

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

READING OF AGENDA – ADDITIONS, DELETIONS

NEW BUSINESS

1. ZC #18-001 Zoning Procedure Modifications: **PUBLIC HEARING** – The applicant (City of Oak Forest) requests review and recommendation of approval of proposed comprehensive text amendments to Article 11, Zoning Administration and Enforcement, of the City of Oak Forest Zoning Ordinance regarding changes to the zoning relief procedures and their respective application requirements, including but not limited to: variations, text amendments, map amendments, special use permits, and planned developments. These changes also include, but are not limited to: changing the types of permissible variations and the public body making final determinations; creating major and minor special use permit amendment mechanisms; creating a special use permit transfer mechanism; and creating major and minor planned development amendment mechanisms. A related amendment to Section 9-107 K, Fences and Walls, is also proposed, as it relates specifically to permissible variations for fences being added to Article 11.

APPROVAL OF THE MINUTES

April 18, 2018

May 2, 2018

CITIZEN PARTICIPATION

ADJOURNMENT



CITY OF OAK FOREST  
PLANNING & ZONING COMMISSION  
Staff Report

June 6, 2018

**TITLE:** ZONING PROCEDURE MODIFICATIONS

**CASE NUMBER:** ZC #18-001

**REQUEST:** TEXT AMENDMENT APPROVAL  
The applicant requests review and recommendation of approval of proposed comprehensive text amendments to Article 11, Zoning Administration and Enforcement, of the City of Oak Forest Zoning Ordinance regarding changes to the zoning relief procedures and their respective application requirements, including but not limited to: variations, text amendments, map amendments, special use permits, and planned developments. These changes also include, but are not limited to: changing the types of permissible variations and the public body making final determinations; creating major and minor special use permit amendment mechanisms; creating a special use permit transfer mechanism; and creating major and minor planned development amendment mechanisms. A related amendment to Section 9-107 K, Fences and Walls, is also proposed, as it relates specifically to permissible variations for fences being added to Article 11.

**APPLICANT INFORMATION**

**APPLICANT:** City of Oak Forest

**MEETING DATE:** June 6, 2018

**NOTICE PUBLISHED:** May 18, 2018  
Daily Southtown

**STAFF:** Travis Bandstra, Director of Economic and Community Development  
Katie Ashbaugh, Community Planner

**ATTACHMENTS:**

- 1A. §11-201(E)(9) Applications for Planned Development Concept Plan (redlined)
- 1B. §11-201(E)(9) Applications for Planned Development Concept Plan (clean)
- 2A. §11-201(E)(10) Applications for Planned Development Final Plan (redlined)
- 2B. §11-201(E)(10) Applications for Planned Development Final Plan (clean)
- 3A. §11-503, Planned Developments (redlined)
- 3B. §11-503, Planned Developments (clean)
- 4A. §11-501, Amendments (redlined)
- 4B. §11-501, Amendments (clean)
- 5A. §11-502, Special Use Permits (redlined)
- 5B. §11-502, Special Use Permits (clean)
- 6. Transfer of Special Use Permit Request Form – DRAFT
- 7A. §11-403, Variations (redlined)
- 7B. §11-403, Variations (clean)
- 8A. §9-107(K), Fences and Walls (redlined)
- 8A. §9-107(K), Fences and Walls (clean)
- 9. PZC Resolution 18-6 – DRAFT

## **I. REQUEST**

The applicant requests review and recommendation of approval of proposed comprehensive text amendments to Article 11, Zoning Administration and Enforcement, of the City of Oak Forest Zoning Ordinance regarding changes to the zoning relief procedures and their respective application requirements, including but not limited to: variations, text amendments, map amendments, special use permits, and planned developments. These changes also include, but are not limited to: changing the types of permissible variations and the public body making final determinations; creating major and minor special use permit amendment mechanisms; creating a special use permit transfer mechanism; and creating major and minor planned development amendment mechanisms. A related amendment to Section 9-107 K, Fences and Walls, is also proposed, as it relates specifically to permissible variations for fences being added to Article 11.

## **II. BACKGROUND**

### *Overview*

In March of 2017, the city administrator commissioned Rolf Campbell Associates (RCA) to assist with analyzing current business licensing, zoning relief, and development review processes. In June of 2017, this Commission and the Economic Advisory Council (EAC) conducted a joint session to complement this effort and discuss improvements to the business license application review and development review processes.

Regarding business licensing review, this Commission and EAC recommended that a new business information packet should be created to assist prospective businesses in understanding the steps to open and any relevant city requirements. The packet is complete and can be found on the city's website. Hard copies are in publication.

### *Zoning Procedures*

Regarding the codified zoning procedures, the City Council, this Commission, the EAC, and the outside consultant settled on four key objectives: 1) ensuring that current processes match the City's ordinances; 2) increasing overall efficiency and reducing approval timelines; 3) improving related forms and clarifying required review steps and materials; and 4) streamlining of the current design review process by creating general administrative design guidelines.

The subject text amendments of this case meet objectives 1 and 2 above. Objective 3 is in process and will be completed upon the passage of the subject amendments (see Attachments). Objective 4 will be completed in the fall of this calendar year.

In February of 2018, RCA and staff presented an analysis of the zoning procedures to the City Council. This presentation focused on highlighting how the current procedures were overly burdensome to businesses and developers, followed by solutions to these areas of concerns. The City Council was in favor of the proposed solutions and they are incorporated in the proposed amendments of this case.

## **III. SUMMARY OF CHANGES**

Below is a summary of changes included with this case. The majority of the changes are to Article 11. The first table summarizes the existing code language. The second table summarizes the proposed code language. Other minor changes are further summarized in paragraph form.

*Major Changes*

<b>EXISTING</b>		
<b>Development Review Process</b>	<b>Examples</b>	<b>Area of Concern</b>
Application Materials for PUDs [§11-201(E)(9-10)]		<ul style="list-style-type: none"> <li>Excessive number of materials</li> <li>Inconsistent with plat procedures</li> </ul>
Planned Unit Developments (PUD, §11-503)	<ul style="list-style-type: none"> <li>Commercial with residential (mixed use)</li> <li>Residential subdivision</li> </ul>	<ul style="list-style-type: none"> <li>Requires at a minimum 3 public meetings, if Concept Plan and Final Plan are filed concurrently</li> <li>Requires at most 5 public meetings, if Concept Plan and Final Plan filed separately</li> <li>No amendment process, only adjustments during construction</li> </ul>
Text & Map Amendments (§11-501)	<ul style="list-style-type: none"> <li>Sign Ordinance Changes</li> <li>Updates to the Table of Uses</li> </ul>	<ul style="list-style-type: none"> <li>Requires 3 public meetings</li> </ul>
Special Use Permits (§11-502)	<ul style="list-style-type: none"> <li>Driven Auto</li> <li>All Aboard Boat Repair</li> </ul>	<ul style="list-style-type: none"> <li>Inconsistent nomenclature (special use permit vs. special permit)</li> <li>Requires 3 public meetings</li> <li>No amendment process</li> <li>Tied only to the original owner or operator to whom the original permit was granted</li> <li>Lacks flexibility</li> </ul>
Variations (§11-403)	<ul style="list-style-type: none"> <li>Garage location</li> <li>Required Parking</li> </ul>	<ul style="list-style-type: none"> <li>Only 18 specific variations to the Zoning Ordinance may be requested</li> <li>Three require Council approval</li> <li>Single-family homeowners may only request 7 of the 18</li> </ul>

<b>PROPOSED</b>		
<b>Development Review Process</b>	<b>Solutions</b>	<b>Results</b>
Application Materials for PUDs [§11-201(E)(9-10)]	<ul style="list-style-type: none"> <li>Remove redundancies</li> <li>Forward materials to final PUD approval</li> </ul>	<ul style="list-style-type: none"> <li>Allows final engineering to be administratively reviewed and approved</li> <li>Coordinates preliminary and final plat process with PUD process</li> </ul>
Planned Unit Developments (§11-503)	<ul style="list-style-type: none"> <li>Requires two public meetings</li> </ul> <p>PZC → City Council</p>	<ul style="list-style-type: none"> <li>Shorter review timeframe for development</li> <li>Allows flexibility for future changes to plans</li> </ul>
<b>PUD Amendment – Minor</b> [§11-503(K)(1)]	<ul style="list-style-type: none"> <li>Requires one public meeting</li> </ul> <p>PZC only</p>	
<b>PUD Amendment – Major</b> [§11-503(K)(2)]	<ul style="list-style-type: none"> <li>Requires two public meetings</li> </ul> <p>PZC → City Council</p>	

Text & Map Amendments (§11-501)	<ul style="list-style-type: none"> <li>• Sign Ordinance Changes</li> <li>• Updates to the Table of Uses</li> </ul>	<ul style="list-style-type: none"> <li>• Shorter review timeframe for development</li> </ul>
Special Use Permits (§11-502)	<ul style="list-style-type: none"> <li>• Requires two public meetings</li> </ul> <p>PZC → City Council</p>	<ul style="list-style-type: none"> <li>• Properties which have long been used as certain special uses may now file a Transfer of Special Use Permit request</li> <li>• Ensures acknowledge of previous conditions</li> <li>• Ensures site improvements and deferred maintenance are addressed</li> <li>• Reduces the time a property is vacant</li> <li>• Allows flexibility for minimal site or use changes</li> </ul>
Special Use Permits – Minor Amendment [§11-502(K)(1)]	<ul style="list-style-type: none"> <li>• Requires one public meeting</li> </ul> <p>PZC only</p>	
Special Use Permits – Major Amendment [§11-502(K)(2)]	<ul style="list-style-type: none"> <li>• Requires two public meetings</li> </ul> <p>PZC → City Council</p>	
Special Use Permits – Transfer [§11-502(J)]	<ul style="list-style-type: none"> <li>• Administrative</li> </ul>	
Variations – Granted by PZC [§11-403(E)(1)]	<ul style="list-style-type: none"> <li>• Limited list of types of variations which can be requested</li> </ul> <p>PZC only</p>	<ul style="list-style-type: none"> <li>• Property owners may now request a variation from any provision, to any degree, following PZC recommendation and Council approval</li> <li>• Strict limitations of original permitted variations still apply</li> </ul>
Variations – Granted by City Council [§11-403(E)(2)]	<ul style="list-style-type: none"> <li>• Allow applicants to request a variation to any part of the Zoning Ordinance, subject to Council approval</li> </ul> <p>PZC → City Council</p>	

*§9-107(K), Fences and Walls*

In August of 2017, a text amendment to the subject code section regulating the height and placement of fences and walls was approved. This amendment eliminated front yard fences from properties in any single-family residence district and from front and corner yard fences from all other districts. It also added a provision allowing a variation to be requested should a property owner desire to have a front or corner yard fence. The proposed amendment removes §9-107(K)(4-5) and replaces the language under §11-403(E)(1), titled Permitted Variations as approved by the Planning and Zoning Commission. This clarifies the decision-making body of this type of variation and maintains the ability of homeowners and other property owners to request such a variation.

*Other Changes*

Several other minor changes are proposed that do not affect its intent, but clarify meaning or correct references. For example, §11-503, Planned Developments, was repetitively labeled as §11-603. This error was found throughout this Article for other sections as well and was corrected. Special use permits were primarily called “special permits” with a few references to “special uses”. This was corrected to be “special use permits” throughout this Article. Other changes, such as the removal of §11-201(A)(3), are to make provisions consistent with the major changes described above. Numerous changes of this nature occur throughout Article 11 and are not found to change the overall intent of this Article in any way.

VI. PZC MOTION

Motion to adopt PZC Resolution 18-6, thereby recommending approval of the proposed text amendments as shown in Exhibits A and B of said resolution.

## §11-201(E)(9) Applications for Planned Development Concept Plan Approval

9. Applications for Planned Development Concept Plan Approval. Every application filed pursuant to **Subsection Paragraph 11-5603 D12** of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a. A development name unique to the Oak Forest area for identification purposes.
  - b. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed planned development, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property, and a recent commitment for title insurance or ownership search certificate.
  - c. A map depicting municipal and special district boundaries where adjacent to or within the subject property.
  - d. A written statement addressing the following matters:
    - i. A general description of the proposed planned development, the planning objectives to be achieved by it, including the rationales and assumptions of the applicant supporting the proposed planned development, and the market it is intended to serve.
    - ii. How the proposed planned development is to be designed, arranged and operated so as not to adversely affect the development and use of neighboring property in accordance with applicable regulations of this Code.
  - e. Schematic, soft-line drawings of the proposed planned development concept, including public or private rights-of-way on or adjacent to the subject property, the proposed dimensions and locations of vehicular and pedestrian circulation and parking elements, public and private open space, and residential, commercial, office, industrial and other land uses, and the general locations of and purpose of all easements.
  - f. A Tax Impact Study indicating the possible tax consequences the proposed planned development will have upon the City and other affected taxing bodies.
  - g. A Traffic and Transit Impact Study including a list of new street construction and traffic control improvements necessary to accommodate the estimated increase in traffic and traffic related problems occasioned by the proposed development and a statement of the applicant's proposals for providing those needed improvements.
  - h. A preliminary engineering study showing the location and adequacy of existing and proposed sanitary sewer, storm sewer and water distribution systems.
  - i. ~~A copy of an application for a Natural Resource Assessment to the North Cook County Soil and Water Conservation District if the subject property is two acres or larger.~~

- i. A written statement identifying existing natural and environmental resources and features on the subject property, including its topography, vegetation, soils, geology, and scenic view, and the impact of the proposed planned development on such resources and features, including proposals to preserve or protect such resources and features.
- j. Schematic, soft-line architectural elevations indicating the general style of architecture and typical building materials.
- k. A statement of the applicant's intent with respect to the ownership, sale and leasing of the various completed units, structures, spaces and areas within the proposed planned development.
- ~~l. If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.~~
- ~~m. A detailed description of the financial assurance to be presented to guarantee completion of all public improvement and private open space to be provided in connection with the proposed planned development.~~
- ~~n. Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.~~
- ~~o. A preliminary plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.~~

## §11-201(E)(9) Applications for Planned Development Concept Plan Approval

9. Applications for Planned Development Concept Plan Approval. Every application filed pursuant to Paragraph 11-503 D1 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a. A development name unique to the Oak Forest area for identification purposes.
  - b. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed planned development, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property, and a recent commitment for title insurance or ownership search certificate.
  - c. A map depicting municipal and special district boundaries where adjacent to or within the subject property.
  - d. A written statement addressing the following matters:
    - i. A general description of the proposed planned development, the planning objectives to be achieved by it, including the rationales and assumptions of the applicant supporting the proposed planned development, and the market it is intended to serve.
    - ii. How the proposed planned development is to be designed, arranged and operated so as not to adversely affect the development and use of neighboring property in accordance with applicable regulations of this Code.
  - e. Schematic, soft-line drawings of the proposed planned development concept, including public or private rights-of-way on or adjacent to the subject property, the proposed dimensions and locations of vehicular and pedestrian circulation and parking elements, public and private open space, and residential, commercial, office, industrial and other land uses, and the general locations of and purpose of all easements.
  - f. A Tax Impact Study indicating the possible tax consequences the proposed planned development will have upon the City and other affected taxing bodies.
  - g. A Traffic and Transit Impact Study including a list of new street construction and traffic control improvements necessary to accommodate the estimated increase in traffic and traffic related problems occasioned by the proposed development and a statement of the applicant's proposals for providing those needed improvements.
  - h. A preliminary engineering study showing the location and adequacy of existing and proposed sanitary sewer, storm sewer and water distribution systems.

- i. A written statement identifying existing natural and environmental resources and features on the subject property, including its topography, vegetation, soils, geology, and scenic view, and the impact of the proposed planned development on such resources and features, including proposals to preserve or protect such resources and features.
- j. Schematic, soft-line architectural elevations indicating the general style of architecture and typical building materials.
- k. A statement of the applicant's intent with respect to the ownership, sale and leasing of the various completed units, structures, spaces and areas within the proposed planned development.

## §11-201(E)(10) Applications for Planned Development Final Plan Approval

10. Application for Planned Development Final Plan Approval. Every application filed pursuant to Paragraph 11-~~56~~03 D~~2~~4 of this Article shall, in addition to the data and information required pursuant to Paragraph 1 and, where applicable, Paragraph 2 above, provide the following information:
- a. The date on which Development Concept Plan approvals were granted.
  - b. ~~An application for site plan approval pursuant to Section 11-604 of this Article. The materials and data listed in Paragraph 11-201(E)(11), as required for Site Plan Approval.~~
  - c. ~~A statement and plan for the proposed treatment of the perimeter of the proposed planned development, including materials and techniques to be used.~~
  - c. When the proposed planned development, or stage thereof, includes provision for public or common open space, a statement describing the provision made for the dedication or care and maintenance of such open space. If it is proposed that such open space be owned or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted. When the property is to be dedicated, a draft of the instrument of dedication shall be submitted.
  - d. Copies of any restrictive covenants to be recorded with respect to property included in the Final Plan.
  - e. A statement summarizing all changes that have been made, or have occurred, in any document, plan, data or information previously submitted, together with a revised copy of any such documents, plan or data.
  - f. ~~A final plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.~~
  - g. ~~All engineering data and drawings required in connection with an application for final subdivision approval under the Oak Forest Subdivision Ordinance (3 sets).~~
  - f. All certificates, seals and signatures required for the dedication of land and recordation of documents.
  - g. ~~Hard line elevations and floor plans.~~
  - g. Proof from appropriate governmental agencies that all taxes on the subject property have been paid and that all special assessments, taxes, and other levies against the subject property or any part thereof have been paid in full.

- h. If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.
- i. A detailed description of the financial assurances to be presented to guarantee completion of all public improvements and private open space to be provided in connection with the proposed planned development.
- j. Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.
- k. A preliminary plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.
- l. A final plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.

## §11-201(E)(10) Applications for Planned Development Final Plan Approval

10. Application for Planned Development Final Plan Approval. Every application filed pursuant to Paragraph 11-503 D2 of this Article shall, in addition to the data and information required pursuant to Paragraph 1 and, where applicable, Paragraph 2 above, provide the following information:
- a. The date on which Development Concept Plan approvals were granted.
  - b. The materials and data listed in Paragraph 11-201(E)(11), as required for Site Plan Approval
  - c. When the proposed planned development, or stage thereof, includes provision for public or common open space, a statement describing the provision made for the dedication or care and maintenance of such open space. If it is proposed that such open space be owned or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted. When the property is to be dedicated, a draft of the instrument of dedication shall be submitted.
  - d. Copies of any restrictive covenants to be recorded with respect to property included in the Final Plan.
  - e. A statement summarizing all changes that have been made, or have occurred, in any document, plan, data or information previously submitted, together with a revised copy of any such documents, plan or data.
  - f. All certificates, seals and signatures required for the dedication of land and recordation of documents.
  - g. Proof from appropriate governmental agencies that all taxes on the subject property have been paid and that all special assessments, taxes, and other levies against the subject property or any part thereof have been paid in full.
  - h. If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.
  - i. A detailed description of the financial assurances to be presented to guarantee completion of all public improvements and private open space to be provided in connection with the proposed planned development.
  - j. Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.

k. A preliminary plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.

l. A final plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.

## §11-503 Planned Developments

### 11-101: PLANNED DEVELOPMENTS

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section, and by ordinance duly adopted, grant special permits authorizing the development of planned developments, but only in the districts where such developments are listed as an authorized special permit use.
- B. Purpose. Planned developments are included in this Code as a distinct category of special use. As such, they are authorized for the same general purposes as all other special uses.

In particular, however, the planned development technique is intended to allow the relaxation of otherwise applicable substantive requirements based upon procedural protections providing for detailed review of individual proposals for significant developments. This special regulatory technique is included in this Code in recognition of the fact that traditional regulations, which may be useful in protecting the character of substantially developed and stable areas, may impose inappropriate pre-regulations and rigidities upon the development or redevelopment of parcels or areas that lend themselves to an individual, planned approach.

Through the flexibility of the planned development technique, the City seeks to achieve the following specific objectives:

1. Creation of a more desirable environment than would be possible through strict application of other City land use regulations.
  2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities.
  3. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion.
  4. Combination and coordination of architectural styles, building forms, and building relationships.
  5. Provision for the preservation and beneficial use of open space.
  6. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations.
  7. Encouragement of land uses that promote the public health, safety and general welfare.
- C. Parties Entitled to Seek Planned Development Approval. An application for special permit to permit a planned development may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.

~~1. Preliminary Consideration.~~

- ~~a) Preliminary Application. A preliminary application for a special permit to permit a planned development shall be filed in accordance with the requirements of Subsection 11-301 E1 of this Article.~~
- ~~b) Referral to Board. Every properly filed and completed preliminary application for a special permit to permit a planned development shall, before being processed in any other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~
- ~~c) Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

1. Development Concept Plan.

- a) Purpose. The Development Concept Plan is intended to provide the applicant an opportunity to submit a plan showing the basic scope, character and nature of the entire proposed planned development without incurring undue cost. The Development Concept Plan is the basis on which the required public hearing is held, thus permitting public consideration of the proposal at the earliest possible stage. In order to permit the City and the applicant to proceed with some assurance, approval of the Development Concept Plan binds the applicant and the City with respect to the following basic elements of development:
  - (i) Categories of uses to be permitted;
  - (ii) General location of residential and nonresidential land uses;
  - (iii) Overall maximum density of residential uses and intensity of

- nonresidential uses;
  - (iv) General architectural style of the proposed development;
  - (v) General location and extent of public and private open space, including recreational amenities;
  - (vi) General location of vehicular and pedestrian circulation systems;
  - (vii) Staging of development; and
  - (viii) Nature, scope and extent of public dedications, improvements or contributions to be provided by the applicant.
  
- b) Application. ~~Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~ formal application for approval of a Development Concept Plan shall be filed with the Community Development Director in accordance with the requirements of Paragraphs ~~11-301 A3 and~~ 11-2301 E9 of this Article. Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper form. No application for approval of a Development Concept Plan shall be filed unless the City Council shall have first reviewed a preliminary application for a special permit to permit a planned development in accordance with Paragraph D1 of this Section.
  
- c) Board Referral. ~~Every properly filed and completed application for approval of a Development Concept Plan shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article. After the Community Development Director has determined that an application for approval of a Development Concept Plan is in proper form, it shall be referred to the Planning and Zoning Commission for a public hearing.~~ The failure of the ~~City Council~~Community Development Director to act on a properly filed and completed application within thirty (30) days of ~~the Board's~~this or her receipt thereof, shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
  
- d) Public Hearing. In any case where an application for approval of a Development Concept Plan is referred by the ~~City Council~~Community Development Director pursuant to ~~Subsection 11-101(F)~~Subparagraph D2 of this Section, a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
  
- e) Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation, in the form specified by Subsection ~~11-104 B~~ 11-103 C of this Article that the Development Concept Plan either be approved, be approved subject to modifications, or not be approved.

The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a

recommendation for the **approval**denial of the Development Concept Plan as submitted.

- f) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application for approval of the Development Concept Plan; shall remand it back to the Planning and Zoning Commission for further consideration of specified matters; or shall, by resolution duly adopted, approve the Development Concept Plan, with or without modifications and conditions to be accepted by the applicant as a condition of such approval, and refer the matter to the **Planning and Zoning Commission**Community Development Director for processing of the Final Plan in accordance with Paragraph D24 of this Section.

The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying approval of the Development Concept Plan.

- g) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the tentative plant of the proposed subdivision shall be carried out simultaneously with review of the Development Concept Plan.

- h) **Limitation on Development Concept Plan Approval. An application for Final Plan approval shall be filed in accordance with Paragraph D2 below within one year after the approval of the Development Concept Plan. Failure to file a Final Plan application within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Development Concept Plan approval and all approvals of the planned development, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the Special Use Permit.**

- ~~i) Optional Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D4 below simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1 above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Planning and Zoning Commission and the City Council shall consider such plans simultaneously and shall grant or deny Final Plan Approval in accordance with the provisions of Paragraph D4 below.~~

2. Final Plan.

- a) Purpose. The Final Plan is intended to particularize, refine and implement

the Development Concept Plan and to serve as a complete, thorough and permanent public record of the planned development and the manner in which it is to be developed.

- b) Application. Upon approval of the Development Concept Plan, the applicant shall file an application for Final Plan approval **with the Community Development Director** in accordance with the requirements of Paragraph 11-~~23~~01 E10 of this Article. **Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper form.** The application shall refine, implement and be in substantial conformity with the approved Development Concept Plan.
- c) **Simultaneous Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D2 simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1 above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Planning and Zoning Commission and the City Council shall consider such plans simultaneously and shall grant or deny Final Plan Approval in accordance with the provisions of Paragraph D2.**
- d) Public Meeting. A public meeting shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- e) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the final plat of the proposed subdivision shall be carried out simultaneously with review of the Final Plan.
- f) Phasing of Final Plan Approval. An application for Final Plan approval may include the entire area included in the approved Development Concept Plan or one or more phases, stages or units thereof; provided, however, that the following matters must be addressed and provide in the first phase, stage or unit submitted for Final Plan approval:
  - (i) All public improvements required or proposed for the entire area included in the approved Development Concept Plan.
  - (ii) All open space required or proposed for the entire area included in the approved Development Concept Plan.
  - (iii) All land dedications required or proposed for the entire area included in the approved Development Concept Plan.
  - (iv) The payment of all fees required by this Code.
- g) Action by Planning and Zoning Commission.

- (i) Evaluation. Within sixty (60) days following the filing of an application for approval of a ~~F~~final Plan, the Planning and Zoning Commission shall with such aid and advice of such City staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:
  - (1) Whether the Final Plan is in substantial conformity with the approved Development Concept Plan;
  - (2) The merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Development Concept Plan;
  - (3) Whether the Final Plan complies with any and all conditions imposed by the approval of the Development Concept Plan; and
  - (4) Whether the Final Plan complies with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations.
  
- (ii) Approval Based on Substantial Conformity. If the Planning and Zoning Commission finds substantial conformity between the Final Plan and the approved Development Concept Plan and further finds the Final Plan to be in all other respects complete and in compliance with any and all conditions imposed by approval of the Development Concept Plan and with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations, it shall transmit the plan to the City Council with its recommendation, in the form specified in Subsection ~~11-104 B 11-103 C~~ of this Article, that the Board approve the Final Plan, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
  
- (iii) Recommendation of Denial. In any case where the Planning and Zoning Commission finds that the Final Plan is not in substantial conformity with the approved Development Concept Plan and does not merit approval, or in any case where it requires modifications of a plan that are not accepted by the applicant, the Planning and Zoning Commission shall transmit the plan to the City Council together with its recommendation and specific reasons in support of its recommendation, in the form specified in Subsection ~~11-104 B 11-103 C~~ of this Article, that the Final Plan not be approved.
  
- (iv) Failure to Act. The failure of the Planning and Zoning Commission to act within the 60 day period specified in Subparagraph ~~D4D3(f)(i4)~~ of this section, or such further time to which the applicant may agree, shall be deemed to be a recommendation to the City Council to ~~approve~~deny the Final Plan as submitted.
  
- h) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall take action in accordance with the following Paragraphs:

- (i) Approval Based on Substantial Conformity. If the Planning and Zoning Commission has recommended approval of a Final Plan pursuant to Subparagraph D3(~~ge~~)(ii2) of this Section, the City Council shall, unless it specifically rejects one or more of the findings of the Planning and Zoning Commission on the basis of expressly stated reasons, approve the Final Plan by a duly adopted ordinance.
  - (ii) Approval Notwithstanding Planning and Zoning Commission Recommendation of Denial. If the Planning and Zoning Commission has recommended denial of a Final Plan pursuant to Subparagraph D3(~~ge~~)(iii3) of this Section, the City Council may, if it finds that the Final Plan merits approval and otherwise conforms to the requirements of this Code, approve the Final Plan by a duly adopted ordinance.
  - (iii) Referral Back to Planning and Zoning Commission. ~~In any case other than that specified in Subparagraph D3(f)(i) - (j)~~ The City Council may refer the Final Plan back to the Planning and Zoning Commission for further consideration of specified matters.
  - (iv) Conditions on Final Plan Approval. The approval of any Final Plan may, in addition, be granted, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
  - (v) Failure to Act. The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval.
- i) Recording of Final Plan. When a Final Plan is approved, the Community Development Director shall cause the Final Plan, or the portions thereof as are appropriate, to be recorded with the Recorder of Deeds of Cook County.
  - j) Limitation on Final Plan Approval. Construction shall commence in accordance with the approved Final Plan within one year after the approval of such Plan, or within such shorter time as may be established by the approved development schedule. Failure to commence construction within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Final Plan approval and all approvals of the planned development and all permits based on such approvals, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the special use permit for all portions of the Planned Development that have not yet been completed.
  - k) Building and Other Permits. Appropriate officials of the City may, upon, but not before, receiving notice from the Community Development Director that the documents required for Final Plan approval have been approved, and

upon proper application by the applicant, issue building and other permits to the applicant for the development, construction and other work in the area encompassed by the approved Final Plan; provided however, that no permit shall be issued unless the appropriate official is first satisfied that the requirements of any codes or ordinances of the City, in addition to this Code, that are applicable to the permit sought have been satisfied.

Building permits may, however, be withheld at the discretion of the Community Development Director or the City Council at any time it is determined that the development of the planned development is not proceeding in strict compliance with the approved Final Plan.

E. Standards for Planned Developments.

1. Special Use Permit Standards. No special use permit for a planned development shall be recommended or granted pursuant to this Section unless the applicant shall establish that the proposed development will meet each of the standards made applicable to special ~~permit~~-uses pursuant to Subsection 11-5602 of this Article.
2. Additional Standards for All Planned Developments. No special use permit for a planned development shall be recommended or granted unless the applicant shall establish that the proposed development will meet each of the following additional standards:
  - a) Unified Ownership Required. The entire property proposed for planned development treatment shall be in single ownership or under such unified control as to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.
  - b) Minimum Area. The district regulations of this Code establishing standards for particular types of planned development specify the minimum area required for same planned development. In addition to meeting that specific standard, or where no specific standard is set, the applicant shall have the burden of establishing that the subject property is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives for which planned developments may be established pursuant to this Section.
  - c) Covenants and Restrictions to be Enforceable by City. All covenants, deed restrictions, easements and similar restrictions to be recorded in connection with the planned development shall provide that they may not be modified, removed or released without the express consent of the City Council and that they may be enforced by the City as well as by future landowners within the proposed development.
  - d) Public Open Space and Contributions. Whenever the Official Comprehensive Plan or Official Map indicates that development of a

planned development will create a need for land for public purposes of the City within the proposed planned development, the City Council may require that such area be designated and to the extent such need is specifically and uniquely attributable to the proposed development, dedicated to the City for such use. In addition, the City Council may require evidence that all requirements of City ordinances pertaining to the dedication of land or the contribution of cash in connection with subdivisions or developments of land have been met as respects the proposed planned development.

e) Common Open Space.

- (i) Amount, Location and Use. The failure of a planned development to provide common open space shall be considered to be an indication that it has not satisfied the objectives for which such developments may be approved pursuant to this Code. When common open space is provided in a planned development, the amount and location of such open space shall be consistent with its intended function as set forth in the application and planned development plans. No such open space shall be used for the construction of any structure or improvement except such structures and improvements as may be approved in the Final Plan as appropriate to the intended leisure and recreational uses for which such open space is intended.
- (ii) Preservation. Adequate safeguards, including recorded covenants or dedication of development rights, shall be provided to prevent the subsequent use of common open space for any use, structure, improvement or development other than that shown on the approved Final Plan. The restrictions must be permanent and not for a given period of years and must run with the land.
- (iii) Ownership and Maintenance. The Final Plan shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation in accordance with predetermined standards and to ensure that remedial measures will be available to the City if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the planned development or the City.
- (iv) Property Owners' Association. When the requirements of the preceding Subparagraph are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:
  - (1) The by-laws and rules of the association and all declarations, covenants and restrictions to be recorded must be approved as part of the Detailed Plan prior to becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Subparagraph.
  - (2) The association must be established and all covenants and

- restrictions recorded prior to the sale of any property within the area of the planned development designated to have the exclusive use of the proposed open space or improvements.
- (3) The association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to it.
  - (4) Membership in the association must be mandatory for each property owner, and any successive owner, having a right to the use or enjoyment of such open space or improvements.
  - (5) Every property having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the requirements for becoming a lien on the property in accordance with statutes of the State of Illinois.
  - (6) The association must have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than 51 percent of the members voting on the issue.
  - (7) The City must be given the right to enforce the covenants.
  - (8) The City must be given the right, after ten days' written notice to the association, to perform any maintenance or repair work that the association has neglected to perform, to assess the membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the City shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.
- f) Landscaping and Perimeter Treatment. Any area of a planned development not used for structures or circulation elements shall be landscaped or otherwise improved. The perimeter of the planned development shall be treated so as to ensure compatibility with surrounding uses by means such as provision of compatible uses and structures; setbacks; screening; or natural or manmade buffers. Every planned development shall provide a perimeter landscaped open space along each of its boundaries; each such open space shall have a minimum depth equal to the minimum applicable yard required in the district in which it is located.
- g) Private Streets. Private streets shall be permitted in a planned development provided that:
- (i) Said streets shall be treated as public streets and rights of way for purposes of all setbacks, yards and calculations under this Code.
  - (ii) Said streets shall be owned and maintained by a property owners' association meeting the requirements set forth in Subparagraph E2(e)(4) above; and
  - (iii) A covenant shall be recorded against the subject property acknowledging that the City shall at no time be under any obligation to provide maintenance for or accept dedication of said streets.

- h) Utilities. All utility lines shall be installed underground.
- 3. Additional Standards for Specific Planned Developments. Where the district regulations authorizing any planned development use in a particular district impose standards to be met by such planned development in such district, a special permit for such development shall not be recommended or granted unless the applicant shall establish compliance with such special standards.
- F. Conditions on Planned Development Approvals. The approval of either a Development Concept Plan or a Final Plan may be conditioned on such matters as the approving body may find necessary to prevent or minimize any possible adverse effects of the proposed planned development; or to ensure its compatibility with surrounding uses and development and its consistency with the general purposes, goals and objectives of this Code, the Subdivision Ordinance and the Official Comprehensive Plan. Such conditions shall be expressly set forth in the ordinance or resolution granting the approval in question. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of all approvals granted for the planned development.
- G. Affidavit of Compliance With Conditions; Fee. Whenever any planned development approval granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- H. Regulation During and Following Completion of Development. Following Final Plan approval, in the event of an express conflict between the provisions of the Final Plan and this Code, the Final Plan shall control. This Code shall control in all other instances.
- I. Inspections During Development.
  - 1. Inspections by Community Development Director. Following approval of the Final Plan of a planned development, or any stage thereof, the Community Development Director shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved plans for development and with the approved development schedule.
  - 2. Action by Community Development Director. If the Community Development Director finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the Final Plan, the Community Development Director shall immediately notify the City Council of such fact and may, if necessary to protect the public health, safety or welfare or to prevent further violation of this Code and the Final Plan, issue an order stopping any and all work on the planned development until such time as any noncompliance is cured.
  - 3. Action by City Council. Within sixty (60) days following notification by the Community Development Director, the City Council shall either:
    - a) Take such steps as it deems necessary to compel compliance with the Final

Plan; or

- b) Require the owner or applicant to seek an adjustment to the Final Plan as provided in Subsection ~~JK~~ of this Section.

J. Adjustments to Final Plan During Development

1. Minor Adjustments. During the development of a planned development, the Community Development Director may authorize minor adjustments to the Final Plan when such adjustments appear necessary in light of the technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:
  - a) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth of the distance shown on the approved Final Plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the planned development, whichever is less;
  - b) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved Final Plan between such circulation element and any structure, whichever is less;
  - c) Altering the location of any open space by not more than twenty (20) feet;
  - d) Altering any final grade by not more than ten percent (10%) of the originally planned grade; and
  - e) Altering the location or type of landscaping elements.
  - f) Such minor adjustments shall be consistent with the intent and purpose of this Code and the Final Plan as approved, shall be the minimum necessary to overcome the particular difficulty and shall not be approved if they would result in a violation of any standard or requirement of this Code.
2. Major Adjustments. Any adjustment to the Final Plan not authorized by Paragraph J1 above shall be considered a major adjustment and shall be granted only upon application to and approval by, the City Council. The City Council may, by ordinance duly adopted, grant approval for a major adjustment without a hearing upon finding that any changes in the Final Plan as approved will be in substantial conformity with said Final Plan. If the City Council determines that a major adjustment is not in substantial conformity with the Final Plan as approved, then the Board may refer the request to the Plan Commission for further hearing, review and recommendation.

- K. Amendments to Final Plan Following **Approval or** Completion of Development. After the **approval or** completion of a planned development, an approved Final Plan may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-~~56~~03 for approval of the planned development.

**1. Major Amendments.** Major amendments are modifications which alter the concept or intent of the approved Final Plan. Any one of the following shall be considered a Major Amendment to a Final Plan. Requests for Major Amendments shall be reviewed in accordance with Paragraph D2 of this Section. These amendments shall include, but not be limited to:

a. Significant changes which include increases in density, increases in height and/or bulk of buildings, a major reduction in the size of the proposed buildings, increases or major decreases in the number of buildings and/or lots, reductions in the amount of proposed open space, any roadway changes, changes in the final governing agreements, provisions or covenants, or other changes which change the concept or intent of the development.

b. Significant changes to the parking location, access plan, building or parking setback areas, landscape plans, or approved conditions.

c. Any changes to the designated land use or uses which either are not consistent with the written statement filed and approved as part of the Development Concept Plan, as required by Subparagraph 11-201 E9(d) of this Code, or would require a Special Use Permit approval in the property's underlying zoning classification.

d. Any changes which would result in a variation in the underlying zoning classification not otherwise approved in the Final Plan, as authorized by Paragraph 11-403 E2 of this Code.

**2. Minor Amendments.** Minor amendments are modifications not defined as major amendments and do not alter the concept or intent of the Final Plan. Requests for minor amendments shall be reviewed in accordance with Section 11-203 of this code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:

a. Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; reducing the amount of parking spaces provided by not more than twenty (20) percent than what was approved in the Final Plan; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management

facilities without altering the concept or intent of the Final Plan.

b. Any alteration of approved conditions applicable to the planned development that would constitute as a reduction to the mitigation of the potential negative impact the planned development would otherwise have on adjacent properties.

c. Any change that results in a variation to this Code as permitted in Paragraph 11-403 E1 of this Code or increase the extent of a previously granted variation from this Code.

d. Any other minor change that would otherwise not be considered a Major Amendment, as defined Paragraph K1.

## §11-503 Planned Developments

### 11-503: PLANNED DEVELOPMENTS

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section, and by ordinance duly adopted, grant special permits authorizing the development of planned developments, but only in the districts where such developments are listed as an authorized special permit use.
- B. Purpose. Planned developments are included in this Code as a distinct category of special use. As such, they are authorized for the same general purposes as all other special uses.

In particular, however, the planned development technique is intended to allow the relaxation of otherwise applicable substantive requirements based upon procedural protections providing for detailed review of individual proposals for significant developments. This special regulatory technique is included in this Code in recognition of the fact that traditional regulations, which may be useful in protecting the character of substantially developed and stable areas, may impose inappropriate pre-regulations and rigidities upon the development or redevelopment of parcels or areas that lend themselves to an individual, planned approach.

Through the flexibility of the planned development technique, the City seeks to achieve the following specific objectives:

1. Creation of a more desirable environment than would be possible through strict application of other City land use regulations.
  2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities.
  3. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion.
  4. Combination and coordination of architectural styles, building forms, and building relationships.
  5. Provision for the preservation and beneficial use of open space.
  6. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations.
  7. Encouragement of land uses that promote the public health, safety and general welfare.
- C. Parties Entitled to Seek Planned Development Approval. An application for special permit to permit a planned development may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.
1. Development Concept Plan.

- a) Purpose. The Development Concept Plan is intended to provide the applicant an opportunity to submit a plan showing the basic scope, character and nature of the entire proposed planned development without incurring undue cost. The Development Concept Plan is the basis on which the required public hearing is held, thus permitting public consideration of the proposal at the earliest possible stage. In order to permit the City and the applicant to proceed with some assurance, approval of the Development Concept Plan binds the applicant and the City with respect to the following basic elements of development:
- (i) Categories of uses to be permitted;
  - (ii) General location of residential and nonresidential land uses;
  - (iii) Overall maximum density of residential uses and intensity of nonresidential uses;
  - (iv) General architectural style of the proposed development;
  - (v) General location and extent of public and private open space, including recreational amenities;
  - (vi) General location of vehicular and pedestrian circulation systems;
  - (vii) Staging of development; and
  - (viii) Nature, scope and extent of public dedications, improvements or contributions to be provided by the applicant.
- b) Application. A formal application for approval of a Development Concept Plan shall be filed with the Community Development Director in accordance with the requirements of Paragraph 11-201 E9 of this Article. Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper form.
- c) Referral. After the Community Development Director has determined that an application for approval of a Development Concept Plan is in proper form, it shall be referred to the Planning and Zoning Commission for a public hearing. The failure of the Community Development Director to act on a properly filed and completed application within thirty (30) days of his or her receipt thereof, shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
- d) Public Hearing. In any case where an application for approval of a Development Concept Plan is referred by the Community Development Director pursuant to Subsection 11-101(F), a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- e) Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation, in the form specified by Subsection 11-104 B of this Article that the Development Concept Plan either be approved, be approved subject to modifications, or not be approved.

The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the denial of the Development Concept Plan as submitted.

- f) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application for approval of the Development Concept Plan; shall remand it back to the Planning and Zoning Commission for further consideration of specified matters; or shall, by resolution duly adopted, approve the Development Concept Plan, with or without modifications and conditions to be accepted by the applicant as a condition of such approval, and refer the matter to the Community Development Director for processing of the Final Plan in accordance with Paragraph D2 of this Section.

The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying approval of the Development Concept Plan.

- g) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the tentative plant of the proposed subdivision shall be carried out simultaneously with review of the Development Concept Plan.
- h) Limitation on Development Concept Plan Approval. An application for Final Plan approval shall be filed in accordance with Paragraph D2 below within one year after the approval of the Development Concept Plan. Failure to file a Final Plan application within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Development Concept Plan approval and all approvals of the planned development, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the Special Use Permit.

## 2. Final Plan.

- a) Purpose. The Final Plan is intended to particularize, refine and implement the Development Concept Plan and to serve as a complete, thorough and permanent public record of the planned development and the manner in which it is to be developed.
- b) Application. Upon approval of the Development Concept Plan, the applicant shall file an application for Final Plan approval with the Community Development Director in accordance with the requirements of Paragraph 11-201 E10 of this Article. Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper

form. The application shall refine, implement and be in substantial conformity with the approved Development Concept Plan.

- c) Simultaneous Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D2 simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1 above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Planning and Zoning Commission and the City Council shall consider such plans simultaneously and shall grant or deny Final Plan Approval in accordance with the provisions of Paragraph D2.
  
- d) Public Meeting. A public meeting shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
  
- e) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the final plat of the proposed subdivision shall be carried out simultaneously with review of the Final Plan.
  
- f) Phasing of Final Plan Approval. An application for Final Plan approval may include the entire area included in the approved Development Concept Plan or one or more phases, stages or units thereof; provided, however, that the following matters must be addressed and provide in the first phase, stage or unit submitted for Final Plan approval:
  - (i) All public improvements required or proposed for the entire area included in the approved Development Concept Plan.
  - (ii) All open space required or proposed for the entire area included in the approved Development Concept Plan.
  - (iii) All land dedications required or proposed for the entire area included in the approved Development Concept Plan.
  - (iv) The payment of all fees required by this Code.
  
- g) Action by Planning and Zoning Commission.
  - (i) Evaluation. Within sixty (60) days following the filing of an application for approval of a Final Plan, the Planning and Zoning Commission shall with such aid and advice of such City staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:
    - (1) Whether the Final Plan is in substantial conformity with the approved Development Concept Plan;

- (2) The merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Development Concept Plan;
  - (3) Whether the Final Plan complies with any and all conditions imposed by the approval of the Development Concept Plan; and
  - (4) Whether the Final Plan complies with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations.
- (ii) Approval Based on Substantial Conformity. If the Planning and Zoning Commission finds substantial conformity between the Final Plan and the approved Development Concept Plan and further finds the Final Plan to be in all other respects complete and in compliance with any and all conditions imposed by approval of the Development Concept Plan and with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations, it shall transmit the plan to the City Council with its recommendation, in the form specified in Subsection 11-104 B of this Article, that the Board approve the Final Plan, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
  - (iii) Recommendation of Denial. In any case where the Planning and Zoning Commission finds that the Final Plan is not in substantial conformity with the approved Development Concept Plan and does not merit approval, or in any case where it requires modifications of a plan that are not accepted by the applicant, the Planning and Zoning Commission shall transmit the plan to the City Council together with its recommendation and specific reasons in support of its recommendation, in the form specified in Subsection 11-104 B of this Article, that the Final Plan not be approved.
  - (iv) Failure to Act. The failure of the Planning and Zoning Commission to act within the 60 day period specified in Subparagraph D3(f)(i) of this section, or such further time to which the applicant may agree, shall be deemed to be a recommendation to the City Council to deny the Final Plan as submitted.
- h) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall take action in accordance with the following Paragraphs:
- (i) Approval Based on Substantial Conformity. If the Planning and Zoning Commission has recommended approval of a Final Plan pursuant to Subparagraph D3(g)(ii) of this Section, the City Council shall, unless it specifically rejects one or more of the findings of the Planning and Zoning Commission on the basis of expressly stated reasons, approve the Final Plan by a duly adopted ordinance.
  - (ii) Approval Notwithstanding Planning and Zoning Commission Recommendation of Denial. If the Planning and Zoning Commission has recommended denial of a Final Plan pursuant to

Subparagraph D3(g)(iii) of this Section, the City Council may, if it finds that the Final Plan merits approval and otherwise conforms to the requirements of this Code, approve the Final Plan by a duly adopted ordinance.

- (iii) Referral Back to Planning and Zoning Commission. The City Council may refer the Final Plan back to the Planning and Zoning Commission for further consideration of specified matters.
  - (iv) Conditions on Final Plan Approval. The approval of any Final Plan may, in addition, be granted, with or without modifications and conditions to be accepted by the applicant as a condition of approval.
  - (v) Failure to Act. The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval.
- i) Recording of Final Plan. When a Final Plan is approved, the Community Development Director shall cause the Final Plan, or the portions thereof as are appropriate, to be recorded with the Recorder of Deeds of Cook County.
  - j) Limitation on Final Plan Approval. Construction shall commence in accordance with the approved Final Plan within one year after the approval of such Plan, or within such shorter time as may be established by the approved development schedule. Failure to commence construction within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Final Plan approval and all approvals of the planned development and all permits based on such approvals, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the special use permit for all portions of the Planned Development that have not yet been completed.
  - k) Building and Other Permits. Appropriate officials of the City may, upon, but not before, receiving notice from the Community Development Director that the documents required for Final Plan approval have been approved, and upon proper application by the applicant, issue building and other permits to the applicant for the development, construction and other work in the area encompassed by the approved Final Plan; provided however, that no permit shall be issued unless the appropriate official is first satisfied that the requirements of any codes or ordinances of the City, in addition to this Code, that are applicable to the permit sought have been satisfied.

Building permits may, however, be withheld at the discretion of the Community Development Director or the City Council at any time it is determined that the development of the planned development is not proceeding in strict compliance with the approved Final Plan.

E. Standards for Planned Developments.

1. Special Use Permit Standards. No special use permit for a planned development shall be recommended or granted pursuant to this Section unless the applicant shall establish that the proposed development will meet each of the standards made applicable to special uses pursuant to Section 11-502 of this Article.
2. Additional Standards for All Planned Developments. No special use permit for a planned development shall be recommended or granted unless the applicant shall establish that the proposed development will meet each of the following additional standards:
  - a) Unified Ownership Required. The entire property proposed for planned development treatment shall be in single ownership or under such unified control as to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.
  - b) Minimum Area. The district regulations of this Code establishing standards for particular types of planned development specify the minimum area required for same planned development. In addition to meeting that specific standard, or where no specific standard is set, the applicant shall have the burden of establishing that the subject property is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives for which planned developments may be established pursuant to this Section.
  - c) Covenants and Restrictions to be Enforceable by City. All covenants, deed restrictions, easements and similar restrictions to be recorded in connection with the planned development shall provide that they may not be modified, removed or released without the express consent of the City Council and that they may be enforced by the City as well as by future landowners within the proposed development.
  - d) Public Open Space and Contributions. Whenever the Official Comprehensive Plan or Official Map indicates that development of a planned development will create a need for land for public purposes of the City within the proposed planned development, the City Council may require that such area be designated and to the extent such need is specifically and uniquely attributable to the proposed development, dedicated to the City for such use. In addition, the City Council may require evidence that all requirements of City ordinances pertaining to the dedication of land or the contribution of cash in connection with subdivisions or developments of land have been met as respects the proposed planned development.
  - e) Common Open Space.
    - (i) Amount, Location and Use. The failure of a planned development to provide common open space shall be considered to be an indication that it has not satisfied the objectives for which such

developments may be approved pursuant to this Code. When common open space is provided in a planned development, the amount and location of such open space shall be consistent with its intended function as set forth in the application and planned development plans. No such open space shall be used for the construction of any structure or improvement except such structures and improvements as may be approved in the Final Plan as appropriate to the intended leisure and recreational uses for which such open space is intended.

- (ii) Preservation. Adequate safeguards, including recorded covenants or dedication of development rights, shall be provided to prevent the subsequent use of common open space for any use, structure, improvement or development other than that shown on the approved Final Plan. The restrictions must be permanent and not for a given period of years and must run with the land.
- (iii) Ownership and Maintenance. The Final Plan shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation in accordance with predetermined standards and to ensure that remedial measures will be available to the City if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the planned development or the City.
- (iv) Property Owners' Association. When the requirements of the preceding Subparagraph are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:
  - (1) The by-laws and rules of the association and all declarations, covenants and restrictions to be recorded must be approved as part of the Detailed Plan prior to becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Subparagraph.
  - (2) The association must be established and all covenants and restrictions recorded prior to the sale of any property within the area of the planned development designated to have the exclusive use of the proposed open space or improvements.
  - (3) The association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to it.
  - (4) Membership in the association must be mandatory for each property owner, and any successive owner, having a right to the use or enjoyment of such open space or improvements.
  - (5) Every property having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the

requirements for becoming a lien on the property in accordance with statutes of the State of Illinois.

- (6) The association must have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than 51 percent of the members voting on the issue.
- (7) The City must be given the right to enforce the covenants.
- (8) The City must be given the right, after ten days' written notice to the association, to perform any maintenance or repair work that the association has neglected to perform, to assess the membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the City shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.

f) Landscaping and Perimeter Treatment. Any area of a planned development not used for structures or circulation elements shall be landscaped or otherwise improved. The perimeter of the planned development shall be treated so as to ensure compatibility with surrounding uses by means such as provision of compatible uses and structures; setbacks; screening; or natural or manmade buffers. Every planned development shall provide a perimeter landscaped open space along each of its boundaries; each such open space shall have a minimum depth equal to the minimum applicable yard required in the district in which it is located.

g) Private Streets. Private streets shall be permitted in a planned development provided that:

- (i) Said streets shall be treated as public streets and rights of way for purposes of all setbacks, yards and calculations under this Code.
- (ii) Said streets shall be owned and maintained by a property owners' association meeting the requirements set forth in Subparagraph E2(e)(4) above; and
- (iii) A covenant shall be recorded against the subject property acknowledging that the City shall at no time be under any obligation to provide maintenance for or accept dedication of said streets.

h) Utilities. All utility lines shall be installed underground.

3. Additional Standards for Specific Planned Developments. Where the district regulations authorizing any planned development use in a particular district impose standards to be met by such planned development in such district, a special permit for such development shall not be recommended or granted unless the applicant shall establish compliance with such special standards.

F. Conditions on Planned Development Approvals. The approval of either a Development Concept Plan or a Final Plan may be conditioned on such matters as the approving body may find necessary to prevent or minimize any possible adverse effects of the proposed planned development; or to ensure its compatibility with surrounding uses and

development and its consistency with the general purposes, goals and objectives of this Code, the Subdivision Ordinance and the Official Comprehensive Plan. Such conditions shall be expressly set forth in the ordinance or resolution granting the approval in question. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of all approvals granted for the planned development.

- G. Affidavit of Compliance With Conditions; Fee. Whenever any planned development approval granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- H. Regulation During and Following Completion of Development. Following Final Plan approval, in the event of an express conflict between the provisions of the Final Plan and this Code, the Final Plan shall control. This Code shall control in all other instances.
- I. Inspections During Development.
1. Inspections by Community Development Director. Following approval of the Final Plan of a planned development, or any stage thereof, the Community Development Director shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved plans for development and with the approved development schedule.
  2. Action by Community Development Director. If the Community Development Director finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the Final Plan, the Community Development Director shall immediately notify the City Council of such fact and may, if necessary to protect the public health, safety or welfare or to prevent further violation of this Code and the Final Plan, issue an order stopping any and all work on the planned development until such time as any noncompliance is cured.
  3. Action by City Council. Within sixty (60) days following notification by the Community Development Director, the City Council shall either:
    - a) Take such steps as it deems necessary to compel compliance with the Final Plan; or
    - b) Require the owner or applicant to seek an adjustment to the Final Plan as provided in Subsection J of this Section.
- J. Adjustments to Final Plan During Development
1. Minor Adjustments. During the development of a planned development, the Community Development Director may authorize minor adjustments to the Final Plan when such adjustments appear necessary in light of the technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:

- a) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth of the distance shown on the approved Final Plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the planned development, whichever is less;
- b) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved Final Plan between such circulation element and any structure, whichever is less;
- c) Altering the location of any open space by not more than twenty (20) feet;
- d) Altering any final grade by not more than ten percent (10%) of the originally planned grade; and
- e) Altering the location or type of landscaping elements.
- f) Such minor adjustments shall be consistent with the intent and purpose of this Code and the Final Plan as approved, shall be the minimum necessary to overcome the particular difficulty and shall not be approved if they would result in a violation of any standard or requirement of this Code.

2. Major Adjustments. Any adjustment to the Final Plan not authorized by Paragraph J1 above shall be considered a major adjustment and shall be granted only upon application to and approval by, the City Council. The City Council may, by ordinance duly adopted, grant approval for a major adjustment without a hearing upon finding that any changes in the Final Plan as approved will be in substantial conformity with said Final Plan. If the City Council determines that a major adjustment is not in substantial conformity with the Final Plan as approved, then the Board may refer the request to the Plan Commission for further hearing, review and recommendation.

K. Amendments to Final Plan Following Approval or Completion of Development. After the approval or completion of a planned development, an approved Final Plan may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-503 for approval of the planned development.

1. Major Amendments. Major amendments are modifications which alter the concept or intent of the approved Final Plan. Any one of the following shall be considered a Major Amendment to a Final Plan. Requests for Major Amendments shall be reviewed in accordance with Paragraph D2 of this Section. These amendments shall include, but not be limited to:

- a. Significant changes which include increases in density, increases in height and/or bulk of buildings, a major reduction in the size of the proposed buildings, increases or major decreases in the number of buildings and/or lots, reductions in the amount of proposed open space, any roadway changes, changes in the final governing agreements, provisions or covenants, or other changes which change the concept or intent of the development.

- b. Significant changes to the parking location, access plan, building or parking setback areas, landscape plans, or approved conditions.
  - c. Any changes to the designated land use or uses which either are not consistent with the written statement filed and approved as part of the Development Concept Plan, as required by Subparagraph 11-201 E9(d) of this Code, or would require a Special Use Permit approval in the property's underlying zoning classification.
  - d. Any changes which would result in a variation in the underlying zoning classification not otherwise approved in the Final Plan, as authorized by 11 403 E2 of this Code.
2. Minor Amendments. Minor amendments are modifications not defined as major amendments and do not alter the concept or intent of the Final Plan. Requests for minor amendments shall be reviewed in accordance with Section 11-203 of this code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:
- a. Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; reducing the amount of parking spaces provided by not more than twenty (20) percent than what was approved in the Final Plan; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management facilities without altering the concept or intent of the Final Plan.
  - b. Any alteration of approved conditions applicable to the planned development that would constitute as a reduction to the mitigation of the potential negative impact the planned development would otherwise have on adjacent properties.
  - c. Any change that results in a variation to this Code as permitted in Paragraph 11-403 E1 of this Code or increase the extent of a previously granted variation from this Code.
  - d. Any other minor change that would otherwise not be considered a Major Amendment, as defined Subparagraph K1.

## §11-501 Amendments

### 11-501: AMENDMENTS

- A. Authority. This Code and the Zoning Map may be amended from time to time by ordinance duly enacted by the City Council in accordance with the procedures set out in this Section.
- B. Purpose. The amendment process established by this Section is intended to provide a means for making changes in the text of this Code and in the Zoning Map that have more or less general significance or application. It is not intended to relieve particular hardships nor to confer special privileges or rights. Rather, it is intended as a tool to adjust the provisions of this Code and Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.
- C. Parties Entitled to Seek Amendments. An application for an amendment may be filed by the City Council, the Planning and Zoning Commission, the owner of, or any person having a contractual interest in, any property to be affected by a proposed amendment to the Zoning Map, or any person interested in a proposed amendment to the text of this Code.
- D. Procedure.

~~1. Preliminary consideration.~~

~~(a) Preliminary Application. A preliminary application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraph 11-301 E1 of this article.~~

~~(b) Referral to Board. Every properly filed and completed preliminary application for an amendment to this Code or the Zoning Map shall, before being processed in any other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~

~~(c) Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review~~

~~of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

~~(d) — Specified Public Bodies Exempt. Amendments proposed by the City Council, Planning and Zoning Commission shall not be subject to the provisions of this Subsection.~~

~~2. — Formal consideration.~~

1. ~~Formal Application. Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~ formal application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraphs ~~11-301 A3 and~~ 11-~~23~~01 E6 of this Article for a code amendment and 11-~~23~~01 E8 of this Article for a map amendment. Except as expressly provided otherwise herein, no ~~formal~~ application for an amendment to this Code or to the Zoning Map shall be heard ~~filed~~ unless the ~~City Council~~ Community Development Director shall have first reviewed a preliminary application for such amendment in accordance with Subsection 11-101(F) Paragraph D1 of this Section Code.
2. ~~Board Referral. Every properly filed and completed formal application for an amendment to this Code or the Zoning Map shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article.~~ The failure of the ~~City Council~~ Community Development Director to act on a properly filed and completed formal application within 30 days of ~~the Board's his or her~~ receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
3. Public Hearing. In any case where a formal application for an amendment to this Code or the Zoning Map is referred by the ~~City Council~~ Community Development Director pursuant to Subsection 11-101(F) Subparagraph D2(b) of this Section, a public hearing shall be set, noticed, and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of the Article.
4. Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in the form specified by Subsection 11-10~~43~~ BC of this Article.

The failure of the Commission to act within 21 days following the conclusion of such hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval denial of the proposed amendment as submitted.

5. Action by City Council; Protest. Within sixty (60) days following the receipt of the

recommendation of the Plan Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, adopt the proposed amendment, with or without modifications; provided, however, that in the event a duly signed and acknowledged protest against a proposed amendment is filed with the City Clerk before the adoption of such amendment by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed amendment, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such amendment shall not be passed except by a two-thirds vote of the City Council.

The failure of the City Council to act within sixty (60) days or such further time to which the applicant may agree, shall be deemed to be a decision denying the application.

E. Standard for Amendments. The wisdom of amending the Zoning Map or the text of this Code is a matter committed to the legislative discretion of the City Council and is not dictated by any set standard. However, in determining whether a proposed amendment should be granted or denied, the Board should be guided by the principle that its power to amend this Code is not an arbitrary one but one that may be exercised only when the public good demands or requires the amendment to be made. In considering whether that principle is satisfied in any particular case, the Board should weigh the following factors; ~~that Paragraph 11-301 E8 requires the applicant to address.~~

1. The consistency of the proposed amendment with the purposes of this Code.
2. The community need for the proposed amendment and for the uses and development it would allow.
3. If a specific parcel of property is the subject of the proposed amendment, then the following factors:
  - (a) Existing Uses And Classifications: the existing uses and zoning classifications for properties in the immediate vicinity of the subject property.
  - (b) Trend Of Development: the trend of development in the immediate vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.
  - (c) Diminution Of Values: the extent to which the value of the subject property is diminished by the existing zoning classification applicable to it.
  - (d) Increase In Health, Safety, And Welfare: the extent, to which any such diminution in value is offset by an increase in the public health, safety, and welfare.

**(e) Effects On Adjacent Properties:** the extent to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.

**(f) Value Of Adjacent Properties:** the extent to which the value of adjacent properties would be affected by the proposed amendment.

**(g) Future Development:** the extent to which the future orderly development of adjacent properties would be affected by the proposed amendment.

**(h) Suitability Of Text Amendment:** the suitability of the proposed text amendment for the zoning district in which the amendment is being proposed.

**(i) Ingress And Egress:** the availability, where relevant, of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.

**(j) Utilities And Services:** the availability, where relevant, of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present zoning classification.

**(k) Length Of Vacancy:** the length of time that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.

**(l) Positive Effect:** the proposed amendment creating a positive effect for the zoning district, its purposes, and adjacent properties shall be placed before the benefits of the petitioner.

## §11-501 Amendments

### 11-501: AMENDMENTS

- A. Authority. This Code and the Zoning Map may be amended from time to time by ordinance duly enacted by the City Council in accordance with the procedures set out in this Section.
- B. Purpose. The amendment process established by this Section is intended to provide a means for making changes in the text of this Code and in the Zoning Map that have more or less general significance or application. It is not intended to relieve particular hardships nor to confer special privileges or rights. Rather, it is intended as a tool to adjust the provisions of this Code and Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.
- C. Parties Entitled to Seek Amendments. An application for an amendment may be filed by the City Council, the Planning and Zoning Commission, the owner of, or any person having a contractual interest in, any property to be affected by a proposed amendment to the Zoning Map, or any person interested in a proposed amendment to the text of this Code.
- D. Procedure.
1. Application. A formal application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraphs 11-201 E6 of this Article for a code amendment and 11-201E8 of this Article for a map amendment. Except as expressly provided otherwise herein, no application for an amendment to this Code or to the Zoning Map shall be heard unless the Community Development Director shall have first reviewed an application for such amendment in accordance with Subsection 11-101(F) of this Code.
  2. Referral. The failure of the Community Development Director to act on a properly filed and completed formal application within 30 days of his or her receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
  3. Public Hearing. In any case where a formal application for an amendment to this Code or the Zoning Map is referred by the Community Development Director pursuant to Paragraph 11-101(F), a public hearing shall be set, noticed, and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of the Article.
  4. Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in the form specified by Subsection 11-104 B of this Article.  
  
The failure of the Commission to act within 21 days following the conclusion of such hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the denial of the proposed amendment as submitted.
  5. Action by City Council; Protest. Within sixty (60) days following the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted,

adopt the proposed amendment, with or without modifications; provided, however, that in the event a duly signed and acknowledged protest against a proposed amendment is filed with the City Clerk before the adoption of such amendment by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed amendment, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such amendment shall not be passed except by a two-thirds vote of the City Council.

The failure of the City Council to act within sixty (60) days or such further time to which the applicant may agree, shall be deemed to be a decision denying the application.

E. Standard for Amendments. The wisdom of amending the Zoning Map or the text of this Code is a matter committed to the legislative discretion of the City Council and is not dictated by any set standard. However, in determining whether a proposed amendment should be granted or denied, the Board should be guided by the principle that its power to amend this Code is not an arbitrary one but one that may be exercised only when the public good demands or requires the amendment to be made. In considering whether that principle is satisfied in any particular case, the Board should weigh the following factors:

1. The consistency of the proposed amendment with the purposes of this Code.
2. The community need for the proposed amendment and for the uses and development it would allow.
3. If a specific parcel of property is the subject of the proposed amendment, then the following factors:
  - (a) Existing Uses And Classifications: the existing uses and zoning classifications for properties in the immediate vicinity of the subject property.
  - (b) Trend Of Development: the trend of development in the immediate vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.
  - (c) Diminution Of Values: the extent to which the value of the subject property is diminished by the existing zoning classification applicable to it.
  - (d) Increase In Health, Safety, And Welfare: the extent, to which any such diminution in value is offset by an increase in the public health, safety, and welfare.
  - (e) Effects On Adjacent Properties: the extent to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.
  - (f) Value Of Adjacent Properties: the extent to which the value of adjacent properties would be affected by the proposed amendment.

- (g) Future Development: the extent to which the future orderly development of adjacent properties would be affected by the proposed amendment.
- (h) Suitability Of Text Amendment: the suitability of the proposed text amendment for the zoning district in which the amendment is being proposed.
- (i) Ingress And Egress: the availability, where relevant, of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.
- (j) Utilities And Services: the availability, where relevant, of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present zoning classification.
- (k) Length Of Vacancy: the length of time that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.
- (l) Positive Effect: the proposed amendment creating a positive effect for the zoning district, its purposes, and adjacent properties shall be placed before the benefits of the petitioner.

## §11-502 Special Use Permits

### 11-502: SPECIAL USE PERMITS

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section and by ordinance duly adopted, grant special use permits authorizing the development of uses listed as special ~~permit~~ uses in the regulations applicable to the district in which the subject property is located.
- B. Purpose. Special ~~permit~~ uses are those uses having some special impact or uniqueness that require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- C. Parties Entitled to Seek Special Use Permits. An application for a special use permit may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.

#### 1. ~~Preliminary consideration.~~

~~(a) Preliminary Application. A preliminary application for a special permit shall be filed in accordance with the requirements of Subsection 11-301 E1 of this article.~~

~~(b) Referral to Board. Every properly filed and completed preliminary application for a special permit shall, before being processed in any other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~

~~(c) Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~(e) At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only~~

~~preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

~~(f) Specified Public Bodies Exempt. Special permits proposed by the City Council, Planning and Zoning Commission shall not be subject to the provisions of this Subsection.~~

## ~~2. FORMAL CONSIDERATION.~~

- ~~1. Formal Application. Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~An application for a special use permit shall be filed in accordance with the requirements of Paragraphs ~~11-301 A3 and~~ 11-~~23~~01 E7 of this Article. Except as expressly provided otherwise herein, no ~~formal~~ application for a special use permit shall ~~be filed~~proceed to a public hearing until unless the ~~City Council~~ Community Development Director ~~have has~~ first reviewed ~~a preliminary the said~~ application ~~for such special permit~~ in accordance with ~~Subsection Paragraph~~ D111-101(F) and ~~determined that it is in proper form of this section~~
- ~~2. Board Referral. Every properly filed and completed formal application for a special permit shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article. The failure of the City Council~~Community Development Director to act on a properly filed and completed application within 30 days of ~~the Board's his or her~~ receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
- ~~3. Public Hearing. In any case where a formal application for a special use permit is referred by the City Council~~Community Development Director pursuant to ~~Subparagraph D2(b)~~Subsection 11-101(F) of this Section, a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- ~~4. Action by Planning and Zoning Commission. Within 21 days following conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection~~ ~~11-103 C11-104 B~~ of this Article, recommending either granting the application for a special use permit; granting the application subject to conditions, as specified in Subsection F below; or denying the application.
- ~~5. The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the~~ ~~approval~~denial of the proposed special use permit.
- ~~6. Action by City Council; Protest. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as~~

above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the special use permit, with or without modifications or conditions; provided, however, that in the event a duly signed and acknowledged protest against the proposed special use permit is filed with the City Clerk by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed special use permit, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such ordinance shall not be adopted except by a two-thirds vote of the City Council.

E. Standards for Special **Use** Permits.

1. General Standards. No special use permit shall be recommended or granted pursuant to this Section unless the applicant shall establish that:
  - a. Code and Plan Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established and with the general purpose and intent of the Official Comprehensive Plan.
  - b. No Undue Adverse Impact. The proposed use, drainage and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare.
  - c. No Interference With Surrounding Development. The proposed use and development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.
  - d. Adequate Public Facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools, or the applicant will provide adequately for such services.
  - e. No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
  - f. No Destruction of Significant Features. The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic feature of significant importance.
  - g. Compliance With Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
2. Special Standards for Specified Special **Permit** Uses. Where the district

regulations authorizing any special ~~permit~~ use in a particular district impose special standards to be met by such use in such district, a permit for such use in such district shall not be recommended or granted unless the applicant shall establish compliance with such special standards.

3. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Planning and Zoning Commission shall consider:
  - a. Public Benefit. Whether, and to what extent, the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community; and
  - b. Mitigation of Adverse Impacts. Whether, and to what extent, all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping and screening.

F. Conditions; Periodic Review; Term.

1. Conditions on Special Use Permits. In order to prevent or minimize substantial or undue adverse effects upon neighboring and adjacent properties and improvements, substantial or undue or upon public facilities and services, the Plan Commission may recommend, and the City Council may impose, and expressly include in the ordinance granting a special use permit, conditions and limitations upon the premises benefited by a special use permit. Such conditions, restrictions, and limitations may include, without limitation, the following:
  - a) limitations and restrictions of the use of the subject property;
  - b) restrictions on construction activity that will occur on and around the subject property;
  - c) conditions concerning the character and design of the proposed use and development;
  - d) the location of the use within the subject property;
  - e) the provision of landscaping and screening, with specificity as to design, quantity, quality, size and location;
  - f) restrictions on the hours of operation of the use;
  - g) a requirement that the subject property be developed and used in strict accordance with a site plan that is attached to the ordinance granting the special use permit; and
  - h) any other matters relating to the purposes and objectives of this Code.

2. Violation of Conditions. Violation of any of the conditions imposed pursuant to Paragraph 11-502 F1 of this Code shall be a violation of this Code and shall constitute grounds for revocation of the special use permit.
  3. Periodic Review. The Planning and Zoning Commission may recommend, and the City Council may impose, a requirement that the special use permit be publicly reviewed periodically pursuant to and in accordance with such procedures as are set forth in the ordinance granting the special use permit. In every instance, such procedures shall provide the applicant with advance notice of, and an opportunity to be heard at, such periodic review.
  4. Term of Special Use Permit. Because of the unique operational nature, and potential unknown adverse impacts, of certain special ~~permit~~-uses, the Planning and Zoning Commission may recommend, and the City Council may impose, a term limitation on the duration of certain special ~~permit~~-uses. Such term limitation shall (a) be set forth in the ordinance granting the special use permit and (b) shall be subject to renewal in accordance with Subsection 11-502 LK of this Code.
- G. Affidavit of Compliance With Conditions. Whenever any special use permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- H. Effect of Issuance of a Special Use Permit. The granting of a special use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the Codes and Ordinances of the City, including but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and subdivision approval.
- I. Limitations on Special Use Permits. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, no special use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is there-after diligently pursued to completion or unless a Certificate of Occupancy is issued and a use ~~commended~~commenced within that period. A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of ~~sixtwelve~~ (612) consecutive months or more. Except when otherwise provided in the Ordinance granting a special use permit, a special use permit shall be deemed to relate to, and be for the benefit of, the current owner or operator of the use or lot in question rather than to the lot itself. Should a new owner or operator purchase the real property and seek to operate the special use in a manner that is in substantial conformance with that of the prior operation, then the new owner or operator shall be allowed to submit a written request to the Community Development Director for a Transfer of Special Use Permit in accordance with Subsection J below.

J. Transfer of Special Use Permit. A request for Transfer of Special Use Permit shall be filed on an application as provided by the Community Development Director. Within 21 days of receiving a complete application, the Community Development Director, shall have the sole discretion to approve, approve with conditions, or deny the application subject to the requirements of this Subsection J.

1. Affidavit of Acknowledgement and Compliance Agreement. The new owner or operator shall, as part of the application for Transfer of Special Use Permit, submit a signed and notarized affidavit in a form provided by the Community Development Director affirming the following:

a) That the new owner or operator is aware of and in agreement with all of the conditions imposed on the original special use permit as approved.

b) That the new owner or operator shall not affect or increase the intensity of the original operation.

c) That the Transfer of Special Use Permit shall be null and void in accordance with Paragraph F2 of this Section.

d) That the new owner or operator agrees to comply with Sections 9-104 (Off-Street Parking) and 9-107 (Buffers and Landscaping) of this Code is directed to do so by the Community Development Director prior to Certificate of Occupancy issuance.

2. Request for Minor Change as Part of Transfer of Special Use Permit. Should the new owner or operator decline to sign an affidavit as described above, or if the Community Development Director denies an application, he or she may file a request for a Minor or Major Amendment in accordance with Subsection K below.

K. Amendments to Special Use Permits. A special use permit may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-502 for its original approval as follows:

1. Major Amendments to Special Use Permits. Major amendments are modifications which alter the concept, intent, or intensity of the special use. Any one of the following shall be considered a major amendment to a special use. Requests for major amendments shall be reviewed in accordance with Subsection D of this Section. These amendments shall include, but not be limited to:

a) Significant changes to the parking location, access plan, building or parking setback areas, or landscaping plans which alter the intent or concept of the special use approved for the site as determined by the Community Development Director. Such significant changes shall include, but not be limited to:

relocating the parking location from the rear of the building to either side of the building or to the front; relocating the building from the center of the site to the front, rear, or side of the site; enlarging or reducing any front, side, or rear yards or setbacks by more than twenty percent (20%); eliminating any previously required landscaping serving as screening of the special use from adjacent properties; and adding or eliminating any point of ingress or egress to and from the site which changes the circulation of the site internally and the impact of the use on the transportation system.

b) Any increase in the intensity of the special use which alters the intent or concept of the special use. Such an increase in the intensity shall include, but not be limited to: an increase in the number of vehicles to be served on a site at one time; an increase in the maximum number of customers to be served; and an increase in the net floor area by greater than twenty percent (20%).

2. Minor Amendments to Special Use Permits. Minor amendments are modifications not defined as major amendments and do not alter the concept, intent, or intensity of the special use. Requests for minor amendments shall be reviewed in accordance with Section 11-203 of this Code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:

a) Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; changes to the hours of operation if previously limited in the original special use permit; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management facilities without altering the concept, intent, or intensity of the special use.

b) Any alteration of approved conditions applicable to the special use that would constitute a reduction to the mitigation of the potential negative impact the use would otherwise have on adjacent properties.

- L. Renewal of Special Use Permits. The City Council may, in accordance with the procedures and standards set out in this Subsection, consider requests for renewal of special use permits. An application for the renewal of a special use permit must be filed by the party to whom a special use permit was granted, or a permitted successor thereto or assignee thereof, and must be filed prior to the date on which the term of the special use permit is scheduled to expire. The City Council may consider such request at a public hearing following notice pursuant to Subparagraph 11-203 B3(c) of this Code. The City Council may, but shall have no obligation to, seek the recommendation of another board or commission of the City prior to such consideration. In the event that the party requesting such renewal demonstrates, to the satisfaction of the City Council, that the standards and circumstances under which the special use permit was originally approved have not materially changed, then the City Council shall, by ordinance duly adopted, renew the special use permit for the same period of time for which the special use permit was first valid. In the event that the City Council determines that the standards and circumstances under which the special use permit was originally approved have materially changed, the City Council shall have no obligation to renew the special use permit.

## §11-502 Special Use Permits

### 11-502: SPECIAL USE PERMITS

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section and by ordinance duly adopted, grant special use permits authorizing the development of uses listed as special uses in the regulations applicable to the district in which the subject property is located.
- B. Purpose. Special uses are those uses having some special impact or uniqueness that require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- C. Parties Entitled to Seek Special Use Permits. An application for a special use permit may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.
1. Application. An application for a special use permit shall be filed in accordance with the requirements of Paragraph 11-201 E7 of this Article. Except as expressly provided otherwise herein, no application for a special use permit shall proceed to a public hearing until the Community Development Director has first reviewed the said application in accordance with Subsection 11-101(F) and determined that it is in proper form.
  2. Referral. The failure of the Community Development Director to act on a properly filed and completed application within 30 days of this or her receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
  3. Public Hearing. In any case where a formal application for a special use permit is referred by the Community Development Director pursuant to Subsection 11-101(F), a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
  4. Action by Planning and Zoning Commission. Within 21 days following conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection 11-104 B of this Article, recommending either granting the application for a special use permit; granting the application subject to conditions, as specified in Subsection F below; or denying the application.  
  
The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the denial of the proposed special use permit.
  5. Action by City Council; Protest. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the special use permit, with or without modifications or

conditions; provided, however, that in the event a duly signed and acknowledged protest against the proposed special use permit is filed with the City Clerk by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed special use permit, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such ordinance shall not be adopted except by a two-thirds vote of the City Council.

E. Standards for Special Use Permits.

1. General Standards. No special use permit shall be recommended or granted pursuant to this Section unless the applicant shall establish that:
  - a. Code and Plan Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established and with the general purpose and intent of the Official Comprehensive Plan.
  - b. No Undue Adverse Impact. The proposed use, drainage and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare.
  - c. No Interference With Surrounding Development. The proposed use and development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.
  - d. Adequate Public Facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools, or the applicant will provide adequately for such services.
  - e. No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.
  - f. No Destruction of Significant Features. The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic feature of significant importance.
  - g. Compliance With Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
2. Special Standards for Specified Special Uses. Where the district regulations authorizing any special use in a particular district impose special standards to be met by such use in such district, a permit for such use in such district shall not be

recommended or granted unless the applicant shall establish compliance with such special standards.

3. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Planning and Zoning Commission shall consider:

- a. Public Benefit. Whether, and to what extent, the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community; and
- b. Mitigation of Adverse Impacts. Whether, and to what extent, all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping and screening.

F. Conditions; Periodic Review; Term.

1. Conditions on Special Use Permits. In order to prevent or minimize substantial or undue adverse effects upon neighboring and adjacent properties and improvements, substantial or undue or upon public facilities and services, the Plan Commission may recommend, and the City Council may impose, and expressly include in the ordinance granting a special use permit, conditions and limitations upon the premises benefited by a special use permit. Such conditions, restrictions, and limitations may include, without limitation, the following:

- A) limitations and restrictions of the use of the subject property;
- B) restrictions on construction activity that will occur on and around the subject property;
- C) conditions concerning the character and design of the proposed use and development;
- D) the location of the use within the subject property;
- E) the provision of landscaping and screening, with specificity as to design, quantity, quality, size and location;
- F) restrictions on the hours of operation of the use;
- G) a requirement that the subject property be developed and used in strict accordance with a site plan that is attached to the ordinance granting the special use permit; and
- H) any other matters relating to the purposes and objectives of this Code.

2. Violation of Conditions. Violation of any of the conditions imposed pursuant to Paragraph 11-502 F1 of this Code shall be a violation of this Code and shall constitute grounds for revocation of the special use permit.
  3. Periodic Review. The Planning and Zoning Commission may recommend, and the City Council may impose, a requirement that the special use permit be publicly reviewed periodically pursuant to and in accordance with such procedures as are set forth in the ordinance granting the special permit. In every instance, such procedures shall provide the applicant with advance notice of, and an opportunity to be heard at, such periodic review.
  4. Term of Special Use Permit. Because of the unique operational nature, and potential unknown adverse impacts, of certain special uses, the Planning and Zoning Commission may recommend, and the City Council may impose, a term limitation on the duration of certain special uses. Such term limitation shall (a) be set forth in the ordinance granting the special use permit and (b) shall be subject to renewal in accordance with Subsection 11-502 L of this Code.
- G. Affidavit of Compliance With Conditions. Whenever any special use permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- H. Effect of Issuance of a Special Use Permit. The granting of a special use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the Codes and Ordinances of the City, including but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and subdivision approval.
- I. Limitations on Special Use Permits. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, no special use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is there-after diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period. A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of twelve (12) consecutive months or more. Except when otherwise provided in the Ordinance granting a special use permit, a special use permit shall be deemed to relate to, and be for the benefit of, the current owner or operator of the use or lot in question rather than to the lot itself. Should a new owner or operator purchase the real property and seek to operate the special use in a manner that is in substantial conformance with that of the prior operation, then the new owner or operator shall be allowed to submit a written request to the Community Development Director for a Transfer of Special Use Permit in accordance with Section J below.

J. Transfer of Special Use Permit. A request for Transfer of Special Use Permit shall be filed on an application as provided by the Community Development Director. Within 21 days of receiving a complete application, the Community Development Director shall have the sole discretion to approve, approve with conditions, or deny the application subject to the requirements of this Subsection J.

1. Affidavit of Acknowledgement and Compliance Agreement. The new owner or operator shall, as part of the application for Transfer of Special Use Permit, submit a signed and notarized affidavit in a form provided by the Community Development Director affirming the following:

- a) That the new owner or operator is aware of and in agreement with all of the conditions imposed on the original special use permit as approved.
- b) That the new owner or operator shall not affect or increase the intensity of the original operation.
- c) That the Transfer of Special Use Permit shall be null and void in accordance with Paragraph F2 of this Section.
- d) That the new owner or operator agrees to comply with Sections 9 104 (Off-Street Parking) and 9-107 (Buffers and Landscaping) of this Code is directed to do so by the Community Development Director prior to Certificate of Occupancy issuance.

2. Request for Minor Change as Part of Transfer of Special Use Permit. Should the new owner or operator decline to sign an affidavit as described above, or if the Community Development Director denies an application, the new owner or operator may file a request for a Minor or Major Amendment in accordance with Subsection K below.

K. Amendments to Special Use Permits. A special use permit may be amended, varied or altered only as follows:

1. Major Amendments to Special Use Permits. Major amendments are modifications which alter the concept, intent, or intensity of the special use. Any one of the following shall be considered a major amendment to a special use. Requests for major amendments shall be reviewed in accordance with Paragraph D of this Section. These amendments shall include, but not be limited to:

- a) Significant changes to the parking location, access plan, building or parking setback areas, or landscaping plans which alter the intent or concept of the special use approved for the site as determined by the Community Development Director. Such significant changes shall include, but not be limited to: relocating the parking location from the rear of the building to either side of the building or to the front; relocating the building from the center of the site to the front, rear, or side of the site; enlarging or reducing any front, side, or rear yards or setbacks by more than twenty percent (20%); eliminating any previously required landscaping serving as screening of the special use from adjacent

properties; and adding or eliminating any point of ingress or egress to and from the site which changes the circulation of the site internally and the impact of the use on the transportation system.

- b) Any increase in the intensity of the special use which alters the intent or concept of the special use. Such an increase in the intensity shall include, but not be limited to: an increase in the number of vehicles to be served on a site at one time; an increase in the maximum number of customers to be served; and an increase in the net floor area by greater than twenty percent (20%).

2. Minor Amendments to Special Use Permits. Minor amendments are modifications not defined as major amendments and do not alter the concept, intent, or intensity of the special use. Requests for minor amendments shall be reviewed in accordance with 11-203 of this Code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:

- a. Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; changes to the hours of operation if previously limited in the original special use permit; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management facilities without altering the concept, intent, or intensity of the special use.
- b. Any alteration of approved conditions applicable to the special use that would constitute a reduction to the mitigation of the potential negative impact the use would otherwise have on adjacent properties.

L. Renewal of Special Use Permits. The City Council may, in accordance with the procedures and standards set out in this Subsection, consider requests for renewal of special use permits. An application for the renewal of a special use permit must be filed by the party to whom a special use permit was granted, or a permitted successor thereto or assignee thereof, and must be filed prior to the date on which the term of the special use permit is scheduled to expire. The City Council may consider such request at a public hearing following notice pursuant to Subparagraph 11-203 B3(c) of this Code. The City Council may, but shall have no obligation to, seek the recommendation of another board or commission of the City prior to such consideration. In the event that the party requesting such renewal demonstrates, to the satisfaction of the City Council, that the standards and circumstances under which the special use permit was originally approved have not materially changed, then the City Council shall, by ordinance duly adopted, renew the special use permit for the same period of time for which the special use permit was first valid. In the event that the City Council determines that the standards and circumstances under which the special use permit was originally approved have materially changed, the City Council shall have no obligation to renew the special use permit.

# SPECIAL USE PERMIT TRANSFER REQUEST



Special Permit Transfer applications are processed on an "as requested" basis and may take up to twenty-one (21) business days for review by the Director of Economic and Community Development.

**MANDATORY SUBMITTAL MATERIALS**

- Copy of the original ordinance/approval for the Special Use Permit.
- This form and all attachments, completed in their entirety. (A request will be considered incomplete and will not be reviewed otherwise.)
- Fee as required on the Invoice & Fee Worksheet.

**INSTRUCTIONS**

1. Complete this form and all attachments.
2. Turn in to the Clerk's Office of Oak Forest with the required fee and a completed Business License Application.
3. The Community Development Department will call to schedule an on-site inspection with the Building, Fire, and Community Development Departments.
4. Following the inspection, a copy of this original application with pages 5-6 will be returned to you via email.
5. If items are listed on page 5, as required by the Director of Community and Economic Development, they are to be completed in conjunction with any items also required by the Building and Fire Departments prior to Certificate of Occupancy and Business License Application.

**BUSINESS TO RECEIVE SPECIAL USE PERMIT TRANSFER**

BUSINESS NAME	
ADDRESS	CITY/STATE/ZIP
PHONE	EMAIL

**CURRENT SPECIAL USE PERMIT HOLDER (OWNER/OPERATOR)**

NAME	
ADDRESS	CITY/STATE/ZIP
PHONE	EMAIL

**NEW SPECIAL USE PERMIT HOLDER (APPLICANT)**

BUSINESS NAME	
NAME OF TRANSFER HOLDER	
ADDRESS	CITY/STATE/ZIP
PHONE	EMAIL

# APPLICANT AFFIDAVIT



## APPLICANT AFFIDAVIT

I swear and affirm that I am the owner/lessee of \_\_\_\_\_,  
which is the subject of the request for a Special Use Permit Transfer for  
Ordinance \_\_\_\_\_.

I affirm that I am thoroughly familiar with and will abide by the terms and conditions of the original permit.

NAME OF APPLICANT	
ADDRESS	CITY/STATE/ZIP
PHONE	EMAIL

APPLICANT'S SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

APPLICANT'S NAME PRINTED \_\_\_\_\_ DATE: \_\_\_\_\_

## NOTARIAL STATEMENT

Personally appeared before me person(s) of the above name(s), who swear that the information contained in this affidavit is true and correct to their best knowledge and belief.

NOTARY'S SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

NOTARY'S SEAL \_\_\_\_\_

# OWNER/OPERATOR STATEMENT



## OWNER/OPERATOR STATEMENT

I swear and affirm that I am/was the owner/operator of the property subject to the proposed Special Use Permit Transfer. I hereby grant the Special Use Permit Transfer to

\_\_\_\_\_.

NAME OF OWNER/OPERATOR

ADDRESS

CITY/STATE/ZIP

PHONE

EMAIL

OWNER/OPERATOR'S SIGNATURE

DATE:

OWNER/OPERATOR'S NAME PRINTED

DATE:

## NOTARIAL STATEMENT

Personally appeared before me person(s) of the above name(s), who swear that the information contained in this Owner/Operator Statement is true and correct to their best knowledge and belief.

NOTARY'S SIGNATURE

DATE:

NOTARY'S SEAL

# AUTHORIZATION TO INSPECT PREMISES



## AUTHORIZATION TO INSPECT PREMISES

With the signature below, I authorize the Director of Economic and Community Development Director of the City of Oak Forest, or his/her designee, to inspect the premises located at the address below, which are the subject of this Special Use Permit Transfer.

NAME OF APPLICANT

ADDRESS

CITY/STATE/ZIP

PHONE

EMAIL

APPLICANT'S SIGNATURE

DATE:

APPLICANTS'S NAME PRINTED

DATE:

## NOTARIAL STATEMENT

Personally appeared before me person(s) of the above name(s), who swear that the information contained in this Authorization to Inspect Premises is true and correct to their best knowledge and belief.

NOTARY'S SIGNATURE

DATE:

NOTARY'S SEAL

DRAFT

# AGREEMENT TO COMPLIANCE



## AGREEMENT TO COMPLIANCE

With the signature below, I affirm that I agree to any and all conditions required of me in accordance with Section 11-502(J) of the Oak Forest Zoning Ordinance, which are listed herein.

NAME OF APPLICANT	
ADDRESS	CITY/STATE/ZIP
PHONE	EMAIL

APPLICANT'S SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

APPLICANT'S NAME PRINTED \_\_\_\_\_ DATE: \_\_\_\_\_

## CONDITIONS

I, \_\_\_\_\_, the Director of Economic and Community Development, find the following in regard to the premises located at

\_\_\_\_\_, which are the subject of this Special Use Permit Transfer:

- That the property is in compliance with the conditions listed in the original permit
- That the property is not in compliance with the conditions as listed in the original permit
- That the following additional items must be completed prior to the issuance of a Certificate of Occupancy and Business License:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DIRECTOR'S SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

DIRECTOR'S NAME PRINTED \_\_\_\_\_ DATE: \_\_\_\_\_

**NOTARIAL STATEMENT**

Personally appeared before me person(s) of the above name(s), who swear that the information contained in this Agreement to Compliance is true and correct to their best knowledge and belief.

NOTARY'S SIGNATURE

DATE:

NOTARY'S SEAL

DRAFT

## §11-403 Variations

### 11-403: VARIATIONS

- A. Authority. The Planning and Zoning Commission, ~~and in the cases specified in Paragraph D4 of this Section, the City Council,~~ shall have the authority to grant variations ~~from the provisions of this Code, but only in compliance with the procedures set forth in Subsection D of this Section and in those specific instances enumerated in Subsection D of this Section and in those specific instances enumerated in Subsection E of this Section and then only in accordance with each of the standards enumerated in Subsection F of this Section under Paragraph E1 of this Section. The City Council shall have the authority to grant variations under Paragraph E2 of this Section.~~
- B. Purpose. The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Code that create practical difficulties or particular hardships. When such difficulties or hardships are more appropriate for remedy, if at all, pursuant to other provisions of this Article XI, the variation procedure is necessarily inappropriate.
- C. Parties Entitled to Seek Variations. Applications for variations may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.
1. Application. Applications for variations shall be filed in accordance with the requirements of ~~Paragraph Section~~ 11-~~23~~01 ~~E5~~ of this Article.
  2. Public Hearing. A public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
  3. Action by Planning and Zoning Commission. ~~In the cases specified in Paragraph 11-403 E1, w~~In the cases specified in Paragraph 11-403 E1, wWithin ~~35-21~~ days following the close of the public hearing, the Planning and Zoning Commission shall render its decision, granting or denying the variation, in the manner and form specified by Subsection 11-103 ~~BC~~ of this Article.  
  
The failure of the Planning and Zoning Commission to act within ~~2135~~ days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.  
  
In the cases specified in Paragraph D4 of this Subsection and in Paragraph 11-403 E2, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection 11-103 B of this Article, recommending either granting the application for a variation; granting the application subject to conditions; or denying the application.
  4. Action by City Council. ~~Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the variation, with or without modifications or conditions.~~

5. Special Procedures in Connection With Other Applications. Whenever any other application is filed pursuant to this Code or the Oak Forest Subdivision and Development Code (20140) as a companion to an application for a variation and such companion application requires final approval by the City Council, the authority to hear and decide the application for variation otherwise delegated to the Planning and Zoning Commission pursuant to this Section may, pursuant to the request of the applicant or the Community Development Director made at the time of the filing of the applicant's ~~preliminary~~ application, be reserved to the City Council. Whenever any application for a variation requires final approval by the City Council, the authority to ~~hear and~~ decide the application for variation shall be reserved to the City Council. For such purposes, the City Council shall have all of the authority granted to, and shall be subject to all of the limitations imposed on, the Planning and Zoning Commission by this Section; provided, however, that the provisions governing public notice and hearing of, and action on, the companion application or the provisions of Paragraphs D2 and D3 of this Section that provide the broadest public notice shall govern.

E. Authorized Permitted Variations.

1. Permitted Variations as approved by the Planning and Zoning Commission. ~~The Planning and Zoning Commission may vary the provisions of this Code in the following cases and in no others, in accordance with Subsection D above. Subject to the prohibitions set forth in Paragraph E2 below, and subject to the other provisions of this Section, the Planning and Zoning Commission may vary the provisions of this Code in the following cases and in no others; provided, however, that only the City Council may vary the provisions of this Code as provided in Subparagraphs E1(j), E1(n) and E1(q) below:~~
  - a. To reduce the dimension of any required yard or setback of a lot of record existing at the time that the application for the variation is submitted;
  - b. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 90 percent of the required area and width, and only on a lot of record existing at the time that the application for the variation is submitted;
  - c. To increase the maximum allowable height of any fence;
  - d. To reduce by not more than 25 percent, or one space, whichever is greater, the minimum number of off-street parking spaces or loading spaces otherwise required;
  - e. To increase by not more than one sign the maximum number of signs of any functional type otherwise allowed;
  - f. To allow illumination of residential recreational facilities;
  - g. To allow the moving of a pre-code structure to an extent or in a manner not permitted by Subsection 10-104 B of this Code;

h. To allow the otherwise prohibited restoration of a partially damaged or destroyed pre-code structure or structure devoted to a nonconforming use;

~~i. To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:~~

~~(i) The lot or lots for which the variation is sought are the result of a proposed subdivision that includes one or more existing nonconforming lots of record;~~

~~(ii) The application for a proposed subdivision is submitted concurrently with the application for variation;~~

~~(iii) The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;~~

~~(iv) The area of the lots for which a variation is sought is not less than 115% of the required lot area;~~

~~(v) The creation of new lots does not increase the degree of nonconformity as to width that exists in the existing nonconforming lot or lots at the time of application; and~~

~~(vi) The number of lots for which the variation is sought does not exceed either the number of nonconforming lots to be subdivided for the proposed subdivision or thirty percent (30%) of the total number of lots created by the proposed subdivision, whichever is less.~~

~~Any variation granted pursuant to this Subparagraph shall run only to the applicant, as a personal privilege.~~

i. To allow yard variations in excess of those permitted by Section 10-105 of this Code in connection with the development of a legal nonconforming lot of record;

j. To increase, by not more than five (5) feet or not more than one (1) story or both, the maximum allowable height of a principal residential structure in the R4 Single Family Residential District (provided that in no event shall the maximum allowable height with such a variation exceed 35 feet or three stories, whichever is less) where such structure meets all of the following conditions: (i) it is to be located in whole or in part in the flood plain, (ii) it is a replacement for a residential structure that was destroyed or damaged, by any means not within the control of the owner thereof, to the extent of fifty percent or more of the market value of the structure, (iii) it is a replacement for a residential structure that had a basement prior to such damage or destruction, and (iv) a basement cannot be constructed in the replacement structure because the lowest floor of such structure is required by this Code or other applicable law to be constructed at or above the base flood elevation.

k. To reduce the bulk, yard, setback and space requirements when a zoning lot, whether vacant or legally used, is reduced in size, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance made under the specific threat of an eminent domain proceeding, so that the remainder of said zoning lot, or any structure or use on said zoning lot, does not conform with one or more

of such bulk, yard, setback or space requirements of the district in which said zoning lot is located.

- I. To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:
  - i. The application for a proposed subdivision is submitted concurrently with the application for variation;
  - ii. The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;
  - iii. The area of the lots for which a variation is sought is not less than 115 percent of the required lot area; and
  - iv. The lot width of the lots created by the proposed subdivision is not less than the lot width of 75 percent of the remaining lots along the same frontage as the proposed new lots.
  - v. Any variation granted pursuant to this subparagraph shall run only to the applicant, as a personal privilege.

~~m. To permit a reduction of the required lot width for property that is annexed to the City pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.~~

m. To increase the maximum height of an alteration to, or enlargement of, a principal single-family detached residential pre-code structure located in a single-family residential district authorized pursuant to Paragraph 10-104 B2 of this Code, but in no event to a height exceeding the otherwise applicable district height limitations.

n. To reduce the minimum number of off-street parking spaces required to serve a new non-residential use within a structure located within a Special Parking Area in the Gateway Redevelopment Sub-Area.

~~o. To permit fences in front yards of properties within single family residential districts no greater than three (3) feet in height.~~

~~p. To permit fences in front and corner yards of properties within all other districts no greater than three (3) feet in height.~~

~~q. To reduce the minimum lot area of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by twenty (20) percent; or to reduce the minimum frontage of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by ten (10) percent.~~

2. Permitted Variations as approved by the City Council. Subject to the prohibitions set forth in Paragraph E4 below, and subject to the other

provisions of this Section, the City Council may vary the provisions of this Code in the following cases, in accordance with Subsection D above:

- a) To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:
    - (i) The lot or lots for which the variation is sought are the result of a proposed subdivision that includes one or more existing nonconforming lots of record;
    - (ii) The application for a proposed subdivision is submitted concurrently with the application for variation;
    - (iii) The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;
    - (iv) The area of the lots for which a variation is sought is not less than 115% of the required lot area;
    - (v) The creation of new lots does not increase the degree of nonconformity as to width that exists in the existing nonconforming lot or lots at the time of application; and
    - (vi) The number of lots for which the variation is sought does not exceed either the number of nonconforming lots to be subdivided for the proposed subdivision or thirty percent (30%) of the total number of lots created by the proposed subdivision, whichever is less.  
Any variation granted pursuant to this Subparagraph shall run only to the applicant, as a personal privilege.
  - B) To permit a reduction of the required lot width for property that is annexed to the City pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.
  - c) To reduce the minimum lot area of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by twenty (20) percent; or to reduce the minimum frontage of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by ten (10) percent.
  - d) To increase, by not more than one (1) story, the maximum allowable height of a principal structure in any non-residential district, provided that the increase in height by one (1) story shall not require a related increase to the maximum allowable height in feet of the same district.
  - e) To permit a variation to any other provision of this Code.
3. Administrative Variations. A request to reduce the minimum front, side or rear yard setback requirement, or to reduce the maximum height requirement of accessory structures, by less than twelve (12) inches may be approved by the Community Development Director or his/her designee.
4. Prohibited Variations. Notwithstanding any other provision of this Section, no

variation shall be granted that:

- a. Is intended as a temporary measure only; or
- b. Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

F. Standards for Variations.

1. General Standard. No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection F.
2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.
3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or his predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.
4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the sale of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.
6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would not be in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.
7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:

- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development value of property or improvements permitted in the vicinity;
  - b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity;
  - c. Would substantially increase congestion in the public streets due to traffic or parking;
  - d. Would unduly increase the danger of flood or fire;
  - e. Would unduly tax public utilities and facilities in the area; or
  - f. Would endanger the public health and safety.
8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.
- G. Variation Less Than Requested. A variation less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- H. Conditions on Variations. The Zoning Board of Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variation. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the variation.
- I. Affidavit of Compliance with Conditions; Fee. Whenever any variation authorized pursuant to this Section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- J. Effect of Grant of Variation. The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the Codes and Ordinances of the City, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.
- K. Limitations on Variations. Subject to an extension of time granted by the Community Development Director or City Council pursuant to Subsection 11-101 L of this Article, no

variation from the provisions of this Code shall be valid for a period longer than 180 days, and no variation from the provisions of this Code that is granted concurrently with a special permit shall be valid for a period longer than one year, unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period. Variations granted pursuant to Subparagraph 11-~~4503~~ E~~21~~(aj) of this Article shall be valid for a period that is coterminous with the period that the tentative subdivision plat is valid under the Oak Forest Subdivision and Development Code (201~~40~~), and shall be deemed final variations that run with the land only after recordation of a duly approved final subdivision plat.

A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six months following such removal.

## §11-403 Variations

### 11-403: VARIATIONS

- A. Authority. The Planning and Zoning Commission shall have the authority to grant variations under Paragraph E1 of this Section. The City Council shall have the authority to grant variations under Paragraph E2 of this Section.
- B. Purpose. The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Code that create practical difficulties or particular hardships. When such difficulties or hardships are more appropriate for remedy, if at all, pursuant to other provisions of this Article XI, the variation procedure is necessarily inappropriate.
- C. Parties Entitled to Seek Variations. Applications for variations may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.
1. Application. Applications for variations shall be filed in accordance with the requirements of Paragraph 11-201 E5 of this Article.
  2. Public Hearing. A public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
  3. Action by Planning and Zoning Commission. In the cases specified in Paragraph 11-403 E1, within 21 days following the close of the public hearing, the Planning and Zoning Commission shall render its decision, granting or denying the variation, in the manner and form specified by Subsection 11-103 B of this Article.

The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.

In the cases specified in Paragraph D4 of this Subsection and in Paragraph 11-403 E2, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection 11-103 B of this Article, recommending either granting the application for a variation; granting the application subject to conditions; or denying the application.

4. Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the variation, with or without modifications or conditions.
5. Special Procedures in Connection With Other Applications. Whenever any other application is filed pursuant to this Code or the Oak Forest Subdivision and Development Code (2014) as a companion to an application for a variation and such companion application requires final approval by the City Council, the authority to hear and decide the application for variation otherwise delegated to the Planning and Zoning Commission pursuant to this Section may, pursuant to the request of the applicant or the Community Development Director made at the

time of the filing of the applicant's application, be reserved to the City Council. Whenever any application for a variation requires final approval by the City Council, the authority to decide the application for variation shall be reserved to the City Council. For such purposes, the City Council shall have all of the authority granted to, and shall be subject to all of the limitations imposed on, the Planning and Zoning Commission by this Section; provided, however, that the provisions governing public notice and hearing of, and action on, the companion application or the provisions of Paragraphs D2 and D3 of this Section that provide the broadest public notice shall govern.

E. Permitted Variations.

1. Permitted Variations as approved by the Planning and Zoning Commission. The Planning and Zoning Commission may vary the provisions of this Code in the following cases and in no others, in accordance with Subsection D above.:
  - a. To reduce the dimension of any required yard or setback of a lot of record existing at the time that the application for the variation is submitted;
  - b. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 90 percent of the required area and width, and only on a lot of record existing at the time that the application for the variation is submitted;
  - c. To increase the maximum allowable height of any fence;
  - d. To reduce by not more than 25 percent, or one space, whichever is greater, the minimum number of off-street parking spaces or loading spaces otherwise required;
  - e. To increase by not more than one sign the maximum number of signs of any functional type otherwise allowed;
  - f. To allow illumination of residential recreational facilities;
  - g. To allow the moving of a pre-code structure to an extent or in a manner not permitted by Subsection 10-104 B of this Code;
  - h. To allow the otherwise prohibited restoration of a partially damaged or destroyed pre-code structure or structure devoted to a nonconforming use;
  - i. To allow yard variations in excess of those permitted by Section 10-105 of this Code in connection with the development of a legal nonconforming lot of record;
  - j. To increase, by not more than five (5) feet or not more than one (1) story or both, the maximum allowable height of a principal residential structure in the R4 Single Family Residential District (provided that in no event shall the maximum allowable height with such a variation exceed 35 feet or three stories, whichever is less) where such structure meets all of the following conditions: (i) it is to be located in whole or in part in the flood plain, (ii) it is a replacement for a residential

structure that was destroyed or damaged, by any means not within the control of the owner thereof, to the extent of fifty percent or more of the market value of the structure, (iii) it is a replacement for a residential structure that had a basement prior to such damage or destruction, and (iv) a basement cannot be constructed in the replacement structure because the lowest floor of such structure is required by this Code or other applicable law to be constructed at or above the base flood elevation.

- k. To reduce the bulk, yard, setback and space requirements when a zoning lot, whether vacant or legally used, is reduced in size, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance made under the specific threat of an eminent domain proceeding, so that the remainder of said zoning lot, or any structure or use on said zoning lot, does not conform with one or more of such bulk, yard, setback or space requirements of the district in which said zoning lot is located.
- l. To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:
  - i. The application for a proposed subdivision is submitted concurrently with the application for variation;
  - ii. The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;
  - iii. The area of the lots for which a variation is sought is not less than 115 percent of the required lot area; and
  - iv. The lot width of the lots created by the proposed subdivision is not less than the lot width of 75 percent of the remaining lots along the same frontage as the proposed new lots.
  - v. Any variation granted pursuant to this subparagraph shall run only to the applicant, as a personal privilege.
- m. To increase the maximum height of an alteration to, or enlargement of, a principal single-family detached residential pre-code structure located in a single-family residential district authorized pursuant to Paragraph 10-104 B2 of this Code, but in no event to a height exceeding the otherwise applicable district height limitations.
- n. To reduce the minimum number of off-street parking spaces required to serve a new non-residential use within a structure located within a Special Parking Area in the Gateway Redevelopment Sub-Area.
- o. To permit fences in front yards of properties within single family residential districts no greater than three (3) feet in height.
- p. To permit fences in front and corner yards of properties within all other districts no greater than three (3) feet in height.

2. Permitted Variations as approved by the City Council. Subject to the prohibitions set forth in Subparagraph E4 below, and subject to the other provisions of this Section, the City Council may vary the provisions of this Code in the following cases, in accordance with Subsection D above:
- a) To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:
    - (i) The lot or lots for which the variation is sought are the result of a proposed subdivision that includes one or more existing nonconforming lots of record;
    - (ii) The application for a proposed subdivision is submitted concurrently with the application for variation;
    - (iii) The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;
    - (iv) The area of the lots for which a variation is sought is not less than 115% of the required lot area;
    - (v) The creation of new lots does not increase the degree of nonconformity as to width that exists in the existing nonconforming lot or lots at the time of application; and
    - (vi) The number of lots for which the variation is sought does not exceed either the number of nonconforming lots to be subdivided for the proposed subdivision or thirty percent (30%) of the total number of lots created by the proposed subdivision, whichever is less.

Any variation granted pursuant to this Subparagraph shall run only to the applicant, as a personal privilege.
  - B) To permit a reduction of the required lot width for property that is annexed to the City pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.
  - c) To reduce the minimum lot area of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by twenty (20) percent; or to reduce the minimum frontage of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by ten (10) percent.
  - d) To increase, by not more than one (1) story, the maximum allowable height of a principal structure in any non-residential district, provided that the increase in height by one (1) story shall not require a related increase to the maximum allowable height in feet of the same district.
  - e) To permit a variation to any other provision of this Code.
3. Administrative Variations. A request to reduce the minimum front, side or rear yard setback requirement, or to reduce the maximum height requirement of accessory structures, by less than twelve (12) inches may be approved by the Community Development Director or his/her designee.

4. Prohibited Variations. Notwithstanding any other provision of this Section, no variation shall be granted that:
  - a. Is intended as a temporary measure only; or
  - b. Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

F. Standards for Variations.

1. General Standard. No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection F.
2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.
3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or his predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.
4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision.
5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the sale of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.
6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would not be in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.

7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:
- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development value of property or improvements permitted in the vicinity;
  - b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity;
  - c. Would substantially increase congestion in the public streets due to traffic or parking;
  - d. Would unduly increase the danger of flood or fire;
  - e. Would unduly tax public utilities and facilities in the area; or
  - f. Would endanger the public health and safety.
8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.
- G. Variation Less Than Requested. A variation less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- H. Conditions on Variations. The Zoning Board of Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variation. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the variation.
- I. Affidavit of Compliance with Conditions; Fee. Whenever any variation authorized pursuant to this Section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- J. Effect of Grant of Variation. The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the Codes and Ordinances of the City, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.

K. Limitations on Variations. Subject to an extension of time granted by the Community Development Director or City Council pursuant to Subsection 11-101 L of this Article, no variation from the provisions of this Code shall be valid for a period longer than 180 days, and no variation from the provisions of this Code that is granted concurrently with a special permit shall be valid for a period longer than one year, unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period. Variations granted pursuant to Subparagraph 11-403 E2(a) of this Article shall be valid for a period that is coterminous with the period that the tentative subdivision plat is valid under the Oak Forest Subdivision and Development Code (2014), and shall be deemed final variations that run with the land only after recordation of a duly approved final subdivision plat.

A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six months following such removal.

## §9-107(K) Fences and Walls

K. Fences and Walls.

1. When located in a required yard, fences shall be installed with the finished side facing the neighboring property.
2. Barbed wire fencing shall not be used, except in the I1 – Industrial District where necessary for safety measures.
3. Except where a greater height is expressly authorized for screening purposes pursuant to this Section or when , all fences and walls erected as a permitted obstruction in any required yard shall be subject to the following height limitations:

<u>Location</u>	<u>Maximum Height of Fence</u>
<b>Single Family Residential Districts</b>	
The corner side yard of a lot, except when the fence is determined to negatively impact the safety or aesthetics of the streetscape	6 feet
The corner side yard of lot, safety and aesthetic impact	3 feet
All other yards when abutting a residential use	6 feet
All other yards when abutting a nonresidential use	8 feet
<b>All Other Districts</b>	
All other yards	8 feet

- ~~4. Fences may be permitted in front yards of properties within single family residential districts, pursuant to Section 11-403.~~
- ~~5. Fences may be permitted in front and corner yards of properties within all other districts, pursuant to Section 11-403.~~

## §9-107(K) Fences and Walls

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<b>Single Family Residential Districts</b>	
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All other yards when abutting a nonresidential use	8 feet
<b>All Other Districts</b>	
All other yards	8 feet

**CITY OF OAK FOREST  
PLANNING AND ZONING COMMISSION**

**PZC RESOLUTION NO. 18-6**

**[Subsection 9-107(K), Article XI]**

**WHEREAS**, the City of Oak Forest (“**Applicant**”) filed an application for text amendments to amend Subsection 9-107(K) and Article XI of the City of Oak Forest Zoning Ordinance. The amendment to Subsection 9-107 K, Fences and Walls, relates specifically to permissible variations for fences being removed from said Subsection added to Article XI. The remaining comprehensive amendments to Article XI, Zoning Administration and Enforcement, are regarding the zoning relief procedures and their respective application requirements, including but not limited to: variations, text amendments, map amendments, special use permits, and planned developments. These changes also include, but are not limited to: changing the types of permissible variations and the public body making final determinations; creating major and minor special use permit amendment mechanisms; creating a special use permit transfer mechanism; and creating major and minor planned development amendment mechanisms.

**WHEREAS**, the Applicant’s proposed amendments to Subsection 9-107(K) are fully set forth in **Exhibit A**, which is attached and by this reference incorporated in to this resolution; and

**WHEREAS**, the Applicant’s proposed amendments to Article XI are fully set forth in **Exhibit B**, which is attached and by this reference incorporated in to this resolution; and

**WHEREAS**, a public notice was duly published in the Daily Southtown on May 22, 2018 and a public hearing was convened before the PZC on June 6, 2018; and

**WHEREAS**, the PZC has considered all of the evidence presented to it;

**NOW THEREFORE, BE IT RESOLVED** by the PZC of the City of Oak Forest, Cook County, based on the foregoing recitals which are hereby incorporated by reference, that:

Section 1.     FINDINGS.

Based on the evidence presented at the public hearing, the PZC hereby finds that the public good demands or requires the Applicant’s proposed amendments set forth in Exhibit A and Exhibit B, considering the trend of development in the City, and the possibility of improved value, use, and enjoyment of property encouraged by the proposed amendments.

Section 2.     RECOMMENDATION.

Based on the findings of fact set forth in Section 1 of this resolution, the PZC hereby recommends the adoption of the Applicant’s proposed amendments set forth in Exhibit A and Exhibit B.

ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

AYES: (\_\_\_)

NAYS: (\_\_\_)

ABSENT: (\_\_\_)

ABSTAIN: (\_\_\_)

\_\_\_\_\_  
\_\_\_\_\_, Chairman  
Oak Forest PZC

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**EXHIBIT A**

Proposed Amendments, Subsection 9-107(K)

Proposed Amendments to Subsection 9-107(K), Fences and Walls (additions in **bold and underline**; deletions in ~~**bold and strikethrough**~~):

K. Fences and Walls.

1. When located in a required yard, fences shall be installed with the finished side facing the neighboring property.
2. Barbed wire fencing shall not be used, except in the I1 – Industrial District where necessary for safety measures.
3. Except where a greater height is expressly authorized for screening purposes pursuant to this Section or when , all fences and walls erected as a permitted obstruction in any required yard shall be subject to the following height limitations:

<u>Location</u>	<u>Maximum Height of Fence</u>
<b>Single Family Residential Districts</b>	
The corner side yard of a lot, except when the fence is determined to negatively impact the safety or aesthetics of the streetscape	6 feet
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All other yards when abutting a residential use	6 feet
All other yards when abutting a nonresidential use	8 feet
<b>All Other Districts</b>	
All other yards	8 feet

- ~~4. Fences may be permitted in front yards of properties within single family residential districts, pursuant to Section 11-403.~~
- ~~5. Fences may be permitted in front and corner yards of properties within all other districts, pursuant to Section 11-403.~~

**EXHIBIT B**

Proposed Amendments, Article XI

Proposed Amendments to Article XI, Zoning Administration and Enforcement (additions in **bold and underline**; deletions in ~~**bold and strikethrough**~~):

(see attached)

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**ARTICLE XI. ZONING ADMINISTRATION AND ENFORCEMENT**

**PART I - ADMINISTRATIVE OFFICIALS AND BODIES**

**11-101: COMMUNITY DEVELOPMENT DIRECTOR**

- A. General Powers. The Community Development Director will be charged with the administration and enforcement of this Code. In addition to the jurisdiction, authority and duties conferred on the Community Development Director by other provisions of State statutes and City codes and ordinances, the Community Development Director will have all powers necessary to such administration and enforcement, and will, in particular, have the jurisdiction, authority and duties hereinafter set forth.
- B. Rules; Regulations; Application Forms. The Community Development Director will, consistent with the express standards, purposes and intent of this Code, promulgate, adopt and issue procedural rules, regulations and forms as are in the Director's opinion necessary to the effective administration and enforcement of the provisions of this Code.
- C. Staff Assistance to the Planning and Zoning Commission. The Community Development Director will make staff and consulting assistance available to the Planning and Zoning Commission, and the Director, or his delegate, will in that capacity:
1. Attend the meetings of each body;
  2. Inform each body of all facts and information at the Director's disposal with respect to any matter brought before the body;
  3. Assist each body by performing research and making recommendations on matters brought before each body; and
  4. Perform such other duties as may be assigned to the Director by this Code and by the direction of the City Council.
- D. Records. The Community Development Director will, subject to City record retention policies, maintain:
1. Permanent and current records of this Code, including all maps; amendments; special permits; planned development and site plan approvals and denials; interpretations; and decisions rendered by the Planning and Zoning Commission, the City Attorney and the Director, together with relevant background files and materials and final disposition of the City Council;
  2. A current file of all Certificates of Zoning Compliance, all Certificates of Occupancy and notices of violations, terminations, discontinuance or removal, issued by or entrusted to the Director's office, for such times necessary to ensure continuous compliance with the provisions of this

Code; and

3. A current file of all nonconforming uses and signs in the City, by location and type of use.
- E. Zoning Text; Zoning Map. The Community Development Director will prepare and have available for public sale on or before March 31 of each year:
1. The compiled text of this Code in book or pamphlet form, including all amendments thereto through the preceding December 31; and
  2. The official Zoning Map, showing the zoning districts, divisions and classifications in effect on the preceding December 31.

The Director will, at all other times, maintain, and have available for reproduction, at least one up-to-date copy of both the Zoning Code text and the Zoning Map, showing all amendments through the most recent meeting of a City Council for which official minutes have been approved.

- F. Applications: Receipt, Processing, Referral to Interested Parties and Agencies. The Community Development Director will receive all applications required to be filed pursuant to this Code. Upon receipt of any such application, the Director will see to its expeditious processing, including its prompt referral to and retrieval from each official department, board or commission of the City, or other government, with any interest or duty with respect to such application. Unless otherwise provided, the Director may waive any application requirements that require the submission of supporting information where the applicant demonstrates to the Director that the information required is not relevant to the application submitted.
- G. Investigation of Applications. Whenever the Planning and Zoning Commission or the City Council will, by general rule or specific direction, so request, the Director will conduct or cause to be conducted such surveys, investigations and field studies, and will prepare or cause to be prepared such reports, maps, photographs, charts and exhibits, as will be necessary and appropriate to the processing of any application filed pursuant to this Code.
- H. Zoning Certificates. Pursuant to the provisions of Sections 11-~~34~~01 and 11-~~34~~02 of this Article, the Community Development Director will review all applications for Certificates of Zoning Compliance and Certificates of Occupancy and approve or disapprove such applications and issue or refuse to issue such certificates based on compliance or noncompliance with the provisions of this Code.
- I. Interpretations. Pursuant to the provisions of Section 11-~~45~~01 of this Article, the Community Development Director will issue his written interpretation of the meaning and applicability of specific provisions of this Code. Any interpretation of this Code that may be rendered by the Planning and Zoning Commission or the Director will be kept on file with the Director and will be a public record of the City open to inspection by interested parties at reasonable times and upon reasonable notice.

- J. Approval of Site Plans. Pursuant to the provisions of Section 11-~~56~~04 of this Article, the Community Development Director will have authority to review and approve or deny applications for site plan approval in this cases specified in Paragraph 11-~~56~~04 C(1).
- K. Planned Development and Site Plan Modifications. Pursuant to the provisions of Paragraph 11-~~56~~03 K(1) and Subsection 11-~~56~~04 I of this Article, the Community Development Director will have authority to permit adjustments to final plans for planned developments and to site plans.
- L. Extensions of Time.
1. The Community Development Director may, upon written request, for good cause shown and without any notice or hearing, grant extensions of any time limit imposed on an applicant or permittee by this Code unless an ordinance or resolution expressly provides otherwise. The total period of time granted by such extension or extensions will not exceed the length of the original period or 90 days, whichever is less. The Director will inform the City Council of all extensions granted pursuant to this Subsection.
  2. The City Council may, upon written request, for good cause shown, and without any notice or hearing, grant extensions of any time limited imposed on an applicant or permittee by this Code provided an ordinance or resolution, as appropriate, is duly adopted by a two-thirds vote of the City Council. The total period of time granted by such extension or extensions will be specifically stated in the ordinance or resolution.
- M. Inspection and Enforcement. In furtherance of the enforcement of this Code, the Community Development Director will undertake regular and continuing programs of inspection of work approved and under way and of existing structures and uses as may be feasible and proper; will undertake additional inspections as may be necessary to the performance of his duties under this Code; will receive from any person complaints alleging, with particularity, a violation of this Code; and when appropriate will cause investigations and inspections as may be warranted by a complaints to be made.
- Upon finding the existence of any violation of this Code, the Community Development Director will take or direct all actions necessary or appropriate to punish and abate such violation.
- N. Reports. The Community Development Director will, from time to time, prepare and submit a report to the City Council, and the Planning and Zoning Commission concerning the administration of the land use and development regulations of the City, setting forth information and statistical data as may be of interest and value in advancing and furthering the goals and purposes of such regulations and setting forth the Director's recommendations for the improvement of these regulations and their administration.

**11-102: PLANNING AND ZONING COMMISSION**

- A. Established. The Planning and Zoning Commission established by

~~Section 32.340 of~~ the Oak Forest Municipal Code is the Zoning Board of Appeals and Plan Commission referred to in this Code. The provisions of this Code with respect to the Planning and Zoning Commission will be deemed supplementary to the provisions of Sections 32.340-32.349 of the Oak Forest Municipal Code. Reference should be made to said sections for a complete description of the membership, term of office and rules of procedure of the Planning and Zoning Commission. The distinctions made in this Code between the Zoning Board of Appeals and Plan Commission are established for the purposes of defining the authority of the Planning and Zoning Commission and in what capacity it is operating on a particular form of relief provided under this Article XI~~Title XI~~.

- B. Dissolution. The Corporate Authorities may, in their sole and absolute discretion, dissolve the Planning and Zoning Commission and establish a distinct Zoning Board of Appeals and distinct Plan Commission. At the time of any such dissolution, current members of the Planning and Zoning Commission will be appointed to the newly formed Zoning Board of Appeals and Plan Commission and the remaining seats open on the Zoning Board of Appeals and Plan Commission will be filled by the Mayor with the advice and consent of the City Council.

#### 11-103: ZONING BOARD OF APPEALS

- A. Necessary Vote. The concurring vote of at least four members of the Board of Appeals will be necessary on any motion to reverse any order, requirement, decision or determination appealed to it; to decide in favor of the applicant any application made; or to effect any variation from the provisions of this Code. Any lesser vote on any such motion, even if a majority of those voting, will be considered a final decision denying the appeal, application or variation.
- B. Record and Decisions. The transcript of testimony, if any; the minutes of the Staff Secretary; all applications, requests, exhibits and papers filed in any proceeding before the Zoning Board of Appeals; and the decision of the Board shall constitute the record. The Board may rely on the personal knowledge of its members, on its inspections of the property and on any reports available to it; provided, however, that the Board shall make the particular knowledge, inspection or report a matter of record at the public hearing and afford every party reasonable time to respond to it.

Every decision of the Zoning Board of Appeals shall be by written resolution which shall include findings of fact; shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based; shall specify the reason or reasons for such decision; shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief; and shall expressly set forth any limitations or conditions imposed on any relief granted or work or use authorized.

The Zoning Board of Appeals shall take no final or binding vote on a decision unless it shall first have before it the written resolution herein required; provided, however, that where special circumstances warrant it, the Board may take final action prior to the preparation of such resolution but in such event it shall, before

take such action, first state its findings and conclusions as above required at a meeting open to the public and shall, in addition, state the special circumstances.

In any case where this Code provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed to be a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period.

- C. Appeals. An appeal from any final decision of the Zoning Board of Appeals may be taken in the manner provided in Article III of the Illinois Code of Civil Procedure pertaining to Administrative Review.
- D. Jurisdiction and Authority. The Zoning Board of Appeals will have the following jurisdiction and authority:
  - 1. Subject to the provisions of Section 11-~~45~~02 of this Article, to hear and decide appeals from, and to review orders, decisions or determinations made by the Community Development Director and to that end shall have the powers of the Community Development Director with respect to such order, decision or determination.
  - 2. To hear, review and offer its recommendations to the City Council on applications for variations requested pursuant to Paragraph 11-~~45~~03 ~~D4~~ E2 of this Article.
  - 3. To hear, review and ~~decide~~ ~~offer its recommendations to the City Council~~ on applications for variations requested pursuant to Paragraph 11-~~45~~03 ~~D4~~ E1 of this Article.
  - 4. Subject to the provision of Section 11-~~56~~01 of this Article, to initiate changes and amendments to this Code.

**11-104: PLAN COMMISSION**

- A. Necessary Vote. The concurring vote of at least a majority of the currently appointed Commissioners will be necessary to adopt any motion to recommend approval of any matter or application. Any lesser vote on any such motion, even if a majority of those voting, will be considered a final decision to recommend denial of such matter or application.
- B. Record and Decisions. The transcript of testimony, if any; the minutes of the Staff Secretary; all applications, requests, exhibits and papers filed in any proceeding before the Plan Commission; and the decision and report, or reports, of the Commission shall constitute the record.

Every recommendation or decision of the Plan Commission upon an application filed pursuant to this Code shall be by written resolution which shall include findings of fact; shall refer to all the evidence in the record and to the exhibits, plans or specifications, upon which such recommendation or decision is based; shall specify the reason or reasons for such recommendation or decision; and

shall contain a conclusion or statement separate from the findings of fact setting for the recommendation or decision of the Commission. Every resolution shall expressly set forth any limitations or conditions recommended or imposed by the Commission.

In reaching its recommendation or decision on any such application, the Plan Commission may rely on the person knowledge of its members, on its inspections of the property and on any reports available to it; provided, however, that the Commission shall make the particular knowledge, inspection or report a matter of record at the public hearing and afford every party reasonable time to respond to it.

The Plan Commission shall take no final or binding vote on any recommendation or decision pertaining to an application pending before it unless it shall first have before it the written resolution herein required; provided, however, that where special circumstances warrant it, the Plan Commission may take final action on any such application prior to the preparation of such resolution but in such event it shall, before taking such action, first are its findings and conclusions as above required at a meeting open to the public and shall, in addition, state the special circumstances warranting such action.

In any case where this Code provides that the failure of the Plan Commission to act within a fixed period shall be deemed a recommendation for grant or denial of an application, such failure shall, notwithstanding absence of required findings and conclusions, be considered to be a decision of the Commission rendered on the day following the expiration of such fixed period.

As to other matters brought before the Plan Commission, the Commission shall prepare such report as it shall deem appropriate to the subject matter.

C. Jurisdiction and Authority. In addition to the jurisdiction conferred on it by Chapter 2 of the Oak Forest Municipal Code, the Plan Commission shall have the following jurisdiction and authority:

1. To prepare and recommend a Comprehensive Plan, including an Office Map, to the City Council, which, upon its adoption by the City Council, shall be known as the "Official Comprehensive Plan" of the City of Oak Forest.
2. To review, prepare and recommend to the City Council changes in and amendments to the Official Comprehensive Plan, including the Official Map.
3. To initiate, hear, review and offer its recommendations to the City Council on applications for amendment of this Code.
4. To hear, review and offer its recommendations to the City Council on applications for special use permits.
5. To hear, review and offer its recommendations to the City Council on applications for planned development approval.

- ~~6. To hear, review and offer its recommendations to the City Council on applications for site plan approval in those specific cases specified in Paragraph 11-604 E2.~~
8. To aid and assist the City Council and the departments of the City in implementing general plans and in planning, developing and completing specific project.
9. To review and report on any matters referred to it by the City Council or the City Administrator.

## PART II – PLANNING DOCUMENTS AND PROCEDURES

### 11-105: OFFICIAL COMPREHENSIVE PLAN

- A. Authority. The Plan Commission shall have authority to prepare and recommend to the City Council a Comprehensive Plan of the City and the unincorporated areas surrounding the City and from time to time to prepare and recommend amendments thereto, any or all of which the City Council may adopt as the “Official Comprehensive Plan of the City of Oak Forest,” all in accordance with the procedures set out in this Section.
- B. Definition. The “Official Comprehensive Plan” shall be defined as a compilation of policy statements; goals; standards; maps; recommended planning, regulatory, fiscal and public works programs; together with pertinent data relative to the past, present and future trends of the City with respect to its population, housing, economic, social and environmental development patterns; its land, water and natural resources and use; its transportation facilities, public facilities and utilities; and any other matter relative to the present and future patterns of life within the City or within the unincorporated areas lying within one and one-half miles of its boundaries as they may from time to time exist, prepared and recommended by the Planning and Zoning Commission with the advice and assistance of the Community Development Director and the Director’s staff and adopted by the City Council by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time.

Said term shall also refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area.

As of the effective date of this Code, said term shall be understood to refer to the following documents:

1. Oak Forest Comprehensive Plan
  2. This Code.
  3. [reserved]
- C. Purpose. The Official Comprehensive Plan shall be considered an official statement of the policy of the City of Oak Forest with respect to the existing and

developing character of the various areas of the City and its vicinity; the proper objectives, standards and direction for future maintenance, growth, development and redevelopment of the City; the means to be employed to protect existing character or development and to encourage future development that will be in the best interests of the City; and the actions and programs to be undertaken by the City with respect to its future maintenance and development.

D. Effect. After the adoption of the Official Comprehensive Plan, or a part thereof, no ordinance, regulation or Official Map relating to the physical maintenance, development or redevelopment of the City or any land within it shall be enacted, established, amended or varied and no right-of-way, street, utility or public structure or land shall be authorized, established, developed, redeveloped or modified in location or extent except in accordance with the policies, goals, objectives, principles and standards of the Official Comprehensive Plan or relevant part thereof unless the City Council shall first make a specific finding that the facts and circumstances affecting the particular matter justify a departure from the Plan.

E. Procedures.

1. Plan Development. The Plan and Zoning Commission, with the assistance of the Community Development Director and the Administrator's staff, shall exercise the powers and duties delegated to it by Section 11-10~~43~~ of this Article in the continuing development and revision of the Official Comprehensive Plan. The process of plan development is necessarily an informal one, not readily adaptable to rigid procedures, but the Planning and Zoning Commission and the Community Development Director, in developing a plan, shall make all reasonable efforts to obtain the views, comments and criticisms of interested persons. In addition, the Planning and Zoning Commission and the Community Development Director, in developing a plan, shall make all reasonable efforts to obtain the views, comments and criticisms of interested persons. In addition, the Planning and Zoning Commission, prior to making any recommendation for the adoption or amendment of a plan or part thereof to the City Council, shall set, notice and conduct a public hearing thereon in accordance with the provisions of Section 11-203~~11-203~~ of this Article.

The City Council may, at any time, refer a plan to the Planning and Zoning Commission for consideration and recommendation. In the case of such referral, the Planning and Zoning Commission shall return its recommendation to the City Council not later than 90 days following the receipt of the referral. In the event such recommendation is not so delivered, the City Council may proceed to consider the amendment without such recommendation.

When satisfied that a plan, or a part thereof, is adequate for adoption as the Official Comprehensive Plan of the City, or a part thereof or an amendment thereto, the Planning and Zoning Commission shall transmit such plan or part thereof to the City Council together with its recommendations for adoption of such plan as well as any reports or

statements deemed necessary to a full consideration of such plan or part thereof. Such reports or statements may include majority and minority positions. Such transmission shall be made not later than fifteen (15) days following the close of the public hearing concerning such plan.

2. Plan Adoption. Upon receiving any recommendation of the Planning and Zoning Commission with respect to adoption or amendment of any plan, or a part thereof, the City Council may, by ordinance duly enacted, adopt such plan in whole or in part, with or without amendments; or may refer such plan or any part thereof back to the Planning and Zoning Commission for further consideration; or may reject such plan. The City Council shall take such action no later than ninety (90) days following the close of the Planning and Zoning Commission Public Hearing on such plan. The failure of the City Council to act within such period shall be deemed to be a rejection of the plan. Upon the adoptions of any such plan or part thereof, it shall be designated as the "Official Comprehensive Plan of the City of Oak Forest," and if less than a total comprehensive plan, shall carry a subheading designating its specific contents.
3. Plan Amendment. The Official Comprehensive Plan, or any part thereof, may be amended at any time in accordance with the provisions of this Paragraph 3. Such an amendment may be initiated by the City Council, the Planning and Zoning Commission, the Community Development Director, or by any owner of property affected by the provisions of such plan sought to be amended.

Amendments initiated by the City Council, the Planning and Zoning Commission or the Community Development Director shall require no formal application and shall be processed as provided in Paragraphs E1 and E2 above.

Amendments initiated by the owner of affected property shall be initiated by an application filed pursuant to Section 11-~~43~~01 of this Article, except that the time limits specified in Paragraphs E1 and E2 above shall apply.

4. Plan Filing and Notice of Adoption. The ordinance adopting the Official Comprehensive Plan, or any part thereof, shall provide that the Community Development Director shall cause a certified copy thereof to be placed on file in the Office of the City Clerk, and shall cause a notice evidencing the adoption of such plan, or part thereof, to be filed with the Cook County Recorder of Deeds.

#### **11-106: OFFICIAL MAP**

- A. Authority. The Planning and Zoning Commission shall have authority to prepare and to recommend to the City Council an Official Map of the City and the unincorporated areas surrounding the City and from time to time to prepare and recommend amendments thereto, all of which the City Council may adopt as the "official Map of the City of Oak Forest,"
- B. Definition. The "Official Map" shall be defined as a compilation of maps,

standards and specifications of and for existing and proposed rights-of-way, streets, alleys, utility easements, public grounds and public utility systems within the City or within the unincorporated area lying within one and one-half miles of its boundaries as they may from time to time exist, prepared and recommended by the Planning and Zoning Commission with the advice and assistance of the Community Development Director and the Community Development Director's staff and adopted by the City Council by ordinance duly enacted, together with such amendments thereto as may be adopted from time to time.

Said term shall also refer to any internally consistent and complete portion of such a compilation relating to any one or more of the aforesaid subjects or to any specific portion of the aforesaid geographical area.

- C. Purpose. The Official Map is adopted to implement the Official Comprehensive Plan, to assure the adequacy of the public facilities to which it relates and to secure for the City the authority and benefits provided by state law in connection with such an Official Map.
- D. Procedures. The procedures for the development, adoption, amendment and filing of the Official Map shall be the same as those provided in Subsection 11-201 E of this Article with respect to the Official Comprehensive Plan.

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PART II - ZONING APPLICATIONS AND HEARING

11-201: APPLICATIONS

A. Place of Filing.

1. Applications for Zoning and Occupancy Certificates, Code Interpretations and Certain Site Plan Approvals. All applications for a Certificate of Zoning Compliance pursuant to Section 11-~~34~~401 of this Article, a Certificate of Occupancy pursuant to Section 11-~~34~~402 of this Article, an interpretation pursuant to Section 11-~~45~~501 of this Article, and a site plan approval pursuant to ~~Paragraph~~**Subsection** 11-~~56~~604 E1 of this Article, shall be filed with the Office of the Community Development Director or with such other City official or body as the Director may, by administrative order designate.
2. All Other Applications for Appeals and Variations. All applications for an appeal pursuant to Section ~~11-0592~~**11-402** of this Article, ~~and a variation pursuant to Section 11-4503 of this Article, an amendment pursuant to Section 11-501 of this Article, a special use permit pursuant to Section 11-502 of this Article, a planned development pursuant to Section 11-503 of this Article, and a site plan approval pursuant to Subsection 11-504 E2 of this Article~~ shall be filed with the office of the Community Development Director for immediate processing pursuant to Subsection 11-~~203C~~**1101 F** of this Article.
3. ~~Applications for Amendments, Special Approvals and Certain Site Plan Approvals. All preliminary and formal applications for an amendment pursuant to Section 11-601 of this Article, a special permit pursuant to Section 11-602 of this Article, a planned development pursuant to Section 11-603 of this Article and a site plan approval pursuant to Subsection 11-604 E2 of this Article, shall be filed with the office of the Community Development Director for immediate referral to the City Council. The Community Development Director shall cause every properly filed and completed application filed pursuant to this Subparagraph to be on the agenda of the next regular City Council or Committee of the Whole meeting following the date of such filing.~~

B. Forms, Number, Scale. All applications filed pursuant to this Code shall be on forms supplied by the City and shall be filed in such number of duplicate copies as the Community Development Director may by administrative order designate. All plans filed as part of any application shall be at a scale sufficient to permit a clear and precise understanding of the contents of said plan and the proposal being made and shall be folded to a convenient size for handling and filing in standard, legal size legal drawers.

C. Filing Deadlines.

1. Applications Requiring Hearings. Applications requiring public hearing will not be scheduled for such hearing unless and until filed in proper form

and number and containing all required information.

2. Applications Not Requiring Hearing. Applications that do not require a public hearing shall be filed, in proper form and number and containing all required information, at least 35 days prior to the time when action on the application is requested. Applications so filed will be processed on a first-filed, first-processed basis.
3. Supplemental Data. Whenever supplemental data in connection with a previously filed application is required by the City or offered by the applicant, it shall be submitted at least seven days prior to the date on which it is to be considered at a hearing or a meeting or acted upon in connection with such application. The filing of such data shall, in the discretion of the Community Development Director and of the body hearing the application, be delayed to avoid a requested or scheduled hearing date.

D. Fees.

1. Fee Established; Lien. Every application filed pursuant to this Code shall be subject to a non-refundable application and filing fee in the amount established in the annual fee ordinance adopted pursuant to the Oak Forest Municipal Code plus the actual cost, as hereinafter defined, incurred by the City in processing such application.

The owner of the property which is the subject of the application and, if different, the applicant, shall be jointly and severally liable for the payment of said fee. By signing the application, owner shall be deemed to have agreed to pay such fee and to consent to the filing and foreclosure of a lien on the subject property to ensure collection of any such fee, plus the costs of collection, which has not been paid within thirty (30) days following the mailing of a written demand for such payment to the owner at the address shown on the application. Any lien filed pursuant to this Subsection may be foreclosed in the manner provided by statute for mortgages or mechanics liens.

2. Recoverable Costs. For purposes of calculating the fee due pursuant to Paragraph D1 above, the actual costs incurred by the City in processing an application shall be deemed to consist of the following items of direct and indirect expense:
  - a. Legal Publication (direct cost)
  - b. Recording Secretarial Services (direct cost)
  - c. Court Reporter (direct cost)
  - d. Administrative Preparation and Review (hourly salary times a multiplier to be established from time to time by the Community Development Director at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service)

- e. Document Preparation and Review (hourly salary times a multiplier to be established from time to time by the Community Development Director at a level sufficient to recover 100 percent (100%) of the direct and indirect cost of such service)
  - f. Professional and Technical Consultant Services (direct cost)
  - g. Legal Review, Consultation and Advice (direct cost)
  - h. Copy Reproduction (direct cost)
  - i. Document Recordation (direct cost)
3. Fee Payment and Escrow.
- a. Initial Payment and Escrow. Every application filed pursuant to this Code shall be accompanied by the required fee plus an additional amount for recoverable costs as provided in Paragraph D2 above, as fixed from time to time by administrative order of the Community Development Director, to be deposited in an application fee escrow. No interest shall be payable on any such escrow.
  - b. Charges Against Escrow. From the date of filing of any application pursuant to this Code, the City shall maintain an accurate record of the actual costs, as hereinabove defined, of processing such application. The Community Development Director shall, from time to time, draw funds from the escrow account established for such application to pay such costs and shall transfer such funds to the appropriate City accounts. The Director shall maintain an accurate record of all such drawings.
  - c. Additional Escrow Deposits. Should the Community Development Director at any time determine that the escrow account established in connection with any application is, or is likely to become, insufficient to pay the actual costs of processing such application, the Director shall inform the applicant of that fact and demand an additional deposit in an amount deemed by him to be sufficient to cover foreseeable additional costs. Unless and until such additional amount is deposited by the applicant, the Community Development Director may direct that processing of the application shall be suspended or terminated.
  - d. Final Settlement. As soon as reasonably feasible following final action on an application, the Community Development Director shall cause a final accounting to be made of the escrow deposits made in connection with such application and the actual cost of processing such application and shall make a final charge of such costs against such escrow deposits. A copy of the accounting shall be provided to the owner and the applicant.

If the amount in the escrow account is insufficient to pay the total actual costs, a written demand for payment of the balance due shall be mailed to the owner and the applicant. If unused balance remains in the escrow account after paying the total actual costs, it shall be returned to the applicant.

4. Condition of All Applications, Approvals and Permits; Time Periods. No application filed pursuant to the Code shall be considered complete unless and until all fees and deposits due pursuant to this Subsection have been paid. Every approval granted and every permit issued pursuant to this Code shall, whether or not expressly so conditioned, be deemed to be conditioned upon payment of fees as required by this Subsection.

Where this Code provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, time periods shall be tolled during any period of non-payment, but shall otherwise continue to run.

The failure to fully pay any such fee or deposit, when due, shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or deposit relates.

5. Specified Public Bodies Exempt. ~~The provisions of this Subsection 11-301 D shall not apply to, and no fee shall be required of, any public body or agency deriving the majority of its revenues from taxes levied within the City of Oak Forest. The application fee provided in Paragraph 11-201 D1 shall not apply to, and no fee shall be required of, any public body or agency deriving the majority of its revenue from taxes levied within the City of Oak Forest. However, Paragraph 11-201 D2 shall apply to such public bodies.~~

E. Minimum Data Requirements.

1. All Applications. Every application submitted pursuant to this Code shall contain at least the following information:
  - a. The owner's name and address and the owner's signed consent to the filing of the application.
  - b. The applicant's name and address, if different than the owner, and his interest in the subject property.
  - c. The names, addresses and telephone numbers of all professional consultants, if any, advising the applicant with respect to the application.
  - d. The name and address and the nature and extent of the interest, as defined in the Oak Forest Ethics Code, of any officer or employee of the City in the owner, the applicant or the subject

property.

- e. The address and legal description of the subject property. A description or graphic representation of the proposal for which approval is being sought and of the existing zoning classification, use and development of the subject property. The scope and detail of such description shall be appropriate to the subject matter of the application, with special emphasis on those matters likely to be affected or impacted by the approval being sought in the application.
  - f. In the case of any application being filed less than two years after the denial of an application seeking essentially the same relief, the statement required by Subsection 11-302 B of this Article.
  - g. Proof of control or ownership, in the case of site-specific applications.
2. Applications for Zoning and Occupancy Certificates. Every application filed pursuant to Section 11-~~3401~~ or 11-~~3402~~ of this Code shall, in addition to the data and information required pursuant to Paragraph 1 above, provide the following information:
- a. A description or graphic representation of any development or construction that will occur or any use that will be established or maintained if the requested relief is granted.
  - b. A table showing the following, if applicable:
    - i. The total lot area of the subject property, in acres and in square feet;
    - ii. The total existing and proposed lot area, expressed in acres, in square feet and as a percent of the total development area, devoted to residential uses, by type of structure, commercial uses, office uses, industrial uses and institutional uses, open space, rights-of-way, streets, and off-street parking and loading areas; and
  - c. The existing and proposed:
    - i. Number of dwelling units, by number of bedrooms and dwelling unit gross floor area; and
    - ii. Gross and net floor area devoted to residential uses, commercial uses, office uses, industrial uses, institutional uses and recreational uses.
  - d. A table listing all bulk, space and yard requirements, all parking requirements, and all loading requirements applicable to any proposed development or construction and showing the

compliance of such proposed development or construction with each such requirement. Where any lack of compliance is shown, the reason therefore shall be stated and an explanation of the City's authority, if any, to approve the application despite such lack of compliance shall be set forth.

- e. The certificate of a registered architect or civil engineer licensed by the State of Illinois, or of an owner-designer, that any proposed use, construction or development complies with all the provisions of this Code and other City ordinances or complies with such provisions except in the manner and to the extent specifically set forth in said certificate.
3. Application for Code Interpretations. Every application filed pursuant to Section 11-~~4501~~ of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
    - a. The specific provision or provisions of this Code for which an interpretation is sought.
    - b. The facts of the specific situation giving rise to the request for an interpretation.
    - c. The precise interpretation claimed by the applicant to be correct.
    - d. Where a use interpretation is sought, the use permitted pursuant to the present zoning classification of the subject property that is claimed by the applicant to include, or to be most similar to, the proposed use.
    - e. Where a use interpretation is sought, documents, statements and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
  4. Applications for Appeals. Every application filed pursuant to Section 11-~~4502~~ of this Code shall, in addition to the date and information required pursuant to Paragraph 1, and, where relevant, Paragraph 2 above, provide the following information:
    - a. The specific order, decision or determination of failure to act from which an appeal is sought.
    - b. The facts of the specific situation giving rise to the original order, decision, determination or failure to act and to the appeal therefrom.
    - c. The precise relief sought.
    - d. A statement of the applicant's position as to alleged errors in the

order, decision, determination or failure to act being appealed and as to why the relief sought is justified and proper.

5. Applications for Variations. Every application filed pursuant to Section 11-~~45~~03 of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and where relevant, Paragraph 2 above, provide the following information:
- a. The specific feature or features of the proposed use, construction or development that require a variation.
  - b. The specific provision of this Code from which a variation is sought and the precise variation therefrom being sought.
  - c. A statement of the characteristics of the subject property that prevent compliance with the said provisions of this Code.
  - d. A statement of the minimum variation of the provisions of this Code that would be necessary to permit the proposed use, construction or development.
  - e. A statement of how the variation sought would satisfy the standards set forth in Subsection 11-~~45~~03 F of this Code.
  - f. The names and addresses of all owners of:
    - i. Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - ii. Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
  - g. A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
  - h. A statement concerning the conformity or lack of conformity of the approval being requested to the City Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.
6. Applications for Official Comprehensive Plan or Zoning Code Text Amendments. Every ~~application filed pursuant to Paragraph 11-201 E2 or~~ formal application filed pursuant to Section~~Paragraph~~ 11-~~56~~01 ~~D2~~

of this Code requesting an amendment to the text of either the Official Comprehensive Plan or this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:

- a. The exact wording of the proposed text amendment.
  - b. A statement of the need and justification for the proposed text amendment.
  - c. The names and addresses of all owners of
    - i. Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - ii. Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
  - d. A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
  - e. A statement concerning the conformity or lack of conformity of the approval being requested to the City Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.
7. Formal Applications for Special Use Permits. Every application filed pursuant to ~~Section Paragraph~~ 11-5602 ~~D2~~ of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a. A written statement of the need for the special permit.
  - b. The names and addresses of all owners of
    - i. Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - ii. Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of

the Assessor of Cook County.

- c. A survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
  - d. A statement concerning the conformity or lack of conformity of the approval being requested to the City Official Comprehensive Plan and Official Map. Where the approval being requested does not conform to the Official Comprehensive Plan or the Official Map, reasons justifying the approval despite such lack of conformity shall be stated.
  - e. An application for site plan approval pursuant to Section 11-~~56~~04 of this Article.
8. Applications for Zoning or Official Comprehensive Plan Map Amendments. Every ~~application filed pursuant to Paragraph 11-02 E3~~ ~~or~~ formal application filed pursuant to ~~Section~~Paragraph 11-~~56~~01 ~~D2~~ of this Code requesting an amendment to the Official Comprehensive Plan Map or the Zoning Map shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide a statement of the need and justification for the proposed Plan or Zoning Map amendment. Said statement shall address at least the following factors:
- a. The existing uses and zoning classifications of properties in the vicinity of the subject property.
  - b. The trend of development in the vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present plan designation or zoning classification.
  - c. The extent to which the value of the subject property is diminished by the existing plan designation or zoning classification applicable to it.
  - d. The extent to which such diminution in value is offset by an increase in the public health, safety and welfare.
  - e. The extent, if any, to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.
  - f. The extent, if any, to which the value of adjacent properties would be affected by the proposed amendment.
  - g. The extent, if any, to which the future orderly development of adjacent properties would be affected by the proposed amendment.

- h. The suitability of the subject property for uses permitted or permissible under its present plan designation and zoning classification.
  - i. The availability of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.
  - j. The availability of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present plan designation and zoning classification.
  - k. The length of time, if any, that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.
  - l. The community need for the proposed map amendment and for the uses and development it would allow.
  - m. The names and addresses of all owners of:
    - i. Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - ii. Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
9. Applications for Planned Development Concept Plan Approval. Every application filed pursuant to **Subsection Paragraph 11-5603 D12** of this Code shall, in addition to the data and information required pursuant to Paragraph 1 and, where relevant, Paragraph 2 above, provide the following information:
- a. A development name unique to the Oak Forest area for identification purposes.
  - b. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed planned development, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property, and a recent commitment for title insurance or ownership search certificate.
  - c. A map depicting municipal and special district boundaries where adjacent to or within the subject property.

- d. A written statement addressing the following matters:
  - i. A general description of the proposed planned development, the planning objectives to be achieved by it, including the rationales and assumptions of the applicant supporting the proposed planned development, and the market it is intended to serve.
  - ii. How the proposed planned development is to be designed, arranged and operated so as not to adversely affect the development and use of neighboring property in accordance with applicable regulations of this Code.
- e. Schematic, soft-line drawings of the proposed planned development concept, including public or private rights-of-way on or adjacent to the subject property, the proposed dimensions and locations of vehicular and pedestrian circulation and parking elements, public and private open space, and residential, commercial, office, industrial and other land uses, and the general locations of and purpose of all easements.
- f. A Tax Impact Study indicating the possible tax consequences the proposed planned development will have upon the City and other affected taxing bodies.
- g. A Traffic and Transit Impact Study including a list of new street construction and traffic control improvements necessary to accommodate the estimated increase in traffic and traffic related problems occasioned by the proposed development and a statement of the applicant's proposals for providing those needed improvements.
- h. A preliminary engineering study showing the location and adequacy of existing and proposed sanitary sewer, storm sewer and water distribution systems.
- i. ~~A copy of an application for a Natural Resource Assessment to the North Cook County Soil and Water Conservation District if the subject property is two acres or larger.~~
- i. A written statement identifying existing natural and environmental resources and features on the subject property, including its topography, vegetation, soils, geology, and scenic view, and the impact of the proposed planned development on such resources and features, including proposals to preserve or protect such resources and features.
- j. Schematic, soft-line architectural elevations indicating the general style of architecture and typical building materials.
- k. A statement of the applicant's intent with respect to the ownership, sale and leasing of the various completed units, structures, spaces and areas within the proposed planned development.

- ~~l. If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.~~
- ~~m. A detailed description of the financial assurance to be presented to guarantee completion of all public improvement and private open space to be provided in connection with the proposed planned development.~~
- ~~n. Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.~~
- ~~o. A preliminary plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.~~

10. Application for Planned Development Final Plan Approval. Every application filed pursuant to Paragraph 11-5603 D24 of this Article shall, in addition to the data and information required pursuant to Paragraph 1 and, where applicable, Paragraph 2 above, provide the following information:

- a. The date on which Development Concept Plan approvals were granted.
- b. An application for site plan approval pursuant to Section 11-604 of this Article. The materials and data listed in Paragraph 11-201(E)(11), as required for Site Plan Approval.
- ~~c. A statement and plan for the proposed treatment of the perimeter of the proposed planned development, including materials and techniques to be used.~~
- c. When the proposed planned development, or stage thereof, includes provision for public or common open space, a statement describing the provision made for the dedication or care and maintenance of such open space. If it is proposed that such open space be owned or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted. When the property is to be dedicated, a draft of the instrument of dedication shall be submitted.
- d. Copies of any restrictive covenants to be recorded with respect to property included in the Final Plan.

- e. A statement summarizing all changes that have been made, or have occurred, in any document, plan, data or information previously submitted, together with a revised copy of any such documents, plan or data.
  - ~~f. A final plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.~~
  - ~~g. All engineering data and drawings required in connection with an application for final subdivision approval under the Oak Forest Subdivision Ordinance (3 sets).~~
  - f. All certificates, seals and signatures required for the dedication of land and recordation of documents.
  - ~~g. Hard line elevations and floor plans.~~
  - g. Proof from appropriate governmental agencies that all taxes on the subject property have been paid and that all special assessments, taxes, and other levies against the subject property or any part thereof have been paid in full.
  - h. If the planned development is to be constructed in stages or units during a period extending beyond a single construction season, a development schedule for each and every such stage stating the approximate beginning and completion date, proportion of total public or common open space to be provided for each use and with each development stage.
  - i. A detailed description of the financial assurances to be presented to guarantee completion of all public improvements and private open space to be provided in connection with the proposed planned development.
  - j. Evidence of the financing plan the applicant proposes to use to complete the proposed planned development. The applicant's prior success in completing projects of similar scope may be offered in support of this requirement.
  - k. A preliminary plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.
  - l. A final plat of subdivision if required pursuant to the Oak Forest Subdivision Ordinance.
11. Applications for Site Plan Approval. Whenever an application filed pursuant to any provision of this Code involves any use, construction or development requiring the submission of a site plan pursuant to Section 11-~~56~~04 of this Article, a site plan illustrating the proposed use, construction or development and providing at least the following data and

information, on one or more sheets, shall be submitted as part of the application:

- a. A graphic rendering of the existing conditions, which depicts:
  - i. All significant natural, topographical and physical features of the subject property including topographical contours at one foot intervals;
  - ii. The location and extent of tree cover including single trees in excess of eight inches in diameter at five feet above ground level;
  - iii. The location and extent of water bodies and courses, wetlands, marshes and special flood hazard areas and floodways on or within 100 feet of the subject property;
  - iv. Existing drainage structures and patterns; and
  - v. Soil conditions as they affect development.
- b. The location, use, size and height in stories and feet of structures and other land uses on properties within 250 feet of the subject property.
- c. For areas within any required yard or setback, any proposed regarding of the subject property.
- d. Data concerning proposed structures and existing structures that will remain, including:
  - i. Location, size, use and arrangement, including height in stories and feet;
  - ii. Where relevant, floor area ratio, gross floor area and net floor area;
  - iii. Where relevant, number and size of dwelling units, by dwelling unit type and number of bedrooms;
  - iv. Building coverage; and
  - v. Description of the calculation method utilized in computing all required statistics shown.
- e. Minimum yard and setback dimensions and, where relevant, relation of yard and setback dimensions to the height, width and depth of any structure.
- f. A vehicular and pedestrian circulation plan showing the location, dimensions, gradient and number of all vehicular and pedestrian

circulation elements including rights-of-way and streets; driveway entrances, curbs and curb cuts; parking spaces, loading spaces and circulation aisles; sidewalks, walkways and pathways; and total lot coverage of all circulation elements divided as between vehicular and pedestrian ways.

- g. All existing and proposed surface and sub-surface drainage and retention and detention facilities and existing and proposed water, sewer, gas, electric, telephone and cable communications lines and easements and all other utility facilities.
  - h. Location, size and arrangements of all outdoor signs and lighting.
  - i. Location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing or screening.
  - j. Location, designation and total area of all usable open space.
  - k. A detailed landscaping plan, showing location, size and species of all trees, shrubs and other plant material.
  - l. A traffic study, if required by the Community Development Director or the Board or Commission hearing the application.
  - m. An erosion control plan for the period during which construction will be taking place, if required by the Community Development Director or the Board or Commission hearing the application.
  - n. Hard line elevations and floor plans.
  - o. The names and addresses of all owners of:
    - i. Property within 250 lineal feet, excluding street rights-of-way, in all directions from the subject property; and
    - ii. Property located on the same frontage or frontages as the front lot line or corner side lot line of the subject property and on a frontage directly opposite any such frontage and on a frontage immediately adjoining or across an alley from any such frontage, as shown in the records of the Office of the Assessor of Cook County.
12. Applications for Appeal from Denial of Site Plan Approval. Every application filed pursuant to Subparagraph 11-~~56~~04 E(1)(d) shall, in addition to the data and information required pursuant to Paragraph 1 above, provide the following information:
- a. A copy of the original application for site plan approval.
  - b. A statement of the applicant's position as the alleged errors in the Director's denial of site plan approval and as to why approval of

the site plan is justified and proper.

- F. Special Data Requests. In addition to the data and information required pursuant to Subsection E of this Section, every applicant shall submit such other and additional data, information or documentation as the Community Development Director or any Board or Commission before which its application is pending may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.
- G. Concurrent Applications. Where a proposed use or development requires more than one approval pursuant to this Code applications for all such approvals may be filed concurrently notwithstanding the fact that approval of one application may be a precondition to approval of other applications. Such applications may, in the discretion of the official, officials, body or bodies charged with review of such applications be processed together; provided, however, that no application shall be approved unless all applications that are a precondition to its approval have first been approved.
- H. Withdrawal of Application. An applicant may withdraw an application at any time prior to a final decision having been rendered with respect thereto; provided that the applicant shall have paid all applicable application fees pursuant to Subsection 11-301 D. Such withdrawal shall be without prejudice to the applicant's right to refile such application, but any such refiling shall be treated as an entirely new filing and shall be subject to the procedures and fees of this Code in the same manner as any other new application.

#### **11-202: SUCCESSIVE APPLICATIONS**

- A. Second Applications Without New Grounds Barred. Whenever any application filed pursuant to this Code has been finally denied on its merits, a second application, seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless, in the opinion of the Officer, Board or Commission before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.
- B. New Grounds to be Stated. Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
- C. Exception. Whether or not new grounds are stated, any such second application filed more than two years after the final denial of a prior application shall be heard on the merits as though no prior application had been filed. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of such evidence it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application.

#### **11-203: PUBLIC HEARINGS AND MEETINGS**

- A. Setting Hearing or Meeting; Time Limitation. When the provisions of this Code require a public hearing or meeting in connection with any application filed

pursuant to this Code, the body charged with conducting the hearing or meeting shall, upon receipt of a properly completed application, fix a reasonable time and place for such hearing or meeting; provided, however, that such hearing or meeting shall be commenced no later than 60 days, and shall be concluded no later than 120 days, following the receipt of the subject application unless the applicant shall agree to an extension or unless the hearing or meeting agenda of the body is completely committed during that time. In all cases where the Planning and Zoning Commission is the body charged with conducting the hearing, an application shall be deemed to have been "received" on the date of the referral of such application by the City Council.

B. Notice.

1. Notice to be Given. Notice of public hearings and meetings set pursuant to Subsection A of this Section shall be given by the Community Development Director or the applicant, as the case may be, in the form and manner and to the person herein specified.
2. Content of Notice. All notices shall include the date, time and place of such hearing or meeting, a description of the matter to be heard or considered, and the address or particular location, as well as a legal description, of the subject property.
3. Persons Entitled to Notice
  - a. All Hearings and Meetings. Notice of every hearing or meeting set pursuant to Subsection A of this Section shall be given by the Community Development Director:
    - i. By mail or personal delivery to the applicant and, if a specific parcel is the subject of the application, to the owner of the subject property.
    - ii. By mail to any newspaper or person that shall have filed a written request, accompanied by an annual fee as established from time to time by the Community Development Director to cover postage and handling, for notice of all hearings or meetings held pursuant to this Code. Such written request shall automatically expire on December 31 of the year in which it is made unless a written request for renewal, accompanied by the annual fee, is submitted prior to such date
    - iii. (3) By mail, personal delivery or interdepartmental delivery to affected City Councils, Commissions, Departments and Officials.  
Notice by mail as herein required, shall be mailed no less than five days in advance of the hearing or meeting date by regular United States mail.
  - b. Hearings on Amendments, Special Permits and Variations. In addition to the notice as required by Subparagraph B3(a) above, the following notice shall be given for every hearing set pursuant to Subsection A of this Section in connection with an application

for an amendment to this Code (other than an amendment to the Zoning Map), a special permit or a variation:

- i. Content of Notice. The notice required pursuant to this Subparagraph shall contain, at a minimum, the following information:
  1. The street address, legal description or detailed location description of the property, if any, that is the subject of the application;
  2. A brief statement of the nature of the relief being requested;
  3. The name and address of the applicant;
  4. The name and address of the legal and beneficial owner of the property, if any, that is the subject of the application; and
- ii. Notice by Newspaper Publication. The Community Development Director shall cause a notice to be published in a newspaper published in, or of general circulation within, the City at least once no less than fifteen (15) days, nor more than thirty (30) days, in advance of the hearing date.
- iii. Notice by Mail. If a specific property is the subject of the application, the applicant shall deliver a notice, by certified mail, return receipt requested, or by personal delivery, to all owners of all property located, in whole or in part, within 250 feet of the subject property measured in all directions of the subject property excluding public and railroad rights-of-way. The notice shall be mailed or personally delivered, as the case may be, no less than fifteen (15) days, nor more than thirty (30) days, in advance of the hearing date. The mailing of a notice pursuant to this Subparagraph addressed to the name and address on the most recent Cook County real estate tax records shall be deemed a satisfaction of this notice by mail requirement.
- iv. Notice by Sign. If a specific property is the subject of the application, the applicant shall post the subject property with a ground sign of approximately six (6) square feet of gross surface area containing the legibly written notice. The sign shall be located on the subject property so as to be visible from at least one (1) right-of-way abutting the subject property. The applicant shall remove the sign within three (3) days after the hearing is closed. The notice by sign requirement shall not be applicable for any application for a variation.
- v. Report to Hearing Body. At the hearing, the applicant shall present to the hearing body an affidavit, certification or

other evidence satisfactory to the hearing body, demonstrating, to the satisfaction of the hearing body, that the applicable notice requirements of this Subparagraph have been satisfied.

- c. Hearing on Renewal of Special Use Permits. In addition to notice as required by Subparagraph B3(a) above, notice of a hearing for the renewal of a ~~s~~Special Use pPermit pursuant to Subsection 11-~~5602 LK~~ of this Code shall be given in accordance with Subparagraphs 11-203 B3(b) (1), (3), (4) and (5); provided, however, that the notice by mail requirement in Subparagraph 11-203 B3(b)(3) shall be satisfied by U.S. Mail, first class pre-paid, instead of certified mail.
- d. Hearing on Official Comprehensive Plan. In addition to notice as required by Subparagraph B3(a) above, notice of every hearing set pursuant to Subsection A hereof in connection with the adoption of the Official Comprehensive Plan shall be given by publication in a newspaper of general circulation in Cook County at least fifteen (15) days before such hearing.
- e. Hearing on Zoning Map Amendments. In addition to notice as required by Subparagraph B3 (a) above, notice of every hearing set pursuant to Subsection A hereof in connection with an application for an amendment to the Zoning Map shall be pursuant to Subparagraph 11-203 B3 (b); provided, however, that the requirements set forth in Subparagraph 11-203 B3 (b)(4) shall not apply in any of the following instances:
  - i. when the City is the applicant and none of the property that is the subject of the application is owned by the City; or
  - ii. the property that is the subject of the application consists of five (5) or more zoning lots.

C. Referral to City Commissions and Departments.

1. Hearings and Meetings Regarding Appeals and Variations.

- a. Director to Refer Applications. The Community Development Director shall, not later than the time set pursuant to Subsection B of this Section for giving public notice, refer every application for an appeal pursuant to Section 11-~~4502~~ of this Article and for a variation pursuant to Section 11-~~4503~~ of this Article, ~~unless pursuant to Paragraph 11-503 D4 of this Article,~~ to all appropriate City Commissions and Departments.
- b. Review and Comments. Each City Commission and Department to which an application is referred pursuant to this Subsection shall review such application and submit its comments thereof to the Staff Secretary of the Zoning Board of Appeals.

Such comments shall, whenever possible, be submitted at least two business days prior to the date set for the hearing and shall be made available to any person on request prior to the hearing.

2. Hearings and Meetings Regarding Variations, Amendments and Special Approvals Use Permits.

- a. Director to Refer Applications. Following receipt from the **City Council applicant** of an application for a variation pursuant to ~~Section Paragraph 11-4503 D4~~ of this Article, an amendment pursuant to Section 11-~~5601~~ of this Article, a special use permit pursuant to Section 11-~~5602~~ of this Article and a planned development pursuant to Section 11-~~5603~~ of this Article, the Community Development Director shall, not later than the time set pursuant to Subsection B of this Section for giving public notice, refer such application to all appropriate City Commissions and Departments.
- b. Review and Comments. Each City Commission and Department to which an application is referred pursuant to this Subsection shall review such application and submit its comments thereon to the Staff Secretary of the Plan Commission.

D. Conduct of Hearings.

1. Rights of All Persons. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the hearing body may exclude irrelevant, immaterial or unduly repetitious evidence.
2. Rights of Parties and Proximate Owners. The applicant and, subject to restrictions imposed by the Oak Forest Ethics Code, any Board, Commission, Department or Official of the City, and any property owner entitled to written notice pursuant to Subparagraph B3(b)(2) of this Section, may, subject to the discretion of the hearing body, in addition to the rights granted by Paragraph D1 above, be allowed any or all of the following rights:
  - a. To present witnesses on their behalf;
  - b. To cross-examine all witnesses testifying in opposition to their position;
  - c. To examine and reproduce any documents produced at the hearing;
  - d. To have subpoenas issued by the body in charge of the hearing for persons to appear at the hearings and for examination of documents by the person requesting the subpoena either before or during the hearing, where such persons or documents are shown to have a substantial evidentiary connection with:

- i. The property to which the request applies; or
  - ii. Facts that would support or negate the legal standards for granting the request; and
- e. To be granted, upon request, a continuance for the purpose of presenting evidence to rebut evidence introduced by any other person.

In granting or withholding such rights, the discretion of the hearing body shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not, however, be granted where undue and unwarranted delay would result, or where to do so would tend to produce no new evidence to aid the hearing body in reaching its decision.

- 3. Adjournment of Hearing. The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time, and to a fixed date, time and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further or for such other reason as the body finds to be sufficient. The Staff Secretary of the hearing body shall notify in writing all members of the hearing body, all parties to the hearing, and any other person designated on the vote of adjournment, of the date, time and place of the adjourned hearing.
  - 4. Testimony to be Sworn. All testimony at any hearing held pursuant to the provisions of this Code shall be given under oath.
  - 5. Right to Submit Written Statements. Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing or within such time as may be allowed by the hearing body following such hearing, submit written statements in support of or in opposition to the application being heard. Such statements shall be subscribed and sworn before an officer authorized to administer oaths and shall be a part of the public record of the hearing.
  - 6. Board or Commission Rules to Govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the body conducting the hearing.
- E. Pre-hearing and Pre-meeting Examination and Copying of Application and Other Documents. At any time following the giving of notice as required in Subsection B of this Section, and upon reasonable request, any person may examine the application and, subject to the exceptions set forth in the Illinois Freedom of Information Act, all other documents on file with the Office of the Community Development Director, pertaining to the matter subject to such notice. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee as established from time to time by the Community Development Director to cover the cost of such copies.

PART III - ZONING CERTIFICATES

11-301: CERTIFICATE OF ZONING COMPLIANCE

- A. Authority. The Community Development Director shall have authority to issue Certificates of Zoning Compliance, but only in accordance with the provisions of this Section.
- B. Purpose. The Certificate of Zoning Compliance is intended to serve two general purposes. First, it provides a procedure for reviewing plans for conformance with this Code and a means for evidencing such conformance. Second, it serves as an adjunct to, and this must be filed prior to or with, all other applications filed pursuant to this Code with respect to a specific use or development proposal. When so filed, it serves as a vehicle for routine plan review by the Community Development Director prior to consideration of special requests by other Officials, Boards and Commissions, thus avoiding needless special reviews of defective plans.
- C. Certificate Required. Except where expressly waived by another provision of this Code, unless a Certificate of Zoning Compliance shall have first been obtained from the Community Development Director:
1. The construction, reconstruction, remodeling, alteration or moving of any structure shall not be commenced;
  2. No land vacant on the effective date of this Code shall be used or occupied for any purpose, except the raising of crops;
  3. The grading, excavation or improvement of land preliminary to any construction on or use of such land shall not be commenced; and
  4. Building or other permits pertaining to the construction, reconstruction, remodeling, alteration or moving of any structure or the use of any land or structure shall not be issued by the City.

In any case where a Certificate of Zoning Compliance is not required under this Code, the Community Development Director shall, upon written request, issue a certificate of such fact.

- D. ~~**Relation to Other Applications. No application for a zoning variation, formal application for a special permit, formal application for an amendment or formal application for approval of a Development Concept Plan shall be processed unless an application for a Certificate of Zoning Compliance shall first have been received, processed and approved, or denied solely on one or more grounds that form the basis for the application filed pursuant to said Part III. It is the intent of this Section that no application filed pursuant to Part III of this Article with respect to a specific use or development proposal shall be processed until the Community Development Director is satisfied that the proposed use or development complies with the provisions of this Code in all respects except those within the scope of such application. [reserved.]**~~

E. Procedure.

1. Application. Applications for Certificates of Zoning Compliance shall be filed in accordance with the requirements of Section 11-~~23~~01 ~~E2~~ of this Article.
2. Action on Application. Within ten (10) days following receipt of a completed application for a Certificate of Zoning Compliance, the Community Development Director shall cause the application and related submissions to be reviewed for compliance with this Code and shall inform the applicant whether the application has been granted or denied.

In any case where an application is granted, the Community Development Director shall issue a Certificate of Zoning Compliance, with shall state on its face, in bold type, that:

**“THIS CERTIFICATE DOES NOT SIGNIFY BUILDING CODE REVIEW OR APPROVAL AND IS NOT AUTHORIZATION TO UNDERTAKE ANY WORK WITHOUT SUCH REVIEW AND APPROVAL WHERE EITHER IS REQUIRED. SEE OAK FOREST BUILDING CODE FOR DETAILS.**

**BEFORE ANY STRUCTURE TO WHICH THIS CERTIFICATE IS APPLICABLE MAY BE OCCUPIED OR USED FOR ANY PURPOSE, A CERTIFICATE OF OCCUPANCY MUST BE OBTAINED.”**

In any case where an application is denied, the Community Development Director shall state specific reasons therefore and shall cite the specific provisions of this Code upon which such denial is based. If relief from such demand would be available pursuant to a companion application filed in connection with the application for a Certificate of Zoning Compliance, the Community Development Director shall so inform the applicant and shall promptly process such companion application. If such application is approved, the Director shall issue the requested Certificate of Zoning Compliance in accordance with the terms and conditions of such approval.

If relief from the Director's denial of a Certificate of Zoning Compliance would be available by variation, special permit or site plan review, but no application therefore has been filed, the Community Development Director shall so state and shall refer the applicant to the appropriate provisions of this Code.

3. Contents of Certificate. Each Certificate of Zoning Compliance issued pursuant to this Section shall state the specific use of the subject property for which it is issued; shall identify the specific plans; if any, pursuant to which it is issued; and shall set forth any conditions imposed in connection with any approval granted pursuant to this Code.
4. Filing of Certificates. Every Certificate issued pursuant to this Section shall be kept on file in the Office of the Community Development Director and shall be a public record open to inspection in accordance with the provisions of the Illinois Freedom of Information Act.

- F. Effect of Issuance of Certificate of Zoning Compliance. The issuance of a Certificate of Zoning Compliance shall not authorize the establishment, expansion or extension of any use nor the development, construction, relocation, alteration or moving of building or structure, but shall merely authorize the preparation, filing and processing of applications for any additional permits and approvals that may be required by the codes and ordinances of the City, including, but not limited to, a Building Permit, a Certificate of Occupancy and Subdivision Approval.
- G. Limitations on Certificates. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, a Certificate of Zoning Compliance shall become null and void six months after the date on which it was issued unless within such period construction, reconstruction, remodeling, alteration or moving of a structure is commenced or a use is commenced.
- H. Void Certificates. Any Certificate of Zoning Compliance issued in violation of the provisions of this Code, whether intentionally, negligently or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

**11-302: CERTIFICATE OF OCCUPANCY**

- A. Authority. The Community Development Director shall have authority to issue Certificates of Occupancy; provided, however, that no such certificate shall be issued except in accordance with the provisions of this Section and the provisions of the Oak Forest Municipal Code governing development, building and related matters.
- B. Purpose. For the purposes of this Code, the Certificate of Occupancy provides a procedure for the inspection of completed premises to ensure their compliance with this Code and approved plans prior to commencement of the use or occupancy of such premises. The Certificate may also evidence compliance with other provisions of the Oak Forest Municipal Code, as set forth in those provisions.
- C. Certificate Required. Unless a Certificate of Occupancy shall have first been obtained certifying compliance with the provisions of this Code:
  - 1. No structure, or addition thereto, constructed, reconstructed, remodeled, altered or moved after the effective date of this Code shall be occupied or used for any purpose;
  - 2. No land vacant as of the effective date of this Code shall be used or occupied for any purpose, except the raising of crops;
  - 3. Except for changes involving only substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy, whether or not construction, remodeling, alteration or moving is involved.
- D. Procedure.

1. Application. Where no Certificate of Zoning Compliance is required, applications for Certificates of Occupancy shall be filed in accordance with the requirements of Section 11-~~23~~01 of this Article.

Where a Certificate of Zoning Compliance has been issued, the application for that Certificate shall also be treated as the application for a Certificate of Occupancy and shall be processed as such at such time as the applicant notifies the Community Development Director in writing that the subject structure or use is ready for a Certificate of Occupancy in accordance with the Certificate of Zoning Compliance.

In any case where the structure or use involved has been constructed or established pursuant to any approval granted pursuant to this Code, the application shall be accompanied by “as built” plans depicting the structure or use as built and bearing the certificate of a surveyor, engineer, architect, land planner or owner-designer, as may be appropriate, certifying that the structure or use as built conforms in all respects to the approval granted.

2. Action on Application. Within ten (10) days following the receipt of a completed application, the Community Development Director shall cause the subject structure or premises to be inspected and shall take on the following actions based on such inspection:
  - a. If all work has been completed and the structure and use thereof are in full and complete compliance with all applicable provisions of this Code, other relevant codes and ordinances of the City, the applicant’s plans as approved and any conditions attached to any approval issued pursuant to this Code, the Community Development Director shall issue a Certificate of Occupancy;
  - b. If, however, all work is not complete or is in any manner not in full compliance with all applicable requirements, the Community Development Director shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of the codes and ordinances of the City, the particular items in the applicant’s plans or the applicable special approval conditions with respect to which compliance is lacking.
3. Contents of Certificates. In addition to the matters required to be contained in a Certificate of Occupancy pursuant to other applicable provisions of the Oak Forest Municipal Code, each Certificate of Occupancy issued pursuant to this Section shall state the specific use of the subject property for which it is issued; shall identify the specific plans, if any, pursuant to which it is issued and shall set forth any conditions imposed in connection with any approval granted pursuant to this Code.
4. Filing of Certificates. Every Certificate issued pursuant to this Section shall be kept on file in the Office of the Community Development Director and shall be a public record open to inspection pursuant to the provisions of the Illinois Freedom of Information Act.

- E. Temporary Certificate of Occupancy. Notwithstanding the provisions of Paragraph D2 above, where construction, reconstruction, remodeling or alteration of a structure does not require the vacating of the structure, or where parts of the structure are finished and ready for occupancy before the completion of such construction, reconstruction, remodeling or alteration and are certified upon inspection to be safe for use or occupancy and to be in full compliance with all applicable provisions of this Code, other relevant codes and ordinances of the City, the applicant's plans as approved and any conditions attached to any approvals issued pursuant to this Code with respect to such structure or its premises, a Temporary Certificate of Occupancy may be issued for a period not to exceed six (6) months from its date, which Temporary Certificate shall bear on its face, in bold type, a statement of its temporary nature; provided, however, that no such temporary certificate shall be issued pursuant to this Code unless said structure also qualifies for a Temporary Certificate of Occupancy issued pursuant to the Oak Forest Building Code.
- F. Certificate of Occupancy for Existing Uses. The Community Development Director may issue a Certificate of Occupancy certifying the lawful existence and use of any existing structure or use in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses. Such Certificate shall be prima facie evidence of the facts contained in it with respect to any structure or use as of the date of its issue and remain effective for that purpose for so long as neither the use or structure nor the applicable provisions of this Code are changed.
- G. Certificate of Occupancy for Legal Nonconformities. The Community Development Director may issue a Certificate of Occupancy certifying the lawful existence and use of any nonconforming use, structure, lot or sign in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses and subject also to the additional standards and limitations set forth in Paragraph 10-101 E3 of this Code.
- H. Void Certificates. Any Certificate of Occupancy issued in violation of the provisions of this Code, whether intentionally, negligently, or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

**PART IV - INTERPRETATIONS, APPEAL AND VARIATIONS**

**11-401: INTERPRETATIONS**

- A. Authority. The ~~City Administrator~~**Community Development Director** may, subject to the procedures, standards and limitations of this Section, render interpretations, including use interpretations, of the provisions of this Code and of any rule or regulation issued pursuant to it.
  
- B. Purpose. The interpretation authority established by this Section is intended to recognize that the provisions of this Code though detailed and lengthy, cannot possibly address every specific situation to which they may have to be applied. Many such situations can, however, be readily addressed by an interpretation of the specific provisions of this Code in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority herein established is an administrative rather than a legislative authority, it is not intended to add to or change the essential content of this Code but, rather, it is not intended only to allow authoritative application of that content to specific cases.
  
- C. Parties Entitled to Seek Interpretations. Applications for interpretations may be filed by any person having an interest in the circumstances giving rise to the need for an interpretation; provided, however, that interpretations shall not be sought by any person based solely on hypothetical facts or where the interpretation would have no effect other than as an advisory opinion.
  
- D. Procedure.
  - 1. Application. Applications for interpretations of this Code shall be filed in accordance with the requirements of Section 11-301 of this Article.
  
  - 2. Action on Application. Within 35 days following the receipt of a properly completed application for interpretation, the ~~City Administrator~~**Community Development Director** shall inform the applicant in writing of his interpretation, stating the specific precedent, reasons and analysis upon which the determination is based.

The failure of the Community Development Director to act within 35 days, or such further time to which the applicant can agree, shall be deemed to be a decision denying the application rendered on the day following such 35 day period.
  
  - 3. Appeal. Appeals from interpretations rendered by the Community Development Director may be taken to the Zoning Board of Appeals as provided in Section 11-~~4~~**5**02 of this Article.
  
- E. Standards for Use Interpretations. The following standards shall govern the Community Development Director, and the Planning and Zoning Commission on appeals from the Community Development Director, in issuing use interpretations:

1. No use interpretation shall be given with respect to the R1 through R6 Residential District.
  2. Any use defined in Section 12-206 of this Code shall be interpreted as therein defined.
  3. No use interpretation shall permit a use listed as a permitted or special permit use in any district to be established in any district in which such use is not so listed.
  4. No use interpretation shall permit any use in any district unless evidence shall be presented that demonstrates that it will comply with each use limitation established for that particular district.
  5. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or specially permitted in a more restrictive district.
  6. If the proposed use is most similar to a use permitted only as a special permit use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a ~~S~~pecial ~~U~~se ~~P~~ermit for such use pursuant to Section 11-~~56~~02 of this Article.
  7. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the district in question.
  8. Subject to the foregoing conditions and limitations, in rendering use interpretations the Community Development Director shall be guided by the North American Industry Classification System, as amended by the City (see Appendix A) and the use classification methodology used therein.
- F. Effect of Favorable Use Interpretation. No use interpretation finding a particular use to be permitted or specially permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of Applications for any Permits and Approvals that may be required by the codes and ordinances of the City, including, but not limited to, a Special Use Permit, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.
- G. Limitations on Favorable Use Interpretations. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, no use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be valid for a period longer than six months from the date of issue unless a building permit is issued, and construction is actually begun within that period and is thereafter diligently pursued to completion, or a Certificate of Occupancy is obtained and a use commenced within that period.

A use interpretation finding a particular use to be permitted or specially permitted in a particular district shall be deemed to authorize only the particular use for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such permit shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of six consecutive months or more.

**11-402: APPEALS**

- A. Authority. Except as provided in Subparagraph 11-~~5604~~ E1(d) of this Article with regard to site plan review appeals, the Planning and Zoning Commission shall hear and decide appeals from, and review orders, decisions, determinations, or the failure to act, of the Community Development Director acting pursuant to his authority and duties under this Code and to that end the Board of Appeals shall have the same powers and be subject to the same standards and limitations as the Community Development Director with respect to any order, decision or determination being appealed.
- B. Purpose. The appeal procedure is provided as a safeguard against arbitrary, ill-considered or erroneous administrative decisions. It is intended to avoid the need for resort to legal action by providing a local procedure for the review and correction of administrative errors. It is not, however, intended as a means to subvert either the clear purposes, intent or meaning of this Code or the rightful authority of the Community Development Director to enforce this Code. To these ends, the reviewing body should give all proper deference to the spirit and language of this Code and to the reasonable interpretations of those charged with its administration.
- C. Parties Entitled to Appeal. An application for appeal to the Planning and Zoning Commission may be filed by any person aggrieved or adversely affected by an order, decision, determination or failure to act of the Community Development Director acting pursuant to his authority and duties under this Code.
- D. Procedure.
1. Application. An application for appeal to the Planning and Zoning Commission shall be filed not later than 45 days following the action being appealed and in accordance with the requirements of Section 11-~~2301~~ if this Article.
  2. Action by Community Development Director. Upon receipt of a properly completed application for an appeal, the Community Development Director shall forthwith transmit to the Planning and Zoning Commission the application together with all papers constituting the record upon which the action appealed from was taken.
  3. Public Hearing. A public hearing shall be set, noticed and conducted by the Board of Appeals in accordance with Section 11-203 of this Article.
  4. Action by Planning and Zoning Commission. Within thirty (30) days

following the close of the public hearing the Planning and Zoning Commission shall render a decision on the appeal in the manner and form specified in Subsection 11-103 ~~BC~~ of this Article. Such decision may reverse, affirm or modify, in whole or in part, the action appealed from and may include such order or determination as, in the opinion of the Planning and Zoning Commission, is proper to be made in the premises.

The failure of the Planning and Zoning Commission to act within such thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the appeal.

- E. Stay of Proceedings. An application for appeal properly filed pursuant to Subsection D above shall stay all proceedings in the furtherance of the action appealed from, unless the Community Development Director certifies to the Planning and Zoning Commission after the application for appeal has been filed with the Director that, by reason of facts stated in the certificate, a stay would, in the Director's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order, which may be granted by the Planning and Zoning Commission or by the Circuit Court on application, upon reasonable written notice to the Community Development Director and on due cause shown.
- F. Right to Grant Variation in Deciding Appeals. In any case where the application for appeal is accompanied by an application for variation in accordance with Section 11-~~4503~~ of this Article, the Planning and Zoning Commission shall have the authority to grant, as part of the relief, a variation but only in strict compliance with each provision of said Section 11-~~4503~~.
- G. Conditions and Limitations on Rights Granted by Appeal. In any case where this Code imposes conditions and limitations upon any right, any such right granted by the Planning and Zoning Commission on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

#### 11-403: VARIATIONS

- A. Authority. The Planning and Zoning Commission, ~~and in the cases specified in Paragraph D4 of this Section, the City Council,~~ shall have the authority to grant variations ~~from the provisions of this Code, but only in compliance with the procedures set forth in Subsection D of this Section and in those specific instances enumerated in Subsection D of this Section and in those specific instances enumerated in Subsection E of this Section and then only in accordance with each of the standards enumerated in Subsection F of this Section under Paragraph E1 of this Section. The City Council shall have the authority to grant variations under Paragraph E2 of this Section.~~
- B. Purpose. The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Code that create practical difficulties or particular hardships. When such difficulties or hardships are more appropriate for remedy, if at all, pursuant to other provisions of this Article XI, the variation procedure is

necessarily inappropriate.

C. Parties Entitled to Seek Variations. Applications for variations may be filed by the owner of, or any person having a contractual interest in, the subject property.

D. Procedure.

1. Application. Applications for variations shall be filed in accordance with the requirements of ~~Paragraph~~**Section** 11-~~2301~~ **E5** of this Article.

2. Public Hearing. A public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.

3. Action by Planning and Zoning Commission. **In the cases specified in Paragraph 11-403 E1, w**~~Within 35-21~~ days following the close of the public hearing, the Planning and Zoning Commission shall render its decision, granting or denying the variation, in the manner and form specified by Subsection 11-103 ~~BC~~ of this Article.

The failure of the Planning and Zoning Commission to act within **2135** days, or such further time to which the applicant may agree, shall be deemed to be a decision denying the variation.

**In the cases specified in Paragraph D4 of this Subsection and in Paragraph 11-403 E2, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection 11-103 B of this Article, recommending either granting the application for a variation; granting the application subject to conditions; or denying the application.**

4. Action by City Council. **Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the variation, with or without modifications or conditions.**

5. Special Procedures in Connection With Other Applications. Whenever any other application is filed pursuant to this Code or the Oak Forest Subdivision and Development Code (201**40**) as a companion to an application for a variation and such companion application requires final approval by the City Council, the authority to hear and decide the application for variation otherwise delegated to the Planning and Zoning Commission pursuant to this Section may, pursuant to the request of the applicant **or the Community Development Director** made at the time of the filing of the applicant's ~~preliminary~~ application, be reserved to the City Council. Whenever any application for a variation requires final approval by the City Council, the authority to ~~hear and~~ decide the application for variation shall be reserved to the City Council. For such purposes, the City Council shall have all of the authority granted to, and shall be subject to all of the limitations imposed on, the Planning and

Zoning Commission by this Section; provided, however, that the provisions governing public notice and hearing of, and action on, the companion application or the provisions of Paragraphs D2 and D3 of this Section that provide the broadest public notice shall govern.

E. **Authorized Permitted Variations.**

1. Permitted Variations as approved by the Planning and Zoning Commission. **The Planning and Zoning Commission may vary the provisions of this Code in the following cases and in no others, in accordance with Subsection D above. Subject to the prohibitions set forth in Paragraph E2 below, and subject to the other provisions of this Section, the Planning and Zoning Commission may vary the provisions of this Code in the following cases and in no others; provided, however, that only the City Council may vary the provisions of this Code as provided in Subparagraphs E1(j), E1(n) and E1(q) below:**
  - a. To reduce the dimension of any required yard or setback of a lot of record existing at the time that the application for the variation is submitted;
  - b. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 90 percent of the required area and width, and only on a lot of record existing at the time that the application for the variation is submitted;
  - c. To increase the maximum allowable height of any fence;
  - d. To reduce by not more than 25 percent, or one space, whichever is greater, the minimum number of off-street parking spaces or loading spaces otherwise required;
  - e. To increase by not more than one sign the maximum number of signs of any functional type otherwise allowed;
  - f. To allow illumination of residential recreational facilities;
  - g. To allow the moving of a pre-code structure to an extent or in a manner not permitted by Subsection 10-104 B of this Code;
  - h. To allow the otherwise prohibited restoration of a partially damaged or destroyed pre-code structure or structure devoted to a nonconforming use;
  - ~~i. To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:~~

- ~~(i) The lot or lots for which the variation is sought are the result of a proposed subdivision that includes one or more existing nonconforming lots of record;~~
  - ~~(ii) The application for a proposed subdivision is submitted concurrently with the application for variation;~~
  - ~~(iii) The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;~~
  - ~~(iv) The area of the lots for which a variation is sought is not less than 115% of the required lot area;~~
  - ~~(v) The creation of new lots does not increase the degree of nonconformity as to width that exists in the existing nonconforming lot or lots at the time of application; and~~
  - ~~(vi) The number of lots for which the variation is sought does not exceed either the number of nonconforming lots to be subdivided for the proposed subdivision or thirty percent (30%) of the total number of lots created by the proposed subdivision, whichever is less. Any variation granted pursuant to this Subparagraph shall run only to the applicant, as a personal privilege.~~
- i. To allow yard variations in excess of those permitted by Section 10-105 of this Code in connection with the development of a legal nonconforming lot of record;
- j. To increase, by not more than five (5) feet or not more than one (1) story or both, the maximum allowable height of a principal residential structure in the R4 Single Family Residential District (provided that in no event shall the maximum allowable height with such a variation exceed 35 feet or three stories, whichever is less) where such structure meets all of the following conditions: (i) it is to be located in whole or in part in the flood plain, (ii) it is a replacement for a residential structure that was destroyed or damaged, by any means not within the control of the owner thereof, to the extent of fifty percent or more of the market value of the structure, (iii) it is a replacement for a residential structure that had a basement prior to such damage or destruction, and (iv) a basement cannot be constructed in the replacement structure because the lowest floor of such structure is required by this Code or other applicable law to be constructed at or above the base flood elevation.
- k. To reduce the bulk, yard, setback and space requirements when a zoning lot, whether vacant or legally used, is reduced in size, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance made under the specific threat of an eminent domain proceeding, so that the remainder of said zoning lot, or any structure or use on said zoning lot, does not conform with one or more of such bulk,

yard, setback or space requirements of the district in which said zoning lot is located.

l. To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:

- i. The application for a proposed subdivision is submitted concurrently with the application for variation;
- ii. The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;
- iii. The area of the lots for which a variation is sought is not less than 115 percent of the required lot area; and
- iv. The lot width of the lots created by the proposed subdivision is not less than the lot width of 75 percent of the remaining lots along the same frontage as the proposed new lots.
- v. Any variation granted pursuant to this subparagraph shall run only to the applicant, as a personal privilege.

~~m. To permit a reduction of the required lot width for property that is annexed to the City pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.~~

m. To increase the maximum height of an alteration to, or enlargement of, a principal single-family detached residential pre-code structure located in a single-family residential district authorized pursuant to Paragraph 10-104 B2 of this Code, but in no event to a height exceeding the otherwise applicable district height limitations.

n. To reduce the minimum number of off-street parking spaces required to serve a new non-residential use within a structure located within a Special Parking Area in the Gateway Redevelopment Sub-Area.

**o. To permit fences in front yards of properties within single family residential districts no greater than three (3) feet in height.**

**p. To permit fences in front and corner yards of properties within all other districts no greater than three (3) feet in height.**

~~q. To reduce the minimum lot area of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by twenty (20) percent; or to reduce the minimum frontage of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by ten (10) percent.~~

2. Permitted Variations as approved by the City Council. Subject to the prohibitions set forth in Paragraph E4 below, and subject to the other provisions of this Section, the City Council may vary the provisions of this Code in the following cases, in accordance with Subsection D above:

a) To permit the use of one or more residential lots for a use otherwise prohibited solely because of the insufficient width of the lot or lots, where:

(i) The lot or lots for which the variation is sought are the result of a proposed subdivision that includes one or more existing nonconforming lots of record;

(ii) The application for a proposed subdivision is submitted concurrently with the application for variation;

(iii) The width of the lot or lots for which the variation is sought is not less than 75 percent of the required width;

(iv) The area of the lots for which a variation is sought is not less than 115% of the required lot area;

(v) The creation of new lots does not increase the degree of nonconformity as to width that exists in the existing nonconforming lot or lots at the time of application; and

(vi) The number of lots for which the variation is sought does not exceed either the number of nonconforming lots to be subdivided for the proposed subdivision or thirty percent (30%) of the total number of lots created by the proposed subdivision, whichever is less.

Any variation granted pursuant to this Subparagraph shall run only to the applicant, as a personal privilege.

B) To permit a reduction of the required lot width for property that is annexed to the City pursuant to an annexation agreement that is duly authorized by the Corporate Authorities in the manner required by the Illinois Municipal Code.

c) To reduce the minimum lot area of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by twenty (20) percent; or to reduce the minimum frontage of a zoning lot for an automobile dealership, as required by Subsection 9-202(B) of this code by ten (10) percent.

d) **To increase, by not more than one (1) story, the maximum allowable height of a principal structure in any non-residential district, provided that the increase in height by one (1) story shall not require a related increase to the maximum allowable height in feet of the same district.**

e) **To permit a variation to any other provision of this Code.**

3. Administrative Variations. A request to reduce the minimum front, side or rear yard setback requirement, **or to reduce the maximum height requirement of accessory structures, by** less than twelve (12) inches may be approved by the Community Development Director or his/her designee.

4. Prohibited Variations. Notwithstanding any other provision of this Section, no variation shall be granted that:

a. Is intended as a temporary measure only; or

b. Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the applicant.

F. Standards for Variations.

1. General Standard. No variation shall be granted pursuant to this Section unless the applicant shall establish that carrying out the strict letter of the provisions of this Code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this Subsection F.

2. Unique Physical Condition. The subject property is exceptional as compared to other lots subject to the same provision by reason of a unique physical condition, including presence of an existing use, structure or sign, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject property that amount to more than a mere inconvenience to the owner and that relate to or arise out of the lot rather than the personal situation of the current owner of the lot.

3. Not Self-Created. The aforesaid unique physical condition is not the result of any action or inaction of the owner or his predecessors in title and existed at the time of the enactment of the provisions from which a variation is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Code, for which no compensation was paid.

4. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variation is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of

other lots subject to the same provision.

5. Not Merely Special Privilege. The alleged hardship or difficulty is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision, nor merely an inability to make more money from the sale of the subject property; provided, however, that where the standards herein set out exist, the existence of an economic hardship shall not be a prerequisite to the grant of an authorized variation.
  6. Code and Plan Purposes. The variation would not result in a use or development of the subject property that would not be in harmony with the general and specific purposes for which this Code and the provision from which a variation is sought were enacted or the general purpose and intent of the Official Comprehensive Plan.
  7. Essential Character of the Area. The variation would not result in a use or development on the subject property that:
    - a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development value of property or improvements permitted in the vicinity;
    - b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity;
    - c. Would substantially increase congestion in the public streets due to traffic or parking;
    - d. Would unduly increase the danger of flood or fire;
    - e. Would unduly tax public utilities and facilities in the area; or
    - f. Would endanger the public health and safety.
  8. No Other Remedy. There is no means other than the requested variation by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the subject property.
- G. Variation Less Than Requested. A variation less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- H. Conditions on Variations. The Zoning Board of Appeals may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variation. Violation of any such condition or limitation

shall be a violation of this Code and shall constitute grounds for revocation of the variation.

- I. Affidavit of Compliance with Conditions; Fee. Whenever any variation authorized pursuant to this Section is made subject to conditions and limitations to be met by the applicant, the applicant shall upon meeting such conditions file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- J. Effect of Grant of Variation. The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing and processing of applications for any permits and approval that may be required by the Codes and Ordinances of the City, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy, Subdivision Approval and Site Plan Approval.
- K. Limitations on Variations. Subject to an extension of time granted by the Community Development Director or City Council pursuant to Subsection 11-101 L of this Article, no variation from the provisions of this Code shall be valid for a period longer than 180 days, and no variation from the provisions of this Code that is granted concurrently with a special permit shall be valid for a period longer than one year, unless a building permit is issued and construction has actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use is commenced within that period. Variations granted pursuant to Subparagraph 11-~~4503~~ **E21(a)** of this Article shall be valid for a period that is coterminous with the period that the tentative subdivision plat is valid under the Oak Forest Subdivision and Development Code (201~~40~~), and shall be deemed final variations that run with the land only after recordation of a duly approved final subdivision plat.

A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six months following such removal.

**PART V - AMENDMENTS AND SPECIAL APPROVALS**

**11-501: AMENDMENTS**

- A. Authority. This Code and the Zoning Map may be amended from time to time by ordinance duly enacted by the City Council in accordance with the procedures set out in this Section.
- B. Purpose. The amendment process established by this Section is intended to provide a means for making changes in the text of this Code and in the Zoning Map that have more or less general significance or application. It is not intended to relieve particular hardships nor to confer special privileges or rights. Rather, it is intended as a tool to adjust the provisions of this Code and Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.
- C. Parties Entitled to Seek Amendments. An application for an amendment may be filed by the City Council, the Planning and Zoning Commission, the owner of, or any person having a contractual interest in, any property to be affected by a proposed amendment to the Zoning Map, or any person interested in a proposed amendment to the text of this Code.

D. Procedure.

1. ~~1. Preliminary consideration.~~

~~(a) Preliminary Application. A preliminary application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraph 11-301 E1 of this article.~~

~~(b) Referral to Board. Every properly filed and completed preliminary application for an amendment to this Code or the Zoning Map shall, before being processed in any other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~

~~(c) Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

~~(d) Specified Public Bodies Exempt. Amendments proposed by the City Council, Planning and Zoning Commission shall not be subject to the provisions of this Subsection.~~

~~2. Formal consideration.~~

1. ~~Formal Application. Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~ formal application for an amendment to this Code or the Zoning Map shall be filed in accordance with the requirements of Paragraphs ~~11-301 A3 and 11-2301 E6~~ of this Article for a code amendment and ~~11-2301E8~~ of this Article for a map amendment. Except as expressly provided otherwise herein, no formal application for an amendment to this Code ~~or to the Zoning Map~~ shall be heard ~~filed~~ unless the ~~City Council~~ **Community Development Director** shall have first reviewed an ~~preliminary~~ application for such amendment in accordance with ~~Subsection 11-101(F) Paragraph D1~~ of this ~~Section~~ **Code**.

2. ~~Board Referral. Every properly filed and completed formal application for an amendment to this Code or the Zoning Map shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article.~~ The failure of the ~~City Council~~ **Community Development Director** to act on a properly filed and completed formal application within 30 days of ~~the Board's his or her~~ receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.

3. Public Hearing. In any case where a formal application for an amendment to this Code or the Zoning Map is referred by the ~~City Council~~ **Community Development Director** pursuant to ~~Subsection 11-101(F) Subparagraph D2(b) of this Section~~, a public hearing shall be set, noticed, and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of the Article.

4. Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in the form specified by Subsection 11-1043 ~~BC~~ of this Article.

The failure of the Commission to act within 21 days following the conclusion of such hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the **approval**denial of the proposed amendment as submitted.

5. Action by City Council; Protest. Within sixty (60) days following the receipt of the recommendation of the Plan Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, adopt the proposed amendment, with or without modifications; provided, however, that in the event a duly signed and acknowledged protest against a proposed amendment is filed with the City Clerk before the adoption of such amendment by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed amendment, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such amendment shall not be passed except by a two-thirds vote of the City Council.

The failure of the City Council to act within sixty (60) days or such further time to which the applicant may agree, shall be deemed to be a decision denying the application.

- E. Standard for Amendments. The wisdom of amending the Zoning Map or the text of this Code is a matter committed to the legislative discretion of the City Council and is not dictated by any set standard. However, in determining whether a proposed amendment should be granted or denied, the Board should be guided by the principle that its power to amend this Code is not an arbitrary one but one that may be exercised only when the public good demands or requires the amendment to be made. In considering whether that principle is satisfied in any particular case, the Board should weigh the following factors: ~~that Paragraph 11-301 E8 requires the applicant to address.~~

1. The consistency of the proposed amendment with the purposes of this Code.
2. The community need for the proposed amendment and for the uses and development it would allow.
3. If a specific parcel of property is the subject of the proposed amendment, then the following factors:

- (a) Existing Uses And Classifications: the existing uses and zoning classifications for properties in the immediate vicinity of the subject property.

- (b) Trend Of Development:** the trend of development in the immediate vicinity of the subject property, including changes, if any, in such trend since the subject property was placed in its present zoning classification.
- (c) Diminution Of Values:** the extent to which the value of the subject property is diminished by the existing zoning classification applicable to it.
- (d) Increase In Health, Safety, And Welfare:** the extent, to which any such diminution in value is offset by an increase in the public health, safety, and welfare.
- (e) Effects On Adjacent Properties:** the extent to which the use and enjoyment of adjacent properties would be affected by the proposed amendment.
- (f) Value Of Adjacent Properties:** the extent to which the value of adjacent properties would be affected by the proposed amendment.
- (g) Future Development:** the extent to which the future orderly development of adjacent properties would be affected by the proposed amendment.
- (h) Suitability Of Text Amendment:** the suitability of the proposed text amendment for the zoning district in which the amendment is being proposed.
- (i) Ingress And Egress:** the availability, where relevant, of adequate ingress to and egress from the subject property and the extent to which traffic conditions in the immediate vicinity of the subject property would be affected by the proposed amendment.
- (j) Utilities And Services:** the availability, where relevant, of adequate utilities and essential public services to the subject property to accommodate the uses permitted or permissible under its present zoning classification.
- (k) Length Of Vacancy:** the length of time that the subject property has been vacant, considered in the context of the pace of development in the vicinity of the subject property.
- (l) Positive Effect:** the proposed amendment creating a positive effect for the zoning district, its purposes, and adjacent properties shall be placed before the benefits of the petitioner.

**11-502: SPECIAL USE PERMITS**

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section and by ordinance duly adopted, grant special use permits authorizing the development of uses listed as special ~~permit~~-uses in the regulations applicable to the district in which the subject property is located.
- B. Purpose. Special ~~permit~~-uses are those uses having some special impact or uniqueness that require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- C. Parties Entitled to Seek Special Use Permits. An application for a special use permit may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.

**1. ~~Preliminary consideration.~~**

~~(a) Preliminary Application. A preliminary application for a special permit shall be filed in accordance with the requirements of Subsection 11-301 E1 of this article.~~

~~(b) Referral to Board. Every properly filed and completed preliminary application for a special permit shall, before being processed in any other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~

~~(c) Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~(e) At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary~~

~~application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

~~(f) Specified Public Bodies Exempt. Special permits proposed by the City Council, Planning and Zoning Commission shall not be subject to the provisions of this Subsection.~~

~~2. FORMAL CONSIDERATION.~~

- ~~1. Formal Application. Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~An ~~application for a special use permit shall be filed in accordance with the requirements of Paragraphs ~~11-301 A3 and 11-2301 E7~~ of this Article. Except as expressly provided otherwise herein, no ~~formal~~ application for a special use permit shall ~~be filed~~proceed to a public hearing until unless the ~~City Council Community Development Director have~~ has first reviewed ~~a preliminary the said~~ application ~~for such special permit~~ in accordance with ~~Subsection Paragraph D11-101(F)~~ and determined that it is in proper form. ~~of this section~~~~
- ~~2. Board Referral. Every properly filed and completed formal application for a special permit shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article.~~ The failure of the ~~City Council~~Community Development Director to act on a properly filed and completed application within 30 days of ~~the Board's~~ his or her receipt thereof shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
- ~~3. Public Hearing. In any case where a formal application for a special use permit is referred by the City Council~~Community Development Director pursuant to ~~Subparagraph D2(b)~~Subsection 11-101(F) of this Section, a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- ~~4. Action by Planning and Zoning Commission. Within 21 days following conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its recommendation in a form specified by Subsection ~~11-403 C~~11-104 B of this Article, recommending either granting the application for a special use permit; granting the application subject to conditions, as specified in Subsection F below; or denying the application.~~

The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the **approval** denial of the proposed special **use** permit.

5. Action by City Council; Protest. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application or, by ordinance duly adopted, shall grant the special **use** permit, with or without modifications or conditions; provided, however, that in the event a duly signed and acknowledged protest against the proposed special **use** permit is filed with the City Clerk by the owners of twenty percent (20%) or more of the frontage to be affected by the proposed special **use** permit, or by the owners of twenty percent (20%) or more of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) or more of the frontage directly opposite the frontage to be affected, such ordinance shall not be adopted except by a two-thirds vote of the City Council.

E. Standards for Special **Use** Permits.

1. General Standards. No special **use** permit shall be recommended or granted pursuant to this Section unless the applicant shall establish that:
  - a. Code and Plan Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established and with the general purpose and intent of the Official Comprehensive Plan.
  - b. No Undue Adverse Impact. The proposed use, drainage and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area or the public health, safety and general welfare.
  - c. No Interference With Surrounding Development. The proposed use and development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.
  - d. Adequate Public Facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools, or the applicant will provide adequately for such services.
  - e. No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.

- f. No Destruction of Significant Features. The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic feature of significant importance.
      - g. Compliance With Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
  - 2. Special Standards for Specified Special ~~Permit~~-Uses. Where the district regulations authorizing any special ~~permit~~-use in a particular district impose special standards to be met by such use in such district, a permit for such use in such district shall not be recommended or granted unless the applicant shall establish compliance with such special standards.
  - 3. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Planning and Zoning Commission shall consider:
    - a. Public Benefit. Whether, and to what extent, the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community; and
    - b. Mitigation of Adverse Impacts. Whether, and to what extent, all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping and screening.
- F. Conditions; Periodic Review; Term.
  - 1. Conditions on Special **Use** Permits. In order to prevent or minimize substantial or undue adverse effects upon neighboring and adjacent properties and improvements, substantial or undue or upon public facilities and services, the Plan Commission may recommend, and the City Council may impose, and expressly include in the ordinance granting a special use permit, conditions and limitations upon the premises benefited by a special use permit. Such conditions, restrictions, and limitations may include, without limitation, the following:
    - a) limitations and restrictions of the use of the subject property;
    - b) restrictions on construction activity that will occur on and around the subject property;
    - c) conditions concerning the character and design of the proposed use and development;
    - d) the location of the use within the subject property;
    - e) the provision of landscaping and screening, with specificity as to

- design, quantity, quality, size and location;
- f) restrictions on the hours of operation of the use;
  - g) a requirement that the subject property be developed and used in strict accordance with a site plan that is attached to the ordinance granting the special use permit; and
  - h) any other matters relating to the purposes and objectives of this Code.
- 2. Violation of Conditions. Violation of any of the conditions imposed pursuant to Paragraph 11-502 F1 of this Code shall be a violation of this Code and shall constitute grounds for revocation of the special use permit.
  - 3. Periodic Review. The Planning and Zoning Commission may recommend, and the City Council may impose, a requirement that the special use permit be publicly reviewed periodically pursuant to and in accordance with such procedures as are set forth in the ordinance granting the special use permit. In every instance, such procedures shall provide the applicant with advance notice of, and an opportunity to be heard at, such periodic review.
  - 4. Term of Special Use Permit. Because of the unique operational nature, and potential unknown adverse impacts, of certain special ~~permit~~-uses, the Planning and Zoning Commission may recommend, and the City Council may impose, a term limitation on the duration of certain special ~~permit~~-uses. Such term limitation shall (a) be set forth in the ordinance granting the special use permit and (b) shall be subject to renewal in accordance with Subsection 11-502 ~~LK~~ of this Code.
- G. Affidavit of Compliance With Conditions. Whenever any special use permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
  - H. Effect of Issuance of a Special Use Permit. The granting of a special use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the Codes and Ordinances of the City, including but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and subdivision approval.
  - I. Limitations on Special Use Permits. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this

Article, no special use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is there-after diligently pursued to completion or unless a Certificate of Occupancy is issued and a use ~~commenced~~commenced within that period. A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of sixtwelve (612) consecutive months or more. Except when otherwise provided in the Ordinance granting a special use permit, a special use permit shall be deemed to relate to, and be for the benefit of, the current owner or operator of the use or lot in question rather than to the lot itself. **Should a new owner or operator purchase the real property and seek to operate the special use in a manner that is in substantial conformance with that of the prior operation, then the new owner or operator shall be allowed to submit a written request to the Community Development Director for a Transfer of Special Use Permit in accordance with Subsection J below.**

J. **Transfer of Special Use Permit. A request for Transfer of Special Use Permit shall be filed on an application as provided by the Community Development Director. Within 21 days of receiving a complete application, the Community Development Director shall have the sole discretion to approve, approve with conditions, or deny the application subject to the requirements of this Subsection J.**

1. **Affidavit of Acknowledgement and Compliance Agreement. The new owner or operator shall, as part of the application for Transfer of Special Use Permit, submit a signed and notarized affidavit in a form provided by the Community Development Director affirming the following:**

a) **That the new owner or operator is aware of and in agreement with all of the conditions imposed on the original special use permit as approved.**

b) **That the new owner or operator shall not affect or increase the intensity of the original operation.**

c) **That the Transfer of Special Use Permit shall be null and void in accordance with Paragraph F2 of this Section.**

d) **That the new owner or operator agrees to comply with Sections 9-104 (Off-Street Parking) and 9-107 (Buffers and Landscaping) of this Code is directed to do so by the Community Development Director prior to Certificate of Occupancy issuance.**

2. **Request for Minor Change as Part of Transfer of Special Use Permit. Should the new owner or operator decline to sign an affidavit as described above, or if the Community Development Director denies an application, the new owner or operator may file a request for a**

Minor or Major Amendment in accordance with Subsection K below.

K. Amendments to Special Use Permits. A special use permit may be amended, varied or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-502 for its original approval as follows:

1. Major Amendments to Special Use Permits. Major amendments are modifications which alter the concept, intent, or intensity of the special use. Any one of the following shall be considered a major amendment to a special use. Requests for major amendments shall be reviewed in accordance with Subsection D of this Section. These amendments shall include, but not be limited to:

a) Significant changes to the parking location, access plan, building or parking setback areas, or landscaping plans which alter the intent or concept of the special use approved for the site as determined by the Community Development Director. Such significant changes shall include, but not be limited to: relocating the parking location from the rear of the building to either side of the building or to the front; relocating the building from the center of the site to the front, rear, or side of the site; enlarging or reducing any front, side, or rear yards or setbacks by more than twenty percent (20%); eliminating any previously required landscaping serving as screening of the special use from adjacent properties; and adding or eliminating any point of ingress or egress to and from the site which changes the circulation of the site internally and the impact of the use on the transportation system.

b) Any increase in the intensity of the special use which alters the intent or concept of the special use. Such an increase in the intensity shall include, but not be limited to: an increase in the number of vehicles to be served on a site at one time; an increase in the maximum number of customers to be served; and an increase in the net floor area by greater than twenty percent (20%).

2. Minor Amendments to Special Use Permits. Minor amendments are modifications not defined as major amendments and do not alter the concept, intent, or intensity of the special use. Requests for minor amendments shall be reviewed in accordance with Section 11-203 of this Code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:

**a) Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; changes to the hours of operation if previously limited in the original special use permit; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management facilities without altering the concept, intent, or intensity of the special use.**

**b) Any alteration of approved conditions applicable to the special use that would constitute a reduction to the mitigation of the potential negative impact the use would otherwise have on adjacent properties.**

- L. Renewal of Special Use Permits. The City Council may, in accordance with the procedures and standards set out in this Subsection, consider requests for renewal of special use permits. An application for the renewal of a special use permit must be filed by the party to whom a special use permit was granted, or a permitted successor thereto or assignee thereof, and must be filed prior to the date on which the term of the special use permit is scheduled to expire. The City Council may consider such request at a public hearing following notice pursuant to Subparagraph 11-203 B3(c) of this Code. The City Council may, but shall have no obligation to, seek the recommendation of another board or commission of the City prior to such consideration. In the event that the party requesting such renewal demonstrates, to the satisfaction of the City Council, that the standards and circumstances under which the special use permit was originally approved have not materially changed, then the City Council shall, by ordinance duly adopted, renew the special use permit for the same period of time for which the special use permit was first valid. In the event that the City Council determines that the standards and circumstances under which the special use permit was originally approved have materially changed, the City Council shall have no obligation to renew the special use permit.

#### **11-503: PLANNED DEVELOPMENTS**

- A. Authority. The City Council may, in accordance with the procedures and standards set out in this Section, and by ordinance duly adopted, grant special permits authorizing the development of planned developments, but only in the districts where such developments are listed as an authorized special permit use.
- B. Purpose. Planned developments are included in this Code as a distinct category of special use. As such, they are authorized for the same general purposes as all other special uses.

In particular, however, the planned development technique is intended to allow the relaxation of otherwise applicable substantive requirements based upon procedural protections providing for detailed review of individual proposals for significant developments. This special regulatory technique is included in this Code in recognition of the fact that traditional regulations, which may be useful in protecting the character of substantially developed and stable areas, may impose inappropriate pre-regulations and rigidities upon the development or redevelopment of parcels or areas that lend themselves to an individual, planned approach.

Through the flexibility of the planned development technique, the City seeks to achieve the following specific objectives:

1. Creation of a more desirable environment than would be possible through strict application of other City land use regulations.
  2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities.
  3. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation and geologic features, and the prevention of soil erosion.
  4. Combination and coordination of architectural styles, building forms, and building relationships.
  5. Provision for the preservation and beneficial use of open space.
  6. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations.
  7. Encouragement of land uses that promote the public health, safety and general welfare.
- C. Parties Entitled to Seek Planned Development Approval. An application for special permit to permit a planned development may be filed by the owner of, or any person having a contractual interest in, the subject property.
- D. Procedure.
1. ~~**Preliminary Consideration.**~~
    - a) ~~**Preliminary Application.**~~ ~~A preliminary application for a special permit to permit a planned development shall be filed in accordance with the requirements of Subsection 11-301 E1 of this Article.~~
    - b) ~~**Referral to Board.**~~ ~~Every properly filed and completed preliminary application for a special permit to permit a planned development shall, before being processed in any~~

~~other manner, be referred to the City Council pursuant to Subsection 11-301 A3 of this Article.~~

- e) ~~Action by Board. The City Council shall, not later than the first regular City Council meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.~~

~~The purpose of such review shall be to broadly acquaint the City Council with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the Board may have at a time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.~~

~~At the meeting at which the preliminary application is considered, any member of the City Council may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no final or binding action shall be taken with respect to any preliminary application. Any views expressed in the course of the Board's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the City Council, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Code.~~

1. Development Concept Plan.

- a) Purpose. The Development Concept Plan is intended to provide the applicant an opportunity to submit a plan showing the basic scope, character and nature of the entire proposed planned development without incurring undue cost. The Development Concept Plan is the basis on which the required public hearing is held, thus permitting public consideration of the proposal at the earliest possible stage. In order to permit the City and the applicant to proceed with some assurance, approval of the Development Concept Plan binds the applicant and the City with respect to the following basic elements of development:
- (i) Categories of uses to be permitted;
  - (ii) General location of residential and nonresidential land uses;
  - (iii) Overall maximum density of residential uses and intensity of nonresidential uses;

- (iv) General architectural style of the proposed development;
  - (v) General location and extent of public and private open space, including recreational amenities;
  - (vi) General location of vehicular and pedestrian circulation systems;
  - (vii) Staging of development; and
  - (viii) Nature, scope and extent of public dedications, improvements or contributions to be provided by the applicant.
- b) Application. ~~Subsequent to the City Council's review and consideration of the preliminary application, but in no event more than six months thereafter, a~~ formal application for approval of a Development Concept Plan shall be filed with the Community Development Director in accordance with the requirements of Paragraphs ~~11-301 A3 and 11-2301 E9~~ of this Article. Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper form. No application for approval of a Development Concept Plan shall be filed unless the City Council shall have first reviewed a preliminary application for a special permit to permit a planned development in accordance with Paragraph D1 of this Section.
- c) Board Referral. ~~Every properly filed and completed application for approval of a Development Concept Plan shall be referred by the City Council to the Community Development Director for further referral in accordance with Paragraph 11-203 C2 of this Article. After the Community Development Director has determined that an application for approval of a Development Concept Plan is in proper form, it shall be referred to the Planning and Zoning Commission for a public hearing.~~ The failure of the ~~City Council~~Community Development Director to act on a properly filed and completed application within thirty (30) days of ~~the Board's~~his or her receipt thereof, shall be deemed to be a decision to refer the application pursuant to this Subparagraph.
- d) Public Hearing. In any case where an application for approval of a Development Concept Plan is referred by the ~~City Council~~Community Development Director pursuant to Subsection 11-101(F) Subparagraph D2 of this Section, a public hearing shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- e) Action by Planning and Zoning Commission. Within 21 days following the conclusion of the public hearing, the Planning and Zoning Commission shall transmit to the City Council its

recommendation, in the form specified by Subsection **11-104 B** ~~**11-103 C**~~ of this Article that the Development Concept Plan either be approved, be approved subject to modifications, or not be approved.

The failure of the Planning and Zoning Commission to act within 21 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the **approval**~~**denial**~~ of the Development Concept Plan as submitted.

- f) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall either deny the application for approval of the Development Concept Plan; shall remand it back to the Planning and Zoning Commission for further consideration of specified matters; or shall, by resolution duly adopted, approve the Development Concept Plan, with or without modifications and conditions to be accepted by the applicant as a condition of such approval, and refer the matter to the ~~Planning and Zoning Commission~~**Community Development Director** for processing of the Final Plan in accordance with Paragraph ~~D24~~ of this Section.

The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying approval of the Development Concept Plan.

- g) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the tentative plant of the proposed subdivision shall be carried out simultaneously with review of the Development Concept Plan.
- h) Limitation on Development Concept Plan Approval. An application for Final Plan approval shall be filed in accordance with Paragraph D2 below within one year after the approval of the Development Concept Plan. Failure to file a Final Plan application within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Development Concept Plan approval and all approvals of the planned development, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the Special Use Permit.
- ~~i) Optional Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D4 below simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1~~

~~above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Planning and Zoning Commission and the City Council shall consider such plans simultaneously and shall grant or deny Final Plan Approval in accordance with the provisions of Paragraph D4 below.~~

2. Final Plan.

- a) Purpose. The Final Plan is intended to particularize, refine and implement the Development Concept Plan and to serve as a complete, thorough and permanent public record of the planned development and the manner in which it is to be developed.
- b) Application. Upon approval of the Development Concept Plan, the applicant shall file an application for Final Plan approval **with the Community Development Director** in accordance with the requirements of Paragraph 11-2301 E10 of this Article. **Except as expressly provided otherwise herein, no application for approval of a Development Concept Plan shall proceed to a public hearing until the Community Development Director has first reviewed the application and determined that it is in proper form.** The application shall refine, implement and be in substantial conformity with the approved Development Concept Plan.
- c) **Simultaneous Submission of Final Plan. The applicant may, at his option, submit a Final Plan for the proposed planned development pursuant to the requirements of Paragraph D2 simultaneously with the submission of the Development Concept Plan pursuant to the requirements of Paragraph D1 above. In such case, the applicant shall comply with all provisions of this Code applicable to submission of the Development Concept Plan and to submission of the Final Plan. The Planning and Zoning Commission and the City Council shall consider such plans simultaneously and shall grant or deny Final Plan Approval in accordance with the provisions of Paragraph D2.**
- d) Public Meeting. A public meeting shall be set, noticed and conducted by the Planning and Zoning Commission in accordance with Section 11-203 of this Article.
- e) Coordination With Subdivision Ordinance. When a subdivision of land subject to the Oak Forest Subdivision Ordinance is proposed in connection with a planned development, review of the final plat of the proposed subdivision shall be carried out simultaneously with review of the Final Plan.
- f) Phasing of Final Plan Approval. An application for Final Plan

approval may include the entire area included in the approved Development Concept Plan or one or more phases, stages or units thereof; provided, however, that the following matters must be addressed and provide in the first phase, stage or unit submitted for Final Plan approval:

- (i) All public improvements required or proposed for the entire area included in the approved Development Concept Plan.
- (ii) All open space required or proposed for the entire area included in the approved Development Concept Plan.
- (iii) All land dedications required or proposed for the entire area included in the approved Development Concept Plan.
- (iv) The payment of all fees required by this Code.

g) Action by Planning and Zoning Commission.

(i) Evaluation. Within sixty (60) days following the filing of an application for approval of a ~~F~~final Plan, the Planning and Zoning Commission shall with such aid and advice of such City staff and consultants as may be appropriate, review and act on the plan. Such review shall consider:

- (1) Whether the Final Plan is in substantial conformity with the approved Development Concept Plan;
- (2) The merit or lack of merit of any departure of the Final Plan from substantial conformity with the approved Development Concept Plan;
- (3) Whether the Final Plan complies with any and all conditions imposed by the approval of the Development Concept Plan; and
- (4) Whether the Final Plan complies with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations.

(ii) Approval Based on Substantial Conformity. If the Planning and Zoning Commission finds substantial conformity between the Final Plan and the approved Development Concept Plan and further finds the Final Plan to be in all other respects complete and in compliance with any and all conditions imposed by approval of the Development Concept Plan and with the provisions of this Code and all other applicable federal, state and City codes, ordinances and regulations, it shall transmit the plan to the City Council with its recommendation, in the form specified in Subsection ~~11-104 B~~ ~~41-103 C~~ of this Article, that the Board approve the Final Plan, with or without modifications and conditions to be accepted by the applicant as a condition of approval.

(iii) Recommendation of Denial. In any case where the Planning and Zoning Commission finds that the Final Plan

is not in substantial conformity with the approved Development Concept Plan and does not merit approval, or in any case where it requires modifications of a plan that are not accepted by the applicant, the Planning and Zoning Commission shall transmit the plan to the City Council together with its recommendation and specific reasons in support of its recommendation, in the form specified in Subsection ~~11-104 B~~ ~~11-103 C~~ of this Article, that the Final Plan not be approved.

- (iv) Failure to Act. The failure of the Planning and Zoning Commission to act within the 60 day period specified in Subparagraph ~~D4D3(f)(i1)~~ of this section, or such further time to which the applicant may agree, shall be deemed to be a recommendation to the City Council to ~~approve~~deny the Final Plan as submitted.
  
- h) Action by City Council. Within sixty (60) days following the receipt of the recommendation of the Planning and Zoning Commission, or its failure to act as above provided, the City Council shall take action in accordance with the following Paragraphs:
  - (i) Approval Based on Substantial Conformity. If the Planning and Zoning Commission has recommended approval of a Final Plan pursuant to Subparagraph D3(~~ge~~)(~~ii~~2) of this Section, the City Council shall, unless it specifically rejects one or more of the findings of the Planning and Zoning Commission on the basis of expressly stated reasons, approve the Final Plan by a duly adopted ordinance.
  
  - (ii) Approval Notwithstanding Planning and Zoning Commission Recommendation of Denial. If the Planning and Zoning Commission has recommended denial of a Final Plan pursuant to Subparagraph D3(~~ge~~)(~~iii~~3) of this Section, the City Council may, if it finds that the Final Plan merits approval and otherwise conforms to the requirements of this Code, approve the Final Plan by a duly adopted ordinance.
  
  - (iii) Referral Back to Planning and Zoning Commission. ~~In any case other than that specified in Subparagraph D3(f)(i) t~~The City Council may refer the Final Plan back to the Planning and Zoning Commission for further consideration of specified matters.
  
  - (iv) Conditions on Final Plan Approval. The approval of any Final Plan may, in addition, be granted, with or without modifications and conditions to be accepted by the applicant as a condition of approval.

- (v) Failure to Act. The failure of the City Council to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying Final Plan approval.
- i) Recording of Final Plan. When a Final Plan is approved, the Community Development Director shall cause the Final Plan, or the portions thereof as are appropriate, to be recorded with the Recorder of Deeds of Cook County.
- j) Limitation on Final Plan Approval. Construction shall commence in accordance with the approved Final Plan within one year after the approval of such Plan, or within such shorter time as may be established by the approved development schedule. Failure to commence construction within such period shall, unless an extension of time shall have been granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, automatically render void the Final Plan approval and all approvals of the planned development and all permits based on such approvals, and the Community Development Director shall, without further direction, initiate an appropriate application to revoke the special use permit for all portions of the Planned Development that have not yet been completed.
- k) Building and Other Permits. Appropriate officials of the City may, upon, but not before, receiving notice from the Community Development Director that the documents required for Final Plan approval have been approved, and upon proper application by the applicant, issue building and other permits to the applicant for the development, construction and other work in the area encompassed by the approved Final Plan; provided however, that no permit shall be issued unless the appropriate official is first satisfied that the requirements of any codes or ordinances of the City, in addition to this Code, that are applicable to the permit sought have been satisfied.

Building permits may, however, be withheld at the discretion of the Community Development Director or the City Council at any time it is determined that the development of the planned development is not proceeding in strict compliance with the approved Final Plan.

E. Standards for Planned Developments.

1. Special Use Permit Standards. No special use permit for a planned development shall be recommended or granted pursuant to this Section unless the applicant shall establish that the proposed development will meet each of the standards made applicable to special ~~permit~~—uses pursuant to ~~Sub~~section 11-~~56~~02 of this Article.
2. Additional Standards for All Planned Developments. No special use permit for a planned development shall be recommended or granted

unless the applicant shall establish that the proposed development will meet each of the following additional standards:

- a) Unified Ownership Required. The entire property proposed for planned development treatment shall be in single ownership or under such unified control as to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.
- b) Minimum Area. The district regulations of this Code establishing standards for particular types of planned development specify the minimum area required for same planned development. In addition to meeting that specific standard, or where no specific standard is set, the applicant shall have the burden of establishing that the subject property is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives for which planned developments may be established pursuant to this Section.
- c) Covenants and Restrictions to be Enforceable by City. All covenants, deed restrictions, easements and similar restrictions to be recorded in connection with the planned development shall provide that they may not be modified, removed or released without the express consent of the City Council and that they may be enforced by the City as well as by future landowners within the proposed development.
- d) Public Open Space and Contributions. Whenever the Official Comprehensive Plan or Official Map indicates that development of a planned development will create a need for land for public purposes of the City within the proposed planned development, the City Council may require that such area be designated and to the extent such need is specifically and uniquely attributable to the proposed development, dedicated to the City for such use. In addition, the City Council may require evidence that all requirements of City ordinances pertaining to the dedication of land or the contribution of cash in connection with subdivisions or developments of land have been met as respects the proposed planned development.
- e) Common Open Space.
  - (i) Amount, Location and Use. The failure of a planned development to provide common open space shall be considered to be an indication that it has not satisfied the objectives for which such developments may be approved pursuant to this Code. When common open space is provided in a planned development, the amount and location of such open space shall be consistent with its

intended function as set forth in the application and planned development plans. No such open space shall be used for the construction of any structure or improvement except such structures and improvements as may be approved in the Final Plan as appropriate to the intended leisure and recreational uses for which such open space is intended.

- (ii) Preservation. Adequate safeguards, including recorded covenants or dedication of development rights, shall be provided to prevent the subsequent use of common open space for any use, structure, improvement or development other than that shown on the approved Final Plan. The restrictions must be permanent and not for a given period of years and must run with the land.
- (iii) Ownership and Maintenance. The Final Plan shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance and operation in accordance with predetermined standards and to ensure that remedial measures will be available to the City if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the planned development or the City.
- (iv) Property Owners' Association. When the requirements of the preceding Subparagraph are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:
  - (1) The by-laws and rules of the association and all declarations, covenants and restrictions to be recorded must be approved as part of the Detailed Plan prior to becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being in violation of the requirements of this Subparagraph.
  - (2) The association must be established and all covenants and restrictions recorded prior to the sale of any property within the area of the planned development designated to have the exclusive use of the proposed open space or improvements.
  - (3) The association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to it.
  - (4) Membership in the association must be mandatory for each property owner, and any successive owner, having a right to the use or enjoyment of such open space or improvements.
  - (5) Every property having a right to the use of enjoyment of such open space or improvements

must pay its pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the requirements for becoming a lien on the property in accordance with statutes of the State of Illinois.

- (6) The association must have the right to adjust the assessment to meet changed needs. The membership vote required to authorize such adjustment shall not be fixed at more than 51 percent of the members voting on the issue.
  - (7) The City must be given the right to enforce the covenants.
  - (8) The City must be given the right, after ten days' written notice to the association, to perform any maintenance or repair work that the association has neglected to perform, to assess the membership for such work and to have a lien against the property of any member failing to pay such assessment. For this purpose alone, the City shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.
- f) Landscaping and Perimeter Treatment. Any area of a planned development not used for structures or circulation elements shall be landscaped or otherwise improved. The perimeter of the planned development shall be treated so as to ensure compatibility with surrounding uses by means such as provision of compatible uses and structures; setbacks; screening; or natural or manmade buffers. Every planned development shall provide a perimeter landscaped open space along each of its boundaries; each such open space shall have a minimum depth equal to the minimum applicable yard required in the district in which it is located.
- g) Private Streets. Private streets shall be permitted in a planned development provided that:
- (i) Said streets shall be treated as public streets and rights of way for purposes of all setbacks, yards and calculations under this Code.
  - (ii) Said streets shall be owned and maintained by a property owners' association meeting the requirements set forth in Subparagraph E2(e)(4) above; and
  - (iii) A covenant shall be recorded against the subject property acknowledging that the City shall at no time be under any obligation to provide maintenance for or accept dedication of said streets.
- h) Utilities. All utility lines shall be installed underground.
3. Additional Standards for Specific Planned Developments. Where the district regulations authorizing any planned development use in a

particular district impose standards to be met by such planned development in such district, a special permit for such development shall not be recommended or granted unless the applicant shall establish compliance with such special standards.

- F. Conditions on Planned Development Approvals. The approval of either a Development Concept Plan or a Final Plan may be conditioned on such matters as the approving body may find necessary to prevent or minimize any possible adverse effects of the proposed planned development; or to ensure its compatibility with surrounding uses and development and its consistency with the general purposes, goals and objectives of this Code, the Subdivision Ordinance and the Official Comprehensive Plan. Such conditions shall be expressly set forth in the ordinance or resolution granting the approval in question. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of all approvals granted for the planned development.
- G. Affidavit of Compliance With Conditions; Fee. Whenever any planned development approval granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Community Development Director so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Community Development Director, to recover the City's actual direct cost of an inspection to verify that such conditions and limitations have been met.
- H. Regulation During and Following Completion of Development. Following Final Plan approval, in the event of an express conflict between the provisions of the Final Plan and this Code, the Final Plan shall control. This Code shall control in all other instances.
- I. Inspections During Development.
1. Inspections by Community Development Director. Following approval of the Final Plan of a planned development, or any stage thereof, the Community Development Director shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved plans for development and with the approved development schedule.
  2. Action by Community Development Director. If the Community Development Director finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the Final Plan, the Community Development Director shall immediately notify the City Council of such fact and may, if necessary to protect the public health, safety or welfare or to prevent further violation of this Code and the Final Plan, issue an order stopping any and all work on the planned development until such time as any noncompliance is cured.
  3. Action by City Council. Within sixty (60) days following notification by the

Community Development Director, the City Council shall either:

- a) Take such steps as it deems necessary to compel compliance with the Final Plan; or
- b) Require the owner or applicant to seek an adjustment to the Final Plan as provided in Subsection ~~JK~~ of this Section.

J. Adjustments to Final Plan During Development

1. Minor Adjustments. During the development of a planned development, the Community Development Director may authorize minor adjustments to the Final Plan when such adjustments appear necessary in light of the technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:
  - a) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth of the distance shown on the approved Final Plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the planned development, whichever is less;
  - b) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved Final Plan between such circulation element and any structure, whichever is less;
  - c) Altering the location of any open space by not more than twenty (20) feet;
  - d) Altering any final grade by not more than ten percent (10%) of the originally planned grade; and
  - e) Altering the location or type of landscaping elements.
  - f) Such minor adjustments shall be consistent with the intent and purpose of this Code and the Final Plan as approved, shall be the minimum necessary to overcome the particular difficulty and shall not be approved if they would result in a violation of any standard or requirement of this Code.
2. Major Adjustments. Any adjustment to the Final Plan not authorized by Paragraph J1 above shall be considered a major adjustment and shall be granted only upon application to and approval by, the City Council. The City Council may, by ordinance duly adopted, grant approval for a major adjustment without a hearing upon finding that any changes in the Final Plan as approved will be in substantial conformity with said Final Plan. If the City Council determines that a major adjustment is not in substantial conformity with the Final Plan as approved, then the Board may refer the request to the Plan Commission for further hearing, review and recommendation.

K. Amendments to Final Plan Following **Approval** or Completion of Development. After the **approval or** completion of a planned development, an approved Final Plan may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section 11-~~56~~03 for approval of the planned development.

**1. Major Amendments. Major amendments are modifications which alter the concept or intent of the approved Final Plan. Any one of the following shall be considered a Major Amendment to a Final Plan. Requests for Major Amendments shall be reviewed in accordance with Paragraph D2 of this Section. These amendments shall include, but not be limited to:**

**a. Significant changes which include increases in density, increases in height and/or bulk of buildings, a major reduction in the size of the proposed buildings, increases or major decreases in the number of buildings and/or lots, reductions in the amount of proposed open space, any roadway changes, changes in the final governing agreements, provisions or covenants, or other changes which change the concept or intent of the development.**

**b. Significant changes to the parking location, access plan, building or parking setback areas, landscape plans, or approved conditions.**

**c. Any changes to the designated land use or uses which either are not consistent with the written statement filed and approved as part of the Development Concept Plan, as required by Subparagraph 11-201 E9(d) of this Code, or would require a Special Use Permit approval in the property's underlying zoning classification.**

**d. Any changes which would result in a variation in the underlying zoning classification not otherwise approved in the Final Plan, as authorized by Paragraph 11-403 E2 of this Code.**

**2. Minor Amendments. Minor amendments are modifications not defined as major amendments and do not alter the concept or intent of the Final Plan. Requests for minor amendments shall be reviewed in accordance with Section 11-203 of this code, with the Planning and Zoning Commission making a final determination within 21 days of the close of the public hearing, either granting the application for a minor amendment; granting the application subject to conditions, as specified in Subsection F above; or denying the application. These amendments shall include:**

**a. Minor changes to the parking location, access plan, building or parking setback areas, or landscaping plans approved for the site as determined by the Community Development**

Director. Such minor changes shall include, but not be limited to: shifting the parking location internally within the site while maintaining the general siting and circulation; reducing the amount of parking spaces provided by not more than twenty (20) percent than what was approved in the Final Plan; reducing the height or density of any previously approved landscaping or screening; and any changes that may be required that accommodate stormwater management facilities without altering the concept or intent of the Final Plan.

b. Any alteration of approved conditions applicable to the planned development that would constitute as a reduction to the mitigation of the potential negative impact the planned development would otherwise have on adjacent properties.

c. Any change that results in a variation to this Code as permitted in Paragraph 11-403 E1 of this Code or increase the extent of a previously granted variation from this Code.

d. Any other minor change that would otherwise not be considered a Major Amendment, as defined Paragraph K1.

#### **11-504: SITE PLAN REVIEW**

- A. Authority. Except in the cases of uses and developments requiring a special use permit pursuant to the provisions in this Code, the Community Development Director may, as a matter of original jurisdiction and in accordance with the procedures and standards set out in this Section, grant site plan approval to uses and developments requiring such approval pursuant to Subsection C of this Section. In case of uses and developments requiring a special use permit pursuant to Section 11-~~56~~02 or Section 11-~~56~~03 of this Code, and in cases of appeal from a denial of approval by the Community Development Director, the City Council may, by ordinance duly adopted, grant site plan approval in accordance with the procedures and standards set out in this Section.
- B. Purpose. The site plan review process recognizes that even those uses and developments that have been determined to be generally suitable for location in a particular district are capable of adversely affecting the purposes for which this Code was enacted unless careful consideration is given to critical design elements. It is the purpose of this Section to provide a vehicle for the review of the developer's attention to such elements.
- C. Site Plan Review Required.
1. Community Development Director Review. Site plan review by the Community Development Director in accordance with this Section shall be required in connection with the following developments:

- a) Any development or redevelopment, other than for one single family detached dwelling unit, involving a parcel under single ownership or control having an area in excess of 40,000 square feet.
  - b) Any development or redevelopment involving the construction of any new structure or structures having a gross floor area in excess of 20,000 square feet, a floor area ratio in excess of 0.25 or a height of more than three stories.
  - c) Any development or redevelopment involving an existing structure having a floor area in excess of 20,000 square feet, a floor area ratio in excess of 0.25, or a height in excess of three stories that would alter any such measure by more than 25 percent of such amount.
  - d) Any development or redevelopment involving the creation or expansion of a parking lot or garage or a loading space.
  - e) Any nonresidential development on a lot abutting or across a right of way from any residential district.
  - f) Any development or redevelopment in a Redevelopment Overlay District.
  - g) Any development or redevelopment involving a personal wireless services antenna, with or without an antenna support structure that is not a special permit use.
2. City Council Review. Site plan review by the City Council in accordance with this Section shall be required in connection with development or redevelopment for which this Code requires a special use permit, including planned development approval; and may be sought in any case of a denial of site plan approval by the Community Development Director.
- D. Parties Entitled to Seek Site Plan Approval. Application for site plan review may be filed by the owner of, or any person having a contractual interest in, the subject property,
- E. Procedure.
- 1. Community Development Director Approvals.
    - a) Application. Applications for site plan approval by the Community Development Director shall be filed in accordance with the requirements of Section 11-301 of this Article.
    - b) Action by Community Development Director. Within 30 days following receipt by the Community Development Director of a properly completed application, the Community Development Director shall cause such application and the attached site plan to

be reviewed, in terms of the standards established by Subsection F of this Section, by appropriate members of his staff.

He shall then either: (1) approve the site plan as submitted; (2) on the basis of written findings in accordance with Subsection F below, approve it subject to specific modification; or (3) on the basis of such written findings, deny approval of the site plan.

Immediately upon concluding his review, the Community Development Director shall return one copy of the site plan to the applicant marked to show either approval, approval subject to modification, which modification shall be clearly and permanently marked on such plans, or denial or approval. The Community Development Director shall maintain a similarly marked set of such plans in his files for any further processing that may be required.

The failure of the Community Development Director to act within said thirty (30) days, or such further time to which the applicant may agree, shall be deemed to be a decision approving the site plan as submitted.

- c) Effect of Community Development Director's Action. The action of the Community Development Director in approving a site plan or in approving a site plan subject to modifications that are acceptable to the applicant shall constitute a final administrative action and shall not be subject to further review by, or appeal to, any City Council or Commission.

The action of the Community Development Director in denying an application for site plan approval or in approving a site plan subject to modifications that are not acceptable to the applicant (which action the applicant may treat as a denial) shall not be considered final action by the City but shall only be authorization for the applicant to seek approval of the site plan from the City Council by way of the appeal procedure set forth below.

- d) Appeals. Within 45 days following a denial of site plan approval by the Community Development Director, the applicant may seek approval of the site plan by filing an application for appeal to the City Council in accordance with the requirements of Section 11-~~23~~01 of this Article. Any such appeal shall be proceeded in accordance with the provisions of Paragraph E2 below.

2. City Council Approvals: Original and Appellate.

- a) Application. Applications for site plan approval by the City Council, whether as a matter of its original or its appellate jurisdiction shall be filed in accordance with the requirements of Section 11-~~23~~01 of this Article. In cases where review is sought by way of an appeal of a denial of site plan approval by the Community Development

Director, the application for appeal shall be filed within 45 days following such denial.

- b) Action by Community Development Director in Appeal Cases. Upon receipt of a properly completed application for an appeal of a denial of site plan approval by the Community Development Director, the Director shall forthwith transmit to the City Council the application for appeal, the original application for site plan approval, all papers constituting the record upon which the Director's denial was based and a copy of the Director's decision denying the application for site plan approval.
- c) Public Meeting. A public meeting shall be set, noticed and conducted by the City Council in accordance with Section 11-203 of this Article.
- d) Action by City Council. Within 35 days following the conclusion of the public meeting, the City Council shall, by ordinance duly adopted, either approve the site plan as submitted, make modifications acceptable to the applicant and approve such modified site plan or approve or disapprove it in the manner hereinafter specified.

The failure of the Board to act within sixty (60) days, or such further time to which the applicant may agree, shall be deemed to be a decision denying site plan approval.

F. Standards for Site Plan Disapproval.

- 1. Standards. The Community Development Director and the City Council shall not disapprove a site plan submitted pursuant to this Section except on the basis of specific written findings directed to one or more of the following standards:
  - a) The application is incomplete in specified particulars or contains or reveals violations of this Code or other applicable regulations that the applicant has, after written request, failed or refused to supply or correct.
  - b) The application is submitted in connection with another application, the approval of which is a condition precedent to the necessity for site plan review, and the applicant has failed to secure approval of that application.
  - c) The site plan fails to adequately meet specified standards required by this Code with respect to the proposed use or development, including special use standards where applicable.
  - d) The proposed site plan interferes with easements or rights-of-way.
  - e) The proposed site plan is unreasonably injurious or detrimental to

the use and enjoyment of surrounding property.

- f) The proposed site plan creates undue traffic congestion or hazards in the public streets, or the circulation elements of the proposed site plan unreasonably create hazards to safety on or off site or disjointed or inefficient pedestrian or vehicular circulation path on or off site.
- g) The screening of the site does not provide adequate shielding from or for nearby uses.
- h) The proposed site plan creates unreasonable drainage or erosion problems or fails to fully and satisfactory integrate the site into the overall existing and planned drainage system serving the City.
- i) The proposed site plan places unwarranted or unreasonable burdens on specified utility systems serving the site or area or fails to fully and satisfactory integrate site utilities into the overall existing and planned utility systems serving the City.
- j) The proposed site plan does not provide for required public uses designated on the Official Map.
- k) The proposed site plan otherwise adversely affects the public health, safety or general welfare.

- 2. Alternative Approaches. In citing any of the foregoing standards, other than those of Subparagraphs 1(a) and (b), as the basis for disapproving a site plan, the Community Development Director or the City Council may suggest alternative site plan approaches that could be developed to avoid the specified deficiency or may state the reasons why such deficiency cannot be avoided consistent with the applicant's objectives.

- G. Effect of Site Plan Approval. Approval of a site plan shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the codes and ordinances of the City, including, but not limited to, a Certificate of Zoning Compliance, a Building Permit, a Certificate of Occupancy and Subdivision Approval.

A copy of every approved site plan shall be filed with the Community Development Director and the development of the site shall be in substantial conformity with such approved & filed plan.

- H. Limitations on Site Plan Approval. Subject to an extension of time granted by the Community Development Director pursuant to Subsection 11-101 L of this Article, no site plan approval shall be valid for a period longer than one year unless a building permit is issue and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period.

- I. Adjustments to Site Plan during Development.
1. Site Plans Approved by the Community Development Director. During the development of the site, the Community Development Director shall have authority to authorize any adjustment to a site plan approved by him that he could have authorized in the course of his original review.
  2. Site Plans Approved by the City Council.
    - a) Minor Adjustments. During the development of the site, the Community Development Director may authorize minor adjustments to a site plan originally approved by the City Council when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development. Such minor adjustments shall be limited to the following:
      - (i) Altering the location of any one structure or group of structures by not more than 5 feet or one-fourth of the distance shown on the approved site plan between such structure or structures and any other structure or any vehicular circulation element or any boundary of the site plan, whichever is less.
      - (ii) Altering the location of any circulation element by not more than five (5) feet or one-fourth of the distance shown on the approved site plan between such circulation element and any structure, whichever is less.
      - (iii) Altering the location of any open space by not more than twenty (20) feet.
      - (iv) Altering any final grade by not more than ten percent (10%) of the originally planned grade.
      - (v) Altering the location or type of landscaping elements.Such minor adjustments shall be consistent with the intent and purpose of this Code and the site plan as approved shall be the minimum necessary to overcome the particular difficulty and shall not be approved if they would result in a violation of any standard or requirement of this Code.
    - b) Major Adjustments. Any adjustment to a site plan originally approved by the City Council that is not authorized by Subparagraph 2(a) above shall be considered to be a major adjustment and shall be granted only upon application to an approval by, the City Council. The City Council may, by ordinance duly adopted, grant approval for major adjustment without referral to the Planning and Zoning Commission upon finding that any changes in the site plan as approved will be in substantial conformity with said plan.
- J. Amendments to Site Plan Following Completion of Development. After a site is developed in accordance with an approved site plan, the approved site plan may be amended, varied, or altered in the same manner and subject to the same

limitations as provided for the original approval of site plans.

DRAFT

**CITY OF OAK FOREST**

**PLANNING/ZONING COMMISSION MEETING**

**Wednesday**

**April 18, 2018**

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The Plan/Zone Commission meeting was called to order by Chairman Stuewe at 7:00 p.m. with Roll Call. The Pledge of Allegiance was led by Mr. Wolf.

**PRESENT:** Mr. Walsh  
Mr. Ziak  
Mr. Oostema  
Mr. Keeler  
Mr. Wolf  
Chairman Stuewe

**ABSENT:** Mrs. Morrissy  
Mr. Riha  
Mr. Schroeder

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**PUBLIC HEARING - CASE #18-002 - FIERKE EDUCATION CENTER**

Chairman Stuewe opened the meeting and turned the floor over to the Petitioners.

MS. ASHBAUGH: As Jim introduced, the subject case is located at 6535 Victoria Drive in the Institutional Buildings District. It's on the Southside of Victoria Drive, just west of Ridgeland Avenue in Jesk Park. The Petitioner is requesting to build an addition of approximately 13,000 square feet to the Southeast side of the existing building. On that side of the building, there's currently a paved asphalt area where there's an existing basketball court for the elementary school and that court will be ripped up and then the addition will be constructed in that location with a new basketball court added just Southeast again of the addition. The primary building materials for the addition will be pre-cast concrete panel. It's going to match the existing concrete panels of the building, also using a dark bronze fascia for trim to match the existing building. The Southwest elevation will primarily use insulated metal panels in a terra cotta color to complement the beige and the dark bronze and then an anodized aluminum curtain wall. The rooftop units will be screened with a high ABS plastic material as well. That's a requirement of the

Zoning Code and the Building Code that they be screened. At your desks tonight, Attachment 1, it shows the line elevations that I just described. And attachment 2 shows the site and landscape plan. I have some extras of the plans up here if you wanted them, but it was sheet AP 1.0 and then sheet L3 from the landscape plan. And I also printed two renderings that the applicant provided this week to better illustrate what the addition will look like. The one on top is from the Southwest. You're viewing the building from the Southwest. And then the other one on the second page is viewing it from Northeast looking down along the façade. They will be doing some additional work in the storm water detention pond on the Southeast with the appropriate landscaping. Along the Southwest of the property, there will be some evergreens installed to provide some additional screening from the residential homes to the South. It's a pretty straightforward project. The addition essentially is designed to match the existing building and then the storm water detention is being enlarged slightly to accommodate the additional hardscape that they're adding.

CHAIRMAN STUEWE (the petitioner): You got a new playground going in and that's going to be...or is there two playgrounds going to be one is rubberized and what's the other one going to be? Attachment 1, I'm looking at.

MR. HILARION AMARO, DLA ARCHITECTS: The playground that's going in there is for early learning, so for Kindergartners and is going to be enclosed with an ornamental fence. And the function of that enclosed or fenced-in area is to give the students a rubberized surface, that's for their playground equipment, and then the other portion, pretty much is split into half. Half of it is rubberized surface. The other half is asphalt pavement and that's for their motor skills for and coordination, so that's part of the activity.

CHAIRMAN STUEWE: That's all going to be in the enclosed area, correct?

MR. AMARO: Yes, it's going to be an early learning playground that's going to be enclosed. Half of it is going to be rubberized. The other half is asphalt surface.

CHAIRMAN STUEWE: When is this project going to be starting? Mid-June? So it's going to be coming up pretty quick.

MR. AMARO: The project is going out to bid in early May.

CHAIRMAN STUEWE: Early May? And the rooftops that are in the front, are they going to be re-done with a screening on the old part of the building?

UNIDENTIFIED MAN: We're not doing anything with the existing building. Our addition is pretty much to the back, to the rear, of the building. That's where our focus is. The two rooftop units that are part of this project, those are being screened.

MR. OOSTEMA: I'm just curious as to where the new fenced in area is. Right off of the addition?

CHAIRMAN STUEWE: Reference what sheet you're looking at.

MR. OOSTEMA: I'm looking at Attachment 2.

MS. ASHBAUGH: It's along the East side of the addition. There's kind of a rounded curved play area and the fence will be surrounding that.

CHAIRMAN STUEWE: Look at the rendering. The second one.

MS. ASHBAUGH: Or the right side of the drawing.

MR. OOSTEMA: Okay, I can see it. And these rooftop units, they're going to have something shielding them? That doesn't show up on any of the renderings or drawings, does it?

MS. ASHBAUGH: There are two versions of the sheet of Attachment 1 at your seats. One is noted as revised April 17<sup>th</sup>. The applicant did add the rooftop units to show an elevation. There are kind of in the dark lined bubbles. Those are the only ones that will be screened, as that's part of the new part of the building. The others would be considered legal non-conforming. I believe a grant is funding this project. Or is that incorrect? No, it's not, okay. My mistake.

MR. WOLF: As far the one criteria here of flat roofs, (inaudible) roofs are discouraged except for such roofs are the predominant style. And not that I have a problem with the roof at all, but what does it mean that the flat roof is such due to the use of the building as required for the school's daily functions?

MS. ASHBAUGH: Given that the building right now is used as an institutional use as the elementary school, it was designed originally with the flat roof and so is to match the existing design of the building, the addition is being designed to mimic that. Then the Southwest elevation does have a slight slope to it going toward the

Southwest. The Southeast façade going toward the Southwest corner has a slope to it. If you look at the first rendering from the Southwest it shows that the colored rendering. And then there's a little differentiation on the opposite end as well.

UNIDENTIFIED MAN: It's better in the line drawings. I don't think the color rendering actually shows it well.

MS. ASHBAUGH: Attachment 1 Revised would show that most currently. It's noted as item 6 on Attachment 1 Revised. That's the Southeast elevation. To the left side of the building, there's a slight slope to the roof line and then on the right side, the roof line is slightly higher on the end. There's a little bit of variation to the roof line.

CHAIRMAN STUEWE asked for motion to adopt PZC Resolution 18-4.

Mr. Ziak made the motion.

Mr. Oostema seconded.

**The Roll Call vote was taken as follows:**

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Mr. Ziak			
Mr. Oostema			
Mr. Keeler			
Mr. Wolf			
Mr. Walsh			
Chairman Stuewe			

The motion to adopt PC Resolution 18-4 carried, 6/0, with THREE ABSENT.

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**PLAN WORKSHOP**

MS. ASHBAUGH: Tonight we're going to do a structured workshop. There are a total of six points of discussion. We can try to cover four. I will be keeping time to about twenty minutes per item. If we either get through all of them in less time or if we get through four things and we've done twenty minutes each, then that's how we'll go. But

there are also four questions to keep in mind per item if there are other topics and information you want to include or consider. This is to provide staff with background to potentially transmit to city council. There is a grant that is offered usually annually that the city could apply for to get updates and just in general if there are any requests for new development that may be in contradiction with the comprehensive plan. This conversation can also help us figure out how to proceed with any amendments that may be deemed necessary in the future. I've provided everyone with exhibits for items 2 through 6, which is the Cicero Avenue Corridor, the 159<sup>th</sup> Street Corridor, Oak Forest Metra Station Sub Area, A/K/A the Gateway, the I-57 Cicero Overpass area, which is the very South end of town off of Cicero, and the industrial park.

CHAIRMAN STUEWE: Community vision that's basically what do we see that our city needs, what we want it to become. The question for each of you is what is it that your vision would be for the city? What changes do we need to do? What things do we need to update? Things that we can leave alone.

MR. ZIAK: I think from 2008, I think we need to maybe shift, because I think in '08 there was more of a push for big development. I think we're all pretty positive we're not going to get the big box stores that in '07-'08 was kind of touted as coming here. I think we need to more focus on, in addition to getting more commercial, is doing something residential. Trying to increase some sort of amenities for the residents to get more residents in here, to keep residents here from moving to some of the newer communities that would offer more pedestrian friendly kinds of things, more gathering places. We have a pretty big lack of that. We've talked about the bike trail grant, which I think is great to really get some trails to link Central with the trails North and South of here. I think that's huge. I think that's what the city is missing. You go down Central and we don't really have a downtown street, per se. We don't have anything like that that we can call. And I think Central is probably the closest. Maybe we need to do something to enhance Central to make that a little more...to step that up a little bit.

CHAIRMAN STEUWE: What suggestion would you make for this?

MR. ZIAK: Maybe do something to improve...you drive down Central and you have just a hodgepodge of fences. You have the short 3 ½ foot fences from the 60's versus some newer vinyl fences and I just think that creates a very disjointed look. You go to some other communities and in their commercial corridors, all their fences are the same, maybe they have some landscaping. I know towns like Bolingbrook, they

do landscaping along their commercial corridor that they maintain when you have residents butting up to it. I think I've seen Romeoville, they have a standardized fence that they use along their roadways. I think stuff like that would enhance the look of the town too, as opposed to just getting more and more commercial.

CHAIRMAN STEUWE: I'm not disagreeing with that, but Central Avenue is basically all housing. I'm agreeing with the idea we should have a standard fencing, vinyl fencing or whatever it may be, we need something that's all alike and it makes for a better aesthetic look along the street line.

MR. ZIAK: Right, I mean, we offer economic assistance for facade improvement. Maybe we should offer something to residents to try to keep some people here from moving away because they don't like the look of...

CHAIRMAN STEUWE: Absolutely, I kind of agree about the aesthetics and about the mood that it sets for everybody coming through. I don't know how that would work out? What could we do to assist these people in these issues? Where do we want to do this, on all the main drags? I mean, Central, 151<sup>st</sup> Street, 159<sup>th</sup> Street, Cicero, and nothing on the interior? Because those where are main drags are. So make it all standard for the fencing and landscaping.

MR. ZIAK: I would think definitely down the main corridor, 159<sup>th</sup>. Because 159<sup>th</sup> in some areas looks a little spotty. Same with Cicero in some areas. The street scape on Cicero is nice, but you're putting these great new things in and then you've got lots that are not very well.

CHAIRMAN STEUWE: Some of the buildings need to definitely be upgraded. Color change, paint jobs, something like that. I can see that.

MR. WALSH: It would be nice if we could look down the road to try to join up these bike paths with the neighborhoods. Particularly we've got a bike path that goes down Oak Park Avenue. If we could find a way to connect them, the towns and the...to get to those bike paths easier and maybe a bike path or some sort of a way down 151<sup>st</sup> Street from Central to get down to the bike path or from 147<sup>th</sup> Street to get to the bike path where it connects.

CHAIRMAN STEUWE: I guess that would be a good. I don't know what the...Mr. Oostema is involved in the...could you give us a little backup on this?

MR. OOSTEMA: As far as like 151<sup>st</sup>, because I've ridden on all these streets and they're actually fairly ride-able. 151<sup>st</sup> gets a little tight going East of Central Avenue, that's not really that accessible for bikes. But riding your bike along 151<sup>st</sup> Street from Oak Park is really do-able. There's enough room for the cars and the shoulder. It would be nice if they'd have some kind of a marked lane to help separate it.

MR. WALSH: It is, but I'm talking about like a dedicated sidewalk path so people can take their kids down there and get to the paths. It's okay for maybe for an adult to risk their lives by going up and down the street, but I'm just talking about making it more walk-able. And I know it's expensive. I'm just saying that in a perfect world, it would be nice if everyone in Oak Forest could get to these bike paths and children with strollers and stuff.

MR. OOSTEMA: I think Forestview Drive is access for that whole neighborhood there. Much of it you don't have to be on Central Avenue or on Oak Park. Oak Park you've got a long stretch of the path goes right along there. A way to identify here's the way to the path maybe is more what we need than extra sidewalks. It seems to just keep falling down on that there's a cost and I'd like to see something. I love the idea of connectors and directions that would help people get to the paths. And I know like 147<sup>th</sup>, that's a tough street to ride on with a bike, even for adults.

UNIDENTIFIED MAN: Are they doing something on 147<sup>th</sup> Street? I see them clearing trees.

UNIDENTIFIED MAN: I think they're just clearing the trees so they don't interfere (inaudible).

UNIDENTIFIED MAN: A road widening project going there.

MR. BANDSTRA: I'm not aware of a project. There's some utility work going to be done. I don't recall where the clearing is taking place, but I just wanted to acknowledge the point. The city's non-motorized transit plan identified 151<sup>st</sup> in particular as one of the major East West corridors that could use a bike path to help connect Central in just the ways you're describing. And I also just wanted to point out that I think because of that, that road, in particular, was part of one of the grant proposals that we put together was for phase I engineering dollars to do Central and 151<sup>st</sup> to try to connect. Obviously, there's a focus on regional connections, which is very useful, into the forest preserve system. And the forest preserve does connect from George Dunne all the way to Oak Park and 151<sup>st</sup> as you were

describing, but it doesn't connect the neighborhoods as well. I just wanted to reinforce that by saying that was recognized by the team when working on the grant.

UNIDENTIFIED MAN: Didn't we have some grant money too for the signs for the local through the neighborhoods to push?

MR. BANDSTRA: As part of the sidewalk project over by the access to transit, by Metra, there was a very small part of that, probably \$1,000 to \$2,000 worth of signage, some way finding signage around there. I know that that's something that we've discussed on the staff level that pedestrian and bike way finding, as well as some auto way finding signage would be really beneficial. There are funding sources for that exact thing on trails specifically.

MR. WOLF: I thought I recall that there was going to be a path from approximately starting around Central all the way to Oak Park Avenue and it was going to be more on the North side where Hille is and Braun and everything there, put a path. And that was the last time I remember it even being brought up was there was entertainment of that senior...

UNIDENTIFIED MAN: Right there by Hille.

MR. WOLF: Yeah, when there was a senior development proposed. The idea is I think more connectivity. Do we still have a sidewalk grant? I know that that was proposed and it was going to be and I realize a lot of it was around the Metra, but even from a standpoint of connectivity within the neighborhoods due to the fact that like 151<sup>st</sup>, there aren't any sidewalk. You can either ride the street with a bike or you can walk along with the cars. A house here might have a sidewalk and the next house doesn't. But I could have sworn there was some type of grant on that as well. Do you know of anything that's going on with that or any type of...like on 151<sup>st</sup>. We even discussed Central at one time on one side or the other, but there isn't any connectivity.

MR. BANDSTRA: The City has put forth two outside grant requests in the last four months to focus on bike paths, off street or on the street. It's really about determining feasibility. And that was focused on 151<sup>st</sup> from Cicero to Oak Park and from Central from 151<sup>st</sup> to 159<sup>th</sup>. That's definitely a key goal where we've tried to identify some outside funding sources for that. The City did receive the grant dollars, I think that's part of what you're alluding to, for the sidewalk project over by Metra for 155<sup>th</sup> to 158<sup>th</sup> and then Metra all the West to...what's the street by St. Damian's? It's escaping me. Is it

Long? Pretty much that far West. So that whole series of blocks there, the hope is in 2019 to have finished the engineering on that and move that forward. The only other thing I'm aware of to your question is the City allocates some of the capital dollars every year. The amount escapes me off hand. But to fill in sidewalk gaps in certain neighborhoods. I know that they identify some, to my knowledge, every fiscal year. But that's using our own capital dollars. Those are the initiatives that I'm aware of off hand recently. There could have been another one discussed in the past and, obviously, we're open to other ones, but those are the ones that I'm aware of.

CHAIRMAN STUEWE: That's a nice idea that we have the paths for the people for walking around, the bicycling, and the paths. What is there that we can contribute, vision here to move the City along?

MR. OOSTEMA: I think that part of what we were hoping to have come with all the development that came around the train station and all those areas was to have a higher density that would support the businesses that we wanted. I think that some of the residential units that we were hoping to have in, and I think that...I don't want more traffic, but when you're at a transit oriented development, we can handle possibly more density and the more people that are living in an area, the more shoppers there are that are going to support some of the businesses that we want to see. I wonder if we need to make that part of our focus to add density to the area.

CHAIRMAN STUEWE: You're talking about the Gateway Area?

MR. OOSTEMA: The Gateway Area and going out even farther like where the former trailer park was. That's kind of the gateway area, but it's not official Gateway Area. You're kind of on the edge of it there. Yeah, I think anything within distance of the train station that we need to maybe refocus on increasing density in those areas.

MR. WOLF: And if I'm not mistaken that's part of the original 2008 comprehensive plan is if you look at the one map, the density and where mixed uses would be, pretty much centered in that.

UNIDENTIFIED MAN: I believe the trailer court is marked.

UNIDENTIFIED MAN: Mixed use retail.

UNIDENTIFIED MAN: In pink, I believe.

UNIDENTIFIED MAN: But it was centered and I guess it's...some of the visions within there and I don't know if we're still on the community vision or you want to work one by one here, but it is..

UNIDENTIFIED MAN: It will overflow into the next one anyways, that's fine.

UNIDENTIFIED MAN: I guess the whole vision was really on the Gateway, the corridor there of 159<sup>th</sup> and Cicero and the train station. A lot more studies went into that at that time and (inaudible) what could be done as far as even with the thought of Wille Brothers no longer being there and that's where the density of housing would come from because you'd have that buffer coming from houses, now you have apartments or condos and then it would spread into town homes and then single family home residential area.

UNIDENTIFIED MAN: I don't know if that's a vision that still holds true today as far as we are...it's a great vision to have. I don't know how much success we're going to have in that area with Wille Brothers there, but that was the thought there. And coming off of 157<sup>th</sup> was going to be...if you can visualize where that parking lot is right now, right off 157<sup>th</sup>, for the train station and if you back there enough, you come to the fence area where (inaudible) Electric Building is and that road winds around and that was going to be more of like a boulevard type street that would be able to accommodate the commercial aspect as well and a cut through from wanting to get to traffic going straight to Cicero and 159<sup>th</sup>.

UNIDENTIFIED MAN: Also at that time, if I recall, that's when we were talking about knocking down all the apartment buildings and building everything new.

UNIDENTIFIED MAN: I don't know how far we got on that. That would be great.

UNIDENTIFIED MAN: No, but I'm saying...well, no, that was part of the plan at the time too was to knock down the apartments. Take possession of them, knock them down and put condos or commercial on the first floor and living space above them. That was part of the original plan, not only moving it to Wille Brothers. That would improve the density and amount of people that are going to be living in that area because we were going to have the shopping areas and then the Gateway itself with the...I think condos then.

UNIDENTIFIED MAN: Part of it is to have some type of catalyst that could spur that type of redevelopment of those apartments, but how do

we spur that in order to make it attractive enough or investment wise for somebody to come in and want to do something with the current apartments that are there? Or do you have to do something initially with the current apartments in order to spur development?

CHAIRMAN STUEWE: Move on to the Cicero Avenue Corridor, which is pretty much all your other business, Katie.

MS. ASHBAUGH: That's your first exhibit on the stack that I provided you with. Discussion item 2. So there's an Aerial photo and it goes from approximately 156<sup>th</sup> Street and all the way North to just North of 149<sup>th</sup> Street. It's important to note, it's just North of what is technically considered part of the Gateway or the Oak Forest Metra Station Sub Area. There's the aerial, there's the current zoning. I used the abbreviation, so if you want expansion of what the zoning district is, I can provide that. And then on the far right is the current future land use designation for the corridor. As you'll see, most of the corridor zone, C3, Central Business District, that's the highest intensity business district that we have. And then North of 151<sup>st</sup> is our office district. That's one of the two areas that's actually zoned office in town. And then to the East and West of the C3 District are some residential districts. And then the future land use, the majority of the corridors already in alignment...the zoning is already in alignment with the future land use map. But as we discussed with the auto dealership regulations when we determined the minimum lot size and minimum frontages, Cicero Avenue has typically narrower properties and the buildings are also placed typically a little closer to the street than those on 159<sup>th</sup>. The character of this corridor is a little different than 159<sup>th</sup> and taking that into consideration, I'll just go through the discussion questions that I'd like to guide discussion for this specific area in town, as well as the others if we get to them. Number 2 are the goals and policies for the community. Are the goals and policies for this future land use of this area, do they still apply? Does the current economy support the future land uses identified in 2008. Should any future land uses be changed or refined? For example, changing from commercial to industrial or being more specific with the commercial and specifying retail or would you rather it say different type of commercial use? And then condominiums to apartments, so should it be more specific in the way that it's describing housing or should mixed use be considered on Cicero as you go farther South closer to the gateway. These are just suggestions. I'm just trying to kind of gauge what you may think is best for this corridor or if it should stay the same. Finally, as I touched on earlier, was the character of this area, should the existing character change and, if so, to what type of land use and/or building type? So do we want it to continue to be primarily suburban

with the parking lots to the front or do we want to start to shift buildings to be placed differently if there's any reconstruction? I know that I've touched on this with the maintenance of some of the buildings and how they are kind of placed not really in relation with one another as you go down Cicero, so describing the character, is that something that we're going to work with what we have or do we want to have a broader vision. So with that, I'll let everybody share their thoughts.

MR. WOLF: At the corridor and kind of going along with what we did with the used autos or when we define that, and I believe we used...like this one here when we're shown the Cicero Corridor, it's cutting off where it's going from 156<sup>th</sup> all the way North to the boundary. I'd be more inclined to think that a subtle change in the type of retail or what we can establish would be 155<sup>th</sup> would be more of the borderline.

MR. BANDSTRA: Due to the make up of some of the businesses that are within that area from 155<sup>th</sup> to the Gateway versus what's North of that, there are deeper lots there to the North than there are to the South of 155<sup>th</sup>. I think maybe if we focus more on distinct characters of what we would like to see on 155<sup>th</sup> going towards the Gateway, of more of your mixed use or something like that. And 155<sup>th</sup> North, going North, would be more of other types of commercial. I'm looking at 155<sup>th</sup> going to there is more of...we've discussed within the plan too of more restaurants, smaller shops, things like that, more of entertainment-type district, that would be where mixed use or something like that can be accommodated more so. And going North would be much more commercial or that's where we're allowing more auto businesses or things like that. But I would keep them out of that particular district. I think that one time, I guess looking at this, but there was...I guess we never did really find it, but there was a...

UNIDENTIFIED MAN: Over the years we've had discussions...

UNIDENTIFIED MAN: ...an overlay district to it.

UNIDENTIFIED MAN: The City didn't act on it, if I'm correct.

UNIDENTIFIED MAN: You're correct. There was a lot of discussion about creating the overlay district as you were describing all the way all the way somewhere up to...I think it was 156<sup>th</sup> or so, is what was specifically looked at...or even 157<sup>th</sup>. But definitely expanding it. It's similar to the footprint that I think is in one of the exhibits.

MS. ASHBAUGH: Number 4. Discussion item 4.

MR. BANDSTRA: Yeah. For a number of reasons, it wasn't enacted officially, but, yes, that was definitely something contemplated by the City for those reasons, I think.

UNIDENTIFIED MAN: Do you think that's something that's still viable today or that's more of a vision? And the only reason I bring up if it was up to 156<sup>th</sup> is 155<sup>th</sup> is more of...it's a lighted intersection and it's a through street. 156<sup>th</sup> isn't really that much of a designed through street going across Cicero. I'm just looking at the mix being more 155<sup>th</sup> being the borderline of what we want to accomplish on one side versus the other.

MR. BANDSTRA: Yeah, I think staff definitely sees the potential to have a dichotomy there creating somewhat...they may not be completely distinct, but having some distinction in those corridors. I think there is potential for that. The real estate world has shifted to a certain degree that completely rebuilding a part of a corridor from scratch and making it into a downtown or an entertainment district, that specifically can be a goal that may be more of a challenge. But I think because of the way the building set backs are more consistent, I think is part of what you're describing. South of 155<sup>th</sup>, the character is just a little different. You're closer to the train. We've seen that just the way it was developed that there is that potential. One challenge that we are seeing just because of the county's economics is everyone is wanting to do mixed use everywhere because of the tax reasons. Obviously, we as a City, we want to try to be supportive of that when we can, but at the same time, it does present some challenges of just having random sort of...or perhaps perceived random mixed use buildings throughout town, because if that's the only way that the economics makes sense to do development, it's something we want to look at. But I think that presents a challenge that we're going to see more and more of, especially with some of the changes to the county's incentive program that they've put forth this year.

MS. ASHBAUGH: I just wanted to clarify that this discussion is for predominately 149<sup>th</sup> through 156<sup>th</sup> and then the next section or two sections will be the Gateway. I just wanted to point that out the way that we can follow the discussion points. Right now, we're moving a little bit South and definitely that will be if we go to...if we go twenty minutes for everything, it will be the last thing we talk about. I just wanted to make that note.

CHAIRMAN STUEWE: Okay, so you're talking about 149 to 156 is the area that's specifically you're talking about.

MS. ASHBAUGH: Yes.

CHAIRMAN STUEWE: My first thing would be is to knock 156<sup>th</sup> to 155<sup>th</sup> out of this conversation and add it to the next part.

MS. ASHBAUGH: Okay.

CHAIRMAN STUEWE: From 149<sup>th</sup> to 156<sup>th</sup> now those are the office areas.

MS. ASHBAUGH: The 149<sup>th</sup> to 151<sup>st</sup> right now is zoned office, but then if you look at the comprehensive plan, the future land use has it as commercial and then some multi-family residential. And then 151<sup>st</sup> to 156<sup>th</sup> is zoned commercial and the future land use is commercial. As an observation, office buildings are some of the better maintained buildings. I don't know if we want to...but the comprehensive plan, if someone came in and purchased it and wanted to switch it to commercial, is, for example, is this something would you be supportive of that or is it worth reevaluating shifting that?

MR. ZIAK: No, I actually think that's a pretty good idea is to try to get more office space along that corridor. With the buildings that they are now with the random car repair places that are here and there, I think if you could somehow get rid of a pretty good chunk of those and turn it into an office space, I think that would greatly improve the character of that corridor. I don't think we're going to be able to get any sort of good retail because of the way the lots are, but office space would be a good alternative. Medical or something of that nature.

MR. WALSH: It's not prohibited to have an office there now, correct?

MS. ASHBAUGH: 149<sup>th</sup> through 151<sup>st</sup>, the City's limits are on the West side of Cicero and then there's one or two properties right at 149<sup>th</sup>, on the East side, that are also incorporated. The City can plan for both sides of the street though. And if you look at the right exhibit on this discussion item 2, it's showing that the future land use is commercial. So that's not in alignment with the current zoning, which is office. Those would be two different future land uses.

MR. WALSH: My point is, if we made it office only, would we get any potential investors because it's office only? Right now, if an office building or a medical building wanted to go there, nothing on this...our plans now precluding that, so, I don't know that changing it is really going to...I don't really think changing any of this is going to bring any sort of business to the town. I don't think it's the zoning or

what our vision for that particular property is that will bring investors to the town. It's not like that we're sifting through these applicants and saying like what's...what's best for our town?

MR. BANDSTRA: I was simply answering the question that was already answered. I think that office medical generally is not prohibited in the commercial district. So, yeah, it is allowed there as well currently, yes.

MS. ASHBAUGH: I just wanted to note that the middle exhibit is the current zoning. North of 151<sup>st</sup> is zoned office and office is more restrictive than commercial. However, the future land use has it designated as commercial. If someone came in and wanted to request something that's not allowed in the office district, staff would then, because of the comprehensive plan right now, would have the guidance to say you have a good possibility of getting your rezoning approved because the lines of the comprehensive plan. That's what I wanted to understand is if we feel this future land use designation as commercial and then for the little bit of multi-family residential, if that's still applicable today or not for this area. Because right now, it does support a rezoning from switching it from office to commercial if someone came in and asked.

MR. WOLF: Our existing land use for right now, 151<sup>st</sup> there's a lot or whatever that would be the Hickey Electric, that is commercial and then all the Grabill buildings, our office currently, and then mix...or I don't think it's a mixed use but multi-family, that's the senior center...or senior living.

UNIDENTIFIED MAN: We have senior citizen, we have office space and then we have...

UNIDENTIFIED MAN: And that's how it is on the existing land use. Are we suggesting that it just all turn to commercial?

MS. ASHBAUGH: No, I'm just noting that there is a difference between the current zoning and what the future land use map is currently and if we feel the future land use map is still relevant or not or would we rather that area still remain office. That's just up for discussion. And also if the commercial future land use designation should be further refined between these streets. If not, then that's fine too. We're just posing the question given that the Gateway Area have some differentiation within the commercial district where it further specifies retail, as an example. So that's what we're just asking if the Commission thinks that's a good idea or if we're okay with more broadly saying commercial where auto can go still or do we

want a select block where auto should be. Just trying to gauge if we want to be more specific with the future land use.

UNIDENTIFIED MAN: You can have retail with an office...within an office, can't you, or no?

MS. ASHBAUGH: Five minutes.

MR. WALSH: I'd like to say that we should just leave it the way that it is. Thank you.

UNIDENTIFIED MAN: I second leaving it the way it is. I like it.

UNIDENTIFIED MAN: Okay.

UNIDENTIFIED MAN: So you're saying the corner can be commercial.

UNIDENTIFIED MAN: Well it's all...except for where it's the office place, but it has the possibility for commercial. We're talking down to 151<sup>st</sup>?

UNIDENTIFIED MAN: To 149<sup>th</sup>.

UNIDENTIFIED MAN: 149<sup>th</sup>. Yeah. And the residential areas are kind of permanently residential. There's nothing you can do to change that. That warehouse, it's going to stay.

UNIDENTIFIED MAN: No, it's not going to leave, but I guess the office space (inaudible) with commercial. If we can have office space, I don't see a problem with that.

UNIDENTIFIED MAN: Within commercial, you can have office.

UNIDENTIFIED MAN: Yes.

UNIDENTIFIED MAN: It's allowed. It's something to come before us for consideration. They wouldn't be able to just do it.

UNIDENTIFIED MAN: Would you say that again please?

UNIDENTIFIED MAN: Office space could be allowed, but it would have to come before us to go into a commercial district.

UNIDENTIFIED MAN: No. Office is generally a permitted use in, I would imagine, in any commercial corridor, yes.

UNIDENTIFIED MAN: One example where this could come up is at the Northwest corner of 151<sup>st</sup> and Cicero. Hickey Electric is in there currently. I would assume they are a legal non-conforming use. They have a hybrid office warehouse facility there as an electrical contractor. Someday you would assume they'll leave, everyone usually moves on at some point, and that would be one where someone may come in and want it to be rezoned more commercial or something like that. That's a little bit of a transitional area. The rest to the North is pretty distinctly office.

MS. ASHBAUGH: I wanted to give some examples of uses that are permitted in commercial districts, but are not permitted in the office district. Consumer electronics and appliances rental is not permitted in the office district, but it's permitted in all of our commercial districts. Video tape and disc rental, if there are still any of those left, not permitted in the office district. Art dealers are permitted in all of our commercial districts, not permitted in the office district. If we had like an art gallery, that would be permitted on Cicero and 159<sup>th</sup>, it's not permitted North of...it would not be permitted on Cicero though North of 151<sup>st</sup>. Speaking to the pedestrian friendly environment that was being alluded to before, art exhibit or a gallery is something that could promote some pedestrian activity and a night life. Those are common in some neighborhoods. But do you want the area North of 151<sup>st</sup> to remain office or start to transition into an extension of whatever you're envisioning for South of 151<sup>st</sup> on Cicero. And it's also important to note that C2 is the primary district on 159<sup>th</sup>, which we'll discuss that next. C3 is a primary district on Cicero. There's not a lot of differentiation between them, between what they allow or what they don't, but do we want to see certain uses more on one corridor than the other. And how should Cicero be different than 159<sup>th</sup>?

CHAIRMAN STUEWE: I think the idea that it stays office though, I don't...but we have the senior citizen spot over there too. So that's kind of...kind of breaks up your office space. I still like the idea of it being office all the way to 149<sup>th</sup> Street because that way if something on the...I'm trying to think where does...actually where is the senior...that's 149<sup>th</sup> Street, correct?

UNIDENTIFIED MAN: Southwest corner.

CHAIRMAN STUEWE: Alright, so everything South of there is business already or office area.

UNIDENTIFIED MAN: Office area, except the corner of 151<sup>st</sup>.

UNIDENTIFIED MAN: Which is the electric.

UNIDENTIFIED MAN: Right.

CHAIRMAN STUEWE: I don't see why we should change anything. The only thing would be possible to change is the electric area. What's the next one?

MR. WOLF: Speaking of that though what is the...what is the Northeast corner of 151<sup>st</sup>?

MS. ASHBAUGH: Unincorporated.

UNIDENTIFIED MAN: That's all I want to know.

UNIDENTIFIED MAN: That's ready for something.

MS. ASHBAUGH: It's unidentified.

UNIDENTIFIED MAN: That summer cottage that's there next to the creek?

MR. BANDSTRA: We get periodic inquires just from people eyeing the properties because they've been for sale forever. The logical place, if someone was going to do something there, would be to annex I think into Oak Forest because that's no guarantee you could also look at Midlothian, but I think a lot of people think Oak Forest first. It's just right there. So people have looked at it. I'm not aware of anyone, at least in the last couple of years, seriously looking at anything there. There's a lot of flood plain issues there because the creek literally goes through the property.

MR. ZIAK: Like I said, I was out there and they were just...there had to be eight or nine people, they were walking the lots measuring stuff. I thought maybe something was going to happen.

MR. WOLF: Going along as far as our initial one on vision and things we talk about within our plan from 2008, what can we do, as you say this property has been sitting there for years and years like that and it's unincorporated. But it's pretty much an eyesore through the whole Cicero corridor. What can we do to enhance that whether it's to tear it all down and make it green and make it more of a park or show the creek or enhance and bring it as part of the community instead of this eyesore.

UNIDENTIFIED MAN: How do we annex that property? Can we force annex that property?

MR. BANDSTRA: I don't believe so because we don't wholly surround it. Typically you have to surround a property to force annex a property. So absent the opportunity to do that, I think the most logical solution is you try to encourage the county, who would be the supervising authority to enforce their own rules of aesthetic standards and safety on the property.

MR. WOLF: Isn't that bordered by all of Oak Forest because if you go further South, those two properties, the landscaper (inaudible)...Forest, correct?

UNIDENTIFIED MAN: On the East side, the house.

UNIDENTIFIED MAN: It would have to be North of the property to be...

UNIDENTIFIED MAN: The East side, North of that property, there is that one that was the landscaping business or isn't that Oak Forest?

MR. BANDSTRA: You can see on the map everything that's not colored in a zoning is not within our boundaries, if that's what you're referring to at 151<sup>st</sup>. So you're talking about there's a house right at the Northeast corner of 151<sup>st</sup> and Cicero. So all of those properties on the East side of Cicero are outside of our boundaries, as to my knowledge is most of the property on either side of Kilpatrick to the East. There is one random property at 149<sup>th</sup> and Cicero that is within our boundaries. That's the vacant property that I believe used to be the Snapper. The Red Snapper. That property, I believe, is within our boundaries.

UNIDENTIFIED MAN: Yeah, but at one point in time that property was trying to be developed and was going to be retail at the bottom and above it was going to be living space, but it never got passed. They couldn't come up with a plan for the water storage. They were going to fill it in.

UNIDENTIFIED MAN: It might be a good area for a retention over there then.

UNIDENTIFIED MAN: You'd have to build a wall.

MS. ASHBAUGH: Are we ready to move to discussion item 3?

UNIDENTIFIED MAN: 159<sup>th</sup> Street Corridor starting with...

MS. ASHBAUGH: Yes. On the West side is Ridgeland Avenue and it ends at Laramie, because the Gateway goes to Laramie. So then this corridor would end at Laramie. And there is one property at Oak Park Avenue and 159<sup>th</sup> that is the Shell across from Delta Sonic, but to better zoom in on the bulk of this corridor and because that's not contiguous with all of the other development and separated by the forest preserve, I didn't include that. But it is zoned C2, if my memory serves me correctly. So, again, Ridgeland Avenue that the West extending East to Laramie on 159<sup>th</sup> is corridor. Most of it is on the North side. And then George Dunne goes from Oak Park Avenue to Central Avenue on the South Side on 159<sup>th</sup>. There's a bike trail that kind of meanders along from Ridgeland to Central Avenue, which is where the bike trail is proposed to connect that Travis referred to earlier. And then there's some remaining commercial to the South of 159<sup>th</sup> from Central to Laramie as well. To look at the zoning map, the majority of this corridor is presently zoned C2, general service commercial district. There are some sections to the East that are zoned C1, local commercial district. There is some multi-family to the North, the R6 district. And then single family, the R2 district. And there's a little corner at the Northeast corner of Ridgeland Avenue and 159<sup>th</sup> zoned O1 Office. And the future land use map, generally the zoning already is in alignment with the future land use map. But this is just kind of the same two questions that we discussed for the last corridor, do we want to be more specific with the types of commercial uses on this corridor? Do we feel that commercial uses are still what we would want to see on this corridor? Or should we consider office or maybe light industrial? That's really a far reaching idea. I'm just brainstorming here. But how would we want this future land use map to be updated or is it still relevant? Fifteen minutes starts now. And then we add another five. I give a five minute warning, after fifteen.

CHAIRMAN STUEWE: I don't see anything wrong with it at the time. Everything is pretty much...we've went over this area countless times. I don't see what else, except maybe on the South side by McDonald's where those little apartment buildings or little condos, or whatever those are, would be removed.

UNIDENTIFIED MAN: We're talking about Ridgeland and Central?

UNIDENTIFIED MAN: Oh, we're going from Ridgeland to Laramie.

CHAIRMAN STUEWE: We do have some space along there, but I don't see what else could be changed to make it any better, unless somebody has a comment on it.

MR. OOSTEMA: I'm sorry if I'm asking questions that we've sort of kind of gone over, but if it's commercial, we can put office in, right? So if we were to go and change the designation to some of it office, that would make it more restrictive. Am I understanding it right?

MS. ASHBAUGH: Yes. The way our zoning districts are currently, yes.

MR. OOSTEMA: If somebody came in by Peggy Lane and wanted to put an office use in there, (inaudible) would be open to that idea.

UNIDENTIFIED MAN: Correct.

MR. OOSTEMA: So the question is do we feel like there is a reason to make it more restrictive and to try and designate some of it to office?

MS. ASHBAUGH: That or to be more specific with the type of commercial.

MR. OOSTEMA: And how would be more specific with the type of commercial?

MS. ASHBAUGH: Whether or not we wanted, just as an example, Central to Ridgeland to have auto oriented uses be permitted only during...on those...between those streets and then not have them East of Central. Just as an example, and would we create a future land use category that has a more broad reach whereas then we could refine it to be more limiting and not having as intensive uses on there. That's just an example of something that could be done.

MR. OOSTEMA: And it's also something that we've worked to pretty much limited where the auto uses could go ahead of that, right?

MS. ASHBAUGH: Auto dealer specifically, but not any auto services like whether just repair or oil change or tire. Those are actually, they're special uses, but they don't have the lot minimum that auto dealers do.

MR. WOLF: I like that example that she set forth. We should somewhat look at this corridor and break it up into of what's allowed West of Central, versus maybe start to get more restrictive or something..

CHAIRMAN STUEWE: West of Central? Or East? Both of them.

MR. WOLF: On the East and West side, yeah. I would keep it...I would keep it pretty much as it is here on the future land use on both sides. I wouldn't look for apartments to be back there again. I think that's something that would be more...

CHAIRMAN STUEWE: I'm just trying to think what that five story building.

MR. WOLF: An office.

CHAIRMAN STEUWE: That's all office and medical, right?

UNIDENTIFIED MAN: Which brings up right now NRC1. Are medical clinics permitted? I would think so because we've got a dialysis center zone.

UNIDENTIFIED MAN: That's actually in C2.

MS. ASHBAUGH: Healthcare and social assistance category. We have child daycare, community care facilities for the elderly, general medicine and surgical hospitals, medical and diagnostic labs, nursing homes, those are special uses in C1 through C3. And then permitted uses are home health care services, offices of dentist, offices of other health practitioners, offices of physicians, those are all permitted by right in the commercial districts.

UNIDENTIFIED MAN: In any commercial district?

MS. ASHBAUGH: Yes, correct.

UNIDENTIFIED MAN: Commercial, what about the office?

MS. ASHBAUGH: They are permitted in office, but they're also permitted...this is an example of where there's not really any differentiation between C1, C2 or C3 when they're permitted in all three. But the way the future land use map is written currently, it's supporting having all of them in each district, if that makes sense.

MR. WOLF: And that's why I think in a lot of this, if we're looking to really take, as Katie's example, even as far as auto related or auto sales, confined to anything West of Central, so to speak, that we may want to redefine this whole usage of what's allowed within these specific districts is, as you stated, a lot of these are overlapping. It doesn't matter whether we call it C2 or C3, many of the same type of businesses are associated with both. And is that something we want to restrain now and put it more into one or the other?

MR. BANDSTRA: I was just going to comment on that. I'm not proposing anything. I'm just speculating as to probably why it seems in Oak Forest where you have a propensity for single free standing uses, as opposed to more center development, I think there's more allowing of more uses just because you had more hodge podge development, so that probably, in order to facilitate that and not be too restrictive, that's probably part of why they did it. And my sense of the zoning is the only real difference, as you pointed out, between a lot of the districts has to do more with lot sizes and setbacks, as opposed to uses. And so for any number of reasons, the City must have decided that we weren't going to be too restrictive on uses, it was more focused on lot characteristics, as opposed to uses. And so I think it's always a good discussion to look at characters of corridors and what they should be and then always balancing that with the idea that anytime you do down zone and put restrictions on that, it just makes...it restricts development too. We had that discussion with the auto sales uses, trying to find the balance between where we wanted...where do we allow this appropriately but knowing that it will make a current auto dealer not be able to be that anymore next time around. And so just balancing those things. So I think it's a good discussion to have. But that's just my speculation as to kind of why there is that type of lack of differentiation.

MS. ASHBAUGH: And just skimming Appendix A, Table of Uses, and the Code, the majority of uses that are either permitted by right or permitted as a special use in one district are permitted by right in all three or are permitted by special use in all three. There's very few where there's one maybe in one district that's a special use and then the others it's permitted, but in this district, it is special use or it's only permitted in these two. There are a couple of examples. I can literally cite three and that would probably cover at least a third of them. There's not very many. This is a random one. Auto parts, accessories, and tire stores, that use is a special use in C1, which is near 147<sup>th</sup> and Central. The blocks to the East of the exhibit you're looking at right now and so it's a special use in that district. It's permitted by right on the majority 159<sup>th</sup> in C2, but then it's also a special use in C3. And then boat dealers, they are considered a special use in C2 and in C3, but they're not permitted at all in C1. Those are just two examples where there is differentiation, but the majority of the chart, if they're permitted in one, they're permitted in all three. And the future land use map, it really just kind of guides the City if someone comes and want to do a text amendment to, for example, change this and allow boat dealers as a special use in C1, there could be a support for that because the land is zoned...the future land use designation is just commercial. So

just to kind of point out it could be beneficial to be a little more specific with the future land use map to help guide any amendment or changes to the zoning districts. We've touched on it already, but it's really more does the current...again, question 3 from the memo, does the current economy support future land uses identified in 2008? Should it remain mostly commercial and keep it a broad category or would refining certain blocks to be more specific of the types of commercial, is that something that should be considered? And then taking note in the character as you go block by block what uses might be better. For example, East of Central, but not be as well suited West of Central and how would we want to refine that? I think we've touched on it a little bit, but I didn't know if anyone else had anything to add.

MR. WOLF: I somewhat like the idea of varying what the uses are between Central and Laramie versus Central to Ridgeland.

CHAIRMAN STUEWE: You want to be more specific on what's in (inaudible).

MS. ASHBAUGH: Like the use types or the intensity of uses that we could classify.

CHAIRMAN STUEWE: We already touched on the Metra Station Sub Area.

MS. ASHBAUGH: Are we moving on to the next section?

CHAIRMAN STUEWE: Yes. Oak Forest Metra (inaudible).

MS. ASHBAUGH: The next exhibit does show...I'm just going to still call it the Gateway, but we all know the formal title of it per the comprehensive plan. The Aerial photos on the left, the current zonings, the lower left, and then the sub area map that's in the comprehensive plan is on the right. The large future land use map has this area shown as commercial, but then the sub area plan says, okay, it's still commercial but then it whittles it down into more specifically uses block by block. The way that these blocks are identified are what they're identified as currently, are they still relevant in the current economy? Are they still supported? Are they still realistic? And, if not, what should they change to or does this still apply? Or should anything be changed to be higher intensity or lower intensity?

CHAIRMAN STUEWE: The residential area that we had planned, I don't know if we can achieve everything that we had talked about in the past in the original, but I don't see why we can't still (inaudible)

density of the housing in that area, apartment buildings or condos. Hopefully we can get Wille Brothers to move out and take over the property.

MR. WOLF: This bottom left corner, that's the current zoning.

MS. ASHBAUGH: Correct. So the property that's zoned C1, that is what is also commonly known as the former trailer park, it's identified as mixed use retail or residential. The way that our code functions, they would come forward with a planned unit development proposal to have mixed use in the C1 district. The R6 zoning to the East of LeClaire, North of 159<sup>th</sup> Street, that's designated as multi-family condos. That zoning district is in alignment, but if you go another block East, it's also designated as multi-family condos and the current zoning is commercial.

UNIDENTIFIED MAN: That's Wille Brothers.

MS. ASHBAUGH: Yes. The future land use is designated as it being only residential and no retail is indicated as appropriate there. Is that a location where mixed use should also be considered or should it remain residential? Or should it just be retail? Is that an area that could be changed? I'm not saying one way or the other, that's just something that could be discussed. This is an example.

MR. WOLF: To further that discussion and see how things have developed now and in view of looking in the future and Wille Brothers could be relocated, the thought of making this an extension of multi-family, the Wille Brothers' area, and I think that's what you're saying, the future land uses here.

MS. ASHBAUGH: Yes. It's identified as multi-family condos, currently. If someone came in with a commercial proposal, we would have to do a comprehensive plan amendment and then also a rezoning and likely a planned unit development. So the future land use map supports rezoning for R5 or R6, but not 2. But currently it's zoned C3. So residential is not permitted. It would have to be a mixed use project.

MR. WOLF: On Wille Brothers?

MS. ASHBAUGH: Yes. Multi-family residential that's only residential is not permitted by right in the C3 district.

MR. OOSTEMA: So if somebody just wanted to put apartment buildings there, we wouldn't entertain that? If somebody came to staff and

said, I want to put a bunch of four story apartment buildings in this whole section, would they be turned away or would you bring it to us and say, here's what they think they want to do?

MS. ASBAUGH: The future land use map supports the multi family, so it would support the apartments. But if they wanted to do mixed use or only commercial...well I guess they're already zoned to do commercial, but basically it's restricting it to only residential so it doesn't allow for mixed use right now. Because this sub area map is so specific, it already says where mixed use should go, but this area does not allow for mixed use.

MR. OOSTEMA: In this little more reddish section, that would be mixed use, but then the L shaped piece would be multi family.

MS. ASHBAUGH: Correct.

MR. OOSTEMA: And so if somebody wanted to put a mixed use development, combine those two uses together and make it all mixed use, what would we have to do? We'd have to have a text amendment or?

MS. ASHBAUGH: In theory, the comprehensive plan amendment would need to be amended and then the rezoning or the planned unit development would be supported by that amendment. So it's kind of like an additional layer of approval needed. Is this just an example of something we would want to see updated to be open to that or not? Or do want it to just be residential? Or do we want it to be mixed use?

MR. WOLF: That's where I was looking at, I mean, as far as the conduciveness of even getting any type of mixed use or retail back on this site based upon traffic patterns or visibility or anything else. You are so close to the whole residential area. And if you follow this...if you're on Cicero there just North of the tracks, you see where the red dots are and it shows the arrow going out there. And if you follow those dotted lines, this is what was going to happen off of Cicero was to be able to turn on 157<sup>th</sup>, go through the back part of that whole parking lot, and run through near the train tracks and come out on that side where Wille Brothers is currently. Envision that with the red dots and the red dots let you out on Laramie. I don't know the support for all of this, but if that was your multi-family units or condos and things on the Wille Brothers' lot, does it make more sense or sustainable to get more retail within the train station area and not multi-family units there? Where those pads are now, if that were retail type shops and you have all the multi-family on the other side of the tracks.

CHAIRMAN STUEWE: I guess for me it's just the idea if we...

MR. WOLF: I don't know if you can support the whole thing, is what I'm saying.

CHAIRMAN STUEWE: No, I agree. It's going to be hard. But I do agree with you on the idea that it should be multi-family or all residential. But where the train station is, it's going to be tough to put anything in there, a lot of retail, because there's no parking. You don't have parking, people are not going to come and if they're going to go park across the street, then who's going to walk around from that side to go over there?

MR. ZIAK: The roadway parkway that would go through, I think is a good idea, but this plan...how much energy does the City have to implement this? Because to do this requires some big decisions. You're probably talking acquiring a lot of properties either through outright purchasing or eminent domain. That's realistically the only way that this is even remotely going to happen. Wille Brothers, you can't put retail there. Who's going to go back there?

CHAIRMAN STUEWE: That's why we're saying (inaudible)...

MR. ZIAK: There's no way. In the current atmosphere, there's no way. The only way that you could do that is you have to acquire the property, build that road, and show that there is access back there. Without trying to do something bold by the City to make that road happen, you might as well just scrap all this. Because there's no point in even having it here. It's just not going to happen.

CHAIRMAN STUEWE: No, but that was always the question we talked about. Like I said, the apartment buildings and all of that were supposed to be scrapped. And then Wille Brothers...and then there was going to be road, then they would have the access to all these things, but you're right, right now there's no way.

MR. ZIAK: Right.

CHAIRMAN STUEWE: So why not leave it just residential? Is that what you're getting to?

MR. ZIAK: I suppose. If that's the case, then I think we need to change this to eliminate that roadway, I think it was called Station Parkway or something, I think that's what the comprehensive plan called it. I think you need to eliminate. Don't even show that. Don't even show that that development is going to even take place

there. Leave it as a parking lot. Unless you're willing to go bold like Orland did and buy all that...take all that property over and put the infrastructure in to show the developers that there's something here. Might as well not even have it.

CHAIRMAN STUEWE: I don't know if the City can float six five million dollar...

MR. ZIAK: But I mean bold idea is bold plans.

CHAIRMAN STUEWE: We're in agreement then. Of residential.

MS. ASHBAUGH: So what I'm hearing is the train station and the railroad tracks, while an asset, are providing some access issues with getting this area to connect? Okay.

MR. WOLF: If we're talking about that...and looking at that area that that isn't going to be any type of retail or anything and it's more conformed, more compatible the way the structures are now that it's all going to be residential, looking at that, going back up 159<sup>th</sup> where we say multi-family condos, is that an extension right across, which are those apartments now, but could be designated for future retail mixed use.

CHAIRMAN STUEWE: Where the apartment buildings are?

MR. WOLF: Yeah. At least you'd have some type of access there.

CHAIRMAN STEUWE: Couldn't that be where the trailer park was?

MR. WOLF: Trailer park is there and right across the street are those apartments.

CHAIRMAN STEUWE: Apartments and condos and make the...

MR. WOLF: I'm just saying extend it all to where it's your mixed use area.

CHAIRMAN STEUWE: They're not going to tear that down too soon, so we can make it whatever we like.

MR. WOLF: But if you're looking futuristic and you're building something to take that over, I don't know if any type of development that's getting closer to the train station or (inaudible)...in that area, retail there (voice cutting out/inaudible)...

MR. BANDSTRA: I would imagine part of the reason why the condos were considered there is it was probably explored to be a retro fit because it's economically and feasible to consider acquiring those apartment buildings just to demolish them. They're too expensive. So I'm imagining that's part of...you look at the cap rates dictate that those twenty four unit buildings on 157<sup>th</sup> Street go for \$1.2 million dollars.

UNIDENTIFIED MAN: The retro fit just to get sprinklers in that and turn them into condos would be more costly than bulldozing them down.

UNIDENTIFIED MAN: It's something that I think definitely could be considered. The one challenge with any commercial is LeClaire seems to be the edge of where people have an interest in commercial, just because of visibility and access with the hill and the grade change and everything there. I just wanted to also add that the Wille Brothers' site remains the catalyst for all of this because with them still there, they prevent future development. And so whether they are the best site or not, for redevelopment, having them gone is the lynch pin to so much of the other development. I think still remains a priority site for those reasons.

UNIDENTIFIED MAN: In 2008, 2006, we were trying to move them. Whatever happened to that idea to move them? The City was going to help them find the land to move.

MR. BANDSTRA: Yeah, the City was pretty close in 2014, I want to say, or 2015, they had a purchase contract drawn up for a building and then Wille Brothers walked away from the deal at the time. And so that didn't happen. And now we have an on-going conversation with them about another site at the moment.

CHAIRMAN STUEWE: Are you still in communications with them to pack their bags and move somewhere else?

MR. BANDSTRA: Yeah, we re-started that as staff when I came on board.

MR. KEELER: Didn't they like the property we were going to move them to or is that the reason why they backed down?

MR. BANDSTRA: I'm sure there's a number of reasons, but I think the economics of the deal just didn't make sense. It was too expensive. It was an existing building whereas they really were looking at...this is what's now Cube Smart Self Storage, so in the industrial park. That's where they were looking at and with them, they really decided they were looking for more of a yard than they needed a building. The on-going maintenance costs was just too high for them.

UNIDENTIFIED MAN: After this was all done and I know we all know what happened with the economy and all, but I recall it had to be after this, around 2010, because the City had to actually go back and repurchase the property of the Gateway to get it going. There was a period, and I want to say it was like in 2011, or something, where we actually went out and were informed, at that time, when it went out to bid, there were quite a few bids that came back and it seemed like there were eight of them that were actually just pretty well thought out and entertaining. But after that whole discussion, I never heard anything about it. Do you know anything about it? Or can you maybe support what we're doing with that whole process for potential redevelopment?

UNIDENTIFIED MAN: Are you speaking of the Gateway specifically?

UNIDENTIFIED MAN: Yeah.

UNIDENTIFIED MAN: Mixed use pads, is that what you're talking about?

UNIDENTIFIED MAN: Yeah, the mixed use pads specifically and we had RFP's come back. Do you recall that discussion?

UNIDENTIFIED MAN: Yeah.

MR. BANDSTRA: I found an RFP that was prepared around 2014, but I don't think it was ever actually executed. I can tell you...to answer, I think the crux of your question, what we're focused on now is two things. One, trying to update the market study to understand what the rents will support for construction and we're also working on some building code changes, because right now, the City's building codes are designed to prohibit multi-family development.

UNIDENTIFIED MAN: Really? Wow.

CHAIRMAN STUEWE: Any last questions or comments about what we discussed? If not, we're going to move on to the minutes. And then the...

MS. ASHBAUGH: April 4<sup>th</sup>.

CHAIRMAN STUEWE: Yeah. I-57 Cicero and the industrial park, we'll get to at the next meeting.

MS. ASHBAUGH: Meeting date to be determined.

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**APPROVAL OF MINUTES**

Chairman Stuewe asked if there were any changes to the April 4, 2018 minutes.

No changes were noted.

Chairman Stuewe asked for a motion to approve the April 4, 2018 meeting minutes.

Mr. Oostema motioned.  
Mr. Ziak seconded.

**The Roll Call vote was taken as follows:**

<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
UNIDENTIFIED MAN			
UNIDENTIFIED MAN			
UNIDENTIFIED MAN			

The motion to approve April 4, 2018 meeting minutes carried, 3/0, with Three ABSENT.

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**UPCOMING MEETINGS - DISCUSSION**

MS. ASHBAUGH: Windy City Poker will be coming for a special use permit amendment on May 2<sup>nd</sup>. The Golf View Plaza, there had been two new business license applications filed at the Center, which would, upon there certificate of occupancy, revoke his special use permit. So he will be requesting to remain when a third tenant comes in and an extension of time. So he still has the same parking agreements. We'll be working with the landlord to see if the landlord is going to limit further his parking that he had provided him initially, the kind of overlap of the vacancies, but the Center is nearly...it's close to being completely full at this point. So, but the hours being offset when he's there and (inaudible) was there, the City is still treating it as a temporary use, but monitoring the parking through the special use permit, given that he's doing some off-site parking. That will be May 2<sup>nd</sup>. We have not published notice yet for the zoning procedures updates to article 11 of the zoning code. We discussed that we'll be

doing some changes to the way that zoning relief process to...for some of them to codify how staff has historically processed and even prior to Travis and I being here, but then also to remove some of the steps from design review and planning and development to make those less burdensome for businesses and developers. So hopefully May 16<sup>th</sup> public hearing, we're still working with the attorney and Rolf Campbell Associates on the text amendments for that and then it would go to council in June. Right now, we don't have any other zoning cases that are requiring notice. And design review, they don't require notice. I could say there might be not be a case, but if design review is filed then they end up in email inboxes.

CHAIRMAN STUEWE: Updates on Ace Hardware, Numero Unos, Maglite, or anything upcoming with these properties? Anybody looking at them or anything of interest that we should know about?

MR. BANDSTRA: Probably the two worth mentioning, the former Ace Hardware at 15541 Cicero is sold to the developer. And so the new partner that they brought in were continuing to work through the financials on their proposal for a significant redevelopment there. If we can make the numbers work, they have a plan in place that would come to the zoning commission, but that really requires getting the financing in place first, then making sure that the pro forma works. That's in the very substantive discussions right now. And then the second is the City just recently got the deed to 15407 Cicero, which is the old Dixie Billiards Building, next to the old post office. It's a long time vacant commercial space. Been working with the adjacent land owners to gauge their interest in potentially marketing the properties together for future redevelopment.

UNIDENTIFIED MAN: There's a house right to North.

MR. BANDSTRA: That's correct. And a vacant lot.

MR. WOLF: I notice that we have a furniture store. Every time I've gone to the mall or in that area of O'Reilly's Auto or whatever, it says grand opening, but it's always closed. Has it opened at all? Has anyone even ventured in there?

UNIDENTIFIED MAN: They've been open, yeah. I haven't checked the hours.

MR. WOLF: Have you gone in there?

MS. ASHBAUGH: Let the record state that Travis said that to his knowledge the furniture store was open, but did not speak into his mic. And then Mr. Walsh said there is a motion to Mr. Wolf.

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**ADJOURNMENT**

Chairman Stuewe requested a motion to adjourn.

Mr. Oostema made the motion.

Mr. Walsh seconded.

Everyone was in favor and the meeting was adjourned.

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CHAIRMAN JAMES L. STUEWE

DRAFT

**CITY OF OAK FOREST**

**PLANNING / ZONING COMMISSION MEETING**

**Wednesday**

**May 2, 2018**

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The Plan/Zone Commission meeting was called to order by Chairman Stuewe at 7:00 p.m. with Roll Call. At that time, it was announced that as May 2, 2018 Mrs. Morrissy's seat would be vacant. The Pledge of Allegiance was led by Mr. Wolf.

**PRESENT:** Mr. Ziak  
Mr. Oostema  
Mr. Schroeder  
Mr. Keeler  
Mr. Wolf  
Chairman Stuewe

**ABSENT:** Mrs. Morrissy  
Mr. Riha  
Mr. Walsh

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Chairman Stuewe requested a motion to postpone the meeting minutes.

Mr. Oostema made the motion.

Mr. Ziak seconded.

**The Roll Call vote taken as follows:**

<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mr. Ziak			Mrs. Morrissy
Mr. Oostema			Mr. Riha
Mr. Schroeder			Mr. Walsh
Mr. Keeler			
Mr. Wolf			
Chairman Stuewe			

The motion to postpone meeting minutes was carried, 6-0, with three ABSENT.

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**ZC 18-002 Windy City Poker Special Use Permit: PUBLIC HEARING**

Chairman Stuewe introduced the first agenda item as “ZC #18-002 Windy City Poker Special Use Permit – The applicant requests review and recommendation of approval of a Special Use Permit Amendment to allow the extension of time of the use of a hall and banquet room and such other and further zoning relief as may be required at 6080 W. 159<sup>th</sup> Street in the C2- General Service Commercial District, in accordance with Section 11-502(E).

Chairman Stuewe requested a motion to open the Public Hearing.

Mr. Oostema made the motion.

Mr. Ziak seconded.

**The Roll Call vote was taken as follows:**

<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mr. Ziak			Mrs. Morrissy
Mr. Oostema			Mr. Riha
Mr. Schroeder			Mr. Walsh
Mr. Keeler			
Mr. Wolf			
Chairman Stuewe			

The motion to open the public hearing was carried, 6-0, with three ABSENT.

Mr. Kirk Fallah, Windy City Poker, presented a packet which included a letter regarding a parking issue, along with receipts showing money raised, food and drink sales from local businesses showing the significant impact of the tax revenue and the benefit to the city from hosting the events.

Chairman Stuewe read the letter into the record.

*Thank you for sending a letter to the residents in regard to the extension of a Special Use Permit for Windy City Poker. When this request was initially made, I was confused as to how gambling facilities could open up in our neighborhood. However, after reviewing the original documentation that was provided it appeared the main function of the group was to do fundraising. In addition, the report indicated there would be ample parking for the limited days the facility would be used. Unfortunately, parking on the street has been an issue since the establishment has opened. There have been several occasions when there has been an overflow of cars in our neighborhood. In addition, my daughter and husband indicated there were cars parked in the storage unit lot on one such day that were towed from that lot. Secondly, I feel the appearance of the business distracts from the look of the*

*area. I am disappointed by the facade of the business space. The Mexican restaurant and Jerk Choice have brought some life back to the area. They are pretty, well maintained and add grace to the strip mall. While I completely understand the business creates tax support back to the city, I would ask you carefully consider the benefits of such support. Does the business distract or improve our area? Are they being considerate and respectful of our neighborhood? Do we want future Oak Forest homeowners to be welcomed to our area by such a business? Thank you for allowing me to share my thoughts and concerns in regard to this matter. Oak Forest is a pretty town with great schools and lovely businesses and I hope you will keep this in mind when you make your final decision. Thank you. Sincerely, Shirley Wintzel.*

Mr. Fallah responded by explaining that the unexciting appearance of the facility was to limit it to only members of the club and to prevent any attraction of crime. He pointed out that the appearance is more attractive now than when it was vacant. He has also hired security to maintain safety. Mr. Fallah stated there has been plenty of parking available for the events and that any "overflow" parking was possibly from residents. Off-duty police have been hired for security. The officers periodically walk around to check on the security of the facility and to walk members to their car when carrying large amounts of cash on their person.

Chairman Stuewe inquired about a recent incident with a participant of the club who had open alcohol outside of the subject tenant space (Windy City Poker). He noted that he stopped by to frequent one of the other businesses in the strip center during one of the poker events, and observed this participant of the event consuming alcohol.

Mr. Fallah said the participant who had open alcohol outside Windy City Poker was also sneaking alcohol into the event, which is not permitted at the facility. Mr. Fallah confiscated the alcohol and gave the participant a warning. He went on to say the same participant returned later that evening with alcohol and refused to leave so security proceeded to escort the participant out. At that point, became combative with the officer, so he was handcuffed and arrested. Mr. Fallah stated that this was the first incident he has had in ten years at one of his events. He also said security cameras have been installed around the facility so any prohibited or unlawful behavior outside of the facility can be monitored and prevented.

Chairman Stuewe thanked Mr. Fallah for the information. No further questions were asked.

Community Planner, Katie Ashbaugh first introduced the contents of the attachments sent with the meeting packets: 1) the original Special Use Permit Ordinance with all of the original conditions; 2) an attachment showing the Updated Parking Plan with the original amount of allocated space for such use from 25-15 spaces; 3) the Floor Plan showing the easternmost area of the tenant space being blocked off from entry and, therefore, not contributing the fire department's occupancy calculation; 4) a Parking Analysis showing 139 spaces; 5) the Petitioner's Response to the Special Use Standards; 6) and an Updated Parking Agreement; and 7) the resident letter which was read into the record earlier in this meeting .

Ms. Ashbaugh stated that the petitioner requests to continue the existing special use permit in west end cap of the multi-tenant strip center. One previous condition of approval was that he be limited to 8 nine-person tables. He will continue to comply with that as required. She directed the commission to the floor plan attachment, which showed that the eastern part of the tenant's space as being removed from part of the occupancy count. The applicant does not use this area and the Fire Department has verified it will be secure and not used during the events, thereby reducing the occupancy. She described a condition of the first special use permit, being that there were four vacant tenant spaces at the center at the time, and was if two of them were to become occupied and be issued certificate of occupancy by the Building Department, the special use permit would be revoked due to parking being reduced.

Ms. Ashbaugh continued that the city had received two business license applications for two prospective tenants which are working with the building department to gain occupancy. To pre-empt that revocation, the petitioner is here asking for the amendment to have one of the conditions changed to state that one of the two remaining vacant spaces has a special use permit as amended to immediately be revoked.

Ms. Ashbaugh explained that upon issuance of occupancy of the two pending business applications the special use permit would be revoked. She also mentioned the parking requirement was previously 50 and is being reduced to 36. PCZ Resolution 18-5 has all the conditions listed so there would be a recommendation of approval to City Council.

Ms. Ashbaugh asked if there were any questions.

Mr. Wolf asked if there was designated parking within that strip mall for this use.

Ms. Ashbaugh explained that the petitioner will be limited to 15 spaces with the parking plan showing them as the 12 westernmost spaces of the building and the three southwest parking spaces that front 159th Street, with the remaining open to whoever is visiting the center, which the landlord has agreed to.

Mr. Wolf asked for clarification regarding the amount last year.

Ms. Ashbaugh explained that there were 25 last year and the number is being reduced because of the two additional tenants who will require 11 spaces, so Mr. Fallah's spaces are being deducted are going toward the new tenants. She also noted that those businesses are closed on Sunday.

Mr. Wolf asked if the businesses were open on Saturday and when most of the petitioner's events take place.

Mr. Fallah responded that the businesses are open on Saturday, but there are a few that are closed and that most of the events also take place on Saturday. He said that he makes it a point to be sure of where they are parking when they come in and, in fact, the players receive additional bonus chips to park in the alternate lots.

Chairman Stuewe asked if there were any other comments or questions.

Mr. Wolf questioned the purpose of making the change.

Ms. Ashbaugh explained that the petitioner is being limited from the 25 to 15 and after staff consulted with the landlord and he was comfortable limiting the Petitioner to 15 spaces along with off-site spaces to make up that difference.

Chairman asked if there were any other questions or comments. There were none.  
Chairman Stuewe requested a motion to close the Public Hearing.

Mr. Ziak made the motion.

Mr. Oostema seconded.

**The Roll Call vote taken as follows:**

<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mr. Ziak			Mrs. Morrissy
Mr. Oostema			Mr. Riha
Mr. Schroeder			Mr. Walsh
Mr. Keeler			
Mr. Wolf			
Chairman Stuewe			

The motion to close the public hearing was carried, 6-0, with three ABSENT.

Chairman Stuewe asked Ms. Ashbaugh when the Petitioner would be moving forward to City Council with his request. She responded with the date of May 22, 2018.

The Petitioner thanked the Commission.

Chairman Stuewe requested a motion to adopt PZC 18-5.

Mr. Keeler made the motion.

Mr. Oostema seconded.

**The Roll Call vote taken as follows:**

<b>AYES</b>	<b>NAYS</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
Mr. Ziak			Mrs. Morrissy
Mr. Oostema			Mr. Riha
Mr. Schroeder			Mr. Walsh

Mr. Keeler  
Mr. Wolf  
Chairman Stuewe

The motion to adopt PZC 18-5 carried, 6-0, with three ABSENT.

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**Planning and Zoning Commission Workshop:** The Planning and Zoning Commission will review and discuss ideas for update to the 2008 Comprehensive Plan. No formal action will be taken.

Chairman Stuewe introduced the next agenda item as a discussion regarding Planning/Zoning for the Comprehensive Plan with no formal action taken regarding the I-57 Overpass Area, the Industrial Park, and Mixed Uses.

Ms. Ashbaugh explained that the discussion will help gauge the Commission's interest, or lack thereof regarding multi-family dwellings being constructed on lots that are otherwise commercial and are on the commercial corridors, 159th Street and Cicero.

Ms. Ashbaugh began to describe the I-57 overpass area is to the southeast of 167th Street and Cicero and to the west of I-57. She stated this area was annexed some years ago and the default zoning for annexations is R1 Single-Family Residence District, and most of these properties are zoned except for two right at that intersection which are zoned C2.

Ms. Ashbaugh continued to describe a landscape contracting company fronting Cicero Avenue to the very south, abutting Frontage Road where the future land use for the entire area is commercial. She stated that if an applicant were to request a rezoning, it would support a rezoning to any one of the commercial districts. She also stated the use of the space is leased, but owned by someone new.

Ms. Ashbaugh informed the commission that the city is having some challenges with the code enforcement at the subject property. She said the future land use supports commercial zoning, not industrial zoning so this discussion should help to determine whether it should remain commercial or if industrial or light industrial should be considered since there is only one industrial district in the city where most larger communities have a couple of different industrial districts.

Mr. Bandstra explained that the City's leadership is interested in trying to ascertain the Commission's feedback regarding this district because it is one of the larger areas in town and the current zoning does not match future zoning. He stated that part of the reason for Oak Forest's annexation was anticipation of large development south of I-57 in Country Club Hills, but due to numerous factors, largely, the economy and lack of development, the related

development in Country Club Hills didn't follow through at the time. The city has looked at acquiring some land in this area with goal to spur future redevelopment. He also explained that the city needs to decide what its part might be regarding the 100-acre area of land immediately across the expressway in Country Club Hills that was once contemplated for the outlet mall under control with the goal of developing it as industrial warehousing. He mentioned the city might decide to maintain this land as residential or the city could pursue some sort of commercial development. Mr. Bandstra advised that, at this point, the economy dictates large-scale commercial development because it is very difficult to find commercial in the traditional sense as a retail power center and there could be potential for 40 acres of different type industrial development. He explained that the city might want to get out ahead of this and see what will best serve the residents and determine the vision for the area keeping in mind that the majority of vehicle traffic would come up Cicero and across 167th which is the only path to the expressway.

Chairman Stuewe asked how much land is that commercial area that is marked R1 and if it is 40 acres on all this property, specifically the area marked R1.

Mr. Bandstra explained the contiguous area is about 40-42 acres.

Chairman Stuewe then asked about the property on the other side.

Mr. Bandstra explained that area was approximately 6 acres on the north half and maybe 6 more to the south, so 6 to 12 but the area is very depth challenged as far as development, but not out of the question. He noted that the Cicero Avenue traffic counts drop somewhat dramatically when in that area, so it does not get as much exposure to support traditional commercial development on the west side.

Chairman Stuewe responded that this information will assist in the decision whether to choose industrial or commercial, especially considering there is not enough traffic to support commercial.

Mr. Bandstra further pointed out that on the west side at the very edge to the south where the Frontage Road dead ends along I-57, there is some vacant land for sale and the City has received some inquiries about potential commercial uses but at this point it's zoned residential.

Chairman Stuewe asked if that is on the south side.

Mr. Bandstra responded that the area is north of I-57.

Chairman Stuewe asked if there were any questions or viewpoints from the commissioners.

Mr. Oostema inquired whether commercial over industrial would be more of an advantage to the City as it pertains to tax base.

Mr. Bandstra explained that traditionally in Illinois any type of commercial use that generates sales tax is most advantageous and that in terms of direct revenue, a more industrial-type would

have a larger interest and that there is a greater demand for large industrial property with multi-units and hundreds of thousands of square feet since those are harder to find because they never existed in the past. He said large industrial generates significant tax, and from an economic development side we can track those type of uses for job generators as they generate more living wages as opposed to retail or commercial. Mr. Bandstra also mentioned that some other type of commercial, such as medical or similar, could also be in that realm of creating jobs but the traditional commercial restaurant or retail jobs are great sales tax producers, but not necessarily great high wage paying creators. He said that Cities always go after sales tax but with so much of it moving online it would be wise to look for any type of development.

Ms. Ashbaugh explained that the city does not have a light industrial district, because it is all wrapped into one combining light and heavy industrial currently.

Mr. Wolf noted that the future of the 40 acres should be classified as industrial or light industrial because it is a blended type area where you will find commercial as well.

Mr. Ziak agreed with Mr. Wolf that light industrial would be best. He then inquired if a sports facility would be permitted in something zoned industrial.

Ms. Ashbaugh explained that a text amendment would be required if the city wanted to add that use into the industrial district. She gave the example of the Eagle Sports Club, which for it to be allowed in the C2 district, there was a text amendment added for other indoor entertainment or amusement and it was classified under that to be permitted as a special use.

Mr. Ziak inquired about the possibility of microbreweries or some restaurants going in a warehouse.

Ms. Ashbaugh, stated the code does not likely allow for a microbrewery or similar use in any of the zoning districts, but would need to research it. She added that, it could be added to the use table and consider what districts it would be best suited for. There have been a lot of other communities that have done similar zoning code updates to accommodate that type of use, with it being a combination of industrial as well as a large-capacity venue.

Mr. Ziak stated that if the city was going to rezone the subject area as industrial, then we should consider amending the code to allow those types of events.

Ms. Ashbaugh inquired about Cicero Avenue and the properties facing Kilpatrick Avenue and if that should be light industrial or what the different uses might be.

Mr. Stuewe said Cicero Avenue should be a small area and along 167th should commercial but everything behind those areas should be industrial so that the commercial buildings serve as a buffer to any industrial buildings in the back.

Mr. Ziak responded that if an industrial land use was chosen, that the smaller industrial buildings would be along Cicero and 167th Street that could accommodate an entertainment-type facility should be more visible, and any bigger buildings tucked in the back.

Ms. Ashbaugh asked the Commission what type of land use they were considering for the area fronting I-57 with a direct line of sight from the expressway.

Chairman Stuewe responded that it should be industrial.

Ms. Ashbaugh summarized and asked for affirmation that the commercial future land use should remain along Cicero and 167th Street, properties with frontage along those rights of way, and everything to the south and east of that area should be industrial and light industrial.

Chairman Stuewe agreed and went on to discuss the west side of Cicero Avenue and whether it should remain residential in the back area and commercial on Cicero Avenue and 167th Street, or if it should be added as industrial or a light industrial area. He also pointed out the fact that the traffic pattern drops significantly at 167<sup>th</sup>. At that point, Chairman Stuewe asked for questions or comments.

Mr. Oostema wanted to emphasize that industrial areas have expanded height requirements where commercial areas do not. This fact should be considered due to the potential of large industrial buildings abutting residential property.

Ms. Ashbaugh noted that north of 159th Street on Cicero the future land use is commercial and directly abuts residential so keeping the future land use map west of Cicero as it is would not be inconsistent with what is elsewhere in town.

Mr. Schroder added that the area west of 167th Street should be kept commercial since it is located next to a residential area.

Mr. Ziak asked if office space is allowed as commercial.

Ms. Ashbaugh answered that it is.

Mr. Ziak questioned if there could be some interest in a two- or three-story office building for some personnel space.

Chairman Stuewe said he wants it to be commercial and that it should not be office space only.

Mr. Bandstra explained that the Staff concurs with the sentiment of the Commission that it would not recommend changing the future land use on the west side of Cicero to anything but commercial because of the configuration, not to mention the transition into residential.

Mr. Bandstra then referred a question to Mr. Guisinger (city attorney) regarding the 42-acre area with between 167th Street and Cicero and whether there could be scales of uses closer to Cicero

Avenue versus deeper into the property. He also asked that if the Commission did want to make a change that it would probably be zoned all as one type and as particular uses presented themselves it would be decided if the city could allow 167th Street fronting property to be more commercial. He asked the attorney if there would any challenge with rezoning it all as industrial, but if a commercial use came along whether that would present a challenge getting approval.

Attorney Jason Guisinger from Klein, Thorpe and Jenkins responded that it is not uncommon for future land use to change and then if a different type of development were to come along, then the city would simply have a corresponding amendment to future land use provisions of the comprehensive plan to comply with the actual proposed use. The comprehensive plan would be modified with the application, so it would be consistent with the comprehensive plan which is not uncommon for municipalities to do.

Mr. Bandstra suggested that the Commission choose one future land use, such as industrial, for an entire contiguous area and if commercial opportunities were presented we could follow the process as outlined by the City attorney and consider them by themselves, or in conjunction with another redevelopment on a case by case basis, as it would be a challenging from a sight planning point of view to try to parcel it off with different zoning categories. He explained that doing it this way would be conducive to most types of developments and it opens to the door to larger scale options. He wanted to be clear that if we were open to that larger scale development, the recommendation would be to keep it simple and uniform in a contiguous property and that any commercial development will happen as part of a larger redevelopment of the area.

Chairman Stuewe said he would prefer to see an industrial park, with the notion that parts could be changed with an amendment.

Mr. Bandstra added that one of the other considerations is that most of the current land use of this area is single-family residential, so the city would want to be careful about inhibiting the owners of those properties by rezoning their land. He said if the City were to ever pursue following the comprehensive plan in rezoning that would look at some exceptions, like what the City has done in C3 along Cicero, where properties that are off to the side streets can sell their property as single-family residences to another buyer of a single-family property so if someone wants to sell their house in two years, rezoning will not prevent them from doing so. He wanted to be sure to consider allowing for some flexibility that wouldn't cause a large burden to some of the owners.

Ms. Ashbaugh explained that the C3 central business district allows properties that are used as single-family residential to remain residential if they are not fronting a state highway, so if Kilpatrick were to be zoned C3, those houses could remain residential. If they were zoned C2 or C3 that provision is not in those districts.

Mr. Wolf asked for clarification regarding the C3 district, where houses are allowed commercial.

Ms. Ashbaugh explained that, for example, there is a home at 151st and Cicero that could not remain residential once it is sold. However, there are properties facing side streets that are zoned as C3 that could be sold as residential.

Chairman Stuewe wanted to clarify that this discussion is regarding future land use and is not currently being rezoned.

Mr. Bandstra then stated they would begin discussions about rezoning to open the door so that those people don't have to go through any hassle.

Chairman Stuewe asked for any last comments about the area.

There were no comments.

Ms. Ashbaugh moved on to the next discussion item, which is the Industrial Park east of I-57, north of 167th Street and bisected by Kilbourn. She said that presently the future land use for that area is all industrial, except for anything on the northeast intersection of Kilbourn and 167<sup>th</sup>, and that area is zoned Commercial C2 as well as. She said there are a few properties that are unincorporated, a few others properties that also have the industrial future land use designation, but they are zoned R1. She said that overall, we wanted to determine if the Commission would be in favor of future land use as is or make further changes as you did with the previous area.

Chairman Stuewe then asked for comments or questions. There were none.

Chairman Stuewe said wanted to discuss the single-family residentially zoned area.

Ms. Ashbaugh explained that the residentially zoned area is presently zoned R1. She said this area was annexed and the default zoning is R1, and all of them are single family homes, so future land use is single-family residential.

Mr. Wolf asked about the lots that on Pulaski that are single family homes lots.

Chairman Stuewe said he would like to see that entire area become industrial in the future.

Ms. Ashbaugh asked if Chairman Stuewe is suggesting that the parcels that presently have the future land use as single-family residential use be changed to industrial for future land use.

Chairman Stuewe said that he would like to see that area changed to industrial for future land use. He then asked for comments.

Mr. Oostema said that he agreed that the area would be better as an entirely industrial area and he would also like to see the future land use designated as industrial.

Mr. Wolf asked if horses were still allowed in that area.

Chairman Stuewe said that yes, horses are still allowed in that area.

Mr. Bandstra asked Chairman Stuewe for clarification whether the future land use for that entire area become industrial in the future, or if only the parcels fronting Pulaski.

Chairman Stuewe answered that the entire area should be industrial for future land use.

Mr. Bandstra said that some analysis would be conducted to evaluate and be sure it was truly conducive to support that infrastructure before bringing future land use change before the Commission.

Mr. Schroder agreed with changing the future use of that area to all industrial. He then stated he wanted to discuss the area on 167th just east of Kilbourn that is commercial regarding the future use, and the area on 167th west of Kilbourn where the current zoning is commercial, which is also vacant. Mr. Schroder asked if that should remain as commercial.

Chairman Stuewe said that he feels this area should remain commercial because you have the shopping center, the Wendy's and the strip mall that would carry over to the other side.

Mr. Schroder said he would also like to see it remain commercial and expand that strip mall on the east side of Kilbourn.

Ms. Ashbaugh went on to discuss the properties with a direct front to I-57 where the Best Western, the site of future Holiday Inn and the CubeSmart are located. The Cube Smart on its face is more industrial because it's storage, but also in a sense commercial. She said the others are very clearly commercial with it being a lodging type of use. She then posed the question regarding the special use permit for Holiday Inn and however many decades from now if it would still be applicable because the future land use doesn't align with what they are currently. She also inquired whether the other properties with the direct front of I-57 remain industrial or be commercial, consistent with the other properties.

Mr. Oostema commented that if the other property was zoned industrial whether it wouldn't rule out somebody coming to us with a commercial proposal.

Ms. Ashbaugh responded that it would depend on the specific use because there are some uses that are not permitted in the industrial district. She then mentioned that something like the Holiday Inn would be special use on some of the other properties.

Chairman Stuewe asked for any questions or comments viewpoints.

Ms. Ashbaugh said she did not have anything else to discuss and that Mr. Bandstra would be introducing the mixed use in the commercial corridors discussion. Residential is permitted as through the planned unit development process as a special use, so it would come before this Commission.

Mr. Bandstra explained that the reason staff wanted to bring this to the Commission for discussion is because several different people have been making inquiries about new construction or significant development opportunities along the two main commercial corridors, with a large percentage of those conversations revolving around businesses looking to construct new commercial centers with second-story residential. He said that in some cases, you have traditional mixed used buildings where someone wants to construct 10 or 20 units along with commercial, all the way down to someone looking to build 8,000 square feet commercial with 1 or 2 single-family units on the second floor. He went on to say that people with an existing building had also been inquiring to see whether it would make sense for them to retrofit their existing building with a second floor to accommodate some sort of residential use. He further explained that the primary driver of this is the Cook County tax structure. He stated that the incredibly high rate that presently exists on commercial, combined with the significant incentive for a mixed-use designation with the county, is resulting in these inquiries. Mr. Bandstra commented that the only way people feel they can justify either new construction or significant new investments in their property is by adding residential onto their existing commercial, and the zoning currently does allow for this. He wanted to bring this concept to the Commission to see if there were any comments or concerns that should be passed on to petitioners, as well as if Staff should they be exploring potentially making adjustments to the zoning code by either making it more restrictive so this is prohibited, or perhaps permit it by right where people can do small add-ons just by getting an actual building permit and not having to go through multiple public meetings. Mr. Bandstra was looking for some direction from the Commission how best to handle these types of proposals.

Chairman Stuewe asked if these additions would need to go up, on the back or on the sides, and if it will be a requirement to be built on top of the actual building.

Mr. Bandstra said that Staff needs to find out if zoning allows for that and if county assessment would allow for that.

Ms. Ashbaugh added that the zoning code wouldn't mandate whether it be on the second story or the first story, only that it would require complying with all necessary requirements. She said that additional research will need to be done to see what the county requires to qualify for that assessment.

Mr. Wolf said he feels it is all a matter of the direction of the city and if the city wants to start using its commercial areas for mixed developments for townhomes or rentals. He stated that there are some spaces that would be a fit for such use, but not all, so there needs to be some type of designation. He suggested looking at the design standards and elements, the layout, the parking and the functionality of the property.

Chairman Stuewe asked if the Eagle Gun Club received a mixed-use classification for the living space above the club.

Mr. Bandstra responded that space was going to be for security to live upstairs and that they did apply for mixed-use classification, but they ran into some issues with the County related to the square footage requirements.

Chairman Stuewe stated that for now, matters related to these types of mixed-use with residential designations will be coming before the Commission on a case-by-case basis to be sure the standards are being met.

Mr. Wolf said that he recognizes that there is an interest in the mixed-use with residential designation because there is a significant tax reduction. He said that with the knowledge that this is on businesses' minds, he would strongly suggest that the city spend time looking at mixed-use developments and those design standards and see if there is anything right now to ensure the city gets the designs it wants and spends some time discussing it before they start coming.

Ms. Ashbaugh said that amendments to those zoning districts themselves could be added to require where the units would be placed on the building on the lot.

Mr. Wolf said from a standpoint of looking at mixed-use on Cicero, and due to the limitations on many of the lots and the requirement for parking being on the first floor, he would suggest looking at anyone considering mixed-use to build up as part of the building structure, rather than behind the structure. He mentioned that there may be more flexibility on 159th Street to have some type of residential area behind that lot.

Chairman Stuewe called on Ms. Ashbaugh for comments.

Ms. Ashbaugh asked for clarification regarding a requirement that mixed-use residential be on the second story only on developments fronting Cicero Avenue, and on 159th Street it be allowed to either build up or to the rear.

Mr. Wolf stated that it would be necessary to have parameters based upon the lots size itself.

Ms. Ashbaugh asked for feedback regarding residential parking being combined with the commercial and how would those be located on a lot, so they would remain accessible and immediately available to the residents. She mentioned that two and a half parking spaces per multifamily dwelling unit is required.

Mr. Wolf said that parking would also have an impact on the business, so requirements would be necessary. He stated that all the guidelines and requirements should be in place when the city starts looking at this.

Mr. Bandstra followed up to say that future proposals regarding mixed-use with residential should be properly vetted by the Commission and City Council. He said the input from the Commission has been very helpful relating to design guidelines and how to proceed. He then asked the Chairman if there were any other comments.

Mr. Chairman had no comments and referred to Ms. Ashbaugh.

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### **UPCOMING MEETINGS**

Ms. Ashbaugh stated there are no hearings scheduled for the next meeting. She went on to say that work is still underway on the Zoning Procedure Updates and are still being drafted and will reviewed very thoroughly before a public hearing is scheduled, and that the target is first June meeting, subject to additional review but they are in progress. She also said there were no other new development zoning cases. She further discussed the Meeting Minutes for the April 18, 2018 meeting are not completed since the former transcriber is no longer serving in that role and some summarization is required before staff ultimately gets them in draft form and on to City Counsel.

Chairman Stuewe asked for comments or questions.

There were none.

Chairman Stuewe extended a welcome to Ms. Ashbaugh who was now the new Community Planner as a city employee and no longer a contractual employee.

Ms. Ashbaugh thanked the Chairman.

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### **ADJOURNMENT**

Chairman Stuewe requested a motion to adjourn.

Mr. Oostema made the motion.

Mr. Ziak seconded.

Everyone was in favor and the meeting was adjourned.

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CHAIRMAN JOHN L. STUEWE

**PLAN/ZONE COMMISSION MEETING**

**MEETING DATE:** 2 May 2018

**PETITIONER:** ZC 17-007 Windy City Poker Special Use Permit

**ADDRESS OF PROPERTY:** 6080 W. 159<sup>TH</sup> Street

**REQUEST:** To review and recommend approval of a Special Use Permit Amendment

**VOTE:** Recommendation approved

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DRAFT