uses.~~
    - b. Complies with all standards and requirements specifically set forth for such use as may be contained in this chapter and the development standards for the zone within which the intended use will be located;

Attachment: Retool Gaithersburg - Exhibit 3 Article I. In General Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)



- ~~Be detrimental to the use, peaceful enjoyment, economic value and development of surrounding properties.~~
- c. Not cause objectionable noise, vibrations, fumes, odors, dust, glare, chemical contamination, or physical activity and/or adversely the health or safety of persons residing, working or traveling in the neighborhood of the proposed use.
- d. Be permissible as a conditional use within the zone
- e. Will be consistent with either the master plan and/or the current City of Gaithersburg’s Strategic Plan.
- e. Constitute a violation of any provision of this Code or other applicable law or regulation.
- (2) The city council may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose, intent and requirements of this chapter.
- (3) No deviation from the approved conditional use plans so approved shall be permitted without the resubmission of a new application approval as provided in this section:
  - a. ~~No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application.~~
  - b. ~~Any deviation not deemed substantial by the city manager or his designee may be considered and acted upon by the city manager or his designee, following submission of an application to amend the use permit.~~
  - c. ~~Construction or operation shall commence within two (2) years of date of issuance or the use permit shall become void. For good cause shown, no more than a one-year extension, may be granted by the city manager or his designee.~~
  - d. ~~Whenever the city council finds that any permit previously approved has not been complied with, the city council is authorized, after written notice to the applicant, and any persons who appeared before the city council, or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, to suspend or revoke the use permit or take such other action as deemed necessary.~~
- (4) ~~All decisions regarding the issuance, denial, suspension or revocation of a conditional use permit shall be by resolution of the city council. Any party aggrieved by a decision on a conditional use permit shall have the right of appeal, exercisable within thirty (30) days from the date of the decision, to the circuit court for Montgomery County, and to the appellate courts of the state, in accordance with the Maryland Rules of Procedure governing administrative appeals.~~

Attachment: Retool Gaithersburg - Exhibit 3 Article I. In General Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

**Sec. 24-10A. Floating zones.**

(1) The following zoning districts are hereby designated and established as floating zones in the City of Gaithersburg:

Division 19. MXD Zone, Mixed Use Development

Division 21. CBD Zone, Central Business District

Division 22. CD Zone, Corridor Development

MCD, Mixed Commercial Development

(2) Floating zones may be affixed to property by local map amendment or by comprehensive zoning. In the case of comprehensive zoning, such zones may be affixed to property only where the location and placement of such zoning district has been recommended in a duly adopted land use master plan for the area in which the property is located. In addition, in the case of comprehensive zoning, such zones and their location and placement where recommended in a duly adopted master plan shall be conclusively presumed to have satisfied the standards set forth in section 24-10A(2 ~~3~~).

In the case of a comprehensive zoning, the existing vested final site plan(s) of record for a property comprehensively rezoned will count as sketch plan or schematic development plan as applicable for the new floating zone classification.

(3) The approval and placement of floating zones, through a zoning map amendment application, may only occur upon a findings by the city council defined under the specific floating zone or if no specific findings are defined, ~~that the application therefore:~~

- (a) Complies with the purposes and intent of the zone as stated in the zoning ordinance; and
- (b) As applied will be compatible and harmonious with existing and planned land uses in the surrounding area.

~~All properties previously zoned in the MXD Zone, CBD Zone, and CD Zone prior to the effective date of this ordinance shall have been conclusively presumed to have satisfied the standards set forth in section 24-10A(2) for approval of floating zones.~~

(4) Notwithstanding the provisions of section 24-10A(3) and (4) above, any schematic development plan, ~~concept plan (CD Zone) or Sketch or site development plan~~ shall only be approved upon satisfaction of the respective finding required for approval of such plans with or without conditions.

Application process for schematic development or sketch plan approval in floating zones.

A sketch or schematic development plan approval request not associated with a zoning map amendment 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 city council and city planning commission shall conduct a joint public hearing(s) on the application subject to the notification procedures defined below. 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.

The approval of a schematic development plan shall substitute for preliminary site plan approval and serve as preliminary subdivision approval.

Posting of notice. The applicant shall erect one or more signs to be supplied by the city giving notice of the number assigned to such application and the application type proposed. Such sign or signs shall be erected by the applicant on the property which is the subject of the application in accordance with the following specifications:

- If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property not more than fifteen (15) feet from the street right-of-way so as to be visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.
- If the property does not have frontage on an improved public street, then a sign shall be placed on the property by the applicant near the boundary of the property and visible from an abutting or confronting property. A second sign shall be placed by the applicant near to, and visible from, the improved portion of the nearest, most traveled street. The second sign shall indicate it is not posted on the subject property.
- The minimum size of each sign shall be two (2) feet in width by three (3) feet in height for all signs to be located abutting streets that are two (2) lanes or smaller. However, the minimum size of each sign shall be four (4) feet in width by three (3) feet in height, for all signs to be located abutting streets that are larger than two (2) lanes.

The sign(s) shall be erected as soon as the public hearing date is set, but in all cases the sign(s) shall be posted a minimum of fourteen (14) calendar days prior to the date of the public hearing. All signs posted shall be conspicuous and legible. The applicant shall file a written statement in the record verifying the posting.

At minimum, the sign shall contain the following information:

- The title of "Mayor and Council and Planning Commission Hearing;"
- The type of application pending;
- The application number;
- The date, and place of the hearing; and
- A phone number to call for additional information.

Ordinarily, such sign or signs shall be located on property which is the subject of the application. In the event the applicant is not the owner of the property and the owner refuses to permit a sign to be placed on the property, or in the event a sign on the property cannot be readily seen by the public, the city manager may direct that the sign or signs be placed on property other than the subject property in such locations as will give fair notice of the pendency of the application. All signs shall be posted in accordance with the following rules:

.The applicant shall be responsible for the reasonable maintenance of all signs posted. In the event a sign is removed, falls down, or otherwise is not posted correctly during the pendency of and including the date of the hearing, it shall be the responsibility of the applicant to re-post the sign. Following the hearing, it shall be the responsibility of the applicant to remove all signs posted within a five-day period following the hearing.

---

Publication of notice. In addition to the posting of notice, the city manager shall cause to be published notice of the time, date and place of the public hearing, together with a summary of the application on the City’s website at least 14 calendar days prior to the hearing date.

Mailed notice. All owners and occupants, condominium association, homeowners’ association, or resident manager or management company of a rental project of properties within 200 feet of a property that is the subject of a sketch or schematic development plan application shall receive mailed notice of the public hearing application number, date, time, and location at least seven (7) calendar days prior to the hearing.

### Sec. 24-22.1. Prohibited uses relating to vehicles on residential property and unimproved rights-of-way.

- (1) Parking of light commercial vehicles, non-freight trailers, and recreational vehicles on residential properties: ~~certain trucks at private dwellings~~: A residential property is limited to the parking of either one light commercial vehicle and one recreational vehicle or two light commercial vehicles on a driveway in the front yard. These vehicles may be parked in garages or side and rear yards on a stabilized surface.
- Mobile commercial use vehicles (food trucks) owned by a property's resident may be parked overnight on a front yard driveway but may not operate for commercial purposes.
  - Tow trucks, trailers for landscape/construction services, and bucket trucks are prohibited from being parked on residential properties.
  - Leisure vehicles such as boats and snowmobiles may not be parked in the front yards unless loaded on a non-freight trailer,
  - Motor homes, travel trailers and campers parked on a residential lot cannot be occupied overnight if parked in the front yard and cannot be occupied for more than seven days in a month when parked on a lot with a residential dwelling.
  - Heavy commercial vehicles and recreational vehicles are prohibited from parking on residential streets, except for temporary parking for loading and unloading merchandise, freight, goods or products or when the owner or operator of such vehicle is actually engaged in rendering a service at or to such premises.

~~Any non-freight trailer and/or recreational vehicle is only permitted to be parked within a side or rear yard. No person shall stop, stand or park any motor vehicle or trailer designed or used for carrying more than three-quarters of a ton of freight, goods, products or merchandise within any yard area of residentially zoned land containing a single family dwelling,~~

- (2) Parking or storage of dismantled, inoperative or unlicensed vehicles on residential property: No person shall store or maintain or allow to be stored or maintained any dismantled or inoperative motor vehicle of any kind, or any motor vehicle whose registration has expired or which does not bear current license plates upon any property within the city zoned residential unless such vehicle is stored within a completely enclosed garage or building.

A Light Commercial Vehicle: Any motor vehicle or trailer used for carrying freight or merchandise, or used in the promotion of any commercial enterprise that is not a heavy commercial vehicle and not used as an office or containing an entry for transactions. A light commercial vehicle is not a recreational vehicle, a motor vehicle owned or operated by the County or other government agency, or a machine or vehicle for agricultural use.

Heavy commercial vehicles: a gross vehicle weight of more than 10,000 pounds; a manufacturer's rated capacity of more than one ton; more than 21 feet long (including any object loaded onto the vehicle); or are more than eight feet high (including racks, but not antennas).



---

Recreational Vehicle: A licensed and registered vehicle that is used for the leisure of the operator and guests and not used as an office or contain an entry for transactions. Recreation vehicle includes:

1. motor homes;
2. travel trailers;
3. campers or camping trailers including truck inserts and collapsible units; or
4. non-freight trailers as defined by the Maryland Motor Vehicle Administration, used to transport other leisure equipment such as a boat, horse, motorcycle, show car, race car, snowmobile, or bicycle.

Use	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2	MXD	CBD	CD
<b>Agricultural</b>																		
Farms													P	P	P			
Large-scale Indoor Agriculture												P	P	P	P			
Small-scale Indoor Agriculture												P	P	P	P	P	P <sup>1</sup>	P
<b>Automotive</b>																		
Vehicle Rental Establishments										P	P					P		P
Automobile Repair and Service Establishments										SE	SE	P	P				SE <sup>1</sup>	P
Automobile Sales Establishments										P	P							P
Automobile Filling Station										P	P	P	P			P	P <sup>1</sup>	P
Car Wash										P	P	P	P				P <sup>1</sup>	P
<b>Entertainment and Recreational</b>																		
Gambling Establishments										SE	SE	SE				C		C
Fortunetelling Businesses										P	P	P						
Adult-oriented establishment												P	P					
Clubs and lodges					P					P	P					P	P	P
Indoor and Outdoor Amusement and Recreational Facilities										P	P	P	P	P	P	P	P	P
Health Clubs									P	P	P	P				P	P	P
Theatre	SE									P	P	P		P	P	P	P	P

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool

1. Prohibited in the Olde Towne District.

Use	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2	MXD	CBD	CD
<b>Industrial</b>																		
Small-Scale Recycling												P	P	SE	SE			
Waste Processing - Private												SE	SE					
Data Center or Data/CryptoCurrency Mining												C	C					
Equipment and Machinery Sales and Rental Establishment												P	P				P <sup>1</sup>	
Heavy Industrial												P	P					
Light Industrial										P	P	P	P	P	P	P <sup>2</sup>	SE	P <sup>2</sup>
Medium Industrial												P	P	P	P			C
Off-street Parking Lot												P	P				P	
Self-storage												P	P			P	P <sup>1</sup>	
<b>Institutional</b>																		
Art and Cultural Centers				P					P	P	P					P	P	P
Care Homes	P	SE	SE	SE <sup>3</sup>	SE	SE	SE	P	SE <sup>3</sup>		SE					P	SE	P
Cemeteries	SE															C		C
Educational Institutions										P	P		P	P	P	P	P	P
Hospitals													P	P	P	C		P
Religious Uses	P	P	P	P	P	P	P	P	P	P	P					P	P	P
<b>Professional Business Services</b>																		
Veterinary Hospital and Clinic										P	P					P	P	P
Banks										P	P			P	P	P	P	P
Research, Sciences, and Biomedical Industries.										P	P	P	P	P	P	P	P	P
General Office				P					P	P	P	P	P	P	P	P	P	P
Medical Office				P					P	P	P	P	P	P	P	P	P	P
Medical Clinic										P	P			P	P	P	P	P

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool

1. Prohibited in the Olde Towne District.
2. Limited to Integrated Light Manufacturing Uses only.
3. Can only house up to 8 individuals.

Use	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2	MXD	CBD	CD
Public Use																		
Public Use	P	P	P	P	P	P	P	P	P	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P	P	P
Residential																		
Housing for the Elderly	P	SE	SE	SE	SE	SE	SE	P	SE							P	P	P
Accessory Dwelling Unit <sup>5</sup>	P	P	P	P	P	P	P									P	P	P
Dwelling, Duplex	P		P	P	P	P			P							P	P	P
Dwelling, Live/Work				P					P							P	P	P
Dwelling, Multi-family Attached					P	P	P	P	P							P	P	P
Dwelling, Stacked					P	P	P	P	P							P	P	P
Dwelling, Quadplex					P	P	P	P	P							P	P	P
Dwelling, Triplex					P	P	P	P	P							P	P	P
Dwelling, Single-Family Detached	P	P	P	P	P	P			P							P	P	P
Dwelling, Townhouse					P	P	P	P	P							P	P	P
Dwelling, Bungalow/Cottage Court																P		P
Roominghouse		SE <sup>6</sup>				P												
Boardinghouse		SE <sup>6</sup>		SE		P										C	SE	C
Renting of Rooms <sup>5</sup>	P	P	P		P	P	P	P								P	P	P
Short Term Rentals <sup>5</sup>	P	P	P	SE	P	P	P	P	P							P	P	P

4. Public residential uses are not permitted.

5. Accessory use only.

6. Subject to the following conditions:

(a)Special exceptions shall be temporary, renewable every three (3) years, provided there is substantial evidence that there is adequate offstreet parking to meet the needs of the occupants and no conditions that will affect adversely the use or development of adjacent properties in the neighborhood.

(b)The structure is at least twenty (20) years old and in good condition.

Use	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2	MXD	CBD	CD
Retail and Personal Service																		
Check Cashing and Payday Loan Establishments																		
Day Care Center				SE					SE	P	P		P	P	P	P	P	P
Small Family Day Care <sup>7</sup>	P	P	P	P	P/SE	P/SE	P/SE	P/SE	P/SE							P/SE	P/SE	P/SE
Large Family Day Care <sup>8</sup>	SE	SE	SE	SE	SE	SE	SE	SE	SE							SE	SE	SE
Firearm Sales										SE	SE	SE	SE			C		C
Instructional Facilities				P					P	P	P			P	P	P	P	P
Animal Boarding and Grooming Establishments									P	P	P	P	P	P	P	P	P	P
Bed and Breakfast	P	P	P	P	P	P	P	P	P							P	P	P
Cremation Services											C <sup>9</sup>	C <sup>10</sup>	C <sup>10</sup>			C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>
Restaurant										P	P		P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>	P	P	P
Funeral Homes				SE					SE	P	P	P	P			C	P	P
General Retail				P					P	P	P		P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>	P	P	P
Artisan Manufacturing				P					P	P	P	P	P	P	P	P	P	P
Hotel, Motel										P	P					P	P	P
Hotel-apartment																P	P	P
Hotel-extended stay										P	P						P	P
Meeting and Banquet Halls										P	P		P	P	P	P	P	P
Pawn Shops													SE					
Personal Services				P					P	P	P		P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>	P	P	P
Retail Store with Gas										P	P	P	P			P	SE <sup>1</sup>	P
Body Modification				P					P	P	P					P	P	P
Wholesale Sales										P	P					P	P	P

- 1. Prohibited in the Olde Towne District.
- 7. Accessory use only. Permitted by-right in all single-family detached, duplex, townhouse, and stacked dwellings. Special exception in all multi-family attached, triplex, and quadplex dwellings. Prohibited in all live/work dwellings.
- 8. Accessory use only. Prohibited in all multi-family attached, triplex, quadplex, and live/work dwellings.
- 9. May only be part of a planned or existing funeral home or funeral parlor. May not be stand-alone.
- 10. May be stand-alone or part of a planned or existing funeral home or funeral parlor.
- 11. Must be integrated with, incidental to and supportive of other uses in an office or industrial park setting.



P=Permitted Use SE=Special Exception Use C=Conditional Use

Use	R-A	R-90	R-6	RB	RP-T	R-20	R-18	R-H	CB	C-1	C-2	I-1	I-3	E-1	E-2	MXD	CBD	CD
Utilities																		
Solar Facility	P <sup>12</sup>											C	C					
Broadcasting stations and towers											SE	P	P		SE	C		
Small Cell Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Telecommunications Facilities	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P		SE	SE	SE	SE

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool

12. Must be located on public land or private land 5 acres in size or larger.

# Calibration Worksheets for Residential Zones

## Table of Contents

Generally Applicable Provisions for Residential Zones	2
RA ZONE.....	3
R-90 ZONE.....	4
R-6 ZONE.....	5
RB ZONE .....	6
RP-T ZONE .....	7
R-20 ZONE.....	8
R-18 ZONE.....	9
R-H ZONE.....	11

The following tables display proposed updates alongside existing standards. Proposed updates are based on public input received so far, and feedback/communication received from the Steering Committee.

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

## Generally Applicable Provisions for Residential Zones

- **Driveways.** Driveways will be regulated through the parking standards. Regulations will limit the width of driveways within a front yard. A limit based on the lot frontage will effectively prevent a lot's entire front yard from being paved as a driveway.
- **Buffering.** Buffering/buffer yard requirements will be addressed within the Site Standards article, Landscaping section.
- **Effect of final site plan approvals.** The draft ordinance will include generally applicable language stating along these lines:
  - "All dimensional standards established as part of a final site plan approved by the Planning Commission shall be considered conforming. Amendments may be approved in conformance with the final site plan's established dimensional standards or with any current applicable standards; whichever is least restrictive."
- **Building height definition.** The draft ordinance will clarify that the measurement of building height will start at grade level and will not include basement levels.
- **Asbury development.** For the R-90 Zone, standards that apply to the Asbury development/housing for the elderly will be established via special use standards. Rephrased: "housing for the elderly" in the R-90 Zone will have use-specific standards that modify (or exempt) the use from certain R-90 dimensional standards.
- **Townhouses in R-18 Zone.** Provisions specific to townhouse uses in the R-18 Zone will be carried forward (and can be adjusted) within the use-specific standards section.

## R-A ZONE

R-A Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.)	<i>General:</i> 100,000 square feet  <i>Single Family Detached:</i> 20,000 square feet	15,000 square feet
Lot Frontage (Min.) <sup>(1)</sup>	-	75 feet
Front Setback (Min.)	30 feet	(no change)
Side Setback (Min.) <sup>(2)</sup>	15 feet	(no change)
Rear Setback (Min.)	30 feet	(no change)
Building Height (Max.)	<i>Lot Under 100,000 Sq. Ft.:</i> 35 feet  <i>Lot Over 100,000 Sq. Ft.:</i> No Limit	<i>Residential:</i> 2.5 stories  <i>Non-residential:</i> No limit
Overall Impervious Coverage of Lot (Max.) <sup>(3)</sup>	(new)	50%
Building Coverage of Lot (Max.) <sup>(3)</sup>	25%	35%
Front Yard Impervious Coverage (Max.) <sup>(3)</sup>	(new)	35%
Parking	See Parking Standards Worksheet	
<b>Table Notes:</b>		
(1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.		
(2) Within townhouse developments, side setback standards only apply to end-unit townhouses.		
(3) This provision only applies to single-family detached and duplex dwellings.		

## R-90 ZONE

R-90 Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.) <sup>(1)</sup>	<i>Cluster:</i> No minimum  <i>Single-family:</i> 9,000 square feet	7,500 square feet
Lot Frontage (Min.) <sup>(1) (2)</sup>	<i>Generally:</i> 75 feet  <i>Conditional:</i> 60 feet if lots are part of land resubdivided by plat prior to March 1, 1946; and existence of other lots by plat or deed with width less than 75 feet along same street block	50 feet
Front Setback (Min.) <sup>(1)</sup>	<i>Cluster:</i> No minimum  <i>Generally:</i> 30 feet	20 feet
Side Setback (Min.) <sup>(1) (4)</sup>	<i>Cluster:</i> No minimum  <i>Generally:</i> 10 feet	5 feet
Rear Setback (Min.) <sup>(1)</sup>	<i>Cluster:</i> No minimum  <i>Generally:</i> 30 feet	20 feet
Building Height (Max.) <sup>(1)</sup>	<i>Generally:</i> 35 feet (2.5 stories)	<i>Residential:</i> 3.5 stories  <i>Non-residential:</i> 45 feet
Overall Impervious Coverage of Lot (Max.) <sup>(3)</sup>	<b>(proposed new)</b>	70%
Building Coverage of Lot (Max.) <sup>(1) (3)</sup>	<i>Generally:</i> 30%	50%
Front Yard Impervious Coverage (Max.) <sup>(3)</sup>	<b>(new)</b>	35%
Parking <sup>(1)</sup>	See Parking Standards Worksheet	
<b>Table Notes:</b>		
(1) Standards for Asbury development/housing for the elderly will be separately defined in special use standards.		
(2) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.		
(3) This provision only applies to single-family detached and duplex dwellings.		
(4) Within townhouse developments, side setback standards only apply to end-unit townhouses.		



## R-6 ZONE

R-6 Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.)	<i>Generally:</i> 20,000 square feet  <i>Waivers:</i> may be waived if abutting an existing or approved development in this zone and will provide a compatible extension of the existing or approved development	3,000 square feet
Lot Frontage (Min.) <sup>(1)</sup>	-	30 feet
Front Setback (Min.)	-	10 feet
Side Setback (Min.) <sup>(3)</sup>	At least one side setback: 10 feet	(no change)
Rear Setback (Min.)	-	5 feet
Building Height (Max.)	35 feet	3.5 stories
Overall Impervious Coverage of Lot (Max.) <sup>(2)</sup>	<b>(new)</b>	60%
Building Coverage of Lot (Max.) <sup>(2)</sup>	40%	50%
Front Yard Impervious Coverage (Max.) <sup>(2)</sup>	<b>(new)</b>	35%
Parking	See Parking Standards Worksheet	
<b>Table Notes:</b>		
(1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.		
(2) This provision only applies to single-family detached and duplex dwellings.		
(3) Within townhouse developments, side setback standards only apply to end-unit townhouses.		

**RB ZONE**

RB Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.)	-	7,250 square feet
Lot Frontage (Min.) <sup>(1)</sup>	-	(no change)
Front Setback (Min.)	-	10 feet
Side Setback (Min.) <sup>(3)</sup>	-	5 feet
Rear Setback (Min.)	-	20 feet
Building Height (Max.)	40 feet (3 stories)	<i>Residential:</i> 3.5 stories <i>Non-residential:</i> 45 feet
Overall Impervious Coverage of Lot (Max.) <sup>(2)</sup>	<b>(new)</b>	75%
Building Coverage of Lot (Max.) <sup>(2)</sup>	30%	50%
Front Yard Impervious Coverage (Max.) <sup>(2)</sup>	<b>(new)</b>	35%
Parking	See Parking Standards Worksheet	
<b>Table Notes:</b> (1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way. (2) This provision only applies to single-family detached and duplex dwellings. (3) Within townhouse developments, side setback standards only apply to end-unit townhouses		

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

## RP-T ZONE

RP-T Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.)	-	<i>Detached or semi-detached dwelling:</i> 4,000 square feet  <i>Townhomes:</i> 1,400 square feet
Lot Frontage (Min.) <sup>(1)</sup>	-	-
Front Setback (Min.)	-	10 feet
Side Setback (Min.) <sup>(2)</sup>	-	<i>Adjoining townhomes:</i> 0 feet  <i>Detached or semi detached dwellings, or end-unit townhomes:</i> At least one side setback of 5 feet
Rear Setback (Min.)	-	<i>Townhomes attached across rear lot lines:</i> 0 feet  <i>All other dwellings:</i> 10 feet
Building Height (Max.)	35 feet	<i>Detached or semi-detached dwellings:</i> 2.5 stories  <i>Townhomes, attached dwellings, and multi-family dwellings:</i> 4 stories
Overall Impervious Coverage of Lot (Max.) <sup>(3)</sup>	(new)	75%
Building Coverage of Lot (Max.) <sup>(3)</sup>	-	-
Parking	See Parking Standards Worksheet	
<b>Table Notes:</b>		
(1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.		
(2) Within townhouse developments, side setback standards only apply to end-unit townhouses.		
(3) This provision only applies to single-family detached and duplex dwellings.		
(4) Townhouses, apartments, two-over-two dwellings, and similar types of dwellings are exempt from this standard.		

## R-20 ZONE

R-20 Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Lot Area (Min.)	<p><i>For Townhouse:</i> 1,800 square feet</p> <p><i>For Townhouse Attached to Another in the Rear:</i> 1,200 square feet</p>	<p><i>Detached and semi-detached dwellings:</i> 4,000 square feet</p> <p><i>Townhomes:</i> 1,800 square feet</p> <p><i>Townhomes attached across rear lot lines:</i> 1,200 square feet</p>
Lot Frontage (Min.) <sup>(1)</sup>	-	-
Front Setback (Min.)	<p><i>Generally:</i> 30 feet + 1 foot for every foot of building height above 30 feet)</p> <p><i>For Townhouse Development Approved on or after May 2, 1979:</i> None</p>	10 feet
Side Setback (Min.) <sup>(3)</sup>	<p><i>Generally:</i> 20 feet + 1 foot for every foot of building height above 30 feet</p> <p><i>For Townhouse:</i> None</p>	5 feet
Rear Setback (Min.)	<p><i>Generally:</i> 30 feet + 1 foot for every foot of building height above 30 feet)</p> <p><i>For Townhouse attached at the rear to another:</i> None</p>	10 feet
Building Height (Max.)	45 feet (3 stories)	<p><i>Detached or semi-detached dwellings:</i> 2.5 stories</p> <p><i>Townhomes or attached dwellings:</i> 4 stories</p> <p><i>Multi-family dwellings:</i> 6 stories</p>
Overall Impervious Coverage of Lot (Max.) <sup>(2)</sup>	<b>(new)</b>	80%
Building Coverage of Lot (Max.) <sup>(2)</sup>	40%	60%
Front Yard Impervious Coverage (Max.) <sup>(2)</sup>	<b>(new)</b>	35%
Parking	See Parking Standards Worksheet	
<b>Table Notes:</b>		
(1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.		
(2) This provision only applies to single-family detached and duplex dwellings.		
(3) Within townhouse developments, side setback standards only apply to end-unit townhouses.		

## R-18 ZONE

R-18 Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed by ZoneCo
Lot Area (Min.)	<p><i>For Townhouse:</i> 1,800 square feet</p> <p><i>For Townhouse Attached to Another in the Rear:</i> 1,200 square feet</p>	(no change)
Lot Frontage (Min.) <sup>(1)</sup>	<i>For Townhouse:</i> 18 feet	-
Front Setback (Min.)	<p><b>APPLICABLE TO OTHER MULTIFAMILY</b> <i>Where adjoining residential primary or collector street for other multifamily:</i> 30 feet + 1 foot for every foot of building height above 35 feet</p> <p><i>Where adjoining residential secondary road or a private road for other multifamily:</i> 20 feet + 1 foot for every foot of building height above 35 feet</p> <p><i>Waivers:</i> additional foot or yard may be waived depending on site characteristics</p>	10 feet
Side Setback (Min.) <sup>(2)</sup>	<p><b>APPLICABLE TO OTHER MULTIFAMILY</b> <i>For other multifamily:</i> 20 feet + 1 foot for every foot of building height above 35 feet</p> <p><i>Where adjoining residential zone with lower density:</i> same as minimum depth of rear yard in the zone in adjoining zone</p> <p><i>Waivers:</i> additional foot of yard may be waived depending on site characteristics</p>	5 feet
Rear Setback (Min.)	<p><b>APPLICABLE TO OTHER MULTIFAMILY</b> <i>Where adjoining residential primary or collector street for other multifamily:</i> 30 feet + 1 foot for every foot of building height above 35 feet</p> <p><i>Where adjoining residential secondary road or a private road or other multifamily:</i> 20 feet + 1 foot for every foot of building height above 35 feet</p> <p><i>Where adjoining residential zone with lower density for other multifamily:</i> Same as minimum depth of rear yard in the zone in adjoining zone</p> <p><i>Waivers:</i> additional foot or yard may be waived depending on site characteristics</p>	10 feet



R-18 Zone Dimensional Standards		
Building Height (Max.)	<p><i>For townhouse: 3 stories</i></p> <p><i>For other multifamily: 80 feet</i></p>	<p><i>Townhouses: 4 stories</i></p> <p><i>Multi-family dwellings: 6 stories</i></p> <p><i>Non-residential uses: 80 feet</i></p>
Building Coverage of Lot (Max.) <sup>(3)</sup>	-	-
Parking	See Parking Standards Worksheet	
<p><b>Table Notes:</b></p> <p>(1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.</p> <p>(2) Within townhouse developments, side setback standards only apply to end-unit townhouses.</p> <p>(3) This provision only applies to single-family detached and duplex dwellings.</p>		

**R-H ZONE**

R-H Zone Dimensional Standards		
Name of Standard	Existing Requirement	Proposed
Density (Max.)	54 DU/acre	(no change)
Lot Frontage (Min.) <sup>(1)</sup>	-	-
Front Setback (Min.)	<p><i>Townhouse:</i> None</p> <p><i>Generally:</i> 30 feet + 1 foot for every foot of building height above 30 feet up to a maximum of 75 feet wide for buildings up to 100 feet tall</p> <p><i>Waiver:</i> Reduction may be granted where site or adjacent site characteristics are such that compliance with such minimum requirements is not required in the public interest</p>	30 feet
Side Setback (Min.) <sup>(2)</sup>	<p><i>Generally:</i> 10 feet + 1 foot for every foot of building height above 30 feet up to a maximum of 75-foot-wide yard for buildings up to 100 feet tall; 10 feet + 10 feet for every 30 feet of building height above 100 feet</p> <p><i>For townhouse:</i> None</p> <p><i>Waiver:</i> Reduction may be granted where site or adjacent site characteristics are such that compliance with such minimum requirements is not required in the public interest</p>	10 feet <sup>(2)</sup>
Rear Setback (Min.)	<p><i>Generally:</i> 10 feet + 1 foot for every foot of building height above 30 feet up to a maximum of 75-foot-wide yard for buildings up to 100 feet tall; 10 feet + 10 feet for every 30 feet of building height above 100 feet</p> <p><i>For townhouse attached at the rear to another:</i> None</p> <p><i>Waiver:</i> Reduction may be granted where site or adjacent site characteristics are such that compliance with such minimum requirements is not required in the public interest</p>	20 feet <sup>(3)</sup>
Building Height (Max.)	-	-
Building Coverage of Lot (Max.) <sup>(4)</sup>	-	-
Parking	See Parking Standards Worksheet	

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

**R-H Zone Dimensional Standards**

**Table Notes:**

- (1) Lot frontage along internal parking areas or drive aisles may count for this requirement in place of frontage along a right-of-way.
- (2) Within townhouse developments, side setback standards only apply to end-unit townhouses.
- (3) The minimum required setback shall increase by 1 foot for every foot of building height above 72 feet.
- (4) This provision only applies to single-family detached and duplex dwellings.

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

## Calibration Worksheets for Commercial Zones

### Table of Contents

CB Zone .....	2
C-1 ZONE.....	3
C-2 ZONE.....	4

The following tables display proposed updates alongside existing standards. Proposed updates are based on public input received so far, and feedback/communication received from the Steering Committee.

## CB Zone

Name of Standard	Existing	Proposed
Min. Lot Area (sq. ft.)	6 DU/acre for one-unit dwellings; 18 DU/acre for multi-unit dwellings  (Equivalent: $43,560 / 18 = \sim 2,400$ sf.)	-
Floor Area Ratio (FAR) (unit/acre)	-	-
Lot Width Frontage (min. ft.)	-	-
Min. Front Setback (ft.)	10	5
Min. Rear Yard Depth (ft.)	20	10; 20 if next to res. zone
Min. Side Yard Depth (ft.)	0; 20 if next to res. zone	0; 20 if next to res. zone
Max. Impervious Coverage for Front/Side Yard	-	-
Min. Distance between Buildings (ft.)	-	-
Min. Building Setback (ft.)	-	-
Max. Building Height (ft.)	45 feet (4 stories)	<i>Residential:</i> 5 stories  <i>Commercial:</i> 60 feet
Max. Lot/Building Coverage (%)	35%	Non-Residential Structures: 70%
Parking	See Parking Standards Worksheet	



### C-1 ZONE

Name of Standard	Existing	Proposed
Lot Area (Min.)	-	-
Lot Width (Min.)	-	-
Front Setback (Min.)	30 feet	10 feet
Side Setback (Min.)	0 feet; if adjoins a residential zone, a side yard shall be required same size as is required in the adjoining residential zone	0 feet; 20 feet if adjoins a residential zone
Rear Setback (Min.)	20 feet	20 feet
Building Height (Max.)	45 feet	60 feet
Max. Lot/Building Coverage (%)	40%	70%
Additional Site Standards	-	Mandatory pedestrian connections (see note in next column)
Parking	See Parking Standards Worksheet	

**C-2 ZONE**

Name of Standard	Existing	Proposed
Lot Area (Min.)	FAR 1.5; can exceed with City Council approval per 24-121	Remove FAR
Lot Width Frontage (Min.)	-	-
Front Setback (Min.)	-	-
Side Setback (Min.)	0 feet; if adjoins a residential zone, a side yard shall be required same size as is required in the adjoining residential zone	0 feet; 30 feet if adjoins a residential zone
Rear Setback (Min.)	-	0 feet; 30 feet if adjoins a residential zone
Building Height (Max.)	10 stories; can exceed with City Council approval per 24-121	150 feet
Max. Lot/Building Coverage (%)	-	70%
High Rise Optional Approval	See 24-121. for full text	Remove
Additional Site Standards	-	Mandatory pedestrian connections (see note in next column)
Parking	See Parking Standards Worksheet	

# Calibration Worksheets for Employment Zones

## Table of Contents

I-1/I-3 Zones .....2

E-1/E-2 Zones .....3

The following tables display proposed updates alongside existing standards. Proposed updates are based on public input received so far, and feedback/communication received from the Steering Committee.

### I-1/I-3 Zones

Name of Standard	Existing	Proposed
Min. Lot Area (sq. ft.)	<p>I-1: No Standard</p> <p>I-3: 2 acres</p>	<p>I-1: No Standard</p> <p>I-3: 1 acre</p>
Min. Lot Frontage	<p>I-1: 75 feet (with direct roadway access)</p> <p>I-3: None</p>	-
Min. Front Setback (ft.)	<p>I-1: No setbacks. 30 feet (front) adjacent res. property</p> <p>I-3: 20 feet (front) + additional for height; 30 feet adjacent res. property</p>	<p>I-1: 0 feet</p> <p>I-3: 20 feet</p>
Min. Rear Yard Depth (ft.)	<p>I-1: No setbacks. 75 feet (side and rear) adjacent res. property</p> <p>I-3: 50 feet + additional for height; 75 feet abutting res. property</p>	<p>I-1: 0 feet; 60 feet when abutting a residential property or R zone</p> <p>I-3: 50 feet; 60 feet when abutting a residential</p>
Min. Side Yard Depth (ft.)	<p>I-1: No setbacks. 75 feet (side and rear) adjacent res. property</p> <p>I-3: 50 feet + additional for height; 75 feet abutting res. property</p>	<p>I-1: 0 feet; 60 feet when abutting a residential property or R zone</p> <p>I-3: 50 feet; 60 feet when abutting a residential</p>
Min. Distance between Buildings (ft.)	-	-
Max. Building Height (ft.)	<p>I-1: 45 feet</p> <p>I-3: 110 feet; 45 feet when abutting residential</p>	<p>I-1: 45 feet</p> <p>I-3: 110 feet</p>
Max. Lot/Building Coverage (%)	<p>I-1: 75%</p> <p>I-3: 25%</p>	<p>I-1: 75%</p> <p>I-3: 75%</p>

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

## E-1/E-2 Zones

Name of Standard	Existing (E-1 and E-2)	Proposed (E-1 and E-2)
Lot Area (Min.)	1 acre	20,000 sf
Lot Frontage (Min.)	-	-
Front Setback (Min.)	30 feet	20 feet
Side Setback (Min.)	20 feet (additional setback above 20 feet)	20 feet; 60 feet when building height exceeds 60 feet, and property abuts a residential property or R zone
Rear Setback (Min.)	20 feet (additional setback above 20 feet)	20 feet; 60 feet when building height exceeds 60 feet, and property abuts a residential property or R zone
Building Height (Max.)	85 feet	90 feet
Min. Green Space	30%	-
Max. Lot/Building Coverage (%)	50%	50%

Part II - THE CODE  
Chapter 24 - ZONING  
ARTICLE III. - REGULATIONS APPLICABLE TO PARTICULAR ZONES  
DIVISION 21. CBD ZONE, CENTRAL BUSINESS DISTRICT

*DIVISION 21. CBD ZONE, CENTRAL BUSINESS DISTRICT*

**Sec. 24-160F.1. Purpose of zone.**

The CBD Zone is intended to foster revitalization by promoting a desirable mix of commercial, office and residential uses, and giving incentives and providing public amenities, for attracting of a variety of leisure uses and activities to meet the needs and requirements of residents, workers, shoppers and visitors to Olde Towne, as well as to accomplish the following purposes:

- (a) To encourage development in accordance with the adopted master plan by permitting an increase in density and intensity of use, flexibility in use, and layout where development is in substantial conformity with the ~~Olde Towne~~ Master Plan and the site plan is approved by the city planning commission.
- (b) To permit a flexible response of development to the market, as well as to provide incentives for the development of a variety of land uses and activities in the central business district to meet the needs and requirements of residents, workers and shoppers.
- (c) To encourage designs which are in conformity with the architectural guidelines as adopted by the mayor and city council.
- (d) To promote the effective use of transit facilities in the central business district and pedestrian access thereto.
- (e) To promote improved and efficient pedestrian and vehicular circulation and consolidated parking facilities.
- (f) To assist in the development and redevelopment of adequate residential areas for people with a range of different incomes.
- (g) To encourage the provision of public amenities as part of development proposals.
- (h) To encourage land assembly and the most desirable use of land in accordance with the ~~Olde Towne~~ Master Plan.
- (i) Promote equitable revitalization of the central business district.

**Sec. 24-160F.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 designated in the below subsections (b), (c) and (d) as a prohibited, special exception, or conditional use.~~
- (b) ~~Prohibited uses. The following uses are prohibited in the CBD zone.~~
  - (1) ~~Automobile, motorcycle, marine, and truck repair and services within the Olde Towne District, as defined in section 24-161(a).~~
  - (2) ~~Automobile, motorcycle, marine, and truck body repair shops within the Olde Towne District, as defined in section 24-161(a).~~



- ~~(3) Automobile, motorcycle, marine, and truck sales, except as permitted by special exception as an Accessory Use, as permitted in the below subsections (c)(8) and (9).~~
- ~~(4) Landscaping and excavation contractor business involving the use of heavy trucks and equipment.~~
- ~~(5) Pawn shops.~~
- ~~(6) Tattoo parlors.~~
- ~~(7) Reserved.~~
- ~~(8) Fortunetelling business.~~
- ~~(9) Self-storage facilities within the Olde Towne District, as defined in section 24-161(a).~~
- ~~(c) *Special exception uses.* The following uses shall be special exception uses in the CBD 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 subsection (a):~~
  - ~~(1) Boarding homes.~~
  - ~~(2) Care homes.~~
  - ~~(3) Laboratories, provided such use meets all federal, state and local safety regulations.~~
  - ~~(4) Consignment shops.~~
  - ~~(5) Private educational institutions.~~
  - ~~(6) Stealth telecommunications facilities or telecommunications facilities located entirely within a structure, subject to the requirements of section 24-167A(D)(2).~~
  - ~~(7) 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.~~
  - ~~(8) Automobile, motorcycle, marine, and truck repair and services, except within the Olde Towne District, as defined in section 24-161(a), as provided in the above subsection (b)(1). Sales of individual automobiles, motorcycles, marine vehicles or trucks created, built or modified on-site may be permitted as an Accessory Use.~~
  - ~~(9) Automobile, motorcycle, marine, and truck body repair shops, except within the Olde Towne District, as defined in section 24-161(a), as provided in the above subsection (b)(2). Sales of individual automobiles, motorcycles, marine vehicles or trucks created, built or modified on-site may be permitted as an accessory use.~~
- ~~(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 use may be allowed as a permitted use in any other zones referred to in the above subsection (a):~~
  - ~~(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.~~

**Sec. 24-160F.3. Minimum locational requirements.**

No land shall be classified in the central business district unless the land is identified for such zoning in an approved and adopted city master plan.

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

- (a) ~~Height of buildings and structures.~~
  - a. No residential building ~~or structure~~ in this zone may exceed a total of six (6) ~~four (4)~~ stories in height, exclusive of mechanical or other equipment placed on the roof, ~~except as may be provided in section 24-160F.5 of this Code.~~
  - b. No non-residential building in this zone may exceed 90 feet in height, exclusive of mechanical or other equipment placed on the roof.
- (b) ~~Setbacks of buildings and/or structures.~~ No setbacks are required, except as provided in the ~~Olde Towne Master Plan or as required by the Planning Commission and established by site plan. or this section. Where setbacks are required, the distances may be reduced as provided for in section 24-160F.5.~~
  - (1) (c) 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 central business district 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 central business district, the setback shall be at least fifteen (15) feet.~~

**Sec. 24-160F.5. Waiver of development standards.**

- (a) ~~The city council Planning Commission may, by resolution, waive the building and structure height or setback requirements in the central business district. and allow a~~ If a waiver is granted, the height must not to exceed nine (9) stories for residential buildings and 135 feet for non-residential buildings. Waiver's may be granted upon a finding that:
  - (1) The applicant will provide either on-site or off-site public amenities to further enhance the central business district and the purposes of the CBD Zone; and
  - (2) The ~~additional height waiver~~ waiver is necessary to implement the master plan ~~and the Olde Towne Master Plan~~, or attract an appropriate and compatible type or caliber of user; and
  - (3) The ~~additional height waiver~~ waiver will be compatible with existing and proposed adjacent land uses and ~~would not detrimentally impact those adjacent uses or public facilities serving the CBD.~~
- (b) ~~The city council may, by resolution, waive setback requirements in the CBD Zone, upon a finding that:~~
  - (1) ~~The applicant will provide either on-site or off-site public amenities to further enhance the central business district and the purposes of the CBD Zone; and~~
  - (2) ~~The reduced setback is necessary to implement the master plan and the Olde Towne Master Plan, or attract an appropriate and compatible type or caliber of user; and~~
  - (3) ~~The reduced setback will not detrimentally impact light and air to adjacent buildings.~~

**Sec. 24-160F.6. Special regulations and requirements.**

- (a) The city council may adopt, by resolution, special regulations and requirements not inconsistent with the provisions of this Division 21, 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 ~~Old-Towne~~ Master Plan and the revitalization and renewal of the current business district.

- (b) Notwithstanding any other provisions contained within this chapter, all building or structural construction or modifications, and the erection and placement of signs and canopies visible to a public street or thoroughfare, within the central business district, as defined in section 24-160F.3, shall comply with the following additional requirements:
  - (1) No building permit or sign or canopy permit shall be issued within the central business district in connection with the construction, modification or alteration of any existing building or structure or in connection with the erection or modification of any sign or canopy unless in compliance with the regulations and requirements adopted by the city council pursuant to subsection (a) of this section, or as may be part of the ~~Old-Towne~~ Master Plan.
  - (2) New construction upon unimproved property or where complete demolition of existing improvement occurs shall conform to the regulations and requirements adopted by the city council pursuant to subsection (a) of this section, or as may be part of the ~~Old-Towne~~ Master Plan.

**Sec. 24-160F.7. Parking requirements.**

Parking within the central business district shall be determined in accordance with the general requirements and special computation schedule for uses within Article XI. The requirements may be waived in whole or part by the city planning commission any reuse of a building or structure, or premises or lot located within the central business district, based upon the criteria and findings applicable in section 24-222A of this Code.

The construction of either on-site or off-site parking for use by the general public which is at least twenty (20) percent in excess of the minimum requirements applicable to the new use or reuse may be considered a public amenity in seeking waivers of development standards under section 24-160F.5 above.

**Sec. 24-160F.8. Existing buildings.**

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

- (a) In conformance with the requirements of the CBD Zone; or
- (b) To a size and intensity existing on the property or by approved building permit preceding the adoption of this ordinance.

**Sec. 24-160F.9. Reserved.**

**CBD ZONE**

Name of Standard	Existing	Proposed
Front Setback (Min.)	No setbacks except as provided in the Olde Towne Master Plan or 15' if the proposed building is abutting a lot containing an existing building with windows facing the proposed project	No setbacks unless provided in the Master Plan or established by site plan
Side Setback (Min.)	No setbacks except as provided in the Olde Towne Master Plan or 15' if the proposed building is abutting a lot containing an existing building with windows facing the proposed project	No setbacks unless provided in the Master Plan or established by site plan
Rear Setback (Min.)	No setbacks except as provided in the Olde Towne Master Plan or 15' if the proposed building is abutting a lot containing an existing building with windows facing the proposed project	No setbacks unless provided in the Master Plan or established by site plan
Building Height (Max.)	Four stories	Residential: six stories Non-Residential: 90'
Height and Setback Waivers	Granted by M&CC	Granted by PC. Height not to exceed 9 stories (resi) or 135' (non-resi)  Removes vague/subjective language that could create equity issues

Part II - THE CODE  
Chapter 24 - ZONING  
ARTICLE III. - REGULATIONS APPLICABLE TO PARTICULAR ZONES  
DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT

## DIVISION 22. CD ZONE, CORRIDOR DEVELOPMENT

### 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.~~

- a) Encourage development, redevelopment and renovation of declining or underutilized properties along the corridor
- b) Create a more attractive-sustainable development pattern and enhance the City's sense of place
- c) Promote revitalization within the Corridor by encouraging new private investment that also fosters equity and livability
- d) Create clearly defined regulations that provide more certainty of what is feasible on a property and create opportunities to add value through density and mix of uses.
- e) Promote quality development through flexible development standards and a proactive design approach.

### ~~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. Unless accessory or part of an auto dealership~~
  - (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.~~

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

- (a) No land shall be classified in the Corridor Development Zone, outside of annexations and comprehensive rezonings, 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~~.

**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~~ Design guidelines 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:

FAR bases

<b>Base Floor Area Ratios</b>	
<u>Lots less than 30,000 sf in area</u>	<b><u>0.5 FAR</u></b>
<u>Lots between 30,000 sf and 80,000 sf</u>	<b><u>1.0 FAR</u></b>
<u>Lots greater than 80,000 sf</u>	<b><u>2.0 FAR</u></b>



Height:

Shall be as specified in the applicable land use master plan. Where no heights are specified in the master plan, the heights shall be established by the city council at the time of schematic development plan, but may not exceed maximum's of 10 stories for residential and 150 feet for commercial.

~~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 or concept 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 for building up to 5 stories or 60 feet.~~

~~1. For buildings greater than 5 stories or 60 feet the setbackback is 25'~~

~~(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.~~

(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.~~

**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 streetscaping 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.

~~(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 council, at the time of schematic development plan review or the planning commission if only site plan approval is required, may determine an alternative approximate number of spaces or parking ratio's for specific uses. 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. Residential driveways: shall be a minimum of 20 feet in length or 18' if they adjoin a 2' gutter pan~~
- (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 may be required at SDP or final between existing and proposed uses ~~when needed~~. These buffers shall be in the form of fences, hedges landscaping, or walls that ~~adequately~~ buffer views and noise.

(

Editor's note(s)—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 ~~height and or setbacks.~~**

- (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 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. light and air to adjacent buildings.~~

~~The applicant will provide either on-site or off-site public amenities, which may include civic uses, to further enhance the corridor development zone; and or~~

- (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) ~~Accomplishes goals visions of the strategic plan and the purposes of the CD zone~~
- (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.

NEW SECTION: FAR BONUS : TBD

**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 approval must consist of both the rezoning and SDP. The Council cannot approve one and not the other
  - (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.~~
  - ~~c. The city council shall conduct 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.~~

A preliminary affordable housing plan, in accordance with the city's affordable housing ordinance for residential uses

An approved natural resources inventory and forest stand delineation pursuant to [chapter 22](#) and [section 20-9](#) of the City Code.

A preliminary stormwater management and sediment and erosion control plan, in accordance with [chapter 8](#) of the City Code, to be approved by the department of public works prior to city council final action.

A Preliminary Forest Conservation Plan in accordance with [chapter 22](#)

An approved preliminary traffic impact study in accordance with the city's traffic impact study standards and regulation.

One or more drawings at thirty (30) feet or larger scale, clearly showing the following:

Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas.

proposed locations, heights, build to line dimensions of all buildings, driveways, access, parking, easements, open spaces, sidewalks, right-of-way, and proposed streets and their typologies.

Zoning data defining at a minimum:

- the amount of area of land involved in the site
- the percentage of the site proposed to be covered by buildings

- the total number of dwelling units proposed by dwelling type
- the number of dwelling units proposed per acre
- the total square footage and types of nonresidential uses.
- the area in square feet and as a percentage to be devoted to open space
- the area proposed to be impervious surface
- and the number of proposed parking spaces by and the requested parking ratios for the uses proposed.

Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, one hundred-year floodplain, and other significant features of the land.

Design Guidelines including at a minimum architectural standards, but may include requirements or standards for:

- Building/structure setbacks and lot coverage;
- The location and type of permitted accessory buildings and structures;
- Signage
- Amenity programming,
- Public art
- Landscaping
- Pedestrian realm design

proposed building elevation drawings: Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures

Proposed traffic circulation system used by motor vehicles, transit, and bicycle/pedestrian.

Preliminary street profiles for all proposed dedicated streets.

Boundary survey, with bearing and distances in Maryland State Plane datum.

Preliminary landscape, hardscape, and lighting plan.

Preliminary storm drain and paving plan.

Preliminary utility plan approved by the representatives of the various utility entities.

Preliminary lotting plan, in conformance with the requirements of a chapter 20 preliminary subdivision plan

Such other additional information as may be reasonably required by the city or planning commission to accomplish the purposes of the section.

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



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

d. Demonstration of compliance with the city's APFO

- (3) The requirements for filing a schematic development 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.

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

- (a) The city council may approve CD zoning by local map amendment and schematic development 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 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.

(4) That the plan, if approved reflect the goals and intent of the City’s strategic plan

(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.~~ That the plan, if approved reflect the goals and intent of the City’s strategic plan

~~(8) The existing buildings with historic significance are considered for preservation and retention pursuant to the city’s historic preservation ordinance.~~

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

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

**Sec. 24-160G.8. Existing buildings and uses.**

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

(a) In conformance with the standards and requirements of the CD Zone; or

(b) Following the submission and approval of a schematic development plan or concept plan pursuant to this division at a size and intensity that existed prior to the adoption of this article.

## CD Zone

The primary change recommended for the CD zone is an FAR incentive, which can be combined with other incentives. The proposal is as follows:

### Goals and Objectives:

- Encourage consolidation of smaller lots (below one acre);
- Encourage a mix broader mix of uses; and
- Encourage superior site planning, public realm improvements, and amenities to serve residents and workers in the area.

### Approach:

To meet the above objectives, the zoning incentive approach to the revised CD district is proposed to use the following tools:

- Establish varied Base Floor Area Ratios (FAR) dependent on lot size.  
Larger lot sizes provide a greater level of flexibility for development within the CD district to provide a broader mix of uses, allow for more compatible/synergistic uses on a single lot, accommodate requirements such as stormwater management, open space, and parking.
- Create FAR bonuses or exemptions for the inclusion of key programmatic elements within a development.  
The CD district permits a wide range of uses; however, some uses or site components are more desirable than others to meet the objectives of supporting job generating businesses, improve the public realm, and maximize the value to the City. Additionally, some elements that could otherwise improve the overall quality of a development may be expensive to implement or reduce the development of certain uses that generate greater income for a developer, which will affect development decisions. To encourage these elements and uses, FAR bonuses or exemptions may be used to offset the cost of development.
- Permit reductions in parking for larger developments with a greater mix of uses.  
In order to truly unlock the greater development potential of larger lots within the CD district, the zoning proposal seeks to provide as-of-right reductions to required parking minimums. As the complexity of a development’s program increases and a greater number of uses are permitted on a site, there is a need to correct the parking minimum requirements to more accurately reflect demand and permit the ability for shared parking strategies to be implemented. Additionally, the area where the CD District is currently mapped today, and is likely to expand in the future, is well served by transit.

### Establishment of Base Floor Area Ratios

Base Floor Area Ratios	
Lots less than 30,000 sf in area	0.5 FAR
Lots between 30,000 sf and 80,000 sf	1.0 FAR
Lots greater than 80,000 sf	2.0 FAR

*Rationale:*

- Of the 257 lots in the analytical sample, 204 (79%) currently have a built FAR of less than 0.5 (excluding vacant lots);
- Of the 257 lots in the analytical sample, 214 (83%) are less than 30,000 sf in area. Additionally, 151 lots (59%) are both less than 30,000 sf in area and have a built FAR of less than or equal to 0.5; and
- As the majority of lots in the sample result in buildings of less than 0.5 FAR under the current zoning, this implies that an FAR bonus alone will not result in greater development potential. Additionally, this implies that imposing a lower base FAR of 0.5 will not result in many non-conforming properties.

**FAR Bonuses and Exemptions**

In order to encourage specific use or site elements to be included in a development, the following bonuses are presented for further consideration and discussion. In addition to FAR bonuses, these scenarios also contemplate FAR exemption as a means of directly associating the amount of a particular component or element with the additional FAR that may be achieved.

Use-based Bonus

- Local Services, Philanthropic and Non-profit Institutions, Educational and Child Care Facilities  
Provide an FAR exemption and/or bonus for inclusion of these spaces in a development.
- Residential Uses:
  - *Approach 1* – Allow additional floor area for the inclusion of residential uses on a site.
  - *Approach 2* – Permit and exempt ground floor area that serves residences on the ground floor of a building in lieu of commercial uses in a traditional mixed building.
  - *Approach 3* – Establish a maximum FAR for residential uses on a lot that is in addition to the maximum FAR for non-residential uses. I.e, if the maximum FAR for a 70,000 sf lot in the CD district is 1.0, allow an additional 1.0 FAR to be used by only residential uses.

Structured/Enclosed Parking Bonus

An FAR bonus alone may not meet or exceed the amount of area dedicated to structured or enclosed parking within a building depending on the number of parking spaces required and the location of these spaces. A more aggressive approach would be to exempt the floor area generated by the structured parking area and permit an additional bonus that may be allocated to another use. This approach will not only allow for the structured parking to not occupy otherwise leasable/occupiable areas but will also allow for additional leasable area that may help to offset the high cost of structured parking.

- *Proposal 1* – Exempt any area used for structured or enclosed parking within a building from the maximum FAR of the building.
- *Proposal 2* – Exempt the area used for structured or enclosed parking from the maximum FAR, and permit a bonus:
  - Allow a static percentage bonus of 20% to the overall development; or
  - Allow a bonus directly related to the size of a structured parking space. Ie, for each structured or enclosed space, the maximum floor area of a building may be increased by 300-600 sf.

### Open Space Bonus

Depending on the predominant use of a building, additional open space bonuses can be explored. The amount of required open space to achieve the bonus would need to exceed the minimum requirements of the district and be subject to additional locational/programmatic standards.

- *Private Open Space* – For residential development, or any development that includes certain programmatic open space amenities, allow for an increase in floor area associated with the area allocated to this open space. These amenities can include: children’s play areas, adult fitness areas, dog parks/runs, etc.
- *Publicly Accessible Open Space* – Permit an increase in floor area in excess of the amount of additional publicly accessible open space provided on a lot. Ie, a 10,000 sf public plaza allows 20,000 sf of additional floor area within a building.

### **Parking Reductions**

- Permit a reduction of parking of up to 30% as-of-right for large lots; continue waiver provision of further discretionary reduction on all lots.
- Permit an as-of-right allowance for shared parking:
  - Ie, If a development includes both offices and residential uses, allow for a percentage of required commercial spaces to be used to meet the minimum residential parking requirement due to differing peak demand times.
- Permit a reduction in total requirement for inclusion of transit improvements, car share.

### **Additional Considerations**

- To accommodate FAR bonuses and increase the desirability for the incentive, the lot coverage and maximum building height should also be increased to accommodate the additional floor area
  - For programmatic elements located within a building or additional public open spaces, the height of a building should likely be increased by the number of stories (or their area equivalent) that the use occupies.
  - For structured parking not located within a building, an increase in lot coverage may be needed to accommodate additional structures.
- Based on stakeholder outreach, there may be additional amenities that should be included for exemption of bonus.

CD District FAR Incentive Summary							
	Base FAR	Parking Reductions			FAR Bonuses		
Lot Size	Density	By-Right Parking Reduction	Car Share Reduction	Transit Improvement Reduction	Use Specific FAR Incentive	Structured Parking Incentive	Open Space FAR Incentive
< 30,000 sf	FAR 0.5	n/a	5 parking spaces per shared vehicle space	10% of required parking waived	n/a	n/a	n/a
30,000 - 100,000 sf	FAR 1.0	n/a		10% of required parking waived	Exempt floor area of compensated use	Exempt floor area of structured parking	Bonus equal to 100% of area for Public Open Space
Over 100,000 sf	FAR 2.0	30%		10% of required parking waived	Exempt floor area of compensated use + bonus equal to area of compensated use	Exempt floor area of structured parking + bonus equal to area of structured parking	Bonus equal to 200% of area for Public Open Space



Part II - THE CODE  
Chapter 24 - ZONING  
ARTICLE III. - REGULATIONS APPLICABLE TO PARTICULAR ZONES  
DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT

*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 to 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 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 developments 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 uses and signage.
- (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, open space, employment and institutional uses and amenities within a multi-use 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.
- (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 commercial 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 connectivity system of linkages among residential areas, open spaces, recreational areas, commercial and employment areas, and public facilities among the various uses.
- (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; Ord. No. O-7-06, 7-1-06)

**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 Land Use master plan which recommends mixed use development zoning 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 that is not recommended for this zone in an approved master plan may be rezoned to MXD but shall require the affirmative vote of four (4) members of the city council upon a finding that the subject land and associated proposed development meets the purposes and objectives of the zone.
- (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. 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).
- ~~(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 they will be~~ are designed in such a way as to foster the purposes and objectives of this zone and that 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; Ord. No. O-7-06, 7-1-06)

**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.~~

~~Fortune telling business.~~

~~Hotel, extended stay.~~

~~Manufacture, compounding, and processing of goods or articles, with the exception of integrated light manufacturing uses.~~

~~(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 subsections (a) and (b):~~

~~Boarding homes.~~

~~Cemeteries.~~

~~Family day care facilities in dwelling units other than single family dwellings accommodating not more than eight (8) individuals.~~

~~Family day care facilities in single family dwellings accommodating more than eight (8) but no more than twelve (12) individuals.~~

~~Clinics.~~

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

~~Hospitals.~~

~~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, subject to the requirements of section 24-167A(D)(2).~~

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

~~(e) Conditional uses. The following uses are subject to the conditional use provisions in section 24-10 of this Code 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):~~

~~(1) Funeral homes and funeral parlors;~~

~~(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.~~

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

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

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

**Sec. 24-160D.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.

~~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~~ 60 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.~~

~~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.~~

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

- (a) The amount of ~~green~~ Open 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 solely residential uses.
- (b) The minimum ~~green~~ Open area requirement, ~~which shall include~~ including 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 solely to commercial/employment/industrial uses
- (c) The minimum green Open area requirement for mixed use areas, combining residential and non-residential uses in a vertical or horizontal configuration on or in the same lot, parcel, block or building shall be not less than thirty-five (35) percent
- (d) The City Council may reduce the open area requirements upon a finding that, except that comparable amenities and/or facilities may be provided in lieu of green open area if the city council determines and 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 open 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~~

Attachment: Retool Gaithersburg - Exhibit 5 Article III. Individual Zones - 10092023 (3847 : Retool Gaithersburg Proposed Changes)



~~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.~~

**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 both public and private streets and alleys ~~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.~~

**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 or parking ratio's for specific uses. 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.

**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 the 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 of parcel.
    - b. ~~The requirements of section 24-169(a), except for items (3), (4), (5) and (6)f.~~

A concept stormwater management plan, in accordance with [chapter 8](#) of the City Code, to be approved by the department of public works prior to city council final action.

An approved natural resources inventory and forest stand delineation pursuant to [chapter 22](#) and ~~section 20-9~~ of the City Code.

A statement demonstrating compliance with the city's adequate public facilities ordinance.

One or more drawings at thirty (30) feet or larger engineer's scale, clearly showing the following:

- a) Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas..
- b) Tentative proposed locations of all buildings and their heights, access and connectivity areas including roads, paths etc., surface parking fields if applicable, and open spaces.
- c) Generalized location of existing and proposed external roads and adjacent land use and development.
- d) Zoning data defining at a minimum:
  - 1. The amount of area of land involved in the site
  - 2. the total maximum number of dwelling units proposed by dwelling type.
  - 3. the number of dwelling units proposed per acre,
  - 4. the total maximum square footage and types of nonresidential uses.
- e) Conceptual traffic circulation system used by motor vehicles, transit, and bicycle/pedestrian.

Such other additional information as may be reasonably required by the city or planning commission to accomplish the purposes of the section.

- c. 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.
  - d. 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.
  - e. In addition to the requirements of this subsection, for parcels less than ten (10) acres the sketch plan shall provide sufficient detail to demonstrate harmonious integration into contiguous and existing MXD areas.
- (2) The city council and city planning commission shall conduct a public hearing(s) on the application subject to the notification procedures for zoning map amendments. Such hearings may be held jointly by the city council and city planning commission. The planning commission shall deliver its recommendation to the city council within thirty (30) days of the close of the commission's hearing record. The council shall take action on the application within ninety (90) days after the close of the council's hearing record. If the council shall fail to do so, the application shall be deemed denied.
- (b) *Application for schematic development plan approval.*
- (1) A schematic development plan shall be filed for approval by the city council of all or portions of the area zoned MXD and reflected within the approved sketch plan, together with the required filing fee. The schematic development plan shall include the following:
    - a. ~~The requirements of section 24-169(b).~~

A preliminary affordable housing plan, in accordance with the city's affordable housing ordinance.)

A preliminary stormwater management and sediment and erosion control plan, in accordance with [chapter 8](#) of the City Code, to be approved by the department of public works prior to city council final action.

A Preliminary Forest Conservation Plan in accordance with [chapter 22](#)

An approved preliminary traffic impact study in accordance with the city's traffic impact study standards and regulation.

One or more drawings at thirty (30) feet or larger scale, clearly showing the following:

Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas.

proposed locations, heights, build to line dimensions of all buildings, driveways, access, parking, easements, open spaces, sidewalks, right-of-way, and proposed streets and their typologies.

Zoning data defining at a minimum:

- the amount of area of land involved in the site
- the percentage of the site proposed to be covered by buildings
- the total number of dwelling units proposed by dwelling type
- the number of dwelling units proposed per acre

- the total square footage and types of nonresidential uses.
- the area in square feet and as a percentage to be devoted to open space
- the area proposed to be impervious surface
- and the number of proposed parking spaces by and the requested parking ratios for the uses proposed.

Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, one hundred-year floodplain, and other significant features of the land.

Design Guidelines including at a minimum architectural standards, but may include requirements or standards for:

- Building/structure setbacks and lot coverage;
- The location and type of permitted accessory buildings and structures;
- Signage
- Amenity programming,
- Public art
- Landscaping
- Pedestrian realm design

proposed building elevation drawings: Drawings showing the proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures

Proposed traffic circulation system used by motor vehicles, transit, and bicycle/pedestrian.

Preliminary street profiles for all proposed dedicated streets.

Boundary survey, with bearing and distances in Maryland State Plane datum.

Preliminary landscape, hardscape, and lighting plan.

Preliminary storm drain and paving plan.

Preliminary utility plan approved by the representatives of the various utility entities.

Preliminary lotting plan, in conformance with the requirements of a chapter 20 preliminary subdivision plan

Such other additional information as may be reasonably required by the city or planning commission to accomplish the purposes of the section.

- b. Proposed phasing or staging plan of development and information relating to such plan's consistency with the provision of public facilities.
- c. Demonstration of general compliance with any master plan recommendations for the property, including any special conditions or requirements related to the property set forth in the master plan.
- d. Demonstration of compliance with the city's APFO

- e. ~~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.~~ Draft HOA documents for Council review only, defining how private infrastructure (roads, lights, stormwater management) and amenities will maintained by the HOA
- (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.~~
- (3) The approval of a schematic development plan shall ~~substitute~~ count as preliminary site plan and preliminary subdivision 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.

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

**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;
    - Purposes and objectives of zone
    - The minimum location and development requirements

- The minimum open area requirements, and other requirements of the City Code; and
  - (3) The plan is in accord with the area city 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, reflect the goals and intent of the City's strategic plan
- (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.~~

**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.~~

**Sec. 24-160D.12. Regulations or design guidelines adopted as part of schematic development plans.**

(a) The city council may adopt as part of a schematic development plan or amendment thereto in the MXD Zone, all or portions of any proposed regulations, rules or standards, or design guidelines specific and unique to the application schematic development plan 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 schematic development plan and their assigns shall be notified of such rules, regulations and standards at the time of taking title to property located within the schematic development plan area or as otherwise provided in subsection (c) below.~~

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



- 
- (d) No person, firm or corporation may violate any such rules, regulations or standards and any such violation shall be enforceable by the city and subject to such enforcement and penalties provided by sections 1-9 through 1-11 inclusive of this Code.

MCD Zone Purpose:

PURPOSE: The Mixed-Commercial Development (MCD) zone is to promote and provide design flexibility for new development and redevelopment of non-residential lands that support a concentration of employment uses, by permitting a wide range of commercial industrial, supportive retail, service, and office land uses that typically require convenient access to the interstate and regional transportation system and that reflect the sectors and salaries ranges desired by the City. Residential developments should leverage and may be proximate to these zoned properties, but not incorporated in them. This zone is not intended to create shopping centers, large format (big box), or entertainment centers.

Staff's vision:

Staff intends to develop this zone to specifically apply to the City's Employment Nodes identified in the recently approved Housing Element. Staff is of the opinion this new floating zone will permit development to occur in these nodes at densities and intensities ranging from small scale operations containing one tenant located in an individual building on an individual lot up to large scale operations featuring several tenants in a multi-story building containing a diverse range of land uses. By being a floating zone, the MCD will be able to incorporate uses that draw from the City's I, C, and E zones that would otherwise not be allowed to mix. MCD, also being a floating zone, will function as the CD and MXD in that it will require a public hearing process, but elements such as heights, setbacks, parking, and final uses will need Council approval and not be by-right.

### Sec. 24-163. Accessory structures and garages.

*Accessory structure.* A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure, and is not attached by any part of a common wall or common roof to the main building.

- (a) *Accessory structures.* Any accessory structure, as defined in section 24-1, with the exception of a garage, ~~are not permitted in front yards shall be located only in the rear yard. The total ground area of all accessory structures shall occupy no more than twenty five (25) percent of the rear yard. Except for fences, on all residentially zoned land. All accessory structures less than one hundred forty four (144) square feet of floor area shall not be less than three (3) two (2) feet from any lot line unless allowed by a specific zone. Accessory structures one hundred forty four (144) square feet of floor area or greater shall not be less than ten (10) feet from any side or rear lot line.~~ In cases where an accessory structure, enclosure, coop or run or any part thereof is used for the housing, shelter or sale of animals or fowl, other than a household pet, said structure shall be at least twenty-five (25) feet from any side or rear lot line and at least seventy-five (75) feet from any existing dwelling on an adjoining lot, except for fences on all residentially-zoned land. The footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure, except garages as noted in section 24-163(b), nor can the height exceed fifteen (15) feet, unless approved by the planning commission.
- (b) *The following are not considered accessory structures*
- a. Fences ground mounted solar, flagpoles, playground equipment without a footer, sheds which don't require a footing or not affixed to the ground
- (b) *Garages and carports, as accessory structures in residential zones:*
- (1) Garages and carports, as accessory structures, are those that are detached structures or attached to the main house only by a breezeway.
  - (2) Garages shall not be less than two (2) ~~ten (10)~~ feet from any side or rear lot line.
  - (3) Garages may ~~also~~ be located in any front yard if approved by the Mayor and City Council or Planning Commission as part of a site development plan or side yard area, and/or in a setback restriction area ~~when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.~~
  - (4) The footprint of the garage must not exceed fifty (50) percent of the footprint of the primary structure or a standard size two-car garage not to exceed five hundred seventy-six (576) square feet, whichever is greater, nor must the height exceed fifteen (15) feet unless approved by the planning commission. ~~In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.~~
- (c) ~~These restrictions do not apply to schematic development plans, final site plans or other plans for an approved residential community in the MXD (Mixed Use Development) Zone.~~
- (d) *Donation drop boxes.*
- (1) All existing donation drop boxes erected on land within the city shall, within ninety (90) days of the effective date of the ordinance from which this subsection is derived, be registered with the planning and code administration. Registration of donation drop boxes shall be accompanied by:
    - (i) A site plan depicting the size (height, width and length) and location of any and all donation drop boxes located on the property, and

- (ii) Information identifying the organization(s) responsible for the maintenance and monetary proceeds of the donation drop box, including a contact name, phone number, and website (if applicable) for the organization(s).
- (2) Any donation drop box not registered with the planning and code administration within the prescribed time frame shall be removed at the expense of the property owner, and is subject to enforcement and fines in pursuant to section 24-184.
- (3) Any new donation drop box erected on land within the city, or donation drop box existing prior to June 8, 2014, that is relocated on any lot within the city, shall be subject to the issuance of a permit. Such permit shall be accompanied by:
  - (i) A site plan depicting the dimensions (height, width and length) and location of any and all donation drop boxes to be located on the property,
  - (ii) Information identifying the organization(s) responsible for the maintenance and monetary proceeds of the donation drop box, including a contact name, phone number, and website (if applicable) for the organization(s).
  - (iii) Information depicting the dimensions of any proposed signage to be displayed on all sides of the donation drop box.
- (4) Requirements for new or relocated donation boxes:
  - (i) *Permitted zones.* Donation drop boxes are permitted in the C-1, C-2, C-3, CBD, CD, CB, H-M, E-1, E-2, C-P, I-1, I-2, I-3, I-4, MXD, and R-B zones when occupied by a commercial, public, educational, not-for-profit or religious use or facility. Donation drop boxes are permitted in the R-A and R-90 zones when occupied solely by a public, educational, not-for-profit or religious use or facility.
  - (ii) *Location and design.* Donation drop boxes shall be subject to the following location and design provisions:
    - a. Shall not be located between the street lot line and the front building line on any lot.
    - b. Shall not be located within any required parking space. Donation drop boxes may be located within surplus parking spaces.
    - c. Shall not be located within existing landscape buffers.
    - d. Shall not be located within required drive aisles, circulation areas, or within a twenty (20) [foot] by twenty (20) [foot] site distance triangle at any intersection.
    - e. Shall be located on a paved surface.
    - f. The maximum size for any donation drop box shall be five (5) feet in width by five (5) feet in depth and seven (7) feet in height.
    - g. When feasible, multiple donation drop boxes located on an individual property must be clustered within the same general area. When it is not feasible to cluster the location of multiple donation drop boxes, they must not be located within the same view shed.
    - h. The total allowable number of donation drop boxes shall be defined by the size of the parcel on which the drop box is located with the following limitations:
      - 1. Property equal to or less than one acre: a maximum of one donation drop box is permitted.
      - 2. Property greater than one acre: a maximum of one donation drop box per acre, and fraction thereof, of land area is permitted.

- i. All donation drop boxes erected on land shall have clearly identified, in writing, on its face. Information identifying the organization(s) responsible for the maintenance and monetary proceeds of the donation drop box, including a contact name, phone number, and website (if applicable) for the organization(s).
- j. Maintenance. Each donation drop box must be regularly emptied of its contents so that it does not overflow. If the entity responsible for the maintenance of the donation drop box is other than that provided in subsection (4)(ii)i., the name, phone number, and website (if applicable) for such entity shall be clearly identified in writing on the face of the box.
- k. All donation drop boxes must be designed so that they are secure from unauthorized access.
- l. A waiver of the total allowable size and number of donation boxes may be requested by submittal of a letter to the city manager or his/her designee that demonstrates compliance with the following conditions:
  - 1. The site is solely occupied by a public, educational, not-for-profit, religious use or facility;
  - 2. The location and design of the donation boxes is otherwise in conformance with subsection (c)(4).

**Sec. 24-164. Number of main structures on one lot.**

In the R-A and R-90 Zones, not more than one single-family dwelling shall be permitted on any one lot, with the exception of allowing one accessory dwelling unit.

**Sec. 24-165. Certain structures excluded from height control.**

The building and structure height limits set forth in this chapter shall not apply to belfries, chimneys, cupolas, domes, flagpoles, flues, monuments, spires, tanks, water towers, water tanks, air-conditioning units or similar roof mounted structures and mechanical appurtenances. No such roof structure, however, shall have a total area greater than twenty-five (25) percent of the roof area, nor shall such structure be used for any purpose other than a use incidental to the main use of the building.

**Sec. 24-165A. Exempted projections and structures from setbacks, lot coverage, and height (include from above).**

setbacks

- (1) *Steps, terraces, stoops and open stairways.* Steps, terraces, stoops and open stairways may extend into any minimum front or rear yard setback area not more than nine (9) feet and may extend into any minimum side yard setback area not more than three (3) feet. Steps, terraces, stoops and outside open stairways which extend into any minimum required yard setback area may be roofed but not enclosed; provided, that such roofing may not extend one foot beyond any projection permitted by this subsection.
- (2) *Bay windows, oriels, entrances, vestibules and balconies.* In any residential zone, any bay window, oriel, entrance, vestibule or balcony may project not more than three (3) feet into any minimum front, side or rear yard setback area.
- (3) *Chimneys.* Chimneys may project not more than twenty-four (24) inches into any minimum front, rear or side yard setback area. Chimneys flush with the vertical plane of any wall shall not be allowed to project into any minimum yard setback area.

- (4) *Air conditioners and heat pumps.* Air conditioners and heat pumps, whether freestanding, wall or window mounted, may project not more than five (5) feet into any minimum front, side or rear yard setback area. Any air conditioner or heat pump existing within any minimum side yard setback area prior to November 6, 1989, shall not be considered a nonconforming use, and may be continued and replaced.
- (5) *Cornices and eaves.* Cornices and eaves shall not project more than two and one-half (2½) feet over any yard setback area. Provided, however, in the case of single-family, detached residential dwellings, such projection shall be not less than two (2) feet from the vertical plane of any lot line.
- (6) *Sills, leaders, belt courses and similar ornamental features.* Sills, leaders, belt courses and similar ornamental features may project not more than six (6) inches over any front, rear or side yard setback area.
- (7) *Fire escape.* Fire escapes may project not more than five (5) feet over any minimum front, rear or side yard setback area.
- (8) *Structures.* Fences, flagpoles, basketball hoops, lampposts or similar structures, including, but not limited to, play equipment, lawn ornaments and arbors, may be located within any front, side or rear yard setback and also within a building restriction setback so long as the location of the structure does not interfere with the use of any abutting or confronting property or obstruct visibility along any public right-of-way.

Accessory structures have to be excluded from setbacks as they are regulated in own section

Height

The building and structure height limits set forth in this chapter shall not apply to belfries, chimneys, cupolas, domes, flagpoles, flues, monuments, spires, tanks, water towers, water tanks, air-conditioning units or similar roof mounted structures and mechanical appurtenances. ~~No such roof structure, however, shall have a total area greater than twenty five (25) percent of the roof area, nor shall such structure be used for any purpose other than a use incidental to the main use of the building.~~

**Sec. 24-166. Front yards facing on planned streets.**

Where a street or highway shown on the adopted city comprehensive plan has a proposed right-of-way greater than the existing, the front yard requirement shall be measured from the proposed right-of-way.

**Sec. 24-167. Fences and walls.**

No fences or walls shall be erected in the city except in conformance with the following regulations:

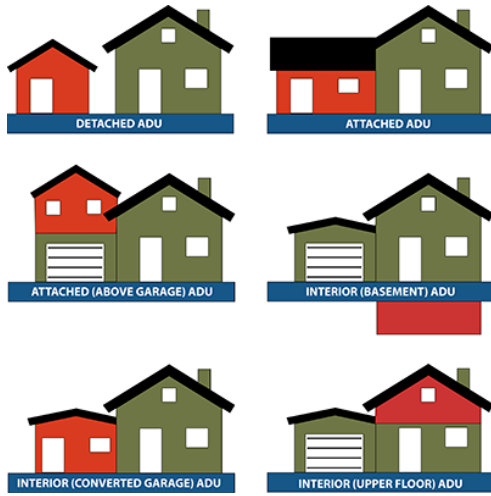
- (1) *Permit:* It shall be unlawful to erect any fence or wall in the city without first having obtained a permit for the same from the city manager or designee.
- (2) *Measurement of height:* The measurements shall be made from the surface of the ground next to the fence or wall and where the yards on the two (2) sides of same differ in level, the measurements shall be made from the surface of the higher yard.
- (3) *Adjoining a public or private street or alley as defined in chapter 19 and 20 of the City Code:* No fence or wall shall be of greater height than three (3) feet in the front yard and six (6) feet in the rear yard. The city manager or designee may permit a greater height upon finding that the proposed fence or wall will not be a hazard to vehicular or pedestrian traffic, ~~and the applicant certifies they have satisfied all~~



~~necessary notification requirements, set forth in subsection (7) below.~~ This provision shall not pertain to the restrictions in subsection 24-167(4).

- (4) *On a corner lot:* No fence or wall having a height greater than three (3) feet above from the surface of the ground next to the fence or wall ~~the curb level~~ for a distance of twenty-five (25) feet from the intersection of the front and side street lines shall be permitted; except, that retaining walls shall be permitted where changes in street grade, width or alignment have made such structures necessary.
- (5) *Side property line:* No fence or wall more than six (6) feet in height shall be erected between different lots, parcels or tracts of land. A fence or wall of a height greater than six (6) feet may be erected with the approval of the city manager or designee, upon a finding that the fence or wall will not be detrimental to the public health, safety and general welfare ~~and provided the applicant certifies they have satisfied all necessary notification requirements, set forth in subsection (7) below.~~
- (6) *Setbacks:* ~~The building line and yard requirements of this chapter shall not apply to fences or walls.~~ (noted in other sections)
- (7) ~~*Notifications:* Applicants requesting fences and walls that are over the permitted height limit must provide, by mail or personal delivery, written notice in a form approved by the city planning and code administration department to all owners of property abutting the proposed fence or wall within two (2) business days after filing the request with the city, and must certify satisfaction of this notice requirement to the city's planning and code administration department.~~

ADUs



Adapted from the [ABCs of ADUs](#)

800SF max for detached

Setbacks –for detached, integral or attached to primary structure must meet zoning requirements

Parking – one off-street required

Height – max limited to height of the primary structure for detached only or attached to primary structure. Integral must meet zoning requirements

Lot Coverage – exempt from requirements for detached, integral or attached must meet zoning requirements

Process – Minor amendment (does not count towards max total number of units or additions, does not require an amendment to CSP, sketch, or SDP)

Number on lot – one per lot regardless of form

Integral or attached to the primary structure the ADU must have its own dedicated entrance

Integral or attached to the primary structure the ADU cannot be larger than 49% of the primary structure above grade (if we stop counting basements as a story)

Not allowed to be a STR

Addressing

Historic Districts – allowed in districts, HDC will process as HAWP (non-contributing Staff approval, contributing HDC approval)

Subdivision and separate sales – are not to be located on their own fee-simple lot or parcel.

ADUs and home based business with property owner’s consent

### Mobile commercial uses

Mobile commercial uses: means a vendor that sells any commodity or provide a service from a vehicle, push cart, wheeled cart, or other mobile equipment on a transient basis at one or more locations within the city. Delivery vehicles for commercial or residential uses are not considered mobile commercial uses.

Exemptions. The following activities are exempt from the provisions of this article:

1. The delivering any goods or merchandise by vehicle where such goods or merchandise have been ordered in advance for such delivery from any business located at a permanent location and which goods or merchandise is being delivered from such location to the customer by vehicle, regardless of the point of sale thereof;
2. In person visits to a residence or business with the intent to sell, or offer for sale, goods or services at the request or invitation of the owner or occupant;
3. Any person engaged in the vending of goods or merchandise on public property where such persons have been authorized by the city to engage in such activity by a permit, special event permit, lease, real property license, agreement, or other entitlements issued by the city for such purpose;
4. Produce stands or temporary farmers markets

### RULES AND REGULATIONS.

- Mobile commercial uses are subject to any applicable state, county, or city permits.
- The City Manager may make rules and regulations which are not inconsistent with the provisions of this article and which may be necessary or desirable to aid in the administration or enforcement of the provisions of this article, including all necessary policies and procedures for the issuance of the Mobile commercial uses permits, collection of the mobile vendor permit fees, or proof(s) of insurance.
- Mobile commercial uses can only operate between the hours of 7AM-8PM
- Mobile commercial uses can only operate for four consecutive hours in any one day at any one location. Operations for longer than four hours requires site plan approval and property owner permission.
- At no time may a Mobile commercial uses or its equipment block the flow of traffic in a public right-of-way, parking lanes, fire lane, emergency access lane, or handicapped parking or access area. Mobile commercial uses must be located within a standard parking stall.
- No mobile commercial use shall remain on public property during non-operating hours. Overnight parking of a mobile vendor vehicle or other mobile unit on a public street or alley is prohibited.
- No direct water, sanitary sewer, or storm drainage connections are allowed between a Mobile commercial uses and any utility systems,
- No additional exterior lighting may be installed or operated on a Mobile commercial uses vehicle.
- A Mobile commercial uses must at all times contain waste from its operations in an approved on-site waste container.
- Mobile commercial vehicles may be stored overnight at the owner's residence, but may not operate or complete sales from said residence

- A Mobile commercial uses vendor may advertise their business with signage affixed to the mobile vending vehicle. The mobile vendor may also place one temporary sandwich board type sign not to exceed six square feet on any one face, subject to:
  - (1) Placed on the same site as the mobile vending unit;
  - (2) Placed on a public sidewalk, where the placement of the sign leaves no less than five feet of unimpeded pedestrian walkway.
  - (3) Must be removed from its placement location upon cessation of business operations on a daily basis.
- Mobile commercial uses not related to food sales may not operate within 300 feet of a commercial business offering the same or similar goods or services with the following exceptions:
  1. Mobile vendors operating as part of a city-approved special event.
  2. The commercial outlet and the mobile vendor are operated by the same entity.
  3. The mobile vendor has prior written permission of a business owner to operate within 300 feet.

RULES AND REGULATIONS SPECIFIC TO MOBILE FOOD VENDORS

- Mobile food vendors (food trucks) shall not operate within 500 feet of an existing restaurant offering the same or similar fare, during the restaurant's normal business hours, with the following exceptions:
  1. Mobile vendors operating as part of a city-approved special event.
  2. The restaurant and the mobile vendor are operated by the same entity.
  3. The mobile vendor has prior written permission of a business restaurant owner to operate within 500 feet of the property of that existing business.
- Food trucks must be located on a level, paved, or gravel surface with safe pedestrian access. The vicinity around the food truck must be kept clean and free of debris. Trash receptacles must be provided.
- Restocking of a food truck's vehicle is prohibited on a public street or alley.
- Food trucks (including, but not limited to, ice cream trucks) may circulate and stop temporarily for sales, but shall not remain stationary for more than five minutes.
- Food trucks on residential lots must be for catering purposes only and may only serve the residents and guests of that lot and are precluded from serving the greater area

**Sec. 24-169. Submission; fee; requirements of plan. (only for concept and preliminary in non-floating zone submissions)**

Concept site plans are not required. Preliminary and final site plans are required and may be processed separately or combined. Concept, preliminary, and final site plans, and their amendment thereto, shall include the following:

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

- (a) For a concept site development plan submission:
  - (1) A concept stormwater management plan, in accordance with chapter 8 of the City Code, to be approved by the department of public works prior to Planning Commission final action.
  - (2) An approved natural resources inventory and forest stand delineation pursuant to chapter 22 and section 20-9 of the City Code.
  - (3) ~~A statement demonstrating compliance with the city's adequate public facilities ordinance.~~
  - (4) ~~A "green building" statement reflecting the requirements of chapter 5 of this Code.~~
  - (5) ~~A preliminary forest conservation plan.~~  
A statement demonstrating compliance with the City's Master Plan and/or City strategic plan
  - (6) One or more drawings at thirty (30) feet or larger engineer's scale, clearly showing the following:
    - a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals
    - b. Tentative proposed locations, heights, build to lines of all buildings dimensions of all buildings, driveways, access, parking locations, easements, open space green spaces, sidewalks, right-of-way of, and proposed streets.
    - c. Generalized location of existing and proposed external roads and adjacent land use and development. (combine with a.)
    - d. Zoning data defining of the amount of area of land involved in the site, ~~the percentage of the site proposed to be covered by buildings,~~ the total number of dwelling units and dwelling types proposed, the number of dwelling units proposed per acre, the proposed land uses and square footage of all proposed land uses, and maximum building heights office and/or commercial development, ~~the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.~~
    - e. ~~Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, one hundred-year floodplain, and other significant features of the land.~~
    - f. Conceptual building elevation drawings: Drawings showing the architectural themes and visions proposed ~~proposed appearance of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.~~

- g. ~~Conceptual traffic circulation system where any part of the land is to be used by motor vehicles.~~
- (7) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.
- (b) For a preliminary site development plan submission:
  - (1) ~~All items required under section 24-169(a).~~
  - (2) A preliminary affordable housing plan, in accordance with the city's affordable housing ordinance.
  - (3) A preliminary stormwater management plan, ~~in accordance with chapter 8 of the City Code, approved by the department of public works.~~ in accordance with chapter 8 of the City Code, to be approved by the department of public works prior to Planning Commission final action  
Preliminary forest conservation plan in accordance with chapter 22  
A statement demonstrating compliance with the City's Master Plan and/or City stragic plan  
A statement demonstrating compliance with APFO  
An approved natural resources inventory and forest stand delineation pursuant to chapter 22 and section 20-9 of the City Code.
  - (4) An approved preliminary traffic impact study in accordance with the city's traffic impact study standards and regulation.
  - (5) One or more drawings at thirty (30) feet or larger scale, clearly showing the following:
    - a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals
    - b. Tentative proposed locations, heights, build to lines of all buildings ~~dimensions of all buildings, driveways,~~ access, parking locations, easements, ~~green~~ open spaces, sidewalks, right-of-way, and proposed streets cross sections in accordance with chapter 19 of the City Code.
    - c. Zoning data defining of the amount of area of land involved in the site, ~~the percentage of the site proposed to be covered by buildings,~~ the total number of dwelling units proposed, the number of dwelling units and dwelling types proposed per acre, the proposed land uses and square footage of all proposed land uses, and maximum building heights ~~office and/or commercial development,~~ the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.
    - d. ~~Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, one hundred year floodplain, and other significant features of the land.~~
    - e. Proposed building elevation drawings: Drawings showing the proposed appearance of the buildings, and structures and grounds ~~after the completion of all buildings and structures and the establishment of the uses proposed on the land.~~
    - f. ~~Proposed traffic circulation system where any part of the land is to be used by motor vehicles.~~

Attachment: Retool Gaithersburg - Exhibit 7 Article V. Site Plans Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)



- g. Preliminary street profiles for all proposed ~~dedicated~~ streets.
  - h. Boundary survey, with bearing and distances in Maryland State Plane datum.
  - i. Preliminary landscape, hardscape, ~~and lighting plan.~~
  - j. Preliminary storm drain and paving plan.
  - k. Preliminary utility plan.
  - l. ~~Any additional submission requirements pursuant to section 20-36, not already herein defined.~~ A preliminary plan of subdivision in accordance with chapter 20
- (6) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.
- (c) For a final site development plan submission:
- (1) ~~All items required under section 24-169(a) and section 24-169(b).~~
  - (2) A final affordable housing plan, in accordance with the city's affordable housing ordinance.
  - (3) A final stormwater management plan, ~~in accordance with chapter 8 of the City Code, approved by the department of public works.~~ in accordance with chapter 8 of the City Code, to be approved by the department of public works prior to Planning Commission final action  
Final sediment and erosion control plan.
  - (4) Final forest conservation plan in accordance with chapter 22  
A statement demonstrating compliance with the City's Master Plan and/or City stragic plan  
A statement demonstrating compliance with APFO  
An approved natural resources inventory and forest stand delineation pursuant to chapter 22 and section 20-9 of the City Code.
  - (5) One or more drawings at thirty (30) feet or larger scale, clearly showing the following:
    - a. Location and dimensions of existing structures, curb cuts, driveways, off-street parking and loading areas, signs, walls, fences, screen planting, pedestrian walks, open space and recreational areas. Existing and proposed topography of the site and the surrounding area at two-foot contour intervals
    - b. Final locations, heights, dimensions and footprints of all buildings, driveways, access, parking, easements, ~~green open~~ spaces, sidewalks, right-of-way, and proposed streets and cross sections in accordance with chapter 19 of the City Code, one hundred-year floodplain, and other significant features of the land.
    - c. Zoning data defining of the amount of area of land involved in the site, the percentage of the site proposed to be covered by buildings, the total number of dwelling units and dwelling types proposed, the number of dwelling units proposed per acre, the square footage of all proposed land uses, and final building heights ~~office and/or commercial development~~, the area proposed to be devoted to open space, the area proposed to be paved for parking, driveways, loading space and sidewalks, and the total number of parking spaces required by this chapter for the uses proposed.
    - d. ~~Existing and proposed topography of the site and the surrounding area at two-foot contour intervals showing the location of existing woodland streams, one hundred-year floodplain, and other significant features of the land.~~

Attachment: Retool Gaithersburg - Exhibit 7 Article V. Site Plans Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

- e. Building elevation drawings: Drawings showing the final proposed appearance, materials and details of the buildings, structures and grounds after the completion of all buildings and structures and the establishment of the uses proposed on the land.
  - f. Traffic circulation system and traffic marking plan where any part of the land is to be used by motor vehicles, including a turning radii study as applicable.
  - g. Final street profiles for all proposed ~~dedicated~~ streets.
  - h. Boundary survey, with bearing and distances in Maryland State Plane datum.
  - i. Final landscape, hardscape, photometric and lighting plan.
  - j. Final storm drain and paving plan.
  - k. Final utility plan.
  - l. ~~Final sediment and erosion control plan.~~
  - m. Final grade establishment plan.
  - n. ~~Any additional submission requirements pursuant to section 20-36, not already herein defined.~~
- (6) A plat of subdivision in accordance with chapter 20 of the City Code.
  - (7) Any applicable sign packages showing location, dimension, and design of project identification, directional, monument, and wall signs.
  - (8) A list of proposed street names.
  - (9) Draft of homeowners association by-laws, articles of incorporation, covenants and restrictions as applicable.
  - (10) Such other additional information as may be reasonably required by the planning commission to accomplish the purposes of the site development plan regulations.
  - (11) An approved final traffic impact study.

(Res. No. R-19-66; Ord. No. O-8-81; Ord. No. O-22-92, 12-7-92; Ord. No. O-22-95, 9-18-95; Ord. No. O-13-00, 8-23-00; Ord. No. O-5-10, 4-5-10; Ord. No. O-4-12, 5-21-12; Ord. No. O-07-19 , 10-21-19)

Editor's note(s)—A statement may be obtained from the planning department along with a fee schedule.

**Sec. 24-172A. Amendment to site development plan.**

A request for amendment to an approved preliminary, final, or amendment to final site plan shall be accompanied by as much of the information required by the plan type being amendment pursuant to section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments or amendments to approved schematic development plans, shall be subject to a decision by the city planning commission.

- (a) *Amendment requests, other than minor amendment.* Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the next available site plan agenda with the required notification.
  - (1) Notice of a consent agenda item shall be mailed to all abutting and confronting property owners and occupants at least nine (9) days prior the Planning Commission’s hearing. Consent agenda items shall require the applicant to provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.
- (b) *Minor amendment requests.*
  - (1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.
    - a) The Planning Director or designee may reassign a minor amendment application to the Planning Commission’s agenda for their consideration. Minor amendments placed on the Planning Commission’s agenda must follow the same notification requirements for public hearings outlined under section 24-241.
  - (2) The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.
  - (3) Requests for minor amendment include:
    - (a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures ~~on not more than three (3) contiguous lots~~, including moving or rotation of a building or structure’s footprint, provided such moving or rotation does not encroach within any established and/or required setbacks, and does not encroach within any conservation areas. ~~shift a building or structure’s footprint more than ten (10) feet in any direction.~~
    - (b) Resiting of a lot with a house type previously approved by the city planning commission.
    - (c) ~~Approval of retaining walls/fences and other enclosures.~~
    - (d) ~~Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than items (b)(3)(b) and (e)).~~

- (e) Minor revisions to a non-residential building that does not increase the entire building, as originally constructed or thereafter amended by Planning Commission, by more than 500 square feet.
- (e) Minor revisions to a residential building single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling structure as originally constructed or thereafter amended by Planning Commission on any and/or all floors by more than fifteen (15) percent and that have been approved by the homeowners' association of the subject property, if applicable.
- (f) ~~Minor signage changes or additions.~~
- (g) Minor landscaping, parking layout, and pedestrian and sidewalk access revisions.
- (h) Addition of easements and parking areas or correction of easement and parking area locations.
- (i) Revisions to forest conservation plan.
- (j) Revisions or amendments delegated by the city planning commission.
- (k) Parking waivers of up to ten (10) percent of the required parking for a site, with consideration of the criteria listed in section 24-222A(a).
- (l) Shared parking chart amendments in conformance with section 24-219(c).
- (m) Minor modifications to existing telecommunications facilities.
- (n) Permanent covered outdoor dining facilities which do not increase the square footage of the business by more than 15% and do not enclose or seasonally enclose the dining facilities. This includes permanently or temporarily enclosing a space utilizing walls, retractable curtains, or similar.
- (o) Temporary covered outdoor dining facilities for time period of no longer than 90 days, once every six months.
- (p) Change in use between permitted uses that do not violate any of the provisions under this section and where applicable section 24-198(c).
- (4) ~~Public Planning Commission reviews of the planning commission are not required for a minor amendment are not required unless the Planning Director or designee reassigns the amendment to the Planning Commission for their consideration, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.~~
- (5) A minor amendment may only be granted if:
  - (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
  - (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
  - (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or of the planning documents for the applicable area.
- (6) For all minor amendment requests except minor modifications to existing telecommunications facilities permitted by special exception, the decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral

Attachment: Retool Gaithersburg - Exhibit 7 Article V. Site Plans Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

---

argument in lieu of a public review. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

- (7) For minor modifications to existing telecommunications facilities permitted by special exception, the decision of the planning director (or designee) may be appealed to the board of appeals, in accordance with section 24-187(a). The board of appeals, in its discretion, may consider denials of minor modifications to existing telecommunications facilities as an amendment to special exception.

## **ARTICLE VI. ADMINISTRATION AND ENFORCEMENT OF CHAPTER**

### **Sec. 24-176. Violators to be notified of violations; action by city manager to abate violations.**

If violations of this chapter are found, the violator shall be notified in writing. The city manager or designee shall order discontinuance of illegal use of land, buildings, structures or appurtenances, removal of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

(Ord. No. O-2-65, art. 3, § 1)

### **Sec. 24-176A. Site work permits.**

- (a) A site work permit shall be required to ensure the construction and/or maintenance of approved on-site, private recreational facilities, amenities, buildings and areas, and any landscaping, screening, access and parking elements being part of the approved site plan.
- (b) The city shall require from the developer a surety or cash bond, irrevocable letter of credit, corporate bond or other means of security acceptable to the city manager or designee and approved by the city attorney, prior to the issuance of any permit and prior to beginning any grading or construction pursuant to that permit. The bond or other means of security required in this section shall be conditioned upon the faithful performance of the conditions specified in the permit, within the time specified by the city manager, or designee, or within any extension thereof granted by the city manager, or designee. The bond or other means of security shall not be less than such amount as is estimated to be the total cost of the project to ensure the construction and/or maintenance of approved on-site, private recreational facilities, amenities, buildings and areas, and any landscaping, screening, access and parking elements being part of the approved site plan, subject to, at the city's option, a ten (10) percent contingency or unit dollar amount established by the city as contingency. Such bond or security shall obligate the principal, his or her executors, administrators, successors and assigns, jointly and severally with the surety, and shall inure to the benefit of the city, its officers and employees and to any person aggrieved by the principal's failure to comply with the conditions thereof. It shall be conditioned upon the completion of the work authorized by the permit, and upon the repair of any defects in the work. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved plan, compliance with all the provisions of this article and other applicable laws and regulations, and any time limitations. A corporate bond shall be maintained and renewed annually and all securities shall be executed by a surety or guaranty company qualified to transact business in the state and approved by the city. In lieu of such corporate bond, said permittee may, with the approval of the city manager or designee and the city attorney, deliver to the city a written agreement to complete such work and to repair any such defect, together with cash, certified check, cashier's check or other instrument designed to provide the funds to complete such work and repair any such defects in the event the permittee shall fail to do so, and shall be deposited with the city with documentation that the funding has been deposited in compliance with and subject to the provisions of this article. Such instrument may consist of a letter of credit from a commercial bank, a certificate of savings deposit in a commercial bank or savings institution assigned to the city and qualified to transact business in the state, or such other instrument as may be approved by the city manager or designee and the city



attorney. The bond, letter of credit or other security shall obligate the principal, his executors, administrators, successors and assigns, jointly and severally with the surety, and shall inure to the benefit of the city, its officers and employees and to any person aggrieved by the principal's failure to comply with the conditions thereof. The principal and the surety shall, under the bond, letter of credit or other security, continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses or liabilities which may be incurred or expended by the city to meet the minimum requirements of this article, the plan and the permit. Upon the completion of the work authorized by the permit, said corporate bond shall be released as to ninety (90) percent of the amount thereof, or the full amount minus the unit dollar amount withheld by the city, if any contingency was retained, or in those cases where a written agreement has been submitted in lieu of said bond, ninety (90) percent of the security or the full amount minus the unit dollar amount withheld by the city, therefor shall be returned to the permittee. Upon completion of the repair of any defects referred to herein, the remainder of such bond shall be released or the balance of such security shall be returned to the permittee.

- (c) Whenever the city shall find that a default has occurred in the performance of any term or condition of the permit or bond, letter of credit or other security, written notice thereof shall be given to the principal and to the surety of the bond. Such notices shall state the work to be done, the estimated cost thereof and the period of time deemed by the city to be reasonably necessary for the completion of such work.
- (d) If a cash bond, letter of credit or other security has been posted, notice of default as provided by the preceding subsections shall be given to the principal, and if compliance is not had within the time specified, the city or other surety or any other person employed or engaged on his behalf shall proceed without delay and without further notice or proceedings whatsoever to forfeit and convert and use the cash deposited, or any portion of such deposit, or other security in accordance with subsection (d) in the discretion of the city manager or designee.
- (e) In the event of any default in the performance of any term or condition of the permit or the bond, letter of credit or other security, the city, the surety or any person employed or engaged on it's behalf shall have the right to go upon the site to complete the required work or make it safe. In the event the city undertakes the work or to make the site safe with the funds from the forfeited cash or corporate bond, such funds shall be used to pay the cost of contracting, including engineering and administration, for restoration of the site to meet the requirements of the permit, bond or this article. If the cost of the work or making the site safe exceeds the amount of the cash or corporate bond, letter of credit or other security, the permittee shall continue to be firmly bound under a continuing obligation for payment of all excess costs and expenses incurred by the city. The costs and expenses shall be a lien upon all property and all rights to property, real or personal, of any person liable to pay the same from and after the time such costs are due and payable. The costs shall be listed on the tax bill and shall be collected in the manner of ordinary taxes.
- (f) No person shall interfere with or obstruct the ingress or egress to or from any such site or premises by an authorized representative or agent of any surety, or of the city, engaged in completing the work required to be performed under the permit or in complying with the terms or conditions thereof.
- (g) The bond, letter of credit or other security shall not be fully released without a final inspection of completed work A corporate bond or letter of credit shall remain in full force and effect, until completion of the work in accordance with section 24-171 and approval by the city, submission of "as-built" plans and certification of completion by the city that the work complies with the approved plan and the provisions of this article.
- (h) Prior to releasing any bond or other security required for elements of an approved site plan, the city manager shall provide an opportunity for interested property owners, citizen groups, and representatives of common ownership communities to provide comment concerning any perceived defects in bonded construction. Such comment must be received by the city within thirty (30) days of the permittee's request for release of bonds under this chapter. The city manager or his designee shall promulgate administrative procedures for notification of interested property owners, citizen groups and representatives of common ownership communities. The decision of the city manager as to this release of any bond or letter of credit

shall be final and shall not be subject to any administrative appeal or review procedures provided for in sections 24-181 and 24-187(a).

- (i) A cash bond or other security shall be returned upon depositor's request to the depositor or to his successors or assigns upon completion of the work approved by the city as provided herein and in accordance with section 24-171, except any portion thereof that may have been used. 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 depositor or permittee who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such depositor 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 depositor or permittee, its successors or assigns, heirs and assigns relinquish all claim to said cash bond.
- (j) If, in the opinion of the city manager or designee, the nature of the work is such that it may create a hazard to human health, life or safety or endanger adjoining property or property at a higher or lower elevation, or any street or street improvement, or any other public property, the city manager or designee may, before issuing a permit under this article, require that the developer file a certificate of insurance. The certificate of insurance shall show that the developer is insured against claims for damages for personal injury and property damage in an amount not less than two million dollars (\$2,000,000.00). Such damages may also include but are not limited to include damages to the city by deposit or washing of material onto city streets or other public improvements; which may arise from or out of the performance of the work, whether such performance is by the developer, subcontractor or any person directly or indirectly employed by the developer. The amount of such insurance shall be prescribed by the city manager, or designee, in accordance with the nature of the risks involved. Such insurance shall be written by a company licensed to do business in the state and approved by the city. Neither issuance of a permit nor compliance with the provisions hereto or any condition imposed by the city shall relieve any person from any responsibility for damage to persons or property otherwise imposed by law, nor impose any liability upon the city for damages to persons or property.

( Ord. No. O-3-17, 2-21-17 )

**Sec. 24-177. Building permits.**

- (a) No building or other structure shall be erected, moved, added to or ~~structurally~~ altered without a permit ~~therefor~~, issued by the city manager or designee. No building permit requiring a site work permit shall be issued prior to the issuance of said site work permit. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the board of appeals. Each application for a building permit shall be accompanied by ~~duplicate copies~~ a copy of a plat or site plan as required, the fee established by the city council and application as provided for this purpose, and a building plan drawn to scale showing:
  - (1) The approved site plan or a house location plat of an existing individual single-family dwelling, as defined in section 24-168A, showing the proposed addition drawn to scale.
  - (2) Construction plans and documents needed to show compliance with Chapters 5, 7, and 11 of the City Code ~~and any required codes of Montgomery County~~ or the State of Maryland.
  - (3) Such other additional information as may be reasonably required to show compliance with the City Code.
- (b) All building plans, other than single family residences, shall be signed by a professional architect registered in the state.

- i) If the estimated cost (labor and materials) of storefronts, exterior stairways, landings, decks, ramps, joists, or the mechanical, electrical, or plumbing system does not exceed \$10,000.00 ~~fifty thousand dollars (\$50,000.00)~~, plans do not need to be signed by a licensed design professional registered in the state.
  - ii) If the estimated cost (labor and materials) of building does not exceed \$25,000.00 and is not structural in nature ~~fifty thousand dollars (\$50,000.00)~~, plans do not need to be signed by a licensed design professional registered in the state.
- (c) Upon completion of constructing the foundation walls ~~Before any foundation wall~~ of a building or structure is placed upon the footing thereof, the owner of such building or structure shall provide one copy of a location plat, certified by a land surveyor entitled by law to practice land surveying in the state. This plat shall show the actual location of the building or structure walls on the lot, parcel or tract and relation to other structures on the same lot, parcel or tract. If the building or structure is not located in accordance with the original plat and or approved site plan, or is for a use other than that which the building permit was issued, all work thereon, except to correct the noncompliance, shall cease and the building permit shall be withdrawn. A withdrawn building permit may be reinstated upon compliance with the requirements governing its issuance.
- (d) No building permit shall be issued for any new building, structure, or addition to a building or structure without a site development permit for grading and sediment control (in conformance with Chapter 8 of the City Code), public works development, and/or on-site development and bonds per City Code, Chapter 24, section 24-171(k), unless waived by the city manager or ~~his or her~~ designee due to minimal disturbance.
- (e) Upon completion of any new building, structure, or addition to a building or structure, except additions for single family dwellings, and prior to final inspection and approval of said new building, structure, or addition to a building or structure, the owner of such building or structure shall provide one copy of a final location survey certified by a professional land surveyor duly licensed by the State of Maryland to practice land surveying in the state.
- (Ord. No. O-2-65, Art. 5, § 1; Ord. No. O-5-10, 4-5-10; Ord. No. O-12-11, 10-3-11; Ord. No. O-3-17, 2-21-17 )

**Sec. 24-178. Use and occupancy permits for new, altered or nonconforming uses.**

- (a) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both, or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, except the reuse or changed occupancy of single-family dwellings for residential purposes until a use and occupancy permit shall have been issued ~~therefor~~ by the city manager or ~~his~~ authorized representative, stating that the proposed use of the building or land conforms to the requirements of this chapter.
- (b) No nonconforming structure or use shall be maintained, renewed, changed or extended until a use and occupancy permit shall have been issued. The use and occupancy permit shall state specifically wherein the nonconforming use differs from the provisions of this chapter.
- (c) A temporary occupancy permit may be issued by the city manager or ~~his~~ authorized representative for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion; provided, that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.
- (d) The city shall maintain a record of all use and occupancy permits, and copies shall be furnished upon request to any person.
- (e) Failure to obtain a use and occupancy permit shall be a violation of this chapter.

- (f) A use and occupancy permit may be suspended or revoked by the city manager or his designee upon subsequent change in use, use in contravention to the provisions of this chapter or where such use is found by the issuing authority to constitute a public nuisance by reason of disorderly physical activity, noise, odors, fumes or traffic or where such use or activity may constitute a threat to the public health, safety or welfare.

Appeals of any suspension or revocation of a use and occupancy permit shall be to the city board of appeals and be governed by the provisions of Article VII of this chapter.

An appeal under this subsection stays all enforcement in furtherance of the action appealed, unless the administrative official from whom the appeal is taken certifies to the board of appeals, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by the circuit court upon appropriate application and good cause shown.

- (g) Temporary uses.

- (1) The mayor and city council, upon review and recommendation from the planning commission, may by resolution, establish or grant a temporary use upon a finding of the following:
  - (a) The use shall be listed as permitted in the zoning district and not as a prohibited use, conditional use, or special exception;
  - (b) The use will not adversely affect the health or safety of persons residing or working in the vicinity of the proposed uses;
  - (c) The use will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
  - (d) The use further enhances economic development activities in the city.
- (2) The period of the temporary use, the length of which shall not exceed one year, shall be set forth by the mayor and city council in the resolution for approval and can be subject to any additional conditions or requirements. ~~shall be subject to periodic reviews to ensure compliance with all conditions or requirements of the approval.~~
- (3) As determined by the city manager or designee, a request for such a temporary use shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request.

(Ord. No. O-2-65, Art. 5, § 1; Ord. No. O-14-81; Ord. No. O-1-88, § 2, 1-4-88; Ord. No. O-16-09, 11-16-09)

**Sec. 24-179. Construction and use to be provided in applications, plans, permits and use and occupancy permits.**

Building permits or use and occupancy permits issued on the basis of site plans and applications approved by the city manager or his authorized representative authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction differing with that authorized shall be deemed a violation of this chapter.

(Ord. No. O-2-65, art. 5, § 1)

---

**Sec. 24-183. Complaints regarding violations.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the planning department, which shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

(Ord. No. O-2-65, art. 5, § 7)

Attachment: Retool Gaithersburg - Exhibit 8 Article VI. Administration Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

**ARTICLE VI. ADMINISTRATION AND ENFORCEMENT OF CHAPTER**

**Sec. 24-181. – Duties of city manager, board of appeals, council and courts on matters of appeal, amendment, etc.**

It is the intent of this chapter that all questions of interpretation and enforcement of this chapter, the building code or subdivision regulations shall be first presented to the city manager and for this chapter through the city manager to the planning commission, and that questions from this chapter, the building code or subdivision regulations shall be presented to the board of appeals only on appeal from the decision of the city manager, and that recourse from the decisions of the board of appeals shall be to the courts as provided by law and particularly by the Land Use Article, Title 4, Annotated Code of Maryland ~~Article 66B, section 4.08, Annotated Code of Maryland, 1957.~~

(a) It is further the intent of this chapter that the duties of the council in connection with this chapter shall not include hearings and deciding such questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the council shall have only the duties of (1) considering and adopting or rejecting proposed amendments or the repeal of this chapter and the zoning map, as provided by law, and (2) establishing a schedule of fees and charges as stated in section 24-182 of this Code.

(b) Any dispute or appeal from the decision by an administrative official or department of the city government in the enforcement and administration of this chapter, the building code or subdivision regulations shall be subject to a Final Decision by the City Manager or, if so designated, the Director of the Department of Planning and Code Administration.

(1) Any permit decision may be appealed to the City Manager or designee within ten (10) days after issuance or denial of a permit by submission of a statement of appeal to the City Manager, identifying the permit in question and nature of the dispute, with a copy to applicable City staff and the Office of the City Attorney and accompanied by a filing fee which shall be established from time to time by the city council. Such appeal shall not be accepted for filing which does not identify the permit or nature of the dispute, filing fee and copies to applicable City staff and the Office of the City Attorney.

(2) The Appellant may within ten (10) days after the submittal of the permit appeal submit any further documentation and written reasons to the City Manager supporting the appeal, with a copy to applicable City staff and the Office of the City Attorney. The City may within ten (10) days after the Appellant’s submission submit to the City Manager further documentation and written reasons supporting the City’s position, with a copy to the Appellant and the Office of the City Attorney. The City Attorney or designee may advise the City Manager;

(3) The appeal, written reasons and documentation provided shall be included as part of the record of the appeal. The City Manager shall conduct an informal but recorded hearing if requested by either Appellant or Appellee for the receipt of testimony, evidence and argument, which shall also be part of the record;

(4) The City Manager’s written Final Decision shall be sent to the Appellant and City as Appellee, as well as the Office of the City Attorney, within forty-five (45) days after the appeal, or the appeal shall be considered denied by the City Manager as of that forty-fifth day, which shall be considered the date of the Final Decision. If mailed to the Appellant, the Final Decision must be mailed “certified” and dated the time of mailing; otherwise, it must be dated the date of delivery to the Appellant.



**Sec. 24-182. - Schedule of fees, charges and expenses.**

The city council shall establish by resolution a schedule of fees, charges and expenses, for all matters pertaining to this chapter. The schedule shall be posted in the city office, and may be altered or amended by resolution of the city council.

No certificate, permit, special exception or variance shall be issued unless or until such costs, charges, fees or expenses as established by the city council have been paid in full, nor shall any action be taken on any appeal or hearing proceedings before staff or any board or commission of the city unless or until preliminary charges and fees have been paid in full.

## ARTICLE VII. BOARD OF APPEALS<sup>1</sup>

### Sec. 24-185. Created; composition; appointment and removal of members; compensation.

There is hereby created and established a city board of appeals which shall consist of five (5) members and one alternate who shall be appointed by the mayor and confirmed by the city council for three-year terms. Members of the board may be removed after public hearing by the city council for incompetence, misconduct, failure to attend meetings, or conviction of a crime for cause by the city council upon written charges and after public hearing. An alternate member shall act in the place of an absent or ~~disabled~~ recused board member. Members of the board may receive such compensation as deemed appropriate by the city council. The board shall elect a chairperson and vice-chairperson, who shall serve in such capacity for a one-year term. The chairperson and vice-chairperson shall be eligible for reelection.

### Sec. 24-186. Rules; meetings; oaths; witnesses; record of proceedings.

- (a) The board of appeals shall adopt rules of procedure governing conduct of its proceedings and matters under its jurisdiction. Meetings of the board shall be open to the public and shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his absence the vice-chairperson, may administer oaths and compel the attendance of witnesses.
- (b) The board shall keep minutes and, where appropriate, official transcripts, ~~voice or other recordings and other~~ records on matters coming before the board and showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, all of which shall be a public record and filed ~~immediately~~ in the office of planning and code administration.

### Sec. 24-187. Powers and duties.

The board of appeals shall have the following functions, powers and duties:

- (a) *Administrative review.* To hear and decide appeals where it is alleged that there is an error in any final order, requirement, decision or determination made by ~~any administrative official or department of the city government~~ or the planning commission or historic district commission in the enforcement and administration of this chapter; any administrative official or department of the city government in the enforcement and administration of this chapter, the building code, subdivision regulations or any other ordinance or regulation which may hereafter be designated by the city council for such administrative review; provided, however, that appeals alleging error by (1) the planning commission, (2) historic district commission or (3) any administrative official or department of the city government in the enforcement and administration of this chapter, the building code, or subdivision regulations, following a Final decision of the City Manager or designee under Sec. 24-181 (b) of this chapter shall be by oral argument or written statement based solely on the evidence submitted and received in the planning

<sup>1</sup>State law reference(s)—Board of appeals, Anno. Code of Md., 1957, art. 66B, § 4.07. Subtitle 3, Title 4, Land Use Article, Anno. Code of MD.

commission or historic district commission proceedings or in the record of proceedings before the City Manager or designee.

- (b) *Special exceptions.* To hear and decide only those special exceptions as the board of appeals is specifically authorized to pass on by the terms of this chapter.

The board of appeals is empowered to prescribe appropriate conditions and limitations upon the approval of special exceptions, including appropriate site plan conditions and limitations. Special exceptions approved by the board shall be implemented in accordance with the terms and/or conditions set forth in the board's decision and shall include the requirement that the petitioner shall be bound by all of ~~his~~ their testimony and exhibits of record, the testimony of their ~~his~~ witnesses and representations of ~~his~~ their attorneys, to the extent that such evidence and representations are identified in the board's opinion approving the special exception. Violation of such conditions and limitations shall be deemed a violation of this chapter and, further, shall constitute grounds for revocation of such special exception.

- (c) *Variances.* To authorize on appeal in specific cases a variance from the strict application of the terms or requirements of this chapter. Variations or waivers under the traditional neighborhood design (TND) option are not variances subject to the board's jurisdiction.

In granting any variance the board may prescribe appropriate conditions and limitations in conformance with this chapter. Violations of such conditions and limitations shall be deemed a violation of this chapter and, further, shall constitute grounds for revocation of such variance.

These provisions shall not be construed to permit the board, under the guise of a variance, to authorize a use of land not otherwise permitted in the zone involved or permit a variance specifically prohibited by the terms of this chapter or grant a variance that will increase the intensity of an existing nonconforming use.

**Sec. 24-188. General requirements and procedures.**

- (a) Petitions filed for administrative review to the board of appeals may be initiated by any person aggrieved by a final ~~order, requirement,~~ decision ~~or determination~~ as set forth in subsection (b) of section 24-181 and subsection (a) of section 24-187 of this Code. Such petition shall be filed within seventeen (17) days of the date of the ~~action~~ final decision from which the appeal is filed, unless extended by law or by order of the board upon good cause shown not more than twenty-one (21) days after the date of the ~~action~~ final decision appealed from. The filing of a petition for administrative review shall stay all proceedings in furtherance of the action appealed from unless such stay would cause immediate peril to life or property.

Petitions for a special exception or a variance may be filed by any person, entity or government agency with any financial, contractual or proprietary interest in the affected property. Should petitions be filed by one other than the owner of the property, those petitions must be filed with the owner's written consent.

- (b) A petition for special exception, variance or administrative review shall be submitted to the board of appeals in writing on forms provided for this purpose and accompanied by a filing fee which shall be established from time to time by the city council. A petition shall not be accepted for filing which does not contain an appropriate application, filing fee and supporting material set forth in subsection (c) below.
- (c) A petition for special exception, variance or administrative review shall be accompanied by the following materials and/or information:
  - (1) *Special exceptions.*
    - a. Plans and drawings that comply with section 24-169(c).

- b. A statement explaining in detail how the special exception is to be operated, including hours of operation, number of anticipated employees, occupants and clientele, equipment involved and any special conditions or limitations which the petitioner proposes for adoption by the board.; and how the application complies with findings for a special exception.
  - c. ~~List of additional interested parties.~~
  - d. If the petitioner is not the owner of the property involved, the lease, rental agreement or contract to purchase by which the petitioner's legal right to prosecute the petition is established.
  - e. ~~Applicable master plan maps reflecting proposed land use, zoning and transportation, together with any other portions of the applicable master plan deemed pertinent by the petitioner.~~
  - f. All additional exhibits which the petitioner intends to introduce and/or the identification of exhibits intended to be introduced at the public hearing.
  - g. A summary of what the petitioner expects to prove, including the names of petitioner's witnesses, summaries of the testimony of expert witnesses and the estimated time required for presentation of the petitioner's case. All expert reports shall be filed at least fifteen (15) days prior to the public hearing.
  - h. A listing of the names and addresses of all persons required to receive notice pursuant to section 24-188(e) of this Code. If an abutting or confronting property is a condominium, cooperative or is owned by a homeowner's association then notice shall be given to the governing body and resident agent of the condominium cooperative or homeowner's association.
  - i. ~~Required fee (see fee schedule).~~
- (2) *Variances.* Items a., c., d., f., g., h., and i. of paragraph (1) above applicable to special exceptions.
- a. Plans and drawings that comply with section 24-169(c).
  - b. A statement establishing the need for variance, including argument regarding peculiarity of property and how application complies with findings for a variance.
  - c. If the petitioner is not the owner of the property involved, the lease, rental agreement or contract to purchase by which the petitioner's legal right to prosecute the petition is established.
  - d. All additional exhibits which the petitioner intends to introduce and/or the identification of exhibits intended to be introduced at the public hearing.
  - e. A summary of what the petitioner expects to prove, including the names of petitioner's witnesses, summaries of the testimony of expert witnesses and the estimated time required for presentation of the petitioner's case. All expert reports shall be filed at least fifteen (15) days prior to the public hearing.
- (3) *Administrative review.*
- a. The final Planning Commission or Historic District Commission action, or final decision as outlined in subsection (b) of section 24-181 from which petitioner seeks administrative review, permit and/or approved plans, action, document and all records upon which the appeal was filed or based.
  - b. List of specific section or sections of the City Code relied upon or authorizing the review.
  - c. ~~Copies of additional exhibits or documents upon which the petitioner relies~~

Attachment: Retool Gaithersburg - Exhibit 9 Article VII. Board of Appeals - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

- c. Deposit for cost of official transcript of agency proceeding, if required, estimated on length of hearing. Balance to be paid by petitioner prior to scheduling of hearing date.
- e. List of parties who participated in the proceeding appealed.
  - i. ~~For administrative review of planning commission or historic district commission decision, list of parties who participated in the proceeding.~~
  - ii. A listing of the names and addresses of all persons required to receive notice pursuant to section 24-188(e) of this Code. If an abutting or confronting property is a condominium, cooperative or is owned by a homeowner's association, then notice shall be given to the governing body and resident agent of the condominium, cooperative or homeowner's association.
- f. ~~Required fee (see fee schedule).~~
- g. ~~Copy of official zoning vicinity map with a one thousand foot radius surrounding the subject property and other information to indicate general conditions of use and existing improvements on adjoining and confronting properties~~
- (d) All petitions for special exceptions shall be referred to the city manager or his designee and the planning commission for analysis, review and recommendations. Petitions for variances shall be referred to the city manager or his designee, but shall only be referred to the planning commission at the discretion and direction of the board of appeals. Comments and recommendations shall be forwarded to the board of appeals prior to the public hearing on the special exception or variance.
- (e) Notice of a public hearing on any special exception, or variance ~~or, when applicable, administrative review,~~ shall be given by mail to the petitioner, the owner of the property and all abutting and confronting property owners of the property under consideration at least twenty-two (22) days prior to the date of the public hearing. Notice shall be ~~published~~ posted on the City's Website twenty-two (22) days prior to the public hearing. In addition, notice of such hearing shall be posted by the petitioner with a sign provided by the board of appeals staff on the property under consideration:
  - (1) At minimum, the sign shall contain the following information:
    - a. The title of "board of appeals";
    - b. The type of petition pending;
    - c. The petition number;
    - d. The date, and place of the hearing; and
    - e. A phone number to call for additional information.
  - (2) If the property has frontage on one or more improved streets, there shall be one sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property near the street right-of-way, so as to be visible from the improved portion of the street. When more than one sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.
  - (3) If the property does not have frontage on an improved public street, then one sign shall be placed on the property by the petitioner. This sign shall be near the boundary of the property and visible from an adjoining property. Another sign shall be placed by the petitioner near to, and visible from, the improved portion of the nearest, most-traveled street. This sign shall indicate it is not on the subject property.
  - (4) The minimum size of each sign shall be two (2) feet in width by three (3) feet in height for all signs to be located abutting streets that are two (2) lanes or smaller. However, the minimum size of each sign

shall be four (4) feet in width by three (3) feet in height, for all signs to be located abutting streets that are larger than two (2) lanes.

- (5) All signs posted shall be conspicuous and legible.
- (6) The petitioner shall be responsible for reasonable maintenance of all signs posted. In the event a sign is removed, falls down, or otherwise is not posted correctly during the pendency of and including the date of the hearing, it shall be the responsibility of the petitioner to re-post the sign. In the event a replacement sign is need, it shall be the petitioner’s responsibility to request a new sign from the Planning and Code Administration. ~~on the property or in the right-of-way during the pendency of and until the date of the hearing, it shall be the responsibility of the petitioner to re-post the sign.~~
- (7) The petitioner shall file a written statement in the record of posting.
- (8) The sign shall remain posted until the board of appeals has issued its written opinion.
- (f) The board shall hold a public hearing on all petitions for special exceptions or, variances. ~~A or administrative reviews and with the exception of administrative appeals~~ alleging error by the planning commission or the historic district commission ~~wherein administrative reviews, which~~ shall be by oral argument or written statement based solely on the evidence submitted and received in the commission or administrative proceedings. The board's hearings shall be public and any party may appear in person or by agent or attorney. The conduct of the hearing shall be conducted pursuant to the board's rules of procedure. Hearings may be adjourned or continued from time to time at the board's discretion; provided, that any such adjournment or continuance shall be to a time and date certain.
- (g) The board shall have authority to adopt, and amend from time to time, rules of procedure to govern the conduct of its proceedings.
- (h) No petition for special exception or variance may be amended by petitioner after consideration by the planning commission so as to materially alter the original request or proposal unless done so upon the recommendation of the commission or with the prior consent of the board of appeals prior to the public hearing.
- (i) The board of appeals shall maintain a record of its proceedings, including all exhibits filed and accepted, minutes of its proceedings and decisions and transcripts or ~~voice~~ recordings of all testimony presented.
- (j) The petitioner for a special exception, variance or administrative review shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion on all issues of fact which are to be determined by the board of appeals.

(Ord. No. O-2-65, art. 5, § 2; Ord. No. O-20-80; Ord. No. O-15-91, 7-1-91; Ord. No. O-23-92, 12-7-92; Ord. No. O-29-95, 11-20-95; Ord. No. O-16-01, 9-24-01; Ord. No. O-5-10, 4-5-10; Ord. No. O-15-10, 8-2-10; Ord. No. O-12-11, 10-3-11; Ord. No. O-8-13, 9-3-13 )

**Sec. 24-189. Findings required.**

- (a) *Administrative review.* A petition for administrative review may be granted when the board of appeals finds from the evidence of record that the final ~~order, requirement, decision or determination~~ which is the subject of the appeal was clearly erroneous or not in accordance with the law.
- (b) *Special exceptions.* A special exception may be granted when the board of appeals finds from the evidence of record that the proposed use:
  - (1) Is a permissible special exception within the zone and that the petition complies with all procedural requirements set forth in this article;



- (2) Complies with all standards and requirements specifically set forth for such use as may be contained in this chapter and the development standards for the zone within which the intended use will be located;
  - (3) ~~Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, toxicity, glare or physical activity;~~
  - (4) Will be in compatible harmony with the ~~general character of the neighborhood~~ considering population density, design, scale and bulk of any proposed new structure or conversion of existing structures; as well as the intensity and character of activity, traffic and parking conditions and number of similar uses;
  - (5) Will be consistent with either the master plan and/or the current City of Gaithersburg's Strategic Plan. ~~other planning guides or capital programs for the physical development of the district;~~
  - (6) Will not adversely affect the health, safety, ~~security, morals~~ or general welfare of the surrounding community ~~of residents, visitors or workers in the area;~~
  - (7) Will be served by adequate public services and facilities, including police and fire protection, water and sanitary sewer, storm drainage, public roads and other public improvements; and
  - (8) When located in a residential zone where buildings or structures are to be constructed, reconstructed or altered shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screening or fencing.
- (c) *Variances.*<sup>2</sup> A variance from the terms of this chapter may be authorized by the board of appeals upon proof by the evidence of record that:
- (1) Relative to surrounding properties, the property is peculiar in some manner, such as, but not limited to, dimension, grade, or environmental constraint.
  - (2) The peculiarity of the property was not due to any action taken by the petitioner
  - (3) The literal enforcement of zoning law would result in unnecessary hardship or practical difficulty and would deprive the petitioner of the rights commonly enjoyed by others in similar areas that have many of the same features of the subject property
  - (4) The variance request has no effect on an adjacent property owner's use or enjoyment of their property
  - (5) The variance request is consistent with the purposes of Chapter 24 and does not confer on the petitioner a special privilege that would be denied other petitioners
  - (6) All development associated with a variance request is appropriately scaled, designed and sited
- (Ord. No. O-20-80; Ord. No. O-16-01, 9-24-01; Ord. No. O-8-13, 9-3-13 )

**Sec. 24-190. Decisions of board.**

- (a) The decision of the board of appeals on any matter considered under this article shall be by written resolution containing findings and conclusions and rendered within sixty (60) days from the date of the public hearing unless such time is extended by the board. The affirmative vote of a majority of the board present shall be required to grant a petition for special exception or petition for variance. The same majority vote of the board shall be required to reverse or affirm, in whole or in part, any order, requirement, decision

<sup>2</sup>If a conflict between this statute and state code exists, the state prevails.

or determination which is the subject of administrative review. If the necessary total of affirmative votes shall not be achieved, the petition shall be denied.

- (b) All decisions of the board under this article shall be based solely upon the evidence of record.
- (c) The decision of the board shall not preclude any department or agency of the city, when appropriate, to add specific conditions or requirements not inconsistent with the board's decision, which are necessary to comply with any state law, ordinances or regulations of the city, or where necessary to protect adjacent properties, the general neighborhood and residents, workers and visitors therein.
- (d) The date of the decision is the date the resolution is signed. A copy of the board's decision shall promptly be ~~mailed~~ issued to all persons entitled to original notice of the hearing and to all persons appearing and testifying in person or by counsel.

**Sec. 24-190A. Rehearing and reconsideration.**

- (a) The board may reconsider its decisions or rehear any proceeding upon its own motion or upon request of any party, provided such motion or request is received not more than ten (10) days from the date the board rendered its decision. The board may promulgate additional rules with respect to reconsideration and rehearing.
- (b) A request for reconsideration or rehearing must specifically state the basis upon which the party contends the board of appeals' decision should be reconsidered or reheard. The request may include a request for oral argument on the request. The party requesting reconsideration or rehearing must serve all parties who received the original opinion with a copy of the request at the same time the request is made to the board of appeals. The board shall post notice of the date the board will meet to consider and/or hear the reconsideration or rehearing request on the city's web site and at city hall.
- (c) The board of appeals may grant reconsideration or rehearing only upon evidence:
  - (1) Of a clear showing that the action of the board of appeals did not conform to relevant law or its rules of procedure; or
  - (2) An irregularity, mistake, or fraud; or
  - (3) That certain pertinent and significant new evidence relevant to the board of appeals' decision could not reasonably have been presented at the hearing before the board of appeals or otherwise included in the record; or
  - (4) Of such other appropriate compelling bases as determined by the board of appeals.
- (d) Within five (5) days of filing the request, any party may file a written response and request oral argument. All parties to the proceeding must be served a copy of the response. The board may grant oral argument in its discretion or may render a decision on the written request and response.
- (e) Any decision on a request for rehearing or reconsideration not granted within twenty (20) days from the date received shall be deemed denied; provided, however, if the board prior to the expiration of this twenty-day period believes additional time is required to take action on the request, the board by resolution may extend the effective date of the decision which is the subject of the request.
- (f) The fact that a party raises an issue worthy of reconsideration does not itself require the board of appeals to reconsider a prior action.
- (g) If a motion to reconsider has been duly adopted by the board of appeals, the prior final decision of the board shall be void and the record before the board shall be automatically reopened. The board shall schedule a hearing for a subsequent date and time, providing all parties of record at least ten (10) days advance written notice of the hearing.

- (h) If a judicial appeal is filed by an aggrieved party prior to the board's decision on a request for reconsideration or rehearing, then the board of appeals shall be divested of jurisdiction to decide the request.

**Sec. 24-191. Special exception implementation, modification and abandonment.**

- (a) The board of appeals shall prescribe a time limit in which the special exception is required to be completed. The board of appeals shall conduct a public hearing upon the failure to complete the special exception within the prescribed time and following the public hearing may terminate the special exception. The board may, upon written request and for good cause shown, extend the time for completion of the special exception.
- (b) The board of appeals is authorized to amend or modify the terms or conditions of a special exception, other than minor amendments as listed in 24-191(c), upon the request of the special exception holder or upon recommendation of any city department or the planning commission, or pursuant to a show cause hearing provided in section 24-192 of this Code. No public hearing shall be required unless the proposed modification will substantially change the nature, character or intensity of the use or materially impact the neighborhood in which such use is located. If the board determines that a hearing is required, the notice and hearing provisions contained in section 24-188 of this Code shall apply.

(c) Minor amendment requests.

- (1) Requests for minor amendments of a special exception shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.
- (2) Requests for minor amendments of a special exception, as specified in Section 24-191(c)(3), shall follow the application and approval procedures as prescribed in Section 24-172A(b).
- (3) Requests for minor amendment to a special exception include:
- (a) Approval of retaining walls/fences and other enclosures.
- (b) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings
- (c) Minor landscaping, parking layout, and pedestrian and sidewalk access revisions.
- (d) Revisions or amendments delegated by the board of appeals.
- (e) Minor modifications to existing telecommunications facilities.
- (4) Public reviews of the board of appeals are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.
- (5) A minor amendment may only be granted if:
- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and

- (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
- (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.
- (6) For all minor amendment to special exception requests, the decision of the planning director (or designee) may be appealed to the board of appeals if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The board of appeals, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The board of appeals may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.
- (d) A special exception subject to the procedures in section 24-192, shall be deemed abandoned, irrespective of the intent of the holder, where the cessation of the use approved or the activities incident to the operation of the special exception have been discontinued for a period of at least six (6) months after implementation thereof. After public hearing, the board may revoke a special exception upon finding from the evidence of record that the cessation of the use of the special exception or activities constituting or necessary to the special exception have ceased for a period of at least six-month duration.

**Sec. 24-192. Compliance; revocation of special exception.**

- (a) ~~The board of appeals shall prescribe a time limit in which the special exception is required to be completed. The board of appeals shall conduct a public hearing upon the failure to complete the special exception within the prescribed time and following the public hearing may terminate the special exception. The board may, upon written request and for good cause shown, extend the time for completion of the special exception.~~
- (b) ~~The board of appeals is authorized to amend or modify the terms or conditions of a special exception upon the request of the special exception holder or upon recommendation of any city department or the planning commission, or pursuant to a show cause hearing provided in section 24-192 of this Code. No public hearing shall be required unless the proposed modification will substantially change the nature, character or intensity of the use or materially impact the neighborhood in which such use is located. If the board determines that a hearing is required, the notice and hearing provisions contained in section 24-188 of this Code shall apply.~~
- (c) ~~The board of appeals is authorized to amend or modify the terms or conditions of a special exception upon the request of the special exception holder or upon recommendation of any city department or the planning commission, or pursuant to a show cause hearing provided in section 24-192 of this Code. No public hearing shall be required unless the proposed modification will substantially change the nature, character or intensity of the use or materially impact the neighborhood in which such use is located. If the board determines that a hearing is required, the notice and hearing provisions contained in section 24-188 of this Code shall apply.~~
- (d) ~~After public hearing, the board may revoke a special exception upon finding from the evidence of record that the cessation of the use of the special exception or activities constituting or necessary to the special exception have ceased for a period of at least six-month duration.~~

---

**Sec. 24-193. Appeals from board decisions.**

Any person, taxpayer, board or department of the city aggrieved by any decision of the board of appeals may within thirty (30) days of the date of the board's decision appeal the decision to the circuit court for Montgomery County and thereafter to the appellate courts of this state for further review. Appeals shall be subject to the provisions of the Maryland Rules of Procedure governing administrative appeals.

Attachment: Retool Gaithersburg - Exhibit 9 Article VII. Board of Appeals - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

## **ARTICLE VIII. ZONING MAP AND TEXT AMENDMENT PROCEDURE<sup>1</sup>**

### **Sec. 24-194. Applicability to article.**

The text of this chapter and the zoning map may be amended in the following manner set out in this article.

### **Sec. 24-197. Process Requirements as to text and map amendments.**

(a) ~~Referral to planning commission.~~ The city manager shall refer to the planning commission every application for amendment to the text or the zoning map.

(f) Publication of notice. ~~In addition to the posting of notice, the city manager shall cause Notice of public hearings for amendments to text of this chapter and/or the zoning map is to be published on the City's website and in at least one newspaper of general circulation in the city once each week for two successive weeks, with the first such publication of notice appearing at least fourteen days prior to the hearing. The notice is to include~~ of the time, date and place of the public hearing, together with a summary of the application or proposed regulation, restriction or boundary change, ~~in at least one newspaper of general circulation in the city once each week for two successive weeks, with the first such publication of notice appearing at least fourteen days prior to the hearing.~~ In the case of an application for a zoning map amendment, such notification shall also include the amount of land involved, its location, the name of the applicant, the name of the owner, if different from the applicant, the existing zoning classification and the new classification or classifications proposed.

(b) *Hearing.* The council and the planning commission shall conduct a joint public hearing on every sponsored proposal to amend the text of this chapter or ~~the zoning map~~ zoning map amendment application. The joint public hearing ~~before the council~~ shall be subject to the notification procedures set forth in section 24-196(f). Such hearings may be continued, without further advertising or posting, to another time or another place, or both, if the time and place of the later hearing is announced at the advertised hearing. ~~In this article and in accordance with the MD Land Use Article.~~

(c) *Recommendation of planning commission.* The planning commission shall deliver to the city council as promptly as circumstances shall permit its recommendation with reference to each application to amend the text or the zoning map. In the event the planning commission shall fail to deliver such recommendation to the city council within ~~thirty~~ sixty days following the hearing, the council may act upon such application without awaiting such recommendation.

(d) *Action of the council.* The council shall take action on the application within ~~ninety~~ one hundred and twenty days after the hearing. If the council shall fail to do so, the application shall be deemed to have been denied.

(e) ~~Notice to applicant and planning commission of action of council.~~ Notice of action taken by the council on any amendment to this chapter or to the zoning map shall, within seven (7) days thereof, be transmitted to the applicant and to the planning commission by the city manager.

(f) *Fees.* Each application to amend the zoning map ~~aside from comprehensive rezoning~~ shall be accompanied by a fee in accordance with a schedule of fees established by the council by resolution.



**Sec. 24-195. Text amendment.**

The text of this chapter may be amended upon an application ~~of~~ by the city council or the planning commission following a staff introduction in a public meeting seeking sponsorship of any proposed amendment. Staff will present the draft changes to either the city council or the planning commission who will then either sponsor the amendment and direct staff to proceed with an application and begin the public hearing process or not sponsor the amendment and cease moving forward with an application.

**Sec. 24-196. Map amendments.**

- (a) *Application of the council, etc.* The zoning map may be amended upon the application of the council, the planning commission or any person having an interest, as owner or contract purchaser, in the land which is the subject of the application.
- (b) *General proposals of amendments.* A zoning map amendment may propose ~~one~~ new zoning classifications for the property whole or in part, which is the subject of the application, ~~or it may propose two or more alternative classifications for all of such property.~~
- (c) *Information required on application; where filed.* Such application shall be filed with the department of Planning and Code ~~with the city manager on forms supplied by the city manager, in such number of copies as shall be required by the city manager.~~ Such application shall contain a description of the property which is the subject of the application, its location, the name and address of the applicant, the name and address of each person who owns an interest in the property, the existing zoning classification of the property, the new classification or classifications proposed, any applicable City master /comprehensive plan zoning recommendations for the property, and the application number of any map amendment application involving all or part of the property which has been acted upon in any manner by the city council ~~or the district council for the Maryland Washington Regional District in Montgomery County~~ during the three years immediately prior to the filing of the application. The application shall also include such other information as shall be required by the city manager. If the description of the property is by metes and bounds, it shall be drawn with reference to ~~Washington Suburban Sanitary Commission~~ Maryland State Plane data Coordinates.
- (d) *Limitation on refiling.* Where a map amendment application includes land all or part of which has been the subject of a previous map amendment application which has been granted or denied by the city council, such application shall not be accepted for filing within twelve months after the effective date of the decision granting or denying such prior application. The council shall have the right to waive this limitation by resolution upon written request for such waiver, where the previous application was granted.
- (e) *Posting of notice.* The applicant, with the exception of comprehensive rezonings conducted with and reflecting the adoption of a comprehensive plan land use element, shall erect one or more signs to be supplied ~~to him~~ by the city ~~manager~~ giving notice of the number assigned to such application and the classifications proposed. Such sign or signs shall be erected by the applicant on the property which is the subject of the application in accordance with the specifications of this subsection. The sign(s) shall be erected as soon as the public hearing date is set, but in all cases the sign(s) shall be posted a minimum of fourteen (14) calendar days prior to the date of the public hearing. Ordinarily, such sign or signs shall be located on property which is the subject of the application. In the event the applicant is not the owner of the property and the owner refuses to permit a sign to be placed on the property, or in the event a sign on the property cannot be readily seen by the public, the city manager or designee may direct that the sign or signs be placed on property other than the subject property in such locations as will give fair notice of the pendency of the application. All signs shall be posted in accordance with the following rules:
  - (1) At minimum, the sign shall contain the following information:
    - (i) The title of "Mayor and Council and ~~or~~ Planning Commission Hearing;"

- (ii) The type of application pending;
  - (iii) The application number;
  - (iv) The date, and place of the hearing; and
  - (v) A phone number to call for additional information.
- (2) If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property not more than fifteen (15) feet from the street right-of-way so as to be visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.
  - (3) If the property does not have frontage on an improved public street, then a sign shall be placed on the property by the applicant near the boundary of the property and visible from an abutting or confronting property. A second sign shall be placed by the applicant near to, and visible from, the improved portion of the nearest, most traveled street. The second sign shall indicate it is not posted on the subject property.
  - (4) The minimum size of each sign shall be two (2) feet in width by three (3) feet in height for all signs to be located abutting streets that are two (2) lanes or smaller. However, the minimum size of each sign shall be four (4) feet in width by three (3) feet in height, for all signs to be located abutting streets that are larger than two (2) lanes.
  - (5) All signs posted shall be conspicuous and legible.
  - (6) The applicant shall be responsible for ~~the~~ any cost of the sign and for reasonable maintenance of all signs posted. In the event a sign is removed, falls down, or otherwise is not posted correctly during the pendency of and including the date of the hearing, it shall be the responsibility of the applicant to re-post the sign. In the event a replacement sign is needed, it shall be the applicant's responsibility to request a new sign from the Planning and Code Administration. Following the hearing, it shall be the responsibility of the applicant to remove all signs posted within a five-day period following the hearing.
  - (7) The applicant shall file a written statement in the record verifying the posting.
- (g) *Mailing of notice.* In addition to the posting and publication of notice required above, the city manager or designee shall, ~~promptly, after the filing of a map amendment application,~~ mail notice of the filing of the application and the scheduled date of the public hearing to the owner of every property, any part of which is located within two hundred feet of the boundary of the property which is the subject of the application. The names and addresses of the owners of such property shall be supplied by the applicant at the time of the filing of the application. Failure of any owner of any such property to receive such notice shall not be a basis for denial of the application.

**ACTION BY COUNCIL**

*Action by the council.* The council may dismiss an application to amend the zoning map ~~or~~ for failure to comply with the requirements of this article. If ~~such a zoning map amendment application shall comply with~~ complies with the requirements of this article ~~such requirements,~~ the council may deny it, or grant it, or grant it with modifications, or permit it to be withdrawn. The action of the council granting a zoning map amendment application either with or without modifications shall be by ordinance. The action of the council denying such an application or permitting it to be withdrawn shall be by resolution. The council may grant a map amendment application for any one of the classifications requested in the application or for a different classification.

**Sec. 24 196.1.** Grant of zoning with ~~conditions~~ modifications—Authorized.

- (a) Upon the zoning or rezoning of any land, whether by local map amendment, comprehensive zoning or zoning of newly annexed land, the city council is authorized to impose as part of such approval restrictions, conditions, and limitations upon the design of buildings and structures, landscaping or other improvements, alterations and changes made or to be made upon the land to be rezoned which the council deems appropriate to preserve, improve or protect the subject property or adjacent lands and improvements.
- ~~(b) Prior to approval of any zoning or rezoning with restrictions, conditions, or limitations, the city council shall provide notice of public hearing as provided for in this chapter for map amendments.~~
- (c) Any restrictions, conditions, and limitations imposed under this section shall be enforced by the city planning commission through the site development plan approval provisions of Article V of this in Chapter 24. of this chapter.

*Reconsideration by council.* Action by the council on any zoning map amendment shall, after thirty days, be final and not subject to reconsideration, except through the filing of a new application. Within such thirty-day period, the city council may recall for reconsideration any map amendment; provided, that before taking further action therein, a rehearing shall be scheduled and advertised and the property posted, as in the case of a new application.

Sec. 24-199. Appeals.

Any person or persons aggrieved by any zoning action of the city council shall have the right of appeal, exercisable within thirty (30) days from the date of the decision or action, to the Circuit Court for Montgomery County, Maryland, and thereafter to the appellate courts of the state, in accordance with the Maryland Rules of Procedure governing administrative appeals. The filing of any appeal shall not stay the zoning action of the city council pending final resolution of the appeal.

Plans of Record

Any vested final site plan for a property in place at the time of a comprehensive rezoning will count as concept/sketch, schematic development plan and final site plan approval as applicable under the new zoning classification.

**Sec. 24-200. Deferrals of pending map amendment, text amendment, schematic development plan, sketch plan and concept plan applications.**

The processing, public hearing or decision of any pending local map amendment, text amendment, schematic development plan, sketch plan, or concept plan ~~for the CD Zone application~~ for a city floating zone as defined , or amendments to any of the ~~previous~~ described site plans may, after recommendations are received from the Department of Planning and Code Administration, be postponed or deferred by resolution approved by the city council when, in the discretion of the city council, the pendency of any master plan amendment, transportation plan amendment; zoning and planning study; or city, county or state capital improvement program or project or amendment thereto may substantially affect applications under consideration, and promote orderly zoning and planning within the city, as well as the efficient and economical processing of such applications.

~~A pending local map amendment, text amendment, schematic development plan, sketch plan or concept plan application may be deferred until the earlier of either:~~ Such a deferral, if granted, may be in place until:

- (a) The final disposition by the city council of the pending master plan amendment, ~~transportation plan amendment,~~ zoning and planning study, or city capital improvements program or project or amendment thereto; or

The final disposition of a Montgomery county or state of Maryland transportation plan amendment county or state capital improvement program or project or amendment thereto

- (b) In the discretion of the city council, the elimination of any conflicts between ~~the pending local map amendment, text amendment, schematic development plan, sketch plan or CD Zone concept plan application or amendments thereto and the pending master plan amendment, transportation plan amendment, zoning and planning study, or capital improvements program or project~~ a pending local map amendment, text amendment, schematic development plan, sketch plan, or concept plan for a city floating zone as defined , or amendments to any of the previous described site plans have been resolved; or
- (c) Twelve (12) months from the effective date of the resolution postponing or deferring the application, unless extended by the city council for cause and granted by resolution.

The terms "pendency" or "pending" shall, for the purposes of this section, mean:

- (i) *Master plan and transportation plan amendments*—From and after public release of a staff draft of the amendment until final action thereon by the city council.
- (ii) *Zoning and planning study*—From and after direction of the city council or the city planning commission to city staff to undertake such study until such time as the study is completed and released by city staff to the requesting agency and said agency has concluded its review, including further instructions to staff, if any.
- (iii) *Capital improvements program or project*—From and after publication of any proposed capital improvements program, project, or an amendment thereto until final action thereon by the city council or appropriate government agency.

Any cost of readvertisement for an application postponed or deferred by the city council under this section shall be borne by the city.

**Secs. 24-201—24-207. Reserved.**

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

- (a) In addition to the other requirements contained in this article and notwithstanding subsection (c) of section 24-196 of this Code, an applicant for a local map amendment to any zoning district ~~except the R-A Zone and the MXD Zone~~ except for those floating zones that require the submission of a land use plan with a zoning map amendment application, may select an optional method for such application by so indicating on the appropriate application form and submitting a ~~schematic development preliminary site plan~~ preliminary site plan as part of the rezoning application. The ~~schematic development preliminary site plan~~ shall be for the purpose of limiting a development standard or standards to ~~less than the maximum permitted in the~~ those requested zone and/or limiting the land use of the applicant's subject property to one or more of the permitted uses in the zone. Approval by the council shall not be for a manner of development or use other than that for which has been applied. A ~~schematic development preliminary site plan~~ shall be submitted consisting of the requirements listed in section 24-169(b).
- ~~(b) All applications filed under the optional method of application for local map amendment shall also include a proposed covenant, suitable for filing in the land records of the 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.~~

~~Upon approval of such application, the covenant shall be immediately recorded and certification thereof shall be submitted to the planning commission at the time of submission for final site plan review.~~

**Sec. 24-198. ~~Optional method of application for local map amendments.~~ Amendments to SDPs**

(c) ~~Amendments to concept plans, sketch plans, and schematic development plans:~~

(1) ~~The concept plan, sketch plan or schematic development plan must be amended when:~~

(i) ~~Change in use~~

- a. ~~That involves a residential use change to/from a nonresidential land use and/or:~~
- b. ~~A change requires resubdivision;~~
- c. ~~A change fully reconstructs an existing structure, or results in a "change other than to use" defined in this section;~~
- d. ~~A change involves a change in use to a land use category not approved for the original schematic development plan, except the following changes in use, subject to the other requirements in this section, do not warrant an amended schematic development plan:~~
  - 1) ~~A change in land use under the Professional Business Services Category to / from a land use under the Retail and Personal Service Category, with the exception of those uses identified as a conditional use or if such change conflicts with a master plan recommendation.~~

(ii) ~~Changes other than to use:~~

- a. ~~Increases the height of building or signage by ten (10) feet or more, or~~
- b. ~~Materially Changes to the orientation or siting of buildings, parking accessory uses, or that alter the approved SDP's: other site features' layout, such as road alignment, conservation areas or stormwater facilities; subdivision; and/or BTLs, or~~
- c. ~~Increases nonresidential building floor area by more than ten (10) percent or five thousand (5,000) square feet whichever is greater-less, or~~
- d. ~~Increases the number of multifamily residential dwelling units by more than ten (10) percent and/or reflects a. and/or b. above~~
- e. ~~Increases the total number of non-multifamily residential dwelling units by more than 5 units and/or does not meet the minor subdivision requirements of Chapter 20 and/or reflects a. and/or b. above the number of residential dwelling units whichever is greater, or~~
- f. ~~Removes more than five (5) percent of area designated for conservation or other environmental preservation purposes. Any subdivision changes not allowed under Chapter 20, Subdivision, Minor Subdivisions: Approval Process~~

~~(iii) Reserved.~~

(2) ~~For amendments involving change in use or changes other than to use, plans may be amended at any time as follows:~~

- (i) ~~At any time before review and recommendation by the planning commission.~~
- (ii) ~~At any time after planning commission review and prior to council action by resubmission to the planning commission for further review and recommendation.~~



- (iii) Subsequent to council action to approve as follows:
  - a. Filing of a new SDP application in accordance with ~~section 24-160D.9.~~ this chapter based upon zone
  - b. Resubmission of the previous application to the mayor and city council for a courtesy review of the application, presented by the city planning staff, ~~prior to action by the planning commission.~~ The council shall either:
    - 1. Find that the application has a minor effect and thereby direct the planning commission to conduct the public hearing and make a final decision on the SDP amendment in accordance with the procedure set forth above in subsection 24-198(c)(1). Public hearing notification requirements established under the chapter.
    - 2. Direct that the amendment be referred to the planning commission for further evaluation, public hearing and recommendation. The council shall thereafter approve or disapprove the recommendation of the planning commission without the necessity of public hearing, no later than forty-five (45) days after receipt of the commission's recommendation or may on its own motion, extend such time limit.
- (d) A final site plan as required by ~~article V~~ this chapter must be in conformance with the schematic development plan as approved by the council, with the exception of amendments or modifications to said final site plan not involving a change pursuant to subsection (c)~~(1)~~.

Attachment: Retool Gaithersburg - Exhibit 10 Article VIII. Amendments Exs - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

Article IX – SignsGeneral Changes:

- Re-organize the overall Sign Ordinance to make it more logical and useable:
  - Separate the Standards into General Sign Type Standards (illuminated, changeable copy, electronic, etc. – can be used in permanent and temporary signs), Permanent Sign Standards, and Temporary Sign Standards
  - Move the standards table to the permanent or temporary sign type that it is associated with (one-stop shop)
  - Move Prohibited and Restricted Signs before all of the standards

Modify These Definitions for Clarity:

- Box Sign
- Freestanding Sign
- Geographic Area Sign
- Major Highway
- Marquee Sign
- Principal Sign
- Temporary Sign

Add This New Definition:

- Sign Band

Changes to Signage Limits:

- Allow an individual building sign to be 10% of the façade rather than only 5%
- Clarify that one principal sign is allowed on each façade allowed to have signage
- Allow each tenant in a multi-tenant retail building to have signs on each façade allowed to have signage rather than just one sign per tenant
- Clarify which commercial and industrial building façades are not allowed to have signage
- Remove the overall signage cap on non-building signs, as the regulation tables provide limits on the number of those signs
- Limit most signs not subject to regulation and permits to six (6) square feet in size
- Add size limits of six (6) or twelve (12) square feet to single family residential signs that are exempt from both permits and regulation

Changes to Regulations:

- Move regulations found in the definitions to the appropriate place in the Ordinance
- Exempt signs on trash and recycling bins, fuel pumps, EV charging spaces, and drive-thrus from regulation and permits
- Exempt incidental signs from permits, other than those installed by/on the order of a public officer (which are exempt from both permits and regulation)
- Make the Internal-illuminated regulations for monument signs applicable to all internally-illuminated signs
- Add Externally-Illuminated Regulations and make them applicable to all signs, rather than just monument signs
- Clarify the minimum distance between monument signs and other signs
- Clarify the minimum distance between freestanding signs and other signs

- Clarify the vertical clearance requirements, allow the Planning Commission to grant a waiver via a site plan, and require DPW to review and approve signs placed over vehicle/pedestrian/bike areas
- Add regulations for signs placed within a sign band and include example drawings for clarity
- Require the permission of the property owner where a sign is to be installed
- Prohibit illumination for signs that are exempt from permits, exempt from regulation, or exempt from permits and regulation.
- Require temporary signs in the right of way to be a freestanding sign and prohibit temporary banners in the right of way
- Separate the Sign Type Standards into Permanent Sign Type Standards and Temporary Sign Type Standards and move the associated regulation tables to the Standards section
- Prohibit permanent banners from being attached to a fence
- Clarify the requirements for illuminated building signs and allow the Planning Commission to grant a minor waiver to allow an internally-illuminated building sign where it is normally prohibited
- Add regulations for directional signs and allow the Planning Commission to grant a minor waiver or a waiver via site plan
- Restrict the type of sign that can be used for a geographic area sign and clarify the allowable size of a geographic area sign for each sign type
- Add additional regulations for incidental signs and allow Planning Commission to grant a minor waiver to allow larger incidental signs and illuminated incidental signs
- For monument signs, allow Planning Commission to grant a minor waiver for a smaller sign base and a minor waiver to allow one additional monument sign than normally allowed
- Add a maximum height for temporary on-site freestanding Banners
- Allow the Planning Commission to approve via site plan, sign package, or design guidelines certain temporary sign types (banners, freestanding) to remain longer than 90 days
- Clarify that the regulation table for freestanding signs does not apply to monument signs, and vice-versa
- Allow blade signs to be placed within 2 feet of a public right of way and allow the Planning Commission to grant a minor waiver to allow a blade sign to project into a public right of way
- Add regulations for hanging signs, restricting them to floors that are accessible at ground level but allow Planning Commission to approve hanging signs on other floors. Allow one sign per tenant adjacent to each façade allowed to have signage. Limit hanging signs to two (2) square feet in size, but allow the Planning Commission to approve a larger sign.
- Restrict window signs to only those façades that are allowed to have signage
- Add regulations for wall signs that are illuminated (must conform to internal or external illumination standards)
- Add notification requirements and an appeals process for minor and major waivers
- Add regulations for permanent freestanding signs
- Add regulations for temporary freestanding signs

## **ARTICLE X. HOME BASED BUSINESSES**

### **Sec. 24-214. Purpose.**

The purpose of this article is to allow home based businesses in enumerated zones as a permitted use or special exception use, dependent upon the intensity and impact of such businesses, to ensure compatibility with adjoining uses and the neighborhood in which they are located. It is intended that these uses be confined to the interior of any dwelling or dwelling unit; be conducted by resident(s) of the dwelling or dwelling unit; be incidental and subordinate to the primary residential use of the premises; be conducted without changing the characteristics of the neighborhood, or the residential appearance or condition of the structure in which they are located; and, be of limited scope and intensity in terms of interior area occupied by the business, the volume and frequency of visitors, traffic generated and parking demands. Home based businesses are not intended to be conducted in such a manner or scope, either by the number of workers, volume of business or visitors, interior building modifications, installation of equipment and fixtures, amount of stock in trade or parking demands, as to become a commercial use or enterprise normally found in or better accommodated in a commercial zoning district.

Full time remote working from home for an external organization is not considered a home based business. Occupants of an accessory dwelling unit may not operate a home based business without the primary residential owner's written permission.

This article is not intended to prevent a common ownership community's ability to enforce the community's covenants, by-laws and rules. This article recognizes a dual regulatory process with respect to a home based business and the owner or operator of such business is separately subject to the standards, requirements and restrictions of this article and the covenants, by-laws and rules of the applicable common ownership community.

### **Sec. 24-215. Standards and requirements applicable to home based businesses.**

No home based business shall be permitted to operate unless such operation complies with the following requirements:

- (a) The home based business is clearly subordinate to the primary residential use of the dwelling or dwelling unit or property within which it is located.
- (b) The home based business does not change the residential character or appearance of the dwelling, dwelling unit, property or neighborhood within which it is located. No alterations to the exterior of the premises, other than allowed by this article or required by city ordinance or regulation, will be permitted.
- (c) The business use conducted on site, with the exception of allowed parking and signage, shall be conducted entirely within the confines of the interior walls of the dwelling, dwelling unit or accessory structure. Provided, however, components of the business may be operated off-site, but not in any other dwelling or dwelling unit controlled by the owner or operator of the home based business.
- (d) The person conducting the business must use the home as his/her primary residence.
- (e) More than one home based business may exist within the same dwelling, dwelling unit or accessory structure so long as the cumulative scope and impact of all such businesses does not exceed the standards and limits for a single "minor" impact business, as specified in section 24-216 of this Code.

- (f) The home based business shall not occupy more than one-third ( $\frac{1}{3}$ ) of the gross floor area of the dwelling or dwelling unit. The term "gross floor area" shall be as defined in section 24-1 of this Code, except that the term "gross floor area" shall include garages, cellars, sheds and accessory structures located on the same lot or parcel as the dwelling or dwelling unit.
- (g) Parking for business purposes shall be allowed as follows:
- (i) Between the hours of 8:00 a.m. and 4:00 p.m. unrestricted.
  - (ii) Between the hours of 4:00 p.m. and 8:00 a.m. parking for business purposes must be off-street.
  - (iii) In all cases, parking for businesses located within areas controlled by communal or community associations must be consistent with the governing declaration of covenants, documents or regulations of the community association.
  - (iv) Where applicable, the off-street parking requirements of Article XI of this Chapter 24 shall apply.

Where a special exception is required for any home based business, the city board of appeals may promulgate conditions and establish such parking requirements different from this subsection (h) as may be necessary to accommodate the business and prevent inharmonious impacts upon adjacent properties and roadways.

- (h) The home based business may sell and store product samples and/or inventory, so long as:
- (i) The items are incidental to the home based business.
  - (ii) Where sold and/or stored on site, they are located completely within the confines of the dwelling, dwelling unit or access structure. No product samples or inventory may be displayed, stored or sold in any open yard area.
  - (iii) The area devoted to the display and storage of samples and/or inventory shall be included in the allowable gross floor area calculation. No portion of the dwelling or dwelling unit devoted to residential purposes may be used to store samples or inventory.
  - (iv) The business may not store, maintain or use hazardous, toxic or combustible materials which require a fire department or other governmental agency permit or approval for use in the business.
- (i) The home based business may not use any equipment, facilities or process, or conduct any activity which creates noise, odor, electrical interference, vibration, fumes or glare detectable at levels beyond those normally incident to the operation of household appliances.
- (j) Deliveries to a home based business must be from common, commercial delivery services or by local merchants that ordinarily deliver to residential areas. Deliveries are not allowed by a dedicated truck or interstate common carrier greater than 14,000 lbs or class 3 which is normally used to deliver inventory to commercial businesses.
- (k) A home based business shall not commence operation until a license has been issued by the city.
- (l) The home based business must be operated in compliance with the definition and purpose of such use.
- (m) With the exception of vehicles operated by visitors or non-resident employees of the home based business, only one business-related vehicle may be parked at the premises at any one time.
- (n) The business may display one non-illuminated sign or symbol at the premises, affixed to the building only. The sign shall not exceed six (6) inches x twelve (12) inches total area and cannot be erected to protrude more than two (2) inches from the building. A separate permit for such sign is required, pursuant to section 24-213 of this Code. Any home based business sign lawfully in existence on the

effective date of the ordinance enacting this section which does not conform to this article shall be permitted to remain until such time as the sign is structurally altered.

(o) Cannabis related businesses and short term rentals are not allowed as home based businesses

(p) the rental of outdoor facilities on private residential lots for other’s use such as renting yards for dog play areas and swimming pools or BBQ areas for parties is prohibited and not considered a home based business.

**Sec. 24-216. Classifications of home based businesses.**

Home based businesses shall fall within one of the three (3) following categories, and shall be subject to the requirements set forth below and other applicable code requirements:

- (a) *No impact home based business.*
  - (1) Operating limitations:
    - (i) No non-resident employees are allowed.
    - ~~(ii) A maximum combination of not more than five (5) deliveries or visits per week.~~
    - (iii) There is no discernible adverse impact upon adjacent properties or the neighborhood.
  - (2) The operator of a no impact business shall register with the city manager or his designee upon forms provided and provide any additional information or documentation as may be reasonably requested.
- (b) *Minor impact home based business.*
  - (1) Operating limitations:
    - (i) Not more than one non-resident employee is permitted.
    - ~~(ii) A maximum of seven (7) deliveries shall be allowed per week.~~
    - (iii) Not more than twenty (20) visits shall be allowed per week. A "visit" is defined as a stop at the business premises by one automobile transporting one or more clients, customers or business associates. A visit does not include the operator of a business, member of his/her family, or the business employee.
    - (iv) There is no discernible adverse impact upon adjacent properties or the neighborhood.
  - (2) The operator of a minor impact business shall register with the city manager or his designee upon forms provided and provide any additional information or documentation as may be reasonably requested. The operator shall pay a fee as shall be established by resolution of the city council.
- (c) *Material impact home based business.* Any home based business not qualifying under the limitations applicable to either a no impact or minor impact home based business shall be a special exception, and shall require approval by the city board of appeals under the provisions of Article VII of Chapter 24 of this Code. The city board of appeals may establish conditions upon its approval in addition to those requirements established in section 24-215 of this Code to ensure that the home based business does not have an adverse impact on the surrounding properties or the neighborhood.



**Sec. 24-217. Renewal; inspection; revocation.**

- (a) Registration approved for the conduct of a no impact or minor impact home based business shall be valid for a period of three (3) years from the date of approval. Registration shall be renewed triennially, at which time the city manager shall update any information relative to changes in circumstances and use of the home based business and evaluate the registrant's current compliance.
- (b) The board of appeals may require periodic reviews of material impact home based business special exceptions to evaluate compliance by the special exception holder with the terms and conditions of the board's approval, and the necessity to modify or impose additional conditions to ensure compliance and compatibility with adjacent properties and the neighborhood.
- (c) The city manager or his designee shall have the right to inspect the premises of any applicant for a home based business registration or special exception, and once approved, to inspect the premises for conformance with the provisions of this Article X or any other applicable governmental code. The continued refusal or the unavailability of the premises for inspection or the violation of any provision of the zoning ordinance or condition of approval shall be grounds for revocation of any approved registration or a request to the board of appeals to revoke any home based business special exception. The city manager or the city board of appeals, where applicable, may suspend or revoke any home based business registration that:
  - (1) No longer conforms to the provisions of this article or conditions under which the registration was approved or the special exception granted; or
  - (2) Was found to be issued upon false or mistaken information supplied by the applicant; or
  - (3) Is determined to be in violation of any governmental code or regulation relating to the operation of the business or premises. A person aggrieved by a decision of the city manager may, within thirty (30) days after a decision or action is rendered, appeal the decision to the city board of appeals. Appeals shall be governed by the provisions of Article VII, Chapter 24 of this Code.
- (d) The board of appeals may revoke the special exception of any material impact home based business pursuant to the provisions of Article VII of this Chapter 24.

**Sec. 24-217A. Previously registered home occupations.**

Any home occupation use which is authorized by a current, valid registration may continue to operate without conforming to the requirements of this Article X of Chapter 24 for a period of twelve (12) months from the effective date of this article. Upon the expiration of this twelve-month period, all home based businesses must conform to the provisions of this article.

## Proposed Parking Standards

### Residential Driveway Standards (Add to that section)

Specification	Measurement
Two Car Garage Width	Min. 18 feet
One Car Garage Width	Min. 9 feet

### Parking Space Dimensions

Specification	Count
Standard Parking Spaces	Each parking space shall consist of a standard parking stall to be a minimum of nine (9) feet wide and 17 feet long
Compact Car Spaces	Compact car spaces shall be permitted to comprise up to 10% of a parking lot, and may be a minimum of 8 feet in width and 17 feet in length
Low Turnover Spaces	Parking areas where long-term parking generally occurs, considered to be low-turnover stalls, may be a minimum of eight and one-half (8½) feet wide

### Parking Lot Landscaping

Specification	Count
Tree Canopy	Tree canopy must be provided equal to or above 30% of the area of a surface parking lot for any non-residential property, but includes multi-family residential uses
Distribution of Tree Canopy	tree canopy must be proportionally distributed between the interior and exterior of the parking lot

### Parking Location

Specification	Count
Proximity	Required parking spaces shall be on the same lot with the main building or structure, or for buildings other than dwellings, located no further than six hundred (600) feet.

### Bicycle Parking Spaces

Specification	Count
Number of Spaces	One bicycle parking space per 12 automobile parking spaces provided. Excluding residential developments
Location	Bicycle parking shall be located within 50 feet of the primary or secondary entrance.

### Minimum Number Parking Spaces

Use Categories	Application	Standard
Agricultural Use	As Listed under "Standard"	<b>Outdoor Agricultural Operations</b> = No Standard
		<b>Indoor Agricultural Operations</b> = 1 space per 2,000 sf
Automotive Use	All Automotive Uses	4 spaces per service bay, or 1 space per 200 square feet of indoor space open/used for customer processing if bays do not exist, whichever is less
Entertainment and Recreation Use	Clubs and lodges	1 per 225 sf
Entertainment and Recreation Use	All Entertainment and Recreation Uses	1 per 250 sf
Industrial Use	All Industrial Uses	1 space per 2,000 sf
Institutional Use	Care Facilities	1 parking space per bed
	Hospitals	1.75 per 1,000 sf
	Art and Cultural Centers, Religious Uses	Religious uses: 1 per 300 sf Art and Cultural Centers: 1 per 400 sf
	Private Elementary,, or Middle School, High School	1.25 per classroom
	Pre-School	3 per 1,000 sf
	All Other Educational Institutions	6 per classroom
Public Use	All Public Uses Unless Otherwise Listed	No Standard

Use Categories	Application	Standard
Residential Use		<b>Single-Unit Home (attached or detached) = 2 spaces min.</b>
	As Listed under "Standard"	<b>Multi-Unit, studio/efficiency, one- and two- bedroom unit = 1 space min.</b> <b>Multi-Unit, three-, Four-bedroom unit and above = 2 spaces min.</b> <b>Accessory Dwelling Unit = 1 space min.</b>
Retail and Service Use	All Retail and Services Uses Unless Otherwise Listed	1 per 250 sf
	Care Center Facilities (Day Care Center)	1 per bed
	Funeral Homes	1 per 225 sf
	Hotel/Motel, Bed & Breakfast, Hotel - Extended Stay	1 per room and 1 per 250 sf for assembly/restaurant area
	Artisan Manufacturing	1 per 500 sf
	Meeting and Banquet Halls	1 per 300 sf
	Small commercial centers whereby the total size is at least 10,000 and does not exceed 50,000 square feet	1 space per 400 sf per tenant/occupier
Retail and Services Uses - Multi-Tenant Structure	Medium commercial centers whereby the total size is greater than 50,000 and does not exceed 250,000 square feet	1 space per 350 sf per occupier
	Larger commercial centers whereby the total size is greater than 250,000 square feet	1 per 300 sf

Use Categories	Application	Standard
	All Utility Uses	No Standard
Mixed-Use Structure	All Mixed-Use Structures	Defer to residential use standards, for commercial uses, defer to corresponding use-based parking space minimum calculation
Professional Business Services Use	All Professional Business Services Uses	1 space per 500 sf
	Life Sciences	1.5 space per 1,000 sf
Any use within the Olde Towne District	All Uses	None required

**Parking Reductions**

1. Shared Parking (defer to existing shared parking chart)
2. Pick-up/Drop-off Spaces that are differently striped, clearly indicated, and have a defined time maximum between five and 20 minutes shall count for 1.5 parking spaces
3. Properties located within ¼ mile of a BRT station shall be permitted a parking reduction of 25%

## ARTICLE XII. PRESERVATION OF HISTORIC RESOURCES<sup>1</sup>

### Sec. 24-223. Purpose.

It is the purpose of this article to: (1) safeguard the heritage of the city by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, archaeological or architectural history; (2) strengthen the local economy; and (3) promote the preservation and appreciation of those sites, structures, and districts for the education and welfare of the residents of the city.

(Ord. No. O-12-96, 12-2-96; Ord. No. O-23-10, 9-7-10)

### Sec. 24-224. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Appurtenances and environmental setting.* They shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens and lawns), rocks, pasture, cropland, and waterways.

*City manager.* The city manager or designee.

*Commission.* ~~The historic district commission of the city, as described hereinafter.~~

*Demolition by neglect.* The willful failure to provide ordinary and necessary maintenance and repair to a designated historic site or a historic resource, not including appurtenances and environmental settings ~~within the city~~, whether by willful neglect, purpose or design, by the owner, agent or contractor thereof, or any party in possession of such a site, not caused by financial inability, which results in any of the following conditions:

- (a) The deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist.
- (b) The deterioration of exterior walls, roofs, chimneys or windows, the lack of adequate waterproofing or deterioration of interior features or foundations which will or could result in permanent damage, injury or loss of or to the exterior features.

*Designated historic resource or site.* Any designated historic resource outside the boundaries of a historic district of historic, archaeological, architectural, or cultural significance and which has been so designated by resolution of the mayor and city council.

*Exterior features.* The architectural style, design and general arrangement of the exterior of a historic resource, including the nature and texture of building materials and the type of style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of a historic resource.

*Historic district.* A significant concentration, linkage or continuity of sites, structures or objects which contributes to the historical, architectural, archaeological or cultural values within the city, and which have been so designated by resolution of the mayor and city council ~~the historic district commission.~~

<sup>1</sup>



*Historic resource.* A site or group of sites, buildings, structures or objects, including appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.

*Historic site.* The location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, archaeological or cultural significance.

*Permit.* A historic area work permit issued by the historic district commission or staff authorizing work on a designated historic site or a historic resource located within the city.

*Routine maintenance.* Work that does not alter the exterior material or features of a site or structure and has no material effect on the historical, archaeological or architectural significance of the historical site or structure, including but not limited to replacement of in-kind materials and tree trimming on private property.

**Sec. 24-225. Historic district commission.**

The mayor and city council shall appoint a commission of at least five (5) members and one alternate member all of whom are qualified consistent with the provisions of Md. Land Use Code Ann., Section 8-202, as amended, as established by the following criteria:

Persons who have demonstrated special interest, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, archaeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or related disciplines and agree to serve on this commission, and a majority of whom are residents of the city. At least two (2) members of the commission shall possess professional or academic training in one or more of the above listed fields in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61, as amended.

The members of the commission shall be appointed for terms of three (3) years each, except that, in making the initial appointments, some appointments shall be established for less than three (3) years in order that, as these initial terms expire, all appointments shall be for three (3) years, and shall not expire at the same time. Members of the commission are eligible for reappointment and any vacancy on the commission shall be filled by the appointing authority for the unexpired term of the particular position.

Members of the historic district commission are appointed by the mayor and confirmed by the city council. Vacancies occurring, other than through an expiration of a term of office, shall be filled by appointment by the mayor, subject to confirmation by the city council for the unexpired term. A councilmember may be appointed as a liaison to the historic district commission. The liaison will serve in a non-voting capacity.

Members of the commission may be removed after public hearing by the city council for inefficiency, neglect of duty or malfeasance in office.

The commission shall adopt rules and regulations as may be necessary for the proper transaction of its business. Rules and regulations of the commission shall be subject to approval by resolution of the historic district commission.

Members of the historic district commission shall receive such compensation as deemed appropriate by the city council.

**Sec. 24-225.1. Powers and duties of historic district commission.**

The historic district commission shall have those powers, duties and authority assigned to it by Title 8 of the Md. Land Use Code Ann., § 8-101 et seq., as amended from time to time, the zoning ordinance of the city, and those acts or enactments of the city council. The commission shall adopt such rules and regulations as may be necessary for the proper transaction of its business.

(Ord. No. O-12-96, 12-2-96; Ord. No. O-23-10, 9-7-10; Ord. No. O-10-16, 10-17-16 )

**Sec. 24-226. Designation and designation removal of historic districts, resources and historic sites; criteria.**

- (a) The mayor and city council, on its own motion or by petition of either the property owners of record, the historic district commission, or the planning commission, may, after prescribed notice and public hearing, designate by resolution historic districts, historic resources, and historic sites in the city which are deemed to be of historic, archaeological or architectural significance following the procedures specified in this article or may remove such designation by the same manner. These resources shall thereafter be subject to the provisions of this article and any rules and regulations promulgated by the commission.
- (b) In considering historic resources for designation as historic districts and historic sites, the historic district commission shall apply the following criteria:
  - (1) Historical and cultural significance. The historic resource:
    - (i) Has character, interest or value as part of the development, heritage or cultural characteristics of the city, county, state or nation;
    - (ii) Is the site of a significant historic event;
    - (iii) Is identified with a person or a group of persons who influenced society; or
    - (iv) Exemplifies the cultural, economic, social, political or historic heritage of the city and its communities.
  - (2) Architectural and design significance. The historic resource:
    - (i) Embodies the distinctive characteristics of a type, period or method of construction;
    - (ii) Represents the work of a master;
    - (iii) Possesses high artistic values;
    - (iv) Represents a significant and distinguishable entity whose components may lack individual distinction;
    - ~~(v) Represents an established and familiar visual feature of the neighborhood, community or city due to its singular physical characteristic or landscape; or~~
    - ~~(vi) Embodies design, setting, materials, workmanship and ambience to the city's sense of time, place and historic development.~~
- (c) Historic districts, resources, and sites shall remain designated as historically, archaeologically or architecturally significant unless such designation is removed by subsequent resolution of the mayor and city council.
  - (1) An historic designation may be removed from an historic resource by a super majority of the mayor and city council if the subject resource no longer meets the applicable criteria for designation. Reevaluation may include factors such as:
    - (i) The resource through alteration or loss of integrity has lost it historic qualities and no longer meets the criteria for historic designation.
    - (ii) Removal of designation is necessary to accomplish the goals of the master plan ~~Master Plan~~ and/or the city's ~~City's~~ strategic plan ~~Strategic Plan~~.

- (iii) Removal of designation for undue economic hardships when there is no reasonable use of the property and the hardship is not of the property owner's neglect.
- (d) The process for review of petitions or applications for designation and designation removal of historic districts and historic sites shall include the following:
  - (1) A public hearing among the mayor and city council, planning commission, and historic district commission.
  - (2) The planning commission and historic district commission's recommendations, consistent with the city master plan, shall be forwarded to the mayor and city council after the public hearing prior to closing of the mayor and council's record.
  - (3) Analysis of the application by the city planning department regarding criteria listed in **subsections 24-226(b) and (d)**.
  - (4) The mayor and city council shall review the application, the written staff analysis, and the recommendations of the planning commission and historic district commission. The mayor and city council shall approve the designation or removal of designation by resolution.
- (e) Historic designation cannot be removed from an historic district, resource, or site ~~an historic resource~~ in cases of demolition by neglect under **section 24-230**.

**Sec. 24-227. Historic area work permit; when required.**

- (a) A historic area work permit for work on public or private property which would affect the historic, archaeological, architectural, and environmental significance of a designated historic resource, must be issued pursuant to the provisions of this chapter before:
  - (1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any designated historic district, resource, or site ~~historic site or historic resource~~ located within the city;
  - (2) Performing any grading, excavating, constructing or substantially modifying, changing or altering the environmental setting of an historic district, resource, or site ~~a historic site or a historic resource~~ located within the city;
  - (3) Erecting ~~or causing to be erected~~ any sign ~~or advertisement~~ that requires the issuance of a city sign permit with the exception of signs exempt from permits or regulation as defined under **section 24-210(a)** ~~(with the exception of those signs which temporarily advertise for sale, lease or rental a historic site or a historic resource located within the city, or which for a temporary period advertise a political viewpoint) on the exterior or on the environmental setting of any historic site or any historic resource located within the city.~~
- (b) Nothing in this section shall be construed to require the issuance of a historic area work permit for any routine maintenance or repair of exterior features, or any customary farming operations or any landscaping; or the installation of mechanical and utility equipment, which will have no material effect ~~on historic resources located within the city, of which such features are a part~~. For the purposes of clarification of this section, the mayor and city council, in consultation with the historic district commission shall adopt, develop and publish standards and guidelines for the rehabilitation and new construction at historic districts, resources, or sites ~~of designated sites~~ that are consistent with those generally recognized by the Maryland Historical Trust and that will be used by the historic district commission to review applications. In addition, these guidelines may include standards for the demolition and relocation of historic resources, and interpret and decide what activities constitute routine maintenance.

- (c) Work undertaken by the city or any other governmental entity or by any public utility or cable company within any historic district shall be subject to the provisions of this article; provided, however, in lieu of obtaining an individual historic area work permit certificate of approval for each activity in the district, the city or other governmental entity, or public utility or cable company may obtain a historic area work permit certificate of approval from the historic district commission. A master historic area work permit certificate of approval shall be valid only for one year from the date of issuance, and for each historic district in which work is to be undertaken.
- (d) In the event that any party is aggrieved by a decision of the historic district commission within seventeen (17) days from the date on which the decision is made public, such party aggrieved may appeal the same to the city board of appeals within the time provided by, and the requirements of, Article VII of this Chapter 24, and thereafter, to the circuit court of the county, which will review the decision based on the record of the proceedings before the historic district commission. Appeals shall be governed by the Maryland Rules of Procedure applicable to administrative appeals.

**Sec. 24-227.1. Historic area work permit; application procedure.**

- (a) *Generally.* Applications for issuance of a historic area work permit shall be filed with the city manager. The application shall be in a form provided by the city and contain the property address, a description of the requested changes, a plan that shows all proposed changes, and any additional information as may be necessary for the historic district commission to evaluate and act upon such applications in accordance with the provisions of this article.
- (b) *Review and public meeting.* The historic district commission shall schedule and conduct a public meeting on the application, giving notice pursuant to **subsection (c)** below. The commission shall maintain minutes of its proceedings and a public file of all relevant correspondence, documents and other materials on the request for the historic area work permit.
- (c) *Notice.* After scheduling a public meeting, notice thereof shall be accomplished by city staff, ~~by ordinary mail,~~ being given to property owners and occupants, condominium association, homeowners' association, or resident manager or management company of a rental project of properties within two hundred (200) feet of the property, not less than ~~seven~~ nine (9) days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the city manager determines may have an interest in the proceedings. In addition, notice shall be accomplished by posting an appropriate sign on the site and publication, which may include posting on the city's website, ~~at least once,~~ not less than ~~seven~~ nine (9) days prior to the meeting.
- (d) *Action by historic district commission.*
  - (1) The historic district commission ~~may~~ must instruct the city manager to:
    - a. Issue the permit;
    - b. Issue the permit subject to such conditions as are necessary to ensure conformity with the provisions and purposes of this article;
    - c. Deny the permit application; or
    - d. Defer the application.
  - (2) In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial. An application which is identical to the denied application shall not be resubmitted within a period of one (1) year after the denial or any appeal from such denial.

- (e) If work on an approved project issuance has not been completed within two (2) years of the date of its issuance, or within time frames stated in the approval, the certificate of approval shall expire. A single, one (1)-year extension may be granted by the historic district commission upon written request. If the extension is not approved, the historic area work permit becomes null and void.
- (f) *Miscellaneous provisions.*
  - (1) Properties subject to covenants or easements held by other historic preservation organizations shall submit proof of approval of review to the city by the organizations holding the easement prior to commencement of work.
  - (2) Any permit issued by the city manager may be subject to such conditions imposed by the historic district commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological or cultural value.
  - (3) The city manager is responsible for the enforcement of this article.

**Sec. 24-227.2. Historic area work permits; criteria for decision.**

- (a) The historic district commission, in evaluating an application for a historic area work permit, shall consider and render its decision based on the following factors:
  - (1) The preservation of the historic, archaeological, or architectural significance of the site or structure and its relationship to the historic, archaeological or architectural significance of the surrounding area;
  - (2) In conformance with adopted guidelines for rehabilitation and new construction design for designated sites, structures, and districts adopted by resolution of the mayor and city council, including criteria for construction, alteration, reconstruction, moving and demolition which are consistent with the Secretary of the Interior's Standards for Rehabilitation;
  - (3) The relationship of the exterior architectural features of the structure to the remainder of the structure and surrounding area;
  - (4) The general compatibility of the exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and
  - (5) Any other factors, including aesthetic factors, which the commission deems pertinent.
- (b) In the case of an application for work on a historic resource or site, the commission shall be lenient in its judgment on plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural significance of surrounding historic resources. The historic district commission shall be strict in its judgment of plans for historic resources or sites ~~site or structures~~ determined by research to be of historic, architectural or archaeological significance.
- (c) Where the historic district commission deems a historic site or resource to be of unusual historic importance, it shall, prior to denial of a historic area work permit, attempt with the owner to formulate an economically feasible plan for its preservation. If no economically feasible plan can be formulated, the commission shall have ninety (90) days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the structure. The ninety (90) day negotiating period may be extended only by mutual consent of all parties.
- (d) Notwithstanding anything to the contrary contained in subsection (c) of this section, the commission may approve a historic area work permit if the structure is a deterrent to a major improvement program of

substantial benefit to the public or its retention would either cause substantial financial hardship to the owner or its retention would not be in the best interests of the citizens in the community.

- (e) The historic district commission shall consider only exterior features of a structure, and shall not consider any interior features or arrangements.
- (f) Failure to adhere to or comply with the requirements or conditions of a historic area work permit or any other provision of this article shall be grounds for revocation or suspension of the permit by the city manager. In addition thereto, the penalties and actions provided for in **section 24-232** may be instituted against an alleged violator.

**Sec. 24-227.3. Administrative approvals.**

- (a) The historic district commission may identify categories of work that may be approved by designated staff from the department of planning and code administration provided that the work conforms with the adopted guidelines. ~~Staff shall submit the list of approvals to the commission at each historic district commission meeting.~~ Applications processed administratively shall not be scheduled for hearings before the historic district commission, unless a hearing is ordered by the planning director or designee ~~upon receipt of written comments are received in response to the required notice during the public comment period.~~
  - (1) The applicant for an administrative approval shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.
- (b) Staff may approve the following work items:
  - (1) For contributing and noncontributing resources:
    - (i) Tree removals;
    - (ii) Fences; and
    - (iii) Signage.
    - (iv) Sheds
  - (2) For noncontributing resources only:
    - (i) Building material changes;
    - ~~(ii) Sheds; and~~
    - (iii) Minor revisions to building elevation and site plan details that do not add onto buildings or expand footprints of previously approved buildings.
- (c) For all administrative approvals, the decision of the planning director (or designee) may be appealed to the city historic district commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The historic district commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The historic district commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.



**Sec. 24-227.4. Courtesy reviews.**

- (a) The historic district commission must review and make recommendations to the planning commission on applications for site development plan approvals, including amendments and modifications thereto, involving the construction, reconstruction of, or additions to existing buildings or structures or demolition thereof on a site located within courtesy review areas as stated in the historic preservation master plan element. The courtesy review areas include, but are not limited to, Olde Towne district as defined by section 24-161, and the subdivisions of Observatory Heights and Realty Park.
- (b) The historic district commission shall provide such recommendations at the concept plan and final plan approval stages, or amendment to final approved plans, prior to planning commission and/or mayor and council review ~~within twenty (20) days from filing of said development plans~~. The historic district commission recommendations shall provide, where relevant, analysis and comment upon the following matters:
  - (1) Architectural compatibility, including such elements as signs, masonry and architectural details, width and height of buildings and structures, roof, door and window styles, and other elements contained within the adopted guidelines ~~of the historic district commission~~; and
  - (2) The effect or impact upon the preservation and protection of buildings, structures or districts designated historic; and
  - (3) The effect or impact upon historic appurtenances and environmental settings.

**Sec. 24-228. Reserved.**

**Sec. 24-229. Reserved.**

**Sec. 24-230. Demolition by neglect.**

In the event of a case of demolition by neglect of a historic resource on public or private property, the following provisions shall apply:

If a property ~~has been designated as an historic site or resource or as part of an historic district~~ ~~the historic resource has been designated a historic site or a historic resource~~, the city manager shall issue a written notice to all persons of record with any right, title or interest in the subject property, or the person occupying the premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within thirty (30) days of the receipt of such notice and completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property or any person of record with any right, title or interest therein may, within ten (10) days after the receipt of such notice, request a meeting with the city manager on the necessity of the items and conditions contained in such notice. In the event a meeting is requested, it shall be held by the city manager upon written notice mailed to all persons of record with any right, title or interest in the subject property and to the planning commission and historic district commission, and any other person that the city manager feels may have an interest in the proceedings.

After such meeting on the issue of necessity of improvements to prevent demolition by neglect, if the city manager finds that such improvements are necessary, he shall issue a final notice to be mailed to the record owners and all parties of record with any right, title and interest in the subject property, advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The owners shall institute corrective action to comply with the final notice within thirty (30) days of receipt of the revised notice.

In the event the corrective action specified in the final notice is not instituted within the time allotted, the city manager may institute applicable processes required by law to allow the city to perform and complete the necessary remedial work to prevent deterioration by neglect, and the expenses, including administrative, legal, corrective and compensatory expenses, incurred by the city for such work, labor and materials shall be a lien against the property and draw interest at the same rate as delinquent property taxes, the amount to be amortized over a period of ten (10) years subject to a public sale if there is a default in payment; or, in the alternative, the city may seek equitable relief in any court of competent jurisdiction to compel such corrective action.

**Sec. 24-231. Demolition procedures for designated and non-designated buildings and structures.**

- (a) Applications for issuance of a demolition permit for designated and non-designated buildings and structures shall be filed with the city manager. The application shall be in a form and contain such information as may be required to provide information as shall be necessary for the historic district commission to evaluate and act upon such applications in accordance with the provisions of this article.
  - (1) The historic district commission may also review a site plan, or amendment thereto, in lieu of a demolition permit application if the property is proposed for redevelopment and conduct a courtesy review, if necessary, concurrently.
- (b) ~~For each property subject to a demolition review, p~~Prior to issuance of each demolition permit ~~for structures or buildings fifty (50) years or older or approval of a site plan requiring demolition of an existing structure or building 50 years or older,~~ the historic district commission shall review for potential historic or architectural significance under the criteria specified in section 24-226. The historic district commission shall schedule and conduct a public meeting on the application, giving notice pursuant to subsection (d).
  - (1) The following are subject to a demolition review by the historic district commission:
    - i. A designated historic district, historic site or historic resource.
    - ii. A property that is actively being considered for historic designation.
    - iii. A property that is identified in the most recently adopted version of the historic preservation element of the master plan as either a potential historic resource or a resource of note.
- (c) After scheduling a public meeting, notice thereof shall be accomplished by city staff, by ordinary mail, being given to property owners within two hundred (200) feet of the property, not less than seven nine (79) days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the city manager determines may have an interest in the proceedings. In addition, notice shall be accomplished by posting an appropriate sign on the site and publication, which may include posting on the city's website, at least once, not less than seven nine (79) days prior to the meeting.
- (d) The historic district commission must instruct the city manager to:
  - (1) Issue the demolition permit.
  - ~~(2) Where the historic district commission determines that any site, group of sites, structure or object:~~
    - ~~a. Has a pending historic designation application or the reasonable probability of being so designated upon historic district commission petition to the mayor and council, the historic district commission shall, to allow the historic designation process to proceed or to be completed, direct the city manager to withhold such permit for a maximum of six (6) months from the date of the directive of the commission.~~
    - ~~b. If no such application is active has the reasonable probability of being so designated upon historic district commission petition to the mayor and council; or~~

- ~~c. Has been so designated, must be approved by the HDC it may direct the city manager to withhold issuance of any permit to demolish, grade, or substantially alter the exterior features of any such site, structure or object. The historic district commission shall, to allow the historic designation process to proceed or to be completed, direct the city manager to withhold such permit for a maximum of six (6) months from the date of the directive of the commission.~~
- (2) Deny the demolition permit if the proposal will affect the integrity of the historic district, resource or site so that it no longer meets the criteria for historic designation, unless the applicant meets the criteria of **section 24-231.1(a)**.
- (3) Withhold issuance of the demolition permit for up to six (6) months if the property has either a pending historic designation application, is under active consideration for historic designation or both meets the historic designation criteria detailed under **section 24-226(b)** and has the reasonable probability of designation by the mayor and council.
- ~~(3)~~
  - (i) When the historic district commission determines the ~~property~~ historic district, historic site or historic resource, either is under active consideration for historic designation or both meets the historic designation criteria detailed under **section 24-226(b)** and has the reasonable probability of being designated., unless an active petition for such designation is before the mayor and city council, ~~the~~ withholding of the demolition permit is conditioned on the commission filing a petition to the mayor and city council by resolution to initiate the designation within ~~thirty (30)~~ forty (40)-calendar days. The mayor and council must determine to accept the resolution of petition before the designation process may commence under **section 24-226**. If the mayor and city council determines not to accept the petition of resolution, the city manager may, even if a demolition permit has been withheld, issue the demolition permit immediately.
  - (4) ~~If the mayor and council accepts a preservation designation petition from the commission and schedules a hearing, the demolition permit shall be withheld for up to six (6) months from the date the petition is accepted by the mayor and council or, if less, until the mayor and council determine not to designate the historic district, site or resource or to further pursue such designation.~~
  - ~~(5)~~ The historic district commission may withdraw its directive to the city manager if it determines that failure to grant the permit applied for will have the effect of denying the property owner all reasonable use of the property or would cause the property owner to suffer undue economic hardship.
- (e) The historic district commission's decision to instruct the city manager to issue the demolition permit under **subsection (d)**, following the commission's review for potential historic or architectural significance under this section, expires ~~five (5) two (2)~~ two (2) years after the date of its issuance. A single, one (1)-year extension may be granted by the historic district commission upon written request.

**Sec. 24-231.1. Undue economic hardship for designated buildings and structures.**

- (a) In the case of a proposed demolition of a historic resource or property within a historic district, the historic district commission may consider an application for demolition if:
  - (1) The site or structure is a deterrent to a major improvement program that will be of substantial benefit to the city; or
  - (2) The retention of the site or structure would cause undue financial hardship to the owner.:
    - (i) ~~Cause undue financial hardship to the owner; or~~
    - (ii) ~~Not be in the best interests of a majority of persons in the community.~~

- (b) The historic district commission may not grant any such application unless the commission makes specific findings demonstrating that the standards have been met. In addition, as detailed under subsections (c) and (d), the commission may not approve an application for demolition based in whole or part on undue economic hardship unless the commission makes specific findings that:
  - (1) An undue economic hardship exists; and
  - (2) The historic resource cannot feasibly be relocated, restored, repaired or rehabilitated in a manner that would allow any reasonable use of the property by the applicant or anyone else, which is not caused by the applicant's own neglect.
- (c) The historic district commission must not approve demolition of a historic resource or property within a historic district unless the property owner provides verifiable evidence and data which shows that:
  - (1) Undue economic hardship exists, based on the totality of the evidence, including but not limited to the documents and data specified in subsection (d); and
  - (2) The historic resource cannot feasibly be relocated, restored, repaired or rehabilitated in any manner that would allow any reasonable use of the property by the applicant or anyone else, which is not caused by the applicant's own neglect.
- (d) An owner who seeks to demolish a historic resource must provide adequate information to demonstrate the presence of an undue economic hardship, including but not limited to the following:
  - (1) For all property:
    - (i) Form of ownership of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other method;
    - (ii) The amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
    - (iii) Remaining balance on any mortgage or other financing secured by the property;
    - (iv) Estimated market value of the property, both in its current condition, and after completion of demolition and reuse of the existing structure, to be presented by an appraisal by a qualified professional expert;
    - (v) A report from a licensed engineer or architect with experience in historic architecture as to the structural soundness of the structure and its suitability for reuse;
    - (vi) An estimate from a professional experienced as to the economic feasibility for reuse of the existing structure;
    - (vii) An estimate from a demolition professional as to the cost of tearing down the existing structure and removal of the debris;
    - (viii) The assessed value of the land and improvements most recent assessments;
    - (ix) Real estate taxes for the previous two (2) years;
    - (x) Annual debt service, if any, for the previous two (2) years;
    - (xi) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing, or ownership of the property;
    - (xii) All listing of the property for sale or rent, price asked and offers received, if any; and
    - (xiii) Any consideration by the owner as to profitable adaptive uses for the property.

- (2) Additionally, for income-producing property:
  - (i) Annual gross income from the property for the previous two (2) years;
  - (ii) Itemized operating and maintenance expenses from the previous two (2) years;
  - (iii) Annual cash flow, if any, for the previous two (2) years.
- (e) The city may hire an outside consultant for additional reports on the property and economic hardship, including to verify or further consider any information provided by the applicant.

**Sec. 24-232. Violations and penalties.**

Any person who violates a provision of this article, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the historic district commission or city manager, or fails to abide by the conditions of a permit, shall be guilty of a misdemeanor, punishable as provided in **section 1-7** of this Code.

In addition thereto, the city may institute injunctive or other appropriate action or proceedings at law or equity for the enforcement of this chapter or to correct violations of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, injunctions or other appropriate forms of remedy or relief.

**Sec. 24-233. Appeals.**

~~In the event that any party is aggrieved by a decision of the historic district commission within seventeen (17) days from the date on which the decision is made public, such party aggrieved may appeal the same to the city board of appeals within the time provided by, and the requirements of, Article VII of this Chapter 24, and thereafter, to the circuit court of the county, which will review the decision based on the record of the proceedings before the historic district commission. Appeals shall be governed by the Maryland Rules of Procedure applicable to administrative appeals.~~

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

## **ARTICLE XIII. LANDSCAPING STANDARDS<sup>1</sup>**

### **Sec. 24-234. Purpose.**

The purpose of this article is to preserve, protect and improve the health and general welfare of the public by promoting the environmental and public benefits of landscaping.

### **Sec. 24-235. Applicability.**

~~Landscaping in accordance with this article, and in accordance with Article V, site development plans, section 24-168 through section 24-174, and Chapter 22, trees and forest conservation, will be required for all developments, excluding single-family residential for, or upon a single lot or parcel, and any application that proposes less than five thousand (5,000) square feet of disturbed area, that have submitted an application for approval to the city planning commission, board of appeals, or city council after the effective date of this article.~~

~~(Ord. No. O-14-91, 7-1-91; Ord. No. O-22-92, 12-7-92)~~

### **Sec. 24-236. Required landscaping.**

~~A landscape plan is hereby required for all applications not exempt from this article and must be in accordance with the minimum requirements of Chapter 22, trees and forest conservation. Landscaping above the minimum required in Chapter 22 may be required by the planning commission or mayor and council upon a finding that additional buffer areas, screening or other landscape amenities are necessary to meet the purpose of this article.~~

### **Sec. 24-235. Applicability.**

Landscaping in accordance with this article, will be required for all developments, excluding single-family attached, detached, semi-detached, and townhome residential single lots or parcels that have submitted an application for approval to the city planning commission, board of appeals, or city council after the effective date of this article.

### **Sec. 24-236. Required landscaping.**

A landscape plan, including plantings areas for stormwater management environmental site design facilities, is hereby required for all applications not exempt from this article and must be in accordance with the minimum requirements and standards of Chapter 22, trees and forest conservation; Chapter 21, trees and vegetation; the city forest conservation technical manual; city stormwater management design manual; the city Street Design Standards and Traffic Calming Best Practices regulation; and the city Environmental Standards for Development regulations.. Landscaping above the minimums defined in each may be required by the planning commission or mayor and council



upon a finding that additional buffer areas, screening or other landscape plantings are necessary to better meet the intent of the various chapters, regulations, and city policies.

A landscape plan, in general, must demonstrate an effective proposal for screening a proposed use or activity from adjoining properties, as applicable; enhance views to, from and within the site; create visual interest for the users of the proposed project; define outdoor spaces; complement the proposed architectural style; achieve functional and aesthetic requirements for buffer areas; provide adequate environmental site design for stormwater management; and preserve, wherever possible, existing trees and other significant vegetation.

**Sec. 24-237. Street trees.**

~~Street tree plans, developed in conjunction with a proposed development or redevelopment, must meet the requirements of the city's urban forestry plan and city forest conservation technical manual.~~

Street trees are to be provided for all public streets within and adjacent to any proposed development where insufficient street trees presently exist. This requirement can be waived by the city planning commission.

(Ord. No. O-14-91, 7-1-91; Ord. No. O-22-92, 12-7-92; Ord. No. O-07-19, 10-21-19)

**Sec. 24-238. Planting standards.**

~~Approved standards. All landscaping must be planted in accordance with the city forest conservation technical manual.~~

## ARTICLE XIV. CITY PLANNING COMMISSION<sup>1</sup>

### Sec. 24-239. Creation; composition; appointment and removal of members; compensation; and ratification of decisions.

There is hereby created and established a city planning commission, which shall consist of ~~either five (5) or seven (7) members~~, and one (1) alternate member, who shall be appointed by the mayor and confirmed by the city council for five-year terms, or until their successor takes office. Members of the commission may be removed after public hearing by the city council for incompetence, misconduct, failure to attend meetings, or conviction of a crime ~~inefficiency, neglect of duty or malfeasance in office~~. Vacancies occurring, other than through an expiration of a term of office, shall be filled by appointment by the mayor, subject to confirmation by the city council for the unexpired term.

Members of the commission shall receive such compensation as deemed appropriate by the city council. The commission shall elect a chairperson and vice-president from among its members, who shall serve in such capacity for a one-year term. The chairperson and vice-chairperson shall be eligible for reelection.

~~Persons who are members of the city planning commission on the effective date of this section [March 6, 2000] shall continue to serve until the conclusion of their present terms.~~

All terms of existing commission members and all prior acts and decision of the city planning commission are hereby ratified and shall remain in full force and effect.

(Ord. No. O-14-92, 10-19-92; Ord. No. O-5-00, 3-6-00)

### Sec. 24-240. Powers and duties.

The city planning commission shall have those powers, duties and authority assigned to it by the Land Use Article, Maryland Code Annotated ~~Article 66B, Maryland Code Annotated~~, and other laws of the State of Maryland; the zoning ordinance of the City of Gaithersburg; and those acts or enactments of the city council of the City of Gaithersburg.

Any decision of the commission may contain such conditions as are necessary to preserve and protect the public health, safety and general welfare of the inhabitants of the city.

(Ord. No. O-14-92, 10-19-92)

### Sec. 24-241. Procedural matters; notification; sign posting.

- (a) *Rules of procedure.* The planning commission ~~may~~ shall adopt rules of procedure governing conduct of its proceedings and matters under its jurisdiction. Meetings of the board shall be open to the public and shall be

<sup>1</sup>Editor's note(s)—Ord. No. O-14-92, adopted Oct. 19, 1992, added provisions relative to the city planning commission to be included as Art. XIII, §§ 24-234—24-237. Such provisions have been codified as Art. XIV, §§ 24-239—24-242 at the discretion of the editor, inasmuch as other provisions were previously codified as Art. XIII.

held at the call of the chairperson and at such other times as the commission may determine. The chairperson or, in his absence, the vice-chairperson may administer oaths and compel the attendance of witnesses.

- (b) *Minutes and transcripts.* The planning commission shall keep minutes and, where appropriate, transcripts and other records showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, all of which shall be a public record and filed in the offices of the planning department.
- (c) *Notification.* With the exception of ~~matters on the planning commission consent agenda and~~ minor amendment requests, all matters that come before the planning commission for a hearing shall be identified on the tentative meeting agenda which shall be ~~mailed~~ posted on the City's Website at least nine (9) days before the hearing date. Postcards for each application type shall be mailed to all owners and occupants, condominium association, homeowners' association, or resident manager or management company of a rental project of properties within two hundred (200) feet of the subject property at least nine (9) days prior to the hearing, except for hearings on the consent agenda which shall be mailed at least nine (9) days before hearing to all abutting and confronting property owners and occupants, condominium association, homeowners' association, or resident manager or management company of a rental project of properties. The tentative agenda shall be mailed to the applicant, all owners of property which abut or confront a property identified on the tentative agenda, and to any party of record.
- (d) *Sign posting.* With the exception of matters on the planning commission consent agenda and minor amendment requests, all matters that come before the planning commission for a hearing that concern specific property shall post said property with a sign. The sign shall be provided by the planning commission staff and shall be posted by the applicant at least nine (9) days before the hearing. Signs shall be posted in accordance with the following rules:
  - (1) At minimum, the sign shall contain the following information:
    - (i) The title of "Planning Commission ~~Hearing~~";
    - (ii) The type of application pending;
    - (iii) The application number;
    - (iv) The date, and place of the hearing; and
    - (v) A phone number to call for additional information.
  - (2) If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign(s) shall be posted on the property not more than fifteen (15) feet from the street right-of-way so as to be visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.
  - (3) If the property does not have frontage on an improved public street, then a sign shall be placed on the property by the applicant near the boundary of the property and visible from an abutting or confronting property. A second sign shall be placed by the applicant near to, and visible from, the improved portion of the nearest, most traveled street. The second sign shall indicate it is not posted on the subject property.
  - (4) The minimum size of each sign shall be two (2) feet in width by three (3) feet in height for all signs to be located abutting streets that are two (2) lanes or smaller. However, the minimum size of each sign shall be four (4) feet in width by three (3) feet in height, for all signs to be located abutting streets that are larger than two (2) lanes.
  - (5) All signs posted shall be conspicuous and legible.

- (6) The applicant shall be responsible for the cost of the sign and for reasonable maintenance of all signs posted. In the event a sign is removed, falls down, or otherwise is not posted correctly during the pendency of and including the date of the hearing, it shall be the responsibility of the applicant to re-post the sign. In the event a replacement sign is need, it shall be the applicant’s responsibility to request a new sign from the Planning and Code Administration. Following the hearing, it shall be the responsibility of the applicant to remove all signs posted within a five (5) day period following the hearing.
- (7) The applicant shall file a written statement in the record of the posting.

(Ord. No. O-14-92, 10-19-92; Ord. No. O-4-01, 3-5-01)

**Sec. 24-242. Appeals.**

Any person(s) aggrieved by any final order, decision or determination of the city planning commission may appeal the same to the city board of appeals within the time provided by, and the requirements of, Article VII of this Chapter 24, and thereafter, to the Circuit Court for Montgomery County, Maryland, pursuant to the Maryland Rules of Procedure, Chapter 1100, Subtitle B. Further appeal may be taken to the Court of Special Appeals of Maryland during the period and in the manner prescribed by the Maryland Rules of Procedure.

(Ord. No. O-14-92, 10-19-92)

## **ARTICLE XVI. AFFORDABLE HOUSING REQUIREMENTS<sup>1</sup>**

### **Sec. 24-249. Purpose and intent.**

It is the purpose and intent of this article to ensure that affordable housing opportunities are created for both homeownership and rental units within the City of Gaithersburg for households earning fifty (50) to one hundred twenty (120) percent of area median income.

### **Sec. 24-250. Definitions.**

For the purposes of this article, the following definitions shall apply:

*Accessible Units: A dwelling unit that complies with the City building code for providing accessible features for people with physical disabilities.*

*Area median income (AMI):* The median income for the Washington Metropolitan Area, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD).

*Approved rental price:* Price at which rental units are determined to be affordable. The approved rental price will be affordable to households earning sixty (60) percent of area median income adjusted for household size for low-rise units. For high-rise rental units, as defined in the International Building Code adopted in Chapter 5 of this Code, the approved rental price will be affordable to households earning sixty-five (65) percent of area median income.

*Approved sale price:* Price at which a for-sale unit is determined to be affordable. For moderately priced dwelling units, the approved sales price will be affordable to households earning sixty-five (65) percent of area median income adjusted for household size. For workforce housing units, the approved sales price will be affordable to households earning ninety (90) percent of area median income adjusted for household size.

*Affordable:* As defined in the administrative regulations adopted pursuant to section 24-256 of this article.

*Affordable housing fund:* A fund established to support the creation and maintenance of affordable housing in the City of Gaithersburg and to which payments will be made by developers in lieu of construction of units required but not built.

*Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or an age recognized as elderly by a specific federal housing assistance program.*

*Moderately priced dwelling unit (MPDU):* MPDU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least fifty (50) percent of AMI, but not more than eighty (80) percent of AMI, adjusted for household size.

*Undue economic hardship:* The deprivation of all viable economic use of land.

*Work force housing unit (WFHU):* WFHU that is offered to eligible participants under the terms of the affordable housing program and is affordable to households earning at least eighty (80) percent of AMI, but no more than one hundred twenty (120) percent of AMI adjusted for household size.

**Sec. 24-251. Applicability.**

Except as otherwise provided in section 24-255, the requirements of this chapter shall apply to any new residential development, redevelopment or conversion to residential use that includes twenty (20) or more dwelling units or, as applicable, meets the definition of housing for the elderly ~~set forth in section 24-1~~. This article shall not apply to any residential development that has received schematic development plan approval or preliminary site plan approval prior to the effective date of this article. Additionally, this article shall not apply to any property that is subject to an annexation agreement that provides for an affordable housing component.

**Sec. 24-252. Requirement to build and sell affordable housing in for sale developments.**

- (a) Seven and one-half (7½) percent of the total dwelling units shall be developed and initially sold as MPDUs at a price affordable to households earning sixty-five (65) percent of AMI adjusted for household size. The city manager shall determine the approved sales price of MPDUs based on a pricing formula set forth in the administrative regulations adopted pursuant to section 24-257.
- (b) Seven and one-half (7½) percent of the total dwelling units shall be developed and initially sold as WFHUs at a price affordable to households earning ninety (90) percent of AMI adjusted for household size. The city manager shall determine the approved sales price of WFHUs based on a pricing formula set forth in the administrative regulations adopted pursuant to section 24-257 of this article.
- (c) Upon a finding that MPDUs and/or WFHUs would not be affordable in a development due to high common ownership community fees, the mayor and city council may, by resolution, permit an applicant to contribute a fee to a city affordable housing fund rather than constructing the affordable units. This fee shall be calculated as the difference between the actual sales price of the market rate unit and the actual cost of construction.

**Sec. 24-253. Requirement to build and lease affordable housing in rental developments.**

- (a) Fifteen (15) percent of the total dwelling units shall be developed and maintained as MPDUs for the life of the property as rental housing from the date of initial occupancy until the property is no longer used for rental housing at a rent affordable to households earning sixty (60) percent of AMI adjusted for household size for low-rise properties and at sixty-five (65) percent in high-rise properties. The city manager shall determine, and revise annually, the approved rental price based on a formula set forth in the administrative regulations adopted pursuant to section 24-257.
- (b) In the event the owner of any affordable rental housing units required by this section should convert the affordable units to condominiums, WFHUs and MPDUs shall be initially offered for sale at a price consistent with the requirements of section 24-252.

**Sec. 24-254. Materials, appearance, and distribution of affordable housing units.**

MPDUs and WFHUs shall be of the same appearance, use comparable exterior materials to the market rate units and be proportionate to the overall unit type and size of the market rate units adopted pursuant to administrative regulations adopted per section 24-257, unless otherwise approved by the city manager. Additionally, these units must be evenly dispersed throughout the development, and no affordable units shall be side-by-side unless otherwise approved by the city manager.



---

**Sec. 24-255. Affordable housing requirements for developments in any enterprise zone established pursuant to State law as of July 21, 2008.**

The requirements of section 24-251, 24-252, and section 24-253 shall not apply to residential construction in any enterprise zone established pursuant to State law ~~as of~~ on or before July 21, 2008; however, developers shall be required to pay a per unit fee for each dwelling unit to a city affordable housing fund. This fee shall be determined by regulation pursuant to section ~~24-256~~ 257 of this article.

**Sec. 24-256. Waiver of affordable housing requirements.**

- (a) An applicant may make a formal written request that the requirements of this article be waived, reduced, or adjusted, partially or in their entirety.
- (b) The city council may grant such a waiver or adjustment only upon a documented showing of:
  - (1) Undue economic hardship on the part of the applicant in fulfilling the requirements of the law; or
  - (2) The absence of a reasonable relationship or nexus between a proposed project and the provisions of this article.

**Sec. 24-257. Administrative regulations.**

The city council shall adopt regulations pursuant to section 2-10 of this Code to implement this article with respect to, but not limited to, administration, accessible units, enforcement, pricing, eligibility requirements for purchasers and renters, control period for ownership units, procedures governing waiver requests, and resale restrictions.

ZONE<sup>CO</sup>++

# Zoning Diagnostic Report

---

Gaithersburg, Maryland

DRAFT REPORT – MAY 2023

Attachment: Retool Gaithersburg - Exhibit 18 Final Diagnostic Report - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

# TABLE OF CONTENTS

**Introduction** ..... 2

**Report Structure** ..... 5

**Guiding Principles**..... 6

**Gaithersburg Strategic Plan Objectives** ..... 8

**General Observations** ..... 9

    Organization and Usability .....9

    Language and Consistency.....9

    Procedural Clarity.....10

    Zoning Equity .....10

**Analysis** ..... 12

    Article 1.....12

    Article 2.....14

    Article 3.....15

    Article 4.....34

    Article 5.....37

    Article 6.....39

    Article 7.....40

    Article 8.....41

    Articles 9 through 16.....41

**Recommendations** ..... 46

This Zoning Diagnostic Report was produced in 2023 by ZoneCo, LLC.



# Introduction

Gaithersburg is a diverse community in the heart of Montgomery County, Maryland. It occupies approximately 10 square miles of land, with over 4,000 businesses and over 70,000 residents. The City lies 13 miles northeast of the Washington D.C. border at the intersection of highways 270 and 370.

The City has many assets, including a diverse population, numerous employers and innovative companies, a legacy of innovative urban design, and generous parks and tree cover. There is a strong biotech/R&D presence within the City, spurred by adjacency to the National Institute of Standards & Technology.

Currently, the modernity of the City is not reflected within the City’s Zoning Code (the “Code”). Much of the Code was developed in the 1960s, which is reflected in terms that are dated and the number of piecemeal amendments that have created inconsistencies over time.

In the time since the current zoning Code was adopted in 1965, office, retail, industrial, and residential uses have evolved and modernized, and the pace of change has only accelerated in the last 5-10 years. Many communities have not updated their zoning standards to reflect these changes; Gaithersburg is not alone. It is commendable that Gaithersburg has taken proactive steps to rectify these issues through a comprehensive Code update. This is a unique opportunity to revise zoning regulations to provide more clarity and intentionality for Code users, administrators, and public officials, in addition to assuring that the Code is achieving desired outcomes.

The Diagnostic Report analyzes the zoning code through the lens of the newly adopted Strategic Plan and best practices in zoning. It is informed by the consultant’s experience in numerous other communities of a similar size and structure. This report will first identify shortcomings and needed updates, inform the community about potential revisions, and ideally build consensus around the direction of the code update process. The graphic below provides an overview of the code update project timeline, and how the Diagnostic Module and the Diagnostic Report fit into the larger process. The development of the Diagnostic Report falls in Phase 2, “Engagement and Identification of Zoning Code Revisions”.



This Diagnostic Report is not however complete in identifying the needed changes and will be further expanded through input from City staff, citizens, and other stakeholders. The Gaithersburg community should continue to provide feedback throughout the process, in addition to providing feedback on the recommendations contained within this report. These recommendations are subject to change based on community feedback and input.

# Report Structure

This report is subdivided into five sections. The table below lists the five sections of this report and provides a description in order to orient the reader.

Report Sections	Description
Guiding Principals	There are several key tenets that all zoning codes should follow. This section lays out the guiding principles that should be cornerstones of any code update project.
Gaithersburg Strategic Plan Objectives	Through a review of the 2022 Strategic Plan, goals for land use policy were distilled from the Plan’s objectives and outcome areas. These objectives act as a touchpoint into community objectives that act as a guide for the code update that will establish a modern regulatory framework for the City’s next Land Use Master Plan update.
General Observations	Throughout the code review, general observations about the organization, flow, and overall structure were denoted. These general observations are presented in this section.
Analysis	A thorough, line-by-line analysis of the existing Code was undertaken. The analysis of existing provisions is laid out by section within this portion of the report.
Recommendations	Through the review and analysis of the Code, we will present our conclusion and recommendations for the code update.



# Guiding Principles

Zoning is a powerful tool to shape the built and natural environment. When reviewing Gaithersburg’s zoning code, the regulations were viewed through the lens of the new Strategic Plan, in addition to the following principles.

## 1. Zoning should regulate only what needs to be regulated.

The orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls, as per the Maryland Annotated Code Land Use Article. However, regulations that do not relate to public interests of health and safety may overstep the police power granted to governments and may not be legally defensible.

## 2. Zoning should respect both existing and desired development patterns.

Zoning regulations should relate to a community’s existing and desired development patterns and should foster a climate that facilitates investment and redevelopment within the community. When regulations are out of context with existing or desired development patterns, land owners may need to apply for numerous administrative approvals for typical development projects that increase the cost of investment in a community. Further, antiquated or burdensome zoning regulations may act as a disincentive to investment and development, hindering growth.

## 3. Zoning should implement the plan, not be a barrier to achieving the vision.

Zoning should be a tool to implement a community’s vision as expressed in its comprehensive plan. In many instances, a community invests time, funds, and energy into the development of a comprehensive plan, but zoning regulations are overlooked or revised over time in a disjointed manner. This scenario leads to outdated, inconsistent, and disorganized zoning regulations that are cumbersome, intimidating, and costly for property owners and administrators alike, impeding planning goals and economic development. On the other hand, a comprehensive update to the zoning ordinance within the long-term planning process allows for clear, usable, defensible, and consistent regulations that operate efficiently to protect the public interests and encourage desired outcomes.

## 4. Ensure compliance with the Maryland Code, Land Use Article.

To promote the health, safety, and general welfare of the community, a legislative body in Maryland may regulate: (a) the height, number of stories, and size of buildings and other structures; (b) the percentage of a lot that may be occupied; (c) off-street parking; (d) the size of yards, courts, and other open spaces; (e) population density; and (f) the location and use of buildings, signs, structures, and land.

## 5. Zoning should center equity.

Zoning codes are complex and multi-disciplinary documents, and given the ubiquity and power of zoning, there is relatively little research regarding all the myriad ways that zoning has contributed to segregation and differential access to opportunity within the United States. At a minimum, zoning has reduced the availability, affordability, and diversity of housing options in communities across the country and impeded investment in older and obsolete properties. All zoning amendment processes should explore and find solutions for the direct and indirect ways zoning codes contribute to inequity.

# Gaithersburg Strategic Plan Objectives

The City of Gaithersburg recently completed the 2022 Strategic Plan, which provides “a guide for aligning our actions and budgets with our long-term goals for the community” (*Gaithersburg 2022 Strategic Plan, p. 2*). The Plan was developed through engagement with a broad group of internal and external stakeholders.

The objectives below were distilled through review of the City’s Strategic Plan, and the various “outcome areas” listed within the plan. As the project team reviewed the Code, the objectives listed below acted as guideposts and points of comparison to assess how the code compares to the current City vision.

## Objective A

**Housing Options:** Provide a diversity of accessible housing options.

## Objective B

**Infill and Adaptive Reuse:** Support and enhance infill development and adaptive reuse.

## Objective C

**Equity Barriers:** Advance equitable outcomes of its zoning Code for people who are currently within the community and for people who may one day choose to be part of the community.

## Objective D

**Regulatory Processes:** Simplify, streamline, or eliminate processes that place uncertainty and unnecessary regulatory costs between a person and their investments in Gaithersburg.

## General Observations

Throughout the code review process, general observations regarding Code-wide issues were compiled. The general observations listed below apply to multiple sections of the Code, and instead of stating them repeatedly for multiple sections, they are presented cohesively within the section below.

### Organization and Usability

- **Information is hard to find.** The code lays out development standards within long passages of text, which make them challenging to find. Modern zoning codes present permitted uses and numeric development standards within tables to make the information easy to identify and access.
- **The code does not contain visuals.** In addition to condensing information into tables for ease of access, graphics and illustrations should be utilized in the Code to provide a visual guide to facilitate better comprehension of concepts and standards within the Code.
- **Like standards are sometimes scattered throughout the code.** The Code chapters should be reorganized, and some information should be consolidated. For example, special use standards are found within four separate sections of the code, within Division 1A, Article IV. - Supplementary Zone Regulations, within individual zoning districts, and the special standards for some uses have their own article.
- **Some zones are not mapped.** Zoning districts that are not mapped and not used anywhere in the City should be removed from the Code in order to streamline information.
- **Clearly state permitted uses.** When listing permitted uses in any district, clearly list all uses, do not reference other zoning districts. This requires flipping between sections which gets onerous for the code user.
- **Minor Amendments to a Plan.** It is positive that several districts provide development standard flexibility in exchange for a thorough review and findings process, however, ensure that minor amendments to plans can occur without requiring an additional extensive review process. There should be an expedited process for the review and approval of a minor amendment. This may necessitate a clear definition of a minor amendment.

### Language and Consistency

- **Language is inconsistent throughout the Code.** As a zoning code is amended over decades, there is an increased likelihood that terminology and language does not stay consistent from amendment to amendment. The code re-write will provide an opportunity to foster consistency throughout the code. When terms are not used consistently, this can lead to inconsistent outcomes.
- **Language is not standardized.** Within the sections for individual districts and zone, the information is not standardized; navigation of the code can be simplified so that the user becomes habituated to the information found within each zoning district, whereas this information currently varies between zoning districts.
- **Definitions are absent or require revisions.** In addition to consistency, all terms used throughout the code should be defined to ensure consistency in interpretations and

outcomes. Furthermore, our review and stakeholder input around administration revealed that some definitions are too broad.

- **Dated terms.** Many of the use terms are dated and do not reflect a modern economy, especially one with advanced biomedical industry like Gaithersburg.

### Procedural Clarity

- **Conciseness in process descriptions.** In reviewing the code, many of the sections that describe processes and procedures are written in a manner that is overly verbose and needlessly wordy. Use of cross-referencing between zoning districts creates unintended and possibly undesired results when the underlying regulation is changed. These sections should be re-written with the goal of making processes and procedures easy to understand.
- **Provide certainty to applicants.** Assess whether some of the discretion given to amend site plans during the review process are creating a high degree of uncertainty for applicants.
- **Consistency in zoning approval terms.** Some zoning permissions are addressed by different terms within the code, which will create confusion for applicants.
- **Streamline review procedures for minor site plan amendments.** Given the prevalence of floating zones in Gaithersburg, ensure that minor changes to site plans can be reviewed in a timely and efficient manner.

### Zoning Equity

- **Zoning should encourage diversity of housing types.** There exists an opportunity to encourage the provision of more diverse housing types, such as 2-over-2 condos and triplexes. Zoning regulations should foster diverse housing types.
- **Consider context appropriate ADU permissions.** Where there is sufficient space and infrastructure for ADU's, consider permitting in zones where larger-lot residential development is found to increase the supply of units that would ideally be within a lower, more affordable price point within the City.
- **Programs for enforcement support.** Enforcement of zoning standards in any community is an important part of maintaining the health, safety, and welfare of the community. However, if an enforcement action imposes a costly improvement or fine on a lower income community member, it can be highly disruptive to their finances. Consider the creation of a funded support program to assist lower-income homeowners with repairs that make them code-compliant. Although this program would be outside of the zoning code, it ensures that the enforcement actions that follow the code foster equity.
- **Supportive services.** Consider the inclusion of day care and other social support uses as accessory or primary uses in the review of residential and commercial developments and review any regulatory barriers to their inclusion.
- **Food deserts.** Continue to track the locations of food deserts and ensure that grocers, urban agriculture, farmstands, and community gardens are permitted as defined land uses.
- **Language accommodations.** The City should continue to explore ways to provide resources and information in multiple languages.

- **Income opportunities.** Consider where non-traditional commercial opportunities for vendors could exist in the form stalls, vendor carts, food trucks, markets, or other low-cost startup businesses. These commercial formats should be added as uses and promoted through other City programs. These types of uses are largely absent in commercial areas.



## Analysis

The following section presents the analysis of the zoning code by section. The section number and title of the section is listed alongside the analysis for that section. When a section is absent, this means that the provision was deemed to be standard zoning language, and it is not apparent that comment or revision is necessary.

### Article 1 – In General

Article 1: Section #	Section Name	Analysis
24-1	Definitions	<ul style="list-style-type: none"> <li><input type="checkbox"/> Some definitions have regulatory aspects within them and should be converted to use-specific standards.</li> <li><input type="checkbox"/> Restaurant definitions are broken out into three classes, which is unnecessary. Consider consolidating the uses and definitions for restaurants.</li> <li><input type="checkbox"/> Definitions of use categories are too broad and too many uses fall under each definition.</li> <li><input type="checkbox"/> Definitions require more standardization across all chapters. For example, Chapter 19 states that alleys are a road. In the Chapter 24 definitions, an alley is a public way less than 30' and a street is a public way larger than 30'.</li> <li><input type="checkbox"/> Definition for "Dwelling unit" includes limitation "for not more than one family". Overcrowding should be regulated by objective health and safety standards, not through delineating who may and who may not live together.</li> <li><input type="checkbox"/> Remove the definition of "Family". The term "Household" should be used in reference to householding units.</li> <li><input type="checkbox"/> Chapter 24 definition for an alley says that it must be public. Most are private – resolve this discrepancy.</li> <li><input type="checkbox"/> Consider whether the definition of story should exclude basements.</li> <li><input type="checkbox"/> Animal-related commercial uses are not defined.</li> <li><input type="checkbox"/> Add EV charging to the definition of automobile fueling.</li> <li><input type="checkbox"/> Comprehensive Plan references the repealed Article 66b and not the Land Use Article</li> <li><input type="checkbox"/> ."Green area" as a term does not accurately reflect the intent as defined</li> <li><input type="checkbox"/> The definitions of structures and accessory structures are too broad.</li> <li><input type="checkbox"/> The Building Height definition is confusing for corner lots.</li> <li><input type="checkbox"/> Several sign packages refer to a "sign band", but sign band is not defined.</li> </ul>

Article 1: Section #	Section Name	Analysis
		<ul style="list-style-type: none"> <li><input type="checkbox"/> There needs to be consistency between “green space”, green area”, “open space” as neither “green space” and “open space” are defined.</li> </ul>
24-2	Provisions of chapter declared minimum requirements	<ul style="list-style-type: none"> <li><input type="checkbox"/> Promotion of “morals” may create equity concerns</li> </ul>
24-4	Same— Amendments	<ul style="list-style-type: none"> <li><input type="checkbox"/> References the repealed Article 66b and not the Land Use Article</li> </ul>
24-8	Applicability of Zone Regulations	<ul style="list-style-type: none"> <li><input type="checkbox"/> Remove 24-8(b)(2), which restricts expansion based on the number of families within a house. Remove the definition of family and ensure that permitted expansion of residential units is based on a building code definition of overcrowding/permitted occupancy.</li> <li><input type="checkbox"/> Ensure that 24-8(c) is not preempting Gaithersburg from approving shared vehicular parking facilities across separate buildings and lots.</li> </ul>
24-8A	Applicability of Special Conditions	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that special conditions that warrant zoning relief are recognized, however, the language of this section should be condensed and revised to be more concise.</li> </ul>
24-10	Conditional Use Permits	<ul style="list-style-type: none"> <li><input type="checkbox"/> Replace instances of "use permit" with "conditional use permit" for clarity and consistency.</li> <li><input type="checkbox"/> Notification requirements for conditional use permits are the same as those for local map amendment applications, and they can be filed simultaneously, which streamlines the process for the applicant.</li> </ul>
24-10A	Floating Zones	<ul style="list-style-type: none"> <li><input type="checkbox"/> The language around the applicability of the Floating Zones is dense, wordy, and somewhat challenging to follow.</li> </ul>

**Article 2 – Nonconforming uses, lots and structures**

Article 2: Section #	Section Name	Analysis
24-11	Nonconforming carports and garages	<ul style="list-style-type: none"> <li>It is positive that this language allows for continued use and maintenance of carports and garages that were in existence on August 1, 1975 but that are not in compliance with current codes.</li> </ul>
24-11.1	Townhouses	<ul style="list-style-type: none"> <li>It is positive that this language allows for continued use and maintenance of townhouses that were in existence on March 20, 1978 but that are not in compliance with current codes.</li> </ul>
24-15	Nonconforming Lots of Record	<ul style="list-style-type: none"> <li>It is positive that this language allows for nonconforming lots to be constructed with a one-family dwelling - with certain setback minimums - even if the lot does not comply with current standards. This allows some previously passed-over or challenging sites to be developed, in turn utilizing public infrastructure that may already run past these sites.</li> </ul>
24-16	Exceptions for Certain Dimensional Nonconformities	<ul style="list-style-type: none"> <li>It is positive that this language prevents government actions (e.g., expanding a right-of-way that causes a property to not meet applicable dimensional standards) from causing a property to become nonconforming. This allows for the continued maintenance and investment in properties that are affected by government actions.</li> </ul>
24-18	Nonconforming structures.	<ul style="list-style-type: none"> <li>Subpart (b) does not consider complete losses from “Acts of God” or fires. The part may create unbuildable lots.</li> </ul>
24-20	Repairs and Maintenance	<ul style="list-style-type: none"> <li>This language raises a concern. Although it is positive that this language allows repair and replacement of nonbearing walls and other fixtures and systems to any portion of a structure that is devoted to a nonconforming use, it limits those changes to not exceed ten percent of the current replacement value of the structure. This replacement value determination may be challenging to implement through a consistent and efficient methodology. The zoning code up to this point in the language does not include such a methodology for identifying the replacement value.</li> </ul>
24-21.1	Enlargements, Relocation, Replacement, Repair, or Alteration of Nonconforming Structures	<ul style="list-style-type: none"> <li>It is positive that this provision allows for the planning commission to permit a nonconforming structure/use to be enlarged, expanded, replaced, or otherwise altered.</li> <li>This language raises a concern that the standards and criteria for the planning commission’s decision on such a request lack specificity.</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 18 Final Diagnostic Report - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

**Article 3 – Regulations applicable to particular zones**

Article 3: Section #	Section Name	Analysis
Division 1A – General		
24-22	Permitted and Special Exception Uses	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Section 24-22(a)(3) allows for interpretation by the city manager of uses not specifically listed. This can make investment into Gaithersburg for an innovative business idea substantially quicker (and make Gaithersburg more competitive in that regard).</li> <li><input type="checkbox"/> Consider organizing permitted uses in a consistent manner, rather than collecting use permissions for some districts and not others. A consolidated comprehensive use table can provide greater administrative efficiency and can set clearer expectations for property owners and people who reference the zoning code.</li> <li><input type="checkbox"/> There may be some missing information in this section: The table in Sec. 24-22(c) includes a footnote #5 that does not appear to be referenced in the table.</li> </ul>
24-22.2	Accessory Dwellings	<ul style="list-style-type: none"> <li><input type="checkbox"/> This language presents some limited positive opportunities for additional housing, and it presents some concerns due to complex wording and criteria. It is positive that this provision allows one accessory dwelling, however it is evident the provisions were written to accommodate one specific project on a lot that existed on or before 11/21/1988. It may be challenging to administer this section. Consider exploring allowing ADU's in the R-90 zone and removing this section. This provision may only allow for a very limited set of additional housing options.</li> <li><input type="checkbox"/> Additional language in this section presents some concerns. It may not be practically enforceable to determine if all occupants in a dwelling unit are related by blood or marriage. Consider not requiring blood tests or reviews of marriage records as criteria for permitting housing options.</li> </ul>
Division 1 – R-A Zone, Low Density Residential		
24-24	Uses Permitted by Right	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that this language allows renting of rooms by the occupant of a dwelling by right.</li> <li><input type="checkbox"/> It is positive that this language allows short-term rentals by right.</li> <li><input type="checkbox"/> It is positive that this language allows home-based businesses and family day care facilities by right.</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 18 Final Diagnostic Report - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

Article 3: Section #	Section Name	Analysis
24-26	Dimensional Restrictions	<ul style="list-style-type: none"> <li>□ It is concerning that this language requires a minimum lot size of 100,000 square feet generally; a minimum of 20,000 square feet for single-family detached dwellings. Consider reducing the minimum required lot size</li> <li>□ It is concerning that this language restricts lot coverage by all buildings to be no greater than 25% of the lot area for residential uses. This severely limits the land in Gaithersburg (that is mapped as part of this district) that can be developed. Consider increasing the maximum allowed lot coverage.</li> </ul>
Division 2 – R-90 Zone, Medium Density Residential		
24-28	Uses Permitted by Right	<ul style="list-style-type: none"> <li>□ It is positive that this language allows renting of rooms by the occupant of a dwelling by right.</li> <li>□ It is positive that this language allows short-term rentals by right.</li> <li>□ It is positive that this language allows home-based businesses and family day care facilities by right.</li> <li>□ It is positive that this language allows for housing for the elderly.</li> </ul>
24-29	Uses Permitted as Special Exceptions	<ul style="list-style-type: none"> <li>□ It is positive that this language in Subpart (2) allows for conversion of existing structures into "not more than 3 dwelling units" with limitations. However, it is concerning that the criterion is challenging if not impossible to meet. For example, one standard requires a structure to be at least 20 years old. If other uses are not viable, 20 years would be a long time for a building to be underutilized. Consider removing this section.</li> <li>□ It is concerning that this language in Subpart (3) sets forth that boarding and rooming houses are subject to 'temporary' special exceptions and renewable every 3 years. These provisions add too much uncertainty to make this a viable use. Consider either set clear standards that a boarding and rooming house applicant may meet indefinitely like the majority of other uses or consider prohibiting this use.</li> </ul>
24-30	Cluster Development	<ul style="list-style-type: none"> <li>□ This development option requires all site plans and amendments to be approved by Planning Commission, regardless of size or scope. This requires undue process for small amendments which can typically be processed by Staff. Consider removing this section or consolidating with the overall R-90 requirements.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-32	Dimensional Restrictions	<ul style="list-style-type: none"> <li>□ It is unclear if there is a positive or concerning effect caused by the language in Subpart (a) which requires a minimum lot area of 9,000 square feet for single-family dwellings. Consider exploring how this figure relates to the average existing lot size in Gaithersburg (exclusive of outliers). Consider also exploring how this figure relates to the lot size that is affordable to the average household in Gaithersburg.</li> <li>□ It is positive that Subpart (b) allows for limited infill on lots that don't meet current width standards.</li> </ul>
Division 3 – R-6 Zone, Medium Density Residential		
24-34	Area Requirements	<ul style="list-style-type: none"> <li>□ Subpart (a): the planning commission may waive the minimum area requirement "if the proposed tract abuts an existing or approved development in this zone and will provide a compatible extension of the existing or approved development." Consider implementing clarified standards to determine what is or is not "compatible."</li> </ul>
24-36	Building and Dimensional Restrictions	<ul style="list-style-type: none"> <li>□ The language in Subpart (d) restricts buildings from being constructed within 20 feet of "any outside boundary line if other than a street right-of-way line." This provision does not encourage integrated neighborhoods and communities by creating artificial boundaries between neighborhoods of different zones. Consider removing, adding this restriction to all lots regardless of an outside boundary, or clarifying this language with clear definitions and/or diagrams to provide for clear expectations and consistent interpretation.</li> </ul>
24-37	Street Design	<ul style="list-style-type: none"> <li>□ This section is not required within a specific zone, as all new streets are required to be in conformance with the City's street standards (Chapter 19). Further, this section is not included in all other zoning districts creating inconsistencies within the Zoning Code. This section should be removed.</li> </ul>
Division 3A- RB Zone, Residential Buffer		
24-38	Purposes of Zone	<ul style="list-style-type: none"> <li>□ The language here is concerning and creates an unnecessarily challenging and ambiguous environment for prospective developers and investors. Consider replacing references to the "desirability" of a proposed development with clear standards that are objectively measured. This in turn will set clear expectations, allow for efficient administration, and encourage consistent outcomes.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-40	Development Requirements and Residential Use	<ul style="list-style-type: none"> <li>□ It is positive that Subpart (a) allows for the planning commission to waive "any development requirement to permit the use of an existing building or structure to the extent necessary to relieve any hardship ... ." This language allows for the continued use of a property that may be nonconforming or facing a hardship. However, the language leaves out a clear mechanism for seeking and/or approving such a waiver. Consider clarifying if this waiver would follow the same process as a variance request, or develop a clear process and set of criteria for such a waiver request.</li> <li>□ The language in Subpart (a)(4) <i>Building Character</i> presents challenges due to vagueness. Consider clarifying what it means for a building to have the "appearance of a residential structure." This standard should be removed.</li> <li>□ It is positive that Subpart (c) references and allows for development that follows the Traditional Neighborhood Design. This subpart should be reorganized to be consistent with other Divisions.</li> </ul>
24-41	Site Plan Review and Landscape Plan	<ul style="list-style-type: none"> <li>□ It is concerning that this language requires all plans within this district to be reviewed by the planning commission. It is unclear why this zone would be treated differently than other zones. This section should be removed and instead all site plans and amendments should be processed similar to other zones.</li> </ul>
Division 4 – RP-T Zone, Medium Density Residential		
24-43	Permitted Uses	<ul style="list-style-type: none"> <li>□ It is positive that this language allows for one-unit and multi-unit residential development by right.</li> </ul>
24-48	Open Space	<ul style="list-style-type: none"> <li>□ It is concerning that this language requires "at least 50% of the land area of any project in this zone remaining after the dedication of streets to public use shall be devoted to open space." Language like this requires significant amounts of land, time, and capital – pushing land ownership and development far out of reach of the average person or household in Gaithersburg. Consider unlocking all developable land within Gaithersburg so more of the population can participate in shaping the city, building community, and building equity.</li> </ul>
24-50	Street Design	<ul style="list-style-type: none"> <li>□ This section is not required within a specific zone, as all new streets are required to be in conformance with the City's street standards (Chapter 19). Further, this section is not included in all other zoning districts creating inconsistencies within the Zoning Code. This section should be removed.</li> </ul>



Article 3: Section #	Section Name	Analysis
24-52	Frontage on Public Streets	<ul style="list-style-type: none"> <li>It is positive that this language allows for development to be built that is accessed from a public right-of-way exclusively over private walkways or driveways. This increases flexibility for developing challenging sites, and potentially increases housing options.</li> </ul>
24-54	Applicant to Furnish Bylaws, Articles of Incorporation, Etc., of Homeowner's Association Applicable to Property	<ul style="list-style-type: none"> <li>It is unclear and concerning that this language requires a homeowner's association. If Gaithersburg does not enforce private agreements, then consider not requiring applicants to enter into private agreements as a condition of approving a government-issued permit. Further, this section is redundant since a draft copy of any proposed homeowners association by-laws, articles of incorporation, covenants and restrictions are required to be provided pursuant to the Site Plan submission requirements outlined in Section 24-169. This section should be removed and all site plan submission requirements should be referenced in one Code Section, which increases the usability of the Zoning Code.</li> </ul>
Division 5 – R-20 Zone, Medium Density Residential		
24-55	Purpose of Zone	<ul style="list-style-type: none"> <li>It is positive that the purpose statement for this zone includes "reducing hazards to the living environment." Consider incorporating similar language to the other districts and zones.</li> </ul>
24-56	Uses Permitted by Right	<ul style="list-style-type: none"> <li>It is positive that this language allows for one-unit and multi-unit residential development by right. Cross-referencing the RP-T zone should be removed since it creates confusion and require staff to spend additional time explaining the code rather than administering it.</li> </ul>
24-62	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>It is concerning that this language restricts maximum lot coverage to 40%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for renting or owning a dwelling unit. Consider increasing the maximum allowed lot coverage.</li> </ul>
24-63	Minimum Green Space	<ul style="list-style-type: none"> <li>It is concerning that this language requires at least 50% of a lot to be green space. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for renting or owning a dwelling unit. Consider significantly reducing this requirement.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-64.1	Townhouse Locations	<ul style="list-style-type: none"> <li>□ This language causes concerns due to its vagueness. The open field of possible interpretations can lead to inconsistent outcomes. In one interpretation where this would require offsets of the vertical plane between attached dwellings, this provision may only serve to drive up housing costs without achieving an implied goal of encouraging strong design and street presence. Consider removing this language, or consider replacing this language with a clear required design element or a menu of options that provide room for creativity and varying budgets.</li> </ul>
24-64.2	Street Design	<ul style="list-style-type: none"> <li>□ This section is not required within a specific zone, as all new streets are required to be in conformance with the City’s street standards (Chapter 19). Further, this section is not included in all other zoning districts creating inconsistencies within the Zoning Code. This section should be removed.</li> </ul>
24-64.3	Frontage on Public Streets	<ul style="list-style-type: none"> <li>□ It is positive that this language allows for development to be built that is accessed from a public right-of-way exclusively over private walkways or driveways. This increases flexibility for developing challenging sites, and potentially increases housing options.</li> </ul>
Division 6 – R-18 Zone, Medium Density Planned Residential		
24-66	Permitted Uses	<ul style="list-style-type: none"> <li>□ It is positive that this section permits multi-unit housing, townhomes, and housing for the elderly.</li> <li>□ Consider exploring allowing additional housing types not currently allowed by right to meet the goal of providing a greater variety of housing options.</li> </ul>
24-66A	Uses Permitted as Special Exceptions	<ul style="list-style-type: none"> <li>□ It is positive that this section allows child/adult care centers within this district, but it is concerning that this use is only permitted as a special exception and only within the ground floor of a multi-unit residential development. Consider permitting these types of uses by-right.</li> </ul>
24-69	Townhouses	<ul style="list-style-type: none"> <li>□ It is positive that Subpart (f) of this section seems to provide clarity related to Section 24-64.1. Consider consolidating these sections. The townhouse regulations should be explored to determine if they are still applicable.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-71	Green Area Requirements	<ul style="list-style-type: none"> <li>□ It is concerning that this language at least 50% of a lot to be green space. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for renting or owning a dwelling unit. Consider significantly reducing this requirement.</li> </ul>
Division 7 – R-H Zone, High Density Residential		
24-75	Permitted Uses	<ul style="list-style-type: none"> <li>□ It is positive that this section permits multi-unit housing, townhomes, housing for the elderly, and family day care facilities (up to 8 individuals).</li> <li>□ Consider exploring allowing additional housing types not currently allowed by right to meet the goal of providing a greater variety of housing options.</li> </ul>
24-75A	Uses Permitted as Special Exceptions	<ul style="list-style-type: none"> <li>□ It is positive that this section allows child/adult care centers within this district, but it is concerning that this use is only permitted as a special exception and only within the ground floor of a multi-unit residential development. Consider permitting these types of uses by-right.</li> </ul>
24-77.1	Street Design	<ul style="list-style-type: none"> <li>□ This section is not required within a specific zone, as all new streets are required to be in conformance with the City’s street standards (Chapter 19). Further, this section is not included in all other zoning districts creating inconsistencies within the Zoning Code. This section should be removed.</li> </ul>
24-79	Reduction of Minimum Requirements	<ul style="list-style-type: none"> <li>□ It is positive that this section provides flexibility through the Planning Commission to change development requirements. But it is concerning that this section lacks clear and objective criteria for the Planning Commission’s consideration in such a request. It is further concerning that this section speculates that the minimum requirements of Sections 24-77 and 24-78 may “not [be] required in the public interest.” If these those provisions may not be required in the public interest, consider removing them altogether. For those pieces of these sections that are important, consider developing clear and objective criteria to make their administration more efficient and to encourage consistent outcomes.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-82	Loading Dock Areas	<ul style="list-style-type: none"> <li>□ It is concerning that this section may conflict with standards for loading docks and parking areas that are provided in a separate article of the zoning ordinance. Further, the requirement that loading dock areas “shall have easy access to elevators” does not provide enforceable clarity. Consider removing this section and applying the more-thorough standards in Article XI (Off-street parking) in their place.</li> </ul>
Division 8 – R-O Zone, Planned Residential		
	R-O Zone	<ul style="list-style-type: none"> <li>□ The R-O Zone is currently not mapped and should be deleted from the zoning code.</li> </ul>
Division 9 – CB Zone, Commercial Buffer		
24-93	Permitted and Special Exception Uses	<ul style="list-style-type: none"> <li>□ It is positive that this district allows single-unit dwellings by right.</li> <li>□ It is concerning that multi-unit dwellings are only permitted by special exception and only where they are “part of buildings intended for other permitted or special exception uses” within this zone. Consider exploring allowing additional housing types not currently allowed by right to meet the goal of providing a greater variety of housing options</li> <li>□ Permitted and special exception uses are not listed in Division 9 but instead cross-referenced in Section 24-22. All allowable uses should be outlined in the specific zone and cross-referencing should be eliminated. Further, the allowable uses under Section 24-22 are overall specific and outdated. Consider consolidating the allowable uses into broader use categories.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-94	Development Requirements	<ul style="list-style-type: none"> <li>□ It is positive that Subpart (a) allows for the planning commission to waive "any development requirement to permit the use of an existing building or structure to the extent necessary to relieve any hardship...". This language allows for the continued use of a property that may be nonconforming or facing a hardship. However, the language leaves out a clear mechanism for seeking and/or approving such a waiver. Consider clarifying if this waiver would follow the same process as a variance request or develop a clear process and set of criteria for such a waiver request.</li> <li>□ It is concerning that the language in Subpart (2) restricts maximum lot coverage to 35%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for developing land or renting a building. Consider increasing the maximum allowed lot coverage.</li> <li>□ It is concerning that Subpart (5) sets two different density allowances between one-unit dwellings and multi-unit dwellings. This can create some unnecessary complexity where a one-unit dwelling is converted to a multi-unit dwelling, as permitted by-right within this district. Consider not applying different density limitations to uses permitted by right in the same district.</li> </ul>
24-95	Site Plan Review and Landscape Plan	<ul style="list-style-type: none"> <li>□ It is concerning that this language requires all plans within this district to be reviewed by the planning commission. It is unclear why this zone would be treated differently than other zones. This section should be removed and instead all site plans and amendments should be processed similar to other zones.</li> </ul>
Division 10 – C-P Zone, Commercial Office Park		
	C-P Zone	<ul style="list-style-type: none"> <li>□ The C-P Zone is currently not mapped and should be deleted from the zoning code.</li> </ul>
Division 11 – C-1 Zone, Local Commercial		
24-111	Uses Permitted by Right	<ul style="list-style-type: none"> <li>□ It is concerning that the language in Subpart (13) includes hyper-specific dimensional standards that are applied specifically to automobile filling stations. This is different from the manner in which most other uses are treated in the zoning code. Consider moving this language to a use-specific standards section.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-112	Uses Permitted as Special Exceptions	<ul style="list-style-type: none"> <li>□ This section treats “parking lots and garages” as a use with its own use permissions. Because parking lots typically command a lot of physical real estate and require specific infrastructure (such as curb cuts and maneuvering space), consider regulating parking lots throughout Gaithersburg consistently as a distinct use of land with its own permissions and dimensional standards.</li> </ul>
24-115	Lot Coverage	<ul style="list-style-type: none"> <li>□ It is concerning that this section restricts maximum lot coverage to 40%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for developing land or renting a building. Consider increasing the maximum allowed lot coverage.</li> </ul>
Division 12 – C-2 Zone, General Commercial		
24-117	Uses Permitted by Right	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (15) of this section regulates car washes in a substantially different manner from most other uses. This appears to be one of the only uses that has a limited lot coverage (maximum of 12%) that is separate from the generally applied lot coverage limit of the zone. Additionally, this section applies material standards to this use where other uses do not have a material standards requirement. Consider removing these specific provisions or moving this language to a use-specific standards section.</li> <li>□ It is concerning that the language in Subpart (13) includes hyper-specific dimensional standards that are applied specifically to automobile filling stations. This is different from the manner in which most other uses are treated in the zoning code. Consider moving this language to a use-specific standards section.</li> <li>□ There is a concerning language in this section that is not numbered but that follows Subpart (30). This language requires the city council to find that "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." The concern is caused by the vagueness and the lack of clear and objective criteria for making such a decision. Consider removing this language altogether. If there is a practical purpose for this language, consider developing objective criteria to foster efficient administration and consistent outcomes.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-121	High-Rise Optional Approval	<ul style="list-style-type: none"> <li data-bbox="634 279 1385 541">□ The language in Subpart (A)(3) is concerning and creates an unnecessarily challenging and ambiguous environment for prospective developers and investors. Consider replacing references to the “desirability” of a proposed development with clear standards that are objectively measured. This in turn will set clear expectations, allow for efficient administration, and encourage consistent outcomes.</li> <li data-bbox="634 548 1385 810">□ It is concerning that the process for high-rise optional approval is spelled out similar to a development plan, but that this language potentially overlaps with that process. This may create administrative inefficiencies. Consider consolidating this language into the development plan procedures that apply across the zoning code to simplify (and shorten) the code and set clearer expectations.</li> <li data-bbox="634 816 1385 848">□ A(4) remove cross references and define requirements</li> <li data-bbox="634 854 1414 1117">□ It is positive that Subpart (C)(1)(b) requires as part of the basis for consideration and findings, "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." Although limited to a specific type of application, this required consideration in the design can help support pedestrian safety.</li> </ul>
Division 13 – C-3 Zone, Highway Commercial		
	C-3 Zone	The C-3 Zone is currently not mapped and should be deleted from the zoning code.
Division 14 – I-1 Zone, Light Industrial		
24-136	Uses Permitted by Right	<ul style="list-style-type: none"> <li data-bbox="634 1371 1409 1724">□ It is positive that these permitted uses list provides detail, but it is concerning that the permitted uses list treats use permissions in a distinct manner from other such lists. Consider developing a consistent level of specificity across all permitted use tables. Consider developing one comprehensive principal use permissions table, and drawing excerpt tables within each zone or district from the comprehensive table. This will improve administrative efficiency, set clearer expectations, and reach multiple perspectives from which a user may approach the zoning code.</li> </ul>



Article 3: Section #	Section Name	Analysis
24-139	Setback Requirements	<ul style="list-style-type: none"> <li>It is concerning that this language prevents buildings within this zone from being closer than 75 feet to a lot line of land zoned residential that contains a dwelling unit; but there does not appear to be a reciprocal requirement that dwelling units need to be at least 75 feet removed from buildings within this zone. This language may create nonconformities, making adaptive reuse of previous investments into Gaithersburg unnecessarily challenging. Consider confirming if this language does or does not create nonconformities and consider implementing a reciprocal requirement on dwelling units to prevent the creation of additional nonconformities.</li> </ul>
24-141B	Open Storage Restrictions	<ul style="list-style-type: none"> <li>It is positive that this language provides clear standards regarding open storage restrictions. Consider expanding the applicability of this section across the entire zoning code.</li> </ul>
Division 15 – I-3 Zone, Industrial and Office Park		
24-143	Uses Permitted by Right	<ul style="list-style-type: none"> <li>It is positive that this section permits child/adult day care centers by right.</li> <li>The section cross-references allowable uses in the E-1 zone. Cross-referencing should be removed since it creates confusion and require staff to spend additional time explaining the code rather than administering it.</li> </ul>
24-144	Uses Permitted as Special Exceptions	<ul style="list-style-type: none"> <li>It is concerning that this language leaves open an interpretation where a legally established business may be made into a nonconformity by an external force: a separate property owner within 1,000 feet constructing a school or church; or a separate property rezoning their property to a residential zone. Consider clarifying that the date of receipt of a complete application marks the date from which a check is completed for specified development types within 1,000 feet of the proposed use.</li> </ul>
24-145	Lots	<ul style="list-style-type: none"> <li>It is concerning that this section requires a minimum lot size of 2 acres. Consider exploring if this requirement is competitive with neighboring/regional jurisdictions. Where this minimum lot size likely exceeds the land area affordable to the average household in Gaithersburg, consider unlocking all developable land within Gaithersburg so more of the population can participate in shaping the city, building community, and building equity.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-148	Lot Coverage	<ul style="list-style-type: none"> <li>It is concerning that this section restricts maximum lot coverage to 25%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for developing land or renting a building. Consider increasing the maximum allowed lot coverage.</li> </ul>
Division 16 – I-4 Zone, General Industrial		
	I-4 Zone	<ul style="list-style-type: none"> <li>The I-4 Zone is currently not mapped and should be deleted from the zoning code.</li> </ul>
Division 17 – E-1 Zone, Urban Employment		
24-155	Minimum Lot Area	<ul style="list-style-type: none"> <li>It is concerning that this section requires a minimum lot size of one acre. Consider exploring if this requirement is competitive with neighboring/regional jurisdictions. Where this minimum lot size likely exceeds the land area affordable to the average household in Gaithersburg, consider unlocking all developable land within Gaithersburg so more of the population can participate in shaping the city, building community, and building equity.</li> </ul>
24-159	Maximum Lot Coverage	<ul style="list-style-type: none"> <li>It is concerning that this section restricts maximum lot coverage to 50%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for developing land or renting a building. Consider increasing the maximum allowed lot coverage.</li> </ul>
Division 18 – E-2 Zone, Moderate Intensity Industrial Park		
20-160A	Permitted Uses	<ul style="list-style-type: none"> <li>The section cross-references allowable uses in the E-1 zone, except general office. Cross-referencing should be removed since it creates confusion and require staff to spend additional time explaining the code rather than administering it.</li> </ul>
24-160C	Development Standards and Requirements	<ul style="list-style-type: none"> <li>It is concerning that this section doesn't establish unique development standards (and instead refers readers to the dimensional standards for a separate district). Consider providing this information directly. If there aren't substantive differences between this district and the referenced district, consider consolidating them for ease of administration.</li> </ul>

Article 3: Section #	Section Name	Analysis
Division 19 – MXD Zone, Mixed Use Development		
24-160D.1	Purposes and Objectives of Zone	<ul style="list-style-type: none"> <li>□ It is positive that Subpart (f) of this section encourages thoughtful design of "pedestrian and other nonvehicular circulation systems"</li> <li>□ Subpart (d) places emphasis on "residential environment" This is an undefined term and creates uncertainty with solely non-residential infill opportunities. This further conflicts with last sentence which reads as if a MXD project must include all various uses. This subpart reflects only large scale greenfield development and not "built out" infill development.</li> </ul>
24-160D.2	Minimum Location and Development Requirements	<ul style="list-style-type: none"> <li>□ It is positive that this language allows "parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing MXD zone and may be harmoniously integrated into the MXD area." This concept affords flexibility. However, it is concerning that there are no clear standards to determine what is considered "harmoniously integrated." Consider incorporating clear pass/fail objective criteria that may be determined administratively to provide for administrative efficiencies, to set clear expectations, and to foster consistent outcomes.</li> <li>□ Subpart (e) should be removed as signage should be allowed to be unique to the associated business or neighborhood and not thematic.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-160D.3	Uses Permitted	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Subpart (a) allows that "all types of residential uses allowed by right in Chapter 24 [the entire zoning ordinance] of this City Code shall be permitted."</li> <li><input type="checkbox"/> Subpart (a) (3) is redundant and not needed</li> <li><input type="checkbox"/> Subpart (a)(4) is antiquated in design principle does not reflect modern vertical mixed use and should be removed and not require the City Council to make findings</li> <li><input type="checkbox"/> It is concerning that Subpart (a)(5)(vi)(aa) requires "at least one dwelling unit on a lot containing an urban cottage shall be occupied by an owner of the lot." These types of provisions are difficult, if not impossible, to enforce. If the intent of this language is to prevent a multi-unit use, then this is made moot because multi-unit uses are permitted by-right within this zone. Consider removing this requirement. Where the building code and/or fire code establishes occupancy limits, the zoning code does not need to provide separate, potentially conflicting standards. Consider moving those requirements out of the zoning code and into the building and/or fire code.</li> <li><input type="checkbox"/> Subpart (a) (5) should be deleted if accessory dwelling unit standards are developed across various zoning districts</li> <li><input type="checkbox"/> Remove cross referencing in subpart (b) and list permitted uses.</li> <li><input type="checkbox"/> It is concerning that Subpart (b)(2) provides complex language regarding maximum percentages of use types. This seems to unnecessarily restrict flexibility. Consider removing these provisions or clarifying how a use can exceed 100%.</li> <li><input type="checkbox"/> It is concerning that Subpart (d) limits family day care facilities to special exception uses. Consider allowing these by-right; especially near employment uses.</li> </ul>
24-160D.4	Density and Intensity of Development	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (b) establishes two different maximum FARs for different parts of the same zone. Consider allowing the zone to be the focal point of the</li> <li><input type="checkbox"/> ? Is this distinction of age of MXD zones mapped and readily accessible? This seems to add an unnecessary layer</li> </ul>
24-160D.5	Compatibility standards	<ul style="list-style-type: none"> <li><input type="checkbox"/> This section limits infill redevelopment opportunities otherwise permissible in other zoning districts</li> </ul>

Article 3: Section #	Section Name	Analysis
24-160D.6	Minimum green area, landscaping and amenity requirements	<ul style="list-style-type: none"> <li><input type="checkbox"/> Subpart (a) does not reflect or address calculations in vertical mixed-use, a currently more common development pattern, nor allows for prorating across larger projects.</li> <li><input type="checkbox"/> Subpart (b)(3) is excessive legal process and should be removed</li> </ul>
24-160D.7	Public Facilities and Utilities	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Subpart (d) requires an analysis of the capacity of existing and proposed public facilities. However, it is concerning that this language does not include clear and objective standards for determining that “all public facilities are either presently adequate to serve the development requested for approval or will be provided or in place by the completion of the construction of the development.” Consider incorporating a reference here to Article XV (Adequate Public Facilities).</li> </ul>
24-160D.8	Parking Requirements	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Subpart (a) includes a reference to pedestrian circulation as a consideration of parking space requirements.</li> </ul>
24-160D.9	Application and Processing Procedures	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that the language in Subpart (b)(1)d. may require all privately owned properties within this district to be subject to a "homeowner's association or other organization."</li> </ul>
24-160D.10	Findings Required	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that the language in Subpart (a)(3) and (b)(4) does not include clear standards to determine what is considered “internally and externally compatible and harmonious with existing and planned land uses.” Consider incorporating clear pass/fail objective criteria that may be determined administratively to provide for administrative efficiencies, to set clear expectations, and to foster consistent outcomes.</li> <li><input type="checkbox"/> Subpart (c) should be removed as this is excessive procedures that are required under other sections of the City Code</li> </ul>
24-160D.12	Regulations adopted as part of schematic development plans.	<ul style="list-style-type: none"> <li><input type="checkbox"/> Consider allowing the Planning Commission and City Council to waive minimum and maximum development standards through the adoption of project specific regulatory design standards</li> </ul>
24-160E.2	Uses and Special exceptions Allowed	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that this zone appears to provide new distinctions between types of hotels than other districts up to this point in the zoning code. Consider consolidating these distinctions to provide for consistent application and interpretation of these provisions across the zoning code.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-160E.3	Development Standards	<ul style="list-style-type: none"> <li>It is concerning that this section restricts maximum lot coverage to 25%. This severely limits the land in Gaithersburg (mapped within this district) that can be developed and may unnecessarily increases the entry costs for developing land or renting a building. Consider increasing the maximum allowed lot coverage.</li> </ul>
Division 20 – H-M Zone, Hotel-Motel		
	H-M Zone	<ul style="list-style-type: none"> <li>The H-M Zone is currently not mapped and should be deleted from the zoning code.</li> </ul>
Division 21 – CBD Zone, Central Business District		
24-160F.2	Uses Allowed	<ul style="list-style-type: none"> <li>It is concerning that subpart (a) does not establish a clear list of permitted use and/or special exception use and/or conditional use permissions. Instead, it provides that “All uses listed as permitted and not solely as special exceptions or conditional uses in all zoning districts, unless otherwise designated [in] subsections (b), (c) and (d) as a prohibited, special exception, or conditional use.” This requires unnecessary cross referencing that may create confusion and require staff to spend additional time explaining the code rather than administering it. Consider altering this language (and similar language in other zones) to provide a clear set of permitted uses that pulls from a consistent set of definitions. If zones do not differ in their permitted uses, consider combining such zones to decrease the length of the zoning ordinance, increase the user friendliness, set clear and concise standards, and support equitable, efficient, consistent outcomes.</li> <li>It is positive that this language appears to allow all types of residential uses by-right.</li> <li>It is concerning that Subpart (c) limits family day care facilities to special exception uses. Consider allowing these by-right; especially near employment uses.</li> </ul>

Article 3: Section #	Section Name	Analysis
24-160F.4	Development Standards	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (a) limits all heights to maximum of 4 stories, although a waiver is possible. Consider increasing the maximum height to address the City’s transition from greenfield development to predominantly infill redevelopment, reflecting a more urban, mixed-use development pattern.</li> <li>□ Subpart (b) regulates 15 foot setbacks for buildings abutting a lot with an existing building containing a window. Consider removing or updating the setback requirements to better promote the purpose of the CBD zone.</li> <li>□ It is positive that this language does not include a maximum limitation on lot coverage.</li> </ul>
24-160F.5	Waiver of Development Standards	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (a)(2) grants waivers of dimensional standards based in part on the “caliber of user.” Consider removing this language as it will lead to inequitable outcomes.</li> <li>□ It is positive that Subparts (a) and (b) allow for waivers of heights and setbacks – providing a relief mechanism for unique situations – but it is concerning that there are not clear criteria. Consider allowing smaller setbacks and/or taller buildings by right to better implement the Olde Towne Master Plan.</li> </ul>
24-160F.7	Parking Requirements	<ul style="list-style-type: none"> <li>□ It is concerning that this language requires vehicular parking in the CBD/Olde Towne District. Consider providing standards for parking when it is voluntarily provided, but consider removing requirements for parking provisions in areas of Gaithersburg that were historically developed for pedestrians.</li> </ul>
24-160F.8	Existing Buildings	<ul style="list-style-type: none"> <li>□ It is positive that this language allows for the structural alteration, restoration, repair, and enlargement of existing buildings – specifically treating them as conforming instead of nonconforming – “to a size and intensity existing on the property or by approved building permit preceding the adoption of this ordinance.” This language provides great flexibility and security of investments towards adaptive reuse of existing buildings.</li> </ul>



Article 3: Section #	Section Name	Analysis
Division 22 – CD Zone, Corridor Development		
24-160G.2	Uses Allowed	<ul style="list-style-type: none"> <li>□ It is concerning that subpart (a) does not establish a clear list of permitted use and/or special exception use and/or conditional use permissions. Instead, it provides that “All uses listed as permitted and not solely as special exceptions or conditional uses in all zoning districts, unless otherwise designated [in] subsections (b), (c) and (d) as a prohibited, special exception, or conditional use.” This requires unnecessary cross referencing that may create confusion and require staff to spend additional time explaining the code rather than administering it. Consider altering this language (and similar language in other zones) to provide a clear set of permitted uses that pulls from a consistent set of definitions. If zones do not differ in their permitted uses, consider combining such zones to decrease the length of the zoning ordinance, increase the user friendliness, set clear and concise standards, and support equitable, efficient, consistent outcomes.</li> </ul>
24-160G.3	Minimum Location Requirements	<ul style="list-style-type: none"> <li>□ It is positive that subpart (b) provides flexibility for the location of uses to vary from the strict application of specified areas within the applicable master plan. As master plans age and conditions on the ground and in the market change, this kind of provision affords critical flexibility for sensitive adjustments to previously approved plans and continued investment towards infill development.</li> </ul>
24-160G.4	Development Standards	<ul style="list-style-type: none"> <li>□ The height restrictions in feet, in subpart (a) do not reflect modern construction requirements and should be amended or removed. Consider removing height restriction altogether.</li> <li>□ It is positive that Subpart (c)(1) requires buildings, structures, or portions thereof to not be constructed on land approved through a planning document for a “right-of-way or walkway, sidewalk, or bikeway.”</li> <li>□ It is positive that Subpart (e)(3) requires that “all parking areas shall contain dedicated pedestrian ways from street and parking areas to building entrances.”</li> <li>□ It is positive that Subpart (e)(5) requires that “direct pedestrian access from rear lot parking areas to the closes public street shall be provided.”</li> <li>□ The parking requirements in subpart (e) are excessive and may hinder redevelopment opportunities</li> </ul>

Article 3: Section #	Section Name	Analysis
24-160G.5	Waiver of Development Standards	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (a) distinguishes different districts within this zone – residential, commercial, and employment. This may create an unnecessary layer of regulations that complicate an applicant’s understanding of the expectations – while also making administration of the ordinance less efficient. Consider clarifying this language so that this zone is treated consistently as one zone.</li> <li><input type="checkbox"/> It is concerning that Subpart (c )(3) does not provide clear standards for determining what is or is not a detrimental impact to light and air. Consider implementing clear, objective standards to support the intent of this provision and to make its enforcement efficient and consistent.</li> </ul>
24-160G.6	Procedure for application and approval	<ul style="list-style-type: none"> <li><input type="checkbox"/> Subparts (d) and (e) state the same thing verbatim.</li> <li><input type="checkbox"/> The recorded covenant requirement in subpart (f)(6) excessive legal process and should be removed.</li> </ul>
24-160G.7	Findings required	<ul style="list-style-type: none"> <li><input type="checkbox"/> The findings required in subpart (b) can be reduced and simplified.</li> </ul>

**Article 4 – Supplementary Zone Regulations**

Article 4: Section #	Section Name	Analysis
24-161	Olde Towne District	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (b) of this section authorizes the City Council to establish “special regulations, requirements, and waivers of existing regulations and requirements of [the zoning ordinance]” via an adopted document outside of the zoning ordinance. Establishing land development regulations in this manner can create inconsistencies and unnecessary complexity, reducing the effectiveness and user friendliness of the code and burdening property owners with an additional source to turn to before they can learn the extent of regulations that apply to their property. Consider incorporating all use permissions, dimensional standards, and application procedural provisions into the zoning code in a clear and concise format to increase administrative efficiency and foster consistent outcomes.</li> </ul>

Article 4: Section #	Section Name	Analysis
24-163	Accessory Structures and Garages	<ul style="list-style-type: none"> <li data-bbox="703 289 1451 520">☐ It is concerning that this section establishes standards for accessory structures that overlap and seemingly conflict with separate standards established in several individual zones. Consider consolidating and clarifying these potentially overlapping provisions to set clear expectations and allow for efficient use of the ordinance.</li> <li data-bbox="703 527 1451 789">☐ It is concerning that Subpart (b)(4) does not provide clear criteria to determine what is or is not “consistent with the design of the neighborhood.” Consider removing this language or development clear pass/fail objective criteria that may be determined administratively to provide for administrative efficiencies, to set clear expectations, and to foster consistent outcomes.</li> <li data-bbox="703 795 1451 926">☐ It is concerning that Subpart (c) has potentially far-reaching differing interpretations. Consider clarifying if Subpart (c) applies to all standards of Section 24-163 or if it applies only to Subpart (a) and (b).</li> </ul>
24-164	Number of Main Structures on One Lot	<ul style="list-style-type: none"> <li data-bbox="703 934 1451 1129">☐ It is concerning that this section specifies a treatment of one-unit dwellings that may cause confusion by specifying that “not more than one [one-unit] dwelling shall be permitted on any one lot.” Consider removing this provision to allow accessory dwelling units within these zones.</li> </ul>
24-165	Certain Structures Excluded from Height Control	<ul style="list-style-type: none"> <li data-bbox="703 1184 1406 1419">☐ It is positive that this section allows buildings and housing to utilize the full extent of permitted sizes without being penalized by mechanical systems, chimneys, and the like; potentially providing critical flexibility for housing opportunities. Explore considering additional exempted projections and structures based off modern building standards.</li> </ul>

Article 4: Section #	Section Name	Analysis
24-167	Fences and Walls	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (7) of this section requires that applicants who seek to build fences and walls that are over the permitted height limit “must provide, by mail or personal delivery, written notice ... to all owners of property abutting the proposed fence or wall within two business days after filing the request with the City.” The remainder of this provision does not clarify if such a request is subject to a variance, and does not clarify what purpose the notice serves. Consider removing this provision and referencing the variance procedures instead, if appropriate. Alternatively, consider expanding this provision to set clear expectations for all involved parties may help staff consistently enforce this provision in an equitable and efficient manner.</li> </ul>
24-167A	Satellite Antennas and Towers, Poles, Antennas, and/or Other Structures Intended for Use in Connection with Transmission or Receipt of Radio or Television Signals, Telecommunications Facilities	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (a)(4)(iii) references "meters" instead of "feet" for the measurement. Consider replacing this with “feet” to be consistent with other measurement standards used throughout the zoning code.</li> </ul>
24-167B	Bed and Breakfast	<ul style="list-style-type: none"> <li>□ It is concerning that Subparts (2) and (3) of this section appear to overlap and conflict with one another. Subpart (2) regulates bed and breakfast uses “where the use contains not more than two guest bedrooms” as a home occupation. Subpart (3) regulates bed and breakfast uses “where the use contains two or more guest bedrooms” as a special exception use subject to approval by the Board of Appeals. Consider clarifying which set of provisions apply if a bed and breakfast contains exactly two guest bedrooms.</li> <li>□ It is concerning that Subpart (5) requires information that may be sensitive, invasive, unnecessary, and unequally applied to other similar uses where guests stay in rooms on property they do not own. Consider not requiring a detailed register of all guests.</li> </ul>

## Article 5 – Site Development Plans

Article 5: Section #	Section Name	Analysis
24-168	When Required	<ul style="list-style-type: none"> <li>It is concerning that this section appears to require every construction in the city to be reviewed by the Planning Commission, which may be onerous and excessive especially if this review is separate from build permit reviews. If a plan meets clear standards of the zoning ordinance, consider removing the requirement of this section and consider allowing professional City staff to be authorized to administratively approve such plans. Implementing such a shift requires clear standards (which is the recommended approach), can speed up permitting timeframes for work that clearly meets such standards, and can help produce more consistent outcomes for Gaithersburg – while making the city more competitive for attracting development.</li> </ul>
24-168A	Residential Site Plans, When Required	<ul style="list-style-type: none"> <li>It is concerning that this section is separate from 24-168. Consider combining these sections into one to simplify and clarify the purpose and administration of these provisions.</li> </ul>
24-169	Submission; Fee; Requirements of Plan	<ul style="list-style-type: none"> <li>It is concerning that this section references several types of development plan submissions but does not tie these submissions to separately introduced application types found elsewhere in the zoning ordinance. It is unclear from these provisions when such submissions are required and what purposes they serve. Consider revising this section substantially to use language consistent with the remainder of the zoning ordinance. Alternatively, if this section is intentionally introducing additional types of submissions, consider clarifying the purpose and applicability of these new submission types to set clear expectations and improve their effectiveness at producing consistent outcomes.</li> <li>It is concerning is Subpart (c)(9) that the City requires a draft of the homeowner’s association by-laws. This implies that a property is required to be subject to a homeowner’s association</li> </ul>
24-170	General Conditions	<ul style="list-style-type: none"> <li>Findings based on compatible with adjacent properties and neighborhoods can lead to inequitable outcomes. The Planning Commission’s findings of approval should be amended to ensure are all approvals are rooted in clear and objective standards.</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 18 Final Diagnostic Report - 10092023 (3847 : Retool Gaithersburg Proposed Changes)

<p>24-171</p>	<p>Site Plan Review</p>	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (1) appears to effectively grant the Planning Commission power to design a privately owned site. Subpart (1)(j) states in part, “The fact that a site plan complies with all of the stated general regulations, development standards or other requirements of the zone shall not, by itself, be deemed to create a presumption that the proposed site development plan is, in fact compatible with adjacent land uses and development and, in itself, shall not be sufficient to require approval of the site plan.” This seemingly speaks to an issue with the zoning code, not the submitted work, and potentially allows the Planning Commission to disapprove a site plan for no other reason than personal tastes. Consider setting clear, objective standards to set clear expectations and foster consistent outcomes.</li> <li>□ Consider clarifying minor amendments determinations by including a reference to Section 24-172A subpart (b).</li> </ul>
<p>24-172A</p>	<p>Amendment to Site Development Plan</p>	<ul style="list-style-type: none"> <li>□ All commercial square footage increases, regardless of size, require Planning Commission approval. Consider allowing Planning Staff to process small commercial square footage increases as a minor amendment.</li> </ul>
<p>24-174</p>	<p>Waiver of Required Information</p>	<ul style="list-style-type: none"> <li>□ It is positive that this section provides critical flexibility, cost savings, and time savings by allowing applicants to not produce or include unnecessary information in a submitted application. This in turn allows professional staff to tailor submission requirements for the unique aspects of the site and any proposed changes.</li> </ul>

**Article 6 – Administration and Enforcement of Chapter**

Article 6: Section #	Section Name	Analysis
24-175	Duties of city manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Remove gender label</li> </ul>
24-177	Building Permits	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (b) appears to be focused on a set price point of construction. Consider replacing this with criteria that focuses on the type of construction (multi-story; wood frame; platform; etc.).</li> <li><input type="checkbox"/> It is concerning that Subpart (e) seems to require a professional survey after completion of all work except one-unit residential additions. If this has proven necessary or important for enforcement work, consider not exempting residential additions. If this has not proven necessary or important for enforcement work, consider not requiring this.</li> </ul>
24-178	Use and Occupancy Permits for New, Altered, or Nonconforming Uses	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (a) appears to establish a new permit type: “use and occupancy permit.” Consider clarifying if this is one permit or two separate permits and implement consistent language throughout the zoning code.</li> <li><input type="checkbox"/> It is concerning that Subpart (c) appears to establish a temporary occupancy permit where such a permit may not have been explicitly referenced in other portions of the zoning code. If this permit is useful, consider clarifying the purpose of this type of permit, and consider referencing it consistently throughout the zoning code in appropriate locations.</li> <li><input type="checkbox"/> It is positive that Subpart (f) allows for the appeal of a suspension or revocation of a use and occupancy permit.</li> </ul>
24-178A	Special Regulations for Olde Towne District	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (c) appears to establish a new permit type: “conditional use and occupancy permit.” Consider clarifying if this is one permit or two separate permits and implement consistent language throughout the zoning code.</li> </ul>
24-180	Requests for Interpretation of Chapter	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that this section allows for the city manager or their designee to supply an interpretation of a proposed use in comparison with applicable zoning ordinance regulations. This in turn allows someone with a unique business/use idea to potentially invest in Gaithersburg with greater ease.</li> </ul>

Attachment: Retool Gaithersburg - Exhibit 18 Final Diagnostic Report - 10092023 (3847 : Retool Gaithersburg Proposed Changes)



Article 6: Section #	Section Name	Analysis
24-181	Duties of City Manager, Board of Appeals, Council, and Courts on Matters of Appeal, Amendment, Etc.	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that this section sets a clear framework on the duties of the City Council as it relates to the zoning code. However, it is concerning that this language seemingly conflicts with other sections of the code. Consider deferring all procedural/administrative references throughout the zoning code to this Article 6 to foster consistency and efficiency. (remove gender specific term)</li> <li><input type="checkbox"/> Change reference from Article 66b to Land Use Article</li> </ul>
24-183	Complaints Regarding Violations	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that this section establishes an expectation that the planning department will "immediately investigate and take action thereon" following a complaint. If this is not realistic, consider setting a more practical expectation.</li> </ul>

**Article 7 – Board of Appeals**

Article7: Section #	Section Name	Analysis
24-189	Findings required	<ul style="list-style-type: none"> <li><input type="checkbox"/> Subpart (b) outlines the required findings for the Board of Appeals to grant a special exception. Findings based on morals of residents can lead to inequitable outcomes. Update all findings for clear pass/fail objectives to ensure all approvals are based on clear and equitable standards.</li> <li><input type="checkbox"/> Subpart (c) allows the Board of Appeals to grant variances upon “proof by the evidence of record” but does not set clear standards and criteria for granting a variance. Include clear and equitable standards for the granting of a variance to ensure such decisions are not arbitrary and capricious.</li> </ul>

**Article 8 – Amendment Procedure**

Article 8: Section #	Section Name	Analysis
24-196	Map Amendments	<ul style="list-style-type: none"> <li>□ It is concerning that Subpart (c ) in part requires an applicant to assemble information that City staff has access to; namely: “the application number of any map amendment application involving all or part of the property which has been acted upon in any manner by the City Council or the District Council for the Maryland-Washington Regional District in Montgomery County during the three years immediately prior to the filing of the application.”</li> </ul>
24-198	Optional Method of Application for Local Map Amendments	<ul style="list-style-type: none"> <li>□ The covenants in subpart (b) should be removed as they add legal hurdles and diminish future redevelopment opportunities as further rezoning is not common.</li> </ul>

**Articles 9 through 16**

Articles 9-16: Section #	Section Name	Analysis
Article IX - Signs		
24-209	Definitions	<ul style="list-style-type: none"> <li>□ It is positive that this section appears to provide a thorough set of definitions regarding signage. This is critical for interpretation, for consistent administration, and for setting clear expectations for all interested parties.</li> </ul>
24-210	Applicability, Minimum Requirements, and Severability	<ul style="list-style-type: none"> <li>□ Consider exempting menu boards as signs</li> </ul>

Articles 9-16: Section #	Section Name	Analysis
24-210A	General Provisions	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Subpart (1) provides a concise and clear explanation of area computation with examples. This method of describing a regulation and providing an example makes the work of understanding the ordinance (and administering the ordinance) easier, increasing the likelihood of consistent outcomes.</li> </ul>
Article X – Home Based Businesses		
Article X.	Home Based Businesses	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that this article allows home-based businesses. This can give critical flexibility to homeowners, helping them afford their house.</li> </ul>
Article XI – Off-Street Parking and Loading		
Sec. 24-218. -	General requirements.	<ul style="list-style-type: none"> <li><input type="checkbox"/> Reduce minimum driveway lengths as they add unnecessary paving</li> <li><input type="checkbox"/> Establish minimum driveway widths</li> </ul>

Articles 9-16: Section #	Section Name	Analysis
24-219	Parking Requirement Schedule	<ul style="list-style-type: none"> <li data-bbox="802 296 1468 569">□ It is concerning that Subpart (a)(4) of this section provides that no on-site parking is required for a change in use or redevelopment of improved property in the Olde Towne District until after February 23, 2025. Consider not placing a sunset date on this type of provision – particularly in parts of Gaithersburg that were historically developed to prioritize people.</li> <li data-bbox="802 569 1468 800">□ Subpart (a)(5) requires motorcycles spaces within new parking lots. While required, it is concerning that the Code lacks information on standard dimensions and if motorcycle spaces count towards required minimum parking. Consider removing motorcycle requirements or add additional standards.</li> <li data-bbox="802 800 1468 1073">□ It is positive that Subpart (a)(5) requires 1 bicycle space for each 25 parking spaces required. This provision takes a small step towards requiring private bicycle infrastructure, in turn supporting future bicycle connectivity. Consider increasing the ratio of required bicycle parking spaces to support bicycle connectivity.</li> <li data-bbox="802 1073 1468 1377">□ It is concerning that Subpart (b) requires 1 parking space per 225 sq.ft. of gross floor area for retail/commercial establishments. This effectively means that for every 100 square feet of commercial space, a property owner/developer has to provide 88 square feet of parking. Consider significantly reducing the ratio of required asphalt coverage to give flexibility to property owners.</li> <li data-bbox="802 1377 1468 1549">□ The parking ordinance lacks standards for EV chargers and curb side management. Consider including a required number of EV chargers within commercial parking lots and establishing standards for curb site management.</li> </ul>

Articles 9-16: Section #	Section Name	Analysis
24-222A	Parking Waivers	<ul style="list-style-type: none"> <li>□ It is positive that Subsection (a)(1) potentially allows for the removal of parking minimum requirements. Consider not requiring parking in historically walkable areas of Gaithersburg to increase the amount of land available for productive, tax-generating, job-generating, culture-enhancing, community-building places.</li> <li>□ It is positive that Subpart (a)(7) allows the Planning Commission to waive parking requirements where “the development provides bicycle ... and/or other non-traditional vehicle parking spaces and facilities in lieu of required automotive parking.” This language may provide some critical flexibility for supporting multi-modal safety and connectivity. This provision would be strengthened by establishing clear examples or standards of design elements that provide effective multi-modal infrastructure.</li> </ul>
Article XII – Preservation of Historic Resources		
24-224	Definitions	<ul style="list-style-type: none"> <li>□ It is concerning that the definition of “demolition by neglect” includes the following language: “The willful failure to provide ordinary and necessary maintenance and repair to a designated historic site or a historic resource ... <u>not caused by financial inability</u> ...” (emphasis added). Even if a property owner's finances cause them to be unable to maintain a property, consider including such a scenario within the definition of “demolition by neglect.” If this language is desired, consider changing the phrase to “demolition by <u>willful</u> neglect,” and consider developing a clear and objective set of criteria to determine a property owner’s financial capabilities.</li> </ul>
24-225	Historic District Commission	<ul style="list-style-type: none"> <li>□ It is concerning that the 5<sup>th</sup> paragraph of this section includes: “Members of the commission may be removed after public hearing by the city council for inefficiency, neglect of duty, or malfeasance in office.” Consider updating to reflect Maryland Land Use law (section 8-202) which allows a member to be removed by the appointing authority for incompetence, misconduct, failure to attend meetings, or convicted of a crime.</li> </ul>

Articles 9-16: Section #	Section Name	Analysis
24-231.1	Undue Economic Hardship for Designated Buildings and Structures	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is concerning that Subpart (a)(2)(ii) allows the Historic District Commission to approve a demolition application for a historic resource or property if the retention of the site or structure would “not be in the best interests of a majority of persons in the community.” The designation of the building itself has already clarified that it is in the community interest – demolition of a designated structure should be based on a legal, technical definition of economic hardship and structural deficiencies.</li> </ul>
Article XIV – City Planning Commission		
24-240	Powers and Duties	<ul style="list-style-type: none"> <li><input type="checkbox"/> Remove reference to Article 66B.</li> </ul>
Article XVI – Affordable Housing Requirements		
24-252	Requirement to Build and Sell Affordable Housing In For Sale Developments	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that Subparts (a) and (b) require 7.5% of housing units in certain developments to have affordability measures. These are impactful provisions that chip away at the housing affordability crisis facing the region.</li> </ul>
24-253	Requirement to Build and Lease Affordable Housing in Rental Developments	<ul style="list-style-type: none"> <li><input type="checkbox"/> Requires 15% of total units in certain developments to have affordability measures.</li> </ul>
24-254	Materials, Appearance, and Distribution of Affordable Housing Units	<ul style="list-style-type: none"> <li><input type="checkbox"/> It is positive that these standards require integration of affordable units throughout a development - and prohibits treating construction materials of the affordable units different from other units.</li> </ul>
24-256	Waiver of Affordable Housing Requirements	<ul style="list-style-type: none"> <li><input type="checkbox"/> This provision granting waiver of the affordable housing requirements partially or in its entirety should be reviewed in greater depth. The criteria for approval of such a waiver is slim.</li> </ul>

## Recommendations

The following section highlights many of ZoneCo's initial recommendations derived from the analysis above. The recommendations in this section are categorized by the strategic plan objectives and general observations listed in previous sections.

### Housing Options: Provide a diversity of accessible housing options.

---

**Recommendation Division 1 (R-A Zone)** It appears that a limited amount of housing is mapped within the existing R-A zone, and instead it contains several institutional uses. At 20,000 sf, the minimum lot size is substantial and therefore this zoning district should not apply to any newly developed housing given that the minimum lot size conflicts with several goals from the Strategic Plan to provide a broader, more affordable supply of housing. Consider whether the R-A Zone could be combined with the R-90 to streamline administration/conciseness.

**Recommendation** The provisions in **Sec. 24-64.1 (R-20 Zone, Townhouse Locations)** lack clear standards. These provisions require offsets of the vertical plane between every two attached townhouses. A provision like this may only serve to drive up housing costs without necessarily achieving the implied goal of encouraging good design and street presence, since a finished exterior wall has a higher cost of construction than an interior party wall. Further, this kind of provision undercuts the objective of increasing housing options if these provisions (and similar provisions collectively) push the price of housing further out of reach of the average household.

It also leaves open the effectiveness and consistent application of this provision up to lobbying efforts and political winds, raising a question: "In what situations should this provision be waived?"

**Recommendation Sec. 24-160D.3. (MXD Zone, Use Permitted).** Urban cottages are permitted in the MXD. A unified strategy should be developed for ADUs, which would permit them in specific instances/conditions or in specific zones where a property has enough space to accommodate one without excessive coverage of the lot's pervious surfaces or existing yard. Parking facilities should be considered, among other regulations like maximum unit size, maximum height, design consistency, occupancy/short-term rental permission or prohibition, etc.

**Recommendation Sec. 24-160F.4 (CBD Zone, Development Standards)** for the CBD Zone in subpart (a) limits all heights to a maximum of four stories (with waivers possible). It is possible that new housing provision, and the economic feasibility of new multi-unit housing, might require more vertical construction. Furthermore, elevators are typically required in commercial and mixed-use structures that are over two stories tall, but the costs for an elevator core in a building can rarely be justified for adding just one or two floors (for a total of three or four floors). This provision may be unintentionally limiting the viability of multi-story buildings in this zone, making infill development too costly. This provision can have the same effect for adaptive reuse of existing buildings that may be required by modern construction Codes to add elevator service. Increasing this height maximum should be explored.



**Recommendation** Regarding site development plans, **Sec. 24-170 (Site Development Plans, General Conditions)** establishes conditions for approval that are very similar to those required in the review of conditional uses and special exception uses. These requirements may create uncertainty. Clear standards set clear expectations and can be administered equitably and effectively by professional staff outside of public hearings – while also shortening the timelines of zoning approvals, producing consistent outcomes, increasing Gaithersburg’s competitiveness, and attracting the development that supports the vision of Gaithersburg. Explore how subjectivity in the review of findings can be reduced.

It should also be noted that review processes can counter the fact that zoning codes and design standards often operate with broad brush strokes when it comes to form/design. Board/Commission-based review processes can sometimes better review nuance in development proposals. However, equity issues can be created if certain types of development, like low-income housing and multi-family development, see greater scrutiny, denials, or imposed conditions. We are not implying this is the case in Gaithersburg, however, this is an equity issue of which we should be aware.

**Recommendation** **Sec. 24-256 (Affordable Housing Requirements, Waiver of Affordable Housing Requirements)** allows the affordable housing requirements of Article XVI to be partially or completely waived by directly elected officials. In many communities, affordable housing is challenging to develop due to neighbor or community opposition, or sometimes developers do not want to bear the additional burden that can come with the administration of providing affordable units. The instances when the waivers have been utilized should be reviewed to assess how often and in what instances it is being granted.

**Infill and Adaptive Reuse: Support and enhance infill development and adaptive reuse.**

---

**Recommendation** Some interpretations of **Sec. 24-8 (In General, Applicability of Zone Regulations)** subpart (c), which states “No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building,” may preempt Gaithersburg from approving shared vehicular parking facilities across separate buildings or lots. This seems unintentional given the objective to support infill development/adaptive reuse and given the provisions in **Sec. 24-219 (Off-Street Parking and Loading, Parking Requirement Schedule)** subpart (c). This potential preemption should be removed or clarified to set clear expectations.

**Recommendation** **Sec. 24-20 (Nonconforming Uses, Lots and Structure, Repairs and Maintenance)** allows the repair and replacement of nonbearing walls and other fixtures and systems to any portion of a structure that is devoted to a nonconforming use, so long as those changes do not exceed 10% of the current replacement value of the structure. While this provision conceptually allows for adaptive reuse of existing investments in Gaithersburg, it does not provide a clear methodology for identifying the current replacement value of a structure. This must be addressed with clear, equitable standards to make its administration efficient and produce consistent outcomes.

**Recommendation** **Sec. 24-21.1 (Nonconforming Uses, Lots and Structure, Enlargements, Relocation, Replacement, Repair, or Alteration of Nonconforming Structures)** allows for the Planning Commission to permit a nonconforming structure to be enlarged, expanded, or replaced through a public hearing process. The standards and criteria for such an approval seem relaxed and raise the question: “If certain nonconforming structures commonly receive approval for substantial changes, why not adapt the Code so they are considered conforming?” Such a change would legalize more of the investments already made in Gaithersburg, simplify the Code, and produce more consistent outcomes.

**Recommendation** **Sec. 24-38 to 24-41. (RB Zone).** The RB zone is intended to act as a buffer zone between residential uses and non-retail commercial/office uses. Some of the intentions of the district do not seem well-founded, given that the most appropriate buffer would be small-scale services and neighborhood amenities that can be utilized by residents, but would not be overly auto-oriented and traffic generating. Furthermore, the development patterns and location of the RB do not indicate the Zone is acting as a buffer to residential areas. The development pattern in the RB is seemingly auto-oriented office buildings and large-footprint multi-tenant buildings.

**Recommendation** **Sec. 160.G.2. (CD Zone, Permitted Uses).** The breadth of use permissions given by the following statement is probably excessively wide: “All uses listed as permitted and not solely as special exceptions or conditional uses in all zoning districts unless otherwise prohibited except..”. Several prohibited uses are then listed. There should be more specificity around permitted uses, for example, a single-family home or scrap yard would not be compatible with other uses found within the existing CD Zone, but they would seemingly be permitted.

**Recommendation** **Sec. 160.G.4. – 160.G5. (CD Zone, Development Standards).** It is not fully clear why uses would have different development standards in the CD Zone given that they will be located within the same district, whereby visual compatibility should be pursued regardless of use. Furthermore, for the waiver of standards, specifically pertaining to height for a development is often more related to economic feasibility than a master plan and will therefore likely be challenging to pursue. More concrete form-conscious standards could assist with more predictable outcomes in the CD Zone, especially given the array of permitted uses in this district.

**Equity Barriers: Advance equitable outcomes of its zoning Code for people who are currently within the community and for people who may one day choose to be part of the community.**

---

**Recommendation** In **Sec. 24-1 (In General, Definitions)**, Gaithersburg’s zoning Code defines “family” as: “One or more persons occupying a single housekeeping unit and using common cooking facilities; provided, that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.” Not only are definitions like these impractical to enforce, but they can be discriminatory and inequitable for non-blood-related families of choice. State-adopted building Codes or fire Codes typically include occupancy limits based on the building classification, size, and life safety or egress features. Gaithersburg would remove a barrier for equity by focusing its zoning Code on buildings and uses and removing provisions that attempt to regulate relationships between people, including the definition of “family.”

**Recommendation** **Sec. 24-22.2 (Regulations Applicable to Particular Zones, Generally, Accessory Dwellings)** includes language that limits the occupants of an accessory dwelling to blood or marriage relatives of the occupant of the primary dwelling. This isn’t practically enforceable, and it unreasonably restricts some property owners from receiving supplemental income on their property for the fact that they do not wish to rent to blood or marriage relatives. Where this provision is attempted to be enforced, it undercuts the efforts of Gaithersburg to support infill development and adaptive reuse. This provision also raises a question: “If the property owner sells the property while a household is renting an accessory dwelling on the property, will Gaithersburg require the renter to vacate their unit?” The term family should not be used within the Zoning Code as it then requires a definition, which is problematic define and enforce.

**Recommendation** **Sec. 24-26 (R-A Zone, Dimensional Restrictions)** The R-A Zone requires a minimum lot size of 100,000 square feet generally, but a minimum lot size of 20,000 square feet for one-unit detached dwellings. These requirements can be excessive and can price out the average household from owning property in Gaithersburg.

**Recommendation** In the E-1 Zone, **Sec. 24-155 (E-1 Zone, Minimum Lot Area)** requires lots sizes to be at least one acre in area. **Sec. 24-159 (E-1 Zone, Maximum Lot Coverage)** limits coverage of the lot by buildings to no more than 50% of the total area. These provisions significantly limit the amount of land that can be productively used, and they raise the entry fee for owning and developing land in Gaithersburg, pushing such opportunities further out of reach of the average small business. These provisions raise a question: “If there are uses permitted within this zone, why limit them so significantly on land zoned for them?” “Should Gaithersburg’s land use regulations effectively limit development opportunities only to those without substantial capital or access to significant financing?”

**Regulatory Processes: Simplify, streamline, or eliminate processes that place uncertainty and unnecessary regulatory costs between a person and their investments in Gaithersburg.**

---

**Recommendation Sec. 24-32 (R-90 Zone, Dimensional Restrictions)** Based on test mapping of lot sizes in the historic portions of the R-90, it appears that the minimum lot standards are creating non-conformities within the more historic portions of the district, which should be rectified. Further to that, some of the minimum development standards are probably prohibitively large for developing true cluster developments, which are condoned within this section.

**Recommendation Sec. 24-117 (C-2 Zone, Uses Permitted by Right)** Car washes, though permitted use in several zones, should have special use standards given that they can cause issues related to congestion and runoff. Remove the 12% lot coverage maximum in favor of more tangible mitigating standards in the form of special use regulations.

**Recommendation Divisions 14 and 16 (The I-1 Zone and I-3 Zone)** The industrial uses listed in the zoning code are antiquated and do not reflect modern industrial uses. The updated code should include modern industrial, research, and warehousing uses and definitions. This is especially pertinent given the modern bio-medical uses in Gaithersburg.

**Recommendation** In the MXD Zone, **Sec. 24-160D.4 (MXD Zone, Density and Intensity of Development)** subpart (b) establishes two different maximum FAR allowances for different parts of the same zone. Some of those distinctions are based on the type of use, some distinctions are based on the size of the land, and other distinctions are based on the date by which land was zoned MXD. This provision further allows the City Council to waive floor area ratio standards “when necessary to incorporate environmental site design or implement the master plan.” These layers and loopholes weaken the standards and can lead to inconsistent decisions.” The Code would be simplified by providing a clear, concise standard that applies district wide to improve the efficiency of administration and increase the likelihood of consistent outcomes.

**Recommendation** In the MXD Zone, **Sec. 24-160D.10 (MXD Zone, Findings Required)** subpart (a)(3) states that “The City Council shall approve MXD zoning and the accompanying sketch plan only upon finding that ... 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.” Likewise, subpart (b)(4) states that “The City Council shall approve a schematic development plan only upon the finding that ... the plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned area and adjacent areas.” There are no clear standards included for meeting or failing to meet this requirement. This provision should be expanded upon with clear standards tailored to the vision Gaithersburg has set for itself, in turn establishing clear expectations and increasing the likelihood of consistent outcomes.

**Recommendation** **Sec. 24-160F.5 (CBD Zone, Waiver of Development Standards)** subpart (a)(2) gives the City Council authority to grant waivers of the dimensional standards for height in the CBD Zone based on the “caliber of user.” This provision has troubling implications for treating everyone equitable. Decision making around land use and development should not hinge on the desirability of a user. Clear standards set clear expectations and can be administered equitably and effectively.

**Recommendation** Regarding the Olde Towne District, **Sec. 24-161 (Supplementary Zone Regulations, Olde Towne District)** subpart (b) authorizes the City Council to establish “special regulations, requirements, and waivers of existing regulations and requirements of [the zoning ordinance]” via an adopted document outside of the zoning ordinance. Establishing land development regulations in this manner could create inconsistencies and unnecessary complexity, reducing the effectiveness and user friendliness of the Code and burdening property owners with an additional source to turn to before they can learn the extent of regulations that apply to their property. Ensure that Olde Towne design guidelines are keeping pace of objectives, trends/building innovation, and desired aesthetics.

**Recommendation** **Sec. 24-167B (Supplementary Zone Regulations, Bed and Breakfast)** subparts (2) and (3) seem to overlap. Subpart (2) regulates bed and breakfast uses “where the use contains not more than two guest bedrooms” as a home occupation. Subpart (3) regulates bed and breakfast uses “where the use contains two or more guest bedrooms” as a special exception use subject to approval by the Board of Appeals. This raises a question: which set of provisions apply if a bed and breakfast contains exactly two guest bedrooms?” This should be clarified to set clear expectations and avoid confusion. Separately, subpart (5) of this section seems invasive and excessive. Where such a requirement for a detailed register of all guests does not apply to hotel uses, this seems to add an unnecessary and complex layer of regulation to bed and breakfast uses.

**Recommendation** **Sec. 24-196 (Amendment Procedure, Map Amendments)** subpart (c) in part requires an applicant to assemble information that City staff has access to; namely “the application number of any map amendment application involving all or part of the property which has been acted upon in any manner by the City Council or the District Council for the Maryland-Washington Regional District in Montgomery County during the three years immediately prior to the filing of the application.” This implies that staff will likely be assisting the applicant in finding all required information and map amendments. Therefore, consider removing the burden of information gathering from the applicant and further to this, reflect the additional time burden on staff within the application fee.

**Recommendation** **Sec. 24-219 (Off-Street Parking and Loading, Parking Requirement Schedule)** subpart (a)(4) provides that no on-site parking is required for a change in use or redevelopment of improved property in the Olde Towne District until after February 23, 2025. This provision, and others like it that sunset after a certain date, raises a question: “Why not allow this provision indefinitely?” It seems unlikely that a substantive shift will occur on February 24, 2025, causing property in the Olde Towne District to require more parking than the day before. This provision may add an unnecessary layer of regulation that undercuts Gaithersburg’s objectives of creating more housing options, supporting infill and adaptive reuse, and increasing pedestrian and multi-modal scale and connectivity. To be sure, a developer may still choose to provide parking even if the zoning ordinance does not set a minimum (and up to any maximum amount of parking a zoning ordinance may set).

**Organization and Usability**

---

**Recommendation** **Sec. 24-85 to 24-91 (R-O Zone)** The R-O Zone is not currently mapped and should be removed from the zoning code in order to streamline information and remove unnecessary passages.

**Recommendation** **Sec. 24-102 to 24-109 (C-P Zone)** The CP Zone is currently not mapped and should be deleted from the code.

**Recommendation** In the C-1 Zone, **Sec. 24-111 (C-1 Zone, Uses Permitted by Right)** subpart (13) specifies several dimensional standards that are applied specifically and only to automobile filling stations. This is substantively different from the way most other uses are treated throughout the zoning ordinance. Requirements such as these may be better organized into use-specific standards that apply consistently to a type of use in any district where they are approved.

**Recommendation** **Sec. 24-122 to 24-135.1 (C-3 Zone)** The C-3 Zone is currently not mapped and should be deleted from the code.

**Recommendation** **Sec. 24-139 (I-1 Zone, Setback Requirements)** for the I-1 Zone requires buildings to be no closer than 75 feet to a lot line of land zoned residential that contains a dwelling unit. This raises a question: “Are there existing buildings in the I-1 Zone that are made nonconforming by this provision?” Although **Article II (Nonconforming Uses, Lots, and Structures)** provides standards and limitations for altering nonconformities, this section can still limit adaptive reuse of existing structures; leaving effected buildings to be underutilized or vacant, while sending potential investment elsewhere. Upon utilizing mapping to measure setbacks in the I-1 Zone, some I-1 properties were found to have non-conforming setbacks.

**Recommendation** **Sec. 24-150A – 24-150C (I-4 Zone)** The I-4 Zone is currently not mapped and should be deleted from the code.



**Recommendation Sec. 24-160C (E-2 Zone, Development Standards and Requirements)**

the E-2 Zone does not establish unique development standards. Instead, this section directs a reader to the dimensional standards for the E-1 Zone. This raises a question: “Does there need to be an E-1 and E-2 Zone (instead of just one E Zone)?” Removing layers and overlapping provisions such as this can simplify the Code, making its administration more efficient while supporting consistent outcomes.

**Recommendation Sec. 24-160E.1 to 24-160E.5 (H-M Zone)** The H-M Zone is currently not mapped and should be deleted from the code.

**Recommendation** Separately, subpart (b) of **Sec. 24-219 (Off-Street Parking and Loading, Parking Requirement Schedule)** requires 1 vehicular parking space per 225 square feet of gross floor area for retail/commercial establishments. Any retail or commercial establishment that is built to those standards must provide 88 square feet of vehicular parking for every 100 square feet of commercial space. This requires a large consumption of land for temporary storage of personal vehicles and is effective in spreading out the places that pedestrians and bicyclists would want to go further apart from each other. In turn, this strongly discourages connections or requires travel by foot or bicycle for longer distances along routes that prioritize vehicular access.

**Recommendation Sec. 24-231.1 (Preservation of Historic Resources, Undue Economic Hardship for Designated Buildings and Structures)** in subpart (a)(2)(ii) provides that the Historic District Commission may consider an application for demolition if the retention of the site or structure would “not be in the best interests of a majority of persons in the community.” Generally speaking, the designation of the building answers the question regarding whether the structure’s preservation is in the best interest of the community, therefore this question should not be part of the establishment of economic hardship. The city should employ a legal and technical definition of what constitutes an economic hardship. Furthermore, demolition permission of a designated building could be granted in cases where there are structural problems. Many historic ordinances will provide technical standards of what constitutes a structural deficiency severe enough to warrant demolition of a historic structure.

### Language and Consistency

---

**Recommendation Sec. 24-112 (C-1 Zone, Uses Permitted)** the C-1 Zone is the only district in the zoning ordinance to list “parking lots and garages” as a use with permissions. Parking lots and garages can take up a substantial amount of land in any jurisdiction that requires or allows significant amounts of parking, and for that reason should be regulated as a use. Treating parking lots and garages as a use consistently throughout the zoning Code will help establish clear expectations and support more consistent outcomes.



**Recommendation** **Sec. 24-167A (Supplementary Zone Regulations, Satellite Antennas and Towers, Poles, Antennas, and/or Other Structures Intended for Use in Connection with Transmission or Receipt of Radio or Television Signals, Telecommunications Facilities)** subpart (a)(3) sets forth a maximum that “one satellite antenna may be permitted for each building.” Where other types of dwellings are allowed a satellite antenna for each unit, this limitation on multi-unit dwellings subjects such uses to more restrictive standards and runs afoul of the Federal Communications Commission’s “Over-the-Air Reception Devices Rule” where this limitation precludes a person from receiving or transmitting an acceptable quality signal from an antenna covered under the rule (so long as there is dedicated space like a balcony or patio assigned to the unit within a multi-unit structure). Other provisions within this section may sufficiently limit the size and placement of antennas, making the additional restriction on multi-unit dwellings excessive and unnecessary.

**Procedural Clarity**

---

**Recommendation** **Sec. 24-8A (In General, Applicability of Special Conditions)** references a menu of applications and decisions that can be made by the City Council or Board of Appeals for properties identified in a master plan:

1. Local map amendment
2. Sketch plan
3. Schematic development plan
4. Concept plan (CD Zone)
5. Optional method application
6. Special exception
7. Amendment of special exception

This list does not include other types of reviews and approvals found elsewhere in the zoning ordinance including: conditional use applications, variance applications, high-rise optional approvals, minor waivers for sign packages, guidelines approval for sign packages, minor waivers for building signs, minor waivers for geographic signs, major waivers for monument signs, sign permits, parking waivers, concept site development plan approval, preliminary site development plan approval, final site development plan approval, historic area work permits (individual certificate), historic area work permits (master certificate), and administrative approvals. Many of these types of applications require similar information, require similar notification procedures (where a public hearing is required), and result in similar decisions: a plan is approved or disapproved based on the applicable standards. The sheer number of these processes unnecessarily complicates the zoning Code and can be consolidated and simplified. A concise set of procedures with sensitive flexibility to adapt to novel situations can lead to more consistent outcomes and set significantly clearer expectations for all interested parties.

**Recommendation** **Sec. 24-22 (Regulations Applicable to Particular Zones, Generally, Permitted and Special Exception Uses)** establishes use permissions in a manner that is inconsistent with most other districts. While it is generally more accessible to put information in tables (as this section provides), such a format should be applied consistently throughout the zoning ordinance to set clear expectations, make the administration of the Code more efficient, and produce more consistent outcomes. Separately, this section raises a question: “Is there a substantive difference between ‘special exception uses’ and ‘conditional uses?’” Conditional uses go before the City Council for decisions; special exception uses go before the board of appeals. Otherwise, the information and notice procedures required appear to be substantively similar. Such processes can be consolidated and even simplified to make the zoning ordinance more efficient in producing outcomes that support the vision Gaithersburg has set for itself. Subpart (a)(3) allows for the City Manager to interpret proposed uses that are not specifically defined. This is a critical function of modern zoning Codes that provides impactful flexibility for inviting innovative businesses into Gaithersburg. Additionally, the table in **Sec. 24-22** subpart (c) includes a footnote #5 that does not have corresponding information.

**Recommendation** **Sec. 24-38 (RB Zone, Purposes of Zone)** for the RB Zone states in the last paragraph: “The fact that an application for the RB Zone complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the resulting development would be compatible with surrounding land uses and, in itself, shall not be sufficient to require the granting of the application.” Likewise, for the C-2 Zone **Sec. 24-121 (C-2 Zone, High-Rise Optional Approval)** subpart (A)(3) has similar but slightly different language: “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.”

**Recommendation** These provisions in **Sec. 24-38 (RB Zone, Purposes of Zone)** and **Sec. 24-121 (C-2 Zone, High-Rise Optional Approval)** create an unnecessarily challenging and ambiguous environment for prospective developers and investors. A zoning Code must provide clear standards to effectively support the objectives of Gaithersburg. Likewise, approval or disapproval of a development must hinge on clear standards. Approval can’t hinge on desirability of a development. Clear standards set clear expectations and can be administered equitably and effectively by professional staff – while also shortening the timelines of zoning approvals, increasing Gaithersburg’s competitiveness, and consistently attracting more of the development that supports the vision Gaithersburg has set for itself.

**Recommendation Sec. 24-40 (RB Zone, Development Requirements and Residential Use)**

the RB Zone allows for the Planning Commission to waive “any development requirement to permit the use of an existing building or structure to the extent necessary to relieve any hardship.” This can be a powerful provision for providing flexibility and allowing the continued use or adaptive reuse of a property that may be nonconforming or facing a hardship. However, this provision lacks a clear operational mechanism for seeking such relief. If it operates like a variance, then tying this section to the variance process would provide clarity. As a counterpoint, subpart (a)(4) of this section, titled “Building Character,” is vague in its requirement for a building to have the “appearance of a residential structure.” This can make attempts to adaptively reuse an existing investment in Gaithersburg challenging and lead to inconsistent outcomes.

**Recommendation Sec. 24-79 (R-H Zone, Reduction of Minimum Requirements)**

the R-H Zone states, “The Planning Commission, at the time of site development plan approval, shall be authorized to reduce the minimum requirements of sections 24-77 and 24-78 where the characteristics of the site or the adjacent site are such that compliance with such minimum requirements is not required in the public interest.” This raises a question: “If minimum requirements of this section may not be ‘required in the public interest,’ then why require them?” Further, this section does not provide criteria for the Planning Commission’s consideration in such a request. In turn, this reduces the effectiveness and efficiency of the zoning ordinance and can increase the frequency of inconsistent decisions.

**Recommendation Sec. 24-82 (R-H Zone, Loading Dock Areas)** does not appear to serve a clear purpose: “Loading dock areas in the R-H Zone shall be at least fifty (50) feet by twelve (12) feet and shall have easy access to elevators.” Where standards for loading docks and parking areas are already provided in a separate article of the zoning ordinance, this provision can make such a provision more difficult to find for a prospective developer. Further, the requirement to “have easy access to elevators” does not provide enforceable criteria for review.

**Recommendation Sec. 24-121 (C-2 Zone, High-Rise Optional Approval)**

the C-2 Zone includes in subpart (A)(3): “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.” This provision can create an uncertain environment for prospective developers and investors. A zoning Code must provide clear standards to effectively support the objectives of Gaithersburg. Approval can’t hinge on desirability of a development. Clear pass/fail standards will set clear expectations and can make the administration of this section (and others) more equitable and efficient while setting a foundation for consistent outcomes.

**Recommendation** **Sec. 24-144 (I-3 Zone, Uses Permitted as Special Exceptions)** the I-3 Zone permits pawnshops as a special exception use with a condition that such a use may “not be located within 1,000 feet of the boundaries of property containing a school, church, religious facility, or any other pawnshop or any residentially zoned property, including property in the MXD zone designated on an approved schematic development plan or sketch plan for residential use...”. This provision, and provisions that are similar to it, should specify that the date of receipt of a complete application for such a use sets forth the date upon which the use must comply with this condition. In other words, were a church or school to be constructed within 1,000 feet of an existing pawnshop, such construction would not cause the City to revoke an occupancy license for a legally established pawnshop.

**Recommendation** **Sec. 24-151 (E-1 Zone, Permitted Uses)** subpart (6) in the E-1 Zone sets forth that “wholesale businesses, related warehouses and non-processing storage and distribution uses, except self-service storage facilities, bulk storage of chemicals, petroleum products and other inflammable, explosive or noxious materials, and that any existing 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.” This provision does not make clear what happens after May 25, 2024, and raises some questions: “Will these uses no longer be permitted?” “Will existing instances of such uses be deemed nonconforming?” “Will Gaithersburg revoke occupational licenses for such uses?” Without additional clarity, this provision will create confusion among code users about the legality of the operation of businesses that were legally established.

**Recommendation** In the MXD Zone, **Sec. 24-160D.9 (MXD Zone, Application and Processing Procedures)** subpart (b)(1)(d.) appears to require that all areas be subject to a “homeowner’s association or other organization.” If this interpretation is accurate, then it seems out of place for a zoning ordinance to require private agreements. If this interpretation is inaccurate, then this provision should be amended to clarify that a homeowner’s association or other organization is not required as a condition of approval of a submitted application. **Sec. 24-169 (Site Development Plans, Submission; Fee; Requirements of Plan)** subpart (c)(9) includes a similar requirement for providing draft homeowner’s association bylaws.

**Recommendation** **Sec. 24-160F.5 (CBD Zone, Waiver of Development Standards)** subpart (a)(2) gives the City Council authority to grant waivers of the dimensional standards for height in the CBD Zone based on the “caliber of user.” This provision has troubling implications for treating everyone equitable and raises questions: “What does caliber of user mean?” “Which calibers of users are worthy or unworthy of a waiver?” “Is a granted waiver tied to a specific user instead of to a building design or plot of land?” Decision making around land use and development should not hinge on the desirability of a user. Clear standards set clear expectations and can be administered equitably and effectively by professional staff – while also shortening the timelines of zoning approvals, increasing Gaithersburg’s competitiveness, and consistently attracting more of the development that supports the vision Gaithersburg has set for itself.

**Recommendation** **Sec. 24-167 (Supplementary Zone Regulations, Fences and Walls)**

subpart (7) references applicants who seek to build fences and walls that are over the permitted height limit. Such applicants “must provide, by mail or personal delivery, written notice ... to all owners of property abutting the proposed fence or wall within two business days after filing the request with the City.” The remainder of this provision does not clarify if such a request is subject to a variance which raises questions: “What purpose does this notice serve?” “What rights do neighboring property owners have upon receipt of such a notice?” “In what timeframe will the City make a decision on such an application?” Two business days may be reasonable for alerting neighboring property owners to the submission of a request that breaks with adopted standards. But if the decision on such an application happens shortly thereafter, this timeframe may be inequitable for giving affected neighbors their expected opportunity to voice concerns. Expanding this provision to set clear expectations for all involved parties may help staff consistently enforce this provision in an equitable and efficient manner.

**Recommendation** **Sec. 24-168 (Site Development Plans, When Required)**

seems to require every construction in the city to be reviewed by the Planning Commission, which may be onerous and excessive especially if this review is separate from building permit reviews. This stipulation raises a question: “If a plan meets clear standards of the zoning ordinance, why wouldn’t professional City staff be authorized to administratively approve such plans?” Implementing such a shift requires clear standards (which is the recommended approach), can speed up permitting timeframes for work that clearly meets such standards, and can help produce more consistent outcomes for Gaithersburg – while making the city more competitive for attracting development.

**Recommendation** **Sec. 24-169 (Site Development Plans, Submission; Fee; Requirements of Plan)**

references several types of development plan submissions but does not tie these submissions to separately introduced application types found elsewhere in the zoning ordinance. It is unclear from these provisions when such submissions are required and what purposes they serve. This section should use language consistent with the remainder of the zoning ordinance. Alternatively, if this section is intentionally introducing additional types of submissions, the purpose and applicability of these submission types should be added to set clear expectations and improve their effectiveness at producing consistent outcomes.

# Outside Correspondence

Distributed to M&CC: 10/9/23  
X-9510-2023 Walnut Hill

received after  
the record closed

**From:** Chazz <galacticfunkboots@yahoo.com>

**Sent:** Friday, September 29, 2023 8:53 PM

**To:** CityHall External Mail <cityhall@gaithersburgmd.gov>; Kirk Eby <Kirk.Eby@gaithersburgmd.gov>

**Subject:** Walnut Hill Commercial Annexation

Reference: X-9510-2023 (Walnut Hill Commercial Annexation): Petition to Annex Approximately 9.25 Acres of Land Adjacent to the City and Assign C-2 And CD Zoning. The Area to be Annexed Includes the Walnut Hill Shopping Center at 16531 South Frederick Avenue, a Vacant Parcel at 8939 North Westland Drive, a Restaurant at 8941 North Westland Drive, and a Portion of the North Westland Drive Right of Way Northeast of MD Route 355 (South Frederick Avenue)

Mayor, City Council, Mr. Kirk Eby

I am in favor of the Walnut Hill annexation.

With the annexation comes the opportunity to revitalize a shopping center that sits right at the entranceway to the City of Gaithersburg. From what I understand, the annexation will allow for the developer to invest in this property. I believe that a decision of this magnitude should not be made simply to suit developers, but instead should be made with the surrounding community as the highest priority. I believe the opportunity presented by this developer is very much in service of our community.

In its current state, the property is outdated, rundown, has dark and unsafe areas, several empty retail spots, very little green space, no place for the community to gather, and no grocery store. This is not the impression that we want to give about Gaithersburg. We want to be welcoming and represent that this is a place of comfort and opportunity for all who make their way to our city. This shopping center should represent a place for residents and guests to come together, thus encouraging a sense of community as an important value within our city.

One of the largest empty spots in this shopping center is the grocery store spot which is a much needed retailer. The developers worked for and succeeded in finding a grocery store tenant. This grocery store will fill a gap in the neighborhood that has existed since 2020. For some, this absence, has meant a much longer commute to get to a grocery store as a result. There are other positives to having a grocery store. Grocery stores can increase property values which is another benefit that is made possible with the annexation. Having a grocery store will attract other businesses because of the guaranteed traffic to the shopping center.

I'm not happy about having another gas station because of the environmental consequences, the concentration of the gas stations in this area, and impacts to the health and property values of those who live nearby. However, this income is needed to support further development. It's terrible for us to be put in a position where we have to choose between a healthy and clean environment and having a grocery store in close proximity to our homes. I hope the Mayor and City Council will take the lead in



finding ways to implement greener solutions and sunset environmentally detrimental elements.

The developer has talked about a broader plan which gives me some hope. If and when gas is a less commonly used fuel, the retailer connected with the gas station has flexibility because they still have a store with food service. This should lessen the chance of having an empty store front. As part of this, the developer will be installing electric vehicle charging stations with an expansion plan for additional EVCs. The developer is working with the grocery store to install solar panels.

I must also say that it has been difficult to watch development in other areas of Gaithersburg when promises were made about Olde Towne that are yet to be fulfilled. The project that will follow the annexation represents some movement on rebuilding and revitalizing the East side of Gaithersburg, which I and other residents have been wanting for quite some time.

Please vote in favor of annexation so this project can become a reality.

Ms. Chazz Wilson, Saybrooke



## Senior Advisory Committee

October 4, 2023

Hon. Jud Ashman, Mayor  
Gaithersburg City Council  
City of Gaithersburg  
31 Summit Avenue  
Gaithersburg, Maryland 20877

Re: SAC Support for an Intergenerational Community Center

Dear Mayor Ashman and City Council Members:

The Gaithersburg Senior Advisory Committee (SAC) acts in an advisory capacity to the Mayor and City Council on programs and services that will enable older adults to function with independence and dignity in their homes and in the community to their fullest capacity. We provide input and guidance on the needs and concerns of the senior citizen community in the greater Gaithersburg area.

We have become aware of outside discussion of an independent petition for a stand-alone Senior Center. However, we would like to reiterate our position in support of an intergenerational Community Center. County Councilmember Gabe Albornoz joined the SAC meeting in September 2022 and advised that the County is no longer building stand-alone Senior Centers, but rather is investing in intergenerational Community Centers. The County experience is that Community Centers become Senior Centers during the day when younger people are in school or at work.

We were delighted to learn that the formation of an intergenerational community center is part of the feasibility study commissioned by the City. Intergenerational programming has been shown to benefit all generations by providing a greater sense of connection, an increased feeling of purpose, and more learning opportunities.

We look forward to continuing to work with you as we advocate for an intergenerational community center.

Sincerely yours,

Jean Dinwiddie, Chair

cc: Tanisha Briley, Gaithersburg City Manager

Communication: Outside (Correspondence)



## Senior Advisory Committee Needs Survey Report

The Gaithersburg Senior Advisory Committee (SAC) acts in an advisory capacity to the Mayor and City Council on programs and services that will enable older adults to function to their fullest capacity, living with independence and dignity in their homes and in the community. We provide input and guidance on the needs and concerns of the senior community in the greater Gaithersburg area.

In order to determine the needs of older adults in the City, in the spring of 2022, we sent the attached survey (Appendix 1) via email to members of the Benjamin Gaither Senior Center (BGC) and City residents. On one occasion we surveyed members of the BGC in person.

In all, we received 122 responses. The results of the survey are attached (Appendix 2). The categories ranked as follows for those listing them between a score of 3 and 5, indicating some or significant challenges: Fitness (38%), the Economy (23%), Housing (18%), Nutrition (18%), Safety (17%), Transportation (17%), and Access to Health Care (13%). It is worth noting that the demographics of responders do not match the diversity of the City, but most likely reflect the needs of all residents.

In order to educate ourselves on resources available to the City's older residents, and to inform our advocacy, we invited representatives from organizations currently serving Gaithersburg especially in the areas of housing and nutrition to attend our meetings (dates noted) and provide an overview of their services and what they are seeing in the community.

Lindsay Wise, Manager, Gaithersburg CARES Hub, November 7, 2022

The CARES Hub at Seneca Creek Community Church is a consolidation center serving Gaithersburg and its surrounding areas. The Hub is committed to working with organizations both public and private, providing access to food and essentials like diapers and other basic baby needs, and enriching lives through supportive relationships. It serves a weekly average of between 650 and 850 low-income, food-insecure households who are seeking assistance and are experiencing barriers to accessing essential needs and services.

At the time of Wise's presentation, services were provided based on need rather than on income, with no requirement to produce residency documentation. The Hub serves anyone who needs help; the only required information is name, address, phone, email address and the number of seniors, adults, and children in each household.

Margo Goldman, Executive Director, Gaithersburg HELP, February 6, 2023

Gaithersburg HELP is an all-volunteer network comprised of more than 22 member congregations and more than 200 volunteers working to help those in need within the greater Gaithersburg area. Gaithersburg HELP provides food, transportation to medical appointments, and prescription assistance including eye exams and glasses to residents of Gaithersburg and the Montgomery Village area.

Food assistance is the main focus of Gaithersburg HELP, with a budget of \$450,000 a year. The food pantry is located at the Festival Shopping Center on Muddy Branch Road. The annual budget for the food program is in partnership with other organizations that refer and offer assistance.

At the time of Goldman’s presentation, services were by appointment only due to health safety reasons. Clients can call 301-216-2510 for all assistance. Food assistance providers do not require income qualifications to receive assistance, and a resident may simultaneously receive help from Manna Food Center and the CARES Hub.

Matt Losak, Executive Director, the Renter’s Alliance, March 6, 2023

For more than a quarter of Montgomery County residents, the need or choice to rent their homes is an important part of their quality of life. For many older people, downsizing into a more carefree rental home is part of their retirement dream. For others, homeownership is beyond reach, and renting is the only available option. The U.S. Census 2013 data shows more than 36% of all Americans now living in rental housing. Losak advised the Committee that more than 50% of seniors are rent-burdened (i.e., paying more than 30% of their income) and some are paying up to 90%.

Losak informed the Committee that rents in the County (with the exception of Takoma Park), are not governed by any rent stabilization law. In addition, landlords can evict renters without cause by giving 60 days’ notice. To level the playing field for renters, the Renter’s Alliance supports both Just Cause Eviction and the proposed Housing Justice Act. (Note: Montgomery County passed a Rent Stabilization Law in July, 2023.)

We learned through additional research that the City is providing grants to the following nonprofit organizations to address the needs of its senior residents:

- Food Insecurity: Manna Food Center, Gaithersburg HELP, Gaithersburg CARES Hub
- Housing: Interfaith Works, Inc., Housing Initiative Partnership, Upper Montgomery Assistance Network, Family Services, Inc.
- Other Services for Seniors: Home Care Partners, Chinese Culture & Community Services Center, Inc.

The high ranking of Fitness as a somewhat or significant challenge indicates the importance of facilities and programs that focus on the needs of older adults who have a desire to remain active, vibrant and relevant. On behalf of the more than 18,000 people in the City of Gaithersburg who are over the age of 55, we thank you for your commitment to ensure that resources for these programs are available. As the population continues to age and the number of older adults increases, we urge you to prioritize programs, services and amenities that will allow Gaithersburg residents to stay in this community and contribute to its unique character. We ask that you also use your influence to solicit donations and recruit volunteers to address the needs of Gaithersburg’s older adult residents. The Senior Advisory Committee will continue to be your partner, regularly monitoring needs, advocating for resources, and conducting outreach to ensure that strong connections exist throughout the senior community.

Communication: Outside (Correspondence)

# APPENDIX 1

## PURPOSE OF SENIOR NEEDS SURVEY:

The Senior Advisory Committee is charged with advising the Mayor and City Council about the needs of senior citizens in our city. We are requesting your help in determining the needs of our senior community.

Please give us some demographic information:

DEMOGRAPHICS		
Gender	Male	Female
Prefer Not to Answer		
Age		
Under 55		
55 - 59		
60 - 69		
70-79		
80-89		
90+		
Race/Ethnicity (Optional)		
American Indian/Alaskan Native		
Asian		
Black or African American		
Hispanic or Latino or Spanish Origin of Any Race		
White		
Two or More Races		
Other		
Are you a Caregiver?	Yes	No
City Resident	Yes	No

Please let us know if you are facing challenges in any of the following areas. Please rate your challenge on a 1-5 scale, where 1 = no challenge and 5 = significant challenges.

ISSUE AREAS					
	No Challenges		Some Challenges		Significant Challenges
	1	2	3	4	5
Housing					
Nutrition					
Transportation					
Access to Health Care					
Fitness					
Safety					
Economic					
OTHER: (FREE FORM)					

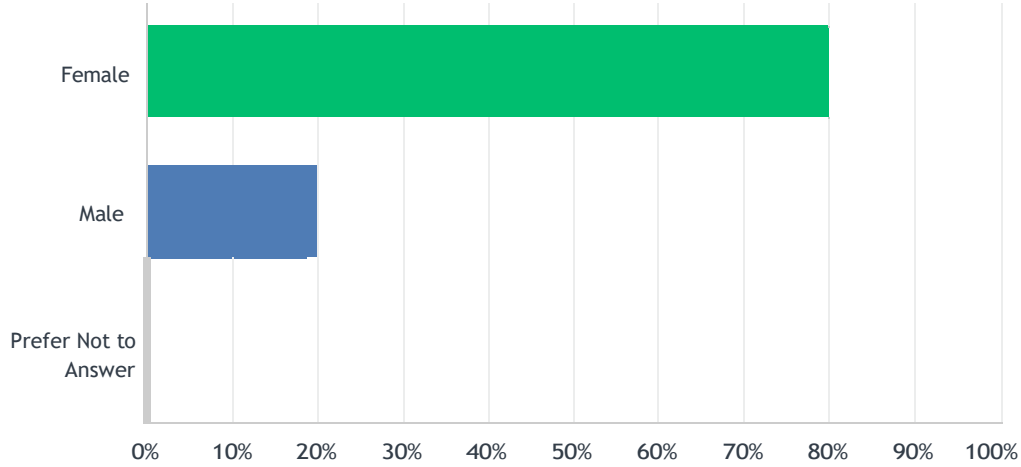
What programs/services would you like to see that are not currently available?  
(FREE FORM TEXT BOX)

Communication: Outside (Correspondence)

APPENDIX 2:

### Q1 What is your gender?

Answered: 121 Skipped: 1

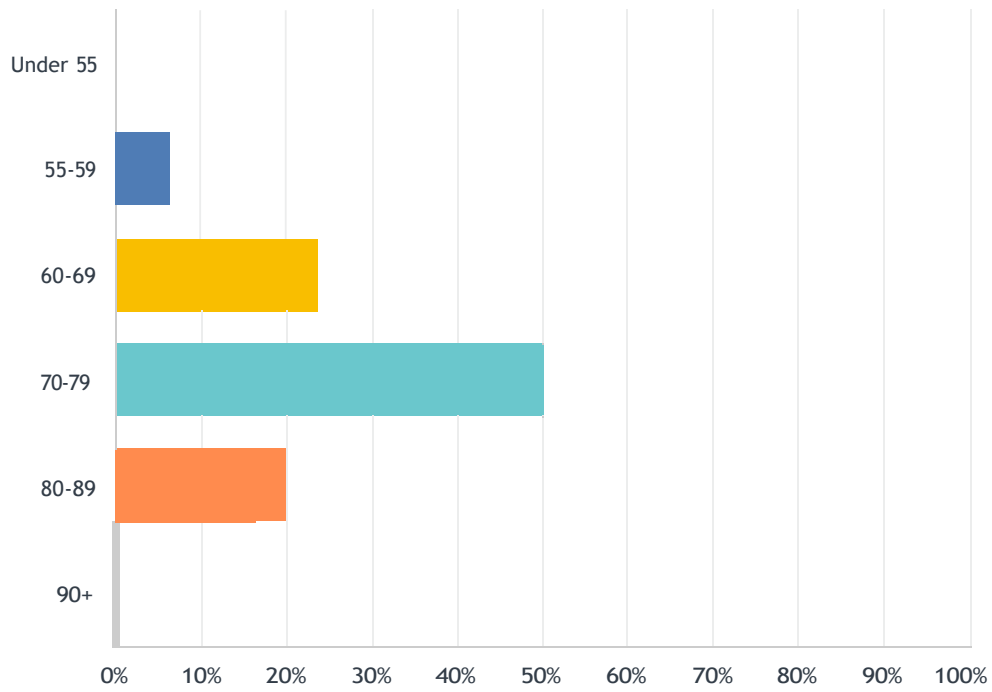


ANSWER CHOICES	RESPONSES	
Female	80.17%	97
Male	19.01%	23
Prefer Not to Answer	0.83%	1
<b>TOTAL</b>		<b>121</b>

Communication: Outside (Correspondence)

## Q2 What is your age?

Answered: 121 Skipped: 1



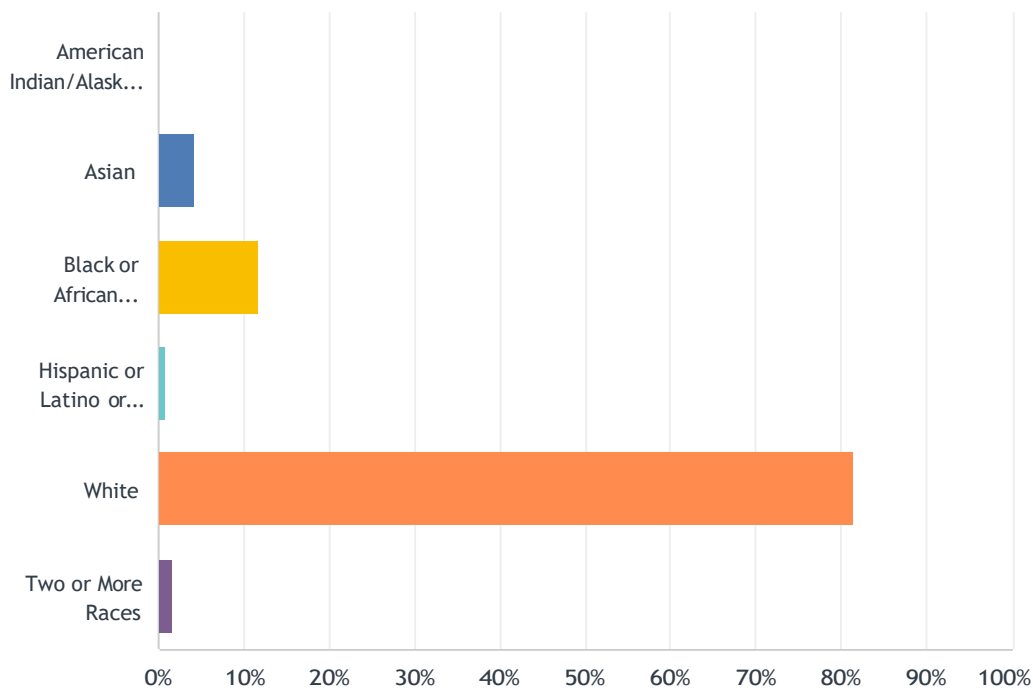
ANSWER CHOICES	RESPONSES	
Under 55	1.65%	2
55-59	6.61%	8
60-69	23.97%	29
70-79	50.41%	61
80-89	16.53%	20
90+	0.83%	1
<b>TOTAL</b>		<b>121</b>

Communication: Outside (Correspondence)



### Q3 What is your race or ethnicity? (Optional)

Answered: 119 Skipped: 3

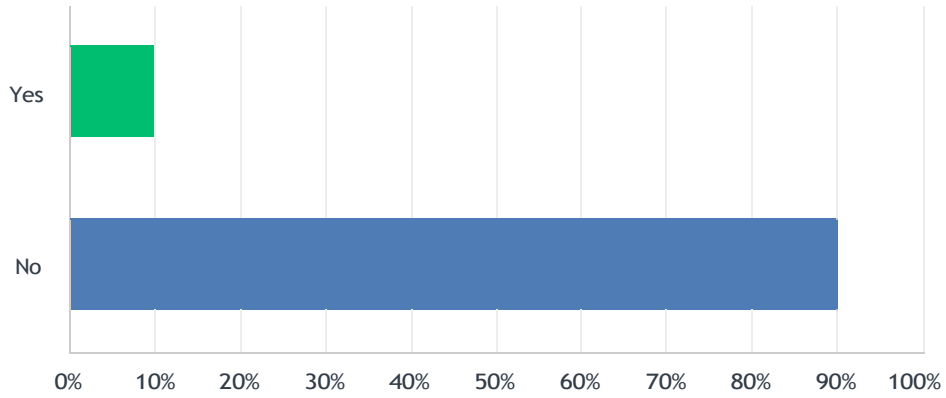


ANSWER CHOICES	RESPONSES	
American Indian/Alaskan Native	0.00%	0
Asian	4.20%	5
Black or African American	11.76%	14
Hispanic or Latino or Spanish Origin of Any Race	0.84%	1
White	81.51%	97
Two or More Races	1.68%	2
<b>TOTAL</b>		<b>119</b>

Communication: Outside (Correspondence)

### Q4 Are you a caregiver?

Answered: 120 Skipped: 2

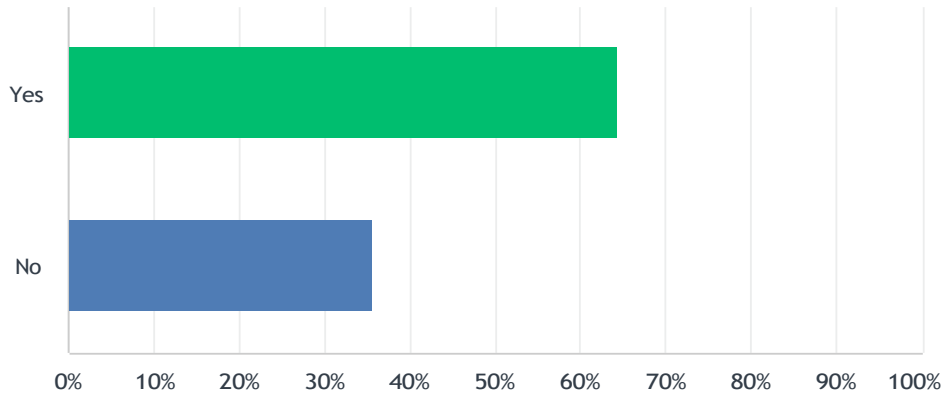


ANSWER CHOICES	RESPONSES	
Yes	10.00%	12
No	90.83%	109
Total Respondents: 120		

Communication: Outside (Correspondence)

### Q5 City Resident?

Answered: 121 Skipped: 1

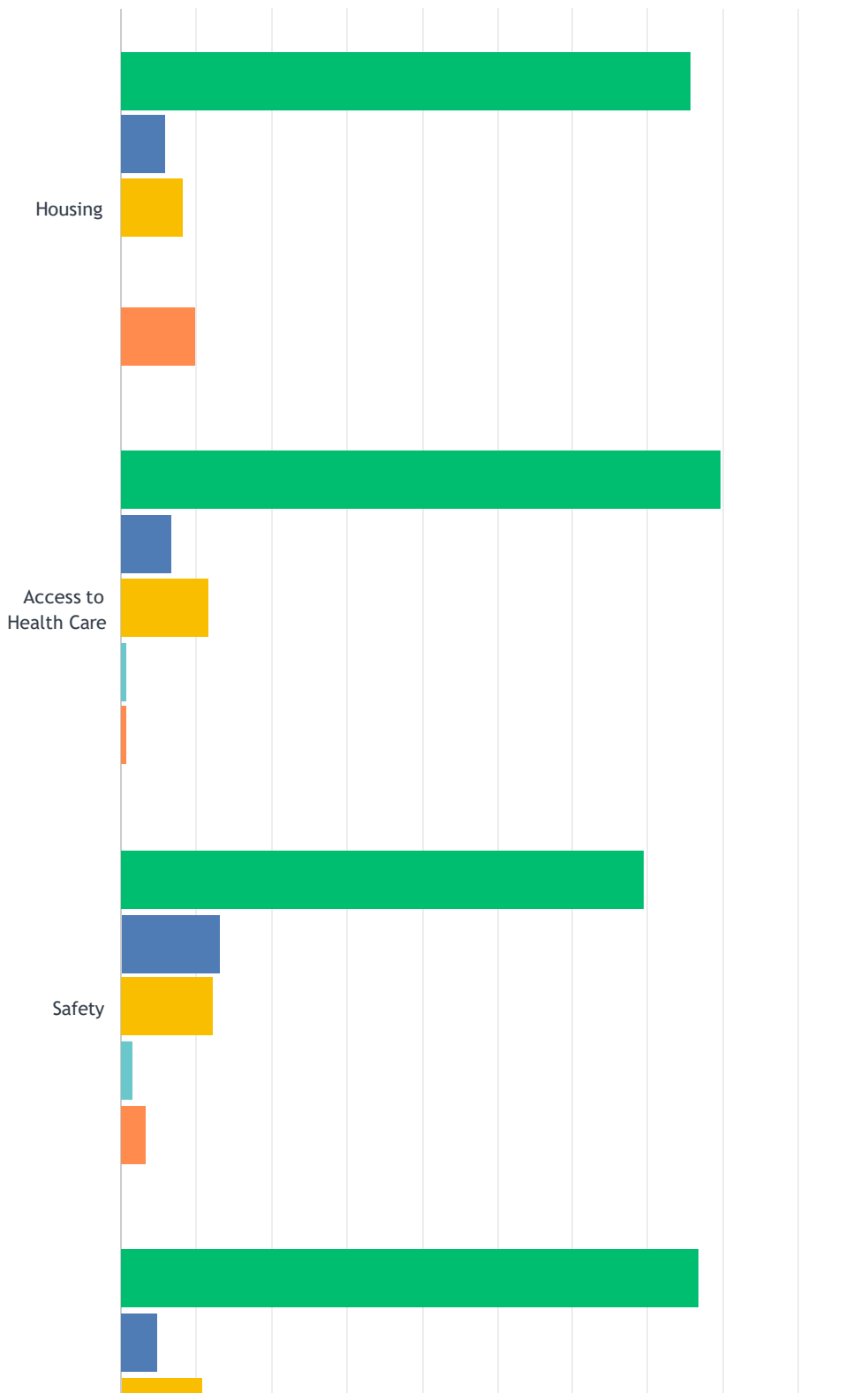


ANSWER CHOICES	RESPONSES	
Yes	64.46%	78
No	35.54%	43
Total Respondents: 121		

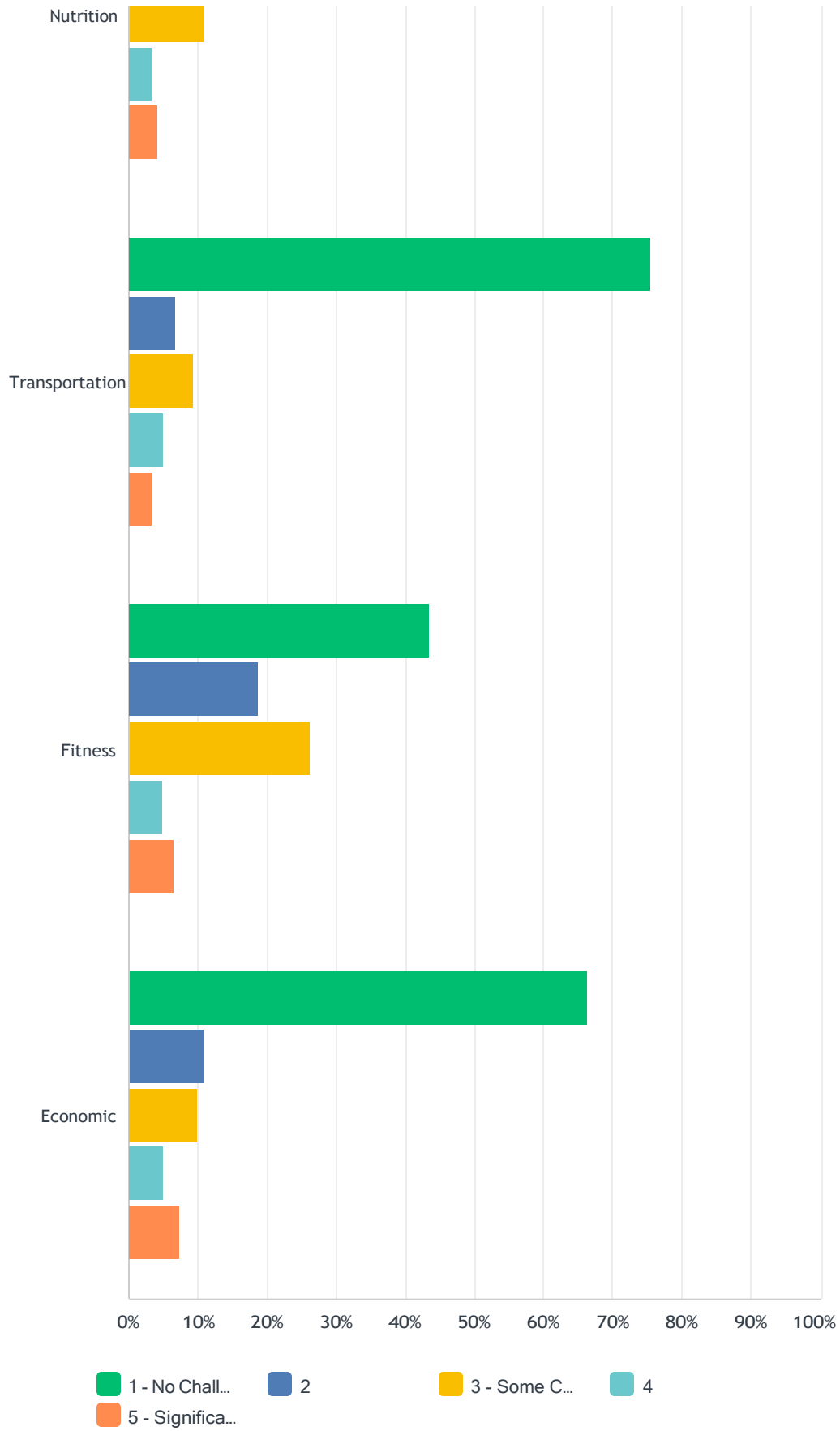
Communication: Outside (Correspondence)

Q6 Please let us know if you are facing challenges in any of the following areas. Please rate your challenge on a 1-5 scale, where 1 = no challenge and 5 = significant challenges.

Answered: 122 Skipped: 0



Communication: Outside (Correspondence)



Communication: Outside (Correspondence)

Housing	75.63%	5.88%	8.40%	0.00%	10.08%		
	90	7	10	0	12	119	1.63
Access to Health Care	79.83%	6.72%	11.76%	0.84%	0.84%		
	95	8	14	1	1	119	1.36
Safety	69.42%	13.22%	12.40%	1.65%	3.31%		
	84	16	15	2	4	121	1.56
Nutrition	76.67%	5.00%	10.83%	3.33%	4.17%		
	92	6	13	4	5	120	1.53
Transportation	75.42%	6.78%	9.32%	5.08%	3.39%		
	89	8	11	6	4	118	1.54
Fitness	43.44%	18.85%	26.23%	4.92%	6.56%		
	53	23	32	6	8	122	2.12
ECONOMIC	66.39%	10.92%	10.08%	5.04%	7.56%	119	1.76
	79	13	12	6	9		

Communication: Outside (Correspondence)

## Q7 What programs/services would you like to see that are not currently available?

Answered: 60 Skipped: 62



Distributed to M&CC: 10/9/23  
Commission Interest

# TYRONE BARTON

[REDACTED], Gaithersburg MD 20878 | [REDACTED] | tybarton@mac.com

**10/02/2023**

Mayor Jud Ashman  
City Hall  
31 South Summit Ave  
Gaithersburg, MD 20877

**Dear Mayor Jud Ashman:**

I attended last week's Commission on Landlord-Tenant Affairs Meeting, and I'm very interested in serving as a public-at-large member.

I spent over twenty-seven years working at Fannie Mae and have served as an officer on my previous neighborhood's homeowner's association. I'm again looking to contribute to the various goals of the broader housing industry in any way that I can.

Thanks in advance for your time and consideration.

Sincerely,

Tyrone Barton

Communication: Outside (Correspondence)

Distributed to M&CC:10/9/23  
Committee Interest

**From:** Destiny Dry <[Destiny.Dry@stjes.com](mailto:Destiny.Dry@stjes.com)>  
**Sent:** Thursday, June 22, 2023 2:24 PM  
**To:** Kathleen Benson <[Kathleen.Benson@gaithersburgmd.gov](mailto:Kathleen.Benson@gaithersburgmd.gov)>  
**Subject:** Interest Letter

Dear Kathleen,

It was wonderful serving as a volunteer in May for the Gaithersburg Book Festival. I would love to help in a larger role on a committee if you have any openings. I work as a school librarian at St. John's Episcopal School in Olney, Maryland. In that role, I feel like I have my finger on the pulse of what children are reading today and what is up and coming in Children and Young Adult Literature. I would be happy to lend you my expertise in any way that I can. I am excited and passionate about reading and would love to work with others who feel the same way. As an educator, I also understand that I am always a learner, and I feel like working for the Gaithersburg Book Festival will help me grow personally and professionally as well.

Thank you for your time and consideration.

Sincerely,  
Destiny Dry Uy

Communication: Outside (Correspondence)

Distributed to M&CC:10/9/23  
Committee Interest

**From:** Katherine Gilbert <[katherine\\_gilbert@hotmail.com](mailto:katherine_gilbert@hotmail.com)>  
**Sent:** Thursday, September 21, 2023 5:57 PM  
**To:** Kathleen Benson <[Kathleen.Benson@gaithersburgmd.gov](mailto:Kathleen.Benson@gaithersburgmd.gov)>  
**Subject:** Request: Appointment to GBF Committee

Hi Kathleen,  
Please consider this request for my appointment to the Gaithersburg Book Festival Committee. I understand there is a two-meeting observance requirement: the first meeting I attended was on July 18, 2023, and my second one will be on September 26, 2023.  
Thank you!  
Katherine Gilbert  
[REDACTED]

Distributed to M&CC:10/9/23  
Committee Interest

From: Carla White <[carlatanguay@gmail.com](mailto:carlatanguay@gmail.com)>  
Sent: Monday, October 2, 2023 10:27 AM  
To: Tom Loneragan-Seeger <[Tom.Loneragan-Seeger@gaithersburgmd.gov](mailto:Tom.Loneragan-Seeger@gaithersburgmd.gov)>  
Subject: OTAC

Good morning Tom,

It was great to “meet” you the other day and hear what you and OTAC have been up to! I wanted to officially state my intention to join the committee if you’ll have me.

Happy October! I look forward our next Zoom.

Best,  
Carla

Sent from my iPhone

Communication: Outside (Correspondence)