

**PLANNING COMMISSION MEETING  
MUNICIPAL CENTER COUNCIL CHAMBERS  
Tuesday, December 6, 2016**

The regular meeting of the Planning Commission was scheduled and held in the Council Chambers of City Hall on December 6, 2016. Regular meetings of the Planning Commission are broadcast and recorded electronically. Minutes reflect a summary of the proceedings and actions taken.

1. Chairman Harless welcomed everyone and asked the Commission members as well as the audience to please speak into the microphone so they could be heard. Chairman Harless called the meeting to order at 6:03 p.m. requesting the roll call.
2. Ms. Pam Rush called the roll of the Commission and established a quorum.

**Commissioners Present:** Mike Harless, Hale Barclay, Dike Bacon, George Hernandez, Alderman Forrest Owens, and Mayor Mike Palazzolo

**Commissioners Absent:** Susan Burrow, Rick Bennett, and David Clark

**Staff Present:** David Harris, Cameron Ross, Sheila Pounder, Sarah Goralewski, Tim Gwaltney, and Pam Rush

Chairman Harless stated for those people who just arrived, tonight's agenda is on the front table.

Chairman Harless stated we need to have a motion to amend tonight's agenda.

Mayor Palazzolo moved to approve tonight's amended agenda, seconded by Mr. Barclay.

Chairman Harless asked for a roll call.

**Roll Call: Roll Call:** Barclay –yes; Burrow – absent; Hernandez – yes; Bacon – yes; Harless – yes; Owens – yes; Clark – absent; Bennett – absent; Palazzolo- yes. **The motion was passed**

Chairman Harless announced that the motion to amend tonight's agenda is approved and the amended agenda will reflect that we will be covering some old business at the end of the meeting.

**3. Approval of Minutes for November 1, 2016:**

Chairman Harless stated that the next order of business is the approval of the minutes for the November 1, 2016 meeting. If there are no additions, corrections or deletions to the minutes of the November 1, 2016, meeting of the Planning Commission, he would entertain a motion for approval.

Mr. Hernandez moved to approve the Planning Commission minutes of November 1, 2016, seconded by Mayor Mike Palazzolo.

Chairman Harless asked for a roll call.

**Roll Call: Roll Call:** Barclay –abstain; Burrow – absent; Hernandez – yes; Bacon – abstain; Harless – yes; Owens – yes; Clark – absent; Bennett – absent; Palazzolo- yes. **The motion was passed**

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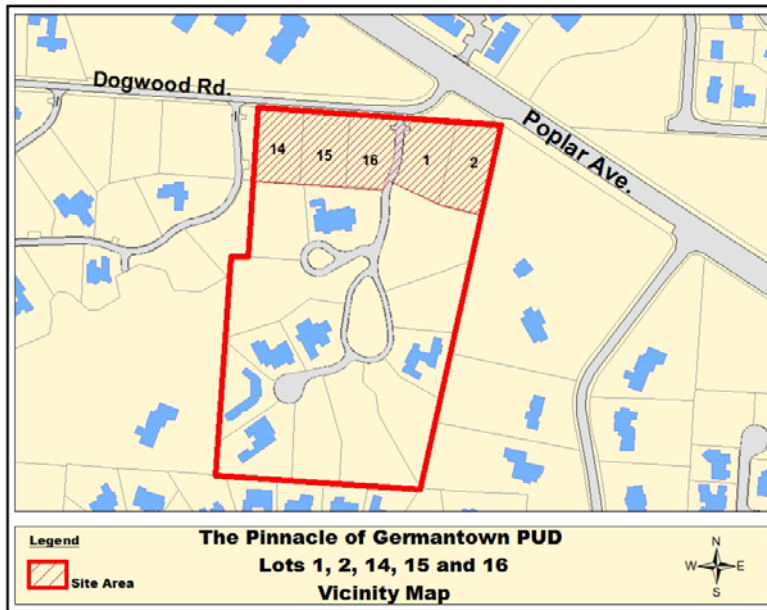
**4. a.** The Pinnacle of Germantown Planned Development Southeast side of Dogwood Road and Poplar Avenue - Request to Revise Final Plat Approval (Setback Modifications) (Case # 16-657)

Mr. Ross made a presentation of the application to the Planning Commission.

**INTRODUCTION:**

Development Case Number	16-657
Case Name:	The Pinnacle of Germantown PUD
Location:	South Side of Dogwood Rd. at Pinnacle Creek Drive
Owner Name:	B.K. Pinnacle, LLC
Applicant Name:	Gary Thompson w/Boyle Investment & Russell Kostka w/B.K. Pinnacle, LLC
Representative Name:	Russell Kostka w/B.K. Pinnacle, LLC - Agent
Zoning District:	R - Low Density Residential
Area:	18.55 Acres
Request:	Revised Final Plat Approval (Setback Modifications)

\*Refer to the Disclosure Form attached for more information



### **BACKGROUND:**

On November 1, 2005, the Planning Commission approved the final site plan and plat for an 18.44-acre, 16-lot residential subdivision, the Pinnacle of Germantown Planned Unit Development (PUD), which is located on the south side of Dogwood Road, south of Poplar Avenue and west of Carter's Grove subdivision. On December 13, 2005, the Board of Zoning Appeals approved variances from the City's Floodplain Regulations to allow the roadways to be built within the flood area and to only require the building area of each lot to be built 18" above the flood elevation. On January 24, 2006, the Design Review Commission granted approval for the Preliminary and Final Plan Approval for the Pinnacle of Germantown PUD.

### **DISCUSSION:**

As approved, the subdivision is accessed off of Dogwood Road via Pinnacle Creek Drive. The applicant is requesting to alter the approved final plat for the Pinnacle PUD, specifically the front and rear setbacks of lots 1, 2, 14, 15 and 16. Per the approved final plat, lots 1, 2, 14, 15 and 16 have a 40' front setback along Dogwood Road and a 25' rear setback on lots 1-2 and a 5' rear setback on lots 14-16 along a private ingress/egress alley. While the front setback for these lots is along Dogwood Road, the vehicular access is from an ingress/egress alley off of Pinnacle Creek Drive, the main road through the subdivision. These lots do not have access to Dogwood Road.

The applicant is requesting the setback modification to the aforementioned lots as the developers have determined that those lots are unsalable as they are presently formatted. The setback modification would allow these lots to have rear yards facing Dogwood Road. While the front of these lots would be along the ingress/egress alley, the developer is proposing that future houses on these lots have rear elevations that resemble front façades along Dogwood Road. (Please see the applicant's letter included with this report for details of his request.)

If the setback modification is granted by the Planning Commission, the applicant shall apply to the Design Review Commission (DRC) to locate a fence in the rear yards of lots 14, 15 and 16 along Dogwood Road.

The Technical Advisory Committee (TAC) met on November 17, 2016 to review the plans. The Planning Commission Sub-Committee completed a preliminary review of the application on November 22, 2016, and advised the applicant to work with the Fire Marshal to resolve issues related to the fire code and access to the site. On Thursday, December 1, 2016, the applicant met with the Fire Department. (Please see attached letter from the Fire Department.)

**STAFF COMMENTS:**

**A. PRIOR TO REVISED FINAL PLAN APPROVAL**

1. Provide elevation drawings which show the houses as still having a front door/façade appearance when seen from Dogwood Rd.
2. All residences shall be protected by a NFPA 13 D sprinkler system per the recorded plat.
3. The developer shall address all conditions outlined by the Fire Department, as detailed in the attached letter. The Fire Department's conditions shall be recorded on the revised final plat.
4. The ingress/egress alley must be named and 911 listed.
5. The addresses of all the lots along Dogwood must to be changed to reflect the name of the ingress/egress alley.
6. Applicant to submit a proposal to the Design Review Committee for the fence in proposed on lots 14, 15, and 16 along Dogwood Road.

**STAFF RECOMMENDATION:** Approval subject to revising the final plat to address the comments listed above.

**PROPOSED MOTION:** To approve the Revised Final Plat Approval (Setback Modifications) for Lots 1, 2, 14, 15 and 16 of the Pinnacle of Germantown PUD, subject to the Commission's discussion, staff comments, plans filed with the application and the recommendation of the Fire Department.

**Board Discussion:**

Mr. Hernandez asked what direction Lots 16 and 1 would be facing.

Mr. Ross answered Lot 16 will be facing east and Lot 1 will be facing west, but their front will be on Pinnacle Creek Drive.

Mr. Bacon asked is there a portion of the driveway that's no parking. If a truck needs to be able to pull in the driveway at all times, you wouldn't want a guest car parked there.

Mr. Ross answered I did have to step out of the meeting for a moment while the fire department, and the developer came to this comprise. They did discuss making sure that the load quality of the concrete would

be enough to support at least the front portion of the truck. In terms, of not parking a vehicle in the first 10 or 15 feet as it's close to the drive. I'm not sure if that was part of the discussion.

Jeff Beaman, Assistant Fire Chief stated a collaborative effort between the developers and the fire department produced the following possible solutions:

1. Widen the eastern leg of the Drive which runs along the southern border of Lots # 1 & 2 from 18 feet to 20 feet. The extended width would be approximately 2 feet and would be a washed pea gravel concrete similar to the concrete borders in place in other part of the Pinnacle. The widened portion would begin where the road surface narrows to 18 feet at the corner of Pinnacle Creek Drive and the Eastern Leg of the Drive. The extended portion would run along the North side of the Drive and would terminate at the northwestern corner of the existing Hammer Head at the east end. The developer will provide a diagram for the Planning Commission showing the point of origin and the point of termination.
2. Signage will be added by the Developer on both the Eastern and Western leg of the Drive which indicates Parking Is Not Allowed on Any Portion of the Drive.
3. The Owners of Lots # 14 and 15 agree to provide additional concrete surface area adjacent to the Drive which will help with the Fire Department's large truck and its outriggers. Several options were discussed with Assistant Chief Jeff Beaman which would work for us. The Developer agrees to work with the Fire Department on these two lots and work within the Concepts we discussed with Assistant Chief Beaman.
4. We agree to direct the Pinnacle Home Owner's Association to keep the Tree Limb Canopy on trees overhanging the Drive to a minimum height of 13' 6".

The fire department agrees the proposed changes will improve the existing access drive; thereby, improving our ability to provide fire protection and emergency medical services for these homes. This should result in an improvement over the previously approved plan.

Mr. Ross stated he would like to correct something that he said first and point to Chief Selberg letter, its part of your packet, specifically item three regarding collaborative effort between the Developers and the Fire Department. The modification to the drive and driveway are only for Lots 14 and 15. It does not include Lot 16 as part of that.

Mr. Bacon asked does it contemplate that the builder expands the driveway at that time. It is not reflected on the documents.

Mr. Ross stated there would be a note on the plat, as part of the revised plat that you are voting on tonight. So it would be the responsible of the developer or the builder.

Russell Kostka with B.K. Pinnacle, LLC, 5583 Murray Avenue, Suite 100, Memphis, TN 38119, stated I'm here with Gary Thompson, Vice President of Boyle Investment Company who is my partner in the development of the Pinnacle. Mr. Thompson and I would like to thank the Planning staff for working through a difficult issue with us, and getting us on the agenda. Also, thanks to Chief Selberg and his staff for bending over backward to meet with us. They met us at the site and listen to the issues we had, and we are thankful for that. In terms of your question, about the pads there on the service drive, when it goes on the plat, we can make it a deed restriction as well, for whoever takes the title to one of the lot. I have Lot 14 and plan to do a market house within the next few months. I will work with the fire department, because we agreed to do that, and we will try to satisfy them. They have given us the truck dimension for the outriggers and we will respect those as we design whatever we do in front of the driveway. Whoever

takes the title for Lots 14 and 15 will bear that responsible from the mandate on the plat. We started ten years ago with this development. We hope to make the Pinnacle the finest development in Germantown. We are here and will answer any questions you may have tonight.

**Support:**

None

**Opposition:**

None

Mr. Bacon moved to approve the Revised Final Plat Approval (Setback Modifications) for Lots 1, 2, 14, 15 and 16 of the Pinnacle of Germantown PUD, subject to the Commission's discussion, staff comments, plans filed with the application, and the recommendation of the Fire Department, seconded by Mr. Hernandez.

Chairman Harless asked for a roll call.

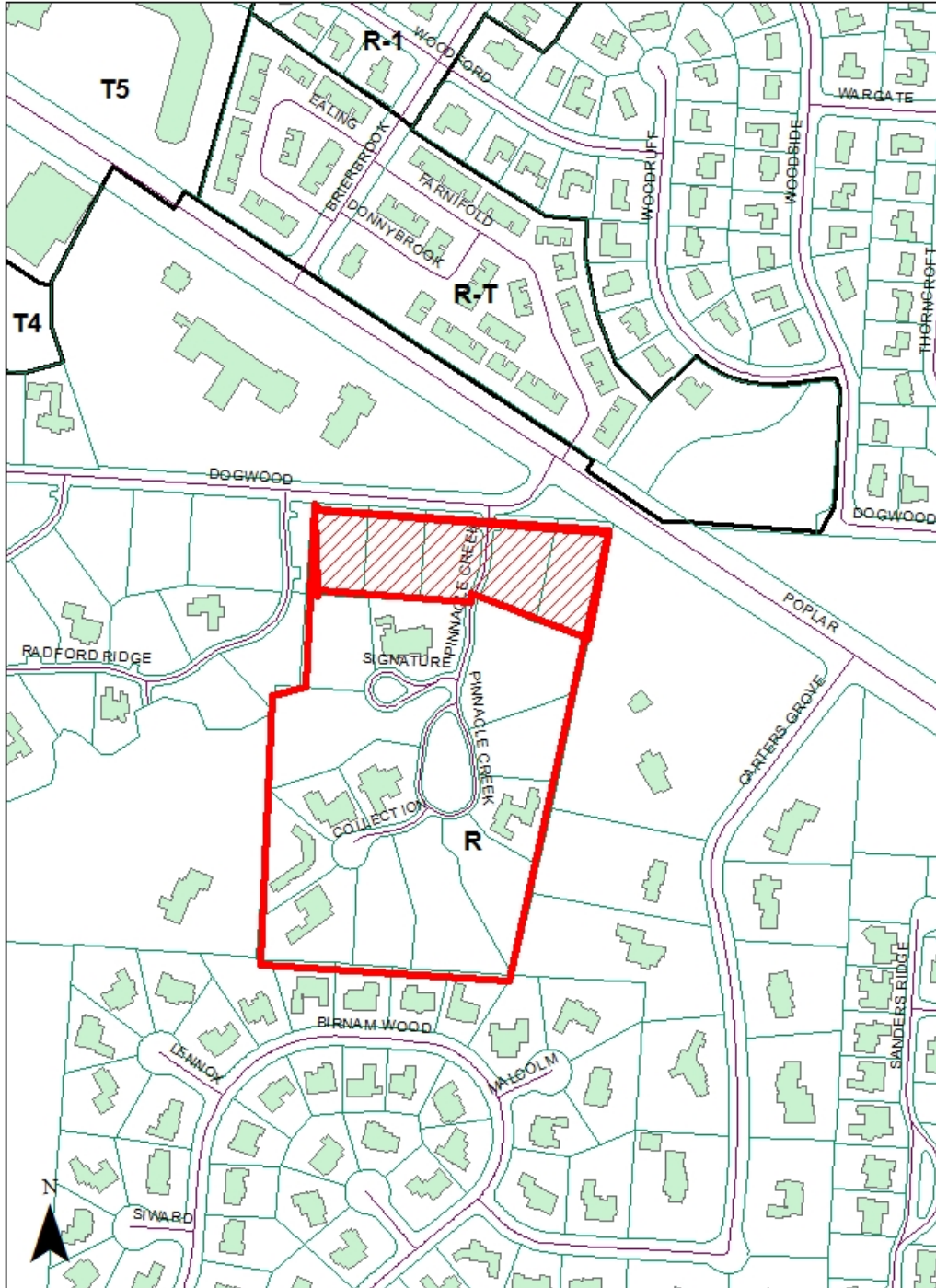
**Roll Call:** Barclay –yes; Burrow – absent; Hernandez – yes; Bacon – yes; Harless – yes; Owens – yes; Clark – absent; Bennett – absent; Palazzolo- yes. **The motion was passed**

Mr. Bacon voted yes; I would like to applaud the Fire Department leadership and the applicant for working together for obviously a creative solution. I know this has been a challenging situation with the lots fronting on Poplar Avenue and the modified Dogwood Road.

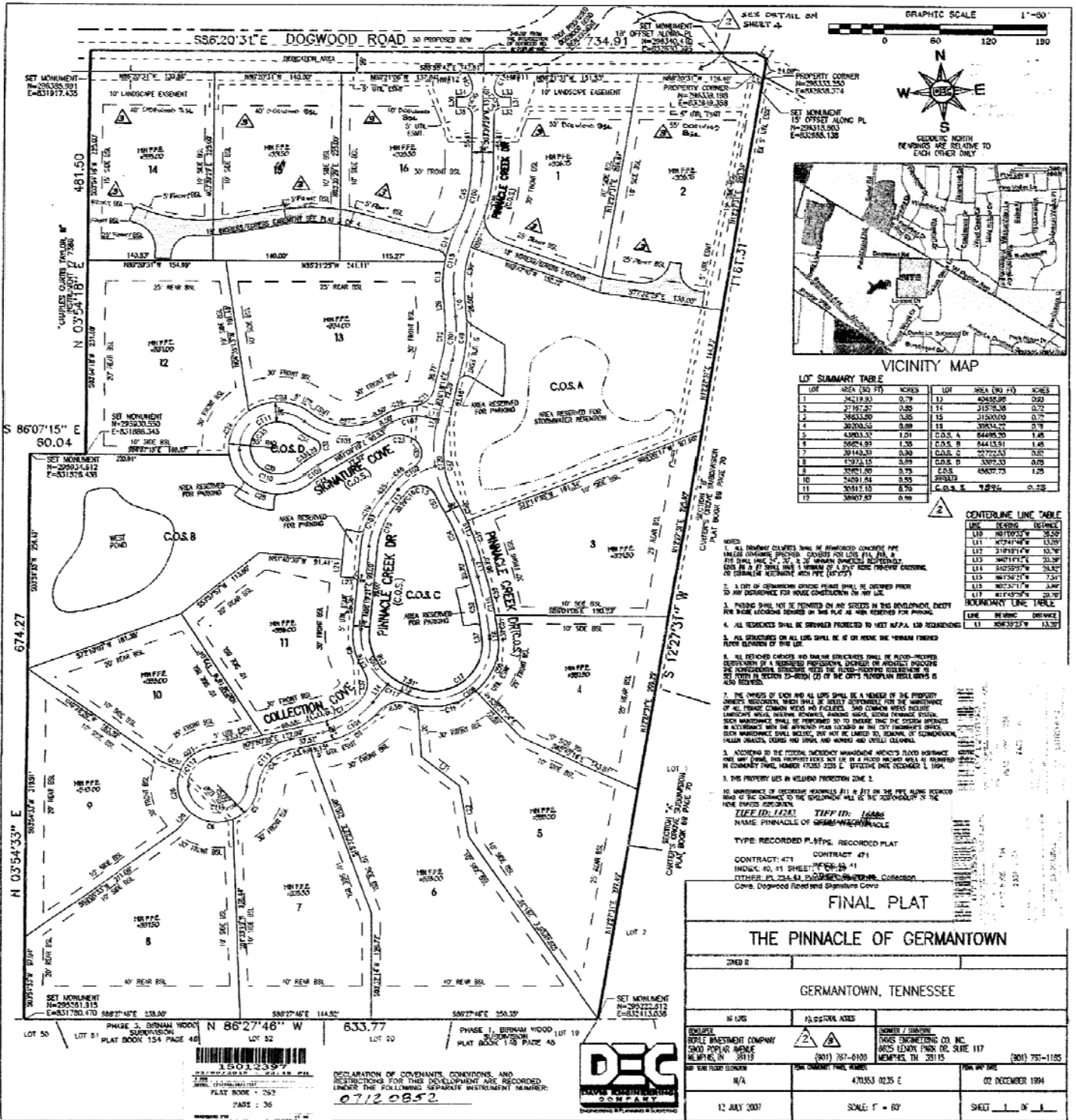
Mr. Barclay voted yes; I echo Mr. Bacon comments with the Fire Department and the applicant it was a great compromise, so hats off to you for coming up with that.

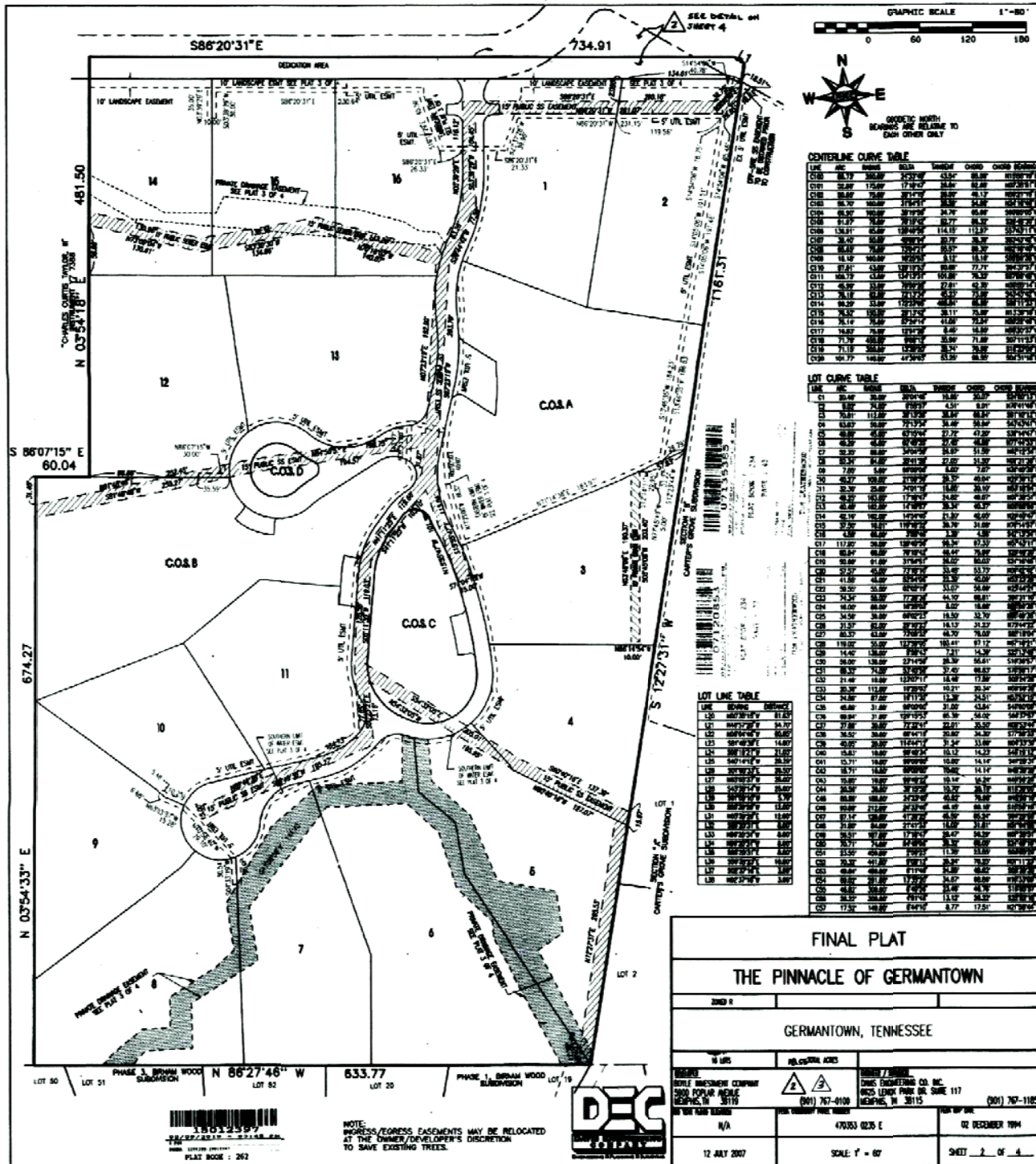
Chairman Harless voted yes; not only do we applaud the Fire Department, but certainly the developers for being flexible, because you were having to make some changes to what you wanted. We appreciate that, and of course staff being able to get both parties together, and making this happen. This is the way it's supposed to work and hats off to everyone.

Mayor Mike Palazzolo voted yes; I echo all the commissioners' comments. I just want to add that the word compromise was used, but I want to make sure for the record, no compromises were made with public safety. It was greatly appreciated from the developer and from the Fire Department. We wanted to make sure the residents were protected, and the Firemen, fire equipment, and the structures.



**ZONING MAP**





**CENTERLINE CURVE TABLE**

LINE NO.	PC	PT	PI	PT	PC	CHORD BEARING
C08	86.77	86.89	24222.0	83.07	86.89	86°02'41"
C09	86.89	86.97	17222.0	84.97	86.97	86°02'41"
C10	86.97	87.05	17222.0	86.97	87.05	86°02'41"
C11	87.05	87.13	17222.0	88.97	87.13	86°02'41"
C12	87.13	87.21	17222.0	90.97	87.21	86°02'41"
C13	87.21	87.29	17222.0	92.97	87.29	86°02'41"
C14	87.29	87.37	17222.0	94.97	87.37	86°02'41"
C15	87.37	87.45	17222.0	96.97	87.45	86°02'41"
C16	87.45	87.53	17222.0	98.97	87.53	86°02'41"
C17	87.53	87.61	17222.0	100.97	87.61	86°02'41"
C18	87.61	87.69	17222.0	102.97	87.69	86°02'41"
C19	87.69	87.77	17222.0	104.97	87.77	86°02'41"
C20	87.77	87.85	17222.0	106.97	87.85	86°02'41"

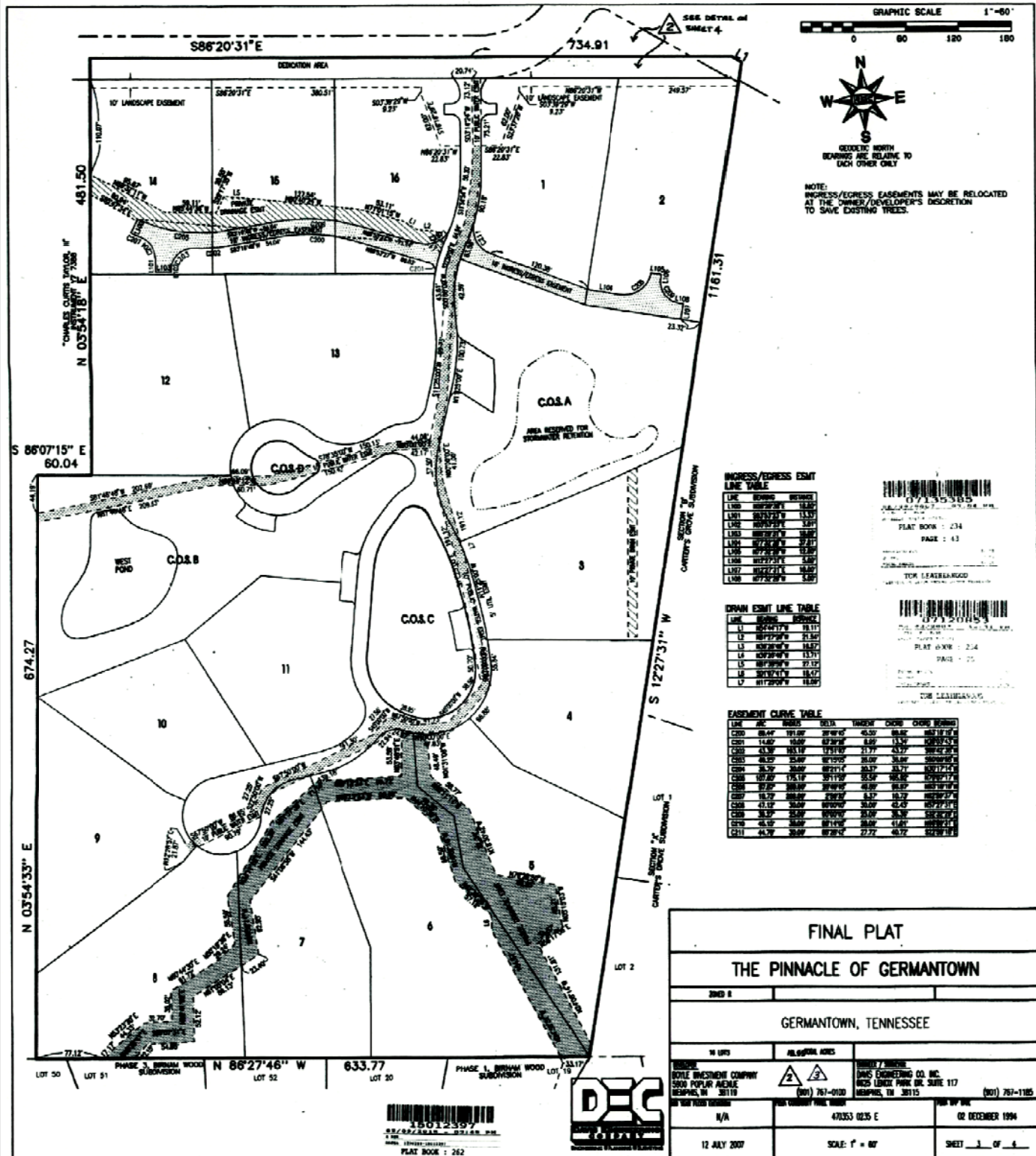
**LOT LINE TABLE**

LINE NO.	BEARING	DISTANCE
L01	S 86°02'41" E	16.00
L02	S 86°02'41" E	16.00
L03	S 86°02'41" E	16.00
L04	S 86°02'41" E	16.00
L05	S 86°02'41" E	16.00
L06	S 86°02'41" E	16.00
L07	S 86°02'41" E	16.00
L08	S 86°02'41" E	16.00
L09	S 86°02'41" E	16.00
L10	S 86°02'41" E	16.00
L11	S 86°02'41" E	16.00
L12	S 86°02'41" E	16.00

NOTE:  
 EGRESS/EGRESS EASEMENTS MAY BE RELOCATED  
 AT THE OWNER/DEVELOPER'S DISCRETION  
 TO SAVE EXISTING TREES.







**FINAL PLAT**

**THE PINNACLE OF GERMANTOWN**

ZONED R

GERMANTOWN, TENNESSEE

16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC
16 AC	48.30 AC	7.00 AC

12 JULY 2007

SCALE: 1" = 80'

SHEET 1 OF 4

15012397  
 PLAT BOOK : 262  
 PAGE : 36  
 TOM LEATHERWOOD



NOTE: INGRESS/EGRESS EASEMENTS MAY BE RELOCATED AT THE OWNER/DEVELOPER'S DISCRETION TO SAVE EXISTING TREES.

15012397  
 PLAT BOOK : 234  
 PAGE : 43

15012397  
 PLAT BOOK : 234  
 PAGE : 25

**OWNER'S CERTIFICATE**

I (WE), B.K. PINNACLE, LLC THE UNDERSIGNED OWNER(S) OF THE PROPERTY SHOWN, HEREBY ADOPT THIS PLAT AS MY (OUR) PLAN OF DEVELOPMENT AND DEDICATE THE STREETS, RIGHTS-OF-WAY, AND GRANT EASEMENTS AS SHOWN AND/OR DESCRIBED TO THE PUBLIC USE FOREVER. I (WE) AM (ARE) THE OWNER(S) OF THE SAID PROPERTY IN FEE SIMPLE, FULLY AUTHORIZED TO ACT, AND THAT SAID PROPERTY IS NOT ENCUMBERED BY TAXES OR MORTGAGES WHICH HAVE BECOME DUE AND PAYABLE.

SIGNATURE: [Signature] TITLE: VICE-PRESIDENT

**PLANNING COMMISSION CERTIFICATE**

I, DO HEREBY CERTIFY THAT THE CITY OF GERMANTOWN PLANNING COMMISSION HAS APPROVED THIS PLAT OF SUBDIVISION FOR RECORDING.

DATE: 7-30-09 SECRETARY, PLANNING COMMISSION  
[Signature]  
 CITY OF GERMANTOWN

**APPROVED BY THE CITY OF GERMANTOWN**

BY: [Signature] DATE: 07-31-07  
 MAYOR

**NOTARY'S CERTIFICATE**

STATE OF TENNESSEE  
 COUNTY OF SHELBY

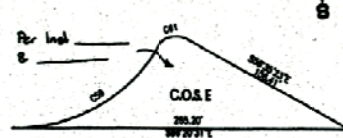
BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE SAID STATE AND COUNTY AFORESAID, DULY COMMISSIONED AND QUALIFIED, PERSONALLY APPEARED [Signature] WITH WHOM I AM PERSONALLY ACQUAINTED AND WHO, UPON OATH, ACKNOWLEDGE HIMSELF (HERSELF) TO BE THE [Signature] OF THE [Signature] WITHIN NAMED BARGAINER, AND THAT HE (SHE) EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL AT MY OFFICE IN MEMPHIS, TENNESSEE, THIS 30th DAY OF July, 2009.

NOTARY PUBLIC  
 MY COMMISSION EXPIRES



NUMBER	OWNER	AC. (TOWN)	COMMON SECTION	CHANG	DETA AREA
14	141.34	04.4	1	11.17	11.17
15	141.34	04.4	2	11.17	11.17
16	141.34	04.4	3	11.17	11.17
1	141.34	04.4	4	11.17	11.17
2	141.34	04.4	5	11.17	11.17

LINE	BEARING	DISTANCE	BEARING	DISTANCE
1	S 89°21' E	100.00	N 00°00' E	100.00
2	S 89°21' E	100.00	N 00°00' E	100.00
3	S 89°21' E	100.00	N 00°00' E	100.00
4	S 89°21' E	100.00	N 00°00' E	100.00
5	S 89°21' E	100.00	N 00°00' E	100.00
6	S 89°21' E	100.00	N 00°00' E	100.00
7	S 89°21' E	100.00	N 00°00' E	100.00
8	S 89°21' E	100.00	N 00°00' E	100.00
9	S 89°21' E	100.00	N 00°00' E	100.00
10	S 89°21' E	100.00	N 00°00' E	100.00



**CERTIFICATE OF SURVEY**

IT IS HEREBY CERTIFIED THAT THIS IS A CATEGORY 1 SURVEY AND THAT THE RATIO OF PRECISION OF THE UNADJUSTED TRIANGULAR OR GREATER, THAT THIS PLAT HAS BEEN PREPARED BY ME OR UNDER MY INDIVIDUAL SUPERVISION AND CONFORMS WITH APPLICABLE STATE LAWS AND LOCAL ZONING ORDINANCES, SUBDIVISION REGULATIONS AND THE SPECIFIC CONDITIONS IMPOSED ON THIS DEVELOPMENT RELATING TO THE PRACTICE OF SURVEYING.

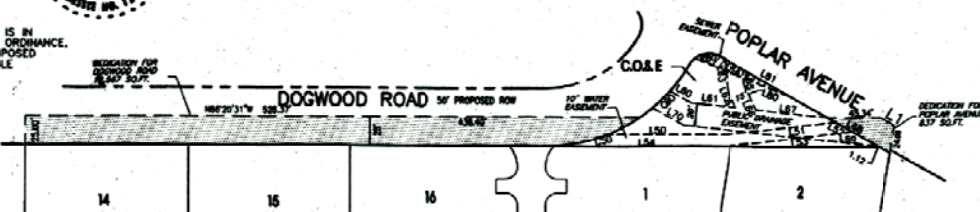
BY: Bryan L. Harris, Jr.  
 TENNESSEE CERTIFICATE NO. 1303



**ENGINEER'S CERTIFICATE**

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT, IS IN CONFORMANCE WITH THE REQUIREMENTS OF THE ZONING ORDINANCE, THE SUBDIVISION REGULATIONS AND THE SPECIFIC CONDITIONS IMPOSED ON THIS DEVELOPMENT RELATING TO THE PRACTICE OF SURVEYING, FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

BY: [Signature]  
 TENNESSEE CERTIFICATE NO. 1303



- This plat being re-re-recorded to modify the following:
  - To reflect the realignment and corrected dedication for Dogwood Road ROW.
  - To establish Common Open Space (COS) Lot E and the public easements contained within it.
  - To modify the overall project acreage.

Approved by the City of Germantown  
[Signature]  
 DATE: 02-05-2016

- This plat being re-re-recorded to modify BSL for Lots 1, 2, 14-15

Approved by the City of Germantown  
[Signature]  
 DATE: 02-05-2016

**MORTGAGEE'S CERTIFICATE**

I (WE), BOYLE INVESTMENT COMPANY THE UNDERSIGNED MORTGAGEE(S) OF THE PROPERTY SHOWN, HEREBY CONSENT AND AGREE TO THE PLAN OF DEVELOPMENT AS SUBMITTED BY BOYLE INVESTMENT COMPANY OWNER(S) OF THE PROPERTY.

INSTITUTION/TITLE: Chad H. Usher, Treasurer

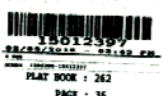
**NOTARY'S CERTIFICATE**

STATE OF TENNESSEE  
 COUNTY OF SHELBY

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE SAID STATE AND COUNTY AFORESAID, DULY COMMISSIONED AND QUALIFIED, PERSONALLY APPEARED [Signature] WITH WHOM I AM PERSONALLY ACQUAINTED AND WHO, UPON OATH, ACKNOWLEDGE HIMSELF (HERSELF) TO BE THE [Signature] OF THE [Signature] WITHIN NAMED BARGAINER, AND THAT HE (SHE) EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL AT MY OFFICE IN MEMPHIS, THIS 3rd DAY OF February, 2016.

NOTARY PUBLIC  
 MY COMMISSION EXPIRES

REVISED OWNER'S CERTIFICATE FROM "BOYLE INVESTMENT COMPANY" TO "B.K. PINNACLE, LLC"



<b>FINAL PLAT</b>		
<b>THE PINNACLE OF GERMANTOWN</b>		
SHEET 1		
GERMANTOWN, TENNESSEE		
14 LOTS	146.95 TOTAL ACRES	SUBJECT / NUMBER
BOYLE INVESTMENT COMPANY 1800 POPLAR AVENUE MEMPHIS, TN 38119	(801) 767-2100	LEWIS ENGINEERING CO. INC. 5350 POPLAR AVE. SUITE 317 MEMPHIS, TN 38119
NO NEW PLAT SUBMITTED	PLAT NUMBER AND SHEET	DATE OF PLAT
N/A	146.9533 0235 E	02 DECEMBER 1994
14 AUGUST 2006	SCALE: 1" = 80'	SHEET 1 OF 4

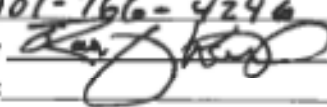



# CITY OF GERMANTOWN TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815  
 Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

DATE RECEIVED: 11/8/2016  
 RECEIVED BY: Goralewski

## PLANNING COMMISSION OFFICIAL APPLICATION FORM

TYPE OF APPLICATION	
<b>(Check <input checked="" type="checkbox"/> all that apply):</b>	
<input type="checkbox"/> Sketch Plan;	<input type="checkbox"/> Preliminary Site Plan; <input type="checkbox"/> Final Site Plan
<input type="checkbox"/> Minor Subdivision;	<input type="checkbox"/> Preliminary Plat; <input checked="" type="checkbox"/> Final Plat
<input type="checkbox"/> Grading/Tree Removal;	<input type="checkbox"/> WTF (Wireless Transmission Facility)
<input type="checkbox"/> Rezoning From: _____	To: _____
<input type="checkbox"/> Other: _____	
IS THIS SITE WITHIN A SMART CODE AREA: (Circle One) YES <input type="radio"/> NO <input checked="" type="radio"/> (Please note - if yes, than follow Smart Code Application Instructions to complete this form for submittal)	
<b>PLANNED USE DEVELOPMENT'S (PUD) ONLY:</b>	
<input type="checkbox"/> PUD Outline Plan (Master Plan);	<input checked="" type="checkbox"/> PUD Amendment to Outline Plan;
<input type="checkbox"/> PUD Preliminary Plan (individual phases);	<input type="checkbox"/> Final Plan (individual phases);
Phase: <u>1</u> of <u>1</u> Date of PUD Outline Plan (Master Plan) Approval: <u>NOV. 2005</u> Other: _____	
PROJECT INFORMATION (Provide Additional Pages as Needed)	
Project Name: <u>THE PINNACLE OF GERMANTOWN</u>	
Address/Location: _____	
Project Description: <u>16 LOT RESIDENTIAL</u>	
No. of Acres: <u>18.44</u> Parcel Identification Number(s): _____	
PLEASE ATTACH A LETTER EXPLAINING THE PROJECT, IN DETAIL, AND LISTING ALL VARIANCES REQUESTED FROM THE SUBDIVISION AND ZONING REGULATIONS.	
OWNER/LESSEE/DEVELOPER INFORMATION	
Owner Name (Print): <u>B.K. PINNACLE, LLC</u>	Address: <u>5900 Poplar Ave.</u>
Phone No.: <u>901-766-4246</u>	Email Address: <u>GARYT@BOYLE.COM</u>
Signature of Owner: 	
Lessee Name (Print): _____	Address: _____
Phone No.: _____	Email Address: _____
Signature of Lessee: _____	
Developer Name (Print): <u>Boyle Investment Co.</u>	Address: <u>5900 Poplar Ave</u>
Phone No.: <u>901-766-4246</u>	Email Address: <u>GARYT@BOYLE.COM</u>
Signature of Developer: 	
PLEASE ATTACH A COPY OF THE DEED REFLECTING OWNERSHIP OF THE SUBJECT REAL PROPERTY	

Planning Commission – Official Application Form  
Page 2

AGENT/REPRESENTATIVE INFORMATION	
Name: _____	Title: _____
Company Name: <u>N/A</u>	Address: _____
Phone No.: _____	Email Address: _____
Who will represent this proposal at the Planning Commission meeting? _____	

ENGINEER/SURVEYOR INFORMATION	
Engineer Name: _____	Address: _____
Phone No. <u>N/A</u>	Email Address: _____
Surveyor Name: _____	Address: _____
Phone No.: _____	Email Address: _____

**DISCLOSURE OF OWNERSHIP INTERESTS**

In order to assist staff and appointed and elected officials of the City of Germantown in complying with Ordinances of the City relating to conflicts of interest, the following information is required to be furnished:

- For Profit Entities.** If the Applicant (including all owners, lessees and developers) submitting this Application ("Applicant") is a for-profit entity, i.e. sole proprietor, general partnership, limited partnership, corporation, limited liability company, R.E.L.T., a trust, or any other form of for-profit business entity, the authorized representative of the Applicant must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Applicant. (If another business entity owns 10% or more of the ownership interests in the Applicant, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Applicant, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Applicant: \_\_\_\_\_  
Address: \_\_\_\_\_

Owner: B.K. PINNACLE, LLC  
Address: 5900 Poplar Ave.

Lessee: \_\_\_\_\_  
Address: \_\_\_\_\_

Developer: BOYLE INVESTMENT CO.  
Address: 5900 Poplar Ave.

Persons or Entities Owning 10% or More of the Ownership Interests of the Applicant:

Name	Business or Home Address
<u>BOYLE INVESTMENT CO.</u>	<u>5900 Poplar Ave. (2/3 Interest)</u>
<u>RUSSELL KOSTKA</u>	<u>5583 MURRAY AVE, STE. 100</u>
_____	<u>Memphis, TN. 38119 (1/3 Interest)</u>
_____	_____



November 8, 2016

Germantown Staff and Planning Commission Members  
City of Germantown Development Department  
1920 Germantown Road  
Germantown, TN 38138

RE: The Pinnacle- Planning Commission Submittal Revision of Final Plat

Dear Staff and Commissioners:

We are making a request to alter the final plat of the Pinnacle PUD as approved by the city of Germantown in November of 2005. We are requesting that the, "Front building set back line" (labeled 40'. Front BSL on lots 14, 15, 16 and 55'. Front BSL on lots 1 & 2 would be altered to read, "Dogwood BSL". This adjustment is necessary as the homes to be built on the above mentioned lots will now face either the service drive at the South end of each lot or in the case of lots 16 & 1; Pinnacle Creek Drive.

The Developers of the Pinnacle have determined that the specified lots are unsalable as they are presently formatted. It has become very clear to us that no individual will make an investment of over a million dollars in a home that faces Dogwood Road, but doesn't have any Dogwood access. When the original application was made for final plat approval that application reflected Dogwood Road access for lots 14, 15, 1 & 2. Germantown denied access to Dogwood Road. The Pinnacle lots adjacent to Dogwood Road essentially became, "lame ducks".

The Final Plat currently reflects a front setback along Dogwood Road, which would indicate that the homes built on these lots, would face Dogwood Road. However, as previously stated these lots don't have any access to Dogwood Road. This condition has also created a hardship for the owner and developer of this line of lots. The lots have been on the market for over 10 years and to date, not one has sold.



Additionally, during that 10 year time frame economic conditions in the National and Local real estate markets have deteriorated, which has put even more scrutiny on lots being offered in what is now a vastly different market environment. The last 10 years are a clear indication that these lots as they are presently formatted will never sell. Consequently we are making this request as outlined here with.

Upon the direction and suggestion of The Planning Department Staff, Russell Kostka, who is Boyle's partner in the Pinnacle development met with me Mr. and Mrs. Richard Glassman, who are prominent members and leaders of the Homeowners Associations along the Old Dogwood Road Corridor. This meeting took place on Saturday, November 5, 2015. Russell Kostka made a full disclosure of our intent to alter the plat and as well presented in detail a request we will be making to the Germantown Design and Review Commission, which indicated a request to change the Rail Fence along Dogwood Road to a Solid Wood Fence. We have attached a copy of that fence to this document. The solid wood fence would run along Dogwood Road from the Northwest corner of the property to the Pinnacle Entrance Structure. The change would include stone columns at the North property corners of lots 14, 15, & 16. This fence would permit the homes built on these lots with Dogwood frontage to face South and access from the Service Drive. Lots 16 & 1 would face and access from Pine Creek Drive. The solid wood fence would provide both privacy and security for the rear yards of homes to be built upon these lots. The Glassman's fully understood the basis of our request. They sent emails to the surrounding Homeowners Associations giving them a summary of our discussion. Richard Glassman sent an email a day after with comments. Their considerations revolved around adding additional landscape screening along the Dogwood side of the proposed fence and the alignment of the fence itself.

We are considering their concerns and will get back with them prior to The Design Review Committee hearing. The Developers feel they will be able to work with the neighborhood's concerns and craft a solution which respects their considerations and is acceptable to both parties.

In closing, we are confident that the request we are making to The Plannings Commission reflects and promotes value for Germantown, The Pinnacle PUD, and as well as the neighborhoods along Dogwood Road. It is our opinions that The Pinnacle Development stands today as the finest residential development in Germantown today. What we are asking of the Planning Commission is consistent and in keeping up with the high standards already in place in The Pinnacle.

Thank you for your consideration.

Gary Thompson

Boyle Investment Company

A handwritten signature in black ink, appearing to be 'Gary Thompson', written over the printed name.

Russell Kostka

B.K. Pinnacle, LLC.

A handwritten signature in black ink, appearing to be 'Russell Kostka', written over the printed name.





December 2, 2016

Cameron Ross  
Director of Economic &  
Community Development  
Pinnacle P.U.D.

The applicants met with the Fire Chief, Assistant Fire Chief, and Fire Marshal Thursday to discuss and review proposed changes to the Pinnacle Development. The concerns for the fire department include the width of the existing fire apparatus access road, roadway dead ends in excess of 150 feet without the capability of turning the apparatus around to exit, and access for aerial operations. Discussions of possible solutions included using Dogwood Road as a point of access for fire attack. It was determined by the fire department that access from Dogwood Road would be difficult for firefighting operations. The access drive, for the homes that will be built on lots 1, 2, 14, 15, and 16, is south of the development and is positioned east and west of Pinnacle Creek Drive. The roadway is 18 feet wide with insufficient turning radius at the east and west termination of the drive.

A collaborative effort between the developers and the fire department produced the following possible solutions:

- 1. Widen the eastern leg of the Drive which runs along the southern border of Lots # 1 & 2 from 18 feet to 20 feet. The extended width would be approximately 2 feet and would be a washed pea gravel concrete similar to the concrete borders in place in other part of the Pinnacle. The widened portion would begin where the road surface narrows to 18 feet at the corner of Pinnacle Creek Drive and the Eastern Leg of the Drive. The extended portion would run along the North side of the Drive and would terminate at the northwestern corner of the existing Hammer Head at the east end. The developer will provide a diagram for the Planning Commission showing the point of origin and the point of termination.*
- 2. Signage will be added by the Developer on both the Eastern and Western leg of the Drive which indicates Parking Is Not Allowed On Any Portion Of the Drive.*
- 3. The Owners of Lots # 14 and 15 agree to provide additional concrete surface area adjacent to the Drive which will help with the Fire Department's large truck and its outriggers. Several options were discussed with Assistant Chief Jeff Beaman which would work for us. The Developer agrees to work with the Fire Department on these two lots and work within the Concepts we discussed with Assistant Chief Beaman.*
- 4. We agree to direct the Pinnacle Home Owner's Association to keep the Tree Limb Canopy on trees overhanging the Drive to a minimum height of 13' 6".*

The fire department agrees the proposed changes will improve the existing access drive; thereby, improving our ability to provide fire protection and emergency medical services for these homes. This should result in an improvement over the previously approved plan.

Chairman Harless stated that we have old business to come before the Commission as shown on the amended agenda. He called for item 5.a.

**5. a. Approval of Minutes for October 4, 2016:**

Approval of the October 4, 2016 Minutes to include the entire language of the Zoning Code amendments in the minutes.

**INTRODUCTION:**

Development Case Number	16-644
Case Name:	2016 Zoning and Subdivision Amendments
Applicant Name:	City of Germantown

**DISCUSSION:** On October 4, 2016, the Planning Commission approved a set of amendments to Chapter 23, Zoning, and Chapter 17, Subdivisions, of the Code of Ordinances, subject to the Board's discussion and staff comments. The minutes of the October 4, 2016 meeting were approved on November 1, 2016, but did not include the full text of the amendments to the Zoning and Subdivision Regulations. This request seeks approval of amended minutes for the October 4, 2016 meeting that includes the entire language of the Zoning Code amendments.

**PROPOSED MOTION:** Approval of the October 4, 2016 Minutes to include the entire language of the Zoning Code amendments in the minutes.

Chairman Harless stated that the approval of the minutes for the October 4, 2016 meeting is to include the entire language of the Zoning Code amendments in the minutes. If there are no additions, corrections or deletions to the minutes of the October 4, 2016, meeting of the Planning Commission, he would entertain a motion for approval.

Mayor Mike Palazzolo moved to approve the amendment Planning Commission minutes of October 4, 2016, seconded by Mr. Bacon.

Chairman Harless asked for a roll call.

**Roll Call:**      **Roll Call:**      Barclay –abstain; Burrow – absent; Hernandez – yes; Bacon – yes; Harless – yes; Owens – abstain; Clark – absent; Bennett – absent; Palazzolo- yes. **The motion was passed**

Chairman Harless asked if there was any new business to come before the Commission. There were none.

Chairman Harless asked if there were any liaison reports. There were none.

Chairman Harless noted since this is our December meeting; I would like to wish everybody a very happy holiday season and a safe one.

**ADJOURNMENT:** The meeting adjourned at 6:25 p.m.

- (1) At the time an annexation is proposed by the annexation committee and submitted to the board of mayor and aldermen for consideration, the proposed annexation shall be submitted to the planning commission for a zoning recommendation.
- (2) Prior to or within 30 days of the final adoption of the annexation ordinance by the board of mayor and aldermen, the planning commission shall submit a recommendation to the board for zoning of the annexed area.
- (3) Within 45 days of receipt of the zoning recommendation from the planning commission, the board of mayor and aldermen shall, by separate ordinance, zone such annexed territory consistent with the public health, safety, convenience and welfare of the inhabitants of the city.

(Code 1986, § 25-4)

Sec. 23-5. - Establishment of districts.

In order to regulate and restrict the location and use of buildings and land for commerce, residence and other purposes, and to regulate and restrict the height of buildings and size of yards and open spaces and the density of habitation the city is hereby divided into districts of which there shall be 21 in number known as:

Agricultural district (AG)

~~Residential estate district (R-E-10)~~

Residential estate district (R-E)

Residential estate district (R-E-1)

Residential district (R-1 medium density)

Residential district (R-2 medium density)

Residential district (R low density)

Residential district (R-3 two-family density)

Residential district (R-T multifamily)

Residential district (R-H retirement housing)

Neighborhood commercial district (C-1)

General commercial district (C-2)

Shopping center district (SC-1)

Office district (O)

Office district (O-51)

Office district (O-C office campus)

~~Office district (O-T office technology)~~

Old Germantown district (OG)

Old Germantown district (OG-1)

Smart growth suburban (T-3)

Smart growth general urban (T-4)

Smart growth urban center (T-5)

Smart Growth urban core (T-6)

Smart Growth restricted (T-4R and T-5R)

In addition, the following overlay districts shall further regulate and restrict the location and use of buildings and land for commerce, residence and other purposes, and to regulate and restrict the height of buildings and size of yards and open spaces and the density of habitation the city:

Planned-unit ~~d~~Development (PUD)

Flood district (F and FW)

(Code 1986, § 25-5; Ord. No. 2008-7, 8-25-08)

Sec. 23-6. - Conflict of chapter provisions with other ordinances.

In case of conflict between separate provisions of this chapter or between this chapter and the whole or part of any existing or future ordinance of the city, the most restrictive shall apply.

(Code 1986, § 25-6)

Secs. 23-7—23-25. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

--- (2) ---

Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 23-26. - Enforcing officer.

It shall be the duty of the ~~building-official~~Economic and Community Development Director "Director" (including designees) to administer and enforce the provisions of this chapter. The ~~building-official~~Director shall have the power to make inspections of buildings or lands necessary to carry out ~~these his~~ duties.

(Code 1986, § 25-471)

Sec. 23-27. - Building permits.

- (a) It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, until the ~~building official~~Director has issued a building permit for such work.
- (b) In applying to the ~~building official~~Director for a building permit, the applicant shall submit a dimensional sketch or scale plan indicating the shape, size, height and location on the lot of any buildings to be erected, altered or moved and of any other buildings on the lot. He shall also state the existing and intended use of such buildings and supply other information as may be required by the building official. If the proposed activity as stated in the application complies with the provisions of this chapter and other ordinances of the city, the ~~building official~~Director shall issue the permit or state the refusal in writing, and the cause.

(Code 1986, § 25-472)

Sec. 23-28. - Penalty for violation of chapter.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00. Each day's continuance of a violation shall be considered a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense. Persons in violation of this chapter may also be subject to injunctive proceedings.

(Code 1986, § 25-473)

Secs. 23-29—23-45. - Reserved.

DIVISION 2. - BOARD OF ZONING APPEALS

FOOTNOTE(S):

--- (3) ---

Cross reference— Boards and commissions, § 2-126 et seq.

Sec. 23-46. - Organization.

The board of zoning appeals is hereby established in accordance with T.C.A. § 13-7-205. The board of zoning appeals shall consist of seven members which shall include the mayor or a member of the board of mayor and aldermen, a member of the planning commission, and five other members appointed by the mayor and confirmed by a majority vote of the board of mayor and aldermen, all of whom shall serve without pay. The term of office of the appointed members, which is for three years, (except the member of the planning commission) serving at the time of adoption of this section shall remain in effect. One of the persons appointed to fill one of the two new positions shall be appointed for an initial one-year term and the other shall be appointed for an initial two-year term. Upon expiration of such terms, appointees shall be appointed for three-year terms. The term of office for the mayor or aldermen and planning commission member shall be concurrent with their respective term of office or appointment. Any vacancy shall be filled for any unexpired term by an appointment by the mayor which is confirmed by the board of mayor and aldermen.

(Code 1986, § 25-431; Ord. No. 1999-15, 12-27-99)

zoning appeals for review and approval along with a nonrefundable sum of money in accordance with the schedule of fees available in the office of the city clerk in the Municipal Center. The board of zoning appeals may refer the site plan to the planning commission for a review and recommendation, but shall approve or deny the application within 30 days of submission to the board unless the applicant allows additional time for action. The site plan shall:

- a. Be drawn to a scale of one inch equals 100 feet.
- b. Include the following:
  1. Existing roads.
  2. The zoning of adjacent tracts.
  3. Proposed curb cuts, drives, parking areas and drainage.
  4. The names of the owners of all adjoining lots or tracts.
  5. Building lines and the location of all structures.
  6. Landscaped buffer areas and planting screens to protect adjoining property.
  7. Proposed lighting and measures taken to prevent its adverse impact on adjoining property.

(b) The Board Of Zoning Appeals in either approving, granting or denying a use, variance, or otherwise when proper, will consider whether or not the approval will impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion of public streets, increase the danger of fire and endanger public safety or in any other way impair the public health, safety, comfort or welfare of the inhabitants of the city. Such consideration further may relate to screening, landscaping, location or other conditions necessary to protect property in the vicinity of the subject site.

(c) The ~~Director of development~~ or ~~their his designees~~ may grant a variance of up to 12 inches of an applicable required yard setback subject to the following criteria:

- (1) A modified setback shall not be approved unless a specific plan for placement of a structure on the site is presented which justifies that the changed setback is needed to accommodate the development.
- (2) The modified setback shall not conflict with streets, sidewalks or landscape requirements.
- (3) The ~~Director of development~~, in either approving, granting, or denying a use, variance, or otherwise when proper, will consider whether or not the approval will impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion of public streets, increase the danger of fire and endanger public safety or in any other way impair the public health, safety, comfort or welfare of the inhabitants of the city. Such consideration further may relate to screening, landscaping, location or other conditions necessary to protect property in the vicinity of the subject site.

(Code 1986, § 25-434; Ord. No. 2009-1, 2-23-09)

Secs. 23-50—23-65. - Reserved.

DIVISION 3. - AMENDMENTS

FOOTNOTE(S):

--- (4) ---

State Law reference— Amendments to zoning ordinances, T.C.A. § 13-7-204.

Sec. 23-66. - When permissible.

Whenever the public necessity, convenience, general welfare or good zoning practice justify such action, the regulations, restrictions, districts and boundaries provided for in this chapter may be amended or repealed.

(Code 1986, § 25-451)

Sec. 23-67. - Zoning amendment-~~petition~~application.

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- (a) The board of mayor and aldermen may amend the regulations, restrictions, boundaries or any provision of this chapter. ~~The City, A~~ member of the board of mayor and aldermen, the planning commission or any ~~other~~ citizen of the city may present a ~~petition~~ application to the board of mayor and aldermen requesting an amendment to this chapter.
- (b) After the board of mayor and aldermen has taken final action upon a ~~petition~~ application for a zoning amendment, the same ~~petition~~ application shall not be accepted within one year from the date of such final action. This subsection, however, in no way restricts the initiation of a zoning change by the planning commission or the board of mayor and aldermen.
- (c) Before any action is taken upon a rezoning request by the board of mayor and aldermen, as provided in this division, the applicant shall deposit with the city a nonrefundable sum of money in accordance with the schedule of fees available in the office of the city clerk in the Municipal Center.

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(Code 1986, § 25-452)

Sec. 23-68. - Planning commission review.

No amendment shall be enacted by the board of mayor and aldermen unless such amendment is first submitted to the planning commission for review.

- (1) If approved by the planning commission, the amendment must be approved by a majority vote of the members of the board of mayor and aldermen present and entitled to vote thereon.
- (2) If disapproved by the planning commission, the amendment must be approved by the favorable vote of a majority of the entire membership of the board of mayor and aldermen.
- (3) Solely in the case of an application for rezoning, where such application for rezoning is disapproved by the planning commission and the applicant does not seek in a timely manner approval of said application for rezoning by the board of mayor and aldermen, then the same application for rezoning shall not be permitted to again be filed with the planning commission for six months from the date of the planning commission's decision.

(Code 1986, § 25-453; Ord. No. 2001-12, 7-23-01; Ord. No. 2001-15, 8-27-01)

Sec. 23-69. - Public hearing requirement.

A public hearing shall be conducted by the board of mayor and aldermen before adoption of any proposed amendment, at least 15 days' notice of the time and place of which shall be published in the official municipal journal or in a newspaper of general circulation in the community.

(Code 1986, § 25-454) [\(TCA 13-7-203\)](#)

Secs. 23-70—23-80. - Reserved.

DIVISION 4. - GENERAL EXCEPTIONS

Sec. 23-81. - Generally.

The regulations of this chapter are subject to the exceptions stated in this division.

(Code 1986, § 25-411)

Sec. 23-82. - Front yards.

The required front yards established in the residential districts may be adjusted in situations where the enforcement of the existing yard requirements creates vastly different yard measurements than the standard for previously developed surrounding properties as illustrated in the following diagrams:



wired communications system (including, but not limited to, telephone lines, video and/or microwave transmission) through a series of short range, contiguous cells that are part of an evolving cell grid.

(c) Process.

- (1) The use of land for wireless transmission facilities shall be permitted in the agricultural, residential and commercial districts; provided, however, that no building permit shall be issued or construction initiated without the review and approval of the planning commission, the design review commission and the board of mayor and aldermen; and that the other requirements set forth in this division are met. Wireless transmission facilities as a use-on-appeal in all agricultural and residential districts, shall also require approval of the board of zoning appeals in addition to approval by the aforementioned governing bodies. (Exception: subsections (c)(2)—(c)(4) of this section.) All wireless transmission facilities shall be subject to the technical and developmental standards of this chapter, to the minimum standards in the zoning district in which the "wireless transmission facility" is located, and to such additional conditions that the board of zoning appeals, the planning commission and the design review commission may require in order to preserve and protect the character of the district in which the proposed use is located.
- (2) The use of a major and/or collector street (per the city major road plan), for wireless transmission facilities, shall be permitted in the agricultural, residential and commercial districts; provided however, that no building permit shall be issued or construction initiated without the administrative review and approval of the department of community development, and the review and approval of the board of mayor and aldermen; and that the other requirements set forth in this division are met. All wireless transmission facilities on a major and/or collector street shall be subject to the technical and development standards of this chapter, to the minimum standards in the zoning district in which the wireless transmission facility is located, and to such additional conditions that the department of community development and the board of mayor and aldermen may require in order to preserve and protect the character of the district in which the proposed use is located.
- (3) The use of land for the shared use of wireless transmission facilities where an approved wireless transmission facility, under contract with the city, exists on public or private property, and is not located within an existing power transmission line tower, shall be permitted in the agricultural, residential and commercial districts; provided, however, that no building permit shall be issued or construction initiated without the administrative review and approval of the department of community development, and the review and approval of the board of mayor and aldermen; and that the other requirements set forth in this division are met. All wireless transmission facilities shall be subject to the technical and development standards of this chapter, to the minimum standards in the zoning district in which the wireless transmission facility is located, and to such additional conditions that the department of community development and the board of mayor and aldermen may require in order to preserve and protect the character of the district in which the proposed use is located.
- (4) If, upon review of a wireless transmission facility submitted under subsections (c)(2)—(c)(3) of this section, and the ~~Director of commercial economic and community development~~ determines that additional review is necessary to completely evaluate the proposed facility, the ~~Director of commercial economic and community development~~ may defer the facility to the full process of review under subsection (c)(1) of this section.

(d) Sketch plan review.

- (1) Any owner or authorized agent of a tract of land zoned agricultural or residential, three acres or more in area; or land on which an existing, power transmission line tower is located, and into which a wireless transmission facility can be incorporated; or a street; or a commercial district may submit an optional sketch plan for the development of a wireless transmission facility to the planning commission. The sketch plan shall describe the use and general development concept for the entire tract.
- (2) The sketch plan shall:

- c. The applicant's plans must demonstrate how shared facilities would potentially be situated on proposed sites. Towers and/or structures shall be required to be designed for multiple tenants on the initial installation, i.e., designed for two sets of a fully sectored antenna arrays.

(6) Modifications. Modifications to approved wireless transmission facilities shall be made as follows:

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a. -The addition of antennae shall require approval by the Planning Commission.

b. The addition of height beyond 140 feet shall require approval by the Board of Zoning Appeals.

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c. City approval is not required for replacement of antennae or ground equipment within the fenced compound lease area.

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(i) Development standards.

- (1) Buffer/landscaping provisions. The planting, maintenance and removal of trees associated with wireless transmission facilities shall comply with chapter 22 of this Code, the tree planting, protection and grading ordinance. For ground structures and equipment buildings, located in or abutting property zoned residential (either immediately adjacent to such property or across a public roadway), special care shall be taken to minimize the effects on the adjacent residential area. The following shall be considered minimum standards:

- a. A minimum 50-foot buffer strip shall be required on the outer perimeter of the property, abutting property currently zoned for residential, office or commercial use or development. No internal roads or driveways, parking areas, structures or storage of material shall be allowed within the buffer strip. This standard shall not supersede any existing or future agreements or regulations which may provide for a greater buffer strip than outlined in subsection (i)(1) of this section.
- b. The buffer strip shall consist of plantings and physical features sufficient to screen the view beginning at a specified level, reduce glare and noise, and provide greater privacy for nearby residential uses. The buffer shall be initially installed for the permanent year-round protection of adjacent property by visually shielding internal activities from adjoining property from ground level view to a minimum height of six feet. A landscaping plan detailing the type, substance, design, width, height, opacity, growing period to maturity, time schedule for installation, and responsibility for perpetual maintenance of the buffer strip shall be submitted to and approved by the design review commission.
- c. The landscaping provisions of this section may be varied or reduced if the proposed plan provides for unique and innovative landscaping treatment or physical features that, in the opinion of the design review commission, meet the intent and purpose of this section. In instances where significant physical features exist (i.e., railroads, major roads, hillsides, preserved wooded areas, and utility easements, etc.) which in the opinion of the design review commission provide adequate buffering between land uses, the existing buffers may be used to meet landscaping provisions of this section.
- d. Security fencing shall be required and shall comply with the regulations set forth in chapter 6, article VI of this Code. Security fencing (wood only) shall be required around the area of the wireless transmission facility. Other fencing requested by the user, in compliance with chapter 6, article VI of this Code shall be constructed, in addition to, and behind the required wood fencing.
- e. Wireless transmission facilities mounted on a building or structure in a commercial district shall be screened and/or designed to blend visually with the roof and/or structure and surroundings where mounted. Such methods and materials shall only require approval by the design review commission.
- f. Prior to the issuance of a building permit, security acceptable to the city shall be required to ensure completion of all landscaping and screening provisions as outlined in the plan

city. Each remaining user which vacates the property shall be responsible for removal of their respective buildings, cabinets, structures and facilities, and other appurtenances, at their expense.

- (l) Contracts.
  - (1) The applicant shall enter into a contract with the city after all approvals from the required governing boards and prior to the required building permit.
  - (2) The contract shall be accompanied by all required agreements between the user and Memphis Light, Gas and Water, when a wireless transmission facility is incorporated into an existing Memphis Light, Gas and Water power transmission line tower.
- (m) Building permits. It shall be unlawful to commence the excavation for the construction of any wireless transmission facilities, including all associated appurtenances, until the ~~building-official-Director~~ has issued a building permit for such work.

(Code 1986, § 25-416; Ord. No. 1996-10, 7-22-1996; Ord. No. 1997-24, 1-26-1998)

Sec. 23-87. - Assisted-care living facilities.

- (a) Scope. The regulations set forth in this section shall apply to assisted-care living facilities. The purpose of the regulations of this section is to minimize the potential negative impacts to surrounding property through application of reasonable development standards for assisted-care living facilities. All assisted-care living facilities shall adhere to the following regulations:
  - (1) Open space. A minimum of 35 percent of the total area to be developed for an assisted-care living facility shall be devoted to open space.
  - (2) Landscaping. A landscape screen having a minimum width of 25 feet shall be provided along all rear and side lot lines contiguous to roadways or land zoned R-E-10, R-E, R-E-1, R, R-1, R-2 and R-3 districts. Such a landscape screen may be located in the required perimeter side and/or rear yards but shall not extend beyond the required front yard.
  - (3) Minimum tract area. The minimum area which may be developed for an assisted-care living facility shall be contained in a contiguous parcel of land under common ownership comprising a total area of at least two acres.
  - (4) Minimum width of the tract of building line. A minimum frontage of 200 feet, as measured at the front building line, shall be required for an assisted-care living facility.
  - (5) Yard regulations.
    - a. Front yard. There shall be a required perimeter front yard having a depth of not less than 40 feet. This yard shall be an open area with no encroachments permitted including drives, parking areas, porches or patios with the exception of entrances the length of which does not exceed the depth of the perimeter yard.
    - b. Side yard. There shall be required perimeter side yards having a depth of not less than 50 feet each between any building and side property line. This yard shall be an open area with no encroachments permitted including drives, parking areas, porches, or patios with the exception of entrances the length of which does not exceed the depth of the perimeter yard.
    - c. Rear yard. There shall be a required perimeter rear yard having a depth of not less than 50 feet as measured between the rear lot line and any portion of a building. This yard area shall be an open area with no encroachments permitted including drives, parking areas, porches or patios with the exception of entrances the length of which does not exceed the depth of the perimeter yard.
  - (6) Height regulations. No structure shall exceed 35 feet in height as measured from the average of the finished ground elevations at the front line of the building except where the building is

Sec. 23-136. - Parking regulations.

- (a) Off-street parking spaces required in the AG district under this section shall be provided on the same lot, parcel or tract as the principal building, but not in any portion of the required front yard. Automobiles, and all other vehicles designed for passenger use which do not exceed eight feet in height at any point and do not exceed 20 feet in length and do not exceed 8,000 pounds gross vehicle weight ~~may shall~~ be parked or stored on a paved driveway, parking space or any other hard-surfaced area that is normally considered the driveway area of the lot.
- (b) Any vehicle which exceeds eight feet in height at any point or exceeds 20 feet in length or exceeds 8,000 pounds gross vehicle weight, and, without regard to size, and including but not limited to any recreational vehicles, boats, personal watercrafts, motor homes, truck campers, travel trailers, tent trailers, camping trailers, motorized dwellings, fifth wheels, mobile homes, house trailers, trailers, semi-trailers, horse trailers, airplanes, airplane gliders, off-highway motor vehicles, snowmobiles, sand buggies, dune buggies, all-terrain vehicles, tractors, implements of husbandry, special mobile equipment, or any other major recreational equipment shall be parked or stored in a garage, carport or fenced area behind the rear line of the principal building but no closer than 15 feet to any property boundary line ~~and no closer than 15 feet to the rear line of the principal building~~, except that any such item which is not greater than six feet in height at any point may be parked or stored closer than 15 feet to a property line; provided, however, Any vehicle which exceeds eight feet in height or exceeds 20 feet in length shall be parked or stored on a paved surface. ~~m~~Motor homes may be parked on a driveway at a residence for up to 72 hours in a 30-day period.

The number of required off-street parking spaces shall be in accordance with the following minimum standards:

- (1) Municipal, state or other governmental uses: one parking space for every ten seats or one for each 200 square feet of gross floor area, whichever is greater.
- (2) Public utilities: one parking space for each 200 square feet of office space.
- (3) Golf courses: one parking space for each three members.
- (4) Private and country clubs: one parking space for each three members.

(Code 1986, § 25-35; Ord. No. 1999-16, 12-27-99; Ord. No. 2005-9, § 14, 9-12-05)

Sec. 23-137. - Accessory buildings.

Accessory buildings/structures and other outdoor accessory constructions and items that are normal and incidental to single-family dwellings; excluding, but not limited to, satellite receiving antennas (covered in section 23-2), basketball goals, temporary lawn game apparatus, decorative items, lawn furniture, birdhouses, decorative garden structures and similar appurtenances, shall be located in compliance with the following:

- (1) No accessory buildings/structures and other outdoor accessory constructions shall extend beyond the front line of the building of the principal building, nor shall they extend into the required side yard between the front and rear lines of the principal building. On corner lots, both sides of the principal building that face the intersecting streets are classified as front line of the building of the principal building.
- (2) Accessory buildings may be built in the required rear yard but shall not occupy more than ten percent of the required rear yard.
- (3) Location:
  - a. No accessory building or structure shall be located within a recorded easement.

- b. An accessory building or structure with a height of eight feet or more may extend into the required rear yard, but shall be located a distance equal to at least the height of the structure from the rear and side lot lines.
  - c. An accessory building or structure with a height of less than eight feet may extend into the required rear yard, but shall be located a minimum of three feet, six inches from the rear and side lot lines.
- (4) Accessory buildings, structures and other accessory items and uses are not allowed on lots that do not have a principal building.
  - (5) Flagpoles shall be located on any yard, provided that they are located a distance equal to or greater than their own height from the nearest property line. Flagpoles shall not be located within a recorded easement; and shall not exceed 20 feet in height.

(Code 1986, § 25-36; Ord. No. 1999-16, 12-27-99; Ord. No. 2002-7, 6-10-02; Ord. No. 2009-16, 11-9-09)

Sec. 23-138. - Swimming pools.

- (a) Swimming pools shall be located behind the front line of the building, a minimum of five feet from all property lines and recorded easements.
- (b) On double frontage lots, in-ground swimming pools may extend 20 feet into the required front yard that is located on the rear side of the principal building. This shall apply only to lots having frontages on two nonintersecting streets. Corner lots and triple-frontage lots, abutting two streets at their intersection, shall be excluded. Swimming pools must be located a minimum of five feet from all property lines and recorded easements.

(Code 1986, § 25-37; Ord. No. 1999-16, 12-27-99)

Secs. 23-139—23-150. - Reserved.

DIVISION 3. - ~~RESIDENTIAL ESTATE DISTRICT (R-E-10)~~ Reserved

~~Sec. 23-151. - Scope of division.~~

~~The regulations set forth in this division shall apply to the district designation of the R-E-10 residential district. The R-E-10 district is intended to promote the preservation and establishment of areas for low density residential development with a minimum lot size of ten acres.~~

~~(Code 1986, § 25-38)~~

~~Sec. 23-152. - Use regulations.~~

~~Within the districts designated as R-E-10 residential districts, the following activities are permitted: Single-family detached dwellings; a guesthouse; accessory buildings and accessory uses customarily incidental to the aforementioned use.~~

~~(Code 1986, § 25-38.1)~~

~~Sec. 23-153. - Permitted accessory uses.~~

~~Permitted accessory uses in the R-E-10 district are as follows:~~

- ~~(1) Private garages and parking areas.~~
- ~~(2) Private barns, stables, outbuildings and riding rings.~~
- ~~(3) Outdoor recreation facilities exclusively for the use of the residents.~~
- ~~(4) Satellite dish receiving antenna.~~

~~(Code 1986, § 25-38.2)~~

~~Sec. 23-154. Uses permitted on approval of board of zoning appeals.~~

~~The uses listed in this section shall be permitted by the board of zoning appeals, provided that the use requested is to be located on a route designated as either a major street or a collector street on the official major road plan, and that the other requirements set forth in this division article II, division 4 and article II, division 2 of this chapter are met: Philanthropic or religious institutions; places of worship; public, private or parochial schools offering general educational courses; municipal, county, state or federal uses; public utilities, golf courses; private and country clubs; parks and playgrounds; cultural activities; cemeteries; family day care homes and wireless transmission facilities. Accessory buildings and structures and accessory uses customarily incidental to the above uses are allowed, provided that the principal structure on the site was approved by the board of zoning appeals, or if the principal structure on the site is classified as an allowable, nonconforming use, per section 23-666 of this chapter.~~

~~(Code 1986, § 25-38.3; Ord. No. 1996-10, 7-22-96; Ord. No. 2009-16, 11-9-09)~~

~~Sec. 23-155. Plan review.~~

~~(a) A sketch plan shall accompany all applications for R-E-10 zoning. The sketch plan shall:~~

- ~~(1) Be drawn to a scale of one inch equals 100 feet.~~
- ~~(2) Include the following:~~
  - ~~a. Existing and proposed roads and drainage.~~
  - ~~b. General landscaped areas and planting screens.~~
  - ~~c. Curb cuts and drives.~~
  - ~~d. Building setback lines.~~
- ~~(3) Show the relation of the proposed development to:~~
  - ~~a. The existing street system.~~
  - ~~b. The immediate and surrounding use districts.~~
  - ~~c. Adjacent tracts.~~
  - ~~d. Zoning of adjacent tracts.~~
  - ~~e. The names of the owners of all adjoining lots or tracts.~~

~~(b) Approval of the sketch plan by the planning commission shall constitute a recommendation to the board of mayor and aldermen to rezone to R-E-10 all property included in the sketch plan which may not be zoned R-E-10.~~

~~(c) Following planning commission approval of the sketch plan, notices and publications of public hearing shall be initiated and shall conform to the rules of the board of mayor and aldermen and the amendment provisions of this chapter as set forth in article II, division 3 of this chapter. Upon completion of the required public hearing, the board shall approve or disapprove the rezoning.~~

~~(Ord. No. 1999-16, 12-27-99)~~

~~Sec. 23-156. — Minimum lot area.~~

~~The minimum lot area in the R-E-10 district shall be as follows:~~

- ~~(1) — Dwellings: ten acres.~~
- ~~(2) — Municipal, state or other governmental uses: ten acres.~~
- ~~(3) — Golf course: 25 acres.~~
- ~~(4) — Places of worship: ten acres.~~

~~(Code 1986, § 25-38.4; Ord. No. 1999-16, 12-27-99)~~

~~Sec. 23-157. — Minimum lot width measured at building line.~~

~~The minimum lot width measured at the building line in the R-E-10 district shall be as follows:~~

- ~~(1) — Dwelling: 300 feet.~~
- ~~(2) — Municipal, state or other governmental uses: 300 feet.~~
- ~~(3) — Golf courses: 300 feet.~~
- ~~(4) — Places of worship: 300 feet.~~

~~(Code 1986, § 25-38.5; Ord. No. 1999-16, 12-27-99)~~

~~Sec. 23-158. — Yard requirements.~~

~~The yard requirements in the R-E-10 district shall be as follows:~~

- ~~(1) — Front yards.
  - ~~a. — There shall be a required front yard of not less than 200 feet.~~
  - ~~b. — On double frontage or corner lots there shall be a required front yard on each street, provided that the buildable width of a corner lot of record need not be reduced to less than 400 feet.~~
  - ~~c. — On a corner lot no structure, planting, sign or object of natural growth which obstructs visibility shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the intersection, along each right-of-way line. A structure, planting, sign or object of natural growth, excluding trees, between the height of 30 inches to 96 inches shall be deemed as obstructing visibility. This measurement shall be made from the top of curb.~~
  - ~~d. — An open, unenclosed front porch may extend past the front yard setback line by ten feet.~~~~
- ~~(2) — Side yard. There shall be one or more required side yards of not less than 100 feet each.~~
- ~~(3) — Rear yard. An unheated rear porch, located on the first floor as measured from the average of the finished ground elevations at the front line of the building, may extend into the required rear yard by up to ten feet.~~

~~(Code 1986, § 25-38.6; Ord. No. 1999-16, 12-27-99; Ord. No. 2009-1, 2-23-09; Ord. No. 2009-16, 11-9-09)~~

~~Sec. 23-159.—Height regulations.~~

~~No building in the R-E-10 district shall exceed 50 feet in height, as measured from the average of the finished ground elevations at the front line of the building. The limitation shall not apply to chimneys, radio and television antenna or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and further, that they are located a distance equal to their own height, plus ten feet, from the nearest property lines.~~

~~(Code 1986, § 25-38.7; Ord. No. 1996-11, 8-26-1996; Ord. No. 1999-16, 12-27-99)~~

~~Sec. 23-160.—Maximum number of principal buildings permitted.~~

~~The maximum number of principal buildings permitted in the R-E-10 district shall be as follows:~~

- ~~(1) Residential uses shall be limited to one principal building per lot, plus one guesthouse or employee quarters.~~
- ~~(2) Permitted uses other than residential shall have no limitations on the number of buildings, but the aggregate of all buildings shall not cover more than 25 percent of the entire lot area.~~

~~(Code 1986, § 25-38.8; Ord. No. 1999-16, 12-27-99)~~

~~Sec. 23-161.—Parking regulations.~~

~~(a) Off street parking spaces required in the R-E-10 district under this section shall be provided on the same lot, parcel or tract as the principal building, but not in any portion of the required front yard. Automobiles, and all other vehicles designed for passenger use which do not exceed eight feet in height at any point and do not exceed 20 feet in length and do not exceed 8,000 pounds gross vehicle weight may be parked or stored on a paved driveway, parking space or any other hard surfaced area that is normally considered the driveway area of the lot.~~

~~(b) Any vehicle which exceeds eight feet in height at any point or exceeds 20 feet in length or exceeds 8,000 pounds gross vehicle weight, and, without regard to size, any recreational vehicles, boats, personal watercrafts, motor homes, truck campers, travel trailers, tent trailers, camping trailers, motorized dwellings, fifth wheels, mobile homes, house trailers, trailers, semi-trailers, horse trailers, airplanes, airplane gliders, off-highway motor vehicles, snowmobiles, sand buggies, dune buggies, all-terrain vehicles, tractors, implements of husbandry, special mobile equipment, or any other major recreational equipment shall be parked or stored in a garage, carport or fenced area behind the rear line of the principal building but no closer than 15 feet to any property boundary line and no closer than 15 feet to the rear line of the principal building, except that any such item which is not greater than six feet in height at any point may be parked or stored closer than 15 feet to a property line; provided, however, motor homes may be parked on a driveway at a residence for up to 72 hours in a 30-day period.~~

~~The number of required off-street parking spaces shall be in accordance with the following minimum standards:~~

- ~~(1) Single family dwellings: two parking spaces.~~
- ~~(2) Municipal, state or other governmental uses: one parking space for every ten seats or for each 200 square feet of gross floor area, whichever is greater.~~
- ~~(3) Golf courses: one parking space for each three members.~~
- ~~(4) Any permitted uses not specifically listed: one parking space for every 200 square feet of gross floor area.~~
- ~~(5) Places of worship:~~



- a. ~~One parking space for each five seats provided in the main auditorium for every new place of worship.~~
- b. ~~One parking space for each five seats provided in a new main auditorium constructed by an existing place of worship.~~
- c. ~~One parking space for each five additional seats added to an existing main auditorium.~~

~~(Code 1986, § 25-38.9; Ord. No. 1999-16, 12-27-99; Ord. No. 2005-9, § 14, 9-12-05)~~

~~Sec. 23-162. Accessory buildings.~~

~~Accessory buildings/structures and other outdoor accessory constructions and items that are normal and incidental to single-family dwellings; excluding, but not limited to, satellite receiving antennas (covered in section 23-2), basketball goals, temporary lawn game apparatus, decorative items, lawn furniture, birdhouses, decorative garden structures and similar appurtenances, shall be located in compliance with the following:~~

- ~~(1) No accessory buildings/structures and other outdoor accessory constructions shall extend beyond the front line of the building of the principal building, nor shall they extend into the required side yard between the front and rear lines of the principal building. On corner lots, both sides of the principal building that face the intersecting streets are classified as front lines of the principal building.~~
- ~~(2) Accessory buildings may be built in the required rear yard but shall not occupy more than ten percent of the required rear yard.~~
- ~~(3) Accessory buildings shall not exceed 35 feet in height.~~
- ~~(4) Location:~~
  - ~~a. No accessory building or structure shall be located within a recorded easement.~~
  - ~~b. An accessory building or structure with a height of eight feet or more may extend into the required rear yard, but shall be located a distance equal to at least the height of the structure from the rear and side lot lines.~~
  - ~~c. An accessory building or structure with a height of less than eight feet may extend into the required rear yard, but shall be located a minimum of three feet, six inches from the rear and side lot lines.~~
- ~~(5) Accessory buildings, structures and other accessory items and uses are not allowed on lots that do not have a principal building.~~
- ~~(6) Flagpoles shall be located on any yard, provided that they are located a distance equal to or greater than their own height from the nearest property line. Flagpoles shall not be located within a recorded easement; and shall not exceed 20 feet in height.~~

~~(Code 1986, § 25-38.10; Ord. No. 1999-16, 12-27-99; Ord. No. 2009-16, 11-9-09)~~

~~Sec. 23-163. Swimming pools.~~

- ~~(a) Swimming pools in the R-E-10 district shall be located behind the front line of the building, a minimum of five feet from all property lines and recorded easements.~~
- ~~(b) On double frontage lots, in-ground swimming pools may extend 20 feet into the required front yard that is located on the rear side of the principal building. This shall apply only to lots having frontages on two nonintersecting streets. Corner lots and triple frontage lots, abutting two streets at their intersection, shall be excluded. Swimming pools must be located a minimum of five feet from all property lines and recorded easements.~~

(Code 1986, § 25-38.11; Ord. No. 1999-16, 12-27-99)

Secs. 23-~~151464~~—23-175. - Reserved.

DIVISION 4. - RESIDENTIAL ESTATE DISTRICT (R-E)

Sec. 23-176. - Scope of division.

The regulations set forth in this division shall apply to the district designation of the R-E residential district. The R-E district is intended to promote the preservation and establishment of areas for low density residential development with a minimum lot size of two acres.

(Code 1986, § 25-56)

Sec. 23-177. - Use regulations.

Within the districts designated as R-E residential districts, the following activities are permitted: Single-family detached dwellings; a guesthouse; accessory buildings and accessory uses customarily incidental to the aforementioned use.

(Code 1986, § 25-57)

Sec. 23-178. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Private garages and parking areas.
- (2) Private barns, stables, outbuildings and riding rings.
- (3) Outdoor recreation facilities, exclusively for the use of the residents.
- (4) Satellite dish receiving antenna.

(Code 1986, § 25-58)

Sec. 23-179. - Uses permitted on approval of the board of zoning appeals.

The uses listed in this section shall be permitted by the board of zoning appeals, provided that the use requested is to be located on a route designated as either a major street or a collector street on the official major road plan, and that the other requirements set forth in this division article II, division 4 and article II, division 2 of this chapter are met: Philanthropic or religious institutions; places of worship; public, private or parochial schools offering general educational courses; municipal, county, state or federal uses; public utilities, golf courses; private and country clubs; parks and playgrounds; cultural activities; cemeteries; family day care homes and wireless transmission facilities. Accessory buildings and structures and accessory uses customarily incidental to the above uses are allowed, provided that the principal structure on the site was approved by the board of zoning appeals, or if the principal structure on the site is classified as an allowable, nonconforming use, per section 23-666 of this chapter.

(Code 1986, § 25-59; Ord. No. 1996-10, 7-22-1996; Ord. No. 2009-16, 11-9-09)

- (4) Golf courses: 200 feet.
- (5) Private and country clubs: 200 feet.
- (6) Places of worship: 200 feet.

(Code 1986, § 25-61; Ord. No. 1999-16, 12-27-99)

Sec. 23-183. - Yard requirements.

The yard requirements in the R-E district shall be as follows:

- (1) Front yards.
  - a. There shall be a required front yard of not less than 60 feet.
  - b. On double frontage or corner lots there shall be a required front yard on each street, provided that the buildable width of a corner lot of record need not be reduced to less than 60 feet.
  - c. On a corner lot no structure, planting, sign or object of natural growth which obstructs visibility shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the intersection, along each right-of-way line. A structure, planting, sign or object of natural growth, excluding trees, between the height of 30 inches to 96 inches shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb.
  - d. An open, unenclosed front porch may extend past the front yard setback line by ten feet.
- (2) Side yard. There shall be one or more required side yards of not less than 25 feet each.
- (3) Rear yard.
  - a. ~~There shall be a required rear yard of not less than 50 feet (excluding accessory structures as permitted in 23-187).~~
  - b. An unheated rear porch, located on the first floor as measured from the average of the finished ground elevations at the front line of the building, may extend into the required rear yard by up to ten feet.

(Code 1986, § 25-62; Ord. No. 1999-16, 12-27-99; Ord. No. 2009-1, 2-23-09; Ord. No. 2009-16, 11-9-09)

Sec. 23-184. - Height regulations.

No building in the R-E district shall exceed 35 feet in height, as measured from the average of the finished ground elevations at the front line of the building. The limitation shall not apply to chimneys, radio and television antenna or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and further, that they are located a distance equal to their own height, plus ten feet, from the nearest property line.

(Code 1986, § 25-63; Ord. No. 1999-16, 12-27-99)

Sec. 23-185. - Maximum number of principal buildings permitted.

The maximum number of principal buildings permitted in the R-E district shall be as follows:

- (4) Golf courses: 200 feet.
- (5) Private and country clubs: 200 feet.
- (6) Places of worship: 200 feet.
- (7) Schools: 300 feet.
- (8) Cemeteries, philanthropic or religious institutions (other than places of worship and schools): 200 feet.

(Code 1986, § 25-76; Ord. No. 1999-16, 12-27-99)

Sec. 23-208. - Yard requirements.

The yard requirements in the R-E-1 district shall be as follows:

- (1) Front yards.
  - a. There shall be a required front yard of not less than 60 feet.
  - b. On double frontage or corner lots there shall be a required front yard on each street, provided that the buildable width of a corner lot of record need not be reduced to less than 60 feet.
  - c. On a corner lot no structure, planting, sign or object of natural growth which obstructs visibility shall be placed or permitted to remain within a triangle formed by connecting the three points which are the intersection of the extension of the adjacent rights-of-way and the points 50 feet from the such intersection, along each right-of-way line. A structure, planting, sign or object of natural growth, excluding trees, between the height of 30 inches to 96 inches shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb.
  - d. An open, unenclosed front porch may extend past the front yard setback line by ten feet.

(2) Side yard. There shall be one or more required side yards of not less than 25 feet each.

(3) Rear yard.

- a. There shall be a required rear yard of not less than 50 feet (excluding accessory structures as permitted in 23-212).
- b. An unheated rear porch, located on the first floor as measured from the average of the finished ground elevations at the front line of the building, may extend into the required rear yard by up to ten feet.

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(Code 1986, § 25-77; Ord. No. 1999-16, 12-27-99; Ord. No. 2009-1, 2-23-09; Ord. No. 2009-16, 11-9-09)

Sec. 23-209. - Height regulations.

No building in the R-E-1 district shall exceed 35 feet in height, as measured from the average of the finished ground elevations at the front line of the building. The limitation shall not apply to chimneys, radio and television antenna or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and further, that they are located a distance equal to their own height, plus ten feet, from the nearest property line.

(Code 1986, § 25-78; Ord. No. 1999-16, 12-27-99)

- (1) Generally recognized retail trade establishments which supply convenience goods and services on the premises for persons residing in adjacent residential areas such as, but not limited to, groceries, meats, dairy products, baked goods or other convenience goods, drugs, dry goods, clothing and notions or hardware;
- (2) Personal ~~and professional~~ service establishments which perform services on the premises, such as, but not limited to, repair shops, ~~(watches, radio and television, etc.)~~ tailor shops, beauty parlors or barber shops, photographic studios, dry cleaners, ~~and~~ laundries, ~~and child care facilities~~;
- ~~((3))~~ Professional services such as, but not limited to, architectural, accounting, legal and engineering services
- ~~(43)~~ Public uses such as, but not limited to, post offices, schools, governmental offices which serve the population of adjacent residential areas;
- ~~(54)~~ Restaurants which provide for the consumption of food on the premises (restaurants whose primary functions is to provide consumption within the building and/or take out services; no drive-in or drive-thru restaurants will be allowed);
- ~~(65)~~ Finance, insurance and real estate services such as, but not limited to, banks, insurance offices, savings and loan associations, and security brokers;
- ~~(76)~~ Cultural activities such as, but not limited to, museums, libraries and art galleries;
- ~~(87)~~ Public utilities such as, but not limited to, water, gas and electric power lines;
- ~~(98)~~ General offices;
- ~~(109)~~ Wireless transmission facilities;
- ~~(40110)~~ Assisted-care living facilities; and
- ~~(44124)~~ Accessory buildings and uses customarily incidental to such uses including, but not limited to, satellite dish receiving antenna.
- (13) Child care facilities;
- (14) Medical office/service and veterinary clinics.

(Code 1986, § 25-212)

Sec. 23-373. - Plan review.

- (a) A sketch plan shall accompany all applications for C-1 zoning. The sketch plan shall:
  - (1) Be drawn to a scale of one inch equals 100 feet.
  - (2) Include the following:
    - a. Existing and proposed roads and drainage.
    - b. General landscaped areas and planting screens.
    - c. Curb cuts and drives.
    - d. Building setback lines.
  - (3) Show the relation of the proposed development to:
    - a. The existing street system.
    - b. The immediate and surrounding use districts.

2. Child care facilities: At least one off-street parking space shall be provided per employee on the largest shift of employment, plus one parking space for every six students.
- b. Public uses:
1. Post office: At least one off-street parking space shall be provided for every 400 square feet of gross floor area, plus one parking space for every employee on the shift of largest employment.
  2. Schools:
    - i. Elementary schools (K through eight): At least 1.5 off-street parking spaces shall be provided per staff member. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.
    - ii. High schools (grades nine through 12): At least one off-street parking space shall be provided for each employee, plus 0.6 parking spaces per maximum capacity of 11th and 12th grade students. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.
    - iii. College or university: At least eight off-street parking spaces shall be provided for each classroom.
  3. Public utilities: At least one off-street parking space per employee, plus one parking space for every public vehicle.
- c. Restaurants: At least one off-street parking space shall be provided for every two seats, plus one parking space per every two employees on the shift of greatest employment, plus ten queuing spaces for each drive-in aisle.
- d. Banks/savings and loans associations: At least one off-street parking space shall be provided for every 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle.
- e. Cultural activities:
1. Museums: At least one off-street parking space shall be provided for every 1,000 square feet of gross floor area.
  2. Libraries: At least one off-street parking space shall be provided for every 300 square feet of gross floor area, plus one parking space for each two employees on the shift of greatest employment.
- f. Community assembly:
1. Public or private facilities designed for audiences: At least one off-street parking space shall be provided for every three seats in the building.
  2. Places of worship: At least one off-street parking space shall be provided for every five seats located in the main auditorium.
- (4) Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Parking racks for bicycles shall be provided at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.
- (6) Loading requirements: Business uses involving the sale of merchandise or food shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the

building. One additional loading space shall be provided for each additional 20,000 square feet or fraction thereof.

(7) General:

- a. Parking shall not be located within the proposed right-of-way.
- b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E-10, R-E, R-E-1, R, R-1, R-2, R-3).
- c. Parking or paved areas shall not be permitted within 20 feet of any multifamily districts (R-T, PUD).

(8) Planned shopping center: At least one parking space shall be provided for every 200 square feet of gross floor area. The Planning Commission may approve modifications to the parking requirements in order to accommodate a particular mix of uses.

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(Code 1986, § 25-219)

Sec. 23-380. - Storage.

Any building in the C-1 district used primarily for any of the enumerated purposes in this division may not have more than 25 percent of the floor area devoted to storage. No temporary or movable structures shall be used for storage purposes.

(Code 1986, § 25-220)

Sec. 23-381. - Outside display and storage.

Outside display and/or storage of merchandise in the C-1 district will be permitted, provided that the display and/or storage is confined to the portion of the property behind the front line of the building.

(Code 1986, § 25-221)

Sec. 23-382. - Wireless transmission facilities.

Within the C-12 neighborhood commercial district, wireless transmission facilities shall be permitted, provided that the other requirements set forth in this division and article II, division 4 of this chapter are met.

(Ord. No. 1996-10, 7-22-1996)

Sec. 23-383. - Assisted-care living facilities.

Within the C-1 neighborhood commercial district assisted-care living facilities shall be permitted, provided that the other requirements set forth in this division and article II, division 4 of this chapter are met.

(Code 1986, § 25-223)

Secs. 23-384—23-400. - Reserved.

DIVISION 13. - GENERAL COMMERCIAL DISTRICT (C-2)

FOOTNOTE(S):

--- (7) ---

Cross reference— Businesses, ch. 7.

Sec. 23-401. - Scope of division.

The regulations set forth in this division shall apply to the district designation of the C-2 general commercial district. The purpose of the general commercial district is to provide for a mixture of retail and service establishments for the city.

(Code 1986, § 25-236)

Sec. 23-402. - Use regulations.

Within the districts designated as C-2 general commercial districts the following activities are permitted:

- (1) Generally recognized retail trade establishments which supply convenience goods, shoppers' goods and general merchandise;
- (2) Personal services such as, but not limited to, tailor shops, beauty parlors, barber shops, photographic studios, laundries, and repair services; ~~child care facilities and hospitals~~;
- ~~(3) (3) Professional services such as, but not limited to, architectural, accounting legal and engineering services; Repair services such as, but not limited to, radio and television repair, appliance repair and shoe repair;~~
- (4) Finance, insurance and real estate services such as, but not limited to, banks, insurance offices, savings and loan associations and security brokers;
- (5) Cultural activities such as, but not limited to, museums, libraries and art galleries;
- (6) Educational services such as, but not limited to, nursery, primary and secondary schools, professional schools, and vocational or trade schools;
- (7) Public uses such as, but not limited to, governmental offices, public facilities, post offices and schools;
- ~~(8) Professional services such as, but not limited to, architectural, legal and engineering services;~~
- ~~(89) Restaurants which provide for the consumption of food on premises; (restaurants whose primary function is to provide consumption within the building and/or takeout and/or drive-thru services; no drive-in restaurants will be allowed);~~
- ~~(409) General offices;~~
- ~~(4104) Wireless transmission facilities;~~
- ~~(42112) Assisted-care living facilities;~~
- ~~(43123) Accessory buildings and uses customarily incidental to such uses including, but not limited to, satellite dish receiving antenna;~~
- ~~(44134) Sexually oriented business;~~



- ~~(45146)~~ Hotels;
- ~~(46156)~~ Health care facilities and hospitals;
- ~~(47167)~~ Medical office/services and veterinary clinics; ~~and~~
- ~~(48178)~~ Funeral chapel; and
- ~~(19188)~~ Childcare facilities.

(Code 1986, § 25-237; Ord. No. 1999-3, § 2, 6-28-99; Ord. No. 2006-8 1-22-07; Ord. No. 2014-11, § 2, 10-13-14; Ord. No. 2014-12, § 2, 10-27-14)

**Editor's note**— Ord. No. 2014-12, § 2, adopted Oct. 27, 2014, added provisions designated § 23-402(16). Inasmuch as subsection (16) already existed, at the editor's discretion said provisions were renumbered (18) in order to maintain sequential numbering.

Sec. 23-403. - Uses permitted on approval of the board of zoning appeals.

Within the C-2 general commercial district an automotive body shop shall be permitted by the board of zoning appeals, provided that the body shop is an accessory use to an automobile dealership; is to be located on a route designated as either a major street or a collector street on the official major road plan; has adequate buffering and noise control provisions; and that the other requirements set forth in this division and II, division 2 of this chapter are met.

(Code 1986, § 25-238)

Sec. 23-404. - Plan review.

- (a) A sketch plan shall accompany all applications for C-2 zoning.
- (b) The sketch plan shall:
  - (1) Be drawn to a scale of one inch equals 100 feet.
  - (2) Include the following:
    - a. Existing and proposed roads and drainage.
    - b. General landscaped areas and planting screens.
    - c. Curb cuts and drives.
    - d. Building setback lines.
  - (3) Show the relation of the proposed development to:
    - a. The existing street system.
    - b. The immediate and surrounding use districts.
    - c. Adjacent tracts.
    - d. Zoning of adjacent tracts.
    - e. The names of the owners of all adjoining lots or tracts.
  - (4) Approval of the sketch plan by the planning commission shall constitute a recommendation to the board of mayor and aldermen to rezone to C-2 all property included in the sketch plan which may not be zoned C-2.

- (1) There shall be a planting screen of at least 25 feet in width when adjoining a single-family or two-family district (R-E, R, R-1, R-2, R-3).
- (2) There shall be a planting screen of at least 15 feet in width when adjoining a multifamily district (R-T, PUD).

(Code 1986, § 25-243)

Sec. 23-409. - Height regulations.

No structure shall exceed 35 feet in height, as measured from the average of the finished ground elevations at the front line of the building. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and provided further that they are located a distance equal to their own height plus ten feet from the nearest property line.

(Code 1986, § 25-244)

Sec. 23-410. - Parking and loading regulations.

The following provisions for off-street parking are required in order to provide parking spaces off all public ways; to give necessary ingress and egress; to reduce traffic congestion caused by parking in public ways; and to prevent commercial traffic from parking on residential streets surrounding the C-2 development, thus to promote and protect the public health, safety and general welfare. Off-street parking space shall be provided on the same lot as the principal building in accordance with the following minimum requirements:

- (1) At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Retail trade (outside of a shopping center).
  - b. Government offices.
  - c. Real estate offices.
  - d. General office.
  - e. Professional services, such as, but not limited to, architectural, accounting, legal and engineering services.
  - f. Adult arcade, adult bookstore, adult novelty store, adult video store, escort agency.
- (2) At least one off-street parking space shall be provided for each 300 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Personal services: repair shops, tailor shops, photographic studio, dry cleaners, laundries;
  - b. Insurance offices;
  - c. Security brokers;
  - d. Art galleries; and
  - e. Nude model studio.
- (3) Other uses:
  - a. Personal services:

- iii. At least one parking space shall be provided for each five additional seats added to an existing main auditorium.
- g. Planned shopping center: At least one parking space shall be provided for every 200 square feet of gross floor area. ~~Exceptions: Increases and modifications to the parking requirements for a shopping center may be made in order to~~ The Planning Commission may approve modifications to the parking requirements in order to accommodate a particular mix of uses.
- (4) Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Parking racks for bicycles shall be provided: at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.
- (6) Loading requirements: Business uses involving the sale of merchandise or food shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the building. One additional loading space shall be provided for each additional 20,000 square feet or fraction thereof.
- (7) General:
  - a. Parking shall not be located within the proposed right-of-way.
  - b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E, R, R-1, R-2, R-3).
  - c. Parking or paved areas shall not be permitted within 20 feet of any multifamily districts (R-T, PUD).

(Code 1986, § 25-245; Ord. No. 1999-3, § 3, 6-28-99; Ord. No. 2006-8 1-22-07)

Sec. 23-411. - Storage.

Any building in the C-2 district used primarily for any of the enumerated purposes in this division may not have more than 25 percent of the floor area devoted to storage. No temporary or movable structures shall be used for storage purposes.

(Code 1986, § 25-246)

Sec. 23-412. - Outside display and storage.

Outside display and/or storage of merchandise in the C-2 district will be permitted, provided that the display and/or storage is confined to the portion of the property behind the front line of the building.

(Code 1986, § 25-247)

Sec. 23-413. - Wireless transmission facilities.

Within the C-2 general commercial district, wireless transmission facilities shall be permitted, provided that the other requirements set forth in this division and article II, division 4 of this chapter are met.

(Ord. No. 1996-10, 7-22-1996)

Sec. 23-414. - Assisted-care living facilities.

Within the C-2 general commercial district assisted-care living facilities shall be permitted, provided that the other requirements set forth in this division and article II, division 4 of this chapter.

(Ord. No. 1996-12, 9-23-1996)

Secs. 23-415—23-430. - Reserved.

DIVISION 14. - SHOPPING CENTER DISTRICT (SC-1)

FOOTNOTE(S):

--- (8) ---

Cross reference— Businesses, ch. 7.

Sec. 23-431. - Purpose of division.

The regulations set forth in this division shall apply to the district designation of SC-1 district. The purpose of the shopping center district is to encourage the coordinated development of community oriented shopping centers.

(Code 1986, § 25-261)

Sec. 23-432. - Use regulations.

A building or premises may be used only for the following purposes in the SC-1 district:

- (1) Community assembly facilities such as, but not limited to, places of worship, community centers and enclosed theaters;
- (2) Recreational facilities such as, but not limited to, parks, playgrounds and amusement places;
- (3) ~~Childcare facilities, medical services such as, but not limited to, advertising firms, rental and leasing services and mailing services;~~
- (4) Professional services such as, but not limited to, architectural, accounting, legal and engineering services;
- (5) Business services such as, but not limited to, advertising firms, rental and leasing services and mailing services;
- (6) Finance, insurance and real estate services such as, but not limited to, banks, insurance offices, savings and loan associations, and security brokers;
- (7) Educational services such as, but not limited to, nursery, primary and secondary schools, professional schools, and vocational or trade schools;
- (8) Generally recognized retail trade establishments which supply convenience goods, shoppers' goods and general merchandise, excluding automobile sales agencies and lumber sales;
- (9) Personal services such as, but not limited to, tailor shops, beauty parlors and barber shops, photographic studios, and laundries ~~and child care facilities;~~

- (10) Public uses such as, but not limited to, governmental offices, public facilities, post offices and schools;
- (11) Public utilities such as, but not limited to, water, gas and electric lines and stations;
- (12) Restaurants which provide for the consumption of food on the premises (restaurants whose primary function is to provide consumption within the building and/or take out service); no drive-in restaurants will be allowed;
- (13) Cultural activities such as, but not limited to, museums, libraries and art galleries;
- (14) General offices;
- (15) Wireless transmission facilities;
- (16) Assisted-care living facilities;
- (17) Accessory buildings and uses customarily incidental to such uses including, but not limited to, satellite dish receiving antenna;
- (18) Sexually oriented business excluding "Adult hotel"; and
- (19) Medical office/services and veterinary clinics

(Code 1986, § 25-262; Ord. No. 1996-12, 9-23-1996; Ord. No. 1999-3, § 2, 6-28-99; Ord. No. 2006-8 1-22-07; Ord. No. 2014-11, § 2, 10-13-14)

Sec. 23-433. - Plan review.

- (a) Any owner or authorized agent of a tract of land two acres or more in area may submit an optional sketch plan for the establishment and development of an SC-1 district to the planning commission. The sketch plan shall describe the use and general development concept for the entire tract.
- (b) The sketch plan shall:
  - (1) Be drawn to a scale of one inch equals 100 feet.
  - (2) Shall include the following:
    - a. Existing and proposed roads and drainage.
    - b. General landscaped areas and planting screens.
    - c. Curb cuts and drives.
    - d. Building setback lines.
  - (3) Include a vicinity map which shows the relation of the proposed development to the city.
  - (4) Show the relation of the proposed development to:
    - a. The existing street system.
    - b. Traffic flow.
    - c. The immediate and surrounding use districts.
    - d. Adjacent tracts.
    - e. Zoning of adjacent tracts.
    - f. The names of the owners of all adjoining lots or tracts.

(Code 1986, § 25-263)

The following provisions for off-street parking in the SC-1 district are required in order to provide parking spaces off all public ways; to give necessary ingress and egress; to reduce traffic congestion caused by parking in public ways; and to prevent commercial traffic from parking on residential streets surrounding the SC-1 development, thus to promote and protect the public health, safety and the general welfare. Off-street parking space shall be provided on the same lot as the principal building in accordance with the following minimum requirements:

- (1) At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Retail trade (outside of a shopping center);
  - b. Government offices;
  - c. Real estate offices;
  - d. General office;
  - e. Professional services, such as, but not limited to, architectural, [accounting](#), legal and engineering services; and
  - f. Medical services: Doctor's offices, dentist's offices.
  - g. Adult arcade, adult bookstore, adult novelty store, adult video store, escort agency.
- (2) At least one off-street parking space shall be provided for each 300 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Personal and professional services: repair shops, tailor shops, photographic studio, dry cleaners, laundries;
  - b. Insurance offices;
  - c. Security brokers;
  - d. Art galleries; and
  - e. Business services.
  - f. Nude modeling studio.
- (3) Other uses:
  - a. Personal services:
    1. Beauty parlors/barber shop: At least three off-street parking spaces shall be provided for each operator chair.
    2. Child care facilities: At least one off-street parking space shall be provided per employee on the largest shift of employment, plus one parking space for every six students.
    3. Hospitals: At least 2.5 parking spaces shall be provided per bed.
  - b. Public uses:
    1. Post office: At least one off-street parking space shall be provided per employee for every 400 square feet of gross floor area, plus one parking space for every employee on the shift of largest employment.
    2. Schools:
      - i. Elementary schools (K through eight): At least 1.5 off-street parking spaces shall be provided per staff member. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.

- ii. High schools (grade nine through 12): At least one off-street parking space shall be provided for each employee, plus 0.6 parking spaces per maximum capacity of 11th and 12th grade students. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.
      - iii. College or university: At least eight off-street parking spaces shall be provided for each classroom.
    - 3. Public utilities: At least one off-street parking space per employee, plus one parking space for every public vehicle.
  - c. Restaurants, adult cabaret, sexual encounter center: At least one off-street parking space shall be provided for every two seats, plus one parking space per every two employees on the shift of greatest employment, plus ten queuing spaces for each drive-in aisle.
  - d. Banks/savings and loans associations: At least one off-street parking space shall be provided for every 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle.
  - e. Cultural activities:
    - 1. Museums: At least one off-street parking space shall be provided for every 1,000 square feet of gross floor area.
    - 2. Libraries: At least one off-street parking space shall be provided for every 300 square feet of gross floor area, plus one parking space for each two employees on the shift of greatest employment.
  - f. Community assembly:
    - 1. Places of worship:
      - i. At least one parking space shall be provided for every five seats in the main auditorium for every new place of worship.
      - ii. At least one parking space shall be provided for each five seats in a new main auditorium constructed by an existing place of worship.
      - iii. At least one parking space shall be provided for each five additional seats added to an existing main auditorium.
- The board of zoning appeals shall have the right to permit land within 800 feet of the nearest place of worship property line to be used for the parking spaces required in connection with such place of worship but only when there is written agreement between the place of worship and the owner of such property outlining the use arrangements which are approved by the board of zoning appeals.
- 2. Community centers: At least one parking space shall be provided for every 250 square feet of gross floor area.
  - 3. Theater: At least one space for each three seats, plus one space for each two employees.
- g. Planned shopping center: At least one parking space shall be provided for every 200 square feet of gross floor area. ~~Exceptions: Increases and modifications to the parking requirements for a shopping center may be made in order to~~ The Planning Commission may approve modifications to the parking requirements in order to accommodate a particular mix of uses.
- h. Recreational facilities:
  - 1. Park: Parking space equivalent to at least one percent of the total land area.
  - 2. Amusement places: At least one parking space shall be provided for every 200 square feet of gross floor area.

- (4) Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Loading requirements: Business uses involving the sale of merchandise or food shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the building. One additional loading space shall be provided for each additional 20,000 square feet or fraction thereof.
- (6) General requirements:
  - a. Parking shall not be located within the proposed right-of-way.
  - b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E-10, R-E, R-E-1, R, R-1, R-2, R-3).
  - c. Parking or paved areas shall not be permitted within 20 feet of any multifamily districts (R-T, PUD).
- (7) Reserved. Parking racks for bicycles shall be provided at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.
- (8) Adult motion picture theater, adult theater: One space for every three seats in the building plus one for every two employees on the largest shift.

(Code 1986, § 25-270; Ord. No. 1999-3, § 4, 6-28-99; Ord. No. 2006-8 1-22-07)

Sec. 23-441. - Pavement.

The streets, parking areas and walks shall be paved with hard-surfaced material meeting applicable standards of the city.

(Code 1986, § 25-271)

Sec. 23-442. - Height regulations.

No structure shall exceed 35 feet in height in the SC-1 district, as measured from the average of the finished ground elevations at the front line of the building. This limitation shall not apply to bellfries, chimneys, church spires, flagpoles, radio and television antennas or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and provided further that they are located a distance equal to their own height plus ten feet from the nearest property line.

(Code 1986, § 25-272)

Sec. 23-443. - Storage.

Any building in the SC-1 district used primarily for any of the above-enumerated purposes may not have more than 25 percent of the floor area devoted to storage. No temporary or moveable structures shall be used for storage purposes.

(Code 1986, § 25-273)



No structure in the O district shall exceed 35 feet in height, as measured from the average of the finished ground elevations at the front line of the building. This limitation shall not apply to belfries, chimneys, church spires, flagpoles, radio and television antennas or aerials, and water tanks; provided, however, that they comply with the provisions of all pertinent codes and ordinances, and provided further, that they are located a distance equal to their own height plus ten feet from the nearest property line.

(Code 1986, § 25-298)

Sec. 23-469. - Parking and loading regulations.

The following provisions for off-street parking are required in the O district in order to provide parking spaces off all public ways; to give necessary ingress and egress; to reduce traffic congestion caused by parking in public ways; and to prevent commercial traffic from parking on residential streets surrounding the O development, thus to promote and protect the public health, safety and general welfare. Off-street parking space shall be provided on the same lot as the principal building in accordance with the following minimum requirements:

- (1) At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Real estate offices;
  - b. General office;
  - c. Medical services: Doctor's offices, dentist's offices; and
  - d. Professional services, such as, but not limited to, architectural, accounting, legal and engineering services.
- (2) At least one off-street parking space shall be provided for each 300 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Insurance offices;
  - b. Security brokers;
  - c. Art galleries; and
  - d. Business services.
- (3) Other uses:
  - a. Public uses:
    1. Post office: At least one off-street parking space shall be provided per employee for every 400 square feet of gross floor area, plus one parking space for every employee on the shift of largest employment.
    2. Schools:
      - i. Elementary schools (K through eight): At least 1.5 off-street parking spaces shall be provided per staff member. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.
      - ii. High schools (grade nine through 12): At least one off-street parking space shall be provided for each employee, plus 0.6 parking spaces per maximum capacity of 11th and 12th grade students. For computation purposes, any fractional amount over one will be rounded to the next larger whole number.
      - iii. College or university: At least eight off-street parking spaces shall be provided for each classroom.

- 3. Public utilities: At least one off-street parking space per employee, plus one parking space for every public vehicle.
  - b. Banks/savings and loans associations: At least one off-street parking space shall be provided for every 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle.
  - c. Cultural activities:
    - 1. Museums: At least one off-street parking space shall be provided for every 1,000 square feet of gross floor area.
    - 2. Libraries: At least one off-street parking space shall be provided for every 300 square feet of gross floor area, plus one parking space for each two employees on the shift of greatest employment.
  - d. Community assembly:
    - 1. Public or private facilities designed for audiences: At least one off-street parking space shall be provided for every three seats in the building.
    - 2. Places of worship: At least one parking space shall be provided for every five seats located in the main auditorium.

The board of zoning appeals shall have the right to permit land within 800 feet of the nearest place of worship property line to be used for the parking spaces required in connection with such place of worship, but only when there is written agreement between the place of worship and the owner of such property outlining the use arrangements which are approved by the board of zoning appeals.
  - e. Outpatient surgical facility: At least four off-street parking spaces shall be provided for each room routinely used for surgical procedures, plus one parking space for each staff member.
- (4) Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Loading requirements: Business uses involving the sale of merchandise or food shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the building. One additional loading space shall be provided for each additional 20,000 square feet or fraction thereof.
- (6) General:
- a. Parking shall not be located within the proposed right-of-way.
  - b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E, R, R-1, R-2, R-3).
  - c. Parking or paved areas shall not be permitted within 20 feet of any multifamily districts (R-T, PUD).

d. Parking racks for bicycles shall be provided at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.

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(Code 1986, § 25-299; Ord. No. 2004-8, 8-23-04)

provisions of all pertinent codes and ordinances, and provided further that they are located a distance equal to their own height, plus ten feet from the nearest property line.

(Ord. No. 1998-10, 8-24-98)

Sec. 23-499. - Parking and loading regulations.

The following provisions for off-street parking are required in the O-51 district in order to provide parking spaces of all public ways; to give necessary ingress and egress; to reduce traffic congestion caused by parking in public ways; and to prevent commercial traffic from parking on residential streets surrounding the O development, thus to promote and protect the public health, safety and general welfare. Off-street parking space shall be provided on the same lot as the principal building in accordance with the following minimum requirements:

- (1) At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Real estate offices;
  - b. General office;
  - c. Medical services: doctors' offices, dentists' offices; and
  - d. Professional services such as, but not limited to, architectural, accounting, legal and engineering services.
- (2) At least one off-street parking space shall be provided for each 300 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Insurance offices; and
  - b. Security brokers.
- (3) Banks/savings and loan associations: At least one off-street parking space shall be provided for every 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle.
- (4) Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Loading requirements: Business uses involving the sale of merchandise or food shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the building. One additional loading space shall be provided for each additional 20,000 square feet or fraction thereof.
- (6) General:
  - a. Parking shall not be located within the proposed right-of-way.
  - b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E-10, R-E, R-E-1, R, R-1, R-2, R-3).
  - c. Parking or paved areas shall not be permitted within 20 feet of any multifamily district (R-T, PUD).

d. Parking racks for bicycles shall be provided at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.

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- (d) The requirements of chapter 14 of this Code, as it pertains to signs within the Old Germantown district, shall govern all existing and proposed signs unless specifically waived by the design review commission.

(Code 1986, § 25-321)

Sec. 23-522. - Demolition and replacement.

- (a) Where demolition or removal of an existing structure in the Old Germantown district is proposed, the applicant shall:
- (1) Submit a written justification for demolition or removal of the structure; and
  - (2) A development plan detailing the proposed redevelopment of the property.
- (b) If the design review commission determines that the proposed demolition or removal is not in the best interest of the city or district, the design review commission shall transmit to the board of mayor and aldermen a written recommendation that the city acquire a specified appropriate protective interest in the property, or promote such acquisition by other private civic groups, interested citizens or public boards. If the board of mayor and aldermen votes against such recommendation, or if within 90 days after transmission of such a recommendation no action has been initiated to acquire such protective interest, a notice to the applicant to proceed shall be issued.

(Code 1986, § 25-322; Ord. No. 2008-1, 2-25-08)

Sec. 23-523. - Appeals process.

If an application or appeal for the OG district is disapproved by the design review commission under the provisions of this division, the applicant may then appeal to the board of mayor and aldermen to review this decision of the design review commission at a regular meeting of the board not more than 30 days after the appeal. The board of mayor and aldermen, at the hearing, shall listen to all parties who desire to be heard and after the hearing shall approve or disapprove the application. Upon board approval of the appeal, the ~~building official-Director~~ may issue the building, occupancy and/or demolition permit forthwith, provided that the applicant has complied with all other codes, ordinances, regulations and procedures regarding such permits. The action of the board of mayor and aldermen in regard to the application, together with the report of the design review commission, shall be entered in the official minutes of the board of mayor and aldermen meeting.

(Code 1986, § 25-323)

Sec. 23-524. - Project development contract.

After review and approval of any application, excluding sign requests, within the Old Germantown district by the design review commission the owner and/or developer must execute a project and development contract with the city suitable to the board of mayor and aldermen before any permit can be issued. This contract will ensure the completion of all improvements, both public and private, as embodied in the development plan approved by the design review commission.

(Code 1986, § 25-324; Ord. No. 2008-1, 2-25-08)

Sec. 23-525. - Nonconforming uses and structures.

- (a) It is the intent of this section to permit legal nonconforming uses and structures, which are not permitted within the Old Germantown district, but which were permitted or considered legal uses and

mayor and aldermen a written recommendation that the city acquire a specified appropriate protective interest in the property, or promote such acquisition by other private civic groups, interested citizens or public boards. If the board of mayor and aldermen votes against such recommendation or if, within 90 days after transmission of such a recommendation, no action has been initiated to acquire such protective interest, a notice to the applicant to proceed shall be issued.

(Code 1986, § 25-330-3; Ord. No. 2008-1, 2-25-08)

Sec. 23-549. - Appeals process.

If any application or appeal in connection with the OG-1 district is disapproved by the design review commission under the provisions of this division, the applicant may then appeal to the board of mayor and aldermen to review the decision of the design review commission at a regular meeting of the board not more than 30 days after such appeal. The board of mayor and aldermen, at such hearing, shall listen to all parties who desire to be heard and after such hearing shall approve or disapprove the application. Upon board approval of the appeal, the ~~building official~~ Director may issue the building, occupancy and/or demolition permit forthwith, provided that the applicant has complied with all other codes, ordinances, regulations and procedures regarding such permits. The action of the board of mayor and aldermen in regard to the application, together with the report of the design review commission, shall be entered in the official minutes of the board of mayor and aldermen meeting.

(Code 1986, § 25-330-4)

Sec. 23-550. - Project development contract.

After review and approval of any application, excluding sign requests, within the OG-1 district by the design review commission, the owner and/or developer must execute a project development contract with the city suitable to the board of mayor and aldermen before any permit can be issued. This contract will ensure the completion of all improvements, both public and private, as embodied in the development plan approved by the design review commission.

(Code 1986, § 25-330-5; Ord. No. 2008-1, 2-25-08)

Sec. 23-551. - Nonconforming uses and structures.

- (a) It is the intent of this section to permit legal nonconforming uses and structures, which are not permitted within the OG-1 district, but which were permitted or considered legal uses and structures prior to the passage of this division. Such uses shall be subject to those regulations contained in article IV of this chapter.
- (b) Notwithstanding subsection (a) of this section, if any structure existing within the OG-1 district is damaged or totally destroyed by fire, wind, storm or any other calamity, the owner shall have the right to reconstruct such structure if such construction is commenced within a one-year period after such calamity, in the same location, provided that the exterior conforms to the exterior of the building so partially or totally destroyed in all material respects, and provided further that the structure complies with all applicable building and safety codes. If reconstruction is not commenced within the one-year period, then the owner does not have the right to rebuild the same, unless the board of mayor and aldermen, by majority vote, within the one-year period further extends the time for commencing construction upon good cause being shown.

(Code 1986, § 25-330-6)

Secs. 23-552—23-565. - Reserved.

DIVISION 19. - PLANNED ~~UNIT~~ DEVELOPMENT (PUD)

Sec. 23-566. - Purpose of division.

- (a) The primary thrust of development in the city has taken place under requirements of uniform regulations within each zoning district that may on occasion prevent or discourage innovative site design and development that will respond to new market demands. The use of improved techniques for land development is often difficult under traditional zoning regulations designed to control single buildings on individual lots. Proper private development requires a flexible approach to be available both to the city and to the landowner. Deviations from the uniformity characteristic of such earlier zoning regulations and the use of new and innovative techniques are henceforth to be encouraged as a matter of policy. However, it should be noted that the planned development regulations are not intended to allow increased densities or the development of incompatible land uses. The standards contained in the following provisions must be strictly adhered to by the applicant.
- (b) The city may, upon proper application, approve a planned development for a site of at least one acre to facilitate the use of flexible techniques of land development and site design, by providing relief from zone requirements designed for conventional developments in order to obtain one or more of the following objectives:
  - (1) Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.
  - (2) Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.
  - (3) Functional and beneficial uses of open space areas.
  - (4) Preservation of natural features of a development site.
  - (5) Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
  - (6) Rational and economic development in relation to public services.
  - (7) Efficient and effective traffic circulation, both within and adjacent to the development site.

(Code 1986, § 25-331; Ord. No. 2009-11, 4-13-09)

Sec. 23-567. - Relation between planned development and zoning districts.

- (a) Planned development districts. Planned development districts shall be permitted in all districts except the R-E-10 residential estate district, the R-E residential estate district and R-E-1 residential estate district, and the AG agricultural district. No PUD shall be permitted in any district for a use which is not permitted within the existing zoning classification of that particular lot, tract or parcel of land at the time of the filing of an application for planned development approval.
- (b) Modification of district regulations. Planned developments may be constructed in any zoning district as outlined in subsection (a) of this section, subject to the standards and procedures set forth as follows:
  - (1) Except as modified by the approved outline plan, a planned development shall be governed by the regulations of the district or districts in which the planned development is located.
  - (2) The approval of the outline plan for the planned development may provide for such exceptions from the district regulations governing area, bulk, parking and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed planned development, provided that such exceptions are consistent with the standards and criteria contained in this

- (4) Pedestrian circulation. The pedestrian circulation system and its related walkways shall be separated, whenever feasible, from the vehicular street system in order to provide an appropriate degree of separation of pedestrian and vehicular movement.
- (5) Privacy. The planned residential development shall provide reasonable visual and acoustical privacy for dwelling units within and adjacent to the planned residential development. Protection and enhancement of the property and the privacy of its occupants may be provided by the screening of objectionable views or uses and reduction of noise through the use of fences, insulation, natural foliage, berms and landscaped barriers. Buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining buildings.
- (6) Density. The density of planned residential districts shall adhere to the allowable density of the underlying zoning district. For purposes of calculating the density of a planned residential development, the area of the site shall include all dedicated and private streets internal to the site.

(Code 1986, § 25-334; Ord. No. 2009-11, 4-13-09)

Sec. 23-570. - Specific standards and criteria for planned commercial developments.

The board of mayor and aldermen may approve a planned commercial development for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and similar facilities ordinarily accepted as commercial center uses. In addition to the applicable standards and criteria set forth in section 23-568, planned commercial developments shall comply with the following standards:

- (1) Residential use. Except for hotels, no buildings shall be designed, constructed, structurally altered or used for dwelling purposes, except to provide, within permitted buildings, facilities for a custodian, caretaker or watchman employed on the premises.
- (2) Screening. When structures or uses in a planned commercial development abut a residential district or permitted residential buildings in the same development, screening may be required.
- (3) Display of merchandise. All business shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way; provided, however, that when an automobile service station or gasoline sales are permitted in a planned commercial development, motor fuels may be sold from dispensers outside of a structure.
- (4) Accessibility. The site shall be accessible from the proposed street network in the vicinity which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development and may be designed to discourage outside through traffic from traversing the development. All forms of transportation including, but not limited to, bikeways and mass transit should be considered in developing the plan for development.
- (5) Landscaping. Landscaping shall be required to provide screening of objectionable views or uses and the reduction of noise.

(Code 1986, § 25-335; Ord. No. 2006-8 1-22-07)

Sec. 23-571. - Mixed use planned developments.

Planned developments which do not qualify as a planned residential development and which are not exclusively for commercial uses shall be subject to all applicable standards contained in sections 23-569 and 23-570. However, mixed use planned developments in Smart Code zoning districts must also comply with all applicable standards contained in sections 23-741-thru 23-833.

(Code 1986, § 25-336)

Sec. 23-572. - Procedures for planned development approval.

- (a) Preapplication procedure. Not more than six months prior to filing any application for planned development approval, the prospective applicant shall request a ~~preapplication~~pre-application conference with the city's planning staff. Such request shall include a brief and general narrative description of the nature, location and extent of the proposed planned development; and a list of any professional consultants advising the prospective applicant with respect to the proposed planned development. Upon receipt of such request, the city planning staff shall promptly schedule such a conference.
- (b) Application and post application procedure. The procedure for initiation and processing of an application for a planned development is set forth in this section through section 23-579.

(Code 1986, § 25-337)

Sec. 23-573. - Outline plan.

An outline plan shall be submitted to the planning commission with the application for a planned development. A final plan, including all the requirements of an outline plan, may be submitted as a single application when the development will be constructed in one phase. The outline plan shall contain at a minimum:

- (1) For all planned residential developments:
  - a. A map on a scale of one inch equals 100 feet or larger showing available utilities, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property.
  - b. A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural topographical and physical features of the subject property; location and extent of tree cover; location and extent of watercourses, marshes and floodplains on or within 100 feet of the subject property; existing drainage patterns and soil conditions.
  - c. A drawing defining the general location and maximum number of lots, parcels or sites to be developed or occupied by buildings in the planned development; the general location and maximum amount of area to be developed for parking; the general location and maximum amount of area to be devoted to open space and to be conveyed, dedicated or served for parks, playgrounds, school sites, public buildings and other common use areas; the approximate location of points of ingress and egress and access streets, where required; the approximate location of pedestrian and vehicular ways or the restrictions pertaining thereto and the extent of landscaping, planting or fencing and other treatment for adjustment to surrounding property.
  - d. A tabulation of the maximum number of dwelling units proposed, including the number of units with two or less bedrooms and more than two bedrooms.
  - e. A tabulation of the maximum floor area to be constructed, except for single-family detached dwellings and their accessory buildings, and the proposed maximum height of any building or structure.
  - f. A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the city and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with applicable regulations. The statement shall include a description of the applicant's planning objectives, the approaches to be



(Code 1986, § 25-341)

Sec. 23-577. - Zoning administration; permits.

The ~~building official~~ Director may issue building permits for the area of the planned development covered by the approved final plan for work in conformity with the approved final plan and with all other applicable ordinances and regulations. However, the ~~building official~~ Director shall not issue an occupancy permit for any building or structure shown on the development plan of any stage of the planned development unless the open space and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or homeowners' association or a responsible party. The ~~building official~~ Director shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final plan if the completed building or structure conforms to the requirements of the approved final plan and all other applicable regulations and ordinances.

(Code 1986, § 25-342)

Sec. 23-578. - Reapplication if denied.

If an application for a planned unit development is denied by the board of mayor and aldermen, a reapplication pertaining to the same property and requesting the same planned unit development may not be filed within 12 months of the date final action was taken on the previous application.

(Code 1986, § 25-343)

Sec. 23-579. - Procedure for amendment.

An outline plan and/or a final plan may be amended in accordance with the procedure which governed its approval as set forth in this division.

(Code 1986, § 25-344)

Secs. 23-580—23-595. - Reserved.

DIVISION 20. - FLOOD DISTRICTS (FF AND FW)

Sec. 23-596. - Statutory authorization.

The legislature of the state has in T.C.A. §§ 13-7-201—13-7-211 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the board of mayor and aldermen does ordain the provisions of this division.

(Code 1986, § 25-361(A); Ord. No. 2007-19, 10-8-07)

Sec. 23-597. - Findings of fact.

(a) The board of mayor and aldermen wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(d) of the Federal Insurance

section 23-600, of this division). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in section 23-602.

- (2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including the basement, elevated no lower than 1.5 feet above the level of the base flood elevation and together with attendant utility and sanitary facilities be floodproofed in lieu of being elevated, provided that all areas of the building below such elevation are watertight with materials substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Local Enforcement Officer shall require the design Engineer to set the lowest floor of a building to be elevated or floodproofed to a level of at least three feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in section 23-600, of this division). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in section 23-602. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Local Enforcement Officer as set forth in section 23-602(b)(2).
- (3) Elevated building. New construction or substantial improvements of elevated buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this subsection (b)(3) must either be certified by a professional engineer or architect or must meet or exceed the following minimum criteria:
    1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    2. The bottom of all openings shall be no higher than one foot above grade; and
    3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwaters in both directions.
  - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters, and all such **petitions applications** shall comply with the provisions of this subsection (b).
- (4) Standards for manufactured homes and recreational vehicles.
  - a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
  - b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the lowest floor of the manufactured home is elevated no lower than 30 inches above the level of the base flood elevation on a permanent foundation. Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet in height above the highest adjacent grade.
  - c. All manufactured homes proposed to be located in an area subject to flood shall be subject to the following anchoring requirements:

laboratory test results shall be submitted to the city engineer in order to ensure the city that satisfactory water is maintained.

(b) Prohibited uses.

- (1) Within the wellhead protection overlay districts, uses prohibited in the underlying zoning district are also prohibited in the wellhead protection overlay districts.
- (2) The following uses remain prohibited in the wellhead protection overlay district even if they shall be allowed by right in the underlying zoning district:
  - a. Manufacturing and production of hazardous materials, excluding production for on-site usage only. These materials include any hazardous substance or hazardous waste as listed in the following federal regulations:
    1. Superfund Amendments and Reauthorization Act (SARA) of 1986, section 302, Extremely Hazardous Substances List (40 CFR 300, appendices A and B);
    2. Comprehensive Environmental Response Compensation and Liability Act Superfund (CERCLA) of 1980, Hazardous Substances List (40 CFR 302, table 302.4);
    3. SARA of 1986, section 313, Toxic Chemicals List (40 CFR 372.45); and
    4. Resource Conservation and Recovery Act (RCRA) of 1976 and 1984 Amendments, Hazardous Wastes List (P and U Categories) (40 CFR 261.33(e) and (f)).

Note: The lists referenced in subsection (b)(2)a of this section, are summarized on the Title III List of Lists, Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Action (SARA) of 1986, published July 1987, U.S. EPA.

b. Nuclear or radioactive materials or wastes.

- (3) The city shall maintain the right to determine and document, when necessary, the contaminants subject to the provisions of this division.
- (4) The uses prohibited by this overlay district represent the state of present knowledge and most common description of such uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this overlay district. To screen for such other uses or terms for uses, no use shall be permitted in this overlay district without first submitting its building, site and operational plans for planning commission review and approval under section 23-643.
- (5) The uses prohibited by this overlay district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to nonrisk materials or methods, upon ~~petition~~ ~~application~~ ~~for~~ ~~from~~ such a use, and after conferring with expert geological and other opinion, it is the intention to delete from the prohibited list, or allow conditionally, uses which demonstrate convincingly that they no longer pose a pollution hazard. Any request to delete a use from the prohibited list or allow a use conditionally, shall be accompanied by a study as required in subsection (a)(2)b of this section, to examine the impact of the use upon the city municipal water source, under reasonably possible hydrologic or geologic conditions. Technological evidence shall be based on the modeling techniques defined in wellhead protection area, zone 1 and zone 2 reports, approved by the TDEC (November, 1995). The report from the study shall be submitted to the city engineer.

(c) Special exemptions and limited exclusions. Special exemptions and limited exclusions from the provisions of subsections (a) and (b) of this section are authorized for:

- (1) Fire, police, emergency medical services, emergency management center facilities, and public utilities.

--- (10) ---

**Editor's note**—Ord. No. 2012-14, § 2, adopted Nov. 12, 2012, enacted new provisions to read as Div. 24, §§ 23-666—23-676. Seeing as these sections have been set out as Arts. IV and V and in keeping with the numbering style of this Code, Ord. No. 2012-14 has been set out as Div. 23, §§ 23-648—23-658, at the discretion of the editor. See Code Comparative Table for derivation.

**Sec. 23-648. - Scope of division.**

The regulations set forth in this division shall apply to the district designation of the O-T Office-Technology district. The purpose of the O-T Office-Technology district is to provide areas for general offices as well as technology production, development and testing, for biotechnology, biomedical, software and hardware development, and electronics. Sites presently appropriate for this designation are located within the Forest Hill Technology Corridor and within the Wolf River Blvd. Medical Corridor.

(Ord. No. 2012-14, § 2, 11-12-12)

**Sec. 23-649. - Use regulations.**

Within the districts designated as O-T Office-Technology districts, the following activities are permitted:

- (1) Financial, insurance and real estate services such as, but not limited to, banks, credit companies and insurance and real estate offices.
- (2) Professional services such as, but not limited to, architectural, accounting, legal and engineering services.
- (3) Medical services such as, but not limited to, doctors' offices and dentists' offices.
- (4) General offices.
- (5) Wireless transmission facilities.
- (6) Laboratory, support.
- (7) Laboratory, testing.
- (8) Laboratory, research.
- (9) Accessory buildings and uses customarily incidental to such uses including, but not limited to, interior storage, loading dock(s) and light assembly associated with research and development functions.
- (10) Health care facility.
- (11) Medical office/services.

(Ord. No. 2012-14, § 2, 11-12-12; Ord. No. 2014-11, § 2, 10-13-14)

**Sec. 23-650. - Plan review.**

- (a) Any applicant for O-T zoning shall submit an application and a sketch plan that complies with the submittal policies and requirements of the Department of Economic and Community Development. At a minimum, the following shall be submitted:
  - (1) Existing and proposed roads and drainage.
  - (2) General landscaped areas and planting screens.
  - (3) Curb cuts and drives.

- (1) At least one off-street parking space shall be provided for each 200 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Real estate offices;
  - b. General office;
  - c. Medical services: Doctors' offices, dentists' offices; and
  - d. Professional services such as, but not limited to, architectural, accounting, legal and engineering services.
- (2) At least one off-street parking space shall be provided for each 300 square feet of gross floor area for the following uses. Measurements representing 50 percent or more of the specified number of square feet of gross floor shall require an additional parking space.
  - a. Insurance offices; and
  - b. Security brokers.
- (3) Banks/savings and loan associations: At least one off-street parking space shall be provided for every 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle.
- (4) Laboratories (research, testing or support): At least one off-street parking space shall be provided for every 200 square feet of gross floor area devoted to office functions plus one space per every three employees on the shift with the greatest number of employees.  
 Any permitted uses not specifically listed: At least one off-street parking space shall be provided for each 200 square feet of gross floor area, plus four queue spaces for each drive-in aisle. Measurements representing 50 percent or more of the specified number of square feet of gross floor area shall require an additional parking space.
- (5) Loading requirements: Business uses shall provide one space with minimum dimensions of ten by 55 feet for loading or unloading of trucks, either within the building or on the same lot for the first 10,000 square feet or total floor area in the building. Additional loading space shall be subject to the approval of the planning commission at the time of site plan approval.
- (6) General:
  - a. Parking shall not be located within the proposed right-of-way.
  - b. Parking or paved areas shall not be permitted within 35 feet of any single-family district (R-E-10, R-E, R-E-1, R, R-1, R-2, R-3).
  - c. Parking or paved areas shall not be permitted within 20 feet of any multifamily district (R-T, PUD).
  - d. Parking racks for bicycles shall be provided at a ratio of one bicycle space per 20 motor vehicle spaces (1:20). No more than 20 spaces shall be required for any project.

(Ord. No. 2012-14, § 2, 11-12-12)

**Sec. 23-657. - Storage.**

Floor area devoted to storage shall be subordinate in area, height and extent to the principal use. All areas used for storage shall be completely contained within the principal building. No temporary or moveable structures shall be used for storage purposes.

(Ord. No. 2012-14, § 2, 11-12-12)

Within the districts designated as "O-C" office campus districts, the following activities are permitted:

- (1) Corporate office campus;
- (2) Financial, insurance and real estate services such as, but not limited to, banks, credit companies, and insurance and real estate offices;
- (3) Professional services such as, but not limited to, architectural, accounting, legal and engineering services;
- (4) Medical services such as, but not limited to, doctors' offices and dentists' offices;
- (5) General offices;
- (6) Wireless transmission facilities;
- (7) Supportive retail uses customarily incidental to the aforementioned uses. supportive retail uses shall be permitted if located on either the first floor or in the basement of an office building that is a minimum of three stories in height and 30,000 square feet in net floor area.
- (8) Medical office/services.

(Ord. No. 2001-13, 11-12-01; Ord. No. 2014-11, § 2, 10-13-1)

Sec. 23-674. - Plan review.

- (a) Any applicant for "O-C" zoning shall submit a sketch plan.
- (b) The sketch plan shall:
  - (1) Be drawn to a scale of one inch equals 100 feet.
  - (2) Include the following:
    - a. Existing and proposed roads and drainage;
    - b. General landscaped areas and planting screens;
    - c. Curb cuts and drives;
    - d. Building setback lines.
  - (3) Include a vicinity map which shows the relation of the proposed development to the city.
  - (4) Show the relation of the proposed development to:
    - a. The existing street system;
    - b. The immediate and surrounding use districts;
    - c. Adjacent tracts;
    - d. Zoning of adjacent tracts;
    - e. The names of the owners of all adjoining lots or tracts.
  - (5) Approval of the sketch plan by the planning commission shall constitute a recommendation to the board of mayor and alderman to rezone to "O-C" all property included on the sketch plan not already zoned "O-C". Following planning commission approval of the sketch plan, notices and publication of public hearings shall be initiated and shall conform to the rules of the board of mayor and aldermen and the amendment provisions of this chapter as set forth in article XVII. Upon completion of the required public hearing, the board shall approve or disapprove the rezoning.

(Ord. No. 2001-13, 11-12-01)

(b) [Site plan requirements.] Building and site plans submitted under this section shall show the following, in compliance with the standards described in this section:

(1) For sketch plan review:

- a. Building siting.
- b. Building configuration.
- c. Building function.
- d. Parking standards.
- e. All requirements of the City of Germantown Checklist for Sketch Plan Review Checklist, including, but not limited to: vicinity map and information; general information; land use; existing conditions; grading and drainage; tree plan; utility plan; vehicular circulation.
- f. Other requirements as determined by DECD staff.

(2) Site plan/subdivision plat approval (in addition to the above):

- a. Architectural standards.
- b. Landscape standards.
- c. Sign standards.
- d. Lighting standards.
- e. Public art.
- f. All requirements of the City of Germantown Checklist for Final Plat/Site Plan Review Checklist, including, but not limited to: vicinity map and information; general information; land use; existing conditions; grading and drainage; tree plan; utility plan; vehicular circulation; traffic analysis.

(Ord. No. 2013-13, § 1, 11-11-13)

#### Sec. 23-745. - Warrants.

(a) The provisions of this article are intended to govern and regulate all matters involving the use and development of land within the SmartCode zoning districts. However, in those instances where reasons are shown that would justify a deviation from the strict requirements of the provisions of this article as to property to which this article applies by operation of law or by election of the property owner, the PC shall have authority to permit such deviations. Any such deviation, for the purposes hereof, shall be referred to as a "warrant." A warrant is an official decision that permits a practice that is not consistent with a specific provision(s) of this article, but is justified by its intent (section 23-741) and is consistent with the adopted small area plan applicable to that location. In addition to the criteria noted above, the following specific instances may be considered for warrants:

- (1) ~~Designation of civic building or civic space (section 23-758-A.1). Decreased building height in T4/T4 R, (sections 23-769-1(a) and T5/T5R (section 23-769-1(a) 23-770-1(a)).~~
- (2) Parking for civic functions (section 23-758(a)(2)).
- (3) Design of civic buildings (section 23-758(b)).
- (4) Uses permitted by warrant (section 23-763(a)).
- (5) Increased building height in the T6 district (section 23-771(a)).
- (6) Number and orientation of buildings in the T3 district (section 23-778(a)(1)).

- (7) Building façade exterior materials that are not explicitly permitted per section 23-786(c) (for residential buildings) or section 23-787(d) (for mixed use and commercial buildings).
  - (8) The utilization of publicly available parking to fulfill requirements for nonresidential use (section 23-792(a)(2)).
  - (9) The application of the parking sharing factor (section 23-792(a)(3)).
  - (10) Surface parking spaces provided in excess of 120 percent of the minimum required (section 23-792(d)(6)).
  - (11) Use of an evergreen hedge or fence instead of a streetscreen (section 23-794(b)).
  - (12) The construction of loading docks and service areas on primary frontages (section 23-794(b)).
  - (13) Lighting levels beyond those permitted in (section 23-796(b)).
  - (14) Any deviation from the sign standards (division 8).
  - (15) Specific requirements for truck and transit bus routes and truck loading (section 23-812(a)).
- (b) In determining justifiable reasons for granting a warrant, the PC shall take into account, among other relevant factors that may be applicable, the relationship of the property to other properties, whether the deviation would be in accord with the intent of this article, principles of good land use planning as same may evolve over time, the topography of the property, and peculiar and exceptional practical difficulties or undue hardship upon the owner of the property. In determining whether to grant a warrant, financial hardship shall not alone be considered sufficient to justify a deviation. In all events, the PC shall take into consideration whether the proposed deviation may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the provisions of this article.
  - (c) If a warrant is granted by the PC, the matter respecting the warrant shall be referred to the BMA, which shall have authority to approve or disapprove same. If the PC refuses to grant a warrant, the applicant may appeal same to the courts of the State of Tennessee in accordance with applicable law.
  - (d) This ~~division-section~~ (section 23-745) shall supersede all provisions of any other city ordinance that may be relevant to deviations (or matters of a similar nature) that might be classified as or termed "variances" if the subject property were not located in a SmartCode zoning district.
  - (e) Warrants for division 8 (Signs) shall be reviewed by the DRC.

(Ord. No. 2013-13, § 1, 11-11-13)

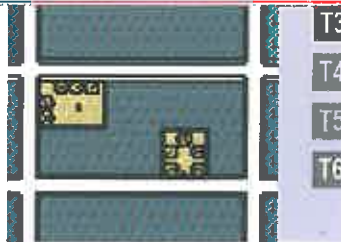
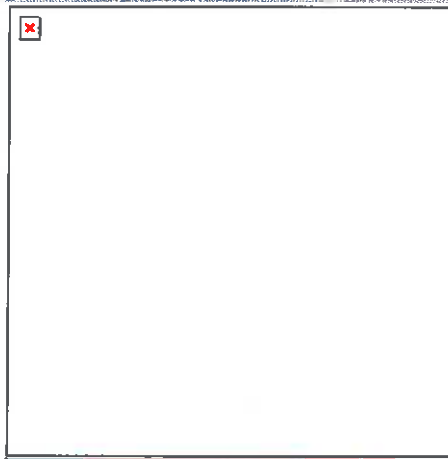
## DIVISION 2. - ADOPTED SMALL AREA PLAN ELEMENTS

### Sec. 23-755. - SmartCode zoning district descriptions.

This table provides description of the general character of each SmartCode zoning district, based on the transect concept. The transect is a system of ordering human habitats in a range from the most natural to the most urban. The SmartCode is based upon 6 transect zones which describe the physical character of place at any scale, according to the density and intensity of land use and urbanism.



E. **Playground:** An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.



Source:DPZ

Field Code Changed

(Ord. No. 2013-13, § 1, 11-11-13)

Secs. 23-759—23-762. - Reserved.

**DIVISION 3. - USE STANDARDS**

Sec. 23-763. - Permitted uses.

(a) Uses shall be permitted by right, by warrant, or prohibited according to the following table:

USE TYPE	T3	T4	T5	T6	Formatted Table
1. Residential					

Apartment Building	-	■	■	■		
Row House	-	■	■	■	■	■
Duplex House	-	■	■	-	■	■
Sideyard House	■	■	■	-	■	■
Cottage	■	■	-	-	■	■
House	■	■	-	-	■	■
Accessory Dwelling Unit	■	■	■	-	■	■
Live-Work Unit	■	■	■	■		
<b>2. Lodging</b>						
Hotel (no room limit)	-	-	■	■		
Inn (up to 12 rooms)	-	■	■	■		
Inn (up to 5 rooms)	-	■	■	■		
<b>3. Office</b>						
Office Building	-	■	■	■	■	■
Live-Work Unit	■	■	■	■	■	■
<b>4. Retail</b>						
Open-Market Building	-	■	■	■	■	■
Retail Building	-	■	■	■	■	■
Display Gallery	-	■	■	■	■	■
Restaurant	-	■	■	■	■	■

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Kiosk	-	■	■	■	■	■	■
Push Cart	-	-	□	□			
<del>Liquor-Selling Establishment</del> <u>Alcoholic Beverage Selling Establishment</u>	-	■	■	■	■	■	■
5. Civic							
Bus Shelter	■	■	■	■	■	■	■
Convention Center	-	-	□	□			
Conference Center	-	-	□	■			
Exhibition Center	-	-	□				
Library	-	■	■	■			
Live Theater	-	-	■	■			
Movie Theater	-	-	■	■			
Museum	-	-	□	■			
Outdoor Auditorium	-	■	■	■			
Parking Structure	-	-	■	■	■	■	■
<u>Stand-alone</u> Surface Parking Lot	-	□	□	□			
Passenger Terminal	-	-	□	□			
Playground	■	■	■	■			
Places of Worship	■	■	■	■			
Post Office	-	■	■	■			
6. OTHER: VEHICLE-RELATED							

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Gasoline Sales	-	-	□	□		
Automobile Service	-	□	□	□		
Drive-Through Facility	-	-	□	□		
<b>7. OTHER: CIVIL SUPPORT</b>						
Fire Station	■	■	■	■	■	■
Police Station	-	■	■	■	■	■
Cemetery	□	□	-	-		
Funeral Home	-	■	■	■		
Hospital	-	-	□	□		
Medical Clinic	-	□	■	■		
<b>8. OTHER: EDUCATION</b>						
College	-	-	□	□		
High School	-	□	□	□		
Elementary School	□	■	■	■		
Other—Daycare Center	■	■	■	■		
Family Daycare Home	■	■	-	-		
<b>9. OTHER: INDUSTRIAL</b>						
Laboratory Facility	-	-	□	□		
Water Supply Facility	-	-	-	-		
Sewer and Waste Facility	-	□	-	-		

Electric Substation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wireless Transmission	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>■ Permitted by right</b> <input type="checkbox"/> Permitted by Warrant <input checked="" type="checkbox"/> Prohibited						

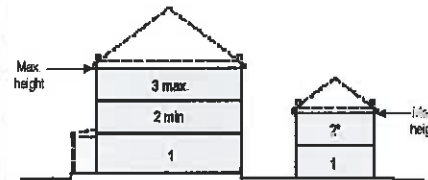
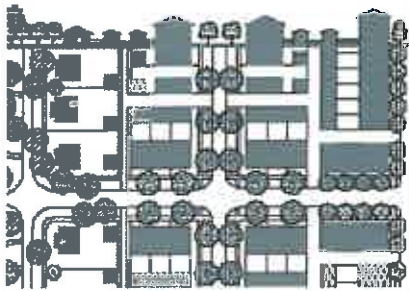
(b) Building function.

- (1) Functions that do not conform to the requirements of 3.1.1 shall require approval by warrant.
- (2) Accessory uses of Limited Lodging or Limited Office shall be permitted within an outbuilding. (T4 only)

(c) Additional use standards. The following additional use standards are applicable to T3, T4, T4R, T5, T5R and T6:

USE TYPE	T3	T4, T4R & T5R	T5 & T6
1. Residential	<b>Restricted Residential:</b> A. Dwellings on each lot restricted to one in a Principal Building and one in an ancillary building, with 2.0 parking places for the principal dwelling and 1.0 places for the ancillary. B. Both dwellings shall be under single ownership. C. The habitable area of the ancillary dwelling shall not exceed 500 square feet.	<b>Limited Residential:</b> A. The number of dwellings on each lot is limited by the requirement of 1.5 parking places for each dwelling, a ratio which may be reduced according to the shared parking standards (see Sec. 23-792(a)(3)).	<b>Open Residential:</b> A. The number of dwellings on each lot is limited by the requirement of 1.0 parking places for each dwelling, a ratio which may be reduced according to the shared parking standards (see Sec. 23-792(a)(3)).
2. Lodging	Prohibited	<b>Limited Lodging:</b> A. The number of bedrooms available on each lot for lodging is limited by the requirement of 1.0 assigned parking place for each bedroom, up to twelve, in addition to the parking requirement for the dwelling.	<b>Open Lodging:</b> A. The number of bedrooms available on each lot for lodging is limited by the requirement of 1.0 assigned parking place for each bedroom.

		<p>B. Food service may be provided in the a.m. The area allocated for food service shall be provided with parking according to retail use.</p> <p>C. The maximum length of stay shall not exceed 10 days.</p>	<p>B. Food service may be provided at all times. The area allocated for food service shall be calculated and provided with parking according to retail use.</p>
3. Office	<p><b>Restricted Office:</b></p> <p>A. The building area available for office use on each lot is restricted to the first story of the principal or the ancillary building and by the parking requirement for office space in addition to the parking requirement for each dwelling.</p>	<p><b>Limited Office:</b></p> <p>A. The building area available for office use on each lot is limited to the first two stories of the Principal Building and/or the ancillary building.</p>	<p><b>Open Office:</b></p> <p>A. The building area available for office use on each lot is limited by the requirement of 2.0 assigned parking places per 1000 square feet of net office space.</p>
4. Retail	<p>Prohibited</p>	<p><b>Limited Retail:</b></p> <p>A. The building area available for retail use is limited to the first story of buildings at corner locations with at least one major street (as defined in Sec. 17-56(c)(1) of the Germantown Code), not more than 5,000 sf. per block along the major street; or, where Shop fronts are recommended or required on the Regulating Plan.</p> <p>B. The specific use shall be further limited to Neighborhood Store(s), or restaurant(s) seating no more than 100.</p>	<p><b>Open Retail:</b></p> <p>A. The building area available for retail use is limited by the requirement of 3.0 assigned parking places per 1000 square feet of net retail space.</p>
5. Civic	<p>See Sec. 23-792. (Parking Requirements)</p>		
6. Other	<p>See Sec. 23-792. (Parking Requirements)</p>		



**1. BUILDING HEIGHT**

A. Principal Building	3 stories max. 2 stories min.  <b>1 story by warrant, minimum 20 feet</b>
B. Outbuilding	2 stories max.

**BUILDING SITING**

A. The façades and elevations of Principal Buildings shall be distanced from the lot lines as shown.

B. Buildings shall have façades along principal frontage lines and elevations along lot lines.

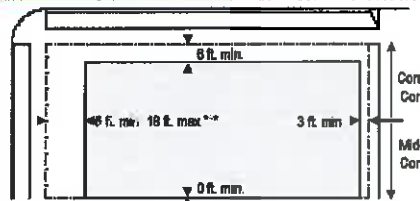
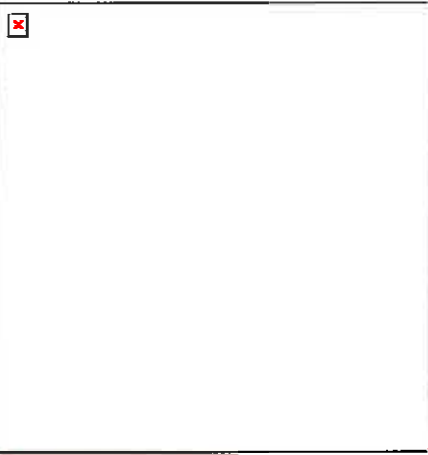
**2. LOT OCCUPATION**

A. Lot Width	18 ft min. 96 ft max.
B. Lot Coverage	70% max.
C. Frontage Buildout	N/A

**3. BUILDING DISPOSITION**

Edgeyard	permitted
Sideyard	permitted
Rearyard	permitted
Courtyard	prohibited

**OUTBUILDIN**



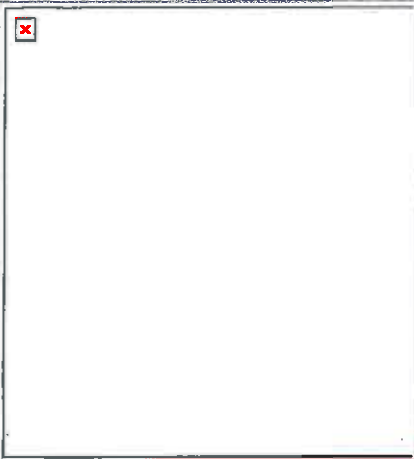
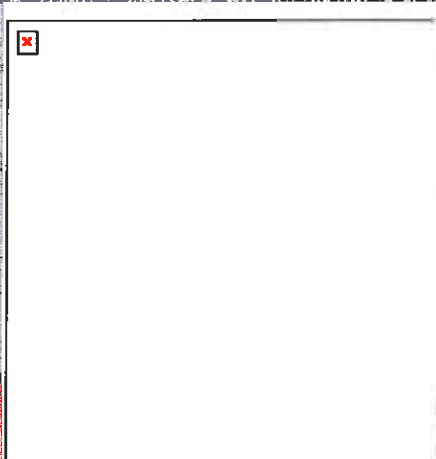

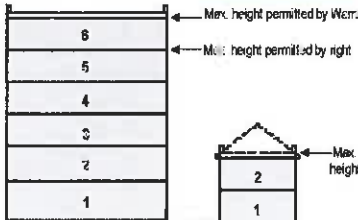
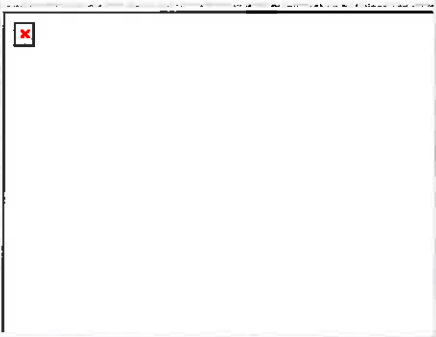
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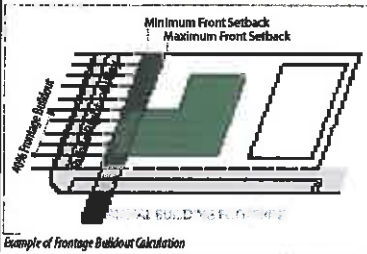
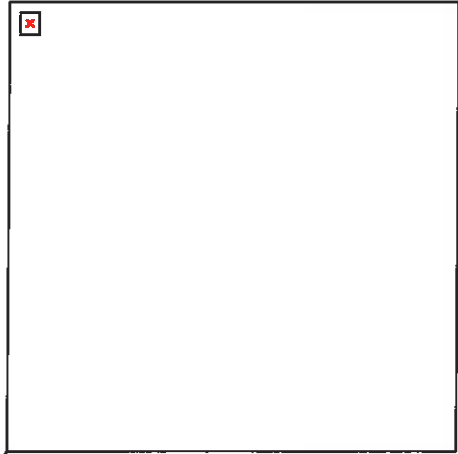
(Ord. No. 2013-13, § 1, 11-11-13)

Sec. 23-770. - Urban Center Zone (T5 and T5-Restricted).

This section establishes standards for the T5 and T5-Restricted (T5-R) SmartCode zoning districts as shown in the adopted zoning map. Additionally, development in the T5-R district shall be subject to the provisions in section 23-779.

			<p>Field Code Changed</p> <p>Field Code Changed</p>	
	<p>BUILDING HEIGHT A. Building height shall be measured as indicated in Sec. 23-780.</p>			
<p>1. BUILDING HEIGHT</p>			<p>Field Code Changed</p>	
<p>A. Principal Building</p>	<p><u>2 stories min.</u> 5 stories max. by right 6 stories max. by Warrant <u>1 story by warrant.</u> 20 ft min.</p>	<p>BUILDING SITING 1. The façades and elevations of Principal Buildings shall be distanced</p>		<p>Field Code Changed</p>





- (1) T5: 70 percent minimum. In the absence of a building along the remainder of the frontage line, a streetscreen shall be built on the same plane with the façade.
- (2) T6: 80 percent minimum. In the absence of building along the remainder of the frontage line, a streetscreen shall be built on the same plane with the façade.

(c) Encroachments. The following encroachments are allowed in the T4, T5, and T6 zones only:

PERMITTED ENCROACHMENTS (T4, <u>T4R</u> , T5, <u>T5R</u> , & T6 ONLY)	
Awnings	Maximum of 6 feet over public sidewalk <sup>1</sup>
Stoops	100% of setback
Open Porches and Awnings	50% of depth of setback
Balconies and bay windows	25% of depth of setback
<sup>1</sup> Awnings must be a minimum of 8 feet above the sidewalk.	

(Ord. No. 2013-13, § 1, 11-11-13)

Sec. 23-779. - Restricted zone standards.

- (a) Applicability. The provisions of this section shall apply to any properties designated as T4-Restricted or T5-Restricted (T4-R or T5-R). These are transitional zones which abut low density single-family housing that is zoned as R-E-10, R-E, R-E-1, R, R-1, R-2, and R-3, hereafter "low density housing."

(b) Setback and screening. A 50-foot building setback is required along all property lines that are adjacent to the low density housing. This 50-foot setback shall include a planting screen of at least 25 feet in depth at the adjacent edge(s) of the property. The planting screen shall utilize existing landscaping where possible, and new plantings shall be predominately evergreen that are at least 8 feet in height when planted.

(c) Permitted uses. Within 150 feet of the property line of such adjacent low density housing, new buildings shall be limited to limited retail, residential uses and/or parking facilities. Parking facilities shall follow the additional standards below:

(1) ~~Parking structure facility~~. Where an above-ground parking ~~structure facility~~ is located at the perimeter of a building, it shall be screened or treated in such a way that cars and lighting-light fixtures are not visible from the street or from abutting residentially zoned properties.

(d) ~~(2)~~ —Dumpsters. Garbage dumpsters shall not be placed within the first layer of a lot nor shall they be within 150 feet of low density housing.

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(ed) Height.

(1) New buildings in the T4-R and T5-R districts may not exceed three stories within 150 feet of low density housing. This height setback includes the required 50-foot building setback and 25-foot planting screen as described in subsection (b) of this section.

- b. Parking spaces shall be designed so they least interfere with pedestrian access and connections to adjoining developments.
  - c. Landscaped medians shall be designed that contain pedestrian walkways. These medians shall be at least 15 feet wide to accommodate shade trees, evergreen plantings and pedestrian paths.
- (5) Maintenance and management of all landscaped areas shall be the responsibility of the property owners.
- (6) Surface parking spaces provided in excess of 120 percent of the minimum required shall be by warrant constructed with engineered, permeable paving material.
- (e) Residential parking.
- (1) Garages shall be placed behind the building setback, facing the side or rear of detached homes.
  - (2) For residential buildings on lots less than 50 feet wide and for all sideyard, rearyard, and courtyard residential buildings, garages or off-street parking shall be accessed from an alley or via a shared driveway only.
- (f) Bicycle parking. Bicycle parking for all nonresidential uses and for residential uses of more than four units per building is required. Bicycle parking shall be provided at a rate of one bicycle parking space for every 20 motor vehicle spaces ~~(1:20). provided-up-to-a-maximum-of-20-bicycle-spaces~~ No more than 20 spaces shall be required for any project.
- (1) Required racks. "Inverted U" type racks or other racks that support the bicycle at two points on the bicycle frame are required. A single inverted U rack shall count as two bicycle spaces.
  - (2) Rack siting and dimensions.
    - a. Racks shall be secured to the ground on a hard surface such as concrete, asphalt or unit pavers.
    - b. Each bicycle parking space shall provide six feet by two feet in area per bicycle plus the area needed for access.
    - c. Bicycle parking shall be located no closer than five feet from any wall or three feet from face of curb to provide adequate space for access and maneuvering.
    - d. At least four feet between parallel racks shall be provided for access.
    - e. Bicycle racks installed on sidewalks shall provide for a clear, unobstructed width of at least five feet for pedestrians and shall be installed parallel to the curb.
    - f. Racks should be placed along a major building approach line and clearly visible from the approach and no more than 50 feet from building entrances or no further than the closest motor vehicle parking space, whichever is less. Rack placement should allow for visual monitoring by persons within the building and/or persons entering the building.
    - g. If required bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main entrance indicating the location of the parking.
    - h. Uses with several major, actively used entrances shall locate a portion of the required bicycle parking at each entrance.

(Ord. No. 2013-13, § 1, 11-11-13)

Sec. 23-793. - Driveways and cross-access connections.

(a) Driveways.

- (1) Mid-block lot driveways: A mid-block lot without access to a side street or alley is permitted one driveway with a maximum width of 24 feet.

(Ord. No. 2013-13, § 1, 11-11-13)

Sec. 23-796. - Lighting.

(a) General provisions.

- (1) All exterior illuminating devices, except those exempt from this standard or noted otherwise, shall cast light primarily downward (IESNA cutoff and semi-cutoff) and shall have lamp source shielded from direct view. Glare shields and cutoff devices shall be used to minimize throw onto adjacent properties.
- (2) Pole and building mounted light fixtures shall not exceed 25 feet, and shall not be higher than the majority of the building structure.
- (3) Pole-mounted parking lot light fixtures shall be placed so as to avoid conflicts with trees planted in landscape islands and medians.
- (4) Parking garage openings shall contain some form of screening to shield surrounding buildings and public spaces from parking garage lighting fixtures.
- (5) All street lights within the SmartCode zoning districts shall be the standard MLGW decorative fluted cast iron top streetlight.

(b) Lighting levels.

- (1) Lighting levels should meet the minimum Illuminating Engineering Society of North America (IESNA) standards for security lighting of public spaces. Lighting levels shall not exceed 100 percent of recommended values. Greater lighting levels shall require a warrant from the DRC.
- (2) T3: Average lighting levels measured at the building frontage shall not exceed 0.4 footcandles.
- (3) T4: Average lighting levels measured at the building frontage shall not exceed 2.0 footcandles.
- (4) T5: Average lighting levels measured at the building frontage shall not exceed 2.0 footcandles.
- (5) T6: Average lighting levels measured at the building frontage shall not exceed 2.5 footcandles.
- (6) Average lighting levels along boundaries between zones may blend the required light levels.
- (7) Sidewalks and canopies may have higher lighting levels, where recommended by IESNA standards, but in no case shall they exceed 20 footcandles.

(c) Site lighting plan requirements. A site lighting plan that is prepared by a licensed lighting design professional shall be submitted for all buildings 5,000 square feet or larger. The site lighting plan shall include at least the following:

- (1) A site plan drawn to scale showing building(s), landscaping, parking areas, property lines, and proposed exterior lighting fixtures;
- (2) Mounting heights for all proposed lighting fixtures shall be indicated;
- (3) Specifications of the illuminating devices, lamps supports and other devices, including designation as IESNA "cut-off" fixtures. This description may include but is not limited to manufacturer's cutsheets;
- (4) Site lighting plan shall include point-by-point lighting calculations of the entire site extending a minimum of ten feet beyond the property line. Calculation point spacing shall not exceed a grid of more than 25 feet by 25 feet. Points falling within buildings shall be removed from calculations. Site shall be divided into multiple calculation zones. One zone shall be provided for the general parking area and driveways. A separate zone shall be provided for open space and perimeter area levels. Additional zones shall be provided for canopies, sidewalks, drive-up windows and other areas where higher than standard lighting levels are desired. Each lighting zone shall include minimum, maximum and average footcandle lighting levels; and

Rear lane (RL) means a vehicular driveway located to the rear of lots providing access to parking and outbuildings and containing utility easements. Rear lanes may be paved lightly to driveway standards. Its streetscape consists of gravel or landscaped edges, no raised curb and is drained by percolation.

Rearyard building means a building that occupies the full frontage line, leaving the rear of the lot as the sole yard. This is a more urban type, as the continuous façade spatially defines the public thoroughfare. For its residential function, this type yields a rowhouse. For its commercial function, the rear yard can accommodate substantial parking.

Road (RD) means a local, rural and suburban thoroughfare of low vehicular speed and capacity. Its public frontage consists of swales drained by percolation and a walking path or bicycle trail along one or both sides. The landscaping consists of multiple species composed in naturalistic clusters. This type is allocated to the more rural SmartCode zoning districts (T1—T3).

Rowhouse means a single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line (Syn: townhouse; see "rearyard building").

Sandwich board sign means a portable sign which is ordinarily in the shape of an "A" or some variation thereof.

Setback means the area of a lot measured from the lot line to a building façade or elevation. This area must be maintained clear of permanent structures with the exception of: galleries, fences, garden walls, arcades, porches, stoops, balconies, bay windows, terraces and decks (that align with the first story level) which are permitted to encroach into the setback.

Shared parking means an accounting for parking spaces that are available to more than one function. The requirement is reduced by a factor, shown as a calculation. The shared parking ratio varies according to multiple functions in close proximity which are unlikely to require the spaces at the same time.

Sideyard building means a building that occupies one side of the lot with a setback to the other side.

Story means a habitable level within a building measured from finished floor to finished ceiling. Attics, parking garages, raised basements are not considered stories for the purposes of determining building height.

Stand-alone Surface Parking Lot means a parking area for motor vehicles where there is no gross building area below the parking area and no gross building area or roof above it.

Street (ST) means a local urban thoroughfare of low speed and capacity. Its public frontage consists of raised curbs drained by inlets and sidewalks separated from the vehicular lanes by a planter and parking on both sides. The landscaping consists of regularly placed street trees. This type is permitted within the more urban SmartCode zoning districts (T4—T6).

Streetscape means the urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building façades and elevations, porches, yards, fences, awnings, etc.), and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.).

Streetscreen, sometimes called "streetwall," means a freestanding wall built along the frontage line, or coplanar with the façade, often for the purpose of masking a parking lot from the thoroughfare. Streetscreens [should] be between 3.5 and eight feet in height and constructed of a material matching the adjacent building façade. The streetscreen may be a hedge or fence by warrant. Streetscreens shall have openings no larger than is necessary to allow automobile and pedestrian access. In addition, all streetscreens over [four feet] high should be 30 percent permeable or articulated to avoid blank walls.

Technical advisory committee (TAC) is comprised of a representative from each of the various city departments that have jurisdiction over the permitting of a project, as well as a representative of the DRC.

Thoroughfare means a vehicular way incorporating moving lanes and parking lanes within a right-of-way.

Sec. 17-7. - Saving provision.

This chapter shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the city under any section or provision existing at the time of the adoption of this chapter, or as vacating or annulling any rights obtained by any person by lawful action of the city except as shall be expressly provided for in this chapter.

(Code 1986, § 19-7)

Sec. 17-8. - Variances.

- (a) Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with this chapter and/or the purposes of this chapter may be served to a greater extent by an alternative proposal, it may approve variances to this chapter if it shall make findings based upon the evidence presented to it in each specific case that:
- (1) The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to adjoining property.
  - (2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result if the strict letter of this chapter is carried out.
  - (4) The variances will not in any manner vary the provisions of the zoning ordinance.
  - (5) The basis for the request is not the result of more inconvenience or financial disadvantage to the property owner.
- (b) A ~~petition~~-application for any such variance shall be submitted in writing by the subdivider at the time when a design plan is filed for the consideration of the planning commission. The ~~petition~~application shall state fully the grounds for the application and all of the facts relied upon by the ~~petitioner~~applicant. Special consideration will be given to those developments described in sections 17-65 and 17-66. The planning commission may attach any conditions to the granting of a variance that it deems necessary.

(Code 1986, § 19-8)

Sec. 17-9. - Amendments.

For the purpose of providing for the public health, safety and general welfare, the planning commission may from time to time amend the provisions of this chapter. Public hearings on all proposed amendments shall be held by the planning commission. At least 15 days' notice of the time and place of such hearings shall be published in a newspaper in general circulation.

(Code 1986, § 19-9)

Sec. 17-10. - Enforcement of chapter provisions; violations.

- (a) Enforcement.

- (1) No plat or plan of a subdivision of land into two or more lots located within the area of planning jurisdiction shall be admitted to the land records of the county or received or recorded by the county register until the plat or plan has received final approval in writing by the planning commission as provided in the Tennessee Code Annotated.
- (2) No board, public officer or authority shall accept, lay out, open, improve, grade, pave or light any street, or lay or authorize water mains or sewers or connections to be laid in any street located within the planning jurisdiction unless such street shall have been accepted, opened or otherwise received the legal status of a public street prior to the adoption of this chapter, or unless such street is shown on a subdivision plat approved by the planning commission, or on a street plan made and adopted by the commission as provided in the Tennessee Code Annotated.

(b) Violations.

- (1) No county register shall receive, file or record a plat of a subdivision within the city without the approval of the planning commission, as required in the Tennessee Code Annotated, and any county register so doing may be deemed by a court of proper jurisdiction, guilty of a misdemeanor, punishable as other misdemeanors as provided by law.
- (2) The Tennessee Code Annotated provides that whoever being the owner or agent of the owner of any land, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition of or by other use of a plat of subdivision of such land without having submitted a plat of such subdivision to the planning commission, and obtained its approval, shall be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The city, through an official designated by the board of mayor and aldermen, may seek to enjoin such transfer or sale or agreement by action or injunction.
- (3) Any building or structure erected or to be erected in violation of this chapter shall be deemed an unlawful building or structure, and the ~~building official~~ Director or the solicitor of the city, or other official designated by the board of mayor and aldermen, may bring action to enjoin such erection or cause it to be vacated or removed as provided in the Tennessee Code Annotated.

(Code 1986, § 19-10)

Secs. 17-11—17-30. - Reserved.

ARTICLE II. - APPROVAL PROCEDURE

Sec. 17-31. - Generally.

- (a) The procedure for review and approval of a subdivision consists of four separate steps. The initial step is optional and involves the preparation and submission to the planning commission of a sketch plat of the proposed subdivision. The second step is the preparation and submission to the planning commission of a more detailed design plat. Ultimately, the final plat, after submission to and approval by the planning commission, becomes the instrument to be recorded in the office of the county register. The subdivision development contract must be approved by the board of mayor and aldermen before the final plat can be recorded.
- (b) The subdivider should consult early and informally with the planning commission's technical staff for advice and assistance before the preparation of any plat in order to become thoroughly familiar with this chapter, major street plans of the city and county, and other official plans or public improvements

(Code 1986, § 19-52)

Sec. 17-64. - Character of development.

The planning commission shall not approve the subdivision if it has been determined that the site is not suitable for development of the kind proposed. Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for uses that may increase flood hazard, endanger health, life or property, or aggravate erosion. All subdivision proposals greater than 50 lots or five acres shall include base flood elevation data.

(Code 1986, § 19-53)

Sec. 17-65. - Planned unit residential developments ~~and~~ Planned commercial developments.

When the subdivision of land in developments subject to the planned residential and/or commercial regulations of the zoning ordinance is contemplated, sections of this chapter may be waived by the planning commission. These developments may be characterized by internal transportation and utilities systems and common ownership of land improvements.

(Code 1986, § 19-54)

Sec. 17-66. - Energy-efficient developments.

Any subdivision which is designed to make use of alternate energy systems may be given special consideration by the planning commission. Design standards may be altered to accommodate developments which make use of exemplary energy-saving techniques. The developer shall be required to demonstrate, to the satisfaction of the planning commission, the methods he intends to use to accomplish his conservation goals.

(Code 1986, § 19-55)

Sec. 17-67. - Zoning and other regulations.

The subdivider shall refer to the zoning ordinance and other city ordinances governing signs, trees, sidewalks, etc., for regulations which will affect the subdivision design. The planning commission will not approve a subdivision plat if it includes design elements which are contrary to applicable city, county, state or federal regulations.

(Code 1986, § 19-56)

Sec. 17-68. - Subdivision regulations.

The planning commission may review subdivision restrictions to determine if there are any conflicts with city, county, state or federal regulations. These conflicts must be eliminated prior to the approval of the final plat.

(Code 1986, § 19-57; Ord. No. 1999-14, 12-27-99)

Sec. 17-69. - Pedestrian and bicycle corridors.