




City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

July 18, 2011

This is to certify that the attached is a true and complete copy of
Ordinance O-12-11 which was introduced at the City Council meeting of
May 16, 2011 and adopted by the City Council on June 20, 2011.


Pamela A. Fleming, City Clerk
Notary Public

My Commission Expires: 9/15/2012





City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

July 18, 2011

Ms. Redis C. Floyd
Clerk of the Council
Prince George's Council
County Administration Building
Upper Marlboro, Maryland 20772

RE: Ordinance O-12-11

Dear Ms. Floyd:

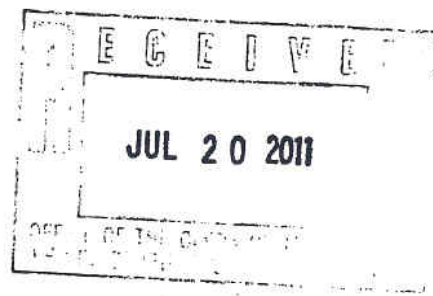
Pursuant to Section 8-112.1(c) of the Annotated Code of Maryland, I hereby submit a certified copy of Ordinance O-12-11, entitled "Amending Chapter 26, "Zoning" Article II, "Municipal Zoning Authority To Repeal In Its Entirety Article II "Municipal Zoning Authority" and to Re-Enact Same with Amendments to Incorporate Changes To the Prince George's County Zoning Ordinance Since the Adoption of Article II Relating to Requirements, Standards and Procedures for Granting Departures and Variances; Authorizing the City to Grant Alternative Compliance From Landscaping Requirements, to Approve the Certification, Revocation and Revision of Nonconforming Uses, and to Approve Minor Changes to Approved Special Exceptions and Establishing Procedures Therefor; Clarifying the Procure for Filing Exceptions to a Recommendation of the Advisory Planning Board and Increasing the Time for doing so From 15 Days to 30 Days for Departures; Clarifying the Procedure for Filing an Appeal of the Decision of the City Council and Providing for an Appeal to the District Council for Review on the Record of City Actions Concerning Certifications, Revocations and Revisions of Nonconforming Uses; Providing That Filing Fees Associated With the Various Applications Shall be Established in the City Budget; Making Other Non-substantive Organizational Changes to Article II; and Amending Chapter 26, Article III "Service Volume Standards for Streets" to Renummer the Sections Thereof. The City Council enacted this Ordinance on June 20, 2011, and it is submitted to the District Council for approval.

If you should require any additional information, please feel free to contact me.

Sincerely,


David J. Deutsch
City Manager

DJD:paf
Enclosure



ORDINANCE
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND,
AMENDING THE CODE OF THE CITY OF BOWIE, CHAPTER 26 "ZONING",
TO REPEAL IN ITS ENTIRETY ARTICLE II "MUNICIPAL ZONING
AUTHORITY" AND TO RE-ENACT SAME WITH AMENDMENTS TO
INCORPORATE CHANGES TO THE PRINCE GEORGE'S COUNTY ZONING
ORDINANCE SINCE THE ADOPTION OF ARTICLE II RELATING TO
REQUIREMENTS, STANDARDS AND PROCEDURES FOR GRANTING
DEPARTURES AND VARIANCES; AUTHORIZING THE CITY TO GRANT
ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS,
TO APPROVE THE CERTIFICATION, REVOCATION AND REVISION OF
NONCONFORMING USES, AND TO APPROVE MINOR CHANGES TO
APPROVED SPECIAL EXCEPTIONS AND ESTABLISHING PROCEDURES
THEREFOR; CLARIFYING THE PROCEDURE FOR FILING EXCEPTIONS
TO A RECOMMENDATION OF THE ADVISORY PLANNING BOARD AND
INCREASING THE TIME FOR DOING SO FROM 15 DAYS TO 30 DAYS FOR
DEPARTURES; CLARIFYING THE PROCEDURE FOR FILING AN APPEAL
OF THE DECISION OF THE CITY COUNCIL AND PROVIDING FOR AN
APPEAL TO THE DISTRICT COUNCIL FOR REVIEW ON THE RECORD OF
CITY ACTIONS CONCERNING CERTIFICATIONS, REVOCATIONS AND
REVISIONS OF NONCONFORMING USES; PROVIDING THAT FILING
FEEES ASSOCIATED WITH THE VARIOUS APPLICATIONS SHALL BE
ESTABLISHED IN THE CITY BUDGET; MAKING OTHER NON-
SUBSTANTIVE ORGANIZATIONAL CHANGES TO ARTICLE II; AND
AMENDING CHAPTER 26, ARTICLE III "SERVICE VOLUME STANDARDS
FOR CITY STREETS" TO RENUMBER THE SECTIONS THEREOF

WHEREAS, on October 19, 1998, the Council of the City of Bowie adopted Ordinance No. O-24-98, an Ordinance enacting Chapter 26 "Zoning," Article II "Municipal Zoning Authority" of the Bowie City Code and authorizing the City to grant departures from design and landscaping standards, parking and loading standards, sign design standards, and landscaping requirements, and variances for lot size, setback requirements and similar requirements for land in the City; and

WHEREAS, the County Council of Prince George's County, Maryland sitting as the District Council (the "District Council") adopted Council Bill 109-1998 approving Ordinance No. O-24-98 as was required by the Prince George's County Code; and

WHEREAS, the District Council passed CB-16-2010, authorizing the governing body

JUL 20 2011

of a municipal corporation to exercise certain additional powers of the District Council, namely to enact an ordinance which sets forth procedural regulations governing alternative compliance from landscaping requirements; certification, revocation, and revisions of nonconforming uses; and minor changes to approved special exceptions; and

WHEREAS, pursuant to CB-16-2010, the City Council wishes to enact an ordinance permitting the City of Bowie to exercise those additional powers granted by the District Council and seek approval of the ordinance from the District Council; and

WHEREAS, the District Council adopted CB-1-2011 requiring that any party of record to an action of the City Council concerning the certification, revocation or revision of a nonconforming use appeal the decision to the District Council for review on the record prior to appealing the matter to Circuit Court; and

WHEREAS, since the enactment of Chapter 26, Article II of the City Code, the District Council has adopted several changes to the Prince George's County Zoning Ordinance relating to procedural requirements and standards for granting variances and departures; and

WHEREAS, the City Council desires to obtain the full zoning authority sanctioned by State law that has been authorized by the District Council, and to incorporate the pertinent changes in the Prince George's County Zoning Ordinance since the enactment of Chapter 26 "Zoning," Article II "Municipal Zoning Authority" of the City Code as set forth herein.

Section 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Council of the City of Bowie, Maryland that Chapter 26 "Zoning", Article II, "Municipal

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Zoning Authority”, of the Bowie City Code, be and is hereby repealed in its entirety and is re-enacted to read as follows:

**CHAPTER 26.
ZONING.**

Article I. In General.

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ARTICLE II. MUNICIPAL ZONING AUTHORITY.

DIVISION 1. GENERAL.

- 26-17. PURPOSE.
- 26-18. DEFINITIONS.
- 26-19. POWERS AND DUTIES OF THE BOWIE ADVISORY PLANNING BOARD AND THE PLANNING DIRECTOR.
- 26-20. FILING FEES.
- 26-21. INFORMATIONAL MAILING; CIVIC ASSOCIATION REGISTRATION.
- 26-22. PUBLIC HEARING SIGNS.
- 26-23. RESERVED.
- 26-24. RESERVED.

DIVISION 2. VARIANCES.

- 26-25. CRITERIA FOR GRANTING VARIANCES.
- 26-26. PROCEDURES FOR GRANTING VARIANCES.
- 26-27. VALIDITY PERIOD OF DECISION GRANTING VARIANCE.
- 26-28. RE-FILING VARIANCE REQUESTS.
- 26-29. RESERVED.
- 26-30. RESERVED.

DIVISION 3. DEPARTURES AND ALTERNATIVE COMPLIANCE.

- 26-31. DEPARTURES FROM DESIGN STANDARDS, LANDSCAPING STANDARDS, PARKING AND LOADING STANDARDS AND SIGN DESIGN STANDARDS, AND ALTERNATIVE COMPLIANCE FROM LANDSCAPING

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REQUIREMENTS.

- 26-32. DEPARTURES FROM THE NUMBER OF PARKING AND LOADING SPACES REQUIRED.
- 26-33. LIMITED DEPARTURES FROM DESIGN STANDARDS AND THE NUMBER OF PARKING AND LOADING SPACES REQUIRED.
- 26-34. ~~RESERVED.~~ ALTERNATIVE COMPLIANCE.
- 26-35. RESERVED.

DIVISION 4. CERTIFICATION, REVOCATION AND REVISION OF NONCONFORMING USES.

- 26-36. ALTERATION, EXTENSION OR ENLARGEMENT OF NONCONFORMING USES.
- 26-37. CERTIFICATION OF NONCONFORMING USE.
- 26-38. REVOCATION OF CERTIFICATION OF NONCONFORMING USE.
- 26-39. RESERVED.
- 26-40. RESERVED.

DIVISION 5. MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS.

- 26-41. MINOR CHANGES TO SPECIAL EXCEPTIONS, IN GENERAL.
- 26-42. MINOR CHANGES TO SPECIAL EXCEPTIONS, ADVISORY PLANNING BOARD.
- 26-43. LIMITED MINOR CHANGES TO SPECIAL EXCEPTIONS, PLANNING DIRECTOR.
- 26-44. SPECIFIC CHANGES.
- 26-45. RESERVED.
- 26-46. RESERVED.

DIVISION 6. EXCEPTIONS TO THE RECOMMENDATION OF THE ADVISORY PLANNING BOARD; FINAL DECISION OF THE CITY COUNCIL; APPEALS.

- 26-47. EXCEPTIONS TO THE RECOMMENDATION OF THE ADVISORY PLANNING BOARD.
- 26-48. FINAL DECISION OF THE CITY COUNCIL.
- 26-49. APPEALS.
- 26-50. RESERVED.
- 26-51. RESERVED.
- 26-52. RESERVED.

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ARTICLE II. MUNICIPAL ZONING AUTHORITY.

DIVISION 1. GENERAL.

SEC. 26-17. PURPOSE.

THE PURPOSE OF THIS ARTICLE IS TO CREATE PROCESSES WHEREBY THE CITY COUNCIL MAY:

A. GRANT DEPARTURES FROM DESIGN AND LANDSCAPING STANDARDS, PARKING AND LOADING STANDARDS, SIGN DESIGN STANDARDS, AND THE NUMBER OF PARKING AND LOADING SPACES REQUIRED;

B. GRANT VARIANCES FOR LOT SIZE, SETBACK AND SIMILAR REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE FOR LAND WITHIN THE CITY OF BOWIE;

C. APPROVE ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS;

D. AUTHORIZE THE CERTIFICATION, REVOCATION AND REVISION OF NONCONFORMING USES; AND

E. APPROVE MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS.

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IN IMPLEMENTING THIS ARTICLE, IT IS THE INTENT OF THE CITY COUNCIL TO OVERCOME DEFICIENCIES IN THE CURRENT ZONING PROCESS, TO REMOVE OBSTACLES THAT HINDER DEVELOPMENT WITHIN THE CITY AND TO PROMOTE COMMUNITY AND ECONOMIC DEVELOPMENT VITALITY BY ENCOURAGING APPROPRIATE DEVELOPMENT WITHIN THE CITY.

SEC. 26-18. DEFINITIONS.

A. **COUNCIL OR CITY COUNCIL:** THE COUNCIL OF THE CITY OF BOWIE, MARYLAND.

B. **COUNTY:** PRINCE GEORGE'S COUNTY, MARYLAND.

C. **DISTRICT COUNCIL:** THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND SITTING AS THE DISTRICT COUNCIL FOR THAT PART OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY, MARYLAND.

D. **NONCONFORMING USE:** THE USE OF ANY BUILDING, STRUCTURE, OR LAND WHICH IS NOT IN CONFORMANCE WITH A REQUIREMENT OF THE ZONE IN WHICH IT IS LOCATED (AS IT SPECIFICALLY APPLIES TO THE USE), PROVIDED THAT:

(1) THE REQUIREMENT WAS ADOPTED AFTER THE USE WAS LAWFULLY ESTABLISHED; OR

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(2) THE USE WAS ESTABLISHED AFTER THE REQUIREMENT WAS ADOPTED AND THE DISTRICT COUNCIL HAS VALIDATED A BUILDING, USE AND OCCUPANCY, OR SIGN PERMIT ISSUED FOR IT IN ERROR.

E. PERSON OF RECORD (PARTY OF RECORD): THE OWNER, APPLICANT, AND CORRESPONDENT OF A PENDING APPLICATION, A CIVIC ASSOCIATION OR OTHER PERSON WHO, IN WRITING PRIOR TO THE CLOSE OF THE HEARING RECORD BEFORE THE ADVISORY PLANNING BOARD OR IN TESTIMONY BEFORE THE ADVISORY PLANNING BOARD REQUESTS TO BE MADE A PARTY TO THE PROCEEDING.

F. ~~PLANNING BOARD: THE CITY OF BOWIE ADVISORY PLANNING BOARD.~~

G. ~~PLANNING DIRECTOR: THE DIRECTOR OF THE CITY OF BOWIE DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT.~~

HG. USE IS EITHER:

(1) THE PURPOSE FOR WHICH A BUILDING, STRUCTURE, OR LAND IS DESIGNED, ARRANGED, INTENDED, MAINTAINED OR OCCUPIED; OR

(2) ANY ACTIVITY, OCCUPATION, BUSINESS, OR OPERATION CARRIED ON IN, OR ON, A BUILDING, STRUCTURE OR PARCEL OF LAND.

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SEC. 26-19. POWERS AND DUTIES OF THE BOWIE ADVISORY PLANNING BOARD AND THE PLANNING DIRECTOR.

A. THE BOWIE ADVISORY PLANNING BOARD SHALL HAVE THE AUTHORITY TO HEAR THE FOLLOWING CATEGORIES OF REQUESTS WITH RESPECT TO PROPERTY LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF BOWIE AND TO MAKE RECOMMENDATIONS TO THE BOWIE CITY COUNCIL REGARDING SAME:

(1) APPLICATIONS FOR VARIANCES FROM THE STRICT APPLICATION OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE WITH RESPECT TO LOT SIZE, SETBACK AND SIMILAR REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE FOR LAND WITHIN THE CORPORATE BOUNDARIES OF THE CITY, EXCEPT THAT THE ADVISORY PLANNING BOARD SHALL NOT HAVE THE POWER TO HEAR AND DECIDE VARIANCE REQUESTS OVER WHICH THE DISTRICT COUNCIL HAS RETAINED JURISDICTION PURSUANT TO SEC. 27-239.03 OF THE PRINCE GEORGE'S COUNTY CODE.

(2) DEPARTURES FROM DESIGN AND LANDSCAPING STANDARDS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE SET FORTH IN PART 2, "GENERAL", DIVISION 4, "REGULATIONS APPLICABLE IN ALL ZONES", SUBDIVISION 6, "LANDSCAPING, BUFFERING AND SCREENING" (SEC. 27-123) AND IN PART 11, "OFF-STREET PARKING AND

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LOADING”, DIVISION 2, “PARKING FACILITIES”, SUBDIVISION 2, “DESIGN STANDARDS” (SEC. 27-554 THROUGH 27-566), AND DIVISION 3, “LOADING FACILITIES”, SUBDIVISION 2, “DESIGN STANDARDS” (SEC. 27-577 - 27-581).

(3) DEPARTURES FROM PARKING AND LOADING STANDARDS OF THE PRINCE GEORGE’S COUNTY ZONING ORDINANCE, SET FORTH IN PART 11, “OFF-STREET PARKING AND LOADING”, DIVISION 2, “PARKING FACILITIES”, SUBDIVISION 3, “MINIMUM REQUIREMENTS” (SEC. 27-568), AND DIVISION 3, “LOADING FACILITIES”, SUBDIVISION 3, “MINIMUM REQUIREMENTS (SEC. 27-582).

(4) DEPARTURES FROM SIGN DESIGN STANDARDS OF THE PRINCE GEORGE’S COUNTY ZONING ORDINANCE, PART 12 “SIGNS”, DIVISION 3 (SEC. 27-613 THROUGH 27-630).

(5) ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS.

(6) APPLICATIONS FOR CERTIFICATION, REVOCATION AND REVISION OF NONCONFORMING USES, AS PROVIDED FOR IN PRINCE GEORGE’S COUNTY ZONING ORDINANCE, PART 3 “ADMINISTRATION,” DIVISION 6 “NONCONFORMING BUILDINGS, STRUCTURES AND USES”, SUBDIVISION 1 “GENERAL REQUIREMENTS AND PROCEDURES” (SEC. 27-244 AND 27-245).

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(7) APPLICATIONS FOR MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS, AS PROVIDED FOR IN PRINCE GEORGE'S COUNTY ZONING ORDINANCE, PART 4 "SPECIAL EXCEPTIONS", SUBDIVISION 10 "AMENDMENTS OF APPROVED SPECIAL EXCEPTIONS," (SEC. 27-325).

B. THE PLANNING DIRECTOR SHALL HAVE THE AUTHORITY TO GRANT LIMITED DEPARTURES FROM THE ITEMS ENUMERATED IN SUBSECTION (A) ABOVE AS PROVIDED FOR IN THIS ARTICLE, INCLUDING REQUESTS FOR ALTERNATIVE COMPLIANCE.

C. THE ADVISORY PLANNING BOARD SHALL CONDUCT A COMPLETE PUBLIC HEARING ON THE REQUESTS SPECIFIED IN SUBSECTION (A) OF THIS SECTION, SUBJECT TO ALL THE REQUIREMENTS AND RESTRICTIONS IMPOSED BY LAW UPON THE CITY COUNCIL. THE ADVISORY PLANNING BOARD IS EMPOWERED TO SWEAR WITNESSES AND TO ISSUE SUBPOENAS FOR WITNESSES AND DOCUMENTS.

D. IN ORDER TO HELP IT REACH A DECISION, THE ADVISORY PLANNING BOARD MAY REQUEST THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, PRINCE GEORGE'S COUNTY, PRINCE GEORGE'S COUNTY PLANNING BOARD, AND/OR THE STATE HIGHWAY ADMINISTRATION TO FURNISH TECHNICAL SERVICE, ADVICE, DATA OR FACTUAL EVIDENCE. THESE COMMENTS AND RECOMMENDATIONS SHALL

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BE AVAILABLE FOR PUBLIC EXAMINATION PRIOR TO THE PUBLIC HEARING.

E. RECORD:

THE RECORD CREATED BEFORE THE ADVISORY PLANNING BOARD SHALL INCLUDE, BUT NOT BE LIMITED TO:

- (1) THE APPLICATION FORM AND ACCOMPANYING DATA;
- (2) CITY OF BOWIE STAFF REPORT;
- (3) AFFIDAVIT OF POSTING;
- (4) COMMENTS AND RECOMMENDATIONS (IF ANY) FROM THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, PRINCE GEORGE'S COUNTY, PRINCE GEORGE'S COUNTY PLANNING BOARD, AND THE STATE HIGHWAY ADMINISTRATION;
- (5) ALL CORRESPONDENCE RELATIVE TO THE APPLICATION;
- (6) ALL TESTIMONY AT THE PUBLIC HEARING; AND
- (7) OTHER ITEMS WHICH THE ADVISORY PLANNING BOARD DEEMS NECESSARY.

F. RULES OF PROCEDURE FOR HEARINGS AND OTHER MEETINGS.

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(1) THE ADVISORY PLANNING BOARD MAY ADOPT RULES OF PROCEDURE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE AND THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.

(2) THE ADVISORY PLANNING BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS.

(3) AN APPLICANT, OR COUNSEL REPRESENTING THE APPLICANT, MUST BE PRESENT AT THE HEARING. A PETITIONER WHICH IS A CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER BUSINESS ENTITY MUST BE REPRESENTED BY COUNSEL LICENSED TO PRACTICE IN THE STATE OF MARYLAND AT ANY HEARING BEFORE THE ADVISORY PLANNING BOARD. ANY NON-ATTORNEY REPRESENTATIVE PRESENT AT THE HEARING ON BEHALF OF THE APPLICANT (OR ANY OTHER PERSON OR ENTITY) IS NOT PERMITTED TO ADVOCATE.

(4) HEARINGS MAY BE ADJOURNED AND CONTINUED. IF THE DATE, TIME, AND PLACE OF THE CONTINUED HEARING IS PUBLICLY ANNOUNCED AT THE TIME OF THE ADJOURNMENT, NO FURTHER NOTICE OF THE CONTINUATION SHALL BE REQUIRED. IF THE DATE, TIME, AND PLACE IS NOT PUBLICLY ANNOUNCED AT THE TIME OF THE ADJOURNMENT, NOTICE SHALL BE GIVEN IN THE SAME MANNER AS WITH THE ORIGINAL HEARING.

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(5) AT THE CONCLUSION OF THE PUBLIC HEARING, THE ADVISORY PLANNING BOARD MAY CLOSE THE RECORD, OR MAY LEAVE THE RECORD OPEN (FOR A SPECIFIC TIME) FOR RECEIPT OF ADDITIONAL WRITTEN EVIDENCE.

(6) AFTER THE CLOSE OF THE RECORD, THE ADVISORY PLANNING BOARD SHALL TAKE ACTION ON THE REQUEST. ALL ACTIONS OF THE ADVISORY PLANNING BOARD SHALL BE BASED UPON THE RECORD AND SHALL BE EMBODIED IN A RESOLUTION ADOPTED AT A PUBLIC MEETING. A MAJORITY OF THE MEMBERS PRESENT AND VOTING MUST CONCUR IN THE RESOLUTION. EACH RESOLUTION SHALL CONTAIN A STATEMENT OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FORMING THE BASIS OF THE ADVISORY PLANNING BOARD'S RECOMMENDATION AND SHALL CONTAIN A RECOMMENDED DISPOSITION OF THE CASE. THE TEXT OF THE RESOLUTION AND A RECORD OF EACH MEMBER'S VOTE SHALL BE INCORPORATED INTO THE MINUTES OF THE ADVISORY PLANNING BOARD. ALL SUCH RESOLUTIONS OF THE ADVISORY PLANNING BOARD SHALL BE TRANSMITTED TO ALL PERSONS OF RECORD AND THE CITY COUNCIL WITHIN FIVE (5) DAYS OF THE DATE THEREOF.

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SEC. 26-20. FILING FEES.

A. UPON FILING AN APPLICATION, THE APPLICANT SHALL PAY A FILING FEE TO THE CITY IN AN AMOUNT ESTABLISHED BY THE CITY COUNCIL AS MAY BE AMENDED FROM TIME TO TIME, TO HELP DEFRAY THE COSTS OF PROCESSING THE APPLICATION. THE FILING FEE FOR A VARIANCE FOR A CHURCH OR OTHER PLACE OF WORSHIP SHALL NOT EXCEED TWO HUNDRED DOLLARS (\$200.00). THE FILING FEE FOR A DEPARTURE FOR A CHURCH OR OTHER PLACE OF WORSHIP (OPERATED AS A PERMITTED USE IN A BUILDING ORIGINALLY CONSTRUCTED AS A ONE-FAMILY DETACHED DWELLING) SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00).

THE APPLICANT SHALL ALSO PAY A FEE AS ESTABLISHED BY THE CITY FOR EACH PUBLIC NOTICE SIGN REQUIRED. THE FILING AND SIGN FEES ARE NON-REFUNDABLE UNLESS, FOLLOWING A REQUEST BY THE APPLICANT, THE PLANNING DIRECTOR FINDS THAT THE FEES WERE PAID BY MISTAKE. ALL FEES MUST BE PAID AT THE TIME OF FILING, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE.

B. IN LIEU OF THE FEE, THE APPLICANT MAY SUBMIT AN AFFIDAVIT CLAIMING THAT PAYMENT OF THE FEE WOULD BE AN EXTREME FINANCIAL HARDSHIP. SUCH HARDSHIP MAY ONLY BE

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CLAIMED BY A NATURAL PERSON. THE AFFIDAVIT SHALL CONTAIN THE INFORMATION REQUIRED BY THE PLANNING DIRECTOR AND ANY OTHER PERTINENT FACTS WHICH THE APPLICANT FEELS ARE NECESSARY.

C. UPON FILING THE AFFIDAVIT, THE PLANNING DIRECTOR SHALL, WITHIN TEN (10) WORKING DAYS, DETERMINE WHETHER PAYMENT OF THE FEE IS AN EXTREME FINANCIAL HARDSHIP ON THE APPLICANT. SHOULD THE PLANNING DIRECTOR FIND THAT HARDSHIP DOES NOT EXIST, THE APPLICANT SHALL BE REQUIRED TO PAY THE FEE BEFORE THE REQUEST MAY BE HEARD BY THE ADVISORY PLANNING BOARD.

SEC. 26-21. INFORMATIONAL MAILING; CIVIC ASSOCIATION REGISTRATION.

A. INFORMATIONAL MAILINGS WITH APPLICATIONS.

(1) THIS SECTION APPLIES TO DEPARTURES FROM SIGN OR DESIGN STANDARDS, DEPARTURES FROM THE REQUIRED NUMBER OF PARKING AND LOADING SPACES, NONCONFORMING USE CERTIFICATIONS AND MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS. IT ALSO APPLIES TO PRIVATE APPLICATIONS TO AMEND THOSE DEPARTURES, CERTIFICATIONS AND CHANGES. IT DOES NOT APPLY TO APPLICATIONS WHICH THE PLANNING DIRECTOR IS AUTHORIZED TO APPROVE

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ADMINISTRATIVELY.

(2) AT LEAST THIRTY (30) DAYS BUT NO MORE THAN NINETY (90) DAYS BEFORE THE CITY ACCEPTS ANY SUCH APPLICATION, THE APPLICANT SHALL SEND BY CERTIFIED MAIL AN INFORMATIONAL MAILING TO ALL ADJOINING PROPERTY OWNERS, INCLUDING OWNERS WHOSE PROPERTIES LIE DIRECTLY ACROSS A STREET, ALLEY, OR STREAM. THE APPLICANT SHALL SEND NOTICE OF APPLICATION FILING (“INFORMATIONAL MAILING”) TO EVERY PERSON OF RECORD IN A PREVIOUS ZONING, SITE PLAN OR OTHER APPLICATION LISTED IN SUBSECTION (A)(1) ABOVE THAT INVOLVES THE PROPERTY WHICH IS THE SUBJECT OF THE APPLICATION THAT WAS FILED WITHIN TEN (10) YEARS OF FILING THE CURRENT APPLICATION. AT THE SAME TIME AND IN THE SAME MANNER, THE APPLICANT SHALL SEND AN INFORMATIONAL MAILING TO THE DEVELOPMENT REVIEW DIVISION OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND TO ALL CIVIC ASSOCIATIONS REGISTERED WITH THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (THE “COMMISSION”) FOR THE AREA WHICH INCLUDES THE PROPERTY.

(3) THE APPLICANT SHALL OBTAIN AN APPLICATION NUMBER FROM THE CITY BEFORE SENDING THE INFORMATIONAL

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MAILING. THE INFORMATIONAL MAILING SHALL CONTAIN AT LEAST THE FOLLOWING: THE APPLICATION NUMBER; A DESCRIPTION OF THE PROPERTY AND ITS LOCATION; THE NATURE OF THE APPLICANT'S REQUEST; JUSTIFICATION STATEMENT, IF REQUIRED WITH THE APPLICATION; THE CITY DEPARTMENT, WITH TELEPHONE NUMBER, FROM WHICH TO OBTAIN MORE INFORMATION ABOUT THE APPLICATION; A STATEMENT TO RECIPIENTS THAT THE APPLICANT WILL MEET WITH THEM TO EXPLAIN THE APPLICATION; AN APPLICANT TELEPHONE NUMBER, FOR PERSONS WISHING TO MEET; AN EXPLANATION OF THE PROCEDURES AND THE NECESSITY FOR BECOMING A PERSON-OF-RECORD IN THE PENDING APPLICATION AND A STATEMENT THAT NO GOVERNMENT AGENCY HAS REVIEWED THE APPLICATION. A CIVIC ASSOCIATION, OR OTHER PERSON ENTITLED TO AN INFORMATIONAL MAILING MAY REQUEST A COPY OF THE SITE PLAN FROM THE APPLICANT.

(4) WITH THE APPLICATION, THE APPLICANT SHALL FILE AN AFFIDAVIT OF MAILING. THE AFFIDAVIT SHALL GIVE THE NAMES AND ADDRESSES OF ALL PERSONS SENT INFORMATIONAL MAILINGS AND THE DATES WHEN THEY WERE SENT.

(5) BEFORE AN APPLICATION IS ACCEPTED, THE CITY

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SHALL DETERMINE THAT THE APPLICANT HAS COMPLIED WITH THIS SECTION. A CIVIC ASSOCIATION, OR OTHER PERSON ENTITLED TO AN INFORMATIONAL MAILING MAY WAIVE THE REQUIREMENT, AND AN APPLICANT'S FILING OF A SIGNED WAIVER CONSTITUTES ITS COMPLIANCE WITH THE REQUIREMENT, FOR THE PERSON SIGNING. AT ANY TIME AFTER THE CITY ACCEPTS AN APPLICATION, A DETERMINATION THAT A PERSON ENTITLED DID NOT RECEIVE A REQUIRED INFORMATIONAL MAILING MAY NOT BE A BASIS FOR INVALIDATING A FINAL ACTION ON THE APPLICATION.

(6) THE INFORMATIONAL MAILINGS REQUIRED BY THIS SECTION ARE IN ADDITION TO ALL POSTINGS AND NOTICES REQUIRED BY LAW.

B. NOTICE OF APPLICATION ACCEPTANCE.

(1) WHEN THE CITY DETERMINES AN APPLICATION HAS BEEN FILED IN PROPER FORM AND IS READY TO BE FORMALLY ACCEPTED, IT SHALL NOTIFY THE APPLICANT IN WRITING, PREFERABLY BY E-MAIL. THE NAME AND CONTACT INFORMATION OF THE STAFF MEMBER ASSIGNED TO THE APPLICATION SHALL BE INCLUDED IN THE NOTICE.

(2) THE APPLICANT SHALL NOTIFY IN WRITING AND VIA

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FIRST CLASS MAIL CIVIC ASSOCIATIONS AND OTHER PERSONS ENTITLED TO RECEIVE INFORMATIONAL MAILINGS THAT THE APPLICATION IS READY TO BE ACCEPTED. THE NAME AND CONTACT INFORMATION OF THE STAFF MEMBER ASSIGNED TO THE APPLICATION SHALL BE INCLUDED IN THE NOTICE.

(3) THE CITY SHALL NOT FORMALLY ACCEPT APPLICATIONS FOR PROCESSING UNTIL AFTER THE APPLICANT HAS FILED AN AFFIDAVIT IN THE RECORD TO DOCUMENT COMPLETION OF THE WRITTEN NOTICE OF ACCEPTANCE TO CIVIC ASSOCIATIONS AND OTHER PERSONS ENTITLED TO RECEIVE INFORMATIONAL MAILINGS.

C. CIVIC ASSOCIATION REGISTRATION.

(1) EVERY CIVIC ASSOCIATION WHICH MAINTAINS A REGISTRATION WITH THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION IN ACCORDANCE WITH §27-125.01(c) OF THE PRINCE GEORGE'S COUNTY CODE AND AS REQUIRED BY THIS SECTION IS ENTITLED TO INFORMATIONAL MAILINGS, FOR ALL APPLICATIONS WITHIN THE ASSOCIATION'S DEFINED GEOGRAPHICAL AREA.

(2) AS TO CIVIC ASSOCIATIONS, AN APPLICANT COMPLIES WITH THIS SECTION BY SENDING INFORMATIONAL MAILINGS TO THE ASSOCIATIONS MAINTAINING REGISTRATIONS WITH THE MARYLAND-

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NATIONAL CAPITAL PARK AND PLANNING COMMISSION FOR THE GEOGRAPHICAL AREA WHICH INCLUDES THE APPLICANT'S PROPERTY.

SEC. 26-22. PUBLIC HEARING SIGNS.

POSTING, IN GENERAL.

A. THE REQUIRED PUBLIC NOTICE SIGNS FOR ALL PUBLIC HEARINGS CONDUCTED BY THE ADVISORY PLANNING BOARD SHALL INCLUDE THE FOLLOWING INFORMATION:

- (1) THE WORD "HEARING" PROMINENTLY DISPLAYED;
- (2) THE APPLICATION NUMBER;
- (3) THE NAME OF THE APPLICANT;
- (4) A BRIEF STATEMENT DESCRIBING THE NATURE OF THE REQUEST;
- (5) DATE, TIME AND PLACE OF THE PUBLIC HEARING;
- (6) A PHONE NUMBER, PROMINENTLY DISPLAYED, TO CALL FOR ADDITIONAL INFORMATION; AND
- (7) THE WEBSITE ADDRESS OF THE PLANNING DEPARTMENT TO OBTAIN ADDITIONAL INFORMATION.

B. THERE SHALL BE ONE (1) SIGN POSTED FOR EACH ONE THOUSAND (1,000) FEET OR FRACTION THEREOF OF FRONTAGE ON EACH IMPROVED STREET. THE SIGN(S) SHALL BE POSTED ON THE PROPERTY

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NEAR THE STREET RIGHT-OF-WAY AND ORIENTED TO MAXIMIZE THEIR VISIBILITY TO MOTORISTS. WHEN MORE THAN ONE (1) SIGN IS REQUIRED TO BE POSTED ALONG A STREET, THE SIGNS SHALL, WHERE PRACTICABLE, BE EVENLY SPACED ALONG THE STREET. THE CITY OF BOWIE PLANNING DEPARTMENT SHALL BE RESPONSIBLE FOR ERECTING THE REQUIRED SIGNS.

C. SIGNS SHALL BE POSTED IN THE FOLLOWING MANNER:

(1) SINGLE-SIDED IF THE PROPERTY OCCUPIES FRONTAGE ON A CUL-DE-SAC, AT THE END OF A DEAD-END STREET, OR ON A ONE-WAY STREET. THE SIGNS SHALL BE ORIENTED TO MAXIMIZE THEIR VISIBILITY TO MOTORISTS.

(2) DOUBLE-SIDED IF THE PROPERTY OCCUPIES FRONTAGE ON A STREET THAT IS VISIBLE TO TWO-WAY TRAFFIC. THESE SIGNS SHALL BE CONFIGURED IN A "V" SHAPE, AT A 45-DEGREE ANGLE AND ORIENTED TO MAXIMIZE THEIR VISIBILITY TO MOTORISTS.

D. IF THE PROPERTY DOES NOT HAVE FRONTAGE ON AN IMPROVED PUBLIC STREET, ONE (1) SIGN SHALL BE PLACED ON THE PROPERTY, NEAR THE BOUNDARY OF THE PROPERTY AND BE VISIBLE FROM AN ADJOINING PROPERTY. ANOTHER SIGN SHALL BE PLACED NEAR TO, AND BE VISIBLE FROM, THE IMPROVED PORTION OF THE NEAREST,

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MOST TRAVELED STREET. IN ADDITION TO THE REQUIRED INFORMATION, THIS SIGN SHALL STATE THAT THE SIGN IS NOT ON THE SUBJECT PROPERTY AND THAT A PROPERTY HAVING NO IMPROVED STREET FRONTAGE IS THE SUBJECT OF THE HEARING.

E. IF THE PLACEMENT OF ANY SIGN ON THE SUBJECT PROPERTY IS NOT VISIBLE TO MOTORISTS FROM ADJOINING STREETS, ADDITIONAL SIGNS MAY BE REQUIRED AT THE DISCRETION OF THE CITY PLANNING DIRECTOR OR THE CHAIR OF THE ADVISORY PLANNING BOARD.

F. ONCE A SIGN IS POSTED, IT IS THE APPLICANT'S RESPONSIBILITY TO ENSURE THAT IT REMAINS POSTED UNTIL THE HEARING. THE APPLICANT IS RESPONSIBLE FOR THE MAINTENANCE OF ALL SIGNS. IN THE EVENT A SIGN IS REMOVED, FALLS DOWN, OR OTHERWISE IS NOT PROPERLY LOCATED ON THE PROPERTY OR IN THE RIGHT-OF-WAY FOR ANY PORTION OF THE REQUIRED POSTING PERIOD, IT SHALL BE THE RESPONSIBILITY OF THE APPLICANT TO REPOST THE SIGN. THE APPLICANT IS ALSO RESPONSIBLE FOR REMOVING THE SIGNS FROM THE PROPERTY WITHIN 7 DAYS AFTER THE HEARING.

G. THE PERSON POSTING THE SIGN ON BEHALF OF THE CITY SHALL FILE A WRITTEN STATEMENT OF POSTING IN THE RECORD. A CLOSE-UP LEGIBLE PHOTOGRAPH OF EACH POSTED SIGN AND

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ADDITIONAL LONG-DISTANCE PHOTOGRAPHS DEPICTING THE SIGNS AND UNIQUE, IDENTIFIABLE FEATURES OF THE SUBJECT PROPERTY SHALL ALSO BE SUBMITTED AND INCLUDED IN THE RECORD FILE OF THE CASE. THE APPLICANT SHALL INSPECT THE SIGN(S) TO ENSURE THAT REQUIRED SIGNS ARE MAINTAINED AND REMAIN CONTINUOUSLY POSTED FOR THE REQUIRED TIME PRIOR TO THE HEARING. THE PERSON CONDUCTING THE INSPECTIONS SHALL FILE IN THE RECORD AN AFFIDAVIT WITH THE ADVISORY PLANNING BOARD STATING THAT THE REQUIRED SIGN WAS POSTED AND REMAINED ON THE PROPERTY FOR THE REQUIRED PERIOD OF TIME PRECEDING THE HEARING.

H. SIGN POSTING FEES.

(1) IN ADDITION TO THE FILING FEE, A SIGN POSTING FEE IN AN AMOUNT ESTABLISHED BY THE CITY FOR EACH SIGN REQUIRED SHALL BE PAID BY THE APPLICANT TO THE CITY AT THE TIME THE APPLICATION IS FILED.

(2) NO PART OF A FEE SHALL BE REFUNDED OR WAIVED UNLESS THE PLANNING DIRECTOR DETERMINES THAT ONE (1) OF THE FOLLOWING CONDITIONS APPLIES:

A. THE FEE WAS PAID BY MISTAKE, AND THE APPLICANT HAS REQUESTED (IN WRITING) A REFUND; OR

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B. THE APPLICATION HAS BEEN WITHDRAWN PRIOR TO POSTING THE SIGN. IN THIS CASE, THE ENTIRE SIGN POSTING FEE SHALL BE REFUNDED.

SEC. 26-23. RESERVED.

SEC. 26-24. RESERVED.

DIVISION 2. VARIANCES.

SEC. 26-25. CRITERIA FOR GRANTING VARIANCES.

A. A VARIANCE FROM LOT SIZE, SETBACK AND SIMILAR REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE FROM WHICH A VARIANCE MAY BE GRANTED MAY ONLY BE GRANTED UPON A FINDING THAT:

(1) A SPECIFIC PARCEL OF LAND HAS EXCEPTIONAL NARROWNESS, SHALLOWNESS, OR SHAPE, EXCEPTIONAL TOPOGRAPHIC CONDITIONS, OR OTHER EXTRAORDINARY SITUATIONS OR CONDITIONS;

(2) THE STRICT APPLICATION OF THE COUNTY ZONING ORDINANCE WILL RESULT IN PECULIAR AND UNUSUAL PRACTICAL DIFFICULTIES TO, OR EXCEPTIONAL OR UNDUE HARDSHIP UPON, THE OWNER OF THE PROPERTY; AND

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(3) THE VARIANCE WILL NOT SUBSTANTIALLY IMPAIR THE INTENT, PURPOSE, OR INTEGRITY OF ANY APPLICABLE COUNTY GENERAL PLAN OR COUNTY MASTER PLAN.

B. FOR PROPERTIES IN THE R-30, R-30C, R-18, R-18C, R-10A, R-10, AND R-H ZONES, WHERE THE APPLICANT PROPOSES DEVELOPMENT OF MULTIFAMILY DWELLINGS AND ALSO PROPOSES THAT THE PERCENTAGE OF DWELLING UNITS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED AND AGED WILL BE INCREASED ABOVE THE MINIMUM NUMBER OF UNITS REQUIRED BY SUBTITLE 4 OF THE PRINCE GEORGE'S COUNTY CODE, THE ADVISORY PLANNING BOARD MAY CONSIDER THIS INCREASE OVER THE REQUIRED NUMBER OF ACCESSIBLE UNITS IN MAKING ITS REQUIRED FINDINGS.

SEC. 26-26. PROCEDURES FOR GRANTING VARIANCES.

A. FILING REQUIREMENTS

(1) VARIANCE REQUESTS SHALL BE MADE ON THE FORMS PROVIDED BY THE ADVISORY PLANNING BOARD. ALL INFORMATION REQUIRED ON THE FORMS SHALL BE FURNISHED BY THE APPLICANT AND THE ADVISORY PLANNING BOARD SHALL NOT ACCEPT ANY FORM WHICH IS INCOMPLETE.

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(2) VARIANCE REQUESTS SHALL BE NUMBERED SEQUENTIALLY AND SCHEDULED TO BE HEARD BY THE ADVISORY PLANNING BOARD. THE SCHEDULE SHALL BE POSTED CONSPICUOUSLY IN CITY HALL AT LEAST SEVEN (7) DAYS PRIOR TO THE HEARING DATE.

(3) VARIANCE REQUESTS MAY BE MADE BY ANY PERSON WHO ALLEGES THAT HE OR SHE IS AGGRIEVED BY THE REFUSAL OF A BUILDING OR USE AND OCCUPANCY PERMIT, BY THE ISSUANCE OF A ZONING VIOLATION NOTICE, OR OTHER DECISION MADE IN ADMINISTERING THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE IF SUCH DECISION RELATES TO LOT SIZE, SETBACK OR ANY SIMILAR REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE FROM WHICH A VARIANCE IS PERMITTED. SUCH PERSON SHALL NOTIFY THE ADVISORY PLANNING BOARD OF THE REQUEST WITHIN THIRTY (30) DAYS AFTER THE REFUSAL OF THE PERMIT, ISSUANCE OF THE NOTICE, OR OTHER DECISION. THE ADVISORY PLANNING BOARD MAY WAIVE THE REQUIREMENT AND ALLOW THE FILING OF A VARIANCE PRIOR TO ANY ACTION ON A PERMIT.

B. NOTICE OF PUBLIC HEARING

(1) AT LEAST FIFTEEN (15) DAYS NOTICE OF THE DATE, TIME AND PLACE OF THE HEARING SHALL BE SENT BY THE CITY BY CERTIFIED

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MAIL TO THE APPLICANT, TO ANY AGENCY OR DEPARTMENT WHOSE DECISION IS THE SUBJECT OF THE VARIANCE REQUEST AND TO THE OWNERS OF ABUTTING PROPERTY (INCLUDING THOSE PROPERTIES DIRECTLY ACROSS A STREET, ALLEY OR STREAM).

(2) THE ADVISORY PLANNING BOARD MAY SEND NOTICE OF THE HEARING TO OTHER INTERESTED PERSONS, ORGANIZATIONS, OR AGENCIES, AND/OR THE STATE HIGHWAY ADMINISTRATION. THE ADVISORY PLANNING BOARD SHALL SEND A NOTICE OF HEARING AND A SITE PLAN DRAWN TO SCALE TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, THE PRINCE GEORGE'S COUNTY PLANNING BOARD, AND THE DISTRICT COUNCIL.

(3) ALL NOTICES SHALL CONTAIN:

- A. THE NAME OF THE APPLICANT;
- B. THE DATE, TIME AND PLACE OF THE HEARING; AND
- C. A BRIEF STATEMENT DESCRIBING THE SPECIFIC NATURE OF THE VARIANCE REQUEST.

(4) THE ADVISORY PLANNING BOARD MAY REQUIRE ADDITIONAL NOTICE OF HEARINGS BY AT LEAST ONE (1) ADVERTISEMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE CITY. ANY SUCH ADVERTISEMENT SHALL APPEAR NOT LESS THAN FIVE (5) DAYS PRIOR TO

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THE DATE OF THE HEARING AND SHALL CONTAIN THE SAME INFORMATION AS IS REQUIRED IN THE WRITTEN NOTICES. THE COST OF THE ADVERTISEMENT SHALL BE PAID BY THE APPLICANT.

(5) THE ADVISORY PLANNING BOARD SHALL POST THE PROPERTY WITH A DURABLE SIGN AT LEAST FIFTEEN (15) DAYS PRIOR TO THE SCHEDULED HEARING DATE, IN ACCORDANCE WITH SEC. 26-22 "PUBLIC HEARING SIGNS".

(6) ALL SIGNS POSTED SHALL BE DURABLE, CONSPICUOUS AND LEGIBLE FOR AT LEAST FIFTEEN (15) CONTINUOUS DAYS PRIOR TO THE HEARING.

SEC. 26-27. VALIDITY PERIOD OF DECISION GRANTING VARIANCES.

A. A DECISION OF THE CITY COUNCIL PERMITTING THE ERECTION OF A BUILDING OR STRUCTURE SHALL NOT BE VALID FOR MORE THAN TWO (2) YEARS, UNLESS A BUILDING PERMIT FOR THE ERECTION OF THE BUILDING OR STRUCTURE IN QUESTION IS OBTAINED WITHIN THIS PERIOD AND THE CONSTRUCTION IS STARTED AND PROCEEDS TO COMPLETION IN ACCORDANCE WITH THE TERMS OF THE DECISION AND THE PERMIT.

B. A DECISION OF THE CITY COUNCIL GRANTING A VARIANCE FROM THE SCREENING REQUIREMENTS SET FORTH IN SECTIONS 27-

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469(B)(3) AND 27-470(B)(3) OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE SHALL NOT BE VALID FOR MORE THAN FIVE (5) YEARS.

SEC. 26-28. REFILEING VARIANCE REQUESTS.

IF THE CITY COUNCIL DENIES A VARIANCE, NO FURTHER VARIANCE COVERING THE SAME SPECIFIC SUBJECT ON THE SAME PROPERTY SHALL BE FILED WITHIN THE FOLLOWING TWELVE (12) MONTH PERIOD. IF THE SECOND VARIANCE IS ALSO DENIED, NO OTHER SUBSEQUENT VARIANCES COVERING THE SAME SPECIFIC SUBJECT ON THE SAME PROPERTY SHALL BE FILED WITHIN EACH EIGHTEEN (18) MONTH PERIOD FOLLOWING THE SECOND DENIAL.

SEC. 26-29. RESERVED.

SEC. 26-30. RESERVED.

DIVISION 3. DEPARTURES AND ALTERNATIVE COMPLIANCE.

SEC. 26-31. DEPARTURES FROM DESIGN STANDARDS, LANDSCAPING STANDARDS, PARKING AND LOADING STANDARDS, AND SIGN DESIGN STANDARDS AND ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS.

A. A DEPARTURE FROM THE DESIGN STANDARDS CONTAINED IN PART 11 "OFF-STREET PARKING AND LOADING" AND PART 12 "SIGNS" OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE OR CONTAINED IN

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~~THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL AND ALTERNATIVE COMPLIANCE FROM THE LANDSCAPING REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL~~ MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR THE CITY PLANNING DIRECTOR, IF AUTHORIZED, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

B. PROCEDURES.

(1) APPLICATION.

A. ALL REQUESTS FOR A DEPARTURE FROM DESIGN STANDARDS ~~OR ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS~~ SHALL BE IN THE FORM OF AN APPLICATION FILED WITH THE ADVISORY PLANNING BOARD, ~~EXCEPT THAT APPLICATIONS FOR ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS THAT ARE IN CONJUNCTION WITH ANOTHER APPROVAL UPON WHICH THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL OR PRINCE GEORGE'S COUNTY PLANNING BOARD MAKE A DECISION SHALL BE FILED AS REQUIRED UNDER THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.~~ THE ADVISORY PLANNING BOARD SHALL DETERMINE THE CONTENTS OF THE APPLICATION AND SHALL PROVIDE THE APPLICATION FORM.

B. ALONG WITH THE APPLICATION, THE APPLICANT SHALL SUBMIT THE FOLLOWING:

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(I) 3 COPIES OF A SITE PLAN AND OTHER GRAPHIC ILLUSTRATIONS WHICH ARE CONSIDERED NECESSARY TO INDICATE WHAT IS BEING PROPOSED;

(II) 3 COPIES OF A WRITTEN EXPLANATION BY THE APPLICANT ADDRESSING THE REQUIREMENTS OF PARAGRAPH (4) BELOW. THE APPLICANT SHALL BE RESPONSIBLE FOR PROVIDING ALL INFORMATION THAT IS NECESSARY FOR THE ADVISORY PLANNING BOARD TO MAKE ITS DECISION UNDER PARAGRAPH (4); AND

(III) A LIST OF THE NAMES AND ADDRESSES OF THE ABUTTING PROPERTY OWNERS, AS WELL AS PRE-ADDRESSED ENVELOPES OR MAILING LABELS FOR EACH ABUTTING PROPERTY OWNER.

(2) STAFF REPORT.

CITY PLANNING STAFF SHALL ANALYZE THE REQUEST AND SHALL FORWARD ITS COMMENTS AND RECOMMENDATIONS TO THE ADVISORY PLANNING BOARD. THESE COMMENTS AND RECOMMENDATIONS SHALL BE AVAILABLE FOR PUBLIC EXAMINATION AT LEAST SEVEN (7) DAYS PRIOR TO THE PUBLIC HEARING.

(3) NOTICE.

A. AT LEAST 30 DAYS PRIOR TO THE PUBLIC HEARING, THE CITY SHALL SEND NOTICE OF THE DATE, TIME AND PLACE OF THE

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PUBLIC HEARING TO ALL PERSONS OF RECORD, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL. THE APPLICATION NUMBER, DESCRIPTION OF THE PROPERTY AND THE APPLICANT'S REQUEST SHALL ALSO BE INCLUDED IN THE NOTICE. THE NOTICE SENT TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL SHALL BE ACCOMPANIED BY A SITE PLAN DRAWN TO SCALE.

B. THE ADVISORY PLANNING BOARD SHALL POST THE PROPERTY WITH AT LEAST ONE (1) DURABLE SIGN GIVING NOTICE OF THE HEARING AT LEAST THIRTY (30) DAYS PRIOR TO THE SCHEDULED HEARING DATE. THE CONTENTS OF THE SIGN AND THE NUMBER OF SIGNS REQUIRED SHALL BE IN ACCORDANCE WITH SEC. 26-22.

C. ADDITIONAL NOTICE MAY BE GIVEN, AS DETERMINED BY THE ADVISORY PLANNING BOARD.

(4) REQUIRED FINDINGS.

A. A RECOMMENDATION THAT A DEPARTURE BE GRANTED SHALL BE MADE BY THE ADVISORY PLANNING BOARD ONLY UPON THE FOLLOWING FINDINGS:

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(I) THE PURPOSES OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE (SECTION 27-102) WILL BE EQUALLY WELL OR BETTER SERVED BY THE APPLICANT'S PROPOSAL;

(II) THE DEPARTURE IS THE MINIMUM NECESSARY, GIVEN THE SPECIFIC CIRCUMSTANCES OF THE REQUEST;

(III) THE DEPARTURE IS NECESSARY IN ORDER TO ALLEVIATE CIRCUMSTANCES WHICH ARE UNIQUE TO THE SITE OR PREVALENT IN AREAS OF THE CITY DEVELOPED PRIOR TO NOVEMBER 29, 1949;

(IV) THE DEPARTURE WILL NOT IMPAIR THE VISUAL, FUNCTIONAL, OR ENVIRONMENTAL QUALITY OR INTEGRITY OF THE SITE OR OF THE SURROUNDING NEIGHBORHOOD.

B. FOR A DEPARTURE FROM A STANDARD CONTAINED IN THE LANDSCAPE MANUAL, THE ADVISORY PLANNING BOARD SHALL FIND, IN ADDITION TO THE REQUIREMENTS IN PARAGRAPH (4)(A) ABOVE, THAT A PROPOSAL FOR ALTERNATIVE COMPLIANCE HAS BEEN DENIED BY THE PLANNING DIRECTOR PURSUANT TO SECTION (4)(F) ~~BELOW~~ 26-34 OR THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, BASED UPON A FINDING THAT THERE IS NO FEASIBLE PROPOSAL FOR ALTERNATIVE COMPLIANCE, AS DEFINED IN THE PRINCE GEORGE'S

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COUNTY LANDSCAPE MANUAL, WHICH WOULD EXHIBIT EQUAL OR BETTER DESIGN CHARACTERISTICS.

C. IN MAKING ITS FINDINGS, THE ADVISORY PLANNING BOARD MAY GIVE CONSIDERATION TO THE FOLLOWING:

FOR PROPERTIES IN THE R-30, R-30C, R-18, R-18C, R-10A, R-10, AND R-H ZONES, WHERE AN APPLICANT PROPOSES DEVELOPMENT OF MULTIFAMILY DWELLINGS AND ALSO PROPOSES THAT THE PERCENTAGE OF DWELLING UNITS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED AND AGED WILL BE INCREASED OVER THE MINIMUM NUMBER OF UNITS REQUIRED BY SUBTITLE 4 OF THE PRINCE GEORGE'S COUNTY CODE, THE ADVISORY PLANNING BOARD MAY CONSIDER THIS PROPOSED INCREASE IN ACCESSIBLE UNITS IN MAKING ITS REQUIRED FINDINGS.

D. IN MAKING ITS FINDINGS, THE ADVISORY PLANNING BOARD SHALL GIVE CONSIDERATION TO THE FOLLOWING:

(I) THE PARKING AND LOADING CONDITIONS WITHIN THE GENERAL VICINITY OF THE SUBJECT PROPERTY, INCLUDING NUMBERS AND LOCATIONS OF AVAILABLE ON-AND-OFF STREET SPACES WITHIN FIVE HUNDRED (500) FEET OF THE SUBJECT PROPERTY;

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(II) THE RECOMMENDATIONS OF AN AREA MASTER PLAN, OR COUNTY OR LOCAL REVITALIZATION PLAN, REGARDING THE SUBJECT PROPERTY AND ITS GENERAL VICINITY;

(III) PUBLIC PARKING FACILITIES WHICH ARE PROPOSED IN THE COUNTY'S CAPITAL IMPROVEMENT PROGRAM WITHIN THE GENERAL VICINITY OF THE PROPERTY.

E. FACILITIES FOR THE PHYSICALLY HANDICAPPED.

A DEPARTURE FROM THE DESIGN STANDARDS FOR PARKING FACILITIES FOR THE PHYSICALLY HANDICAPPED SHALL NOT BE GRANTED UNLESS AN EXEMPTION FROM THE REQUIREMENTS FOR THE HANDICAPPED IN THE APPLICABLE BUILDING CODES HAS BEEN OBTAINED FROM THE STATE AND COUNTY AGENCIES RESPONSIBLE FOR ADMINISTERING THOSE CODES.

F. ~~ALTERNATIVE COMPLIANCE.~~

~~(I) THE STANDARDS CONTAINED IN THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL ARE INTENDED TO ENCOURAGE DEVELOPMENT WHICH IS ECONOMICALLY VIABLE AND ENVIRONMENTALLY SATISFYING. THE STANDARDS ARE NOT INTENDED TO BE ARBITRARY OR TO INHIBIT CREATIVE SOLUTIONS. PROJECT CONDITIONS MAY JUSTIFY APPROVAL OF ALTERNATIVE METHODS OF~~

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~~COMPLIANCE WITH STANDARDS. CONDITIONS MAY ARISE WHERE NORMAL COMPLIANCE IS IMPRACTICAL OR IMPOSSIBLE, OR WHERE MAXIMUM ACHIEVEMENT OF THE COUNTY'S AND CITY'S OBJECTIVES CAN ONLY BE OBTAINED THROUGH ALTERNATIVE COMPLIANCE. REQUESTS FOR ALTERNATIVE COMPLIANCE WILL BE ACCEPTED FOR ANY APPLICATION TO WHICH THE REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL APPLY, EXCEPT FOR APPLICATIONS FOR ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS THAT ARE IN CONJUNCTION WITH ANOTHER APPROVAL UPON WHICH THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL OR THE PRINCE GEORGE'S COUNTY PLANNING BOARD MAKE A DECISION, WHEN ONE OR MORE OF THE FOLLOWING CONDITIONS ARE MET:~~

~~(AA) TOPOGRAPHY, SOIL, VEGETATION OR OTHER SITE CONDITIONS ARE SUCH THAT FULL COMPLIANCE IS IMPOSSIBLE OR IMPRACTICAL; OR IMPROVED ENVIRONMENTAL QUALITY WOULD RESULT FROM THE ALTERNATIVE COMPLIANCE.~~

~~(BB) SPACE LIMITATIONS, UNUSUALLY SHAPED LOTS, AND PREVAILING PRACTICES IN THE SURROUNDING NEIGHBORHOOD MAY JUSTIFY ALTERNATIVE COMPLIANCE FOR IN-FILL SITES, AND FOR IMPROVEMENTS AND REDEVELOPMENT IN OLDER COMMUNITIES.~~

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~~(CC) CHANGE OF USE ON AN EXISTING SITE INCREASES THE BUFFER REQUIRED BY SECTION 4.7 OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL MORE THAN IT IS FEASIBLE TO PROVIDE.~~

~~(DD) SAFETY CONSIDERATIONS MAKE ALTERNATIVE COMPLIANCE NECESSARY.~~

~~(EE) AN ALTERNATIVE COMPLIANCE PROPOSAL IS EQUAL OR BETTER THAN NORMAL COMPLIANCE IN ITS ABILITY TO FULFILL THE DESIGN CRITERIA IN SECTION 3 OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.~~

~~(II) A PROPOSED ALTERNATIVE COMPLIANCE MEASURE MUST BE EQUAL OR BETTER THAN NORMAL COMPLIANCE IN TERMS OF QUALITY, EFFECTIVENESS, DURABILITY, HARDINESS, AND ABILITY TO FULFILL THE DESIGN CRITERIA IN SECTION 3 OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.~~

~~(III) ALTERNATIVE COMPLIANCE SHALL BE LIMITED TO THE SPECIFIC PROJECT UNDER CONSIDERATION AND SHALL NOT ESTABLISH PRECEDENTS FOR ACCEPTANCE IN OTHER CASES.~~

~~(IV) A REQUEST FOR ALTERNATIVE COMPLIANCE SHALL BE SUBMITTED TO THE PLANNING DIRECTOR, OR HIS DESIGNEE, AT THE TIME THE PLAN IS SUBMITTED. IN THE CASE OF THOSE PLANS FOR WHICH~~

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~~NO PUBLIC HEARING IS REQUESTED, THE DECISION OF THE PLANNING DIRECTOR, OR HIS DESIGNEE, WILL BE FINAL, UNLESS THE APPLICANT APPEALS THE DECISION TO THE ADVISORY PLANNING BOARD. IN THE CASE OF THOSE PLANS FOR WHICH AN ADVISORY PLANNING BOARD OR OTHER PUBLIC HEARING IS REQUIRED: (1) THE REQUEST FOR ALTERNATIVE COMPLIANCE WILL BE ACCEPTED NO LESS THAN TWENTY ONE (21) CALENDAR DAYS PRIOR TO THE SCHEDULED DATE OF THE HEARING, AND (2) THE PLANNING DIRECTOR, OR HIS DESIGNEE, WILL FORWARD A RECOMMENDATION TO THE PROPER HEARING AUTHORITY A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE HEARING.~~

~~(V) REQUESTS FOR ALTERNATIVE COMPLIANCE SHALL BE ACCOMPANIED BY SUFFICIENT EXPLANATION AND JUSTIFICATION, WRITTEN AND/OR GRAPHIC, TO ALLOW APPROPRIATE EVALUATION AND DECISION.~~

~~(VI) IN A SITUATION WHERE COMPLIANCE WITH THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL IS NOT POSSIBLE, AND THERE IS NO FEASIBLE PROPOSAL FOR ALTERNATIVE COMPLIANCE WHICH IS, IN THE JUDGMENT OF THE PLANNING DIRECTOR, OR HIS DESIGNEE, EQUAL OR BETTER THAN NORMAL COMPLIANCE, THEN THE APPLICANT MUST APPLY FOR AN APPROPRIATE DEPARTURE FROM~~

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~~DESIGN STANDARDS IN ACCORDANCE WITH THE REQUIREMENTS IN THIS SECTION.~~

G. APPLICABILITY OF DEPARTURES.

AN APPROVED DEPARTURE SHALL ONLY APPLY TO THE USE SPECIFIED IN THE APPLICATION.

SEC. 26-32. DEPARTURES FROM THE NUMBER OF PARKING AND LOADING SPACES REQUIRED.

A. A DEPARTURE FROM THE NUMBER OF OFF-STREET PARKING AND LOADING SPACES REQUIRED BY THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, SECTIONS 27-568 AND 27-582 MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR THE CITY PLANNING DIRECTOR, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

B. PROCEDURES.

(1) APPLICATION.

A. ALL REQUESTS FOR A DEPARTURE FROM THE NUMBER OF OFF-STREET PARKING AND LOADING SPACES SHALL BE IN THE FORM OF AN APPLICATION FILED WITH THE ADVISORY PLANNING BOARD. THE ADVISORY PLANNING BOARD SHALL DETERMINE THE CONTENTS OF THE APPLICATION AND SHALL PROVIDE THE APPLICATION FORM.

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B. THE APPLICATION SHALL BE ACCOMPANIED BY THE FOLLOWING:

(I) 3 COPIES OF A SITE PLAN AND OTHER GRAPHIC ILLUSTRATIONS WHICH ARE CONSIDERED NECESSARY TO INDICATE WHAT IS BEING PROPOSED;

(II) 3 COPIES OF A WRITTEN STATEMENT BY THE APPLICANT ADDRESSING THE REQUIREMENTS OF PARAGRAPH (4) BELOW. THE APPLICANT SHALL BE RESPONSIBLE FOR PROVIDING ALL INFORMATION THAT IS NECESSARY FOR THE ADVISORY PLANNING BOARD TO MAKE ITS DECISION UNDER PARAGRAPH (4); AND

(III) A LIST OF THE NAMES AND ADDRESSES OF THE ABUTTING PROPERTY OWNERS, AS WELL AS PRE-ADDRESSED ENVELOPES OR MAILING LABELS FOR EACH ABUTTING PROPERTY OWNER.

(2) STAFF REPORT.

CITY PLANNING STAFF SHALL ANALYZE THE REQUEST AND SHALL FORWARD ITS COMMENTS AND RECOMMENDATIONS TO THE ADVISORY PLANNING BOARD. THESE COMMENTS AND RECOMMENDATIONS SHALL BE AVAILABLE FOR PUBLIC EXAMINATION AT LEAST SEVEN (7) DAYS PRIOR TO THE PUBLIC HEARING.

(3) NOTICE.

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A. AT LEAST 30 DAYS PRIOR TO THE PUBLIC HEARING, THE CITY SHALL SEND NOTICE OF THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO ALL PERSONS OF RECORD, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL. THE APPLICATION NUMBER, DESCRIPTION OF THE PROPERTY AND THE APPLICANT'S REQUEST SHALL ALSO BE INCLUDED IN THE NOTICE. THE NOTICE SENT TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL SHALL BE ACCOMPANIED BY A SITE PLAN DRAWN TO SCALE.

B. THE ADVISORY PLANNING BOARD SHALL POST THE PROPERTY WITH AT LEAST ONE (1) DURABLE SIGN GIVING NOTICE OF THE HEARING AT LEAST THIRTY (30) DAYS PRIOR TO THE SCHEDULED HEARING DATE. THE CONTENTS OF THE SIGN AND THE NUMBER OF SIGNS REQUIRED SHALL BE AS SET FORTH IN SEC. 26-22 BY THE ADVISORY PLANNING BOARD.

C. ADDITIONAL NOTICE MAY BE GIVEN, AS DETERMINED BY THE ADVISORY PLANNING BOARD.

(4) REQUIRED FINDINGS.

A. A RECOMMENDATION THAT A DEPARTURE FROM PARKING AND LOADING SPACE REQUIREMENT BE GRANTED SHALL BE

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MADE BY THE ADVISORY PLANNING BOARD ONLY UPON THE FOLLOWING FINDINGS:

(I) THE PURPOSES OF COUNTY ZONING ORDINANCE, SECTION 27-550 WILL BE SERVED BY THE APPLICANT'S REQUEST;

(II) THE DEPARTURE IS THE MINIMUM NECESSARY, GIVEN THE SPECIFIC CIRCUMSTANCES OF THE REQUEST;

(III) THE DEPARTURE IS NECESSARY IN ORDER TO ALLEVIATE CIRCUMSTANCES WHICH ARE SPECIAL TO THE SUBJECT USE, GIVEN ITS NATURE AT THIS LOCATION, OR ALLEVIATE CIRCUMSTANCES WHICH ARE PREVALENT IN OLDER AREAS OF THE COUNTY WHICH WERE PREDOMINANTLY DEVELOPED PRIOR TO NOVEMBER 29, 1949;

(IV) ALL METHODS FOR CALCULATING THE NUMBER OF SPACES REQUIRED (PRINCE GEORGE'S COUNTY ZONING ORDINANCE, DIVISION 2, SUBDIVISION 3, AND DIVISION 3, SUBDIVISION 3 OF PART 11) HAVE EITHER BEEN USED OR FOUND TO BE IMPRACTICAL; AND

(V) PARKING AND LOADING NEEDS OF ADJACENT RESIDENTIAL AREAS WILL NOT BE INFRINGED UPON IF THE DEPARTURE IS GRANTED.

B. IN MAKING ITS FINDINGS, THE ADVISORY PLANNING BOARD SHALL GIVE CONSIDERATION TO THE FOLLOWING:

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(I) THE PARKING AND LOADING CONDITIONS WITHIN THE GENERAL VICINITY OF THE SUBJECT PROPERTY, INCLUDING NUMBERS AND LOCATIONS OF AVAILABLE ON- AND OFF-STREET SPACES WITHIN FIVE HUNDRED (500) FEET OF THE SUBJECT PROPERTY;

(II) THE RECOMMENDATIONS OF AN AREA MASTER PLAN, OR COUNTY OR LOCAL REVITALIZATION PLAN, REGARDING THE SUBJECT PROPERTY AND ITS GENERAL VICINITY;

(III) PUBLIC PARKING FACILITIES WHICH ARE PROPOSED IN THE COUNTY'S CAPITAL IMPROVEMENT PROGRAM WITHIN THE GENERAL VICINITY OF THE PROPERTY.

C. IN MAKING ITS FINDINGS, THE ADVISORY PLANNING BOARD MAY GIVE CONSIDERATION TO THE FOLLOWING:

(I) PUBLIC TRANSPORTATION AVAILABLE IN THE AREA;

(II) ANY ALTERNATIVE DESIGN SOLUTIONS TO OFF-STREET FACILITIES WHICH MIGHT YIELD ADDITIONAL SPACES;

(III) THE SPECIFIC NATURE OF THE USE (INCLUDING HOURS OF OPERATION IF IT IS A BUSINESS) AND THE NATURE AND HOURS OF OPERATION OF OTHER (BUSINESS) USES WITHIN FIVE HUNDRED (500) FEET OF THE SUBJECT PROPERTY;

(IV) IN THE R-30, R-30C, R-18, R-18C, R-10A, R-10, AND R-H

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ZONES, WHERE DEVELOPMENT OF MULTIFAMILY DWELLINGS IS PROPOSED, WHETHER THE APPLICANT PROPOSES AND DEMONSTRATES THAT THE PERCENTAGE OF DWELLING UNITS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED AND AGED WILL BE INCREASED OVER THE MINIMUM NUMBER OF UNITS REQUIRED BY SUBTITLE 4 OF THE PRINCE GEORGE'S COUNTY CODE.

D. AN APPROVED DEPARTURE SHALL APPLY ONLY TO THE USE SPECIFIED IN THE APPLICATION.

E. DEPARTURES NOT PERMITTED

A DEPARTURE FROM THE NUMBER OF SPACES REQUIRED FOR THE PHYSICALLY HANDICAPPED (SECTION 27-566 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE) SHALL NOT BE GRANTED UNLESS AN EXCEPTION FROM THE REQUIREMENTS FOR THE HANDICAPPED IN APPLICABLE BUILDING CODES HAS BEEN OBTAINED FROM THE STATE AND COUNTY AGENCIES RESPONSIBLE FOR ADMINISTERING THOSE CODES. IF THE EXCEPTION IS GRANTED, THIS SECTION MAY BE APPLIED TO SECTION 27-566 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.

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SEC. 26-33. LIMITED DEPARTURES FROM DESIGN STANDARDS AND THE NUMBER OF PARKING AND LOADING SPACES REQUIRED.

A. THE CITY PLANNING DIRECTOR IS AUTHORIZED TO APPROVE ADMINISTRATIVELY, WITHOUT PUBLIC HEARING, LIMITED DEPARTURES FROM THE DESIGN STANDARDS IN PART 11 "OFF STREET PARKING AND LOADING" AND PART 12 "SIGNS" OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, AND THE NUMBER OF LOADING SPACES REQUIRED.

B. LIMITED DEPARTURES MAY BE APPROVED FOR A MAXIMUM OF TEN PERCENT (10%) OF THE STANDARD REQUIREMENTS, AND FOR DEPARTURES FROM THE NUMBER OF PARKING AND LOADING SPACES SHALL NOT EXCEED ONE HUNDRED (100) PARKING SPACES OR ONE (1) LOADING SPACE.

C. BEFORE APPROVING A LIMITED DEPARTURE, THE DIRECTOR SHALL MAKE THE FINDINGS REQUIRED IN SEC. 26-31 FOR DEPARTURES FROM DESIGN STANDARDS AND SEC. 26-32 FOR DEPARTURES FROM PARKING AND LOADING SPACES IN ADDITION TO ALL OTHER FINDINGS THE ADVISORY PLANNING BOARD WOULD BE REQUIRED TO MAKE, IF IT REVIEWED THE APPLICATION.

D. THE DIRECTOR IS NOT AUTHORIZED TO WAIVE REQUIREMENTS IN THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, GRANT VARIANCES, OR MODIFY CONDITIONS, CONSIDERATIONS, OR

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OTHER REQUIREMENTS IMPOSED BY THE ADVISORY PLANNING BOARD, THE PRINCE GEORGE'S COUNTY PLANNING BOARD, THE ZONING HEARING EXAMINER FOR PRINCE GEORGE'S COUNTY OR DISTRICT COUNCIL IN ANY CASE.

E. THE APPLICANT'S PROPERTY SHALL BE POSTED WITHIN TEN (10) DAYS OF THE DIRECTOR'S ACCEPTANCE OF FILING OF THE APPLICATION. POSTING SHALL BE IN ACCORDANCE WITH THE CITY CODE. ON AND AFTER THE FIRST DAY OF POSTING, THE APPLICATION MAY NOT BE AMENDED.

F. IF A WRITTEN REQUEST FOR PUBLIC HEARING IS NOT SUBMITTED WITHIN THE POSTED TIME PERIOD, THEN THE DIRECTOR MAY ACT ON THE APPLICATION. THE DIRECTOR'S APPROVAL CONCLUDES ALL PROCEEDINGS.

G. IF THE DIRECTOR DENIES THE APPLICATION OR A TIMELY HEARING REQUEST IS SUBMITTED, THEN THE APPLICATION SHALL BE TREATED AS RE-FILED ON THE DATE OF THAT EVENT. THE APPLICANT, DIRECTOR, AND CITY STAFF SHALL THEN FOLLOW THE PROCEDURES FOR ADVISORY PLANNING BOARD REVIEW IN (B) ABOVE.

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SEC. 26-34. RESERVED ALTERNATIVE COMPLIANCE.

A. PURPOSE. THE STANDARDS CONTAINED IN THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL ARE INTENDED TO ENCOURAGE DEVELOPMENT WHICH IS ECONOMICALLY VIABLE AND ENVIRONMENTALLY SATISFYING. THE STANDARDS ARE NOT INTENDED TO BE ARBITRARY OR TO INHIBIT CREATIVE SOLUTIONS. PROJECT CONDITIONS MAY JUSTIFY APPROVAL OF ALTERNATIVE METHODS OF COMPLIANCE WITH STANDARDS. CONDITIONS MAY ARISE WHERE NORMAL COMPLIANCE IS IMPRACTICAL OR IMPOSSIBLE, OR WHERE MAXIMUM ACHIEVEMENT OF THE COUNTY'S AND CITY'S OBJECTIVES CAN ONLY BE OBTAINED THROUGH ALTERNATIVE COMPLIANCE.

B. ALTERNATIVE COMPLIANCE FROM THE LANDSCAPING REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR THE CITY PLANNING DIRECTOR, IF AUTHORIZED, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

C. PROCEDURES.

(1) APPLICATION.

A. ALL REQUESTS FOR ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS SHALL BE IN THE FORM OF AN

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APPLICATION FILED WITH THE ADVISORY PLANNING BOARD. THE ADVISORY PLANNING BOARD SHALL DETERMINE THE CONTENTS OF THE APPLICATION AND SHALL PROVIDE THE APPLICATION FORM.

B. ALONG WITH THE APPLICATION STATING THE SECTION OF THE LANDSCAPE MANUAL FROM WHICH ALTERNATIVE COMPLIANCE IS REQUESTED AND IDENTIFYING THE UNDERLYING PERMIT OR CASE, IF ANY, THE APPLICANT SHALL SUBMIT THE FOLLOWING:

(I) APPLICATION FEE.

(II) ONE SITE PLAN CONTAINING THE FOLLOWING:

(A) A NORTH ARROW AND SCALE.

(B) PROPERTY LINES.

(C) ZONING AND USE OF SUBJECT PROPERTY AND ALL ABUTTING PROPERTIES, LOCATION OF BUILDINGS ON ABUTTING PROPERTIES WITHIN FIFTY FEET OF A PROPERTY LINE, AND NOTES INDICATING THE EXISTENCE OF ALL BUILDINGS ON ABUTTING PROPERTIES WITHIN 200 FEET OF A PROPERTY LINE; ZONING AND USE OF PROPERTIES DIRECTLY ADJACENT TO THE SUBJECT PROPERTY.

(D) NAME, LOCATION, EXISTING RIGHT-OF-WAY WIDTH, ULTIMATE RIGHT-OF-WAY WIDTH, AND ALL EXISTING AND PROPOSED IMPROVEMENTS WITHIN ALL ABUTTING STREETS.

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(E) NATURAL FEATURES, SUCH AS EXISTING TWO FOOT CONTOUR TOPOGRAPHY, PONDS, LAKES AND STREAMS.

(F) DELINEATION OF REGULATED ENVIRONMENTAL FEATURES, SUCH AS ONE HUNDRED YEAR FLOODPLAIN, NON-TIDAL WETLANDS, REGULATED STREAMS, AND ASSOCIATED BUFFERS.

(G) EXISTING AND PROPOSED STORMWATER MANAGEMENT FACILITIES.

(H) REQUIRED BUFFERYARD DEPTHS/WIDTHS (I.E. BUILDING SETBACKS AND LANDSCAPE YARDS FROM ALL LOT LINES).

(I) LOCATION, HEIGHT, DIMENSIONS, DETAILS, AND USE OF ALL EXISTING AND PROPOSED BUILDINGS AND OTHER STRUCTURES (INCLUDING PARKING LOTS, SIDEWALKS AND OTHER PAVED AREAS; FENCES AND WALLS; AND RECREATIONAL EQUIPMENT).

(J) PROPOSED GRADING IN TWO FOOT CONTOURS, WITH ANY SLOPE STEEPER THAN THREE-TO-ONE (3:1) LABELED.

(K) LOCATION OF EXISTING AND PROPOSED UTILITIES, INCLUDING WATER, STORM DRAIN AND SANITARY SEWER PIPES; OVERHEAD WIRES; UTILITY POLES AND BOXES; AND SIGNS.

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(L) LOCATION OF EXISTING AND PROPOSED EASEMENTS, INCLUDING, BUT NOT LIMITED TO, ACCESS EASEMENTS AND UTILITY EASEMENTS.

(M) LOCATION, SIZE AND DESCRIPTION OF ALL ELEMENTS THAT ARE REQUIRED TO BE SCREENED BY SECTION 4.4 "SCREENING REQUIREMENTS" OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.

(III) A TYPEWRITTEN EXPLANATION BY THE APPLICANT (STATEMENT OF JUSTIFICATION) DEMONSTRATING HOW THE REQUEST SATISFIES THE REQUIREMENTS OF PARAGRAPH D BELOW. THE STATEMENT MUST BE SIGNED BY THE APPLICANT. THE APPLICANT SHALL BE RESPONSIBLE FOR PROVIDING ALL INFORMATION THAT IS NECESSARY FOR THE ADVISORY PLANNING BOARD TO MAKE ITS DECISION UNDER PARAGRAPH D; AND

(IV) ONE ZONING SKETCH MAP.

(V) ONE AERIAL PHOTOGRAPH WITH THE PROPERTY OUTLINED IN RED.

(VI) ANY SUPPORTING INFORMATION (PHOTOGRAPHS, PREVIOUS ALTERNATIVE COMPLIANCE APPROVALS, ETC.)

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(VII) ONE TREE CONSERVATION PLAN OR EXEMPTION LETTER.

(VIII) ONE LANDSCAPE PLAN IN ACCORDANCE WITH SECTION 2 "PLAN PREPARATION" OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.

(2) STAFF REPORT.

IF THE REQUEST FOR ALTERNATIVE COMPLIANCE IS FILED IN CONJUNCTION WITH ANOTHER APPLICATION REQUIRING ADVISORY PLANNING BOARD APPROVAL, CITY PLANNING STAFF SHALL ANALYZE THE REQUEST AND SHALL FORWARD ITS COMMENTS AND RECOMMENDATIONS TO THE ADVISORY PLANNING BOARD. THESE COMMENTS AND RECOMMENDATIONS SHALL BE AVAILABLE FOR PUBLIC EXAMINATION AT LEAST SEVEN (7) DAYS PRIOR TO THE PUBLIC HEARING.

D. REQUESTS FOR ALTERNATIVE COMPLIANCE WILL BE ACCEPTED FOR ANY APPLICATION TO WHICH THE REQUIREMENTS OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL APPLY, EXCEPT FOR APPLICATIONS FOR ALTERNATIVE COMPLIANCE FROM LANDSCAPING REQUIREMENTS THAT ARE IN CONJUNCTION WITH ANOTHER APPROVAL UPON WHICH THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL OR THE PRINCE GEORGE'S COUNTY PLANNING BOARD

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MAKE A DECISION, WHEN ONE OR MORE OF THE FOLLOWING
CONDITIONS ARE MET:

(1) TOPOGRAPHY, SOIL, VEGETATION OR OTHER SITE
CONDITIONS ARE SUCH THAT FULL COMPLIANCE IS IMPOSSIBLE OR
IMPRACTICAL; OR IMPROVED ENVIRONMENTAL QUALITY WOULD
RESULT FROM THE ALTERNATIVE COMPLIANCE.

(2) SPACE LIMITATIONS, UNUSUALLY SHAPED LOTS, AND
PREVAILING PRACTICES IN THE SURROUNDING NEIGHBORHOOD MAY
JUSTIFY ALTERNATIVE COMPLIANCE FOR IN-FILL SITES, AND FOR
IMPROVEMENTS AND REDEVELOPMENT IN OLDER COMMUNITIES.

(3) CHANGE OF USE ON AN EXISTING SITE INCREASES THE
BUFFER REQUIRED BY SECTION 4.7 OF THE PRINCE GEORGE'S COUNTY
LANDSCAPE MANUAL MORE THAN IT IS FEASIBLE TO PROVIDE.

(4) SAFETY CONSIDERATIONS MAKE ALTERNATIVE
COMPLIANCE NECESSARY.

(5) AN ALTERNATIVE COMPLIANCE PROPOSAL IS EQUAL OR
BETTER THAN NORMAL COMPLIANCE IN ITS ABILITY TO FULFILL THE
DESIGN CRITERIA IN SECTION 3 OF THE PRINCE GEORGE'S COUNTY
LANDSCAPE MANUAL.

A. A PROPOSED ALTERNATIVE COMPLIANCE MEASURE

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MUST BE EQUAL OR BETTER THAN NORMAL COMPLIANCE IN TERMS OF QUALITY, EFFECTIVENESS, DURABILITY, HARDINESS, AND ABILITY TO FULFILL THE DESIGN CRITERIA IN SECTION 3 OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.

B. ALTERNATIVE COMPLIANCE SHALL BE LIMITED TO THE SPECIFIC PROJECT UNDER CONSIDERATION AND SHALL NOT ESTABLISH PRECEDENTS FOR ACCEPTANCE IN OTHER CASES.

C. A REQUEST FOR ALTERNATIVE COMPLIANCE SHALL BE SUBMITTED TO THE PLANNING DIRECTOR, OR HIS DESIGNEE, AT THE TIME THE PLAN IS SUBMITTED. IN THE CASE OF THOSE PLANS FOR WHICH NO PUBLIC HEARING IS REQUESTED, THE DECISION OF THE PLANNING DIRECTOR, OR HIS DESIGNEE, WILL BE FINAL, UNLESS THE APPLICANT APPEALS THE DECISION TO THE ADVISORY PLANNING BOARD. IN THE CASE OF THOSE PLANS FOR WHICH AN ADVISORY PLANNING BOARD OR OTHER PUBLIC HEARING IS REQUIRED: (1) THE REQUEST FOR ALTERNATIVE COMPLIANCE WILL BE ACCEPTED NO LESS THAN THIRTY-FIVE (35) CALENDAR DAYS PRIOR TO THE SCHEDULED DATE OF THE HEARING, AND (2) THE PLANNING DIRECTOR, OR HIS DESIGNEE, WILL FORWARD A RECOMMENDATION TO THE PROPER HEARING AUTHORITY A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE HEARING.

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D. REQUESTS FOR ALTERNATIVE COMPLIANCE SHALL BE ACCOMPANIED BY SUFFICIENT EXPLANATION AND JUSTIFICATION, WRITTEN AND/OR GRAPHIC, TO ALLOW APPROPRIATE EVALUATION AND DECISION.

E. IN A SITUATION WHERE COMPLIANCE WITH THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL IS NOT POSSIBLE, AND THERE IS NO FEASIBLE PROPOSAL FOR ALTERNATIVE COMPLIANCE WHICH IS, IN THE JUDGMENT OF THE PLANNING DIRECTOR, OR HIS DESIGNEE, EQUAL OR BETTER THAN NORMAL COMPLIANCE, THEN THE APPLICANT MUST APPLY FOR AN APPROPRIATE DEPARTURE FROM DESIGN STANDARDS IN ACCORDANCE WITH THE REQUIREMENTS IN SECTION 26-31.

SEC. 26-35. RESERVED.

**DIVISION 4. CERTIFICATION, REVOCATION AND REVISION OF
NONCONFORMING USES**

**SEC. 26-36. ALTERATION, EXTENSION OR ENLARGEMENT OF
NONCONFORMING USES.**

**A. IN GENERAL – EXCEPT AS PROVIDED FOR IN THIS SECTION, A
CERTIFIED NONCONFORMING USE MAY BE ALTERED, ENLARGED, OR
EXTENDED, PROVIDED THAT THE ALTERATION, ENLARGEMENT, OR**

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EXTENSION CONFORMS TO THE BUILDING LINE SETBACK, YARD, AND HEIGHT REGULATIONS OF THE ZONE IN WHICH THE USE IS LOCATED; AND A SPECIAL EXCEPTION IS NOT REQUIRED BY THE DISTRICT COUNCIL.

B. SPECIFIC USES.

(1) SURFACE MINING – A CERTIFIED NONCONFORMING USE INVOLVING SURFACE MINING MAY BE EXPANDED TO INCLUDE THE ENTIRE PARCEL OF LAND (OR ACREAGE OWNED OR LEASED AT THE TIME THE USE BECAME NONCONFORMING) UPON WHICH THE REMOVAL OPERATIONS WERE INITIALLY CONDUCTED, PROVIDED THE INITIAL USE PREDATES THE ADOPTION OF THE ORIGINAL ZONING MAP FOR THE AREA. THIS DOES NOT APPLY IF THE USE IS LOCATED IN A ONE HUNDRED (100) YEAR FLOODPLAIN OR IF THE USE IS LOCATED WITHIN A CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONE, WHICH REQUIRE A SPECIAL EXCEPTION UNDER THE PRINCE GEORGE’S COUNTY ZONING ORDINANCE.

(2) STRUCTURES IN FLOODPLAINS - EXISTING NONCONFORMING BUILDINGS, STRUCTURES, AND USES WITHIN A ONE HUNDRED (100) YEAR FLOODPLAIN MAY BE MODIFIED, BUT NOT ENLARGED OR EXTENDED, TO INCORPORATE FLOOD-PROOFING MEASURES PROVIDED THAT: THE MEASURES DO NOT RAISE THE LEVEL OF THE ONE HUNDRED (100) YEAR FLOODPLAIN; AND THE MEASURES ARE

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IN CONFORMANCE WITH DIVISION 2 OF SUBTITLE 4, "BUILDING," OF THE PRINCE GEORGE'S COUNTY CODE, ENTITLED "CONSTRUCTION OR CHANGES IN FLOODPLAIN AREAS."

(3) GAS STATIONS.

A. THE FOLLOWING MODIFICATIONS OF A CERTIFIED NONCONFORMING GAS STATION MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD:

(I) THE ENLARGEMENT OR RELOCATION OF PUMP ISLANDS;

(II) THE ADDITION OF ONE (1) PUMP ISLAND;

(III) THE ADDITION, RELOCATION, OR MODIFICATION OF A FENCE, KIOSK, ISLAND SHELTER, ISLAND CANOPY, STORAGE AREA, TRASH ENCLOSURE, VENDING AREA, OR LAVATORY FACILITY; OR

(IV) THE ADDITION, RELOCATION, OR MODIFICATION OF AN ACCESSORY BUILDING USED SOLELY FOR THE STORAGE OF AUTOMOTIVE REPLACEMENT PARTS OR ACCESSORIES. THE ACCESSORY BUILDING SHALL BE WHOLLY ENCLOSED. THE BUILDING SHALL EITHER BE CONSTRUCTED OF BRICK (OR ANOTHER BUILDING MATERIAL SIMILAR IN APPEARANCE TO THAT OF THE MAIN STRUCTURE) AND PLACED ON A PERMANENT FOUNDATION, OR IT SHALL BE ENTIRELY SURROUNDED

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WITH SCREENING MATERIAL. SCREENING SHALL CONSIST OF A WALL, FENCE, OR SIGHT-TIGHT LANDSCAPING MATERIAL, WHICH SHALL BE AT LEAST AS HIGH AS THE ACCESSORY BUILDING. THE SCREENING SHALL BE APPROVED AS PART OF THE MODIFICATION.

B. A SITE PLAN SHALL BE SUBMITTED SHOWING THE MODIFICATIONS.

C. THE MODIFICATIONS SHALL NOT VIOLATE ANY CONDITION OF A PREVIOUSLY APPROVED SPECIAL EXCEPTION FOR A GAS STATION ON THE PROPERTY.

D. THE MODIFICATION SHALL BE IN CONFORMANCE WITH SECTION 27-358(A)(5), (6), (7), (8), AND (10), SECTION 27-358(C) OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, AND ANY PROVISIONS OF THE ZONE IN WHICH THE PROPERTY IS LOCATED.

E. AT THE TIME THE APPLICATION IS FILED, A FILING FEE SHALL BE PAID BY THE APPLICANT.

F. THE ADVISORY PLANNING BOARD'S DECISION ON THE REQUESTED MODIFICATION SHALL BE SENT TO ALL PERSONS OF RECORD IN THE HEARING BEFORE THE ADVISORY PLANNING BOARD, AND TO THE CITY COUNCIL. THIS DECISION MAY BE APPEALED IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 6 OF THIS ARTICLE.

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(4) DRIVE-IN AND FAST-FOOD RESTAURANTS.

A. THE FOLLOWING MODIFICATIONS OF A CERTIFIED NONCONFORMING DRIVE-IN OR FAST-FOOD RESTAURANT MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD:

(I) THE ADDITION, RELOCATION, OR MODIFICATION OF A FREEZER ON THE SIDES OR REAR OF THE RESTAURANT BUILDING;

(II) THE ADDITION; RELOCATION, OR MODIFICATION OF GROSS FLOOR AREA IN ORDER TO PROVIDE REST ROOMS TO SERVE THE PHYSICALLY HANDICAPPED;

(III). THE ADDITION, RELOCATION, OR MODIFICATION OF VESTIBULES ABOVE AND AROUND POINTS OF ACCESS TO THE RESTAURANT BUILDING; OR

(IV) THE ADDITION, RELOCATION, OR MODIFICATION OF A FENCE, STORAGE AREA, OR TRASH ENCLOSURE.

B. A SITE PLAN SHALL BE SUBMITTED SHOWING THE MODIFICATIONS.

C. THE MODIFICATIONS SHALL NOT VIOLATE ANY CONDITION OF A PREVIOUSLY APPROVED SPECIAL EXCEPTION FOR A DRIVE-IN OR FAST-FOOD RESTAURANT ON THE PROPERTY.

D. AT THE TIME THE APPLICATION IS FILED, A

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FILING FEE SHALL BE PAID BY THE APPLICANT.

E. THE ADVISORY PLANNING BOARD'S DECISION ON THE REQUESTED MODIFICATION SHALL BE SENT TO ALL PERSONS OF RECORD IN THE HEARING BEFORE THE ADVISORY PLANNING BOARD, AND TO THE CITY COUNCIL. THIS DECISION MAY BE APPEALED TO THE CITY COUNCIL AS PROVIDED FOR IN DIVISION 6 OF THIS ARTICLE.

(5) THE ALTERATION, EXTENSION, OR ENLARGEMENT OF RECREATIONAL AND SOCIAL USES ASSOCIATED WITH CERTIFIED NONCONFORMING MULTIFAMILY DWELLINGS, FOR THE SOLE USE OF RESIDENTS AND THEIR GUESTS, SHALL NOT BE CONSIDERED AN ALTERATION, EXTENSION, OR ENLARGEMENT OF THE NONCONFORMING USE. A DETAILED SITE PLAN SHALL BE APPROVED FOR THIS USE IN ACCORDANCE WITH PART 3, DIVISION 9, OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.

(6) THE ALTERATION, EXTENSION, OR ENLARGEMENT OF A NONCONFORMING ONE-FAMILY DETACHED DWELLING MAY BE PERMITTED PROVIDED THAT:

A. THE MODIFICATION CONFORMS TO THE REQUIREMENTS OF SUBPARAGRAPH (A), ABOVE;

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B. DEVELOPMENT ON THE PROPERTY (INCLUDING THE PROPOSED MODIFICATION) CONFORMS TO THE LOT COVERAGE LIMITATIONS OF THE ZONE IN WHICH THE PROPERTY IS LOCATED; AND

C. WITHIN A CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONE, DEVELOPMENT ON THE PROPERTY (INCLUDING THE PROPOSED MODIFICATION) CONFORMS TO ANY APPLICABLE REQUIREMENTS CONCERNING IMPERVIOUS SURFACE RATIOS, EXCEPT AS PROVIDED IN PARAGRAPH 9, BELOW.

(7) IN MULTIFAMILY DEVELOPMENTS EXISTING AS OF JANUARY 1, 1990, IN THE R-30, R-30C, R-18, R-18C, R-10, AND R-H ZONES, THE FOLLOWING IMPROVEMENTS MAY BE PERMITTED:

- A. FENCE OR WALL;
- B. TRASH ENCLOSURE;
- C. GUARD BOOTH;
- D. CANOPY;
- E. PLAYGROUND AND OUTDOOR PLAY AREA FOR A DAY CARE CENTER FOR CHILDREN;
- F. LANDSCAPING;
- G. DAY CARE CENTERS FOR CHILDREN IN MULTIFAMILY UNITS;

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H. ANTENNA, OTHERWISE PERMITTED IN THE ZONE;

I. EQUIPMENT ROOM FOR TELECOMMUNICATIONS LOCATED INSIDE AN EXISTING BUILDING;

J. DAY CARE CENTER FOR CHILDREN LOCATED WITHIN AN EXISTING FREE-STANDING BUILDING IN A PROJECT IN EXCESS OF ONE HUNDRED (100) UNITS, WITH A MAXIMUM OF ONE (1) PER PROJECT, PROVIDED THAT IT IS LOCATED IN A "HOT SPOT" AS DEFINED IN STATE LAW OR "REVITALIZATION AREA," IT IS OPERATED BY A NONPROFIT ENTITY, AND AT LEAST 50% OF THE CHILDREN ARE RESIDENTS OF THE PROJECT; AND

K. NEW ACCESS OR PARKING, IF ACCOMPANIED BY A REDUCTION OF 30% OR MORE IN THE NUMBER OF BEDROOMS. SUCH IMPROVEMENTS SHALL CONFORM TO ANY APPLICABLE REGULATIONS IN THIS SUBTITLE.

(8) SCREENING REQUIREMENTS FOR VEHICLE REPAIR FACILITIES, VEHICLE TOWING STATIONS, AND VEHICLE STORAGE YARDS - THE ALTERATION OF A CERTIFIED NONCONFORMING VEHICLE REPAIR FACILITY, VEHICLE TOWING STATION, OR VEHICLE STORAGE YARD MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD, PROVIDED THE

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ALTERATION IS MADE TO COMPLY WITH THE SCREENING REQUIREMENTS SET FORTH IN SECTION 13-235 OF SUBTITLE 13 OF THE PRINCE GEORGE'S COUNTY CODE, AND SECTION 4.4 OF THE PRINCE GEORGE'S COUNTY LANDSCAPE MANUAL.

(9) NONCONFORMING BUILDINGS, STRUCTURES, OR CERTIFIED USES IN TDOZS - EXISTING NONCONFORMING USES, BUILDINGS, OR STRUCTURES WHICH HAVE BECOME NONCONFORMING AS A RESULT OF THE ADOPTION OF A TRANSIT DISTRICT OVERLAY ZONE (TDOZ) MAY BE ENLARGED IN HEIGHT, PROVIDED THE EXISTING SQUARE FOOTAGE OF THE STRUCTURE IS NOT ENLARGED OR INCREASED, PROVIDED FURTHER THAT IT DOES NOT EXCEED APPLICABLE HEIGHT LIMITS SET FORTH IN THE APPROVED TRANSIT DISTRICT DEVELOPMENT PLAN.

(10) SAFETY IMPROVEMENTS REQUIRED BY THE COMMISSION - SAFETY IMPROVEMENTS MADE TO AN EXISTING CERTIFIED NONCONFORMING USE PURSUANT TO AN EXECUTED AGREEMENT WITH THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION ARE PERMITTED AND SHALL BE IDENTIFIED ON THE CERTIFIED NONCONFORMING USE SITE PLAN.

(11) ADAPTIVE REUSE OF COMMUNITY BUILDING - THE RENOVATION AND ADAPTIVE REUSE OF A HISTORIC STRUCTURE

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LOCATED WITHIN A CERTIFIED NONCONFORMING USE MULTIFAMILY DEVELOPMENT PURSUANT TO A HISTORIC AREA WORK PERMIT APPROVED BY THE HISTORIC PRESERVATION COMMISSION MAY BE MODIFIED. ALLOWABLE MODIFICATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO: RECONFIGURATION OF INTERNAL DRIVEWAYS, PARKING AND DRIVE AISLES, PROVIDED THE TOTAL NUMBER OF PARKING SPACES IS NOT REDUCED; AND THE CONSTRUCTION OF AN ADDITION TO THE HISTORIC STRUCTURE INCLUDING RELATED SIDEWALKS, ENTRANCES, AND OTHER SITE WORK. UPON COMPLETION OF THE IMPROVEMENTS PROPOSED IN THIS SUBSECTION, THE OWNER SHALL BE ENTITLED TO SUBMIT A REVISED NONCONFORMING USE SITE PLAN REFLECTING THE IMPROVEMENTS WHICH SHALL BE RECERTIFIED BY THE ADVISORY PLANNING BOARD'S AUTHORIZED REPRESENTATIVE.

C. PROCEDURES.

(1) APPLICATION.

A. ALL REQUESTS FOR ALTERATION, EXTENSION OR ENLARGEMENT OF A CERTIFIED NONCONFORMING USE SHALL BE IN THE FORM OF AN APPLICATION FILED WITH THE ADVISORY PLANNING BOARD. THE ADVISORY PLANNING BOARD SHALL DETERMINE THE CONTENTS OF THE APPLICATION AND SHALL PROVIDE THE APPLICATION FORM.

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B. ALONG WITH THE APPLICATION, THE APPLICANT SHALL SUBMIT FIFTEEN (15) COPIES OF A SITE PLAN AND OTHER DATA OR EXPLANATORY MATERIAL WHICH ARE CONSIDERED NECESSARY TO INDICATE WHAT IS BEING PROPOSED.

(2) FEES.

A. UPON FILING THE APPLICATION, THE APPLICANT SHALL PAY TO THE CITY A FILING FEE.

B. SIGN POSTING FEES.

IN ADDITION TO THE FILING FEE, A SIGN POSTING FEE AS ESTABLISHED BY THE CITY FOR EACH SIGN REQUIRED SHALL BE PAID BY THE APPLICANT AT THE TIME THE APPLICATION IS FILED.

(3) NOTICE.

A. NOTICE OF THE DATE, TIME AND PLACE OF THE HEARING SHALL BE SENT TO ALL PERSONS OF RECORD. NOTICE OF THE DATE, TIME AND PLACE OF THE HEARING, AND A SITE PLAN DRAWN TO SCALE SHALL BE SENT TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL.

B. THE SUBJECT PROPERTY SHALL BE POSTED WITH AT LEAST ONE (1) DURABLE SIGN GIVING NOTICE OF THE HEARING AT LEAST FIFTEEN (15) DAYS PRIOR TO THE SCHEDULED HEARING DATE, IN

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ACCORDANCE WITH SEC. 26-22.

(4) A RECOMMENDATION THAT AN ALTERATION, EXTENSION OR ENLARGEMENT OF A CERTIFIED NONCONFORMING USE BE GRANTED SHALL BE MADE BY THE ADVISORY PLANNING BOARD ONLY UPON THE FINDING THAT THE PURPOSES OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE WILL BE EQUALLY WELL OR BETTER SERVED BY THE APPLICANT'S PROPOSAL;

(5) EXCEPTIONS TO THE ADVISORY PLANNING BOARD'S RECOMMENDATION REGARDING AN ALTERATION, EXTENSION OR ENLARGEMENT MAY BE FILED IN ACCORDANCE WITH SECTION 26-47.

SEC. 26-37. CERTIFICATION OF NONCONFORMING USES.

A. IN GENERAL - A NONCONFORMING USE MAY ONLY CONTINUE IF A USE AND OCCUPANCY PERMIT IDENTIFYING THE USE AS NONCONFORMING IS ISSUED AFTER THE ADVISORY PLANNING BOARD (OR ITS AUTHORIZED REPRESENTATIVE) OR THE CITY COUNCIL CERTIFIES THAT THE USE IS NONCONFORMING AND NOT ILLEGAL.

B. APPLICATION

(1) AN APPLICATION FOR CERTIFICATION OF A NONCONFORMING USE SHALL BE FILED WITH THE ADVISORY PLANNING BOARD. THE ADVISORY PLANNING BOARD SHALL DETERMINE THE

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CONTENTS OF THE APPLICATION AND SHALL PROVIDE THE APPLICATION FORM.

(2) ALONG WITH THE APPLICATION AND ACCOMPANYING PLANS, THE APPLICANT SHALL PROVIDE THE FOLLOWING:

A. DOCUMENTARY EVIDENCE, SUCH AS TAX RECORDS, BUSINESS RECORDS, PUBLIC UTILITY INSTALLATION OR PAYMENT RECORDS, AND SWORN AFFIDAVITS, SHOWING THE COMMENCING DATE AND CONTINUOUS EXISTENCE OF THE NONCONFORMING USE;

B. EVIDENCE THAT THE NONCONFORMING USE HAS NOT CEASED TO OPERATE FOR MORE THAN ONE HUNDRED EIGHTY (180) CONSECUTIVE CALENDAR DAYS BETWEEN THE TIME THE USE BECAME NONCONFORMING AND THE DATE WHEN THE APPLICATION IS SUBMITTED, OR THAT CONDITIONS OF NONOPERATION FOR MORE THAN ONE HUNDRED EIGHTY (180) CONSECUTIVE CALENDAR DAYS WERE BEYOND THE APPLICANT'S AND/OR OWNER'S CONTROL, WERE FOR THE PURPOSE OF CORRECTING CODE VIOLATIONS, OR WERE DUE TO THE SEASONAL NATURE OF THE USE;

C. SPECIFIC DATA SHOWING THE EXACT NATURE, SIZE, AND LOCATION OF THE BUILDING, STRUCTURE OR USE; A LEGAL DESCRIPTION OF THE PROPERTY; AND THE PRECISE LOCATION AND

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LIMITS OF THE USE ON THE PROPERTY AND WITHIN ANY BUILDING IT OCCUPIES; AND

D. A COPY OF A VALID USE AND OCCUPANCY PERMIT ISSUED FOR THE USE PRIOR TO THE DATE UPON WHICH IS BECAME A NONCONFORMING USE, IF THE APPLICANT POSSESSES ONE.

C. NOTICE. – THE ADVISORY PLANNING BOARD SHALL POST THE PROPERTY WITH A DURABLE SIGN(S) WITHIN TEN (10) DAYS OF ACCEPTANCE OF THE APPLICATION AND ACCOMPANYING DOCUMENTATION. THE SIGNS(S) SHALL PROVIDE NOTICE OF THE APPLICATION; THE NATURE OF THE NONCONFORMING USE FOR WHICH THE PERMIT IS SOUGHT; A DATE, AT LEAST TWENTY (20) DAYS AFTER POSTING, BY WHICH WRITTEN COMMENTS AND/OR SUPPORTING DOCUMENTARY EVIDENCE RELATING TO THE COMMENCING DATE AND CONTINUITY OF SUCH USE, AND/OR A REQUEST FOR PUBLIC HEARING FROM A PARTY OF INTEREST WILL BE RECEIVED; AND INSTRUCTIONS FOR OBTAINING ADDITIONAL INFORMATION. REQUIREMENTS REGARDING POSTING FEES, THE NUMBER, AND THE LOCATION OF SIGNS SHALL CONFORM TO THE REQUIREMENTS SET FORTH IN SUBSECTION (F), BELOW. THIS SECTION DOES NOT APPLY TO USES THAT OCCUR SOLELY WITHIN AN ENCLOSED BUILDING, WITH THE EXCEPTION OF PARKING.

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D. ADMINISTRATIVE REVIEW.

(1) IF A COPY OF A VALID USE AND OCCUPANCY PERMIT IS SUBMITTED WITH THE APPLICATION, WHERE APPLICABLE A REQUEST IS NOT SUBMITTED FOR THE ADVISORY PLANNING BOARD TO CONDUCT A PUBLIC HEARING, AND, BASED ON THE DOCUMENTARY EVIDENCE PRESENTED, THE ADVISORY PLANNING BOARD'S AUTHORIZED REPRESENTATIVE IS SATISFIED AS TO THE COMMENCING DATE AND CONTINUITY OF THE NONCONFORMING USE, THE REPRESENTATIVE SHALL RECOMMEND CERTIFICATION OF THE USE AS NONCONFORMING FOR THE PURPOSE OF ISSUING A NEW USE AND OCCUPANCY PERMIT IDENTIFYING THE USE AS NONCONFORMING. THIS RECOMMENDATION SHALL NOT BE MADE PRIOR TO THE SPECIFIED DATE ON WHICH WRITTEN COMMENTS AND/OR REQUESTS FOR PUBLIC HEARING ARE ACCEPTED.

(2) FOLLOWING A RECOMMENDATION OF CERTIFICATION OF THE USE AS NONCONFORMING, THE ADVISORY PLANNING BOARD'S AUTHORIZED REPRESENTATIVE SHALL NOTIFY THE CITY COUNCIL OF THE RECOMMENDATION.

(3) IF THE CITY COUNCIL DOES NOT ELECT TO REVIEW THE RECOMMENDATION WITHIN THIRTY (30) DAYS OF RECEIPT OF THE RECOMMENDATION AS AUTHORIZED BY SUBSECTION (E), BELOW, THE

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REPRESENTATIVE SHALL CERTIFY THE USE AS NONCONFORMING. COPIES OF THE RECOMMENDATION SHALL BE SENT TO ALL PERSONS OF RECORD, THE MARYLAND-NATIONAL CAPITAL PARK PLANNING COMMISSION AND THE DISTRICT COUNCIL.

(4) SUBSECTIONS (2) AND (3), ABOVE, AND SUBSECTION (E), BELOW, SHALL NOT APPLY TO USES THAT, WITH THE EXCEPTION OF PARKING IN ACCORDANCE WITH SECTION 27-549 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE, OCCUR SOLELY WITHIN AN ENCLOSED BUILDING.

E. ADVISORY PLANNING BOARD REVIEW.

(1) REQUIRED HEARING - IF A COPY OF A VALID USE AND OCCUPANCY PERMIT IS NOT SUBMITTED WITH THE APPLICATION, IF THE DOCUMENTARY EVIDENCE SUBMITTED IS NOT SATISFACTORY TO THE ADVISORY PLANNING BOARD'S AUTHORIZED REPRESENTATIVE TO PROVE THE COMMENCING DATE OR CONTINUITY OF THE USE, OR IF A PUBLIC HEARING HAS BEEN REQUESTED BY ANY PARTY OF INTEREST CHALLENGING THE COMMENCING DATE AND/OR CONTINUITY OF THE USE, THE ADVISORY PLANNING BOARD SHALL CONDUCT A PUBLIC HEARING ON THE APPLICATION FOR THE PURPOSE OF DETERMINING WHETHER THE USE SHOULD BE CERTIFIED AS NONCONFORMING.

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(2) APPLICATION FOR CERTIFICATION - WHENEVER THE ADVISORY PLANNING BOARD WILL HOLD A HEARING ON A CERTIFICATION OF THE USE AS NONCONFORMING, THE APPLICANT SHALL COMPLETE THE APPROPRIATE FORM PROVIDED BY THE ADVISORY PLANNING BOARD.

(3) AT LEAST FOURTEEN (14) CALENDAR DAYS PRIOR TO THE PUBLIC HEARING, THE ADVISORY PLANNING BOARD SHALL SEND WRITTEN NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING TO THE APPLICANT AND TO ALL PERSONS OF RECORD.

(4) ADVISORY PLANNING BOARD ACTION.

THE ADVISORY PLANNING BOARD MAY DECIDE TO EITHER GRANT OR DENY CERTIFICATION OF THE USE AS NONCONFORMING. IF IT DECIDES TO CERTIFY THAT A NONCONFORMING USE ACTUALLY EXISTS AND HAS CONTINUOUSLY OPERATED, THE ADVISORY PLANNING BOARD SHALL FIND THAT THE CONCLUSION IT REACHES IS SUPPORTED BY A PREPONDERANCE OF EVIDENCE.

F. APPLICABILITY. - THIS SECTION SHALL NOT APPLY TO NONCONFORMING BUILDINGS OR STRUCTURES OCCUPIED BY CONFORMING USES.

G. ADDITIONAL REQUIREMENTS FOR JUNKYARDS AND

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AUTOMOBILE SALVAGE YARDS.

(1) ALL CERTIFIED NONCONFORMING JUNK YARDS AND AUTOMOBILE SALVAGE YARDS SHALL MEET THE FOLLOWING REQUIREMENTS:

A. THE JUNK OR AUTOMOBILE SALVAGE YARD SHALL BE ENCLOSED BY A SOLID, LIGHT-TIGHT, SIGHTLY WALL OR FENCE AT LEAST EIGHT (8) FEET HIGH;

B. THE WALL OR FENCE SHALL SCREEN THE ENCLOSED AREA FROM PUBLIC VIEW;

C. THE FENCE SHALL BE MAINTAINED IN A CONSTANT STATE OF GOOD REPAIR; AND

D. NO SIGN SHALL BE PLACED ON THE FENCE (EXCEPT AS PERMITTED BY PART 12 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE).

(2) THE REQUIREMENTS OF SUBSECTION (1), ABOVE, SHALL APPLY TO ALL NONCONFORMING JUNK YARDS AND VEHICLE SALVAGE YARDS, REGARDLESS OF ANY PRIOR NONCONFORMING USE STATUS.

(3) THE FENCE (WALL) REQUIREMENTS MAY BE WAIVED OR MODIFIED BY THE CITY COUNCIL IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

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A. APPLICATION.

(I) THE OWNER OR OPERATOR OF THE JUNK YARD SHALL MAKE A WRITTEN REQUEST TO THE CITY COUNCIL TO WAIVE OR MODIFY THE REQUIREMENTS. THE APPLICATION SHALL BE FILED WITH THE CITY CLERK.

(II) ALONG WITH THE APPLICATION, THE OWNER OR OPERATOR SHALL SUBMIT THE FOLLOWING:

(A) A STATEMENT LISTING THE NAMES, AND THE BUSINESS AND RESIDENTIAL ADDRESSES, OF ALL INDIVIDUALS HAVING AT LEAST A FIVE PERCENT (5%) FINANCIAL INTEREST IN THE SUBJECT PROPERTY;

(B) IF ANY OWNER IS A CORPORATION, A STATEMENT LISTING THE OFFICERS OF THE CORPORATION, THEIR BUSINESS AND RESIDENTIAL ADDRESSES, AND THE DATE ON WHICH THEY ASSUMED THEIR RESPECTIVE OFFICES. THE STATEMENT SHALL ALSO LIST THE CURRENT BOARD OF DIRECTORS, THEIR BUSINESS AND RESIDENTIAL ADDRESSES, AND THE DATES OF EACH DIRECTOR'S TERM. AN OWNER THAT IS A CORPORATION LISTED ON A NATIONAL STOCK EXCHANGE SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE RESIDENTIAL ADDRESSES OF ITS OFFICERS AND DIRECTORS;

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(C) IF THE OWNER IS A CORPORATION (EXCEPT ONE LISTED ON A NATIONAL STOCK EXCHANGE), A STATEMENT CONTAINING THE NAMES AND RESIDENTIAL ADDRESSES OF THOSE INDIVIDUALS OWNING AT LEAST FIVE PERCENT (5%) OF THE SHARES OF ANY CLASS OF CORPORATE SECURITY (INCLUDING STOCKS AND SERIAL MATURITY BONDS);

(III) FOR THE PURPOSES OF (I), (II), AND (III), ABOVE, THE TERM "OWNER" SHALL INCLUDE NOT ONLY THE OWNER OF RECORD, BUT ALSO ANY CONTRACT PURCHASER.

B. THE CITY COUNCIL SHALL DESIGNATE A DATE FOR THE PUBLIC HEARING AND SHALL NOTIFY THE APPLICANT OF THE DATE.

C. CRITERIA FOR APPROVAL.

(I) THE APPLICATION MAY ONLY BE APPROVED:

(A) FOR A FIXED TEMPORARY PERIOD OF TIME, WHICH MAY BE RENEWED; AND

(B) IF THE PURPOSES OF THIS SECTION ARE FULFILLED.

(II) IN PLACE OF THE FENCE, THE COUNCIL MAY PERMIT ANY OF THE FOLLOWING:

(A) SCREENING BY NATURAL OBJECTS;

(B) PLANTINGS ON SIDES NOT FACING TRAVELED ROADS;

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(i) A WIRE FENCE ON SIDES WHERE THE ADJACENT PROPERTIES ARE PREDOMINANTLY UNDEVELOPED;

OR

(ii) A REDUCTION IN THE FENCE REQUIREMENTS WHEN THE PROPERTY IS, OR ABUTS, PROPERTIES ZONED I-1 OR I-2.

H. ADDITIONAL REQUIREMENTS FOR ADULT BOOKSTORES AND/OR ADULT VIDEO STORES.

(1) ALL CERTIFIED NONCONFORMING ADULT BOOK STORES AND/OR ADULT VIDEO STORES SHALL MEET THE FOLLOWING REQUIREMENTS:

A. ALL WINDOWS, DOORS, AND OTHER APERTURES SHALL BE BLACKENED OR OBSTRUCTED SO AS TO PREVENT ANYONE OUTSIDE THE ESTABLISHMENT FROM VIEWING ITS INTERIOR;

B. ADVERTISING SHALL BE LIMITED TO ONE (1) BUSINESS SIGN, AS PROVIDED FOR IN SECTION 27-615 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE;

C. THE PROPRIETOR, OWNER, OR PERSONNEL OF THE ESTABLISHMENT SHALL PROHIBIT ACCESS TO THE PREMISES BY ANY PERSON WHO IS UNDER EIGHTEEN (18) YEARS OLD.

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(2) ALL ADULT BOOK STORES AND/OR ADULT VIDEO STORES HAVE TO OBTAIN A USE AND OCCUPANCY PERMIT AS SET FORTH IN SECTION 27-904 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE. IN ORDER TO PROVIDE FOR A REASONABLE STANDARD OF AMORTIZATION AND TO PREVENT AN UNREASONABLE LOSS, ALL CERTIFIED NONCONFORMING ADULT BOOKS STORES AND/OR ADULT VIDEO STORES MAY CONTINUE IN OPERATION UNTIL JANUARY 1, 2011, IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

I. ADDITIONAL REQUIREMENTS FOR EATING OR DRINKING ESTABLISHMENTS.

(1) IN ADDITION TO BEING CERTIFIED AS A NONCONFORMING USE, AN EATING OR DRINKING ESTABLISHMENT PERMITTING LIVE ENTERTAINMENT OR PATRON DANCING, WITH HOURS OF OPERATION THAT EXTEND BEYOND 11:00 P.M., AND WITH PARKING ABUTTING LAND USED FOR RESIDENTIAL PURPOSES, EXCEPT HOTEL LOUNGES, MAY ONLY CONTINUE SUBJECT TO THE REQUIREMENTS OF THIS SECTION AND TO ANY OTHER APPLICABLE REQUIREMENTS OF CITY ZONING ORDINANCE.

(2) ALL CERTIFIED NONCONFORMING EATING OR DRINKING ESTABLISHMENTS DESCRIBED IN SUBSECTION (1), ABOVE, SHALL MEET THE FOLLOWING REQUIREMENTS:

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A. A SIGHT-TIGHT FENCE OR WALL, AT LEAST SIX (6) FEET IN HEIGHT, SHALL BE LOCATED ALONG THE PERIMETER OF ALL ABUTTING RESIDENTIAL PROPERTY; AND

B. THE PROPERTY SHALL BE MAINTAINED IN ACCORDANCE WITH ALL APPLICABLE PROVISIONS OF THE CITY CODE AND PRINCE GEORGE'S COUNTY CODE.

J. ADDITIONAL REQUIREMENTS FOR MASSAGE ESTABLISHMENTS - ALL CERTIFIED NONCONFORMING MASSAGE ESTABLISHMENTS SHALL MEET THE FOLLOWING REQUIREMENTS:

(1) ALL WINDOWS, DOORS, AND OTHER APERTURES SHALL BE BLACKENED OR OBSTRUCTED SO AS TO PREVENT ANYONE OUTSIDE THE ESTABLISHMENT FROM VIEWING ITS INTERIOR;

(2) ADVERTISING SHALL BE LIMITED TO ONE (1) BUSINESS SIGN, AS PROVIDED FOR IN SECTION 27-615 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE;

(3) THE PROPRIETOR, OWNER, OR PERSONNEL OF THE ESTABLISHMENT SHALL PROHIBIT ACCESS TO THE PREMISES BY ANY PERSON WHO IS UNDER EIGHTEEN (18) YEARS OLD.

(4) A MASSAGE ESTABLISHMENT MAY ONLY CONTINUE IF A SPECIAL EXCEPTION FOR A MASSAGE ESTABLISHMENT IS APPROVED IN

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ACCORDANCE WITH THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.

K. ADDITIONAL REQUIREMENTS FOR MOBILE HOMES AND TRAILER CAMPS (MOBILE HOME PARKS)

(1) MOBILE HOME DWELLINGS.

A. A NONCONFORMING MOBILE HOME USED AS A DWELLING MAY CONTINUE, IF THE DWELLING WAS LEGALLY IN EXISTENCE ON NOVEMBER 24, 1975.

B. A BUILDING PERMIT MAY BE ISSUED FOR A MOBILE HOME TO BE USED AS A DWELLING PROVIDED THAT:

(I) THE APPLICATION FOR THE PERMIT WAS ON FILE WITH THE DEPARTMENT OF ENVIRONMENTAL RESOURCES ON NOVEMBER 23, 1975; AND

(II) ALL REQUIREMENTS APPLICABLE TO THE ERECTION OF A MOBILE HOME AS OF THAT DATE HAVE BEEN MET.

C. A MOBILE HOME DWELLING ERECTED PURSUANT TO THE ABOVE PERMIT SHALL BE DEEMED A CERTIFIED NONCONFORMING USE PROVIDED THAT:

(I) CONSTRUCTION BEGINS WITHIN SIX (6) MONTHS AFTER THE PERMIT IS ISSUED; AND

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(II) CONSTRUCTION PROCEEDS TO COMPLETION IN ACCORDANCE WITH THE PERMIT.

(2) TRAILER CAMPS (MOBILE HOME PARKS).

A. A TRAILER CAMP (MOBILE HOME PARK) LEGALLY IN EXISTENCE ON NOVEMBER 24, 1975, SHALL BE CONSIDERED A NONCONFORMING USE.

B. A TRAILER CAMP SHALL BE DEEMED A CERTIFIED NONCONFORMING USE IF A SPECIAL EXCEPTION FOR THE CAMP WAS APPROVED BY THE PRINCE GEORGE'S COUNTY DISTRICT COUNCIL PRIOR TO NOVEMBER 24, 1975.

C. IN THE CASE OF A TRAILER CAMP IDENTIFIED IN PARAGRAPH (B), ABOVE, BUILDING PERMITS MAY BE ISSUED FOR ALL STRUCTURES SHOWN ON THE SITE PLAN. IN ADDITION, BUILDING PERMITS FOR BUILDINGS TO BE USED FOR STORAGE OF MAINTENANCE EQUIPMENT AND SUPPLIES NOT SHOWN ON THE SITE PLAN MAY BE ISSUED. THESE STORAGE BUILDINGS SHALL BE SUBJECT TO THE REQUIREMENTS APPLICABLE TO MAIN BUILDINGS IN THE ZONE IN WHICH THE CAMP IS LOCATED.

L. ADDITIONAL REQUIREMENTS FOR PAWN SHOPS - ALL CERTIFIED NONCONFORMING PAWNSHOPS SHALL MEET THE FOLLOWING

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REQUIREMENTS:

(1) THE PROPRIETOR, OWNER, OR PERSONNEL OF THE PAWNSHOP ESTABLISHMENT SHALL NOT TRANSACT BUSINESS WITH ANY PERSON WHO IS UNDER EIGHTEEN (18) YEARS OLD;

(2) NO PARKING OF MOTOR VEHICLES PLEDGED AS COLLATERAL SHALL BE PERMITTED ON THE SUBJECT PROPERTY.

(3) IN THE EVENT THAT A CERTIFIED NONCONFORMING PAWNSHOP IS RELOCATED TO ANOTHER LOCATION, THE CERTIFICATION SHALL CEASE

M. ADDITIONAL REQUIREMENTS FOR MODEL STUDIOS - ALL CERTIFIED NONCONFORMING MODEL STUDIOS SHALL MEET THE FOLLOWING REQUIREMENTS:

(1) OUTDOOR DISPLAYS OR ADVERTISING SHALL BE LIMITED TO ONE (1) BUSINESS SIGN, AS PROVIDED FOR IN SECTION 27-615 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE; AND

(2) THE PROPRIETOR, OWNER, OR PERSONNEL OF THE ESTABLISHMENT SHALL PROHIBIT ACCESS TO THE PREMISES BY ANY PERSON WHO IS NOT YET EIGHTEEN (18) YEARS OLD.

(3) A MODEL STUDIO MAY CONTINUE ONLY IF A SPECIAL EXCEPTION FOR A MODEL STUDIO IS APPROVED IN ACCORDANCE WITH

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THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE.

SEC. 26-38. REVOCATION OF CERTIFICATION OF NONCONFORMING USES.

A. UPON A PETITION FILED BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES (OR HIS DESIGNEE), OR UPON ITS OWN MOTION, THE ADVISORY PLANNING BOARD SHALL HOLD A PUBLIC HEARING TO DETERMINE WHETHER THE CERTIFICATION OF A NONCONFORMING USE SHOULD BE REVOKED.

B. THE ADVISORY PLANNING BOARD SHALL REVOKE THE CERTIFICATION IF IT FINDS THAT EITHER:

(1) THERE WAS FRAUD OR MISREPRESENTATION IN OBTAINING THE CERTIFICATION;

(2) A CERTIFIED NONCONFORMING USE HAS BEEN DISCONTINUED FOR A PERIOD OF ONE HUNDRED EIGHTY (180) OR MORE CONSECUTIVE CALENDAR DAYS, UNLESS THE CONDITIONS OF NONOPERATION WERE BEYOND THE CONTROL OF THE OWNER OR HOLDER OF THE USE AND OCCUPANCY PERMIT; OR

(3) ANY APPLICABLE REQUIREMENTS OF SECTION 26.37 HAVE NOT BEEN MET.

C. THE ADVISORY PLANNING BOARD SHALL NOTIFY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES (OR

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HIS DESIGNEE) AND THE PRINCE GEORGE'S COUNTY PLANNING BOARD OF A REVOCATION. THE DIRECTOR, IN TURN, SHALL REVOKE THE USE AND OCCUPANCY PERMIT FOR THE NONCONFORMING USE.

D. THE DECISION OF THE ADVISORY PLANNING BOARD MAY BE APPEALED TO THE CITY COUNCIL IN THE SAME MANNER AS AN ORIGINAL CERTIFICATION.

SEC. 26-39. RESERVED.

SEC. 26-40. RESERVED.

DIVISION 5. MINOR CHANGES TO APPROVED SPECIAL EXCEPTIONS.

SEC. 26-41. MINOR CHANGES TO SPECIAL EXCEPTIONS, IN GENERAL.

A. THE ADVISORY PLANNING BOARD AND PLANNING DIRECTOR ARE AUTHORIZED TO APPROVE MINOR CHANGES TO SITE PLANS FOR APPROVED SPECIAL EXCEPTIONS, AS PROVIDED IN THIS SECTION. THE DIRECTOR MAY AUTHORIZE STAFF TO TAKE ANY ACTION THE DIRECTOR MAY TAKE UNDER THIS SECTION.

B. THE ADVISORY PLANNING BOARD IS AUTHORIZED TO GRANT THE MINOR CHANGES LISTED IN THIS SECTION, AND ANY VARIANCE REQUESTED IN CONJUNCTION WITH THE MINOR CHANGE. THE MINOR CHANGE REQUEST SHALL BE IN THE FORM OF AN APPLICATION FILED

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WITH THE ADVISORY PLANNING BOARD. THE CONTENTS OF THE APPLICATION SHALL BE DETERMINED BY THE ADVISORY PLANNING BOARD. ALONG WITH FILING THE APPLICATION, THE APPLICANT SHALL SUBMIT A REVISED SITE PLAN, AND SHALL PAY THE REQUIRED FEE. THE ADVISORY PLANNING BOARD SHALL HOLD A HEARING ON THE REQUEST IN ACCORDANCE WITH THE RULES OF PROCEDURE ESTABLISHED BY THE ADVISORY PLANNING BOARD. THE ADVISORY PLANNING BOARD'S DECISION SHALL BE IN THE FORM OF A RESOLUTION. A COPY OF THE RESOLUTION SHALL BE SENT TO ALL PERSONS OF RECORD AND THE CITY CLERK.

C. IF THE CHANGE IS APPROVED, THE REVISED SITE PLAN SHALL BE MADE A PART OF THE RECORD OF THE ORIGINAL APPLICATION.

D. THE REVISED SITE PLAN SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS SECTION, AND WITH ANY CONDITIONS, RELATING TO THE USE, IMPOSED IN THE APPROVAL OF THE SPECIAL EXCEPTION OR OF ANY APPLICABLE ZONING MAP AMENDMENT, SUBDIVISION PLAT, OR VARIANCE.

SEC. 26-42. MINOR CHANGES TO SPECIAL EXCEPTIONS, ADVISORY PLANNING BOARD.

A. THE ADVISORY PLANNING BOARD IS AUTHORIZED TO

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APPROVE THE FOLLOWING MINOR CHANGES:

(1) AN INCREASE OF NO MORE THAN FIFTEEN PERCENT (15%)
IN THE GROSS FLOOR AREA OF A BUILDING;

(2) AN INCREASE OF NO MORE THAN FIFTEEN PERCENT (15%)
IN THE LAND AREA COVERED BY A STRUCTURE OTHER THAN A BUILDING;

(3) THE REDESIGN OF PARKING OR LOADING AREAS; OR

(4) THE REDESIGN OF A LANDSCAPE PLAN.

B. THE ADVISORY PLANNING BOARD IS FURTHER AUTHORIZED
TO APPROVE THE MINOR CHANGES DESCRIBED IN SECTION 26-44.

C. IN REVIEWING PROPOSED MINOR CHANGES, THE ADVISORY
PLANNING BOARD SHALL FOLLOW THE PROCEDURES IN SECTION 26-41.

**SEC. 26-43. LIMITED MINOR CHANGES TO SPECIAL EXCEPTIONS,
PLANNING DIRECTOR.**

A. THE PLANNING DIRECTOR IS AUTHORIZED TO APPROVE
MINOR CHANGES ADMINISTRATIVELY, WITHOUT PUBLIC HEARING, IN
CASES LISTED IN (B), BUT ONLY IF THE PROPOSED MINOR CHANGES ARE
LIMITED IN SCOPE AND NATURE, INCLUDING AN INCREASE IN GROSS
FLOOR AREA OR LAND COVERED BY A STRUCTURE OTHER THAN A
BUILDING UP TO TEN PERCENT (10%). THE DIRECTOR SHALL DENY ANY
ADMINISTRATIVE APPROVAL REQUEST PROPOSING SITE PLAN CHANGES

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WHICH WILL HAVE A SIGNIFICANT IMPACT ON ADJACENT PROPERTY.

B. BEFORE APPROVING A MINOR CHANGE, THE DIRECTOR SHALL MAKE ALL FINDINGS THE ADVISORY PLANNING BOARD WOULD BE REQUIRED TO MAKE, IF IT REVIEWED THE APPLICATION.

C. THE DIRECTOR IS NOT AUTHORIZED TO WAIVE REQUIREMENTS IN THE CITY ZONING ORDINANCE, GRANT VARIANCES, OR MODIFY CONDITIONS, CONSIDERATIONS, OR OTHER REQUIREMENTS IMPOSED BY THE ADVISORY PLANNING BOARD OR CITY COUNCIL IN ANY CASE.

D. THE APPLICANT'S PROPERTY SHALL BE POSTED WITHIN TEN (10) DAYS OF THE DIRECTOR'S ACCEPTANCE OF FILING OF THE APPLICATION. ON AND AFTER THE FIRST DAY OF POSTING, THE APPLICATION MAY NOT BE AMENDED.

E. THE DIRECTOR MAY WAIVE POSTING AFTER DETERMINING, IN WRITING, THAT THE PROPOSED MINOR CHANGE IS SO LIMITED IN SCOPE AND NATURE THAT IT WILL HAVE NO APPRECIABLE IMPACT ON ADJACENT PROPERTY.

F. IF POSTING IS WAIVED OR A WRITTEN REQUEST FOR PUBLIC HEARING IS NOT SUBMITTED WITHIN THE POSTED TIME PERIOD, THEN THE DIRECTOR MAY ACT ON THE APPLICATION. THE DIRECTOR'S

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APPROVAL CONCLUDES ALL PROCEEDINGS.

G. IF THE DIRECTOR DENIES THE APPLICATION OR A TIMELY HEARING REQUEST IS SUBMITTED, THEN THE APPLICATION SHALL BE TREATED AS RE-FILED ON THE DATE OF THAT EVENT. THE APPLICANT AND DIRECTOR SHALL THEN FOLLOW THE PROCEDURES FOR ADVISORY PLANNING BOARD REVIEW IN SECTION 26-41.

SEC. 26-44. SPECIFIC CHANGES.

A. CHANGES OF GOLF COURSE SITE PLANS. - CHANGES OF A SITE PLAN FOR AN APPROVED GOLF COURSE MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, FOR ANY MODIFICATIONS OR ADDITIONS WHICH ARE FOUND TO BE IN ACCORDANCE WITH THE PURPOSES AND USES GENERALLY ASSOCIATED WITH GOLF COURSES, INCLUDING SWIMMING POOLS, TENNIS COURTS, AND CLUBHOUSES/RESTAURANTS. THE ADVISORY PLANNING BOARD SHALL NOT APPROVE ANY USE PREVIOUSLY DISAPPROVED AS PART OF THE ORIGINAL SPECIAL EXCEPTION.

B. CHANGES OF PARI-MUTUEL RACETRACK SITE PLANS - CHANGES OF A SITE PLAN FOR AN APPROVED PARI-MUTUEL RACETRACK MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, FOR ANY MODIFICATIONS RELATED TO

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RACETRACK ACTIVITIES, UPON SUBMITTAL OF A LETTER FROM THE MARYLAND RACING COMMISSION ADVISING THAT THE MODIFICATIONS HAVE BEEN DIRECTED OR APPROVED BY THE COMMISSION AND ARE NECESSARY TO BENEFIT RACING. THE ADVISORY PLANNING BOARD SHALL NOT APPROVE ANY USE PREVIOUSLY DISAPPROVED AS PART OF THE ORIGINAL SPECIAL EXCEPTION.

C. CHANGES OF GAS STATION SITE PLANS.

(1) THE ADVISORY PLANNING BOARD AND PLANNING DIRECTOR MAY PERMIT THE FOLLOWING MODIFICATIONS UNDER THE PROCEDURES IN THIS SUBSECTION AND IN SECTIONS 26-41 AND 26-43 ABOVE:

A. THE ENLARGEMENT OR RELOCATION OF PUMP ISLANDS;

B. THE ADDITION OF ONE (1) PUMP ISLAND;

C. THE ADDITION, RELOCATION, OR MODIFICATION OF A FENCE, KIOSK, ISLAND SHELTER, ISLAND CANOPY, STORAGE AREA, TRASH ENCLOSURE, VENDING AREA, OR LAVATORY FACILITY;

D. THE ADDITION, RELOCATION, OR MODIFICATION OF AN ACCESSORY BUILDING USED SOLELY FOR THE STORAGE OF AUTOMOTIVE REPLACEMENT PARTS OR ACCESSORIES. THE ACCESSORY BUILDING

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SHALL BE WHOLLY ENCLOSED. THE BUILDING SHALL EITHER BE CONSTRUCTED OF BRICK (OR ANOTHER BUILDING MATERIAL SIMILAR IN APPEARANCE TO THAT OF THE MAIN STRUCTURE) AND PLACED ON A PERMANENT FOUNDATION, OR IT SHALL BE ENTIRELY SURROUNDED WITH SCREENING MATERIAL. SCREENING SHALL CONSIST OF A WALL, FENCE, OR SIGHT-TIGHT LANDSCAPING MATERIAL, WHICH SHALL BE AT LEAST AS HIGH AS THE ACCESSORY BUILDING. THE TYPE OF SCREENING SHALL BE APPROVED AS A PART OF THE MINOR CHANGE;

E. ANY AMENDMENT DESCRIBED IN SECTION 26-42.

(2) THE ADVISORY PLANNING BOARD'S DECISION SHALL BE SENT TO ALL PERSONS OF RECORD IN THE HEARING BEFORE THE ADVISORY PLANNING BOARD, THE CITY COUNCIL, AND THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL. THIS DECISION MAY BE APPEALED TO THE CITY COUNCIL AS PROVIDED FOR IN DIVISION 6 OF THIS ARTICLE.

D. CHANGES OF ADAPTIVE REUSE OF SURPLUS PUBLIC SCHOOL SITE PLANS. – CHANGES OF A SITE PLAN FOR AN APPROVED ADAPTIVE REUSE OF A SURPLUS PUBLIC SCHOOL MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, FOR THE FOLLOWING MODIFICATIONS:

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(1) THE RELOCATION OR ADDITION OF PORCHES, PATIOS, DECKS, EXTERIOR STAIRWAYS, AND THE LIKE;

(2) THE RELOCATION OR ADDITION OF ACCESSORY STORAGE BUILDINGS, PLAYGROUND EQUIPMENT, PICNIC AREAS, BARBECUE PITS, BICYCLE AND PEDESTRIAN WAYS, AND THE LIKE;

(3) THE RELOCATION OR ADDITION OF DRIVEWAYS AND OFF-STREET PARKING LOTS AND LOADING AREAS;

(4) THE RELOCATION OR ADDITION OF LANDSCAPING OR SCREENING AREAS;

(5) THE RELOCATION OR ADDITION OF FENCES AND RETAINING WALLS; AND

(6) THE RELOCATION OF FREESTANDING BUSINESS SIGNS.

E. CHANGES OF MULTIFAMILY HOUSING FOR ELDERLY/HANDICAPPED SITE PLANS. – CHANGES OF A SITE PLAN FOR APPROVED MULTIFAMILY HOUSING FOR THE ELDERLY AND/OR HANDICAPPED MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, IN ORDER TO INCREASE THE AMOUNT OF OFF-STREET PARKING. THE ADVISORY PLANNING BOARD SHALL NOT APPROVE ANY CHANGE PREVIOUSLY PROPOSED AND SPECIFICALLY DISAPPROVED AS PART OF THE ORIGINAL SPECIAL

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EXCEPTION.

F. CHANGES OF DRIVE-IN AND FAST-FOOD RESTAURANT SITE PLANS.

(1) CHANGES OF A SITE PLAN FOR AN APPROVED DRIVE-IN OR FAST-FOOD RESTAURANT MAY BE PERMITTED UNDER THE SITE PLAN AMENDMENT PROCEDURES IN SECTION 27-324 OF THE PRINCE GEORGE'S COUNTY ZONING ORDINANCE. THE ADVISORY PLANNING BOARD MAY PERMIT THE FOLLOWING MODIFICATIONS UNDER THE PROCEDURES IN THIS ARTICLE:

A. THE ADDITION, RELOCATION, OR MODIFICATION OF A FREEZER ON THE SIDES OR REAR OF THE RESTAURANT BUILDING;

B. THE ADDITION, RELOCATION, OR MODIFICATION OF GROSS FLOOR AREA IN ORDER TO PROVIDE REST ROOMS TO SERVE THE PHYSICALLY HANDICAPPED;

C. THE ADDITION, RELOCATION, OR MODIFICATION OF VESTIBULES ABOVE AND AROUND POINTS OF ACCESS TO THE RESTAURANT BUILDING;

D. THE ADDITION, RELOCATION, OR MODIFICATION OF A FENCE, STORAGE AREA, OR TRASH ENCLOSURE; OR

E. ANY AMENDMENT DESCRIBED IN SECTION 26-42 ABOVE.

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G. CHANGES OF SITE PLANS NECESSITATED BY EROSION/SEDIMENT CONTROL OR STORMWATER MANAGEMENT REGULATIONS – CHANGES OF A SITE PLAN NOT OTHERWISE PROVIDED FOR IN THIS ARTICLE, FOR AN APPROVED USE FOR WHICH ON-SITE EROSION/SEDIMENT CONTROL OR STORMWATER MANAGEMENT FACILITIES ARE REQUIRED, MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, PROVIDED THAT:

(1) SUCH CHANGES ARE THE MINIMUM NECESSARY IN ORDER TO CONFORM TO THE APPROVED PLANS FOR THE REQUIRED EROSION/SEDIMENT CONTROL OR STORMWATER MANAGEMENT FACILITIES AND DO NOT INCLUDE THE RELOCATION OF STORMWATER MANAGEMENT FACILITIES ONTO LAND NOT PROPOSED FOR DEVELOPMENT; AND

(2) THE AGENCY HAVING JURISDICTION OVER APPROVAL OF THOSE PLANS ADVISED THE ADVISORY PLANNING BOARD THAT DEVELOPMENT IN ACCORDANCE WITH THE APPROVED SPECIAL EXCEPTION SITE PLAN WOULD RESULT IN A VIOLATION OF EROSION/SEDIMENT CONTROL OR STORMWATER MANAGEMENT REGULATIONS.

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H. CHANGES OF SITE PLANS FOR PUBLIC ELECTRIC UTILITY USES OR STRUCTURES. – THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, MAY PERMIT CHANGES TO A SITE PLAN FOR APPROVED PUBLIC ELECTRIC UTILITY USES OR STRUCTURES FOR THE ADDITION, RELOCATION, OR MODIFICATION OF FOUNDATIONS AND EQUIPMENT, INCLUDING GROUND WIRES, CONTROL HOUSES, AND ASSOCIATED STRUCTURES, WITHIN THE EXISTING FENCE LINE.

I. CHANGES OF MARINA SITE PLANS. – CHANGES OF A SITE PLAN FOR APPROVED MARINAS MAY BE PERMITTED BY THE ADVISORY PLANNING BOARD OR PLANNING DIRECTOR, IF AUTHORIZED, FOR RENOVATION IN KIND, REPLACEMENT OR REPAIR FOR FACILITIES SUCH AS THE BULKHEADS OR BOAT SLIPS, FLOATING AND FIXED DOCKS BOAT STORAGE FACILITIES AND OTHER STRUCTURES.

SEC. 26-45. RESERVED.

SEC. 26-46. RESERVED.

**DIVISION 6. EXCEPTIONS TO ADVISORY PLANNING BOARD'S
RECOMMENDATION; APPEALS.**

**SEC. 26-47. EXCEPTIONS TO THE ADVISORY PLANNING BOARD'S
RECOMMENDATION.**

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A. ANY PERSON OF RECORD MAY FILE WITH THE CITY COUNCIL, WITHIN FIFTEEN (15) CALENDAR DAYS AFTER WRITTEN NOTICE OF THE ADVISORY PLANNING BOARD'S RECOMMENDATION REGARDING A VARIANCE, OR THIRTY (30) DAYS AFTER RECEIPT OF A RECOMMENDATION OF THE ADVISORY PLANNING BOARD REGARDING ALL OTHER MATTERS, EXCEPTIONS TO THE ADVISORY PLANNING BOARD'S RECOMMENDATION, AND A REQUEST FOR ORAL ARGUMENT BEFORE THE CITY COUNCIL.

B. THE CITY CLERK SHALL NOTIFY THE ADVISORY PLANNING BOARD OF ANY EXCEPTIONS AND/OR REQUESTS FOR ORAL ARGUMENT, AND WITHIN SEVEN (7) DAYS OF RECEIVING SAID NOTICE THE ADVISORY PLANNING BOARD SHALL TRANSMIT TO THE CITY COUNCIL A COPY OF THE RECORD CREATED BY THE ADVISORY PLANNING BOARD, INCLUDING BUT NOT LIMITED TO, ALL WRITTEN EVIDENCE AND MATERIALS SUBMITTED FOR CONSIDERATION BY THE ADVISORY PLANNING BOARD. A TRANSCRIPT OF THE PUBLIC HEARING ON THE APPLICATION SHALL BE PREPARED AND TRANSMITTED IMMEDIATELY WHEN AVAILABLE.

C. THE CITY COUNCIL SHALL SCHEDULE ORAL ARGUMENT ON THE APPEAL. THE CITY CLERK SHALL GIVE AT LEAST SEVEN (7) CALENDAR DAYS NOTICE OF THE HEARING TO ALL PERSONS OF RECORD

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AND THE ADVISORY PLANNING BOARD. ORAL ARGUMENT SHALL BE LIMITED TO THE FACTS AND INFORMATION WITHIN THE RECORD MADE BY THE HEARING BEFORE THE ADVISORY PLANNING BOARD.

D. AFTER THE CLOSE OF THE COUNCIL'S HEARING, THE CITY COUNCIL PRESENT AND VOTING SHALL ACCEPT, REJECT, OR MODIFY THE RECOMMENDATION OF THE ADVISORY PLANNING BOARD, OR RETURN THE APPLICATION TO THE ADVISORY PLANNING BOARD TO TAKE FURTHER TESTIMONY OR RECONSIDER ITS RECOMMENDATION.

SEC. 26-48. FINAL DECISION OF THE CITY COUNCIL.

A. NOT LESS THAN FIFTEEN (15) DAYS AFTER RECEIPT OF A RECOMMENDATION OF THE ADVISORY PLANNING BOARD REGARDING A VARIANCE OR WITHIN THIRTY (30) DAYS AFTER RECEIPT OF A RECOMMENDATION REGARDING ANY OTHER REQUEST UNDER THIS ARTICLE, A MAJORITY OF THE CITY COUNCIL MAY ADOPT THE RECOMMENDATION OF THE ADVISORY PLANNING BOARD BY CONSENT, UNLESS WITHIN THAT FIFTEEN (15) DAY PERIOD, A COUNCILMEMBER EITHER FILES WITH THE CITY CLERK A WRITTEN REQUEST FOR ORAL ARGUMENT ON THE MATTER OR MAKES A VERBAL REQUEST FOR SAME AT A CITY COUNCIL MEETING, OR EXCEPTIONS AND A REQUEST FOR ORAL ARGUMENT ARE FILED. ORAL ARGUMENT MAY ONLY BE

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REQUESTED BY A COUNCILMEMBER WHEN AN ACTION OF THE ADVISORY PLANNING BOARD IS NOT UNANIMOUS OR WHEN IT IS ALLEGED THAT THE RECOMMENDATION FAILS TO COMPLY WITH THE CRITERIA ESTABLISHED HEREIN.

B. THE COUNCIL SHALL GIVE ITS DECISION IN WRITING, STATING THE REASONS FOR ITS ACTION. THE COUNCIL SHALL MAKE THE SAME FINDINGS THAT ARE REQUIRED TO BE MADE BY THE ADVISORY PLANNING BOARD FOR EACH APPLICATION IT CONSIDERS. COPIES OF THE DECISION SHALL BE SENT TO ALL PERSONS OF RECORD, THE ADVISORY PLANNING BOARD, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND THE DISTRICT COUNCIL.

SEC. 26-49. APPEALS.

A. ANY PERSON AGGRIEVED BY A DECISION OF THE CITY COUNCIL REGARDING VARIANCES, DEPARTURES, ALTERNATIVE COMPLIANCE OR MINOR REVISIONS TO SPECIAL EXCEPTIONS WHO WAS A PARTY TO THE PROCEEDING BEFORE IT MAY APPEAL THE DECISION TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND WHICH SHALL HAVE THE POWER TO AFFIRM THE DECISION OF THE CITY COUNCIL, OR, IF THE DECISION IS NOT IN ACCORDANCE WITH THE LAW, TO REMAND THE MATTER OR TO MODIFY OR REVERSE THE DECISION.

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B. ANY PERSON AGGRIEVED BY A DECISION OF THE CITY COUNCIL REGARDING CERTIFICATION, REVOCATION OR REVISION OF A NONCONFORMING USE WHO WAS A PERSON OF RECORD IN THE PROCEEDING BEFORE IT MAY APPEAL THE DECISION TO THE DISTRICT COUNCIL FOR REVIEW ON THE RECORD. ON REVIEW, THE DISTRICT COUNCIL MAY:

(1) BY MAJORITY VOTE OF ITS MEMBERS, APPROVE THE ACTION OF THE CITY; OR

(2) BY A VOTE OF AT LEAST SIX OF ITS MEMBERS, APPROVE WITH CONDITIONS OR OVERRULE THE ACTION OF THE CITY.

C. ANY PERSON AGGRIEVED BY A DECISION OF THE DISTRICT COUNCIL WHO WAS A PERSON OF RECORD IN THE PROCEEDING BEFORE IT MAY APPEAL THE DECISION OF THE DISTRICT COUNCIL TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND. FOR PURPOSES OF AN APPEAL TO THE CIRCUIT COURT, THE CITY SHALL BE CONSIDERED AN AGGRIEVED PERSON.

SEC. 26-50. RESERVED.

SEC. 26-51. RESERVED.

SEC. 26-52. RESERVED.

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Section 2. BE IT FURTHER ORDAINED AND ENACTED, by the Council of the City of Bowie, Maryland that Chapter 26 “Zoning”, Article III, “Service Volume Standards for City Streets”, of the City Code, although remaining unchanged, the Sections included therein must be renumbered as follows:

Article III. Service Volume Standards for City Streets.

- 26-[28]53. Purpose.
- 26-[29]54. Definitions.
- 26-[30]55. Application.
- 26-[31]56. Minimum [a]Acceptable Level-of-Service.
- 26-[32]57. Levels of Service.

Article III. Service Volume Standards for City Streets.

Sec. 26-[28] 53. Purpose.

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Sec. 26-[29] 54. Definitions.

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Sec. 26-[30] 55. Application.

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Sec. 26-[31] 56. Minimum [a]Acceptable Level-of-Service.

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Sec. 26-[32] 57. Levels of Service.

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REGISTERED
JUL 20 2011
OFFICE OF THE CLERK

* * *

Section 3. BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall become effective immediately upon approval by the Prince George's County Council, sitting as the District Council, subsequent to its enactment by the Council of the City of Bowie, Maryland, provided that a fair summary of this Ordinance is published at least once prior to the date of passage by the Bowie City Council and at least once within ten (10) days after the date of passage in a newspaper having general circulation in the City.

A copy of this Ordinance shall be delivered to the Prince George's County Council within five (5) days of its enactment by the Council of the City of Bowie.

INTRODUCED by the Council of the City of Bowie, Maryland at a regular meeting on the 16 day of May, 2011.

PASSED by the Council of the City of Bowie, Maryland at a regular meeting on the 20 day of July, 2011.

ATTEST:

Pamela A. Fleming
Pamela A. Fleming, City Clerk

THE CITY OF BOWIE, MARYLAND

By: G. Frederick Robinson
G. Frederick Robinson, Mayor

APPROVED AS TO FORM AND SUFFICIENCY:

Elissa D. Levan
Elissa D. Levan, City Attorney

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