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City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

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JON ARASON, AICP
DIRECTOR

October 28, 2014

MEMORANDUM

To: Planning Commission
From: Sally Nash, Ph.D., AICP, Acting Director of Planning and Zoning
Re: O-31-14: Technical Corrections to the Zoning Code– ZTA2015-005
Attachments: Proposed Amendment, O-31-14

SUMMARY

O-31-14 proposes changes to Titles 2, 20, and 21 that are all technical in nature—largely to ensure that these titles of the code are compliant with the Land Use Article of the Annotated Code of Maryland. The State Code requires that certain zoning actions be “consistent” with the comprehensive plan of the jurisdiction and defines both consistency and the comprehensive plan. Other changes in this ordinance are small corrections in our naming system. There are several miscellaneous code amendments that are correcting previous errors or references that have changed. Tolling expired in July 2014, so any references to tolling have been removed. Also, the notification requirements have been updated to be consistent with one another.

BACKGROUND AND ANALYSIS

The bulk of the changes in this ordinance are changes to ensure that the City Code corresponds with the State Code in language and intent, specifically in terms of certain zoning actions being “consistent” with the comprehensive plan. We have added a definition of both “Comprehensive Plan” and “Consistency” that are adapted from the State Code. The proposed definitions are:

“Comprehensive Plan” means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps and adopted by resolution of the city council to constitute the guide for future development of the municipality. The “comprehensive plan” includes a general plan, master plan, functional plan, or community plan adopted in accordance with Title 3 of the Land Use Article of the Annotated Code of the State of Maryland and subsequent amendments to that plan.

“Consistency” means an action taken that will further, and not be contrary to, the following items in the comprehensive plan:

- A. Policies;*
- B. Timing of the implementation of the plan;*
- C. Timing of development;*
- D. Timing of rezoning; and*
- E. Development patterns.*

We have also added that particular zoning actions have to be consistent with the comprehensive plan. In the existing code this language varies from section to section and uses different terminology. These updates have been added to:

- Annexations in 2.52.070 Required findings.
- Subdivisions in 20.08.010 Compliance with other requirements.
- Street Design in 20.24.010 Street design considerations generally.
- Street Arrangement in 20.24.020 Street arrangement.
- Right-of-way widths in 20.24.040 Right-of-way width.
- Site Design Plan Review in 21.22.080 Review criteria and findings.
- Planned Developments in 21.24.010 Purposes, authority and types.
- Expired planned developments that want to be re-authorized in 21.24.110 Expiration.
- Special Exceptions in 21.26.050 - Review criteria and findings.
- Zoning Map Amendments in 21.34.040 Planning Commission review criteria and findings [Please note, this code change was inadvertently left out of the legislation. Please find attached as a proposed amendment].
- Subdivision plats in the BCE zoning district in 21.64.240
- Food and beverage-related uses in 21.64.300 Food and beverage-related uses.

The remaining changes generally consist of correcting mistakes, such as having the wrong cross-reference, or of clarifying language that has been confusing or missing. For example, in Section 21.50.310, the footnote in this bulk regulations table needed the word “lots” instead of “structures” because it refers to subdivisions, and structures cannot be subdivided. Other examples of this include:

- **21.06.010 Establishment of zoning districts.** Adds the previously left-off overlay district “Eastport Gateway Conservation Overlay District”
- **Section 21.08.030 – Planning Commission.** Clarifies voting rules for Planning Commission
- **Section 21.08.040 – Board of Appeals.** Clarifies voting rules for the Board of Appeals
- **Section 20.32.020 – Required findings.** Make the language for variance criteria consistent with Title 21.
- **Section 21.28.050 – Review criteria and findings.** Make the language for variance criteria consistent with Title 20.
- **21.48.010 Residential Zoning Districts.** Adds private schools as a special exception in C1. During the 2005 code re-write, public schools and private schools were separated as uses and the corresponding use was not correctly translated in this instance.
- **21.50.020 Bulk Regulations Table R1-A District.** Adds height requirements for single-family detached dwellings and accessory structures in R1-A.
- **21.50.280 Bulk Regulations Table WMC District.** Corrects a code reference
- **21.48.030 Table of Uses—Office and Mixed Use Zoning Districts.** Deletes restrictions in alcohol beverage licenses in the MX District from the Bulk Regulations and moves it to Standards for Restaurants, see below
- **21.64.540 Restaurants, standard.** See above. Also, there is a correction of a code reference.
- **21.64.550 Retail sales of non maritime-related goods.** Corrects a code reference
- **21.59.080 Signs.** Moves this section from the Eastport Gateway Conservation Regulations to the general Sign Regulations, see below.
- **21.70.095 Signs** See above.

We have also removed both references to “tolling” in Title 21, since this measure has now expired:

- **21.08.040 Board of Appeals.** Removes expired tolling clause (and changes advertising requirements to fifteen days instead of seven).

- **21.08.050 Planning and Zoning Director.** Removes expired tolling clause


Finally, there are changes related to notice requirements. These are primarily to clarify when notice of decision is needed and the exact procedure to follow to provide notice of decision. We also eliminated a requirement to post a "notice of mailing" in a central location for variances.

- **21.10.020 Notice requirements.** No longer requiring that notice of mailing is posted in a central location in the Department. Also changes newspaper advertising requirements from twice to once. Changes deadline from seven days in advance to fifteen for newspaper advertising. Also combines two notice sections to make them easier to understand and consistent.
- **21.10.030 Administrative procedures for review of applications.** Notice of decision requirement combined with one above.
- **21.14.020 Procedures.** Notice of decision requirement for demolition permits now refers to the general requirement.
- **21.16.030 - Procedures.** Notice of decision requirement for administrative interpretation now refers to the general requirement.
- **21.18.020 Procedures.** Notice of decision requirement for administrative adjustments now refers to the general requirement.
- **21.20.020 Procedures.** Notice of decision requirement for zoning district boundary adjustments now refers to the general requirement
- **21.22.060 - Procedures for major site design plan applications and 21.22.070 - Procedures for minor site design plan applications.** Notice of decision requirements for site design now refers to the general requirement
- **21.24.070 - Procedures for planned developments.** Notice of decision requirements for planned developments now refers to the general requirement
- **21.26.030 - Procedures for special exceptions.** Notice of decision requirements for special exceptions now refers to the general requirement
- **21.28.020 Procedures.** Notice of decision requirement for variances now refers to the general requirement
- **21.30.020 Procedures.** Notice or decision requirement for appeals now refers to the general requirement

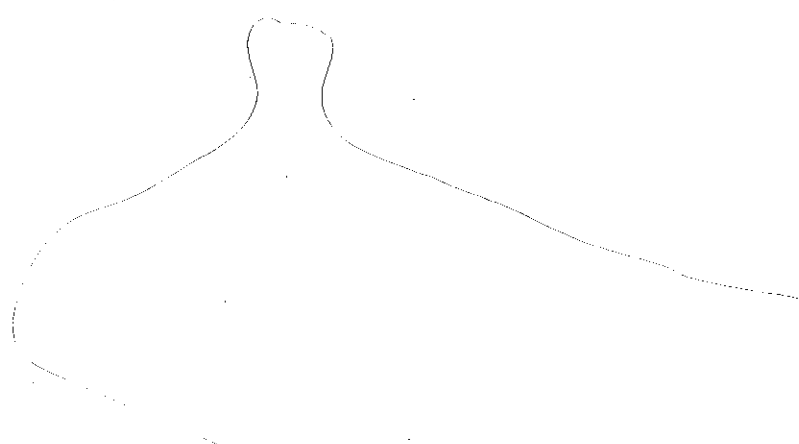
RECOMMENDATION

Staff recommends that the technical corrections proposed in O-31-14 be APPROVED with one amendment.

Report Prepared by



Sally Nash, Ph.D., AICP
Acting Director of Comprehensive Planning



Proposed Amendment

Language was inadvertently left out of legislation. Explanation of change:

- Zoning Map Amendments in 21.34.040 Planning Commission review criteria and findings. Requires the findings for map amendments state in writing how the amendment is based on consistency with comprehensive plan

Chapter 21.34 ZONING MAP AMENDMENTS

21.34.040 Planning Commission review criteria and findings.

The Planning Commission shall not recommend the adoption of a proposed zoning map amendment unless it finds that the adoption of the amendment is in the public interest and is not solely for the interest of the applicant. The Planning Commission may recommend the adoption of an amendment changing the zoning classification of the property to a more restrictive district than that requested by the applicant. FOR SECTIONAL AND COMPREHENSIVE ZONING MAP AMENDMENTS THE PLANNING COMMISSION SHALL MAKE WRITTEN FINDINGS BASED UPON THE EVIDENCE PRESENTED TO IT IN EACH SPECIFIC CASE THAT THE AMENDMENT IS CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN. FOR LOCAL MAP AMENDMENTS, [T] The Planning Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

- A. Existing
- B. uses and zoning classification of properties within the general area of the property that is the subject of the application.
- C. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.
- D. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.
- E. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.
- F. The availability of public facilities, present and future transportation patterns.
- G. The relationship of the proposed amendment to the City's Comprehensive Plan AND ITS CONSISTENCY WITH THE COMPREHENSIVE PLAN.