

## SUBTITLE X      GENERAL PROCEDURES

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## **CHAPTER 1 CAMPUS PLANS AND SCHOOL PLANS**

### **100 GENERAL PROVISIONS**

- 100.1 The provisions of this chapter shall apply to the following:
- (a) Education uses as a university or college in residential zones (R, RF and A) and low density mixed use zones (M-3, 4, 18, 25 through 29, 33) and any N zone that permits Education use by a college or university; and
  - (b) Private schools when permitted by special exception.
- 100.2 Medical complexes may elect to apply for campus plan approval under the conditions of the zone district in which they are permitted.
- 100.3 The intent of regulating campus facilities is to:
- (a) Promote well planned and designed educational campuses;
  - (b) Encourage long-term facilities planning for these uses;
  - (c) Minimize negative impacts of campuses on surrounding residential areas; and
  - (d) Provide consistency and transparency to the campus planning process.

### **101 CAMPUS PLANS**

- 101.1 Education use by a college or university shall be permitted as a special exception subject to review and approval by the Zoning Commission after their determination that the use meets the applicable standards and condition of this chapter.
- 101.2 In or adjacent to a residential zone, the uses shall be located so that they are not likely to become objectionable to neighboring property because of noise, traffic, parking, number of students, or other objectionable conditions.
- 101.3 Any commercial uses customarily incidental to a university use in an R, RF or A zone, or as an adjunct use to a university building, shall be subject to the following conditions:
- (a) They shall occupy no more than twenty percent (20%) of the gross floor area of the total campus plan floor area ratio;
  - (b) They shall be located so as to not become objectionable to non-university residential neighbors; and

- (c) There shall be a demonstrated relationship between the use and the university functions.

101.4 The campus plan process shall not serve as a process to create general commercial centers inconsistent with the Comprehensive Plan.

101.5 The following development standards shall apply to the maximum total bulk of all buildings and structures on the campus in an R zone:

| <b>ZONE</b>                         | <b>Maximum Height (feet)</b> | <b>Maximum Floor Area Ratio</b> |
|-------------------------------------|------------------------------|---------------------------------|
| All R and RF zone                   | 50 feet                      | 1.8                             |
| A-1, A-2, A-3<br>A-6, A-7, A-8, A-9 | 50 feet                      | 1.8                             |
| A-4, A-5, A-10, A-11                | 90 feet                      | 3.5                             |

101.6 Because of permissive increases as applicable to normal bulk requirements in the low-density zones regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density zones.

101.7 In calculating floor area ratio, the land area shall not include public streets and alleys, and interior private roads that serve as access to buildings or circulation through the campus.

101.8 As a prerequisite to requesting a further processing for each college or university use, the applicant shall have submitted to the Zoning Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including but not limited to the following:

- (a) Buildings and parking and loading facilities;
- (b) Screening, signs, streets, and public utility facilities;
- (c) Athletic and other recreational facilities; and
- (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.

101.9 The further processing of specific buildings or structures within an approved campus plan may be processed as a special exception or through a planned unit development consistent with the conditions of the approved campus plan.

- 101.10 Within a reasonable distance of the college or university campus, and subject to compliance with D § 100.1(a), the Commission may also permit the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.
- 101.11 When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.
- 101.12 In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.
- 101.13 As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the floor area ratio (FAR) limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.
- 101.14 Before taking final action on an application for use as a college or university, the Commission shall submit the application to the D.C. Office of Planning, the D.C. Department of Transportation and the D.C. Department of Environment for review and written reports.
- 101.15 Information to be included with a campus plan application:
- Facilities Plan:
- Existing conditions:
    - Form (FAR, height, of bulk, all new or proposed buildings
    - FAR for entire campus
    - Building use
  - Proposed conditions:
    - Future needs/capital improvements (10 yrs.)
    - Form (FAR, height, bulk, etc.)
    - Building use
- Neighborhood Context
- Student/Employee count; FT, PT, Certificate/non-degree; single course
  - Edge conditions/Border transitions
  - Community relations
  - Community benefits
  - Identification/Mitigation of impacts
    - Noise, amplified sound, lighting, etc.

- Outdoor activities and special events

#### Comprehensive Accessibility

- Transportation demand management plan
- Multi-modal transportation plan
- Parking, loading study

#### Conservation

- Historic considerations
- Sustainability considerations
- Environmental impacts

#### Landscape/Open Space

#### Streetscape Treatment

- Signage/Wayfinding

An explanation of all programs on campus including educational, certificate, adult learning, international, career training, religious, night classes, civic uses.

- 101.16 Approval of a campus plan shall be based on the determination by the Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section.

## **102 PRIVATE SCHOOL PLAN**

- 102.1 Education use by a private school shall be permitted as a special exception subject to review and approval by the Board of Zoning Adjustment after their determination that the use meets the applicable standards and condition of this chapter.
- 102.2 The development standards for a private school shall be those of the zone in which the private school is located.

## **103 SCHOOL PLAN REQUIREMENTS**

- 103.1 The applicant shall submit to the Board for its approval a plan for the school showing reflecting all relevant information as required by §101., §101.13 and §101.15.
- 103.2 In calculating floor area ratio, the land area shall not include public streets and alleys, and interior private roads that serve as access to buildings for required functions such as parking or loading.
- 103.3 Before taking final action on an application for a private school plan, the Board shall submit the application to the D.C. Office of Planning, the D.C. Department of

Transportation and the D.C. Department of Environment for review and written reports.

- 103.4 Approval of a private school shall be based on the determination by the Board that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section.

#### **104 MEDICAL CAMPUS PLANS**

- 104.1 A medical campus shall be permitted as a special exception subject to review and approval by the Zoning Commission after their determination that the use meets the applicable standards and condition of this chapter.
- 104.2 A medical campus plan shall not incorporate a design review of individual buildings but shall focus on the site planning, efficient arrangement of uses and buildings, flexibility to use shared facilities and mitigation of any adverse impacts.
- 104.3 A medical campus may be comprised of facilities under one or multiple authorities or providers.
- 104.4 A medical campus may include hospitals, clinics, primary care, medical office buildings, nursing and convalescence care facilities, related and shared parking and loading facilities and ancillary retail and services that are customarily incidental to the uses.
- 104.5 A medical campus shall be generally in a defined geography and buildings may be separated by public streets and alleys.
- 104.6 The development standards for a medical campus shall be those of the zone in which the medical campus is located, however the Commission may allow for the comprehensive allocation of floor area ratio, shared parking and loading and other deviations for the requirements of this title that result in an efficient use of land and delivery of services within the campus.
- 104.7 All buildings covered under an approved medical campus be may apply for a building permit as a matter of right consistent with the conditions of the medical campus plan.
- 104.8 Before taking final action on an application for use as a medical campus, the Commission shall submit the application to the D.C. Office of Planning, the D.C. Department of Transportation and the D.C. Department of Environment for review and written reports.
- 104.9 Approval of a medical campus plan shall be based on the determination by the Commission that the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect

adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject to the special conditions specified in this section.

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## **CHAPTER 2 CHANCERY APPLICATIONS**

### **200 CHANCERY APPLICATION PROCESS**

- 200.1 This chapter provides regulations and instructions for the chancery application process.
- 200.2 For the purposes of this Chapter, the term “Low to Medium Density Residence Zones” means the R, RF and A-1, A-2, A-3, A-6, A-7, A-8 and A-9 zones.
- 200.3 Subject to the procedures and criteria established in § 206 of the Foreign Missions Act, D.C. Official Code § 6-1306, and in the pertinent provisions of the Zoning Regulations:
- (a) The Board has the authority to review applications to:
    - (1) Permit the location, replacement, or expansion of chanceries in the R, (R-1 thru R-3) RF (R-4), A (R-5s), M-1 (SP-1), M-2 (SP-2), M-16 (SP-1/DC), M-17 (SP-2/DC and M-24 (SP-2/CAP) zones;
    - (2) Permit the first transfer of a chancery use from one government to another in any Low to Medium Density Residence Zone when the chancery use was not established pursuant to an order of the Board; and
    - (3) To grant special exceptions and variance requests required for chanceries in all zones; and
  - (b) The Board, when reviewing an application to locate, replace, or expand a chancery may grant permission to construct improvements in the public space, consistent with what is permitted under District law.

### **201 CHANCERY REVIEW STANDARDS**

- 201.1 The Board will evaluate and either dismiss, not disapprove, or disapprove a chancery application according to the standards of this section.
- 201.2 The applicant shall have the burden to prove that these standards have been met even if there is no opposition to the request.
- 201.3 For properties in all Low to Medium Density Residence Zones, the Board of Zoning Adjustment, prior to considering the merits of an application filed under this chapter, shall first determine whether the square within which the subject property is located is currently suitable for a chancery use.
- 201.4 A square shall be deemed suitable for a chancery use if at least fifty percent (50%) of the Low to Medium Density Residence zoned land area is devoted to one or

more of the following use categories, which hereinafter shall be referred to as “§ 201.4 Uses”:

- (a) Chancery;
- (b) Education;
- (c) Large Scale Government;
- (d) Local Government;
- (e) Health Care;
- (f) Institutional; or
- (g) Office.

201.5 The entire lot area of any property subject to a certificate of occupancy for a § 201.4 Use shall be included in the Board’s computation of the land area devoted to § 201.4 Uses, unless other evidence demonstrates:

- (a) The existence of other uses on all or part of the lot; or
- (b) The § 201.4 Use has expired pursuant to Y § 707 or Z § 707 or 204.3.

201.6 When evaluating a mixed-use project, the land area devoted to § 201.4 Uses shall be calculated by using a ratio equal to the proportion § 201.4 Uses to other uses in the project.

201.7 If the Board finds less than one-third (1/3) of the Low to Medium Density Residence zoned land area within the square is devoted to § 201.4 Uses, it shall dismiss the application with prejudice.

201.8 If the Board finds that at least one-third (1/3) of the Low to Medium Density Residence zoned land area within the square is devoted to § 201.4 Uses, the BZA shall then determine the merits of the application in accordance with this chapter.

201.9 The Board’s determination of the merits of all chancery applications shall be based exclusively on its consideration of the following:

- (a) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation’s Capital;
- (b) Historic preservation, as determined by the BZA in accordance with § 201.10;
- (c) The adequacy of parking and the extent to which the area will be served by public transportation to reduce parking needs, subject to such special

security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services;

- (d) The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services;
- (e) The municipal interest, as determined by the Mayor of the District of Columbia; and
- (f) The federal interest, as determined by the Secretary of State.

201.10 For the purposes of § 201.9 (b), the Board's determination on historic preservation shall be based on the following:

- (a) For any *historic landmark* the Board shall find:
  - (1) Substantial compliance with District of Columbia and federal regulations governing historic preservation, which shall be deemed to be satisfied if the referral required by § 202.11 (c) is made; and
  - (2) That any demolition, alteration, or new construction will retain and enhance the property and encourage its adaptation for current use;
- (b) For all properties in a *historic district*, the Board shall find that any alterations or new construction are compatible with the character of the historic district; and
- (c) For all properties in a historic district that contribute to the district's character the Board shall find that any proposed demolition or alteration will retain and enhance the contributing portion of the property and encourage its adaptation for current use.

## **202 CHANCERY APPLICATION REQUIREMENTS**

202.1 The owner of property for which a chancery application is sought, or an authorized representative, shall file an application with the Board.

202.2 The application of an authorized representative shall include a letter signed by the owner authorizing the representative to act on the owner's behalf with respect to the application.

202.3 The Board may at any time require additional evidence demonstrating the authority of the representative to act for the owner.

202.4 An application shall contain a letter or other transmittal from the United States Department of State indicating that the Department of State has reviewed the

application as required by § 205 of the Foreign Missions Act, D.C. Official Code § 6-1305 and has approved the application for the purposes of filing and processing by the Board.

202.5

Each application shall be made on the appropriate form provided by the Director. In addition to the information required by this section relating to appearance and representation, the applicant shall furnish all information required by the application form at the time of filing the application, including, is applicable:

- (a) A plat, drawn to scale and certified by a survey engineer licensed in the District of Columbia or by the D.C. Office of the Surveyor
- (b) A site plan showing the boundaries and dimensions of the existing and proposed structures and accessory buildings and structures;
- (c) Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, landscaping and screening, and building materials, and where applicable, parking and loading plans;
- (d) A detailed statement of existing and intended use of the structure, or part thereof;
- (e) A detailed statement of how the application meets the review standards for chancery uses specified in § 201;
- (f) Three (3) or more color images, not to exceed letter-size (8½ x 11 inches), showing the pertinent features of the structure, and property involved (front, rear, and sides, if possible and applicable);
- (g) The names and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property and self-stick labels printed with their names and addresses;
- (h) The name and address of each person having a lease with the owner for all or part of any building or structure located on the property involved in the application;
- (i) A plat of the square prepared by the Office of the Surveyor showing the lot numbers and lot area of all properties within the square;
- (j) If the application is for the location or first transfer of a chancery located in a Low to Medium Density Residence zone, a written statement by the applicant attesting to:
  - (1) The total land area of the lots shown on the plat referred to in paragraph (j);

- (2) The land area of all Low to Medium Density Residence zoned lots, if different;
- (3) The lot numbers and land area of all Low to Medium Density Residence zoned lots the applicant asserts are occupied by § 201.4 Uses; and
- (4) For each lot identified in item number 3, the number and date of the certificate of occupancy authorizing the § 201.4 Uses and the use designation authorized;
- (k) For any chancery application other than described in paragraph (j), copies of the certificate of occupancy or other documentation showing the current authorized use(s) on the property and, at a minimum, the surrounding properties on the square; and
- (l) A copy of each certificate of occupancy referenced in response to paragraph (k) (4) must be submitted with the application.

202.6 Except as provided in § 202.9 with respect to traffic and transportation reports, all statements, information, briefs, reports (including reports and statements of experts and other witnesses), plans, photographs, or other exhibits that the applicant may wish to offer in evidence at the public hearing shall be filed at the time of filing the application.

202.7 At the time of filing the application, the applicant shall also file a copy of the resume of any expert witness who will be testifying in the case.

202.8 If a map, plan, or other document is readily available to the general public, in lieu of filing a copy of the document, the applicant need only provide a complete citation to the source of the document and indicate where the public may view the document.

202.9 No later than thirty (30) days before the date of the public hearing on the application, the applicant shall file with the Board any traffic or transportation reports to be submitted in support of the application. All such reports shall include the resume of the expert who prepared the report. At or before the time of filing the traffic or transportation report with the Board, the applicant shall serve a copy of the report on the ANC for the area within which the property is located, the Office of Planning, and the District Department of Transportation.

202.10 No later than twenty-one (21) days before the date of the hearing for the application, the applicant shall file with the Board any additional statements, information, briefs, reports (including reports or statements of expert and other witnesses), plans, or other material that the applicant may wish to offer into evidence at the hearing. Any map, plan, or other document, or matter readily available to the general public need only be fully referenced and the source given by the applicant in place of filing a copy.

- 202.11 The Board shall make the following referrals:
- (a) To the Office of Planning for review and comment, and shall specifically request a determination of the municipal interest,
  - (b) To the Secretary of State for review and comment, and shall specifically request a determination of the federal interest, as set forth in § 201.9 (f); special security requirements, as set forth in § 201.9 (c); and the extent to which the site is capable of being adequately protected, as set forth in § 201.9 (d); and
  - (c) If the application would require the construction, demolition, or alteration of a building located in a *historic district* the alteration or demolition of a *historic landmark*, or the construction of a building or structure on the site of a *historic landmark* the application shall be referred to the Historic Preservation Review Board and if the property is located in the Old Georgetown District described in D.C Official Code § 6-1201 it shall also be referred to the Commission of Fine Arts for Board and Commission to report as to whether the substantive criteria of § 201.10 have been met.

## **203 CHANCERY PROCEDURES**

- 203.1 In addition to the procedures for a special exception case set forth in Y Chapter 8, the following procedures apply to the review of chancery applications.
- 203.2 A final determination on a chancery application shall be published in the D.C. Register not later than six (6) months after the date a complete application is filed.
- 203.3 The Board's determination shall not be subject to administrative proceedings of any other District agency.
- 203.4 The owner of a property for which a chancery application that has been disapproved shall not institute a new application on the same facts within one (1) year from the date of the order upon the previous application.

## **204 IMPLEMENTATION**

- 204.1 Following the publication of a notice of final rulemaking giving notice of the Board's decision to not disapprove an application, the applicant may file an application for a building permit with the proper authorities of the District of Columbia.
- 204.2 The Zoning Administrator shall not approve a permit application unless the submitted construction plans conform to the plans approved by the Board in its final decision, as those plans may have been modified by any guidelines, conditions, or standards that the Board may have applied.
- 204.3 Any chancery use established by an order of the Board shall expire if:

- (a) An expiration date is specified in the order;
- (b) The chancery use is discontinued for any reason for any period of three (3) or more years; except where governmental action impedes access to the premises; or
- (c) A certificate of occupancy for a different use is issued after approval.

204.4 Notwithstanding § 204.3 (b), a chancery use shall not expire if there is objective proof of a continuing use or of affirmative steps taken to resume the use during the period of time identified by the Zoning Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy.

204.5 If a chancery use expires, any subsequent use shall conform to the regulations of the district in which the use is located.

## **205 CHANCERIES EXEMPT FROM THE PROVISIONS OF THIS CHAPTER**

205.1 Board review is not required for:

- (a) Relocation, replacement or expansion of an existing chancery to the extent authorized to a foreign mission before October 1, 1982; or
- (b) Continuing use of a chancery foreign mission to the extent that the chancery was being used by a foreign mission on October 1, 1982.

205.2 This exemption is no longer applicable if the property where the chancery was established before October 1, 1928 is either:

- (a) Continuously vacant for a period of at least three years in accordance with the criteria of C § 303; or
- (b) Occupied by another use with an approved Certificate of Occupancy.

## **CHAPTER 3 PLANNED UNIT DEVELOPMENTS**

### **300 PLANNED UNIT DEVELOPMENTS**

- 300.1 The purpose of the planned unit development (PUD) process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:
- (a) Results in a project superior to what would result from the matter-of-right standards,
  - (b) Offers a commendable number or quality of meaningful public benefits,
  - (c) Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.
- 300.2 While providing for greater flexibility in planning and design than may be possible under conventional zoning procedures, the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.
- 300.3 Planned unit development cases are heard by the Zoning Commission and follow the contested case procedures of Subtitle Z, Chapter 4.
- 300.4 Planned unit development applications may include a related zoning map amendment. A PUD-related zoning map amendment is valid only in combination with and contingent upon a project being built and operated under the conditions of a PUD approval.
- 300.5 A comprehensive public review by the Zoning Commission of a PUD is required in order to evaluate the flexibility or incentives requested in proportion to the proposed public benefits.
- 300.6 The Commission may approve a PUD application with or without modifications. In carrying out the purposes of this chapter, the Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts in this chapter or elsewhere in this title.
- 300.7 The Commission may also set appropriate time limits for benefits conferred as part of a PUD approval to ensure the construction of a proposed development in accordance with the conditions established. Failure of an applicant to complete a proposed development as directed within the time limits set by the Commission or the Zoning Regulations shall result in the termination of the benefits granted under the application, and reversion of the zoning controls to the underlying zone regulations.

300.8 Unless specifically stated otherwise, the term "Applicant" in any condition of an order approving a PUD or PUD modification shall mean the person or entity then holding title to the Subject Property. If there is more than one owner, the obligations under the order shall be joint and several. If a person or entity no longer holds title to the PUD site, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an Owner.

300.9 The PUD process is available as an optional process that may be applied for by a property owner.

300.10 The PUD process shall not be used to reduce requirements for designated uses, specifically retail, service, entertainment, and arts uses established within an Neighborhood zone.

### 301 PUD MINIMUM LAND AREA

301.1 The minimum area included within a proposed development application, including the area of public streets or alleys proposed to be closed, shall be as follows:

| Minimum Area                                  | Applicable Zone                                                                                                                                                                                               | Zone Group |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Two (2) Acres                                 | Any R zone (R-1, R-2, R-3)<br>Any RF zone (R-4)                                                                                                                                                               | 1          |
| One (1) acre                                  | A-1 (R-5-A)<br>A-3 (R-5-B)<br>M-11 (W-0)                                                                                                                                                                      | 2          |
| One (1) acre                                  | A-4, A-9, A-11 (R-5-B,D,E/DC)<br>M-16, M-17 (SP/DC)<br>M-23 (CR/DC)                                                                                                                                           | 3          |
| One-half (½) acre                             | M-18 (C-2-A/DC)<br>M-19 (C-2-B/DC)<br>M-20 (C-2-C/DC)<br>M-21 (C-3-B/DC)<br>M-22 (C-3-C/DC)                                                                                                                   | 4          |
| Ten thousand square feet (10,000 sq. ft.)     | N-7 (C-2-A/GA) N-8 (C-3-A/GA)<br>N-9 (C-2-A/HS-H) N-10 (C-2-B/HS-H)<br>N-11 (C-2-C/HS-H) N-12 (C-3-A/HS-H)<br>N-13 (C-3-B/HS-H)<br>N-14 (C-2-A/HS-A) N-15 (C-3-A/HS-A)<br>N-16 (C-2-A/HS-R) N-17 (C-2-B/HS-R) |            |
| Fifteen thousand square feet (15,000 sq. ft.) | Any Other Zone                                                                                                                                                                                                | 5          |

301.2 The Commission may waive up to fifty percent (50%) of the minimum area requirement of this section for applications in zone groups 1, 2 and 5, or up to five percent (5%) for applications in zone groups 3 and 4, provided that the Commission shall find one of the following:

- (a) The development is a redevelopment project identified in an approved Small Area Plan;
- (b) The development will be constructed or operated by the District or Federal government and serves a compelling government interest; or
- (c) The development consists of at least eighty percent (80%) residential use.

301.3 All the property included in a planned unit development in zone groups 1, 2 and 6 shall be contiguous, except that the property may be separated only by public streets, alleys, or rights-of-way.

301.4 All property included in a planned unit development in zone groups 3 and 4 shall be contiguous and may neither be separated by a street or alley nor bridge a street or alley.

301.5 All property included in a planned unit development in zone group 5 shall be contiguous including the area of public streets or alleys proposed to be closed.

## **302 PLANNED UNIT DEVELOPMENT APPLICATION TYPES**

302.1 A PUD request may be filed as either a one-stage consolidated or a two-stage application.

302.2 A two-stage application shall be as follows:

- (a) The first stage application involves a general review of the site's suitability as a PUD and any related map amendment; the appropriateness, character, scale, height, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with the Comprehensive Plan, and city-wide, ward, and area plans of the District of Columbia, and the other goals of the project.
- (b) The second stage application is a detailed site plan review to determine transportation management and mitigation, final building and landscape materials and compliance with the intent and purposes of the first stage approval, and this title.

302.3 A consolidated application shall incorporate all information and material for both a first and second stage application as required by this chapter into one proceeding, and all information shall be submitted at the time of initial filing.

302.4 When the Commission considers whether to set a consolidated application for a hearing, the Commission shall determine whether the application is sufficiently clear and detailed to be considered at one proceeding.

302.5 The Commission reserves the right to direct an applicant to revise a consolidated application into a two-stage application, if in the opinion of the Commission the circumstances and issues surrounding the proposal require a two-stage review.

302.6 The Commission may dismiss or deny the application at the conclusion of the presentation of the applicant's case or at any point thereafter.

### **303 PLANNED UNIT DEVELOPMENT FLEXIBILITY**

303.1 As part of the PUD process, the Zoning Commission may grant relief from any building development standard or other standard referenced in the zone reference table with the exception of use regulations. Housing and Arts Credits are considered use regulations and are not eligible for flexibility through the PUD process.

303.2 The floor area ratio of all buildings shall not exceed the aggregate of the floor area ratios as permitted in the several zone districts included within the PUD area.

303.3 Unless otherwise limited within another subtitle, the Commission may increase total FAR on the site as indicated in the following table by no more than twenty percent (20%) of the zone district associated with the PUD. As part of the twenty percent (20%) increase, the Commission may increase the FAR for non-residential uses by no more than thirty-four percent (34%) of the matter-of-right non-residential FAR permitted within the zone district associated with the PUD.

303.4 No building or structure shall exceed the maximum height permitted in the least restrictive zone district within the project area as indicated in the following table; provided, that the Commission may authorize minor deviations for good cause pursuant to § 203.5:

(BELOW TABLE SHOWS COMPARATIVE INFORMATION THAT WILL NOT BE INCLUDED IN THE FINAL TEXT  
– FINAL TEXT WILL ONLY INCLUDE COLUMNS B AND F)

| <b>A</b>            | <b>B</b>                  | <b>C</b>                  | <b>D</b>                       | <b>E</b>                  | <b>F</b>                   |
|---------------------|---------------------------|---------------------------|--------------------------------|---------------------------|----------------------------|
| <b>Current Zone</b> | <b>Proposed Zone Name</b> | <b>Current MoR Height</b> | <b>Current MoR Height w/IZ</b> | <b>Current PUD Height</b> | <b>Proposed PUD Height</b> |
| R-4                 | R-16, R-17, R-18          | 40                        |                                | 60                        | <b>50</b>                  |
| R-5-A               | A -1, A -2                | 40                        |                                | 60                        | 60                         |
| R-5-B               | A -3 through 6            | 50                        |                                | 60                        | 60                         |
| R-5-C               | A -7                      | 60                        |                                | 75                        | 75                         |
| R-5-D               | A -8                      | 90                        |                                | 90                        | 90                         |
| R-5-E               | A -10, A -11              | 90                        | 90                             | 90                        | 90                         |
|                     |                           |                           |                                |                           |                            |
| C-1                 | M-3                       | 40                        |                                | 40                        | 40                         |
|                     | M-4                       |                           |                                |                           |                            |
|                     | N-3 (C-2-A/GA)            |                           |                                |                           |                            |
|                     | N-5 (C-2-A/HS-H)          |                           |                                |                           |                            |
| C-2-A               | N-10 (C-2-A/HS-A)         | 50                        | 50                             | 65                        | 65                         |

| A                                                                                                                           | B                                                                                                          | C                                                                                                                                                       | D                       | E                  | F                   |
|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|--------------------|---------------------|
| Current Zone                                                                                                                | Proposed Zone Name                                                                                         | Current MoR Height                                                                                                                                      | Current MoR Height w/IZ | Current PUD Height | Proposed PUD Height |
|                                                                                                                             | N-12 (C-2-A/HS-R)                                                                                          |                                                                                                                                                         |                         |                    |                     |
| C-2-B                                                                                                                       | M -5                                                                                                       | 65                                                                                                                                                      | 70                      | 90                 | 90                  |
| C-2-C                                                                                                                       | M -6                                                                                                       | 90                                                                                                                                                      | 90                      | <del>90</del>      | <b>110</b>          |
| C-3-A                                                                                                                       | M -7                                                                                                       | 65                                                                                                                                                      | 65                      | 90                 | 90                  |
| C-3-B                                                                                                                       | M -8                                                                                                       | 70                                                                                                                                                      |                         | 90                 | 90                  |
| C-3-C                                                                                                                       | M -9                                                                                                       | 90                                                                                                                                                      |                         | 130                | 130                 |
| C-4                                                                                                                         | DD                                                                                                         | 110                                                                                                                                                     |                         | 130                | 130                 |
| C-5                                                                                                                         | DD                                                                                                         | 130                                                                                                                                                     |                         | 160                | 160                 |
| CR                                                                                                                          | M -10                                                                                                      | 90                                                                                                                                                      | 100                     | 110                | 110                 |
|                                                                                                                             |                                                                                                            |                                                                                                                                                         |                         |                    |                     |
| CM-1                                                                                                                        | P-1, P-2                                                                                                   | 40                                                                                                                                                      |                         | 60                 | 60                  |
| CM-2                                                                                                                        | P-3                                                                                                        | 60                                                                                                                                                      |                         | 90                 | 90                  |
| CM-3                                                                                                                        | P-4                                                                                                        | 90                                                                                                                                                      |                         | 90                 | 90                  |
| M                                                                                                                           | P-5, P-6                                                                                                   | 90                                                                                                                                                      |                         | 90                 | 90                  |
|                                                                                                                             |                                                                                                            |                                                                                                                                                         |                         |                    |                     |
| W-0                                                                                                                         | M-11                                                                                                       | 40                                                                                                                                                      |                         | 40                 | 40                  |
| W-1                                                                                                                         | M -12                                                                                                      | 40                                                                                                                                                      | 50                      | 60                 | 60                  |
| W-2                                                                                                                         | M -13                                                                                                      | 60                                                                                                                                                      | 80                      | <del>60</del>      | <b>80</b>           |
| W-3                                                                                                                         | M -15                                                                                                      | 90                                                                                                                                                      | 100                     | <del>90</del>      | <b>100</b>          |
|                                                                                                                             |                                                                                                            |                                                                                                                                                         |                         |                    |                     |
| SP-1                                                                                                                        | M -1                                                                                                       | 65                                                                                                                                                      | 70                      | 75                 | 75                  |
| SP-2                                                                                                                        | M -2                                                                                                       | 90                                                                                                                                                      | 90                      | 90                 | 90                  |
|                                                                                                                             |                                                                                                            |                                                                                                                                                         |                         |                    |                     |
| NC Overlays                                                                                                                 | N-1 (C-1/MW)<br>N-2 (C-2-A/TK)<br>N-14 (C-2-A/WP)<br>N-15 (C-2-B/WP)<br>N-16 (C-2-A/CP)<br>N-17 (C-3-A/ES) | In these N zones, the matter of right height and floor area ratio limits shall serve as the guidelines for PUD                                          |                         |                    |                     |
| R-5-B/DC<br>R-5-D/DC<br>R-5-E/DC<br>SP-1/DC<br>SP-2/DC<br>C-2-A/DC<br>C-2-B/DC<br>C-2-C/DC<br>C-3-B/DC<br>C-3-C/DC<br>CR/DC | A -4<br>A -9<br>A -11<br>M -16<br>M -17<br>M -18<br>M -19<br>M -20<br>M -21<br>M -22<br>M -23              | The matter-of-right height and floor area ratio limits shall serve as the maximum permitted height and floor area ratio for a planned unit development. |                         |                    |                     |
| SP-2/CAP                                                                                                                    | M -24                                                                                                      |                                                                                                                                                         |                         |                    |                     |

- 303.5 In the N-7 and N-8 zones, any additional height and floor area above that permitted as a matter-of-right in the underlying zone shall be for residential use only.
- 303.6 In the N-9 through N-13 zones, any additional height and floor area above that permitted as a matter-of-right shall be used only for housing or the preferred uses of the N-9 through N-13 zones.
- 303.7 Except for PUDs proposed in any N zone, A-4, A-9, A-11 and M-16 through 23 zones, the Commission may authorize an increase of not more than five percent (5%) in the maximum height or FAR; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter.
- 303.8 The amount of flexibility from all other development standards not addressed by this section shall be at the discretion of the Commission.
- 303.9 A PUD-related zoning map amendment shall be considered flexibility against which the Commission shall weigh the benefits of the PUD.
- 303.10 Any relief that would otherwise be processed as a special exception or variance may be heard as a part of the PUD process and shall be considered flexibility against which the Commission shall weigh the benefits of the PUD. Such requests shall be advertised, heard, and decided together with the PUD application for Zoning Commission review and approval.

#### **304 PLANNED UNIT DEVELOPMENT EVALUATION STANDARDS**

- 304.1 The Commission will evaluate and approve, disapprove, or modify a PUD application according to the standards of this section.
- 304.2 The applicant shall have the burden of proof to justify the granting of the application according to these standards.
- 304.3 In deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the public benefits project and amenities offered, the degree of development incentives requested and any potential adverse effects according to the specific circumstances of the case.
- 304.4 The Commission shall find that the proposed development:
- (a) Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;
  - (b) Shall not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project;

- (c) The specific public benefits and project amenities of the proposed development, which features may in some instances overlap, are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site

### **305 PLANNED UNIT DEVELOPMENT PUBLIC BENEFITS**

- 305.1 The Commission shall also evaluate the specific public benefits of the proposed development, which features may in some instances overlap.
- 305.2 Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title.
- 305.3 All public benefits shall meet the following criteria:
  - (a) Benefits shall be tangible and quantifiable items;
  - (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a Certificate of Occupancy;
  - (c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need; and
  - (d) Monetary contributions shall only be permitted if made to a District government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.
- 305.4 A majority of public benefits of the proposed PUD should relate to the ANC in which the application is proposed.
- 305.5 Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:
  - (a) Superior urban design, and architecture;
  - (b) Superior landscaping, or creation or preservation of open spaces;
  - (c) Site planning, and efficient and economical land utilization;
  - (d) Commemorative Works or Public Art;
  - (e) Historic preservation of private or public structures, places, or parks;

- (f) Housing to the extent it exceeds the amount that would have been required through matter of right development under existing zoning; senior housing; and 3 or more bedroom units.
- (g) Housing and affordable housing; except that affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter of right development under existing zoning. In determining whether this standard has been met, the Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for “low-income households” as defined in the Inclusionary Zoning requirements of Subtitle C, and whether the affordable housing is to be administered in full compliance with the Department of Housing and Community Development administration, monitoring, and enforcement standards and requirements.
- (h) Employment and training opportunities;
- (i) Social services and facilities for the duration of the PUD, including but not limited to space dedicated for a day care or elderly care facility, for the life of the building. The daycare must be available to the general public and open during normal business hours at least five days each week and 50 weeks each calendar year. The space for each child shall be based on the requirement outlined in the Child Development Facilities Regulations;
- (j) Building Space for special uses including, but not limited to, community educational or social development, promotion of the arts or similar programs deemed by the community to be worthy and not otherwise required by the zone district, a grocery store larger than 15,000 square feet in areas where a grocery store does not existing within a three mile radius, or incubation space for small or local businesses;
- (k) Environmental and Sustainable benefits to the extent they exceed the standards required by zoning or other regulations including but not limited to:
  - (1) Storm water runoff controls in excess of those required by Stormwater Management Regulations;
  - (2) Use of natural design techniques that store, infiltrate, evaporate, treat, and detain runoff in close proximity to where the runoff is generated;
  - (3) Garden(s) or on-site food production through permanent and viable growing space and/or facilities such as a greenhouse or a garden conservatory which provide fencing, watering systems, soil, secured storage space for tools, solar access, and pedestrian access

as applicable. The facility shall be designed to be architecturally compatible with the development and to minimize the visibility of mechanical equipment;

- (4) Total Green Area Ratio scores that exceed requirements by at least 0.1;
- (5) The minimum standards for Leadership in Energy and Environmental Design (LEED) Gold certification. The project does not have to achieve actual LEED certification; however, the developer must include the LEED checklist and documentation in the application, approved by a LEED Accredited Professional (LEED-AP) that shows that the project will comply with LEED requirements;
- (l) Streetscape Plans, subject to approval by the District Department of Transportation Public Space Committee including implementation and maintenance of the streetscape for the duration of the project for areas where there is no design standards;
- (m) Outdoor children's play area: A public, active, outdoor children's play area that shall be secure, separated from parking and maneuvering areas, and designed to facilitate adult supervision. The play area shall include play equipment, installed to the manufacturer's specifications, or natural features suitable for children in both preschool and elementary school. The play area shall be a minimum of five hundred (500) square feet.
- (n) Park Maintenance or participation in the Department of Park and Recreation (DPR) in the "Adopt-a-Park Program" for the life of the development.
- (o) Play equipment in an existing park managed by the DPR; work with DPR to determine the equipment needed, purchase and install the equipment to the manufacturer's specifications;
- (p) Transportation infrastructure beyond that needed to mitigate any adverse impacts of the application including, but not limited to dedication and/or construction of a public street or alley; maintenance of a street median or provision of a public easement for a pedestrian walkway that would not otherwise be required,
- (q) Mass transit improvements, including but not limited to location and funding of a shared bike station, accommodation and/or construction of a Metro station entrance; donation of space for a transit store or other similar space to provide services such the sale of transit cards, Metro passes, bus and train schedules, information on bike and car sharing programs, etc.;

- (r) Uses of special value to the neighborhood or the District of Columbia as a whole; and
- (s) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.

305.6 Public benefits other than those listed above may be proposed to and considered by the Commission.

305.7 Elements or items required as mitigation to the impacts of the planned unit development shall not also be considered as benefits for the purposes of this section.

### **306 HOUSING LINKAGE**

306.1 A PUD application that proposes an increase in gross floor area devoted to office space over and above the amount of office space permitted as a matter of right in the underlying existing zone of the PUD site shall comply with the housing linkage requirements of this section.

306.2 The applicant shall produce or financially assist in the production of dwellings or multiple dwellings that are affordable to low and moderate-income people; provided that:

- (a) The quantity of low and moderate income housing that is required shall be based upon the requested increase in office floor area ratio (FAR); and
- (b) No income limits shall apply to housing that is constructed on the site of the PUD. [*Note: Need to coordinate with IZ*]

306.3 The applicant may either provide the required housing by means of new construction or rehabilitation as specified in §206.5, or may elect to make a financial contribution as provided in §206.6.

306.4 The following exclusions and modifications shall apply:

- (a) Commercial floor area other than office space shall be excluded from these computations for the proposed PUD; provided, that the matter-of-right commercial density of the existing zone shall be reduced by 0.5 FAR to allow for normal retail use;
- (b) If the proposed PUD provides an amount of housing equal to or greater than the housing that would be required under this section, no additional housing shall be required;
- (c) No housing requirement pursuant to this section shall apply to a PUD that is proposed for property located in a Downtown zone, or to any PUD

application filed by an agency of the federal government, or the Washington Metropolitan Area Transit Authority (WMATA).

- (d) An applicant may apply for a reduction or elimination of the housing required under this section as part of a PUD application provided the Commission finds, after public hearing, that the reduced or eliminated housing requirement is necessitated or justified by the project's provision of extraordinary public benefits that are of both exceptional merit and in the best interests of the city or the country.

306.5 If the applicant constructs or rehabilitates the required housing, the following conditions shall apply:

- (a) The gross square footage of new or rehabilitated housing shall be based upon the gross square footage of increased office space that the PUD provides in excess of that allowed as a matter of right by the underlying existing zone of the PUD site ; provided, that the amount of housing required shall be as follows:
  - (1) Not less than one-fourth (1/4) of the gross square feet of increased office space if the required housing is part of the PUD or is situated on adjacent property;
  - (2) Not less than one-third (1/3) of the gross square feet of increased office space if the location of the required housing does not comply with subparagraph (1) of this paragraph, but is nonetheless within the same Advisory Neighborhood Commission area as the PUD,; and
  - (3) Not less than one-half (1/2) of the gross square feet of increased office space if the location of the required housing is other than as approved in subparagraphs (1) and (2) above;
- (b) The applicant may construct or rehabilitate the housing units, or may secure the housing production by other business arrangements, including but not limited to, joint venture, partnership, or contract construction;
- (c) If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 ft.<sup>2</sup>); provided; that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing;
- (d) For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR);

- (e) In the case of rental housing, the required housing shall be maintained as affordable dwelling units for the duration of the PUD but not less than twenty (20) years;
- (f) If the required housing is provided for home ownership, the housing shall be provided at income levels and duration consistent with the Inclusionary Zoning Implementation Amendment Act of 2006 (the IZ Act), effective Mar. 14, 2007 (D.C. Law 16-275; 54 DCR 880). References to the IZ Act include any Mayor's Order, agency rule, or other administrative issuance promulgated pursuant to that legislation; and
- (g) No certificate of occupancy shall be issued for the office component of a PUD that is subject to the provisions of this section until a certificate of occupancy has been issued for the housing required pursuant to this section.

306.6 As an alternative to constructing or rehabilitating the required housing as provided in § 206.5, the applicant may contribute funds to the District's housing production trust fund; provided:

- (a) The contribution shall be equal to one-half (1/2) of the assessed value of the increase in permitted gross floor area for office use;
- (b) The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue as of the date of the PUD application; and
- (c) The contribution shall be determined by dividing the assessed value per square foot of land that comprises the PUD site by the maximum permitted commercial FAR and multiplying that amount times the requested increase in gross square feet proposed for office use.

306.7 If any housing exists on the development site and is to be removed in order to allow construction of the PUD, the total assessed value of the housing removed shall be added to the financial contribution as computed in § 206.6 provided, that this provision shall apply to any housing removed beginning one (1) year prior to the date of the PUD application.

306.8 Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for any part of the office component of the PUD, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any part of the office component of the PUD.

306.9 All affordable housing provided pursuant to this section, shall be administered consistent with the IZ Act;

- 306.10 A PUD that is subject to the housing requirement of this section shall not be relieved of the requirement to be found meritorious pursuant to the evaluation standards in § 206.
- 306.11 The Office of Planning shall refer each application for a PUD subject to the provisions of this section to the Department of Housing and Community Development for an analysis of compliance with the housing requirements of this section and a recommendation.

**307 PLANNED UNIT DEVELOPMENT APPLICATION REQUIREMENTS**

- 307.1 Each PUD application shall meet the requirements of this section before it will be accepted by the Commission for processing.
- 307.2 No PUD application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule.
- 307.3 A PUD application may include property of one or more owners. The owner or owners may be public or private persons, corporations, agencies, or other entities.
- 307.4 The name, address, and signature of each owner of property included in the area to be developed, or of the owner's authorized agent, shall be included in the PUD application.
- 307.5 The application shall be filed on a form as may be designated from time-to-time by the OZ or the Zoning Commission. Two paper copies of the application and all accompanying materials filed with the OZ shall be provided to the OP on the same day of filing with the Office of Zoning.
- 307.6 At least forty-five (45) calendar days prior to filing an application under this chapter, the applicant shall mail written notice of its intent (NOI) to file the application to the Advisory Neighborhood Commission for the area within which the property is located and to the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.
- 307.7 The notice shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.
- 307.8 An application for PUD approval shall include the following:
- (a) A completed application form;
  - (b) A map showing the location of the proposed project, the existing zoning for the subject site, the zoning of adjacent properties;

- (c) A statement of the purposes and objectives of the project, including the proposed form of development and a detailed statement elucidating how the application meets the PUD evaluation standards of this chapter;
- (d) A statement certifying to whom and in what manner the required NOI was given. The applicant shall also indicate what meetings or discussions were held with the community and the OP as well as any changes that resulted from community input.
- (e) A detailed statement as to the uses to be located in the project, including the location, number, size, and types of stores, offices, residential, institutional, industrial, and other uses;
- (f) A detailed site plan, showing the location and external dimensions of all buildings and structures, utilities and other easements, walkways, driveways, plazas, arcades, and any other open spaces;
- (g) A detailed landscaping and grading plan, showing all existing contour lines, including graphic illustration of grades exceeding fifteen percent (15%) in five percent (5%) increments, landscaping to be retained, grades, planting, and landscaping. The plan shall also show the proposed drainage for the site, including the location of buildings, roads, sidewalks, water and sewer lines, inlets, and basins, and connections to public water and sewer lines. Proposed erosion control measures shall also be shown;
- (h) Typical floor plans and architectural elevations for each building, sections for each building and the project as a whole, and sections and elevations of the entire square within which the project is located;
- (i) A circulation plan, including the location of all vehicular and pedestrian access ways and the location and number of all off-street parking spaces and loading berths, including an indication of which spaces are designated for which use;
- (j) The existing topography of the development area; the location of all major natural features, including trees of eighteen-inch (18 inch) or greater; and the location and elevations of public or private streets, alleys, or easements bounding or traversing the site, including an indication of which of the rights-of-way or easements are to be continued, relocated, or abandoned;
- (k) A tabulation of development data showing the following:
  - (1) The area and dimensions of each lot proposed for each building and the exact area of the total site;
  - (2) The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site; and

- (3) The gross floor area and floor area ratio for each building on each lot, including a break-down for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use; and
- (l) A detailed description of proposed public benefits with explanation of how each benefits meets the requirements listed in § 204 as well as a tabulation of the total public benefits points being achieved by the project.
- (m) Any other information needed to understand the unique character and problems of developing the site.

### **308 PLANNED UNIT DEVELOPMENT PROCEDURES**

308.1 The Commission shall refer all planned unit development applications to the D.C. Office of Planning which shall provide a report to the Commission that includes whether the application is:

- (a) Not inconsistent with the Comprehensive Plan;
- (b) Consistent with the purpose of the PUD process; and
- (c) Generally ready for a public hearing to be scheduled.

308.2 Following the receipt of the report from the OP, the Commission shall review the application and determine whether a public hearing shall be granted. An application may be denied without a hearing, but no application shall be granted unless a public hearing is held.

308.3 If a public hearing is granted, the OP shall coordinate review of the application and prepare an impact assessment of the project, which shall include reports in writing from relevant District departments and agencies, including, but not limited to, the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

308.4 The OP shall report on the:

- (a) Suitability of the site for use as a PUD;
- (b) Appropriateness, character, scale, mixture of uses, and design of the uses proposed for the proposed development, and other identifiable public benefits;
- (c) Compatibility of the proposed development with the Comprehensive Plan and the goals of the PUD process;

- (d) The quality of the urban design and site design of the proposed development;
- (e) Issues or concerns raised by the ANC or community members; and
- (f) Conformance with the PUD evaluation standards of this chapter.

308.5 At the public hearing, the applicant shall carry the burden of justifying the proposal. Failure of groups or persons to appear in opposition shall not relieve the applicant of the responsibility of demonstrating the merits of the application.

308.6 At the public hearing, the applicant shall advise the Commission of the efforts that have been made to apprise the affected Advisory Neighborhood Commission and other individuals and community groups concerning the proposed development.

308.7 No later than seven (7) days after the Commission takes proposed action on any PUD application, the applicant shall file with the OZ and serve the OP, the Office of the Attorney General (“OAG”), and the affected ANC and any other parties, a final list of the public benefits proffered for the PUD (“Proffer”) and, for each Proffer, provide a draft condition that is both specific and enforceable.

308.8 The description of each public benefits shall be identical to the description contained in the Applicant’s proposed order unless a revision is required for clarity or to reflect a revision.

308.9 The information required by § 2403.15 shall be presented in the form of a chart in which with each proffered public benefit is described in one column and a corresponding condition is described in a second. For example

| Proffer                                                                                                                                          | Condition                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 42. The Applicant has agreed to contribute _____ to _____ for the purpose of _____ prior to applying for a certificate of occupancy for the PUD. | B.4. Prior to applying for a certificate of occupancy for the PUD, the Applicant shall contribute _____ to _____ for the purpose of _____. |

308.10 No later than fourteen (14) days after the Commission takes proposed action on any PUD application, OAG, OZ and OP shall complete any dialogue they feel is needed with the Applicant with respect to any deficiencies in the Applicant’s proposed conditions.

308.11 No later than twenty-one (21) days after the Commission takes proposed action on any PUD application the applicant shall file with OZ and serve OP, OAG, and the affected ANC and any other parties any revisions to the Proffer and conditions, or a statement that none have been made.

- 308.12 No later than twenty-eight (28) days after the Commission takes proposed action on any PUD application OAG, OP, and the affected ANC and any other party may file any responses each has to the Applicant's final Proffer and conditions. The responses shall be limited to whether the conditions in the final Proffer are specific and enforceable.
- 308.13 The OAG response will be treated as a confidential attorney client communication. The Commission will consider the PUD to contain only those public benefits described in the final Proffer
- 308.14 The Commission may relieve an applicant of some or all of the responsibilities of §§ 208.7 through 208.12 in circumstances when it believes the process is unnecessary, such as when it is considering a modification to an approved design or to a limited number of conditions.
- 308.15 The Commission shall either approve, deny, or modify the application. The Commission may also defer action if they determine the application is not ready for action.

### **309 PLANNED UNIT DEVELOPMENT APPROVALS**

- 309.1 The rights granted under an approval are conditional, and shall be exercised within the specified time limit. Unexercised rights shall lapse at the end of the specified time periods, and the zoning shall revert to underlying zoning and pre-existing conditions, unless a request to extend the validity of the approval is granted by the Commission in accordance with the standard and process for extensions set forth in §§ 210
- 309.2 First-stage approval shall be as follows:
- (a) The Commission's first-stage approval shall set forth the appropriate zoning classification to apply to the project, and shall state in detail the elements, guidelines, and conditions that shall be followed by the applicant in the second-stage application.
  - (b) A first-stage approval of a PUD by the Commission shall be valid for a period of one year, unless a longer period is established by the Commission at the time of approval, within which time application shall be filed for a building permit.
- 309.3 Second-stage approval shall be as follows:
- (a) If the Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. No order approving a PUD shall be deemed to include relief from any zoning regulation,

including but not limited to the requirements of chapter 26, unless such relief was expressly requested by the applicant and expressly granted in the order.

- (b) A second-stage approval of a PUD shall be valid for a period of two (2) years, unless a longer period is established by the Commission at the time of approval, within which time application shall be filed for a building permit.
- (c) In granting second-stage approval, the Commission may specify that the project be built in stages and shall specify the timing of the stages.
- (d) Construction shall start within three (3) years of the date of final approval of the second-stage.

309.4 A PUD which does not include a related map amendment is not considered a change to the zoning map and shall require only one vote of the Commission for approval for any stage application.

309.5 A PUD with a related map amendment shall require both a proposed and final vote of the Commission for each stage or consolidated application.

309.6 Previous approval of a PUD shall not be a binding precedent on a new application

### **310 LIMITATIONS ON DEVELOPMENT OF A PUD SITE**

310.1 No order approving a PUD shall be deemed to include relief from any zoning regulation, including but not limited to the requirements of IZ [need citation], unless such relief was expressly requested but e applicant and expressly granted in the order.

310.2 The grant of a PUD prohibits any construction on the PUD site that is not authorized in the order approving the PUD, including development under matter of right standards, until:

- (a) The validity of the PUD order expires; or
- (b) The Commission issues an order granting the applicant's motion to extinguish the PUD.

### **311 PLANNED UNIT DEVELOPMENT EXTENSIONS**

311.1 An applicant may request an extension of the time periods in §§ 809.1 and 809.2 for good cause shown upon the filing of a written request, before the expiration of the approval, documenting the following:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;

- (b) There is no substantial change in any of the material facts upon which the Commission based its original approval of the design review that would undermine the Commission's justification for approving the original design review; and
- (c) The applicant demonstrates with substantial evidence one or more of the following criteria:
  - (1) An inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
  - (2) An inability to secure all required governmental agency approvals for the PUD by the expiration date of the order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
  - (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.

311.2 The Commission may:

- (a) Grant an extension subject to their determination that the applicant has sufficiently evidenced compliance with the above criteria;
- (b) Grant an extension subject to their determination that the applicant has sufficiently evidenced compliance with the above criteria, but with applicable conditions that the Commission concludes are in the public interest and will expire with the issuance of a certificate of occupancy for the project; or
- (c) Deny an extension request at their sole discretion.

311.3 An approved PUD may receive no more than two extensions.

311.4 A request for an extension of a PUD approval may not be acted upon sooner than six months prior to the expiration of the order approving the PUD.

311.5 The Commission shall hold a public hearing on a request for an extension of the validity of a PUD if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the proceeding concerning any of the criteria in § 810.1. The hearing shall be limited to the specific and relevant evidentiary issues in dispute.

311.6 In the event an appeal is filed in a court of competent jurisdiction from an order of the Commission, the time limitations of §§ 809.1 and 809.2 shall run from the decision date of the court's final determination of the appeal. Unless stayed by the Commission or a court of competent jurisdiction, an applicant may proceed pursuant to the order of the Commission prior to any such final determination.

## **312 PLANNED UNIT DEVELOPMENT MODIFICATIONS**

312.1 A modification to an approved PUD, or issued order may be requested subject to the conditions of this section.

312.2 The Zoning Administrator shall have the authority to approve minor modifications in the final plans as approved by the Commission limited to the following:

- (a) A change not to exceed two percent (2%) in the height, percentage of lot occupancy, or gross floor area of any building;
- (b) A change not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses;
- (c) A change not to exceed two percent (2%) in the number of parking or loading spaces; and
- (d) The relocation of any building within five feet (5 ft.) of its approved location, in order to retain flexibility of design, or for reasons of unforeseen subsoil conditions or adverse topography.

312.3 In reviewing and approving any requested minor modification, the Zoning Administrator shall determine that the proposed minor modification is consistent with the intent of the Commission in approving the PUD.

312.4 Following approval of a minor modification under § 212.3, the Zoning Administrator shall report to the Commission the modification approved under this section. No building permit for the modified PUD shall be issued for forty-five (45) days after a report is sent to the Commission. If prior to the expiration of this time period the Commission decides that the modification exceeded the scope of a minor modification the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to this chapter.

312.5 Any requested modifications that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission.

312.6 The Commission shall determine the proposed modification as one of the following:

- (a) A technical correction or modification of little or no consequence, including but not limited to technical corrections, a proposed change to an approved element that was not a consideration of or significant to the Commission in deciding the case; a technical correction or modification of little or no consequence may be acted upon as a consent item with no public hearing;
- (b) A modification of consequence, including but is not limited to a proposed change to a condition cited by the Commission in the final order, an issue discussed by the Commission that effected their decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission; the Commission may consider a modification of consequence by proposed action with no additional public hearing; or
- (c) A significant modification, including but not limited to a change in use or additional relief or flexibility from the zoning regulations not previously approved, or any modification request so deemed significant by the Commission; a significant modification shall meet the requirements for, and be processed as, a second-stage application.

312.7 A public hearing on a request for a significant modification shall be focused on the relevant evidentiary issues requested for modification and any condition impacted by the requested modification, including but not limited to the approved flexibility and public benefits.

### **313 IMPLEMENTATION**

313.1 Following approval of an application by the Commission, the applicant may file an application for a building permit with the proper authorities of the District of Columbia.

313.2 The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Commission may have applied.

313.3 The Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant in the land records of the District of Columbia between the owner or owners and the District of Columbia satisfactory to the Office of the Attorney General and the Zoning Administrator, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Commission.

313.4 Following the recordation of the covenant, the PUD boundaries shall be designated on the Zoning Map..

313.5 The orders of the Commission issued in accordance with this chapter shall have all the force of this title, and violations shall be prosecuted in accordance with the provisions of [A § XXX] of this title.

#### **314 DISMISSAL AND EXPIRATION**

314.1 A PUD application for which a public hearing has not been held before the Commission within two years from the date of when the Commission set the case down for public hearing shall be deemed dismissed without prejudice.

314.2 An approved PUD shall be deemed expired if an application for building permit has not been filed or construction has not started within the periods specified, or no extension is granted, and the zoning shall revert to the pre-existing zoning regulations and map, and the approval shall not be reinstated unless a new application is filed with fees, processed, and approved in accordance with this chapter.

314.3 All filing fees relative to a dismissed or expired application under this section are non-refundable, non-transferrable and may not be applicable to any future consideration of any case.

#### **315 ERRORS AND COSTS**

315.1 When an additional notification is required to be mailed, posted or otherwise advertised due to an error in the application or an error otherwise made by the applicant, the cost of such mailing, posting or advertisement shall be borne by the applicant and paid prior to the Office of Zoning distributing such notification.

#### **316 EXPERT WITNESSES**

316.1 An individual offered as an expert witness shall provide written evidence to the Commission of expertise including but not limited to educational attainment, licensing, accreditation, examples of relevant or comparable work and employment.

316.2 An expert witness shall be present at the hearing and be available for questions from the Commission and cross examination by any other party.

#### **317 PARTY STATUS REQUESTS**

317.1 An individual or group of individuals, requesting party status may request the Commission consider the request in advance of the public hearing.

317.2 A request under this section may be considered and decided by the Commission at a public meeting at least fourteen (14) days in advance of the public hearing.

- 317.3 The request for party status shall be provided to the applicant or the applicant's legal representative, at least ten (10) days prior to the public meeting date of the Commission's consideration.
- 317.4 The applicant may appear at the public meeting of the Commission's consideration to object to the request or may submit written response to the party status request which will be considered by the Commission at the public meeting.

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## **CHAPTER 4 APPLICATIONS FOR AMENDMENT TO CREATE A NEW ZONE**

- 400.1 Applications for the creation of a new zone shall be consistent with the conditions of this section.
- 400.2 The new zone shall be for a well-defined geographic area with generally similar development characteristics and land use.
- 400.3 Proposed new zones shall not be inconsistent with the Comprehensive Plan or with applicable small area plans.
- 400.4 Proposed new zones shall not result in adverse impacts on the environment or adjacent lands.
- 400.5 Proposed new zones shall not result in the undue diminution of property rights.
- 400.6 Applications for a new zone shall be accompanied by the following:
- (a) Evidence of significant community support for the zone including property owners within the defined area, relevant civic, community and business groups, the ANC, including the single member district representation; and
  - (b) Surveys, plats, maps, scaled elevations or similar information documenting any proposed changes to applicable development standards.
- 400.7 If the proposed new zone involves a reduction in any development standard or property right, opposition by any affected property owner shall be given great consideration and the opposing property owner shall not be required to meet the same burden as that of significant community support.

## **CHAPTER 5      MAP AMENDMENTS**

- 500.1      Any interested person may petition the Commission to amend the Zoning Map.
- 500.2      The Commission will evaluate and approve, disapprove, or modify a map amendment application or petition according to the standards of this section.
- 500.3      The applicant or petitioner shall have the burden of proof to justify the granting of the application according to these standards.
- 500.4      The Commission shall find that the proposed zone or zones are not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.

## **CHAPTER 6      DESIGN REVIEW**

- 600.1      The purpose of the design review process is to:
- (a)      Allow for special projects to be approved by the Commission after a public hearing and a finding of no adverse impact;
  - (b)      Recognize that some areas of the District warrant special attention due to particular or unique characteristics of an area or project;
  - (c)      Permit some projects to voluntarily submit themselves for design review under this chapter in exchange for flexibility because the project is superior in design but does not need extra density;
  - (d)      Promote high-quality, contextual design; and
  - (e)      Provide for flexibility in building bulk control, design, and site placement without an increase in density or a map amendment.
- 600.2      The design review process is intended to be shorter and less intensive than the planned unit development (PUD) process and allow less deviation from by-right zone standards.
- 600.3      A comprehensive public review by the Commission of the specific development proposal is required in order to evaluate the design of the project in proportion to the design flexibility requested.
- 600.4      While providing for greater flexibility in planning and design than may be possible under by-right zoning procedures, the design review process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.
- 600.5      A map amendment or an increase in density shall not be permitted as part of a design review application.
- 601      APPLICABILITY**
- 601.1      In certain zones, some or all development may require design review. The zone reference table for the subtitle will reference any conditions under which design review is required.
- 601.2      Where not required, a property owner may apply voluntarily for design review development under this chapter.
- 601.3      The minimum area included within a proposed design review development application, including the area of public streets or alleys proposed to be closed, shall be as follows:

- (a) A total of two (2) acres for a development to be located in any R zone; and
- (b) No minimum area required for a development in any other zone.

601.4 All the property included in a design review application shall be contiguous, except that the property may be separated only by a public street, alley, or right-of-way.

## **602 DESIGN REVIEW FLEXIBILITY**

602.1 As part of the design review process, the Commission may grant relief from the development standards for height, setbacks, lot occupancy, courts, and building transitions; as well as any urban design standards. The design review process shall not be used to vary other building development standards including floor area ratio, Inclusionary Zoning, or green area ratio.

602.2 The amount of relief is at the discretion of the Commission, but must meet all of the standards of § 603.

602.3 An application for a special exception use that would otherwise require the approval of the Board of Zoning Adjustment (Board) may be heard simultaneously with a design review application and shall be subject to all applicable special exception criteria.

602.4 Approval of the Board shall not be required for any such use approved by the Commission under this section.

## **603 DESIGN REVIEW STANDARDS**

603.1 The Commission will evaluate and approve, disapprove, or modify a design review application according to the standards of this section.

603.2 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

603.3 The applicant shall not be relieved of the responsibility of proving the case by a preponderance of the evidence, even if no evidence or arguments are presented in opposition to the case.

603.4 The Commission shall find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.

603.5 The Commission shall find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Y Chapter 8.

The Commission shall review the urban design of the site and the building for the following criteria:

- (a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:
  - (1) Multiple pedestrian entrances for large developments;
  - (2) Direct driveway or garage access to the street is discouraged;
  - (3) Commercial ground floors contain active uses with clear, inviting windows;
  - (4) Blank facades are prevented or minimized; and
  - (5) Wide sidewalks are provided;
- (b) Public gathering spaces and open spaces are encouraged, especially in the following situations:
  - (1) Where neighborhood open space is lacking;
  - (2) Near transit stations or hubs; and
  - (3) When they can enhance existing parks and the waterfront;
- (c) New development respects the historic character of Washington's neighborhoods, including:
  - (1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
  - (2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
  - (3) Development should respect and protect key landscape vistas and axial views of landmarks and important places;
- (d) Buildings strive for attractive and inspired façade design, including:
  - (1) Reinforce the pedestrian realm with elevated detailing and design of 1<sup>st</sup> and 2<sup>nd</sup> stories; and
  - (2) Incorporate contextual and quality building materials and fenestration;
- (e) Sites are designed with sustainable landscaping; and
- (f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

- (1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;
- (2) The development incorporates transit and bicycle facilities and amenities;
- (3) Streets, easements, and open spaces are designed to be safe and pedestrian friendly;
- (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and
- (5) Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.

603.7 The Commission shall find that the criteria of § 603.6 are met in a way that is superior to any matter-of-right development possible on the site.

## **CHAPTER 7 AIRSPACE DEVELOPMENT**

### **700 INTRODUCTION TO AIRSPACE DEVELOPMENT**

- 700.1 This chapter provides regulations for developing air rights above public streets or alleys (“airspace”) in the District of Columbia.
- 700.2 Under § 5 of the District of Columbia Public Space Utilization Act, approved October 17, 1968 (D.C. Official Code § 10-1121.01 *et seq.*), the Zoning Commission shall, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, review and approve all air space development.

### **701 GENERAL RULES FOR AIRSPACE DEVELOPMENT**

- 701.1 No development of airspace may occur without approval of the Zoning Commission.
- 701.2 The Zoning Commission shall determine the use to be permitted in the proposed airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and development standards applicable to such structure, and easements of light, air, and access.
- 701.3 Airspace cases may be processed as a part of a design review, planned development, or project-specific rezoning application and shall be subject to the evaluation criteria and follow the procedures of the relevant chapter, except as provided in this section.
- 701.4 The Zoning Commission may impose any conditions or restrictions on airspace development that it deems necessary to ensure:
- (a) Compatibility with surrounding private property;
  - (b) The accessibility of the public to traverse as appropriate the public space
  - (c) A high quality design of any building, landscape or public realm; and
  - (d) No undue adverse impacts on the surrounding area.