



## Zoning Ordinance Revision: Staff Draft of the Overlay and Floating Zones

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### Description

Staff Report and Staff Draft for Public Session on November 28, 2012  
Worksessions on November 29<sup>th</sup> and December 3<sup>rd</sup>  
Zoning Ordinance Revision  
Fall 2012 Planning Board Review

### Summary:

This report will evaluate changes to our current zoning ordinance that are proposed in the attached Staff Draft. The Staff Draft, itself, is a redline version of the Consolidated Draft published July 2012, incorporating comments and suggestions received since its release. A new Staff Draft will accompany each staff report and will cumulatively update sections of the Consolidated Draft corresponding to the review schedule. As the title suggests, this report will cover the Overlay and Floating zones.

# Discussion of the Staff Draft of the Overlay, and Floating Zones

## Introduction

This report will evaluate changes to our current zoning ordinance that are proposed in the attached Staff Draft. The Staff Draft, itself, is a redline version of the Consolidated Draft, incorporating comments and suggestions received since its release in July. A new Staff Draft will accompany each staff report and will update sections of the Consolidated Draft corresponding to the review schedule.

As the title suggests, this report will cover the Overlay and Floating zones. The Overlay and Floating zones were initially released in draft form to the Zoning Advisory Panel in the spring of this year. Staff received comments and feedback on the draft text, made revisions and incorporated the Overlay and Floating zones into the Consolidated Draft released in July. Since the release of the Consolidated Draft, Staff has continued to receive comments and feedback on these zones. In light of these comments and further review of potential zone conversion, several existing overlay zones that were not initially retained in the Consolidated Draft have been added to the attached Staff Draft. Below is a table listing the overlay zones as they appear in the current code, and the recommendation for each zone with respect to the Staff draft.

Overlay zone in the current code	Proposed zone in the Staff Draft
Retail Preservation Overlay Zone for the Wheaton Central Business District	Removed with the approval of the Wheaton Sector Plan.
Residential and Open Space Preservation Overlay Zone for the Town of Garrett Park	Retained as Neighborhood Protection – Garrett Park (NP-GP) Overlay zone.
Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central Business District	Not retained, development standards captured in zone conversion (explanation below).
US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan	Under review as part of the White Oak Science Gateway Master Plan.
Overlay Zone for the Burtonsville Employment Area of the Fairland Master Plan	Retained as Commercial Preservation – Burtonsville Employment Area (CP-BEA) Overlay zone.
Environmental Overlay Zone for the Upper Paint Branch Special Protection Area	Retained as Special Protection Area – Upper Paint Branch (SPA-UPB) Overlay zone.
Chevy Chase Comparison Retail Overlay Zone	Not retained, development standards captured in zone conversion (explanation below).
Chevy Chase Neighborhood Retail Preservation Overlay Zone	Retained as Commercial Preservation – Chevy Chase Retail (CP-CCR) Overlay zone.
Sandy Spring/Ashton Rural Village Overlay Zone	Retained as Neighborhood Protection – Sandy Spring/Ashton Rural Village (NP-SSA) Overlay zone.
Fenton Village Overlay Zone	Retained as Neighborhood Protection – Fenton Village (NP-FV) Overlay zone.
Ripley/South Silver Spring Overlay Zone	Retained as Neighborhood Protection – Ripley/South Silver Spring (NP-RSS) Overlay zone.
Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone	Retained as Commercial Preservation – Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS) Overlay zone.
Neighborhood Retail Overlay Zone	Retained as Commercial Preservation – Neighborhood Retail (CP-NR) Overlay zone.
Rural Village Center Overlay Zone	Retained as Neighborhood Protection – Rural Village (NP-RV) Overlay zone.
Environmental Overlay Zone for the Upper Rock Creek Special Protection Area	Retained as Special Protection Area – Upper Rock Creek (SPA-URC) Overlay zone.

*Article 59-5 Floating Zone Regulations* contains the family of floating zones being recommended in the Staff Draft. The proposed Floating zones provide a new organization for a very large set of existing Floating zones. (See discussion below.)

Similar to the earlier Staff Reports, changes from the current code as well as changes from the Consolidated Draft will be provided in this report.

### **Review Organization**

At a public session scheduled for November 28<sup>th</sup>, the public will be invited to comment on the contents of this report and the corresponding sections of the Staff Draft (see Attachment A) covering the Overlay and Floating zones. This public session provides property owners, residents, and other stakeholders the opportunity to provide input on the draft Rewritten Ordinance.

The worksessions, scheduled for November 29<sup>th</sup> and December 3<sup>rd</sup>, will provide an opportunity for the Planning Board to discuss the recommendations inherent in the proposed draft text, the public comments received, and revisions to the Consolidated Draft text proposed by staff as a result of comments received since its release.

### **Report Organization**

This report is organized by zone family. The Intent Statements (*Article 59-2*), the Euclidean Zoning Regulations (*Article 59-4*) for the Overlay zones, and the Optional Method of Development (*Article 59-6*) for the TDR Overlay zone will be covered first, then *Article 59-2 Zone Districts* and *Article 59-5 Floating Zone Regulations* will be reviewed.

## Overlay Zones

### Article 59-2: Zoning Districts

Section 2.1.2.I establishes the Overlay zones. There are five families of Overlay zones: Commercial Preservation Overlay, Industrial Mixed-Use Overlay, Neighborhood Protection Overlay, Special Protection Area Overlay, and Transferable Development Rights Overlay.

#### I. Overlay Zones

##### 1. Commercial Preservation (CP) Overlay Zones

a. There are 4 Commercial Preservation Overlay zone classifications:

- i. Commercial Preservation- Burtonsville Employment Area (CP-BEA),
- ii. Commercial preservation- Chevy Chase Neighborhood Retail (CP-CCR),
- iii. Commercial Preservation- Neighborhood Retail (CP-NR), and
- iv. Commercial Preservation- Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Commercial Preservation Overlay zones under Div. 4.8.

c. The CP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

##### 2. Industrial Mixed-Use (IMU) Overlay Zone

a. There is one Industrial Mixed-Use Overlay zone classification:

- i. Industrial Mixed-Use – Twinbrook (IMU-TB).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Industrial Mixed-Use Overlay zone under Div. 4.8.

c. The IMU Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.

##### 3. Neighborhood Protection (NP) Overlay Zones

a. There are 5 Neighborhood Protection Overlay zone classifications:

- i. Neighborhood Protection- Garrett Park (NP-GP),
- ii. Neighborhood Protection- Fenton Village (NP-FV),
- iii. Neighborhood Protection- Ripley/South Silver Spring (NP-RSS),
- iv. Neighborhood Protection- Rural Village Center (NP-RVC), and
- v. Neighborhood Protection- Sandy Spring/Ashton Rural Village (NP-SSA).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Neighborhood Protection Overlay zones under Div. 4.8.

c. The NP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

##### 4. Special Protection Area (SPA) Overlay Zones

a. There are 2 Special Protection Area Overlay zone classification:

- i. Special Protection Area - Upper Paint Branch (SPA-UPB), and
- ii. Special Protection Area – Upper Rock Creek (SPA-URC).

b. Building types, uses, density, height, and other standards and requirements may be modified by the Special Protection Area Overlay zones under Div. 4.8.

c. The SPA Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

##### 5. Transferable Development Rights (TDR) Overlay Zone

a. There is one Transferable Development Rights Overlay zone classification:

- i. Transferable Development Right- (TDR).

- b. *Building types, uses, density, height, and other standards and requirements may be modified by the Transferable Development Rights Overlay zone under Div. 4.8.*
- c. *The TDR Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.*

Section 2.2.7. provides the intent statements for the Overlay zones.

*A. In General*

*The CP, IMU, NP, SPA, and TDR Overlay zones provide regulations and standards that are necessary to achieve the planning goals and objectives for development of a particular area.*

*B. Commercial Preservation (CP) Overlay*

- 1. *The CP Overlay zone is intended to:*
  - a. *Provide for a compatible mix of residential and neighborhood-serving commercial uses; and*
  - b. *Regulate land uses, development standards, and review process over the restrictions and allowances of the underlying zone.*
- 2. *Each mapped CP Overlay zone will be given a subsection in Article 4 establishing:*
  - a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
  - b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and*
  - c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.*

*C. Industrial Mixed Use (IMU) Overlay*

- 1. *The IMU Overlay zone is intended to allow residential uses in the IL zone if it is located near a metro transit station.*
- 2. *Each mapped IMU Overlay zone will be given a subsection in Article 4 establishing:*
  - a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
  - b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and*
  - c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.*

*D. Neighborhood Protection (NP) Overlay*

- 1. *The NP Overlay zone is intended to:*
  - a. *Preserve the distinct character of a neighborhood through uses, intensity of development, and unique design attributes; and*
  - b. *Regulate land uses, development standards, general requirements, and review process over the restrictions and allowances of the underlying zone.*
- 2. *Each mapped NP Overlay zone will be given a subsection in Article 4 establishing:*
  - a. *The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;*
  - b. *The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone;*
  - c. *The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone; and*

- d. *The general requirements required or permitted notwithstanding the required or permitted general requirements of the underlying zone.*
- E. *Special Protection Area (SPA) Overlay*
- 1. *The SPA Overlay zone is intended to:*
    - a. *Protect the water quality and quantity in the applicable watershed and its tributaries, as well as the biodiversity within the area;*
    - b. *Regulate the amount and location of impervious surfaces in order to maintain levels of groundwater, control erosion, and allow the ground to filter water naturally and control temperature; and*
    - c. *Regulate land uses that could adversely affect the applicable stream system resources.*
  - 2. *Land uses that are restricted in these areas and general requirements for resource protection are specified in Article 4.*
  - 3. *Additional controls on impervious surfaces and environmental protections may also be specified by the applicable master or sector plan.*
- F. *Transferable Development Rights (TDR) Overlay*
- 1. *The TDR Overlay zone is intended to allow the purchase of development rights from the Agricultural Reserve (AR) zone in order to protect the County’s agricultural and rural heritage.*
  - 2. *The TDR Overlay zone is mapped on particular areas in the County where the purchase of transferable development rights (TDRs) from the AR zone is permitted.*
  - 3. *In any specified area, the applicable master or sector plan must specify the number of TDRs that may be purchased in exchange for increased density and more flexible development standards intended to supersede the underlying zone classification.*
  - 4. *Additional residential building types may be allowed but development standards and general requirements are finalized through an approved site plan based on evaluation of compatibility and impacts on surrounding communities.*
  - 5. *A minimum site area is required for development under the TDR Overlay zone; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.*

Section 2.1.2.1. and Section 2.2.7. Changes from Current Code

As stated above, several of the existing overlay zones have been retained in the Staff Draft. A few overlay zones, recommended for removal in the Consolidated Draft, continue to be recommended for removal and are not included in the Staff Draft. There are 2 new overlay zones created in the rewrite process: the Transferable Development Rights Overlay, which was proposed in the Consolidated Draft, and the Industrial Mixed-Use Overlay, which has been added in the Staff Draft to address limited residential development in a specific industrial area.

The current ordinance provides a purpose section for each existing Overlay zone. Staff has proposed intent statements for each family of overlay zones based on the purpose provided for each existing zone within the overlay family. Intent statements for the two new overlay zones, the Industrial Mixed Use – Twinbrook (IMU-TB) Overlay, and Transferable Development Rights (TDR) Overlay, are proposed.

Changes from the Consolidated Draft

The most significant change from the Consolidated Draft is the addition of several existing overlay zones to the Staff Draft. Initially it was thought that the parameters of the overlay zones that were not to be included in the Consolidated Draft could be captured through the density and height designations in the zone as well as by modifications to our process that would require site plan at much lower intensities across all zones. However,

there are use regulations set by the overlays that could not be covered by zone conversion or the process of approval. As a result, the following overlay zones being added back to the Staff Draft: Commercial Preservation – Burtonsville Employment Area Overlay, Commercial Preservation – Chevy Chase Retail Overlay, Commercial Preservation – Neighborhood Retail Overlay, Commercial Preservation – Takoma Park/East Silver Spring Commercial Revitalization Overlay, Neighborhood Protection – Fenton Village Overlay, Neighborhood Protection – Ripley/South Silver Spring Overlay, Neighborhood Protection – Rural Village Overlay, and Neighborhood Protection – Sandy Spring/Ashton Rural Village Overlay. One new overlay zone has been added in the Staff Draft that was not proposed in the Consolidated Draft, the Industrial Mixed-Use – Twinbrook Overlay zone. The overlay is being recommended to address specific uses within certain light industrial zones.

## **Article 59-4: Euclidean Zoning District Regulations**

### Div. 4.8. Changes from Current Code

Below is a list of the overlay zones as they appear in the current code, and the recommendation for each zone with respect to the Staff Draft.

- **The Retail Preservation Overlay Zone for the Wheaton Central Business District** - This overlay zone has been removed by the recent approval of the Wheaton Sector Plan.
- **Residential and Open Space Preservation Overlay for the Town of Garrett Park** – This overlay zone has been retained and renamed the Neighborhood Protection - Garrett Park Overlay zone. None of the current requirements of the overlay have been removed or modified, other than minor changes to the wording of the text.
- **The Retail Preservation Overlay Zone for the Arlington Road District of the Bethesda Central Business District Sector Plan** – Currently, under this overlay, uses are limited to those uses allowed in the underlying C-2 zone (either permitted or by special exception). All development standards must comply with those of the C-2 zone except that for any building in the overlay zone, the gross floor area cannot exceed FAR 0.5. All retail uses must be directly accessible from the sidewalk, plaza or other public space. In addition, a site plan is required for any new construction, addition of floor area, or any addition of off-street parking.

Properties under the Arlington Road District Overlay are proposed to convert to CRT 0.5 (C0.5,R0.25,H45). Each property in the current overlay would be limited to 0.5 FAR as mapped. Height, limited to 45 feet as per the master plan recommendation, would also be mapped in the zone. Uses in the CRT zone are comparable to the uses in the C-2 zone.

The site plan requirement under the current overlay would be replaced by the site plan requirement under the CRT zone. Below is the text in the current code regarding site plan.

#### **59-C-18.123. Procedure for application and approval.**

A site plan for any development in the Arlington Road District overlay zone must be approved under the provisions of Division 59-D-3. Development includes the following:

- (a) construction of new buildings;
- (b) additions and other exterior improvements to existing buildings that increase the amount of development floor area on a site; and
- (c) addition of off-street parking spaces or revisions to parking facilities that require the approval of a new parking facilities plan under Section [59-E-4.1](#).

New construction that is over 10,000 SF, more than 10 units, or greater than 40' in height would require a site plan under the CRT zone (note: all 3 parcels that fall within the overlay abut or confront property in a residential zone). Additions and improvements that increase floor area would require a site plan amendment. And, the addition of off-street parking spaces or revisions to parking facilities will be captured under building permit regulations.

The application requirements for a site plan under an overlay zone and the approval criteria for the Planning Board are retained; currently the information required for site plans in the staff draft requires much of the information currently required by the overlay. The criteria for Board approval is also covered by the proposed site plan approval criteria in the draft. For reference, both the site plan requirements and the approval criteria for the Arlington Road Overlay and the submittal requirements and approval criteria for all sites plans from the Consolidated Draft are copied below.

Current Code:

**59-C-18.124. Site plan contents and exemptions.**

- (a) Sections [59-D-3.22](#) and [59-D-3.23](#) do not apply in the Arlington Road District overlay zone.
- (b) A site plan for development in the Arlington Road District overlay zone must include:
  - (1) the location, height, ground coverage, and use of all structures;
  - (2) for each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes;
  - (3) the floor areas of all nonresidential buildings and the proposed use of each;
  - (4) the location of recreational and green areas and other open spaces;
  - (5) calculations of building coverage, density, green area, number of parking spaces and areas of land use;
  - (6) the location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks;
  - (7) a landscaping plan (or final forest conservation plan, if required under Chapter 22A), showing all man-made features and the location, height, or caliper, and species of all plant materials;
  - (8) an exterior lighting plan, including all parking areas, driveways and pedestrian ways, and the height, number, and type of fixtures with a diagram showing their light distribution characteristics; and
  - (9) a development program with the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping, and recreational facilities are to be developed. The applicant must designate the point in the development program sequence when the applicant will ask the Planning Board to inspect for compliance with the approved site plan.

**59-C-18.125. Planning Board approval.**

- (a) The Board must find that all retail uses proposed in new buildings must be directly accessible from a sidewalk, plaza, or other public space before approving a site plan for the Arlington Road District overlay zone.
- (b) The procedures for Planning Board approval under Section [59-D-3.4](#) are modified for this overlay zone to require the following findings:
  - (1) the site plan does not conflict with the recommendations in the Bethesda Central Business District Sector Plan;
  - (2) the site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone; and each structure and use is compatible with other



uses and other site plans and with existing and proposed adjacent development.

Consolidated Draft:

**B. Application Requirements**

8. The applicant must submit the following:
  - a. application form and fees as required by the Planning Director;
  - b. vicinity map at 1" = 200';
  - c. site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
  - d. list of adjacent and confronting property owners in the County tax records and any citizen's association(s) within 1/2 mile;
  - e. documentation of interest in the proposed development site under Sec.8.3.4.B.3. and Sec.8.3.4.B.4;
  - f. statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application;
  - g. verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public, as required by Planning Board regulations;
  - h. additional submittal requirements:
    - i. approved Natural Resources Inventory/Forest Stand Delineation plan;
    - ii. Stormwater Management Concept Application or, if required, a Water Quality Plan Application;
    - iii. accepted Traffic Statement or Study, as required by the Planning Director;
    - iv. existing and proposed dry and wet utility plan;
    - v. plans of proposed development showing:
      - (a) footprints, ground-floor layout, and heights of all building and structures;
      - (b) required open spaces and recreational amenities;
      - (c) detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
      - (d) grading;
      - (e) landscaping and lighting; and
      - (f) supplementary documentation showing or describing the application's conformance to previous approvals and/or applicable requirements.
  - i. a development program and inspection schedule detailing the construction phasing for the project;
  - j. a final forest conservation plan application; and
  - k. if a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points requested for each.

**D. Approval Criteria**

To approve a Site Plan, the Planning Board must find that the proposed development:

1. satisfies and is consistent with any previous approval(s) that encumbers the subject site or, if not, that the previous approval(s) be amended;
2. satisfies all applicable use standards, development standards, and general requirements required by this Code;
3. is substantially consistent with the recommendations of the applicable master or sector plan and any guidelines approved by the Planning Board that implement the applicable plan;

4. is compatible with existing and approved adjacent development;
  5. provides safe, well-integrated circulation patterns and building massing and, where required, open spaces and site amenities; and
  6. meets the requirements of other applicable sections of the Montgomery County Code under jurisdiction of the Planning Board, including:
    - a. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
    - b. Chapter 22A, Forest Conservation.
- **US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan** – This overlay is under review as part of the pending White Oak Science Gateway Master Plan and may not be retained.
  - **Overlay Zone for the Burtonsville Employment Area of the Fairland Master Plan** – This overlay has been retained and renamed the Commercial Preservation – Burtonsville Employment Area Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay sets forth an extensive list of prohibited and allowed uses. The consolidation of uses in the Staff Draft requires modification of the list of prohibited uses to correspond to the proposed draft. Below is a table showing the new use category that covers each prohibited use.

List of Prohibited Uses (Current Code)	(Corresponding Use in the Staff Draft)
Adult entertainment business	Adult Entertainment
Agricultural uses	Urban Farming, Animal Husbandry, Community Garden, Ag Processing, Farm Market On-Site
Aircraft parts, sales and services, including the sale of fuel for aircraft only	Repair (Commercial Vehicle)
Automobile parts, sales and services, including but not limited to tire sales and transmission service	Light Vehicle Sales and Rental (Indoor and Outdoor); Repair (Minor) and Repair (Major)
Automobile filling stations	Fuel Sales
Automobile repair and services	Repair (Minor) and Repair (Major)
Automobile sales, indoors and outdoors	Light Vehicle Sales and Rental (Indoor and Outdoor)
Automobile, truck and trailer rentals	Light Vehicle Sales and Rental (Outdoor);
Bakery	Light Manufacturing and Production
Blacksmith shops and machinery shops	Light Manufacturing and Production
Bottling plant	Light Manufacturing and Production
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Confectionery production	Light Manufacturing and Production
Contractor's storage yards	Contractor Storage Yard
Dry cleaning plants	Dry Cleaning Facility
Electroplating and manufacturing of small parts such as coils, condensers, transformers, and crystal holders	Light Manufacturing and Production
Food production, packaging, packing and canning	Light Manufacturing and Production
Fuel storage yards	Storage Facility
Highway fuel and food service	Fuel Sales
Laundry plants	Dry Cleaning Facility
Lumberyards	Contractor Storage Yard
Manufacturing of light sheet metal products	Light Manufacturing and Production
Manufacturing, compounding, assembling or treatment of articles from the following previously prepared materials: bone, cellophane, plastic, canvas cloth, cork, feathers, felt, fiber, fur, hair, horn, leather textiles, yarns, glass, precious or semi-precious metals or stones, and tobacco	Light Manufacturing and Production

Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development	Medical/Scientific Manufacturing and Production
Manufacturing, fabrication and/or subassembly of aircraft or satellite parts, components, and equipment	Light Manufacturing and Production
Manufacturing of musical instruments toys, novelties, and rubber and metal stamps	Light Manufacturing and Production
Manufacturing of paint not employing a boiling or rendering process	Light Manufacturing and Production
Manufacturing of pottery and figurines or other products using previously pulverized clay and kilns fired only by electricity or gas	Artisan Manufacturing and Production
Off-loading and transfer sites for storage of sand, gravel or rocks	Mineral Storage
Paper products manufacturing	Light Manufacturing and Production
Recycling facility	Recycling Collection and Processing
Rifle or pistol ranges, indoor	Shooting Range (Indoor)
Sawmills	Agricultural Processing
Stoneworks	Light Manufacturing and Production
Storage, outdoor	Storage Facility
Tinsmith and roofing services	Light Manufacturing and Production
Trucking terminals	Freight Movement
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility
Wholesale trades limited to sale or rental of products intended for industrial or commercial users	Retail/Service Establishment
Wood products manufacturing	Light Manufacturing and Production

Several of the prohibited uses fall under the proposed use *Light Manufacturing and Production*, however, a few uses that have also been consolidated under *Light Manufacturing and Production* are not specifically prohibited by the overlay. To avoid prohibiting these manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production uses are allowed: manufacturing and assembly of electronic components, instruments, and devices; manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment; manufacturing and assembly of semi-conductors, microchips, circuits, and circuit boards; manufacturing of yeasts, molds, and other natural products necessary for medical and biotechnical research and development; and printing and publishing.*

The overlay zone also provides a limited set of allowed commercial uses of a retail nature. The Staff draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service Establishment* uses are delineated by size. To retain the specific retail uses allowed under the overlay the following language has been included:

*The following Retail/Service Establishments are allowed: antique shops, handicrafts, or art sales; barber or beauty shop; banks; bookstores; drugstore; express or mailing offices; florist; food and beverage store; newsstand; photographic and art supply stores; and shoe repair shops.*

Development standards regarding setbacks, parking, and floor area have been retained. Other minor revisions were made to reduce redundant language, such as removing the general requirement that all development must comply with the standards of the underlying zone, except as modified by the overlay zone, since this text appears as a condition for all overlay zones.

- **Environmental Overlay Zone for the Upper Paint Branch Special Protection Area** – This overlay has been retained and renamed the Special Protection Area – Upper Paint Branch Overlay zone. None of the current requirements of the overlay have been changed.
- **Chevy Chase Comparison Retail Overlay zone** - The purposes of this overlay zone are directly related to the recommendations of the master plan, which as proposed in the Consolidated Draft, are a consideration of every site plan. Standard method development through zone conversion will be capped at a lower maximum square footage than that established in the current overlay zone. The mix of development, as indicated in the overlay, will be set by the commercial FAR (C), residential FAR (R), and height (H) elements in the new zone. Under the current overlay zone, site plan is required for new construction, additions and other exterior improvements that increase floor area, and the addition of off-street parking spaces or revisions to parking facilities. Following the proposed code, new construction, development over 10,000 SF or more than 10 units, or structures greater than 40' in height will require a site plan (property under the overlay abuts or confront property in a residential zone). Additions and improvements that increase floor area will require a site plan amendment. And, the addition of off-street parking spaces or revisions to parking facilities will be captured under building permit regulations.
- **Chevy Chase Neighborhood Retail Preservation Overlay zone** – This overlay has been retained and renamed the Commercial Preservation – Chevy Chase Retail Overlay zone. None of the current requirements of the overlay have been changed. The overlay provides a limited list of uses that are permitted in the ground floor space. The Staff draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. To retain specific retail uses, as well as other specific uses permitted under the overlay, the following language has been included:

*The following uses are permitted at the ground floor level, including entrance lobbies and common areas:*

- a. Cultural Institution;*
  - b. Day Care Facility;*
  - c. The following Office uses: personal service office uses such as travel agency, real estate office, optician, and similar neighborhood-serving office uses;*
  - d. Playground, Outdoor Area (Private);*
  - e. Restaurant; and*
  - f. The following Retail/Service Establishment uses: antique shops, handicraft, or art sale; appliance repair shop; banks and financial institutions; barber and beauty shops; book store; drug store; dry cleaning and laundry pickup station; duplicating service; florist; food and beverage store; gift shop; grocery store; hardware store; newsstand; pet shop; photographic studio; photographic and art supply store; shoe repair shop; specialty shops, such as jewelry store; variety and dry goods store, including wearing apparel; and tailoring or dressmaking shop.*
- **Sandy Spring/Ashton Rural Village Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Sandy Spring/Ashton Rural Village Overlay zone. None of the current requirements of the overlay has been removed. However, the overlay provides an extensive list of

prohibited uses. The consolidation of uses in the Staff Draft requires modification of the list of prohibited uses so that it corresponds to the proposed draft. Below is a table showing the new proposed use category for each prohibited use.

List of Prohibited Uses (Current Code)	(Corresponding Use in the Staff Draft)
Adult entertainment business	Adult Entertainment
Automobile filling stations	Fuel Sales
Automobile fluid maintenance station	Repair (Minor)
Automobile repair and services	Repair (Minor) and Repair (Major)
Automobile sales, indoors and outdoors	Light Vehicle Sales and Rental (Indoor and Outdoor)
Automobile, truck and trailer rentals	Light Vehicle Sales and Rental (Outdoor);
Baseball driving range	Recreation Facility, Outdoor
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Car wash	Car wash
Combination retail	Retail/Service Establishment over 50,000sf
Department stores	Retail/Service Establishment over 50,000sf
Dry cleaning plants	Dry Cleaning Facility
Eating and drinking establishments, drive-in	Drive-thru facility in connection with a restaurant
Fairgrounds, circuses, and amusement parks	Recreation Facility, Outdoor
Furniture stores, carpet, or related furnishing sales or service	Retail/Service Establishment
Golf driving ranges	Recreation Facility, Outdoor
Heliports	Helipad/Heliport
Helistops	Helistop
Laboratories	R&D, Medical/Dental Lab, and Animal Research Facility
Newspaper, printing, and publishing	Light Manufacturing and Production
Parking garages, automobile, for off-site uses	Structured Parking
Parking lots, automobile, for off-site uses	Surface Parking for use in zone, Surface Parking for commercial use in Historic District
Pawnshops	Retail/Service Establishment
Pipelines, above ground	Pipelines (Above Ground)
Radio and television broadcasting stations and towers	Media Broadcast Tower
Rifle or pistol ranges, indoor	Shooting Range (Indoor)
Roller and ice skating rinks	Recreation Facility, Indoor and Outdoor
Stadiums or arenas	Recreation Facility, Major
Swimming pools, commercial	Recreation Facility, Indoor and Outdoor
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility

One of the prohibited uses falls under the proposed use *Light Manufacturing and Production*, however, the majority of the uses that are also consolidated under *Light Manufacturing and Production* are not specifically prohibited by the overlay. To avoid prohibiting these manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production use (is prohibited): Newspaper, printing and publishing shops.*

The overlay zone also prohibits a limited number of retail uses. The Staff draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service*

*Establishment* uses are delineated by size. To prohibit only the specific retail uses recommended by the overlay the following language has been included:

*The following Retail/Service Establishments [are prohibited]: building materials and supplies; furniture stores, carpet, or related furnishing sales or service; and pawnshops;*

Other minor revisions were made to reduce redundant language covered by either the general requirements for all overlay zones or the standard requirements of all site plans.

- **Fenton Village Overlay zone** – This overlay has been retained and renamed the Neighborhood Protection – Fenton Village Overlay zone. None of the current requirements of the overlay have been changed.
- **Ripley/South Silver Spring Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Ripley/South Silver Spring Overlay zone. None of the current requirements of the overlay have been changed.
- **Takoma Park/East Silver Spring Commercial Revitalization Overlay zone** - This overlay has been retained and renamed the Commercial Preservation - Takoma Park/East Silver Spring Commercial Revitalization Overlay zone. None of the current requirements of the overlay have been removed. References to the underlying C-1 zoning is replaced with a reference to the CRN and CRT zones as the C-1 properties under this overlay are proposed to convert to one of these zones. A list of additional uses allowed under the overlay has been compared to the list of uses allowed under the CRN and CRT zones. Where a use is not allowed in the CRN or CRT zone, or the use is allowed as a conditional use, language to allow the additional use as a permitted use under the overlay has been retained.
- **Neighborhood Retail Overlay zone** - This overlay has been retained and renamed the Commercial Preservation - Neighborhood Retail Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay provides a long list of retail uses allowed under the overlay.

The Staff draft recommends consolidating retail sales and services under one use group, *Retail/Service Establishment*. Individual *Retail/Service Establishment* uses are delineated by size. To allow only the specific retail uses recommended by the overlay the following language has been included:

*Retail/Service Establishment uses are allowed in a Multi-Unit zone where designated as suitable in the applicable master plan. The following are the allowed Retail/Service Establishment uses:*

- i. banks or savings and loan offices; barber and beauty shops; book stores; drug stores; dry cleaning and laundry pick-up stations; florists; food and beverage stores; gift shops; jewelry stores; laundromats; newsstands; offices, banking; restaurants; and variety and dry goods stores.*

As with the other retained overlay zones, minor revisions were made to reduce redundant language related to general overlay zone or site plan requirements.

- **Rural Village Center Overlay zone** - This overlay has been retained and renamed the Neighborhood Protection – Rural Village Overlay zone. None of the current requirements of the overlay have been removed. However, the overlay provides a list of prohibited uses under the overlay. As in the other overlay zones, the consolidation of uses in the Staff Draft requires modification of the list of prohibited uses so that

it corresponds to the proposed draft. Below is a table showing the proposed use category for each prohibited use.

List of Uses Prohibited in the commercial zones (Current Code)	(Corresponding Use in the Staff Draft)
Amusement center	Recreation Facility
Animal boarding place	Animal Boarding and Care
Appliance repair shops	Retail/Service Establishment
Automobile fluid maintenance station	Repair (minor)
Automobile, light truck and light trailer rentals, outdoor	Vehicle/Equipment Sales and Rental
Automobile parts, supplies, and tire stores	Vehicle/Equipment Sales and Rental
Automobile sales, indoors and outdoors	Vehicle/Equipment Sales and Rental (Indoor and Outdoor)
Baseball driving range	Recreation Facility
Boat sales, indoors	Vehicle/Equipment Sales and Rental
Building materials and supplies, wholesale and retail	Retail/Service Establishment
Eating and drinking establishments, drive-in	Drive-thru facility in connection with a restaurant
Heliports	Helipad/Heliport
Helistops	Helistop
International organizations	Office. Do not want to prohibit all office uses
Newspaper, printing, and publishing shops	Light Manufacturing and Production
Rifle or pistol ranges, indoor	Shooting Range (Indoor)
Roller and ice skating rinks	Recreation Facility
Stadiums or arenas	Recreation Facility
Swimming pools, commercial	Recreation Facility
Warehousing and storage services - Industrial and commercial users	Storage Facility
Warehousing and storage services - Self-storage facilities	Self-Storage Facility

List of Uses Prohibited in the residential zones (Current Code)	(Corresponding Use in the Staff Draft)
Child day care center	Day Care Center (13 to 30 persons), Day Care Center (over 30 persons)
Golf course or country club	Golf Course, Country Club
Hospital	Hospital
Life Care Facility	Residential Care Facility (over 16 persons)
Nursing Home	Residential Care Facility (over 16 persons)

As in the Sandy Spring/Ashton Rural Village Overlay, the only *Light Manufacturing and Production* use prohibited under this overlay is *Newspaper, printing and publishing shops*. To avoid prohibiting other manufacturing uses, the following language has been added:

*The following Light Manufacturing and Production use (is prohibited): Newspaper, printing and publishing shops.*

The overlay zone also prohibits a limited number of retail uses. To prohibit only those specific retail uses as set forth in the overlay, the following language has been included:

*The following Retail/Service Establishments (are prohibited): appliance store; appliance repair shop; and building materials and supplies;*

Other minor revisions were made to reduce redundant language covered by the general requirements for all overlay zones and the standard requirements of all site plans.

- **Environmental Overlay for Upper Rock Creek Special Protection Area** - This overlay has been retained and renamed the Special Protection Area – Upper Rock Creek Overlay zone. The requirements of the overlay have not been changed.

#### Div. 4.8. Changes from Consolidated Draft

The Consolidated Draft retained four overlay zones from the current code: Neighborhood Protection - Garrett Park, Special Protection Area - Upper Paint Branch, Special Protection Area - Upper Rock Creek, and the TDR Overlay zone. Upon further review, additional existing overlay zones have been added in the Staff Draft. Changes with respect to the four overlay zones proposed in the Consolidated Draft are minimal.

Neighborhood Protection-Garrett Park Overlay zone - Language indicating that the overlay applies to alterations, renovations, enlargement of existing dwelling and new construction was inadvertently left out of the Consolidated Draft. Therefore, the following phrase has been added:

*The NP-GP Overlay zone applies to alterations, renovations, and enlargements of existing detached houses and new construction, unless exempt as noted below:*

### **Article 59-6: Optional Method of Development**

#### Div. 6.3. Changes from the Current Code

Transferable Development Rights (TDR) receiving areas are determined through the master plan process. To establish a receiving area a new zone is created designating the receiving area as the base zone/TDR. The master plan, in most cases, recommends a TDR density designation for each receiving area. This density may be less than the density designation provided in the zoning ordinance. The Staff Draft retains the TDR density designation in the current code. The delineation of receiving areas as an overlay, rather than a single zone, is a change from the current code. In the Staff Draft it is recommended that mapping of each TDR receiving area contain the TDR density recommendation provided in the master plan.

#### Div. 6.3. Changes from Consolidated Draft

Under the TDR Overlay zone the Consolidated Draft proposed that one TDR be purchased in exchange for an increase in density of one detached house, or 2 townhouses, or 3 apartment/condo units. Upon further review, the Staff Draft recommends that one TDR be purchased in exchange for an increase in density of *one* townhouse, not two. This requirement would then be in keeping with the current practice.



## FLOATING ZONES

### Zones

#### Existing Code

Currently, the code has approximately two dozen floating zones, with some “sub-zones”, such as the residential townhouse zones and planned development zones. Staff is recommending that these zones be removed from the ordinance. Many are no longer used; most are outdated, and all have problems with interpretation, consistency, inappropriate review (too much or too little) and lack of flexibility to accommodate our changing demographic and economic challenges.

#### Proposed Code

Staff is proposing to create three new families of floating zones. In each case the zoning category would be followed by a number or set of numbers that delineate the maximum development standards (units per acre or floor area ratio (FAR) and height. The names of the employment family of zones have been changed to reflect recent decisions regarding the naming conventions of the Euclidean employment zones.

#### *Residential Floating Zones*

- Residential Detached, Floating – units per acre (RDF-#)
- Townhouse, Floating – units per acre (TF-#)
- Apartment, Floating – units per acre (AF-#)

#### *Commercial/Residential Floating Zones*

- CR Neighborhood, Floating –FAR & height (CRNF# C# R# H#)
- CR Town, Floating – FAR & height (CRTF# C# R# H#)
- CR, Floating – FAR & height (CRF# C# R# H#)

#### *Employment Floating Zones*

- General Retail, Floating – FAR & height (GRF# H#)
- Neighborhood Retail, Floating – FAR & height (NRF# H#)
- Employment Office, Floating (EOF# H#)
- Life Sciences Center, Floating (LSCF# H#)

### Applicability

#### Existing Code

Floating zones currently vary based on the circumstances under which an applicant may request rezoning.

- R-4plex (Residential Fourplex): based on proximity to some type of land, use, or road classification.
- RMH (residential mobile home): based on tract parameters.
- C-Inn (Country Inn), TS (Transit Station), PN (Planned Neighborhood), PRC (Planned Retirement Community), PCC (Planned Cultural Center), OM (Office building, moderate), CT (Commercial, transitional), C3 (Highway commercial), RT (Residential townhouse), RH (Multiple Family, high-rise planned residential, CP (Commercial Office Park), HM (Hotel Motel), RS (Rural Service), & I3 (Technology and Business Park): no required parameters to request zone, but must meet regulations.
- PD (Planned Development): based on density of pre-existing Euclidean Zone (allows minimum of at least 2 units per acre) and must be able to construct 50 units (with several qualifications).
- MXPD (Mixed Use Planned Development) & LSC (Life Sciences Center): based on master-plan recommendation for specific zone.

- TSR (Transit Station, residential) & TSM (Transit Station, mixed): within transit station development areas or when adjacent to a CBD.
- MXN (Mixed Use Neighborhood): based on master-plan recommendation for “multi-use development at a neighborhood scale”.

#### Proposed Code

In all cases, “An application for a [Residential, Commercial/Residential, Employment] Floating Zone may be made only if the subject property has been recommended in an approved master or sector plan for the particular zone requested or under the limits, standards, and requirements of [the applicable] Division”. (See sections 5.1.2, 5.2.2, and 5.3.2, respectively.)

When a specific master plan recommendation is not made, the zoning ordinance limits the density and uses that may be requested for a floating zone. Generally, the smaller the lot and/or the lower the density allowed by the pre-existing Euclidean zone, the more restrictive the allowed density and uses are. In each case, a table in the proposed ordinance describes what uses are allowed based on approved density and what densities are allowed based on the subject property zoning and size. (See Land Uses and Development Standards below.)

### **Intent Statements & Purposes**

#### Existing Code

The existing ordinance typically describes specific purposes that an application should fulfill in order to be approved. These vary greatly and range from one or two sentences to over a page. They are not reproduced in this document because the existing floating zones are not recommended for retention.

#### Proposed Code

The proposed floating zones have general intent statements (Sec. 2.3.1) and intent statements specific to each family (Sections 2.3.2 – 2.3.4). The Staff Draft of these intent statements is attached. The character of the intended development and the overall vision of the floating zone are summarized by each intent statement.

There are further purposes delineated in each of the divisions on Residential, Commercial/Residential, and Employment Floating zones in Sec. 5.1.3, 5.2.3, and 5.3.3., respectively (also attached). These purposes point to more specific objectives that must be analyzed and found to be satisfied during review of any application.

### **Land Uses**

#### Existing Code

The existing floating zones have a wide range of allowed uses, some tied to Euclidean Zones, some specifically enumerated in each respective section. This information is spread throughout the code and may be further limited during the approval process.

#### Proposed Code

Staff recommends clearly linking each of the floating zones to specific Euclidean Zones and retaining the ability to limit allowed uses during the approval process.

In the Residential Floating Zones, uses are tied to approved density – either minimum units per acre or total units. As the units per acre and/or total number of units increases, the allowed uses increase. For example, a low unit-per-acre approval would be limited to the uses allowed under the R-200 zone. If either the units per acre or the total number of units increases above 150, the uses would be limited to those allowed in the residential medium density zones and some commercial uses may be allowed. In all cases, however,

commercial uses in the Residential Floating Zones are limited to 0.5 FAR and have further compatibility restrictions. Section 5.1.4 details the allowed uses based on floating zone category and approved density.

The C/R and Employment zones are much simpler and track the uses allowed in the parallel Euclidean zoning classification (e.g., CRNF uses = CRN uses).

## **Building Types**

### Existing Code

Different building types are not differentiated in the current zoning ordinance.

### Proposed Code

Building types in the Residential Floating Zones track the parallel Euclidean zoning classification and allow more intense building types as the zoning category becomes more intense. (See Sec. 5.1.5.)

The C/R and Employment zones allow the same building types allowed by the parallel Euclidean zoning classification (e.g., CRNF building types = CRN building types).

## **Development Standards**

### Existing Code

The development standards for the existing floating zones vary substantially and have an oblique relationship to context. For example, setbacks may be 100 feet for certain zones (regardless of building type or density) but non-existent in others (again, regardless of building type or density). In many cases, the standards are established during the iterative review process, but in others they are established by the zone with no flexibility. Density may be regulated by FAR, by units per acre, or by approximated population. In the case of the PD zones, one may request up to 100 units per acre on any site that exists in a zone that permits a residential density of at least 2 units to the acre. Height is routinely determined during the review process. In all cases, there must be some kind of consistency with the respective master plan – either as stated by the zone or as required by the applicable findings of approval.

### Proposed Code

First and foremost, Staff recommends retaining the strong relationship between Floating Zones and master plans. Sections 5.1.6.A, 5.2.6.A, and 5.3.6.A each specify that substantial consistency with the applicable master plan is required. Staff has also recommended a flexible set of formulas and tables that:

- Determine maximum allowed density based on the subject property's zone and tract size;
- Limit heights based on an angular plane, as used in the C/R and Employment Euclidean zones;
- Allow minimum lot sizes and setbacks to be established at site plan (with some restrictions);
- Set minimum open space based on approved building types and density for Residential Floating Zones or by site size and frontages in the C/R and Employment Floating Zones;
- Require adherence to the General Regulations under Article 59-7.

Public benefits are required for C/R and Employment Floating Zones similar to their parallel Euclidean counterparts, but these are determined at site plan rather than at sketch plan due to the Local Map Amendment process.

## **Application Types**

### Existing Code

Under Article 59-D, certain floating zone applications require submittal of either a development plan or a diagrammatic plan. Under Section 59-H-2.52, certain floating zone applications require submittal of a schematic development plan. The type of plan required by each zone is set forth below:

#### *Development Plan*

- R-4plex
- R-Mobile Home (RMH)
- Country Inn (C-Inn)
- Planned Development (PD)
- Mixed Use Planned Development (MXPDP)
- Town Sector (TS)
- Planned Neighborhood (PN)
- Planned Retirement Community (PRC)
- Planned Cultural Center (PCC)
- Transit Station, Residential (TSR)
- Transit Station, Mixed (TSM)
- Mineral Resource Recovery (MRR)

#### *Diagrammatic Plan*

- Mixed Use Neighborhood (MXN)

#### *Schematic Development Plan*

- Office, Moderate (OM)
- Commercial, Transitional (CT)
- Commercial, Highway (C3)
- Residential Townhouse, 6 – 15 (RT)
- Residential, High-Rise (RH)
- Commercial, Office Park (CP)
- Hotel Motel (HM)
- Rural Service (RS)
- Life Sciences Center (LSC)
- Industrial, Technology & Business Park (I3)

### Proposed Code

Staff is proposing that all floating zones be requested under one application type, a Local Map Amendment application, replacing the three current local map amendments (diagrammatic, development, and schematic development plans).

### Comparison of Findings & Plan Contents

Although more discussion will be held regarding the process, including submittal requirements and findings, the following summary provides a brief overview of the existing and proposed local map amendment findings and application contents for context. At this point, however, Staff is requesting recommendations regarding the contents of Article 59-5, specifically regarding the zones, applicability, purposes, land uses, building types, and development standards.

#### Existing Code

<b>Findings (abbreviated)</b>	<b>Development Plan</b>	<b>Schematic Development Plan</b>	<b>Diagrammatic Plan</b>
Not in Conflict with County Policies			x
Substantial Compliance w/Master Plan Use	x		
Substantial Compliance w/Master Plan Density	x		
Conform to Sector Plan			x
In accordance with the Purpose Clause and all other Requirements of the Zone		x	
Purposes of Zone	x		x
Standards of Zone	x		
Compatible w/Adjacent Development	x		
Provide Max. Safety, Convenience & Amenity	x		x
Safe, Adequate, & Efficient Circulation	x		
Maintenance and Ownership of Recreation Amenities	x		
Prevent Erosion and Preserve Natural Features	x		
Forest Conservation	x		
Water Resource Protection	x		
Maximize Public Transit; Discourage Cars			x

Contents of Plan (abbreviated)	Development Plan	Schematic Development Plan	Diagrammatic Plan
NRI/FSD	x	x	
Natural/Historic Features	x	x	x
Vicinity Map	x	x	x
If Project will be Staged		x	
Development Program for Staging	x	x	x
Land Use Plan	x (includes*)		x (includes*)
Location, Height, and Uses of Buildings & Structures	*	x	*
Location of Parking	*	x	
Points of Access & Circulation		x	*
Dedications	*		*
Unit Types	*		*
Illustrative vs. Binding Elements		x	
Public-Use Space	*		*
Saved Trees			*
Water Quality Plan			x (if in SPA)
Master Planned Roadways			*
Town Sector Development Program	x (for TS only)		
Supplementary Plan	x (for TS only)		
Detailed Written Statement of Project		x	

Proposed Code

*Proposed Contents of Plan:*

4. The applicant must submit the following for review:
  - a. Application form and fees approved by the District Council;
  - b. Statement explaining how the proposed development satisfies the criteria to grant the application;
  - c. For a floating zone application, exhibits showing:
    - i. existing site conditions and vicinity;
    - ii. existing or approved adjacent land uses, buildings, and rights-of-way;
    - iii. building densities, massing, heights, and the anticipated uses;
    - iv. locations of open spaces and preliminary stormwater management strategy;
    - v. pedestrian, bicycle, and vehicular circulation, parking, and loading;
    - vi. estimated range of the maximum peak hour trips;
    - vii. general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications;
    - viii. any binding elements on the application; and

- ix. if binding elements are proposed, an unexecuted covenant suitable for filing in the land records reflecting any restricted development standards, development program, or limitations on uses that will be applicable to the property if the District Council approves the application.
- d. For a Euclidean zone application, exhibits showing:
  - i. the subject property and the proposed neighborhood showing uses and zoning; and
  - ii. an explanation of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning or evidence of the alleged mistake made by the District Council in support of the requested Euclidean zone.

*Proposed Findings:*

1. For a floating zone application, the District Council must find that the Local Map Amendment will:
  - a. Substantially conform to the objectives of general plan and other applicable County plans;
  - b. Be in the public interest by supporting Council approved policies or regulations;
  - c. Meet the intent of the proposed zone and requirements of this Chapter;
  - d. Be compatible with existing and approved adjacent development;
  - e. Demonstrate a capability to provide adequate and safe internal infrastructure, open space, public amenities, and pedestrian and/or transportation circulation; and
  - f. Provide a development phasing program that is sufficient to ensure a continued balance of development and public improvements.
2. For a Euclidean zone application, the District Council must find that:
  - a. The applicant has proved a substantial change in the character of the neighborhood since the original zoning or comprehensive rezoning or that a mistake was made by the District Council; and
  - b. For this reason, the result of the change is that its current zoning classification is not in the public interest or that the result of the mistake made by the District Council is that a different zone should have been applied to the property.

# ARTICLE 59-2. ZONING DISTRICTS

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## DIV. 2.4. ZONING MAP

[Editor's Note: To be added]



## Div. 2.1. Zones Established

### Sec. 2.1.1. Overview of Established Zones

#### A. Euclidean Zones

##### 1. Agricultural

- a. AR: Agricultural Reserve

##### 2. Rural Residential

- a. R: Rural
- b. RC: Rural Cluster
- c. RNC: Rural Neighborhood Cluster

##### 3. Residential

###### a. Residential Detached

- i. RE-2: Residential Estate – 2
- ii. RE-2C: Residential Estate -2 Cluster
- iii. RE-1: Residential Estate – 1
- iv. R-200: Residential – 200
- v. R-90: Residential – 90
- vi. R-60: Residential – 60
- vii. R-40: Residential – 40

###### b. Residential Townhouse

- i. TLD: Townhouse Low Density
- ii. TMD: Townhouse Medium Density
- iii. THD: Townhouse High Density

###### c. Residential Multi-Unit

- i. R-30: Residential Multi-Unit Low Density – 30
- ii. R-20: Residential Multi-Unit Medium Density – 20

- iii. R-10: Residential Multi-Unit High Density – 10

#### 4. Commercial/Residential

- a. CRN: Commercial Residential Neighborhood
- b. CRT: Commercial Residential Town
- c. CR: Commercial Residential

#### 5. Employment

- a. EGR: Employment General Retail
- b. ENR: Employment Neighborhood Retail
- c. ELS: Employment Life Sciences
- d. EOF: Employment Office

#### 6. Industrial

- a. IL: Light Industrial
- b. IH: Heavy Industrial

#### 7. Overlay

##### a. CP: Commercial Preservation Overlay

- i. CP-BEA: Commercial Preservation - Burtonsville Employment Area
- ii. CP-CCNR: Commercial Preservation - Chevy Chase Neighborhood Retail
- iii. CP-NR: Commercial Preservation - Neighborhood Retail
- iv. CP-TPESS: Commercial Preservation - Takoma Park/East Silver Spring Commercial Revitalization

##### b. IMU: Industrial Mixed Use Overlay

- i. IMU-TB: Industrial Mixed Use - Twinbrook

##### c. NP: Neighborhood Protection Overlay

- i. NP-FV: Neighborhood Protection - Fenton Village

- ii. NP-GP: Neighborhood Protection - Garrett Park
- iii. NP-RSS: Neighborhood Protection - Ripley/South Silver Spring
- iv. NP-RVC: Neighborhood Protection - Rural Village Center
- v. NP-SSA: Neighborhood Protection - Sandy Spring/Ashton Rural Village

**d. SPA: Special Protection Area Overlay**

- i. SPA-UPB: Special Protection Area - Upper Paint Branch
- ii. SPA-URC: Special Protection Area - Upper Rock Creek

**e. TDR: Transferable Development Rights Overlay**

**B. Floating Zones**

**1. Residential Floating**

- a. RDF: Residential Detached - Floating
- b. TF: Townhouse - Floating
- c. AF: Apartment - Floating

**2. Commercial/Residential Floating**

- a. CRNF: Commercial Residential Neighborhood - Floating
- b. CRTF: Commercial Residential Town - Floating
- c. CRF: Commercial Residential - Floating

**3. Employment Floating**

- a. EGRF: Employment General Retail - Floating
- b. ENRF: Employment Neighborhood Retail - Floating
- c. EOFF: Employment Office - Floating
- d. ELSF: Employment Life Sciences - Floating

**Sec. 2.1.2. Regulations for Establishment of Zones**

**A. General Regulations for All Zones**

- 1. Zones established in this Article (Article 59-2) are subject to:
  - a. Definitions under Article 1;
  - b. Use restrictions and use standards under Article 3;
  - c. Development standards under Article 4;
  - d. Optional method regulations under Article 6;
  - e. General requirements under Article 7; and
  - f. Review procedures under Article 8.
- 2. Floating zones established in this Article are also subject to Article 5.

**B. Groupings of Zones**

There are 11 groupings of zones used to refer to all particular zoning classifications within that group:

- 1. Agricultural (abbreviated "Ag" in the Use Table),
- 2. Rural Residential,
- 3. Residential:
  - a. Residential Detached;
  - b. Residential Townhouse; and
  - c. Residential Multi-Unit.
- 4. Commercial/Residential,
- 5. Employment,
- 6. Industrial,
- 7. Overlay, and
- 8. Floating.

### C. Agricultural Zone

1. There is one Agricultural zone classification:
  - a. Agricultural Reserve (AR)
2. Density, height, and other standards and requirements vary with allowed uses and building types.
3. The zone will be applied on the Zoning Map by showing its zoning classification symbol.

### D. Rural Zones

1. There are 3 Rural Residential zone classifications:
  - a. Rural (R),
  - b. Rural Cluster (RC), and
  - c. Rural Neighborhood Cluster (RNC).
2. Density, height, and other standards and requirements vary with allowed uses and building types.
3. The R, RC, and RNC zones will be applied on the Zoning Map by showing their zoning classification symbols.

### E. Residential Zones

#### 1. Residential Detached Zones

- a. There are 7 Residential Detached zone classifications:
  - i. Residential Estate – 2 (RE-2),
  - ii. Residential Estate – 2C (RE-2C),
  - iii. Residential Estate – 1 (RE-1),
  - iv. Residential – 200 (R-200),
  - v. Residential – 90 (R-90),
  - vi. Residential – 60 (R-60), and
  - vii. Residential – 40 (R-40).
- b. Density, height, and other standards and requirements vary with allowed uses and building types.

- c. The RE-2, RE-2C, RE-1, R-200, R-90, R-60, and R-40 zones will be applied on the Zoning Map by showing their zoning classification symbols.

#### 2. Residential Townhouse Zones

- a. There are 3 Residential Townhouse zone classifications:
  - i. Townhouse Low Density (TLD),
  - ii. Townhouse Medium Density (TMD), and
  - iii. Townhouse High Density (THD).
- b. Density, height, and other standards and requirements vary with allowed uses and building types.
- c. The TLD, TMD, and THD zones will be applied on the Zoning Map by showing their zoning classification symbols.

#### 3. Residential Multi-Unit Zones

- a. There are 3 Residential Multi-Unit zone classifications:
  - i. Residential Multi-Unit Low Density – 30 (R-30),
  - ii. Residential Multi-Unit Medium Density – 20 (R-20), and
  - iii. Residential Multi-Unit High Density – 10 (R-10).
- b. Density, height, and other standards and requirements vary with allowed uses and building types.
- c. The R-30, R-20, and R-10 zones will be applied on the Zoning Map by showing their zoning classification symbols.

### F. Commercial/Residential Zones

1. There are 3 Commercial/Residential zone classifications:
  - a. Commercial Residential Neighborhood (CRN),
  - b. Commercial Residential Town (CRT), and
  - c. Commercial Residential (CR).
2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:

- a. The number following the classification is the maximum total FAR allowed;
  - b. The number following the C is the maximum nonresidential FAR allowed;
  - c. The number following the R is the maximum residential FAR allowed; and
  - d. The number following the H is the maximum building height in feet allowed.
3. The CRN, CRT, and CR zones will be applied on the Zoning Map by showing, for each property classified:
- a. The classification; and
  - b. The 4 maximum allowances (total FAR, nonresidential FAR, residential FAR, and height).

## G. Employment Zones

- 1. There are 4 Employment zone classifications:
  - a. Employment General Retail (EGR),
  - b. Employment Neighborhood Retail (ENR),
  - c. Employment Life Sciences (ELS), and
  - d. Employment Office (EOF).
- 2. Each EGR, ENR, ELS, and EOF zone classification is followed by a number and symbol: H, which is followed by another number where:
  - a. The number following the classification is the maximum total FAR allowed; and
  - b. The number following the H is the maximum building height in feet allowed.
- 3. The EGR, ENR, ELS, and EOF zones will be applied on the Zoning Map by showing, for each property classified:
  - a. The classification; and
  - b. The 2 maximum allowances (total FAR and height).

## H. Industrial Zones

- 1. There are 2 Industrial zone classifications:
  - a. Light Industrial (IL), and
  - b. Heavy Industrial (IH).
- 2. Density, height, and other standards and requirements vary with allowed uses and building types.
- 3. The IL and IH zones will be applied on the Zoning Map by showing their zoning classification symbols.

## I. Overlay Zones

### 1. Commercial Preservation (CP) Overlay Zones

- a. There are 4 Commercial Preservation Overlay zone classifications:
  - i. CP-BEA: Commercial Preservation - Burtonsville Employment Area,
  - ii. CP-CCNR: Commercial Preservation - Chevy Chase Neighborhood Retail,
  - iii. CP-NR: Commercial Preservation - Neighborhood Retail, and
  - iv. CP-TPESS: Commercial Preservation - Takoma Park/East Silver Spring Commercial Revitalization.
- b. Building types, uses, density, height, and other standards and requirements may be modified by the CP Overlay zones under Div. 4.8.
- c. The CP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

### 2. Industrial Mixed Use (IMU) Overlay Zones

- a. There is 1 Industrial Mixed Use Overlay zone classification:
  - i. Industrial Mixed Use - Twinbrook (IMU-TB)
- b. Building types, uses, density, height, and other standards and requirements may be modified by the IMU Overlay zone under Div. 4.8.
- c. The IMU Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.

**3. Neighborhood Protection (NP) Overlay Zones**

- a. There are 5 Neighborhood Protection Overlay zone classifications:
  - i. NP-FV: Neighborhood Protection - Fenton Village,
  - ii. NP-GP: Neighborhood Protection - Garrett Park,
  - iii. NP-RSS: Neighborhood Protection - Ripley/South Silver Spring,
  - iv. NP-RVC: Neighborhood Protection - Rural Village Center, and
  - v. NP-SSA: Neighborhood Protection - Sandy Spring/Ashton Rural Village.
- b. Building types, uses, density, height, and other standards and requirements may be modified by the NP Overlay zones under Div. 4.8.
- c. The NP Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

**4. Special Protection Area (SPA) Overlay Zones**

- a. There are 2 Special Protection Area Overlay zone classifications:
  - i. Special Protection Area - Upper Paint Branch (SPA-UPB), and
  - ii. Special Protection Area - Upper Rock Creek (SPA-URC).
- b. Building types, uses, density, height, and other standards and requirements may be modified by the SPA Overlay zones under Div. 4.8.
- c. The SPA Overlay zones will be applied on the Zoning Map by showing their zoning classification symbols.

**5. Transferable Development Rights (TDR) Overlay Zone**

- a. There is 1 Transferable Development Rights Overlay zone classification:
  - i. Transferable Development Rights (TDR).
- b. Building types, uses, density, height, and other standards and requirements may be modified by the TDR Overlay zone under Div. 4.8.
- c. The TDR Overlay zone will be applied on the Zoning Map by showing its zoning classification symbol.

**J. Floating Zones**

- 1. There are 10 Floating zone classifications:

- a. Residential Floating
    - i. Residential Detached - Floating (RDF),
    - ii. Townhouse - Floating (TF), and
    - iii. Apartment - Floating (AF).
  - b. Commercial/Residential Floating
    - i. Commercial Residential Neighborhood - Floating (CRNF),
    - ii. Commercial Residential Town - Floating (CRTF), and
    - iii. Commercial Residential - Floating (CRF).
  - c. Employment Floating
    - i. Employment General Retail - Floating (EGRF),
    - ii. Employment Neighborhood Retail - Floating (ENRF),
    - iii. Employment Office - Floating (EOFF), and
    - iv. Employment Life Sciences - Floating (ELSF).
- 2. Building types, uses, density, height, and other standards and requirements are determined per the Floating Zone Map Amendment approval by the District Council and site plan approval by the Planning Board.
  - 3. The floating zones will be applied on the Zoning Map by showing their zoning classification symbols.

## Sec. 2.2.7. Overlay Zones

### A. In General

The CP, IMU, NP, SPA, and TDR Overlay zones provide regulations and standards that are necessary to achieve the planning goals and objectives for development of a particular area.

### B. Commercial Preservation (CP) Overlay

1. The CP Overlay zone is intended to:
  - a. provide for a compatible mix of residential and neighborhood-serving commercial uses; and
  - b. regulate land uses, development standards, and review process over the restrictions and allowances of the underlying zone.
2. Each mapped CP Overlay zone will be given a subsection in **Article 4** establishing:
  - a. The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;
  - b. The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and
  - c. The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.

### C. Industrial Mixed Use (IMU) Overlay

1. The IMU Overlay zone is intended to allow residential uses in the IL zone if it is located near a metro transit station.
2. Each mapped IMU Overlay zone will be given a subsection in **Article 4** establishing:
  - a. The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;
  - b. The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone; and

- c. The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone.

### D. Neighborhood Preservation (NP) Overlay

1. The NP Overlay zone is intended to:
  - a. preserve the distinct character of a neighborhood regarding uses, intensity of development, and unique design attributes; and
  - b. regulate land uses, development standards, general requirements, and review process over the restrictions and allowances of the underlying zone.
2. Each mapped NP Overlay zone will be given a subsection in **Article 4** establishing:
  - a. The uses allowed or restricted notwithstanding the allowances and restrictions of the underlying zone;
  - b. The development standards required or permitted notwithstanding the required or permitted development standards of the underlying zone;
  - c. The review process that must be followed notwithstanding the review process required by any applicable criteria in the underlying zone; and
  - d. The general requirements required or permitted notwithstanding the required or permitted general requirements of the underlying zone.

### E. Special Protection Area (SPA) Overlay

1. The SPA Overlay zone is intended to:
  - a. protect the water quality and quantity of the applicable watershed and its tributaries, as well as the biodiversity within the area;
  - b. regulate the amount and location of impervious surfaces in order to maintain levels of groundwater, control erosion, and allow the ground to filter water naturally and control temperature; and
  - c. regulate land uses that could adversely affect the applicable stream system resources.
2. Land uses that are restricted in these areas and general requirements for resource protection are specified in **Article 4**.

3. Particular additional controls on impervious surfaces and environmental protections may be specified by the applicable master or sector plan.

#### **F. Transferable Development Rights (TDR) Overlay**

1. The TDR Overlay zone is intended to allow the purchase of development rights from the Agricultural Reserve (AR) zone in order to protect the County's agricultural and rural heritage.
2. The TDR Overlay zone is mapped on particular areas in the County that may purchase transferable development rights (TDRs) from the AR zone.
3. In any specified area, the applicable master or sector plan must specify the number of TDRs that may be purchased in exchange for increased density and more flexible development standards intended to supersede underlying zone classification.
4. Additional residential building types may be allowed but development standards and general requirements are finalized through an approved site plan based on evaluation of compatibility and impacts on surrounding communities.
5. A minimum site area is required for development under the TDR Overlay zone; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.

## Div. 2.3. Floating Zone Intent Statements

### Sec. 2.3.1. In General

The Residential Floating, Commercial/Residential Floating, and Employment Floating zones are intended to provide an alternative to development under the restrictions of the Euclidean zones mapped by Sectional Map Amendment (the Agricultural, Rural, Residential, Commercial/Residential, Employment, Industrial, and Overlay zones). In exchange for flexible uses, use standards, development standards, and general requirements, a Floating zone application must file a rezoning application and Floating Zone Map Amendment that has substantial opportunities for public input and discussion to ensure compatibility with the respective setting. The intent of the Floating zones is to:

- A. implement the objectives of the General Plan and applicable master or sector plan;
- B. provide flexibility in the planning and construction of development projects by allowing a combination of uses developed under an approved Floating Zone Map Amendment that protects adjacent properties;
- C. provide an environment within the layout of a site that contributes to a sense of community and creates a distinctive neighborhood character;
- D. encourage the preservation and enhancement of natural amenities and cultural resources and to provide a minimum amount of open space;
- E. provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure; and
- F. encourage infill projects and the development of sites made difficult for conventionally designed development because of shape, size, abutting development, poor accessibility, or environmental factors.

### Sec. 2.3.2. Residential Floating Zones

- A. The Residential Floating zones (RDF, TF, and AF) are intended to allow development of primarily residential uses with limited accessory commercial uses allowed to provide for daily needs of the community.
- B. Use restrictions, building types, density, building heights, development standards, and general requirements are flexible to respond to various settings, but



are finalized through an approved Floating Zone Map Amendment and site plans based on evaluation of compatibility and impacts on surrounding communities.

- C. Site area determines maximum density; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.



- D. Site area determines maximum density; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.



### **Sec. 2.3.3. Commercial/Residential Floating Zones**

- A. The Commercial/Residential Floating zones (CRNF, CRTF, and CRF) are intended to allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings.
- B. Uses are generally flexible to allow construction of retail, service, office and residential development appropriate to the site area: for example, smaller sites will typically allow only basic retail services in small bays, whereas larger sites will allow larger commercial uses to provide necessary services to a larger population.
- C. Use restrictions, density, building heights, development standards, and general requirements, however, are finalized through an approved Floating Zone Map Amendment and site plans based on evaluation of compatibility and impacts on surrounding communities.
- D. Site area determines maximum density; other base criteria must be met to ensure adequate circulation, building relationships, amenities, and open space.



### **Sec. 2.3.4. Employment Floating Zones**

- A. The Employment Floating zones (EGRF, ENRF, EOFF, and ELSF) are intended to allow development of mixed-use centers and communities primarily with office uses and supporting housing, and accessory retail at a range of densities and heights flexible enough to respond to various settings.
- B. Uses are restricted to commercial uses with generally higher jobs-to-housing ratios, housing to support a portion of the proposed workforce, and accessory retail to provide basic services to employees and residents.
- C. Use restrictions, density, building heights, development standards, and general requirements, however, are finalized through an approved Floating Zone Map Amendment and site plans based on evaluation of compatibility and impacts on surrounding communities.

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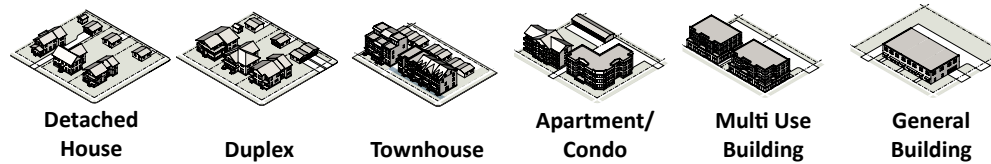
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### Sec. 4.1.3. Building Types Allowed by Zone

Building types are allowed by zone as follows:



	Detached House	Duplex	Townhouse	Apartment/Condo	Multi Use Building	General Building
<b>Agricultural Zone</b>						
Agricultural Reserve (AR)	A	--	--	--	--	A
<b>Rural Residential Zones</b>						
Rural (R)	A	--	--	--	--	A
Rural Cluster (RC)	A	--	--	--	--	A
Rural Neighborhood Cluster (RNC)	A	MPDU	A	--	--	A
<b>Residential Detached Zones</b>						
Residential Estate - 2 (RE-2)	A	--	--	--	--	A
Residential Estate - 2C (RE-2C)	A	MPDU	MPDU	--	--	A
Residential Estate - 1 (RE-1)	A	MPDU	MPDU	--	--	A
Residential - 200 (R-200)	A	MPDU	MPDU	--	--	A
Residential - 90 (R-90)	A	MPDU, CD	MPDU, CD	--	--	A
Residential - 60 (R-60)	A	MPDU, CD	MPDU, CD	--	--	A
Residential - 40 (R-40)	A	A	MPDU	--	--	A
<b>Residential Townhouse Zones</b>						
Townhouse Low Density (TLD)	A	A	A	--	--	A
Townhouse Medium Density (TMD)	A	A	A	--	--	A
Townhouse High Density (THD)	A	A	A	--	--	A
<b>Residential Multi-Unit Zones</b>						
Residential Multi-Unit Low Density - 30 (R-30)	A	A	A	A	--	A
Residential Multi-Unit Medium Density - 20 (R-20)	A	A	A	A	--	A
Residential Multi-Unit High Density - 10 (R-10)	A	A	A	A	--	A
<b>Commercial/Residential Zones</b>						
CR Neighborhood (CRN)	A	A	A	A	A	A
CR Town (CRT)	A	A	A	A	A	A
CR (CR)	A	A	A	A	A	A
<b>Employment Zones</b>						
Employment General Retail (EGR)	A	A	A	A	A	A
Employment Neighborhood Retail (ENR)	A	A	A	A	A	A
Employment Life Science (ELS)	A	A	A	A	A	A
Employment Office (EOF)	A	A	A	A	A	A
<b>Industrial Zones</b>						
Light Industrial (IL)	--	--	--	--	A	A
Heavy Industrial (IH)	--	--	--	--	A	A
<b>Overlay Zone</b>						
Transferable Development Rights (TDR)	TDR	TDR	TDR	TDR	--	--

KEY: A = Allowed to accommodate permitted, limited, and conditional uses -- = Not allowed CD = Allowed as part of an Optional Method Cluster Development  
 MPDU = Allowed as part of an Optional Method MPDU Development TDR = Allowed as part of Optional Method TDR Development

## Div. 4.8. Overlay Zones

### Sec. 4.8.1. In General

#### A. Applicability

Land must only be designated within an Overlay zone when approved as part of a Sectional or District Map Amendment.

#### B. Standards and Requirements

Development in an Overlay zone must conform to the standards and requirements of the underlying zone, except as specifically modified by this Division (Div. 4.8). Where there is an ambiguity as to whether the regulations of the underlying zone or Overlay zone apply, the regulations of the Overlay zone apply. A site plan must be submitted under Sec. 8.3.4 except where specifically exempted in the development standards of each Overlay zone.

### Sec. 4.8.2. Commercial Preservation (CP) Overlay Zone

#### A. Commercial Preservation - Burtonsville Employment Area (CP-BEA) Overlay Zone

##### 1. Purpose

The purpose of the CP-BEA Overlay zone is to:

- a. Develop a compatible mix of office, commercial, light industrial, and non-residential uses within a designated employment area.
- b. Establish a uniform set of development standards for the Overlay zone.
- c. Allow a limited amount of retail and service uses that will primarily serve the employees of the industrial area.
- d. Encourage the use of traffic-limiting measures such as car pools and use of mass transit.
- e. Eliminate uses not considered compatible with the intent of this Overlay zone.

##### 2. Land Uses

- a. All permitted uses in the IL and EOF zones are permitted for any tract of land with a preliminary plan approved by the Planning Board after October 27, 2006 but before October 27, 2009.

#### b. The following uses are prohibited:

- i. Adult Entertainment;
- ii. Agricultural Processing;
- iii. Animal Husbandry;
- iv. Artisan Manufacturing and Production;
- v. Community Garden;
- vi. Contractor Storage Yard;
- vii. Dry Cleaning Facility;
- viii. Farm Market, On-Site;
- ix. Freight Movement;
- x. Fuel Sales;
- xi. Light Manufacturing and Production, except as noted in Sec. 4.8.2.A.2.d;
- xii. Light Vehicle Sales and Rental (Indoor);
- xiii. Light Vehicle Sales and Rental (Outdoor);
- xiv. Medical/Scientific Manufacturing and Production;
- xv. Mineral Storage;
- xvi. Recycling Collection and Processing;
- xvii. Repair (Commercial Vehicle);
- xviii. Repair (Major);
- xix. Repair (Minor);
- xx. The following Retail/Service Establishments: building materials and supplies (wholesale and retail) and wholesale trades limited to sale or rental of products intended for industrial or commercial users;
- xxi. Self-Storage Facility;
- xxii. Shooting Range (Indoor);
- xxiii. Storage Facility; and
- xxiv. Urban Farming.

- c. The following Retail/Service Establishments are allowed: antique shops, handicrafts, or art sales; barber or beauty shop; banks; bookstores; drugstore; express or mailing offices; florist; food and beverage store; newsstand; photographic and art supply stores; and shoe repair shops.
- d. The following Light Manufacturing and Production uses are allowed: manufacturing and assembly of electronic components, instruments, and devices; manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment; manufacturing and assembly of semi-conductors, microchips, circuits, and circuit boards; manufacturing of yeasts, molds, and other natural products necessary for medical and biotechnical research and development; and printing and publishing.

**3. Development Standards**

- a. When abutting a lot that is not located in the CP-BEA Overlay zone, all buildings must be set back as follows:
  - i. 100 feet from any Residential zone developed with or proposed for residential uses in an approved and adopted master or sector plan, or from a major highway separating the Overlay zone from such residential uses;
  - ii. 50 feet from a railroad or utility right-of-way that separates the employment area from a Residential zone;
  - iii. 50 feet from a limited-access freeway or parkway;
  - iv. 50 feet from property recommended in a master or sector plan for a non-residential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility, or similar use;
  - v. 25 feet from an arterial road that separates the employment area from a Commercial/Residential or Employment zone;
  - vi. 10 feet from any Commercial/Residential, Employment, or Industrial zone outside the Overlay zone; and
  - vii. a building containing principally retail (50% or more of the gross floor area) commercial uses must be located at least 200 feet from any adjacent Residential zone.

- b. All parking and maneuvering areas must be set back at least 100 feet from any adjacent Residential zone, and 50 feet from a major highway with a right-of-way of 120 feet or greater that separates the Overlay zone from any Residential zone.
- c. Where property in the Overlay zone adjoins Residentially zoned land that is recommended in a master or sector plan for a non-residential public use including, but not limited to such uses as a public park, stormwater management facility, maintenance facility or similar use, the setback for parking and maneuvering areas is 50 feet.
- d. A building containing principally retail commercial uses must not exceed 20,000 gross square feet.
- e. The cumulative square footage of retail commercial uses permitted in the Overlay zone must not exceed a total of 50,000 gross square feet.

**4. Site Plan**

Any development in the CP-BEA Overlay zone must submit a site plan under Sec. 8.3.4.

**5. Existing Buildings and Uses**

- a. Any tract of land with a use-and-occupancy permit issued before October 27, 2009 that otherwise would have been made non-conforming because of ZTA 09-05 is a conforming use, and may be modified, repaired, or reconstructed.
- b. Any structure lawfully existing as of the date of application of the CP-BEA Overlay zone that does not conform to the standards of the Overlay zone may be rebuilt, repaired, and/or reconstructed under the standards of the underlying zone as long as the degree of non-conformity is not increased. However, any expansion must comply with the standards of the Overlay zone.
- c. Any lawfully existing use allowed as of the effective date of application of the CP-BEA Overlay zone, including parking and maneuvering areas, which is not otherwise allowed in the Overlay zone may be continued as a lawful use under the standards of the underlying zone.

**B. Commercial Preservation - Chevy Chase Neighborhood Retail (CP-CCNR) Overlay Zone.**

**1. Purpose**

The purpose of the CP-CCNR Overlay zone is to:

- a. Retain the existing mix of neighborhood-oriented retail and service uses while allowing a reasonable expansion and modernization of retail space.
- b. Ensure that the retail and service uses are accessible to pedestrians.
- c. Encourage pedestrian-oriented retail and reinforce a sense of community.

**2. Land Uses**

The following uses are permitted at the ground floor level, including entrance lobbies and common areas:

- a. Cultural Institution;
- b. Day Care Facility;
- c. The following Office uses: personal service office uses such as travel agency, real estate office, optician, and similar neighborhood-serving office uses;
- d. Playground, Outdoor Area (Private);
- e. Restaurant; and
- f. The following Retail/Service Establishment uses: antique shops, handi-craft, or art sale; appliance repair shop; banks and financial institutions; barber and beauty shops; book store; drug store; dry cleaning and laundry pickup station; duplicating service; florist; food and beverage store; gift shop; grocery store; hardware store; newsstand; pet shop; photographic studio; photographic and art supply store; shoe repair shop; specialty shops, such as jewelry store; variety and dry goods store, including wearing apparel; and tailoring or dressmaking shop.

**3. Development Standards**

- a. The maximum floor area for a grocery store is 25,000 square feet.

- b. The maximum floor area of any restaurant operating on May 4, 1998 is 8,500 square feet.

**4. Site Plan**

A site plan is required for:

- a. construction of new buildings; and
- b. additions and other exterior improvements to existing buildings that change the amount of floor area on a site.

**C. Commercial Preservation - Neighborhood Retail (CP-NR) Overlay Zone**

**1. Purpose**

The purpose of the CP-NR Overlay zone is to allow for neighborhood-serving retail commercial uses in Multi-Unit zones as recommended in the applicable master plan.

**2. Land Uses**

Retail/Service Establishment uses are allowed in a Multi-Unit zone where designated as suitable in the applicable master plan. The following are the allowed Retail/Service Establishment uses: banks or savings and loan offices; barber and beauty shops; book stores; drug stores; dry cleaning and laundry pick-up stations; florists; food and beverage stores; gift shops; jewelry stores; laundromats; newsstands; offices, banking; restaurants; and variety and dry goods stores.

**3. Development Standards**

If the Retail/Service Establishment use is proposed to be free-standing, the scale and character of development must be consistent with the recommendations of the master plan. If the Retail/Service Establishment use is proposed to be provided in a multi use or apartment/condo building type, the use must have direct access to the street.

**4. Site Plan**

- a. Where Retail/Service Establishment uses are proposed in a Multi-Unit zone, the development is subject to approval of a site plan under Sec. 8.3.4.

- b. The Planning Board may waive the requirements for parking setbacks and numbers of spaces where it finds that such waivers will accomplish the goals of the master plan and provide for a form of development that allows better pedestrian circulation and encourages use of transit.

**D. Commercial Preservation - Takoma Park/East Silver Spring Commercial Revitalization (CP-TPESS) Overlay Zone**

**1. Purpose**

The purpose of the CP-TPESS Overlay zone is to:

- a. Foster economic vitality and attractive community character in areas needing revitalization.
- b. Promote an enhanced pedestrian environment and an improved circulation system to pedestrians and bicycles as well as motor vehicles.
- c. Ensure consistency with the master plan vision for specific existing commercial areas.
- d. Provide for the combination of residential with commercial uses.

**2. Land Uses**

- a. Multi-unit living is only allowed in a multi use building type, unless this requirement is waived by the Planning Board.
- b. In the CRN and CRT zones, the following additional uses are allowed by right:
  - i. Recreation and Entertainment Facility, Indoor (Capacity up to 1,000);
  - ii. Retail/Service Establishment; and
  - iii. Surface Parking for Use Allowed in the Zone.
- c. In the CRN and CRT zones, the following uses, as allowed in the underlying zones, are allowed in the Overlay zone only if the use does not adjoin or confront land in a Residential Detached zone:
  - i. Car Wash;
  - ii. Fuel Sales;
  - iii. Funeral Home, Undertaker;

- iv. Light Vehicle Sales and Rental (Indoor);
- v. Light Vehicle Sales and Rental (Outdoor); and
- vi. Repair (Minor) and Repair (Major).

**3. Development Standards**

The maximum building height is 30 feet. However, the Planning Board may allow a building height:

- a. up to 42 feet for commercial development, and
- b. up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

**4. Site Plan**

- a. A site plan is required for:
  - i. new construction;
  - ii. any addition, reconstruction, or exterior alteration to a building that changes the gross floor area by more than 1,000 square feet;
  - iii. an expansion of a building by 1,000 square feet or less if the building was existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone and was a conforming building on that date, but that does not conform to the standards of the overlay zone;
  - iv. a waiver of more than 50% of the off-street parking requirements under Div. 7.1.; and
  - v. conversion of an existing structure to residential use.
- b. During site plan review, the Planning Board may:
  - i. where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the EOF zone; and
  - ii. reduce building setbacks to accomplish master plan objectives.
- c. For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet that is not subject to site plan review under Sec. 4.8.2.C.4.a.iii, there will be a review of the building permit by the Planning Board or its designee to determine compliance with master



plan recommendations and the provisions of this Overlay zone. If existing buildings are located on the site or on an adjacent property, then the minimum setback of the zone may be reduced by the applicant to conform to the existing setback on the site or on the adjacent property.

**5. Existing Buildings and Uses**

- a. Any use or building existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming use or building on that date, but that does not conform to the standards of the overlay zone, may continue as a conforming use or building and may be rebuilt, repaired, or reconstructed. A maximum expansion of 1,000 square feet is allowed, subject to site plan review under Sec. 8.3.4.
- b. Any building or use as identified in Sec. 4.8.2.C.5.a (above) may expand up to 1,000 square feet, subject to site plan review under Sec. 8.3.4.

**Sec. 4.8.3. Industrial Mixed Use (IMU) Overlay Zone**

**A. Industrial Mixed Use - Twinbrook (IMU-TB) Overlay Zone**

**1. Purpose**

The purpose of the IMU-TB Overlay zone is to allow residential uses in the IL zone in areas near the Twinbrook Metro Station.

**2. Land Uses**

Multi-Unit Living is allowed in the IMU-TB Overlay zone. All residential uses must be located above the first floor and must be less than 40% of the total floor area of the building.

**3. Development Standards**

- a. One main building and one accessory building may be located on a lot that is smaller than one acre but at least 5,000 square feet. However, more than one main building and accessory building may be located on such a lot if the Planning Board finds this to result in a better design for the lot.
- b. The minimum setback from any Commercial/Residential, Employment, or Residential zone is 50 feet. The Planning Board may approve a lesser setback if it finds a lesser setback would not have an adverse impact

on adjoining property zoned Residential, Commercial/Residential, or Employment.

- c. The Planning Board may approve any building to be set back a minimum of 10 feet from:
  - i. an arterial road that separates the industrial area from a Commercial/Residential or Employment zone; or
  - ii. an arterial road, local street, or private right-of-way within the industrial area.
- d. The Planning Board may waive the minimum parking setback requirement to achieve a better development design.
- e. The Planning Board may approve a reduction of the green area requirement to a minimum of 10% of the gross tract area. A maximum of 50% of the required green area may be located off-site within the IMU-TB Overlay zone.
- f. The parking standards for multi-unit living in Sec. 7.2.4.E apply. A parking space for any dwelling unit must be located behind the front building line.
- g. Before issuance of a building permit, the property owner must sign a declaration of use, including all the standards for the use as approved, to provide notice to future owners of the property of its status as a limited residential use subject to the conditions of the approval.

**4. Site Plan**

A site plan is required for any development with residential uses.

**Sec. 4.8.4. Neighborhood Protection (NP) Overlay Zone**

**A. Neighborhood Protection - Fenton Village (NP-FV) Overlay Zone**

**1. Purpose**

The purpose of the NP-FV Overlay zone is to:

- a. Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment.
- b. Encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the Overlay zone.

- c. Provide flexibility of development standards to encourage innovative design solutions.
- d. Allow for the transfer of the public use space requirement to other properties within the Overlay zone.
- e. Allow new uses.

**2. Land Uses**

The following additional uses are permitted:

- a. The following Light Manufacturing and Production use: assembly of computer components; and
- b. The following Retail/Service Establishment uses: bakery, if less than 15,000 square feet; and catering facility.

**3. Development Standards**

a. Building Height

- i. Maximum building height is 90 feet along a major highway;
- ii. Maximum building height is 60 feet along any street confronting any block that includes property in a Residential Detached zone;
- iii. Within the area between a major highway and a street that confronts a block that includes property in a Residential Detached zone, maximum building height is 60 feet but may increase to a maximum of 90 feet if at least 33% of a project's floor area is residential; however, if additional building height is necessary to accommodate workforce housing units and at least 33% of the project's floor area is residential, maximum building height is 110 feet where the additional height is placed near a major highway and decreases in the direction of the closest property in a Residential Detached zone;
- iv. For property located in a block that includes property in a Residential Detached zone maximum building height is 45 feet for all uses, except maximum building height is 60 feet for:
  - (a) residential use; or
  - (b) mixed-use optional method project, if at least 33% of the project's floor area is residential and the project includes a hotel;

- v. For properties with frontage on both Wayne Avenue and Fenton Street, notwithstanding the height limitations in Sec. 4.8.4.A.3.a.ii-iv (above), maximum building height can be increased by 15 feet for a building that includes residential uses or a mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan. However, any building using additional height must be set back from adjoining Residentially zoned land no less than the setback required in the adjacent Residential zone or the height of the building, whichever is greater.
- vi. Building heights may be approved under the standards of this Section without regard to the building height recommendations of the sector plan.

- b. Any project plan approved before August 18, 2008 may be constructed under the conditions of its approval and any site plan thereafter that implements the previously approved project plan. Any site plan approved before August 18, 2008 may be constructed under the conditions of its approval. Any building constructed under this Section is conforming and may be maintained and reconstructed under the conditions of their approval.
- c. Parking between the street and the front building line of properties fronting on Georgia Avenue is prohibited.
- d. Costs associated with meeting the public use space off-site may be shared by multiple property owners.
- e. In the CR zone, under the standard method of development the maximum FAR is 2 if approved by site plan under Sec. 8.3.4.
- f. Under standard method development, the public use space requirement may be transferred to other properties within the Overlay zone if approved by a site plan under Sec. 8.3.4.

**4. Site Plan**

Any development in the NP-FV Overlay zone must submit a site plan under Sec. 8.3.4.

**5. Existing Buildings**

Any building for which a valid building permit was issued before approval of the Fenton Village Overlay Zone Sectional Map Amendment, is a conforming building and may be altered, repaired or reconstructed under the standards of the zone in effect at the time the building was constructed, except:

- a. If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed as of the date of application of the Fenton Village Overlay zone; or
- b. If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further regulated by the NP-FV Overlay zone.

**B. Neighborhood Protection – Garrett Park (NP-GP) Overlay Zone**

**1. Purpose**

The purpose of the NP-GP Overlay zone is to:

- a. Preserve the unique park-like setting of the 19th century garden suburb, maintain the prevailing pattern of houses and open spaces, and retain the maximum amount of green area surrounding new or expanded houses.
- b. Encourage a compatible relationship between new or expanded houses and neighboring structures in scale, siting, and orientation on the lot.
- c. Maintain housing diversity and choice by retaining existing housing stock yet allowing a reasonable amount of expansion in living space.
- d. Create a uniform set of development standards in order to resolve the multiplicity of standards that currently apply to lots in Garrett Park.

**2. Exemptions**

The NP-GP Overlay zone applies to alterations, renovations, and enlargements of existing detached houses and new construction, unless exempt as noted below:

- a. Any lot that was legally recorded by deed or subdivision plat before June 1, 1958, and that was a buildable lot under the law in effect immediately

before June 1, 1958, is a buildable lot for building a detached house only, even though the lot may have less than the minimum area for any Residential Detached zone.

- b. Any lot that was legally recorded by deed or subdivision plat between June 1, 1958 and August 4, 1964 and that was a buildable lot under the law in effect during that period is a buildable lot for building a detached house only, even though the lot may have less than the minimum area for any Residential Detached zone.
- c. Any detached house in an Agricultural, Rural Residential, or Residential Detached zone that was built on a lot legally recorded by deed or subdivision plat before June 1, 1958 is not a nonconforming building.
- d. Any detached house in the NP-GP Overlay zone that was built on a lot legally recorded by deed or subdivision plat between June 1, 1958 and March 29, 1993 is not a nonconforming building.
- e. Reconstruction of a detached house may not exceed the footprint or floor area of the prior dwelling unless reconstruction fully conforms with the standards of the NP-GP Overlay zone.

**3. Land Uses**

The land uses and use standards of the underlying zone are applicable unless the development standards in Sec. 4.8.4. are more restrictive, in which case, Sec. 4.8.4. must be followed.

**4. Development Standards**

The development standards in the NP-GP Overlay zone are the same as those in the R-90, except as follows:

- a. The minimum front setback for a main building is 30 feet, and if the adjoining lots are occupied by buildings with a front setback greater than this requirement, no building hereafter erected or any addition to an existing building can project beyond the line previously established by the buildings on the adjoining lots.
- b. A front porch added to a main building existing as of February 15, 2000 may project a maximum of 8 feet into the front setback and may be covered, but not enclosed.

- c. In the case of a corner lot, if the adjoining lot on one of the streets either does not front on that street or is in a non-Residential zone, the setback from that street must be a minimum of 15 feet.
- d. The minimum side interior setback for a principal building is 10 feet. The minimum sum of both side interior setbacks is: 25 feet for lots with over 60 feet in width at the building line, and 20 feet for lots with 60 feet or less in width at the building line.
- e. The minimum rear setback is 25 feet for lots over 90 feet in depth and 15 feet for lots with 90 feet or less in depth.
- f. The maximum building coverage is 20%.
- g. The maximum FAR for all buildings on a lot is 0.375.
- h. An accessory building or structure must be located behind the rear building line and can occupy:
  - i. a maximum of 25% of the property behind the rear building line on lots with a total lot area smaller than 8,600 square feet; or,
  - ii. a maximum of 20% of the property behind the rear building line on lots with a total lot area 8,600 square feet or larger.

**5. Site Plan**

A site plan is not required in the NP-GP Overlay zone except as provided in Sec. 4.4.3.C.

**C. Neighborhood Protection - Ripley/South Silver Spring (NP-RSS) Overlay Zone**

**1. Purpose**

The purpose of the NP-RSS Overlay zone is to:

- a. Facilitate the implementation of an organized and cohesive development pattern that is appropriate for an urban environment.
- b. Encourage attractive design and ensure compatibility with existing buildings and uses within and adjacent to the Overlay zone.
- c. Provide flexibility of development standards to encourage innovative design solutions.

- d. Allow for the transfer of the public use space requirement to other properties within the Overlay zone.
- e. Allow new uses.

**2. Land Uses**

The following additional uses are permitted:

- a. The following Light Manufacturing and Production use: assembly of computer components; and
- b. The following Retail/Service Establishment uses: bakery, if less than 15,000 square feet; and catering facility.

**3. Development Standards**

a. Building Height

- i. The maximum building height is 45 feet along Newell Street and Eastern Avenue that confronts a Residential zone in the District of Columbia. However, this building height may be increased to:
    - (a) a maximum of 90 feet for any building or portion of a building that is set back a minimum of 60 feet from the street; or
    - (b) a maximum of 125 feet for residential development that is set back at least 100 feet from Eastern Avenue and Newell Street and includes a public parking garage constructed under a General Development Agreement with the County.
  - ii. The Planning Board may approve a maximum building height of 200 feet in any CR optional method development project that provides ground floor retail. Any structure or device used to collect or radiate electromagnetic waves, including a satellite dish, must not be included in calculating building height under this paragraph.
- b. Parking between the street and the front building line of properties fronting on Georgia Avenue is prohibited.
  - c. Costs associated with meeting the public use space off-site may be shared by multiple property owners.
  - d. Under standard method development, the public use space requirement may be transferred to other properties within the Overlay zone if approved by a site plan under Sec. 8.3.4

**4. Site Plan**

Any development in the NP-RSS Overlay zone must submit a site plan under Sec. 8.3.4.

**5. Existing Buildings**

Any building for which a valid building permit was issued before February 1, 2000 is a conforming building and may be altered, repaired, or reconstructed under the standards of the zone in effect when the building was constructed, except:

- a. If the building exceeds the standards of the underlying zone, any alteration, repair, or reconstruction of the building must not increase the gross floor area or the height of the building above that which existed on February 1, 2000; or
- b. If the building does not exceed the standards of the underlying zone, any alteration, repair, or reconstruction of the building must conform to the standards of the underlying zone, except as may be further modified by the NP-RSS Overlay zone.

**D. Neighborhood Protection - Rural Village Center (NP-RVC) Overlay Zone****1. Purpose**

The purpose of the NP-RVC Overlay zone is to:

- a. Create attractive, cohesive, and pedestrian-friendly rural village centers, consisting of a mix of uses.
- b. Draw upon the open, green character of the surrounding area, emphasizing this character through streetscape design, open space, and landscaping.
- c. Maintain and enhance the rural village character through compatible scale, massing, siting, and setbacks for new and expanded uses.
- d. Emphasize the pedestrian and bicycle circulation through street design, including streetscape and traffic calming, and trail networks.
- e. Encourage a variety of uses that serve the needs of the local community, including mixed-use buildings that provide housing and commercial uses to the extent allowed in the underlying zone.

- f. Provide opportunities for appropriately scaled new and existing business expansion, while keeping the commercial area compact and low density.

**2. Land Uses**

- a. Where a lot is either partially or totally in a Commercial/Residential or Employment zone:
  - i. Dry Cleaning Facility (up to 3,000 SF) is allowed only as a conditional use under Sec. 8.3.1.
  - ii. If the underlying zone on the property is CRN, Fuel Sales is allowed as a conditional use under Sec. 8.3.1. and the following standards:
    - (a) A car wash is prohibited;
    - (b) The maximum height for pump canopies is 35 feet; and
    - (c) Any structure approved for the use must not exceed the scale and bulk of existing commercial structures in the village.
  - iii. Multi-unit living is allowed only in a multi use building type.
  - iv. The following uses are prohibited:
    - (a) Animal Boarding and Care;
    - (b) Drive -Thru Facility in connection with a Restaurant;
    - (c) Helipad, Heliport;
    - (d) Helistop;
    - (e) The following Light Manufacturing and Production: newspaper, printing and publishing;
    - (f) Recreation and Entertainment Facility;
    - (g) Repair (Minor);
    - (h) The following Retail/Service Establishments: appliance store; appliance repair shop; and building materials and supplies;
    - (i) Shooting Range (Indoor); and
    - (j) Vehicle/Equipment Sales and Rental, except any automobile rental business in existence on October 13, 1998 may continue as a conforming use, and may be altered, repaired, or replaced under provisions of the zone in effect at the time the use was established.

- b. Where a lot is in a Residential zone:
- i. It may provide septic capacity for an adjacent commercial use, or adjacent residential property, consistent with the applicable master plan recommendations.
  - ii. The following uses are prohibited:
    - (a) Day Care Center (13-30 Persons);
    - (b) Day Care Center (Over 30 Persons);
    - (c) Golf Course, Country Club;
    - (d) Hospital; and
    - (e) Residential Care Facility (Over 16 Persons).

### **3. Development Standards**

- a. Where a lot is either partially or totally in a Commercial/Residential or Employment zone:
- i. When abutting an Agricultural, Rural Residential, or Residential zone, the minimum setbacks for all buildings, off-street parking, and loading and maneuvering areas is that of the abutting zone. However, the Planning Board may authorize alternative setbacks that replicate existing development patterns if recommended in a master or sector plan. All other setbacks will be determined at site plan.
  - ii. The maximum density for commercial uses is 0.2 FAR and is computed only on the area of the underlying Commercial/Residential or Employment zoned portion of the site.
    - (a) Any project that received preliminary plan approval before November 4, 2002 for commercial development at an FAR greater than 0.2, is not subject to the FAR limitation of this section and may be developed, as a conforming use, under the approved preliminary plan.
    - (b) The Planning Board may recommend density above 0.2 FAR, up to the maximum allowed in the underlying zone, if authorized in a master or sector plan, if the Planning Board determines that the

- iii. The minimum open space is 35% of the gross tract area.
    - (a) The Planning Board may authorize less open space if recommended in a master or sector plan if the Planning Board determines that reduced open space will better replicate existing development patterns in a village.
  - iv. The maximum height for all buildings is 35 feet.
  - v. In addition to the parking requirements in Div. 7.2:
    - (a) Parking facilities must be located to maintain a pedestrian-friendly street orientation.
    - (b) Trees must be planted and maintained throughout the parking facility to assure that at least 30% of the area is shaded. Shading must be calculated using the area of the tree crown at 15 years after the parking facility is built.
    - (c) For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002 the entire off-street parking facility must be brought into conformance with this Section.
  - vi. Commercial facilities must provide, as necessary, noise mitigation measures to minimize impact on adjacent residentially used properties.
  - vii. All outdoor lighting of commercial uses must be located, shielded, landscaped or otherwise buffered so that no direct light intrudes into an adjacent residential property. Unless the Planning Board requires different standards for a recreational facility or to improve public safety, luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.
- b. Where a lot is in a Residential zone, if recommended in a master or sector plan, the Planning Board may authorize alternative setbacks that replicate existing development patterns at the time of site plan review.

**4. Site Plan**

- a. A site plan is required for:
  - i. construction of a new building; and
  - ii. additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site.

**E. Neighborhood Protection - Sandy Spring/Ashton Rural Village (NP - SSA) Overlay Zone**

**1. Purpose**

The purpose of the NP-SSA Overlay zone is to:

- a. Preserve and enhance the rural village character of the Sandy Spring and Ashton village centers by ensuring an attractive and traditional pattern of houses, commercial establishments, open spaces and their relationship to roadways.
- b. Encourage a compatible relationship between new or expanded houses or businesses and traditional neighboring structures that reflects the best of local village character, particularly in terms of scale, siting, design features, and orientation on the site.

**2. Sewer**

Lots developed under the NP-SSA Overlay zone must be connected to a community water and sewerage system, unless it can be demonstrated that at the time of subdivision that limited number of lots on a private well and septic facility within the development will provide a more beneficial subdivision design because of environmental or compatibility reasons.

**3. Land Uses**

- a. Where a lot is either partially or totally in a Commercial/Residential or Employment zone:
  - i. Multi-unit living is allowed only in a multi use building type.
  - ii. The following uses are prohibited:
    - (a) Adult Entertainment;
    - (b) Animal Research Facility;

- (c) Car Wash;
- (d) Drive -Thru Facility in connection with a Restaurant;
- (e) Dry Cleaning Facility (up to 3,000 SF);
- (f) Fuel Sales, except that any lawful Fuel Sales use in existence as of the date of application of the Overlay zone is a conforming use, and may be altered, repaired, or replaced under the provisions of the zone in effect at the time the use was established;
- (g) Helipad, Heliport;
- (h) Helistop;
- (i) The following Light Manufacturing and Production use: Newspaper, printing, and publishing.
- (j) Media Broadcast Tower;
- (k) Medical/Dental Laboratory;
- (l) Pipelines (Above Ground);
- (m) Recreation and Entertainment Facility;
- (n) Repair (Minor) and Repair (Major);
- (o) Research and Development;
- (p) Retail/Service Establishment (50,000 SF and Over);
- (q) The following Retail/Service Establishments: building materials and supplies; furniture stores, carpet, or related furnishing sales or service; and pawnshops;
- (r) Self-Storage Facility;
- (s) Shooting Range (Indoor);
- (t) Storage Facility;
- (u) Structured Parking;
- (v) Surface Parking for Use Allowed in the Zone;
- (w) Surface Parking for Commercial Uses in a Historic District; and
- (x) Vehicle/Equipment Sales and Rental, except any automobile rental business in existence on October 13, 1998 may continue

as a conforming use, and may be altered, repaired, or replaced under the provisions of the zone in effect at the time the use was established.

#### 4. Development Standards

- a. Where a lot is in a Commercial/Residential or Employment zone:
  - i. The maximum height for all buildings is 24 feet, except that during site plan review the Planning Board may allow additional height up to 30 feet if the Planning Board finds that the additional height is compatible with the adjoining uses and is consistent with the intent of the master plan.
  - ii. The maximum density for commercial uses is 0.75 FAR, and is computed only on the area of the underlying Commercial/Residential or Employment zoned portion of the site.
  - iii. Where a minimum area is required for a conditional use, the minimum area may be waived where recommended as appropriate in the master plan.
  - iv. In areas recommended in the master plan for mixed use development, development should be consistent with the recommendations of the master plan. In the residential portions of the mixed-use areas, off-street parking for commercial uses is allowed without a requirement for approval of a conditional use.
- b. Where a lot is in a Residential zone:
  - i. The density of development cannot exceed the standards for the underlying zone under the cluster provisions under Div. 6.2.
  - ii. The Planning Board can approve lot sizes down to 3,000 square feet, including a minimum of zero feet for side interior setbacks on one side, upon a showing that the resulting development will be consistent with the guidelines of the master plan. Site plan is required and the additional findings must be made:
    - (a) All retail uses proposed in new or renovated buildings are directly accessible from a sidewalk, plaza, or other public space; and

(b) Each structure and use is compatible with surrounding structures and uses and other site plans for both existing and proposed adjacent development.

iii. The maximum height for all buildings is 35 feet.

#### 5. Site Plan

- a. A site plan is not required for development of a detached house that proceeds under standard method development.
- b. A site plan is required for:
  - i. construction of a new building; and
  - ii. additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site.

#### 6. Parking

- a. The Planning Board may allow some on-street parking to fulfill the requirement for off-street parking to enhance compatibility, provide additional open space and reduce impervious coverage.
- b. Properties in a Residential zone that are designated in the master plan as suitable for mixed use or non-residential use may be utilized for off-street parking in connection with commercial uses.
- c. The NP-SSA Overlay zone encourages the parking of vehicles behind the front building line. In addition, in order to reduce access points and thereby enhance safety, adjoining parking facilities may be required to provide internal connections. In exceptional circumstances, limited parking may be allowed between the front property line and the front building line.

### Sec. 4.8.5. Special Protection Area (SPA) Overlay Zone

#### A. Special Protection Area - Upper Paint Branch (SPA-UPB) Overlay Zone

##### 1. Purpose

The purpose of the SPA-UPB Overlay zone is to:

- a. Protect the water quality and quantity and biodiversity of the Upper Paint Branch Watershed and its tributaries, including but not limited to



the headwater tributary areas of Good Hope, Gum Springs, Right Fork and Left Fork, and the segment of the Paint Branch mainstem north of Fairland Road.

- b. Regulate the amount and location of impervious surfaces to maintain levels of infiltration, control erosion, and allow natural processes to filter water and control temperature.
- c. Regulate land uses that could adversely affect the high quality, cold water stream resource. This resource is afforded the highest order of protection through its designation by the State of Maryland as Use III Waters.

## 2. Exemptions

The following are exempt from this Section (Sec. 4.8.5.A):

- a. Any impervious surface lawfully existing pursuant to a building permit issued before July 1, 2007 may continue or be reconstructed under the development standards in effect when the building permit was issued.
- b. Any impervious surface which results from construction pursuant to a building permit may be constructed or reconstructed under the development standards in effect on July 31, 2007 if:
  - i. the building permit application was pending before DPS on July 31, 2007; or
  - ii. the building permit is for a lot in a subdivision approved before July 31, 2007, if the subdivision was approved for fewer than 20 housing units.
- c. Any impervious surface resulting from an addition or accessory structure to an existing detached house must not be counted against any calculation of the 8% impervious surface restriction.

## 3. Land Uses

- a. Except as delineated in Sec. 4.8.5.A.3.b-c (below), the land uses of the underlying zone are applicable. The use standards of the underlying zone are applicable unless the development standards in Sec.4.8.5.A are more restrictive, in which case Sec. 4.8.5.A must be followed.
- b. The following uses are restricted in the SPA-UPB Overlay zone:
  - i. Landscape contractors and nurseries must be certified as an organic grower by the State of Maryland or another approved certifying body;
  - ii. Golf courses and country clubs must have an Integrated Pest Management program; and
  - iii. Equestrian facilities must have an approved Soil Conservation Water Quality Plan from the Montgomery Soil Conservation District.

- c. If validly existing on July 1, 1997, the uses in Sec. 4.8.5.A.3.b. (above) may be continued under the regulations in effect at the time the use was established. Any expansion requires compliance with the provisions of the SPA-UPB Overlay zone.
- d. The following uses are prohibited in the SPA-UPB Overlay zone:
  - i. Farm Airstrip, Helistop;
  - ii. Helipad, Heliport;
  - iii. Pipelines used for interstate transmission of petroleum products; and
  - iv. Vehicle Services.

## 4. Development Standards

Impervious surfaces are restricted to a maximum of 8% of the gross tract area of any application for development.

## 5. Waiver

The applicable review body may grant a waiver of the development standards in Sec. 4.8.5.A.4 if it finds that:

- a. The 8% impervious surface limit would cause an undue hardship on the applicant because of events or circumstances not caused or facilitated by the applicant;
- b. The application otherwise complies with all applicable Federal, State, and County water quality regulations;
- c. The relief sought is the minimum needed to prevent the undue hardship; and

- d. Alternative water quality and control techniques are used to meet the purposes of this Section (Sec. 4.8.5.A).

**B. Special Protection Area - Upper Rock Creek (SPA-URC) Overlay Zone**

**1. Purpose**

The purpose of the SPA-URC Overlay zone is to:

- a. Protect the water quality and quantity and biodiversity of the Upper Rock Creek watershed north of Muncaster Mill Road, including Rock Creek mainstem and its tributaries.
- b. Regulate the amount and location of impervious surfaces to maintain levels of infiltration, control erosion, and allow natural processes to filter water and control temperature, and control the volume of stormwater runoff.

**2. Exemptions**

The following are exempt from this Section (Sec. 4.8.5.B):

- a. Any impervious surface lawfully existing pursuant to a building permit or sediment control permit issued before November 15, 2004 or subject to a building permit or sediment control permit application filed on or before November 15, 2004 may be continued, renovated, repaired, or reconstructed to the same size and configuration.
- b. Any property expressly exempted by the applicable master or sector plan.
- c. Any addition, allowed under the development standards of the underlying zone, to an detached house.
- d. Any accessory structure, allowed under the development standards of the underlying zone, on the lot of an existing detached house.
- e. Any private institutional facility developed according to an approved preliminary plan dated on or before November 15, 2004, provided every effort is made to minimize imperviousness and/or mitigate the impacts of runoff. Further, additions to such plans that increase impervious area a maximum of 5% above the amount approved are allowed.

- f. All public projects are subject to the provisions of the SPA-URC Overlay zone, however, these provisions are not intended to preclude the development of public facilities. Such facilities must conform to the water quality plan submission and review requirements established in Chapter 19, Article V, and keep imperviousness to the minimum needed to accomplish the public purpose intended.
- g. Development in any Industrial, Commercial/Residential, or Employment zone.

**3. Development Standards**

Impervious surfaces are restricted to a maximum of 8% of the gross tract area of any application for development.

**4. Waiver**

The applicable review body may grant a waiver of the development standards in Sec. 4.8.5.B.3 if it finds that:

- a. The 8% impervious surface limit would cause an undue hardship on the applicant because of events or circumstances not caused or facilitated by the applicant or the applicant can demonstrate that the impervious surface limit would prevent the applicant from building the maximum number of affordable housing units otherwise allowed by the zone;
  - i. If the applicable review body grants a waiver from the 8% impervious surface limit for affordable housing, it must approve the minimum increase necessary to allow the affordable housing. In no event may the waiver result in development with more than 10% impervious surface area.
- b. The application otherwise complies with all applicable Federal, State, and County water quality regulations;
- c. The relief sought is the minimum needed to prevent the undue hardship; and
- d. Alternative water quality and quantity control techniques are used to meet the purposes of this Section (Sec. 4.8.5.B).

## Sec. 4.8.6. Transferable Development Rights (TDR) Overlay Zone

### A. Standard Method

Development in the TDR Overlay zone can occur under the standard method of development without the use of Transferable Development Rights and must comply with the requirements for development and density limitations contained in the underlying zone (see Div. 4.3 - Div. 4.6). In addition, standard method development in the TDR Overlay zone may be approved under the cluster development procedures of Div. 6.2 or the procedures for development including moderately priced dwelling units as contained in Div. 6.1, if the property satisfies the minimum requirements for these development options per the underlying zone.

### B. Optional Method

Optional method development is allowed in the TDR Overlay zone under Div. 6.3.

# ARTICLE 59-5. FLOATING ZONING DISTRICT REGULATIONS

## DIV. 5.1. RESIDENTIAL FLOATING ZONES

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## Div. 5.1. Residential Floating Zones

### Sec. 5.1.1. Zones

- A. There are three categories of Residential Floating zones comprising individual zones allowing various land uses, building types, and development standards.
- B. Residential Floating zones are mapped using the zone’s initials followed by a number indicating the maximum allowed units per acre approved by a Floating Zone Map Amendment under Article 59-8:
  1. Residential Detached – Floating (RDF-#);
  2. Townhouse – Floating (TF-#); and
  3. Apartment – Floating (AF-#).

### Sec. 5.1.2. Applicability

An application for a Residential Floating zone may be made only if the subject property has been recommended in an approved master or sector plan for the particular floating zone requested or under the limits, standards, and requirements of this Division (Div. 5.1).

### Sec. 5.1.3. Purposes

The purpose of the Residential Floating zones is to:

- A. Provide comprehensively planned residential neighborhoods.
- B. Establish compatible relationships between new development and existing neighborhoods.
- C. Provide flexibility for various residential building types and development standards.
- D. Allow limited neighborhood-serving commercial uses at higher densities.

### Sec. 5.1.4. Land Uses

#### A. Allowed Uses

Land uses are allowed in the Residential Floating zones as depicted in the following table:

<u>Floating Zone Category</u>	<u>Approved Density</u>	<u>Residential Uses Allowed</u>	<u>Commercial Uses Allowed</u>
<u>RDF</u>	<u>&lt; 3 units/acre &amp; &lt; 150 total units</u>	<u>R-200</u>	<u>None</u>
	<u>&lt; 3 units/acre &amp; ≥ 150 total units</u>	<u>R-200</u>	<u>CRN</u>
	<u>≥ 3 units/acre &amp; &lt; 150 total units</u>	<u>R-90, R-60, R-40</u>	<u>None</u>
	<u>≥ 3 units/acre &amp; ≥ 150 total units</u>	<u>R-90, R-60, R-40</u>	<u>CRT</u>
<u>TF</u>	<u>&lt; 12 units/acre &amp; &lt; 150 total units</u>	<u>TLD</u>	<u>None</u>
	<u>&lt; 12 units/acre &amp; ≥ 150 total units</u>	<u>TLD</u>	<u>CRN</u>
	<u>≥ 12 units/acre &amp; &lt; 150 total units</u>	<u>TMD, THD</u>	<u>None</u>
	<u>≥ 12 units/acre &amp; ≥ 150 total units</u>	<u>TMD, THD</u>	<u>CRT</u>
<u>AF</u>	<u>&lt; 20 units/acre &amp; &lt; 150 total units</u>	<u>R-30</u>	<u>CRN</u>
	<u>&lt; 20 units/acre &amp; ≥ 150 total units</u>	<u>R-30</u>	<u>CRT</u>
	<u>≥ 20 units/acre &amp; &lt; 150 total units</u>	<u>R-20, R-10</u>	<u>CRN</u>
	<u>≥ 20 units/acre &amp; ≥ 150 total units</u>	<u>R-20, R-10</u>	<u>CR</u>

#### B. Use Regulations

1. In the Residential Floating zones the maximum commercial density that can be approved by the Floating Zone Map Amendment is 0.5 FAR of the total gross tract area.
2. The lot(s) on which any approved commercial uses are located must be separated from the boundary of the gross tract area included in the Floating

Zone Map Amendment by residential lots or open space and may not share a property line with any properties in a Residential zone not included in the Floating Zone Map Amendment.

3. Individual uses or use categories may be restricted, prohibited, or subject to binding elements under the Floating Zone Map Amendment in order to make the necessary findings of approval under [Article 59-8](#).

**Sec. 5.1.5. Building Types**

- A. Building types are allowed under the following parameters:
  1. A detached house is allowed in any Residential Floating zone.
  2. A duplex or townhouse unit is only allowed in the TF and AF zones.
  3. An apartment/condo building is allowed only in the AF zones.
  4. A multi-use building is allowed only when commercial density is approved by the Floating Zone Map Amendment.
  5. A general building is allowed for any permitted uses in the underlying zone.
- B. The Floating Zone Map Amendment may restrict, disallow, or establish binding elements on any building type in order to make the necessary findings of approval under [Article 59-8](#).

**Sec. 5.1.6. Development Standards**

**A. Master Plan and Design Guidelines**

1. Development must be consistent with the applicable master or sector plan.
2. Development must address any design guidelines approved by the Planning Board that implement the applicable master or sector plan.

**B. Density**

1. Residential Density
  - a. Residential density may not exceed the recommendations of an approved master or sector plan.

- b. When there is no recommendation for density for the subject property, the following limits apply:

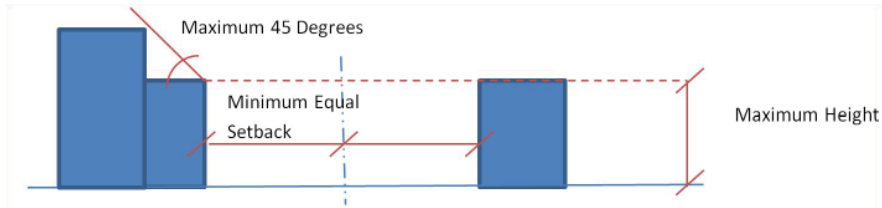
Allowed Residential Density				
Pre-Existing Euclidean Zone	Base Lot Size	Allowed Density in Units per Acre Based on Size of Gross Tract Area for Proposed Floating Zone		
		Up to 2 times the base lot size	2 to 4 times the base lot size	At least 4 times the base lot size
RE-2	2 acres	0.75 units /acre	1 units/acre	1.5 units/acre
RE-2C	2 acres	0.75	1	1.5
RE-1	40,000 SF	1.63	2.18	3.27
<del>R-200</del>	20,000 SF	3.27	4.36	6.44
<del>R-90</del>	9,000 SF	7.26	12	18
<del>R-60</del>	6,000 SF	10.89	14.52	21.78
<del>R-40</del>	4,000 SF	16.33	21.78	32.67
TLD	<del>20,000 SF</del>	13.5	18	27
TMD	<del>20,000 SF</del>	18	24	36
THD	<del>40,000 SF</del>	22.5	30	45
<del>R-30</del>	12,000 SF	21.75	29	43.50
<del>R-20</del>	16,000 SF	32.55	43.40	65.10
<del>R-10</del>	20,000 SF	65.25	87	130.50

2. Commercial Density  
Commercial density, if allowed under [Sec. 5.1.4](#) is limited to 0.5 FAR of the gross tract area.
3. The Floating Zone Map Amendment may establish lower densities than allowed by this Section (Sec. 5.1.6) in order to make the necessary findings of approval under [Article 59-8](#).

**C. Height**

1. A building is prohibited from projecting beyond a 45 degree angular plane projecting over the subject property measured from the allowed height of the abutting or confronting zone at a setback line equal to at least the

setback required by the abutting or confronting zone or a greater setback established by the Floating Zone Map Amendment.



2. Maximum heights are established by the Floating Zone Map Amendment or site plan(s), subject to the restriction above.

**D. Lot Size**

Minimum lot sizes are established by the Floating Zone Map Amendment or site plan(s).

**E. Coverage**

Minimum open space must be provided as a percentage of net tract area as determined by the most intense building type approved and density in units per acre.

Open Space Required

Building Type	Minimum Open Space Required Based on Units per Acre			
	1-19 units/acre	20-49 units/acre	50-79 units/acre	80+ units/acre
Detached House	0%	10%	10%	15%
Duplex	0%	10%	15%	20%
Townhouse	10%	15%	20%	25%
Apartment/Condo, Multi-Use, or General Building	15%	20%	25%	30%

**F. Setbacks**

1. Setbacks are established by the Floating Zone Map Amendment or site plan(s).
2. A building or accessory structure is prohibited from being set back closer to a property line than that required in the abutting zone.

3. The Floating Zone Map Amendment may establish greater setbacks in order to make the necessary findings of approval under [Article 59-8](#).

**G. General Regulations**

1. Parking, open space, recreation facilities, buffering, and landscaping must be provided under [Article 59-7](#) according to the Euclidean zone that was approved for uses under [Section 5.1.4](#). for each applicable residential or commercial area.
2. The Floating Zone Map Amendment may require additional parking, open space, recreation facilities, buffering, or landscaping or further restrict lighting in order to make the necessary findings of approval under [Article 59-8](#).

## Div. 5.2. Commercial/Residential Floating Zones

### Sec. 5.2.1. Zones

- A. There are 3 families of Commercial/Residential Floating zones comprising individual zones allowing various land uses, building types, and development standards.
- B. Commercial/Residential Floating zones are mapped using the zone's initials followed by the maximum allowed total, commercial, and residential densities and maximum allowed height as limited by this Division (Div. 5.2).
  - 1. Commercial Residential Neighborhood – Floating (CRNF# C# R# H#)
  - 2. Commercial Residential Town – Floating (CRTF# C# R# H#)
  - 3. Commercial Residential – Floating (CRF# C# R# H#)

### Sec. 5.2.2. Applicability

An application for a Commercial/Residential Floating zone may be made only if the subject property has been recommended in an approved master or sector plan for the particular Floating zone requested or under the limits, standards, and requirements of this Division (Div. 5.2).

### Sec. 5.2.3. Purposes

The purpose of the Commercial/Residential Floating zone is to:

- A. Provide comprehensively planned mixed-use neighborhoods.
- B. Establish compatible relationships between new development and existing neighborhoods.
- C. Provide flexibility for various uses, building types, and development standards.
- D. Respond to changing economic and demographic pressures.

### Sec. 5.2.4. Land Uses

- A. The following land uses are allowed in the Commercial/Residential Floating zones:
  - 1. In the CRNF zones, only the uses allowed in the CRN zone are allowed.

- 2. In the CRTF zones, only the uses allowed in the CRT zone are allowed.
- 3. In the CRF zones, only the uses allowed in the CR zone are allowed.
- B. Uses allowed may be restricted, prohibited, or subject to binding elements under the Floating Zone Map Amendment in order to make the necessary findings of approval under [Article 59-8](#).

### Sec. 5.2.5. Building Types Allowed

- A. Any building type is allowed in the Commercial/Residential Floating zones.
- B. The Floating Zone Map Amendment may restrict, prohibit, or establish binding elements on any building type in order to make the necessary findings of approval under [Article 59-8](#).



## Sec. 5.2.6. Development Standards

### A. Density

1. Density may not exceed the recommendations of an approved master or sector plan.
2. When there is no recommendation for density for the subject property in the master plan, the Floating Zone Map Amendment may establish density up to the following limits:

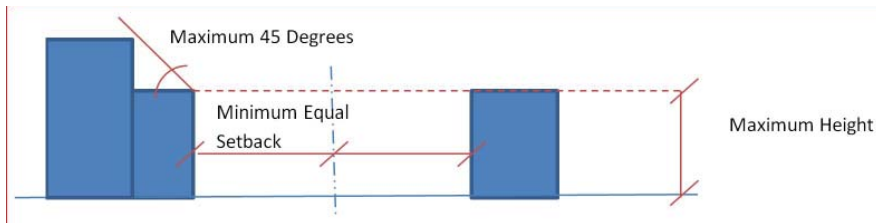
Density Allowed

Pre-Existing Euclidean Zone	Maximum Density Allowed in FAR Based on Size of Gross Tract Area in Acres					
	Less than 0.5 acres		0.51 acres – 3.00 acres		Greater than 3.01 acres	
	Total Density	C or R Density	Total Density	C or R Density	Total Density	C or R Density
RE-2, RE-2c, RE-1, & R-20d	0.75 FAR	0.5 FAR	1.0 FAR	0.75 FAR	1.25 FAR	1.0 FAR
R-90, R-60, R-40, TLD, TMD, & THD	1.0	0.75	1.25	1.0	1.5	1.25
R-30, R-20, R-10	1.25	1.0	1.5	1.25	1.75	1.5
CRN	1.0	0.75	1.25	1.0	1.5	1.25
CRT	2.0	1.5	3.0	2.0	4.0	3.0
CR	4.0	3.0	6.0	4.5	8.0	6.0
Employment	2.0	1.5	3.0	2.0	4.0	3.0
IL	0.75	0.5	1.0	0.75	1.5	1.25

3. The Floating Zone Map Amendment may establish lower densities than allowed by this Section (Sec. 5.2.6) in order to make the necessary findings of approval under [Article 59-8](#).

**B. Height**

1. Height may not exceed the recommendations of an approved master or sector plan.
2. A building is prohibited from projecting beyond a 45 degree angular plane projecting over the subject property measured from the allowed height of the abutting or confronting zone at a setback line equal to at least the setback required by the abutting or confronting zone or a greater setback established by the Floating Zone Map Amendment.



3. Maximum heights are established by the Floating Zone Map Amendment or site plan(s), subject to the restriction above.

**C. Lot Size**

Minimum lot sizes are established by the Floating Zone Map Amendment or site plan(s).

**D. Coverage**

Minimum public use space must be provided as required under Division 4.4 for development equivalent to standard method or Division 6.3 for development equivalent to optional method, as applicable.

**E. Setbacks**

1. Setbacks are established by the Floating Zone Map Amendment or site plan(s).
2. In no case may a building or accessory structure be setback closer to a property line than that required in the abutting zone.
3. The Floating Zone Map Amendment may establish greater setbacks in order to make the necessary findings of approval under Article 59-8.

**F. General Regulations**

1. Parking, recreation facilities, and landscaping must be provided under Article 59-7 according to the Euclidean zone that was approved for uses under Section 5.2.4.
2. Public use space must be provided under Article 59-4 (for standard method) and Article 59-6 (for optional method) according to the Euclidean zone that was approved for uses under Section 5.2.4.
3. The Floating Zone Map Amendment may require additional parking, open space, recreation facilities, or landscaping or further restrict lighting in order to make the necessary findings of approval under Article 59-8.

**G. Public Benefits**

1. Public Benefits Required
  - a. Development above 1.0 FAR in the CRTF zone requires public benefits.
  - b. Development above 0.5 FAR in the CRF zone requires public benefits.
2. Public Benefit Points and Categories Required

Public benefit points under Div. 6.6 must be provided as follows:

<u>Zone</u>	<u>Site Size</u>	<u>Public Benefit Points (min)</u>	<u>Number of Benefit Categories (min)</u>
<u>CRTF</u>	<u>&lt; 10,000 SF of gross tract area</u> <u>OR with &lt; 1.5 max FAR</u>	<u>25</u>	<u>2</u>
	<u>≥ 10,000 SF of gross tract area</u> <u>OR with ≥ 1.5 max FAR</u>	<u>50</u>	<u>3</u>
<u>CRF</u>	<u>&lt; 10,000 SF of gross tract area</u> <u>OR with &lt; 1.5 max FAR</u>	<u>50</u>	<u>3</u>
	<u>≥ 10,000 SF of gross tract area</u> <u>OR with ≥ 1.5 max FAR</u>	<u>100</u>	<u>4</u>

3. When public benefits are required by development in the Commercial/Residential Floating zones, they must be submitted as part of the site plan required for Floating Zone Map Amendments under Article 59-8.

## Div. 5.3. Employment Floating Zones

### Sec. 5.3.1. Zones

- A. There are 4 families of Employment Floating zones comprising individual zones allowing various land uses, building types, and development standards.
- B. Employment Floating zones are mapped using the zones’ initials followed by the maximum allowed total density and maximum allowed height as limited by this Division (Div. 5.3)
  - 1. EMPLOYMENT GENERAL RETAIL – FLOATING (EGRF# H#)
  - 2. EMPLOYMENT NEIGHBORHOOD RETAIL - FLOATING (ENRF# H#)
  - 3. EMPLOYMENT OFFICE – FLOATING (EOFF# H#)
  - 4. EMPLOYMENT LIFE SCIENCES – FLOATING (ELSF# H#)

### Sec. 5.3.2. Applicability

An application for an Employment Floating zone may be made only if the subject property has been recommended in an approved master or sector plan for the particular Floating zone requested or under the limits, standards, and requirements of this Division (Div. 5.3).

### Sec. 5.3.3. Purposes

The purpose of the Employment Floating zones is to:

- A. Provide comprehensively planned employment nodes.
- B. Establish compatible relationships between new development and existing neighborhoods.
- C. Allow for limited residential uses and supporting retail services.
- D. Respond to changing economic and demographic pressures.

### Sec. 5.3.4. Land Uses

- A. The following land uses are allowed in the Employment Floating zones:
  - 1. In the EGRF zones, only the uses allowed in the EGR zone are allowed.
  - 2. In the ENRF zones, only the uses allowed in the ENR zone are allowed.
  - 3. In the EOFF zones, only the uses allowed in the EOF zone are allowed.

- 4. In the ELSF zones, only the uses allowed in the ELS zone are allowed.
- B. Uses allowed may be restricted, disallowed, or subject to binding elements under the Floating Zone Map Amendment in order to make the necessary findings of approval under Article 59-8.

### Sec. 5.3.5. Building Types Allowed

- A. Any building type is allowed in the Employment Floating zones.
- B. The Floating Zone Map Amendment may restrict, disallow, or establish binding elements on any building type in order to make the necessary findings of approval under Article 59-8.

### Sec. 5.3.6. Development Standards

#### A. Density

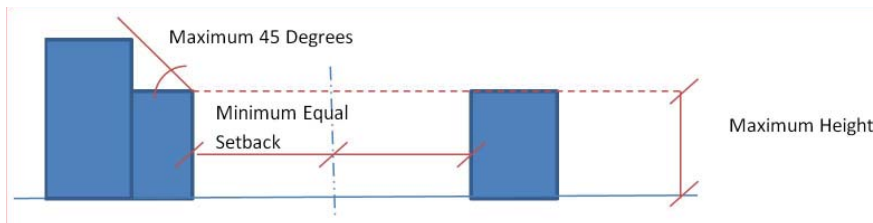
- 1. Density may not exceed the recommendations of an approved master or sector plan.
- 2. When there is no recommendation for density for the subject property in the master plan, the Floating Zone Map Amendment may establish density up to the following limits:

Pre-Existing Euclidean Zone	Density Allowed		
	Maximum Total Density Allowed in FAR Based on Size of Gross Tract Area in Acres		
	Less than 0.5 Acres	0.51 – 3.00 Acres	Greater than 3.01 Acres
<u>RE-2, RE-2C, RE-1, &amp; R-200</u>	0.75 FAR	1.0 FAR	1.25 FAR
<u>R-90, R-60, R40, TLD, TMD, &amp; THD</u>	1.0	1.25	1.5
<u>R-30, R-20, R-10</u>	1.25	1.5	1.75
CRN	1.0	1.25	1.5
CRT	2.0	3.0	4.0
CR	4.0	6.0	8.0
Employment	2.0	3.0	4.0
IL	0.75	1.0	1.5

3. In no case may residential uses exceed 30% of the allowed total density.
4. The Floating Zone Map Amendment may establish lower densities than allowed by this Section (Sec. 5.3.6) in order to make the necessary findings of approval under [Article 59-8](#).

**B. Height**

1. Height may not exceed the recommendations of an approved master or sector plan.
2. A building is prohibited from projecting beyond a 45 degree angular plane projecting over the subject property measured from the allowed height of the abutting or confronting zone at a setback line equal to at least the setback required by the abutting or confronting zone or a greater setback established by the Floating Zone Map Amendment.



3. Maximum heights are established by the Floating Zone Map Amendment or site plan(s), subject to the restriction above.

**C. Lot Size**

Minimum lot sizes are established by the Floating Zone Map Amendment or site plan(s).

**D. Coverage**

Minimum public use space must be provided as required under [Div. 4.5](#) or [Div. 6.4](#), as applicable.

**E. Setbacks**

1. Setbacks are established by the Floating Zone Map Amendment or site plan(s).
2. A building or accessory structure is prohibited from being set back closer to a property line than that required in the adjoining zone.

3. The Floating Zone Map Amendment may establish greater setbacks in order to make the necessary findings of approval under [Article 59-8](#).

**F. General Regulations**

1. Parking, recreation facilities, and landscaping must be provided under [Article 59-7](#) according to the Euclidean zone that was approved for uses under [Sec. 5.2.4](#).
2. Public use space must be provided under [Article 59-4](#) (for standard method) and [Article 59-6](#) (for optional method) according to the Euclidean zone that was approved for uses under [Sec. 5.2.4](#).
3. The Floating Zone Map Amendment may require additional parking, open space, recreation facilities, or landscaping or further restrict lighting in order to make the necessary findings of approval under [Article 59-8](#).

**G. Public Benefits**

1. Public Benefits Required
  - a. Development above 1.0 FAR in the EOFF zone requires public benefits.
  - b. Development above 0.5 FAR in the ELSF zone requires public benefits.
2. Public Benefit Points and Categories Required

Public benefit points under [Div. 6.6](#) must be provided as follows:

<u>Zone</u>	<u>Site Size</u>	<u>Public Benefit Points (min)</u>	<u>Number of Benefit Categories (min)</u>
<u>ELSF</u>	<u>&lt; 10,000 SF of gross tract area</u> <u>OR with &lt; 1.5 max FAR</u>	<u>15</u>	<u>1</u>
	<u>≥ 10,000 SF of gross tract area</u> <u>OR with ≥ 1.5 max FAR</u>	<u>30</u>	<u>2</u>
<u>EOFF</u>	<u>&lt; 10,000 SF of gross tract area</u> <u>OR with &lt; 1.5 max FAR</u>	<u>30</u>	<u>2</u>
	<u>≥ 10,000 SF of gross tract area</u> <u>OR with ≥ 1.5 max FAR</u>	<u>60</u>	<u>3</u>

3. When public benefits are required by development in the Employment Floating zones, they must be submitted as part of the site plan required for Floating Zone Map Amendments under [Article 59-8](#).



# ARTICLE 59-6. OPTIONAL METHOD REGULATIONS

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## DIV.6.6. OPTIONAL METHOD PUBLIC BENEFITS

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## Div. 6.3. Transferable Development Rights (TDR) Overlay

### Sec. 6.3.1. In General

The purpose of the TDR Overlay optional method of development is to permit an increase in the maximum density of development established in Article 59-4, provided the development conforms to the regulations for optional method development using Transferable Development Rights under this Section (Sec. 6.3.1).

#### A. Applicability

The procedures and regulations in Sec. 6.3.1. apply to the transfer of development rights from land classified in the AR zone to land classified in a Transferable Development Rights (TDR) Overlay zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TDR Overlay zone and conforming to the guidelines contained in the applicable master plan.

#### B. General Provisions

1. The development density of a property under the TDR Overlay optional method may not be increased above the maximum density permitted in the TDR Overlay zone or beyond the density or number of dwelling units recommended for such property by the applicable master plan.
2. A property developed with the transfer of development rights must conform to the requirements of Chapter 25A requiring MPDU's. The applicability of Chapter 25A and the MPDU density increase provided by Sec. 6.1.2.A must be calculated after the base density of a property has been increased by a transfer of development rights. The density increase provided by Sec. 6.1.2.A may be made without the acquisition of additional development rights.

#### C. Recording of Development Right

1. A development right must be created, transferred, and extinguished only by means of documents, including an easement and appropriate releases, in a recordable form approved by the Planning Board. The easement must limit the future construction of detached houses on a property in the AR zone to the total number of development rights established by the zoning of the property minus all development rights previously transferred under this Section (Sec.6.3.1), the number of development rights to be transferred by

the instant transaction, and the number of existing detached houses on the property.

2. The transfer of development rights must be recorded in the land records of the County.
3. Prior to recordation of a final record plat for a subdivision using transferred development rights, an easement to the Montgomery County Government limiting future construction of dwellings on a property in the AR zone by the number of development rights received must be recorded among the land records of the County.
4. A final record plat for a subdivision using transferred development rights must contain a statement including the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance as required by Sec. 6.3.1.

#### D. Density Designation

##### 1. Rural Residential and Residential Zones:

- a. Land designated in TDR Overlay zone is assigned a number, as recommended in the applicable master or sector plan, that delineates the maximum number of units per acre that may be built through the purchase of TDRs up to the following limit:

Zones	Density without TDRs (max units/acre)	TDR Density (max units/acre)
RNC	0.2	1
RE-2	0.5	4
RE-2C	0.5	2
RE-1	1.09	2
R-200	2.18	11
R-90	4.84	28
R-60	7.26	28
R-30	14.5	40
R-20	21.7	50
R-10	43.5	100

- b. TDR Overlay zones are delineated as the overlay zone symbol (TDR) followed by the TDR density designation (1 through 100, including fractions) on the zoning map, [TDR-#].

**2. Commercial/Residential and Employment Zones:**

- a. Land designated in a TDR Overlay zone must use TDRs under the optional method of development. TDRs must be purchased as recommended by the master plan or, if a recommendation is made, at least 5 public benefit points must be provided through the purchase of TDRs, under Div. 6.6.
- b. TDR Overlay zones are delineated as the overlay zone symbol (TDR) on the zoning map.

**E. Calculation of TDRs Required in the Rural Residential or Residential Zones**

Development using TDRs must include at least two-thirds of the number of development rights designated unless the Planning Board finds that for environmental or compatibility reasons a lower density is more appropriate.

- 1. In the Rural Residential and Residential zones, the following building types require a minimum percent of total units indicated, and where applicable a maximum allowed (noted in parentheses). In addition, the minimum amount of common outdoor area required is indicated:

TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)				Common Outdoor Area (min)
		Detached House	Duplex	Townhouse	Apartment/Condo	
1	Any size	100%	0%	0%	Not permitted	0%
2	Any size	100%	0%	0%	Not permitted	0%
3-5	< 800 units	30%	0%	0%	Not permitted	35%
	800+ units	30%	0%	0%	0% (20% max)	35%
6-10	< 200 units	15%	0%	0%	Not permitted	40%
	200+ units	15%	0%	0%	0% (35% max)	40%
11-15	< 200 units	0%	0%	0%	0%	50%
	200+ units	0%	0%	0%	35% (60% max)	50%

16-28	< 200 units	0%	0%	0%	0%	50%
	200+ units	0%	0%	0%	25% (60% max)	50%
> 28	Any size	0%	0%	0%	25%	50%

- a. The apartment/condo building type is permitted only where specifically recommended in the area master or sector plan for the receiving area. In any instance where the minimum percentage requirement would yield a total of 150 units or less, this requirement does not apply, and no such units are required. Whenever the minimum percentage would yield 151 units or more, the full number must be required except where the Planning Board finds otherwise, see Sec. 6.3.1.B.3.c.
- b. A duplex or townhouse building type may be substituted for all or part of the apartment/condo requirement.
- c. An apartment/condo building type is limited to a maximum building height of 40 feet. The height limit may be waived upon a finding by the Planning Board that a proposed development can achieve greater compatibility with adjacent development than would result from adherence to the standards.
- 2. Each single TDR purchased allows the construction of the following number of units up to the TDR density designation:
  - a. In a Metro Station Policy Area:
    - i. 2 detached houses;
    - ii. 2 units in a duplex building type;
    - iii. 2 units in a townhouse building type; or
    - iv. 3 units in an apartment/condo building type.
  - b. In a Non-Metro Station Policy Area:
    - i. one detached house unit;
    - ii. one unit in a duplex building type;
    - iii. one unit in a townhouse building type; or
    - iv. 2 units in an apartment/condo building type.



3. The Planning Board may waive the minimum required or maximum allowed number of units if it finds that for environmental or compatibility reasons a different mix of building types is appropriate.

3. Achieves a mutually compatible relationship between the proposed development and adjoining land uses.

**F. Development Standards**

The following table indicates the required development standards for each TDR density designation:

TDR Density Designation	Development Standards
1	<p>In a Rural Residential zone, same as for a detached house building type under standard method in the RNC zone, see Div. 4.3</p> <p>In a Residential zone, same as for a detached house building type under standard method in the RE-1 zone, see Div. 4.4</p>
2	<p>Same as for a detached house building type under standard method in the R-200, see Div. 4.4</p>
3-5	<p>May utilize the R-60 Optional Method MPDU Development standards, see Div. 6.1</p>
6 or more	<p>Determined at site plan</p>

**G. Development with Moderately Priced Dwelling Units**

1. Any property developed under this Section (Sec. 6.3.1) must conform to the requirements of Chapter 25A.
2. Any density bonus allowed under Chapter 25A is calculated after the base density of the property has been increased under this Section (Sec. 6.3.1) through acquisition of TDRs. The increase in density attributed to Optional Method MPDU Development must not exceed 22% of the TDR density.
3. Development using TDRs and providing MPDUs above 12.5% must be under Div. 6.1., MPDU Development in Rural Residential and Residential zones.

**H. Additional Findings**

In addition to the findings required under Sec. 8.3.4., site plan, for projects developed under this Division (Div. 6.3), the Planning Board must find that the proposed development:

1. Provides the appropriate range of housing types;
2. Takes advantage of existing topography and environmental features; and