

SPECIAL MEETING
January 23, 2012

The Special Meeting of the Annapolis City Council was held on January 23, 2012 in the Council Chamber. Mayor Cohen called the meeting to order at 7:14 p.m.

Present on Roll Call: Mayor Cohen, Alderwomen Hoyle, Finlayson, Aldermen Israel, Paone, Silverman, Kirby, Pfeiffer, Arnett

Staff Present: City Attorney Hardwick, Assistant City Attorney Elson, Planning and Zoning Director Arason, Grants Coordinator Farrow, Transportation Director Newell

PETITIONS, REPORTS AND COMMUNICATIONS

- Alderman Paone moved to amend the agenda to have O-2-12 on first reader and O-3-12 on first reader after petitions, reports and communications. Seconded. CARRIED on voice vote.
- Alderman Israel moved to amend the agenda to add O-31-11 on second reader for the purpose of considering a revised ordinance. Seconded. CARRIED on voice vote.
- Alderwoman Finlayson moved to postpone consideration O-26-11 on second reading until the Special Meeting of February 27, 2012, and to refer to the Public Safety Committee. Seconded. CARRIED on voice vote.
- Alderman Israel moved to postpone the legislative action on R-45-11 until the Regular Meeting of February 13, 2012. Seconded. CARRIED on voice vote.

Comments by the General Public

Arthur Roberts, 108 Duke of Gloucester Street, Annapolis, Maryland 21401 spoke on the Market House

- Mayor Cohen declared petitions, reports and communications closed.

The order of the agenda was amended to allow for ordinances on 1st reader.

ORDINANCES – 1st READING

O-2-12 Lease of City Dock Space to Chesapeake Marine Tours – For the purpose of authorizing for fiscal year 2018 the lease of certain municipal property located at the City Dock to Chesapeake Marine Tours, Inc. for the docking and mooring of certain boats.

Referred to the Economic Matters and Environmental Matters Committees

- Alderwoman Finlayson requested her name be added as a co-sponsor of O-2-12

O-3-12 Lease of City Property: Boat Shows in 2017 – For the purpose of authorizing a lease of certain municipal property located in the general harbor, Dock Street and Edgewood Road areas to United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., for a certain period of time in October 2017, to conduct boat shows.

Referred to the Economic Matters and Environmental Matters Committees

- Alderwoman Finlayson requested her name be added as a co-sponsor of O-3-12

The order of the agenda was resumed.

CONTINUATION OF PUBLIC HEARING OF 1/9/12

R-45-11 Annexation Plan – Hayes Property – For the purpose of adopting an annexation plan for the Hayes Property, which property is contiguous to the existing boundary of the City and which property is generally located south of the City’s jurisdictional boundary and to the east of Old Solomons Island Road and Dorsey Drive.

Planning and Zoning Director Arason gave a brief presentation on the resolution.

Assistant City Attorney Elson was present and answered questions from council.

Spoke on the resolution:

Councilman Chris Trumbauer, 44 Calvert Street, Annapolis, Maryland 21404 representing the community of Dorsey Heights and Anne Arundel County

Spoke in favor of the resolution:

Seth Zirkle, 200 Westgate Circle, Suite 500, Annapolis, Maryland 21401 representing Hyatt & Weber, P.A. and Hogan Holding Company, LLC

Spoke in opposition to the resolution:

Verna Dreher, 170 Woods Drive, Annapolis, Maryland 21403 representing 135 Dorsey Drive, Edgewater, Maryland 21037

Ray Sullivan, 119 Meade Drive, Annapolis, Maryland 21403 representing Save Your Annapolis Neck

Carliese Scott, 130 Dorsey Drive, Edgewater, Maryland 21037

L. Odessa Ellis, 110 Dorsey Drive, Edgewater, Maryland 21037

Lynell Reed, 102 Dorsey Drive, Edgewater, Maryland 21037

Maurice Snowden, 116 Dorsey Drive, Edgewater, Maryland 21037

No one else from the general public spoke in favor of or in opposition to the resolution.

- Mayor Cohen declared the public hearing closed.

PUBLIC HEARINGS

O-54-11 Community Grant Application Review Process for Non-Profit Organizations – For the purpose of modifying the City of Annapolis’ community grant application review process for non-profit organizations.

Grants Coordinator Farrow gave a brief presentation on the ordinance and answered questions from council.

No one from the general public spoke in favor of or in opposition to the ordinance.

- Mayor Cohen declared the public hearing closed.

R-63-11 Increasing Transit Fares for Transportation Services – For the purpose of increasing transit fares for use of transportation services in the City of Annapolis by amending the FY 2012 fee schedule.

Transportation Director Newell gave a brief presentation on the resolution and answered questions from council.

No one from the general public spoke in favor of or in opposition to the resolution.

- Mayor Cohen declared the public hearing closed.

LEGISLATIVE ACTIONS

CHARTER AMENDMENT, ORDINANCES AND RESOLUTION – 2ND READING

CA-08-10 Structure and Procedures of City Government – For the purpose of increasing the number of wards in the City of Annapolis from eight to nine for the purpose of conducting the 2013 primary and general election and all primary and general elections thereafter, and for removing the Mayor as a member of the City Council, and providing for a presiding officer of the City Council to be selected by a majority vote of the City Council from the aldermen and alderwomen representing each of the nine wards, to serve for no more than a term of one year consecutively, and providing for the Mayor to have veto power over proposed ordinances and resolutions and line item veto power with respect to the City’s annual operating budget, and providing for the City Council to have the power to override a veto of the Mayor by a two thirds vote of those present and constituting a quorum and voting.

- Alderman Israel moved to adopt CA-08-10 on second reading. Seconded. DEFEATED on voice vote.

O-26-11 Alarm System Registration – For the purpose of establishing a registration requirement for alarm systems.

Postponed

O-54-11 Community Grant Application Review Process for Non-Profit Organizations – For the purpose of modifying the City of Annapolis’ community grant application review process for non-profit organizations.

- Alderman Arnett moved to adopt O-54-11 on second reading. Seconded.

The Finance Committee reported favorably on O-54-11.

- Alderman Arnett moved to amend O-54-11 as follows:

On page 1, in line 21, before “The City” add “Subject to the availability of funds”
On page 2, in line 2, change “may” to “shall”
On page 2, in line 3, change “City grant writer” to “a city staff person responsible for writing grants selected by the Mayor or his or her designee” Seconded.
CARRIED on voice vote.

- Alderwoman Finlayson moved to amend O-54-11 as follows:

On page 1, in line 24, strike “reasonable”. Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

- Alderman Arnett moved to adopt O-54-11 amended on third reading. Seconded.

A ROLL CALL vote was taken:

YEAS: Mayor Cohen, Aldermen, Kirby, Pfeiffer, Arnett, Israel, Alderwomen

Hoyle, Finlayson, Aldermen Silverman
NAYS: Aldermen Paone
CARRIED: 8/1

The order of the agenda was amended to allow for O-31-11 on second reading.

O-31-11 Planning Commission and Board of Appeals Roles and Responsibilities Regarding Planned Developments and Special Exception – FOR the purpose of changing the roles and responsibilities of the Planning Commission and Board of Appeals as they relate to planned developments and special exceptions to maximize efficiencies in the public hearing process as allowed under Article 66B of the Annotated Code of Maryland.

- Alderman moved to adopt O-31-11 on second reading. Seconded.

The Rules and City Government Committee reported favorably with amendments on O-31-11.

- Alderman Arnett moved to substitute in the form of an amendment O-31-11 as revised by the Rules and City Government Committee as follows:

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-31-11 Amended

Introduced by: Mayor Cohen

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/11/11	1/9/12	12/9/11	1/13/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/11/11	1/23/12	Favorable w/ amd.
Planning Commission	7/11/11	11/17/11	Favorable w/ amd.
Annapolis EDC	7/11/11		Comments

A ORDINANCE concerning

**Planning Commission and Board of Appeals Roles and Responsibilities
Regarding Planned Developments and Special Exceptions**

FOR the purpose of changing the roles and responsibilities of the Planning Commission and Board of Appeals as they relate to planned developments and special exceptions to maximize efficiencies in the public hearing process as allowed under Article 66B of the Annotated Code of Maryland.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition

- Section 20.24.040
- Chapter 21.08
- Section 21.08.030
- Section 21.08.040
- Section 21.10.020
- Section 21.24.010
- Section 21.24.020
- Section 21.24.030
- Section 21.24.050
- Section 21.24.070
- Section 21.24.080
- Section 21.24.090

Section 21.24.110
 Section 21.24.130
 Section 21.26.030
 Section 21.26.050
 Section 21.26.060
 Section 21.30.010
 Section 21.48.030
 Section 21.64.510
 Section 21.68.070

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

20.24.040 - Right-of-way width.

I. In the case of any planned development developed pursuant to the requirements of Chapter 21.24, the Planning Commission may recommend and the Board of Appeals may authorize reductions in right-of-way and paving width pursuant to the standards set forth in Chapter 21.24 or its successor.

Chapter 21.08 Decision Making Bodies and Officials

Annapolis Zoning Code Summary of Review and Decision-Making Authority

Type of Decision	Planning and Zoning Director	Director of Neighborhood and Environmental Programs	Planning Commission	Board of Appeals	Historic Preservation Commission	City Council	Circuit Court
Administrative							
Administrative Adjustments	Decision			Appeal			
Administrative Interpretations	Decision			Appeal			
Change of Nonconforming Use	Decision			Appeal			
Demolition Permits (selected, per Chapter 21.14)	Decision			Appeal			
Determination of Nonconforming Use	Decision			Appeal			
Major and Minor Site Design Plans	Decision			Appeal			
Use and Occupancy Permit	Review	Decision		Appeal			
Sign Permit	Review	Decision, pursuant to Chapter 17.60		Appeal			
Stop Work Order, Corrective Measures Orders		Decision, Appeals pursuant to Title 17					
Revocation of		Decision					

Permits		Appeals pursuant to Title 17					
Planning Commission							
Business Planned Development	Review		Recommendation Decision	Decision			Appeal
Residential Planned Development	Review		Recommendation Decision	Decision			Appeal
Board of Appeals							
Appeal	Review			Decision			Appeal
Expansion of Nonconforming Use	Review		Recommendation Decision	Decision			Appeal
Special Mixed Planned Development	Review		Recommendation Decision	Decision Appeal			Appeal
Special Exception	Review		Recommendation Decision	Decision			Appeal
Variance	Review			Decision			Appeal
Zoning District Boundary Adjustments	Review			Decision			Appeal
Historic Preservation Commission							
Certificate of Approval	Review				Decision		Appeal
City Council							
Zoning Map Amendment	Review		Recommendation			Decision	Appeal
Zoning Text Amendment	Review		Recommendation			Decision	Appeal

21.08.030 - Planning Commission.

A. Establishment. The Planning Commission is established under Article 66B of the Annotated Code of Maryland.

B. Membership. The Planning Commission shall consist of seven residents of the City who have a demonstrated interest with regard to planning policy and with regard to land use matters and procedures of the City. The members shall be appointed by the Mayor and confirmed by the City Council.

C. Term. The term of office of each member of the Planning Commission shall be as provided in Article 66B of the Annotated Code of Maryland. The term of each member shall commence on July 1st of the year in the appointment is made.

D. Rules. The Planning Commission may adopt rules to assist the Commission in carrying out its duties under this Zoning Code.

E. Duties. The Planning Commission shall have the following powers and duties:

1. ~~Review all applications for special exceptions and report the findings and recommendations to the Board of Appeals in the manner prescribed in this Zoning Code, Chapter 21.26~~

2 1. Review all proposed amendments to this Zoning Code and Zoning Map and to report to the City Council its findings and recommendations in the manner prescribed in this Zoning Code, Chapter 21.32 and Chapter 21.34

3 2. Receive the Planning and Zoning Director's recommendations related to the effectiveness of this Zoning Code and report its conclusions and recommendations to the City Council not less frequently than once a year.

4 3. Hear and ~~make recommendations~~ decide applications on planned developments pursuant to the provisions of Zoning Code Chapter 21.24

5 4. Execute all powers conferred to Planning Commissions under Article 66B of the Annotated Code of Maryland.

5. On referral by the Director of Planning and Zoning of a major site design the Planning Commission shall hold a public hearing and make recommendations.

6. On referral by the Director of Planning and Zoning on structures greater than 3250 square feet in R2-NC zoning districts the Planning Commission shall hold a public hearing and make recommendations.

21.08.040 - Board of Appeals.

A. Establishment. The Board of Appeals is established pursuant to and has the authority to execute all of the powers granted to Boards of Appeals by Article 66B of the Annotated Code of Maryland.

B. Membership. The Board of Appeals shall consist of five members who shall be residents and registered voters of the City of Annapolis and who shall serve without compensation. The regular members and one alternate member shall be appointed by the Mayor and confirmed by the City Council and be removable for cause, upon written charges, and after public hearing. When an alternate member is absent, the Mayor with the confirmation of the City Council may designate a temporary alternate.

C. Term. The term of office of each member of the Board of Appeals shall be for three years, as provided in Article 66B of the Annotated Code of Maryland. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

D. Rules. The Board of Appeals shall adopt rules in accordance with the provisions of this section and in accordance with the provisions of Article 66B of the Annotated Code of Maryland. The Board shall adopt and amend rules as follows:

1. After a public session to consider the proposed rules or amendments, the Board shall adopt and periodically amend rules of practice and procedure.

2. The Board shall give reasonable notice of the date, time, and place of the public session and the category of rule or amendment to be considered at the session.

3. After approval by the Board, the rules of the Board of Appeals shall be published and shall be available to the public through the Department of Planning and Zoning.

E. Duties. The Board of Appeals shall have the following powers and duties:

1. To hear and decide appeals, pursuant to the provisions of Zoning Code Chapter 21.30 where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or body in the enforcement of: (a) this Zoning Code; or (b) any ordinance adopted pursuant to this Zoning Code.

2. To hear and decide applications for special exceptions pursuant to Chapter 21.26 of this Zoning Code.

3. To hear and decide applications for variances from the terms of this Zoning Code, pursuant to the provisions of Chapter 21.28

4. ~~To hear and decide applications for planned developments pursuant to the provisions of Zoning Code Chapter 21.24~~

5 4. To hear and decide applications for zoning district boundary adjustments pursuant to the provisions of Zoning Code Chapter 21.20

6 5. To hear and decide applications for physical alteration of a nonconforming use pursuant to the provisions of Chapter 21.68

7 6. To hear and decide all matters referred to it or upon which it is required to decide by this Zoning Code, and as prescribed by Article 66B of the Annotated Code of Maryland.

F. Tolling of Approvals. Approvals granted by the Board of Appeals pursuant to Section 21.08.040E of this Code and extensions thereof which are active and valid as of December 31, 2010, shall be tolled until June 30, 2012, so that all such approvals and extensions shall expire on, or any applicable extension request shall have been requested by, June 30, 2012.

G. Meetings. The meetings of the Board of Appeals shall be held at the call of the chair and at other time determined by the Board. The Board shall provide public notice of any

meeting by publication in at least one newspaper of general circulation in the City not less than seven days prior to the meeting. The chair or the acting chair may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall make a transcript of all proceedings, showing the vote of each member on each question, or the member's absence or failure to vote. The board shall immediately file the transcript of its proceedings in the Office of Planning and Zoning. Each transcript shall be a public record. If a recording or a transcript of a recording is not prepared in the normal course of the Board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

21.10.020 - Notice requirements.

Summary of Public Meetings (PM) and Public Hearings (PH)

Type of Application	Planning and Zoning Director	Planning Commission	Board of Appeals	Historic Preservation Commission	City Council
Administrative Adjustment	Optional PH				
Appeal			PH		
Certificate of Approval				PH	
Change of Nonconforming Use	PH				
Demolition Permits	Optional PM				
Expansion of Nonconforming Use		PH	PH		
Minor Site Design Plan	Optional PM				
Major Site Design Plan	Optional PM				
Planned Developments	Optional PM	PH	PH		
Special Exceptions With Major Site Design Plan		PH* *if referred by Planning and Zoning Director	PH		
Variance			PH		
Zoning District Boundary Adjustment			PH		
Zoning Text Amendment		PH			PH
Zoning Map Amendment		PH			PH
Site Design Review of R2-NC Structures > 3250 sq. ft.		PH			

21.24.010 - Purposes, authority and types.

A. Purposes. The purposes of planned developments are as follows:

1. To allow greater flexibility in order to encourage more creative design for the development of land than is generally possible under conventional zoning district regulations.
2. To promote orderly and thorough planning and review procedures that will result in quality design and counteract the negative effects of monotonous design.
3. To allow the grouping of buildings and a mix of land uses with an integrated design and a coordinated physical plan.
4. To promote development in a manner that protects significant natural resources and integrates natural open spaces into the design of a development project.
5. To encourage a design that takes into account the natural characteristics of the site in the placement of structures.
6. To promote development that is compatible with the goals of the Comprehensive Plan.

B. Types of Planned Developments, Where Permitted.

1. There are three types of planned developments: residential planned developments, business planned developments, and special mixed planned developments.
2. Planned developments may be permitted only where listed in the use tables for specific zoning districts in Chapter 21.48 of this Zoning Code.

C. Authority to Approve. The Board of Appeals Planning Commission is authorized to decide applications for planned developments.

21.24.020 - Use regulations for planned developments.

A. Residential Planned Development.

1. Except for uses specifically prohibited by the Zoning Code in the district that is the subject of the application, a residential planned development may consist of the following uses:

- a. Uses that are allowed as permitted uses, uses subject to standards or special exception uses in any residential district, which uses are allowed as permitted uses if included within and approved as part of a residential planned development.
 - b. Up to ten percent of the ground area or gross floor area of a residential planned development may consist of uses that are allowed as permitted uses or as uses subject to standards in the B1 District.
2. No more than thirty percent of the ground area or of the gross floor area of the development may be devoted to planned development uses.

B. Business Planned Development.

1. Except for uses specifically prohibited by the Zoning Code in the district that is the subject of the application, a business planned development may consist of the following uses:

- a. All uses allowed as a permitted use, ~~or~~ use subject to standards, or special exception use in the zoning district in which the business planned development is located, which uses are allowed as permitted uses if included within and approved as part of a business planned development.
 - b. For business planned developments located in the B1, B2, B3, BCE, P, and MX districts, a business planned development may include all uses allowed in any residential district as a permitted use, use subject to standards, or as a special exception.
2. No more than fifteen percent of the ground area or of the gross floor area of the development may be devoted to planned development uses.

C. Special Mixed Planned Development.

1. Except for uses specifically prohibited by the Zoning Code in the district that is the subject of the application, a special mixed planned development may consist of all uses allowed as a permitted use, use subject to standards, or as a special exception in any zoning district, which uses are allowed as permitted uses if included within and approved as part of a special mixed planned development.
2. No more than thirty percent of the ground area or of the gross floor area of the development may be devoted to planned development uses.

21.24.030 - Phasing of nonresidential uses.

Proposed phases of the planned development must be designed so that no separate building or structure designed or intended to be used, in whole or in part, for business

purposes as a planned development use within a residential planned development may be constructed prior to the issuance of at least thirty building permits for at least ten percent of the dwelling units proposed in the planned development plan.

21.24.050 - Bulk and density standards.

A. Bulk Standards. The Board of Appeals Planning Commission may adjust bulk standards, other than height, that are otherwise applicable in the zoning district, except as follows:

1. Except in the case of single family detached dwellings in residential planned developments, the spacing between principal buildings shall be at least equivalent to the spacing which would be required between buildings similarly developed under the terms of this Zoning Code, on separate zoning lots, due consideration being given to the openness normally afforded by intervening streets and alleys.

2. Along the periphery of the planned development, yards will at a minimum be provided as required by the regulations of the district in which the development is located.

B. Density Standards. The following density standards shall apply to planned developments:

1. In a residential planned development, the maximum number of dwelling units may not exceed the number of units determined by dividing the gross development area by the minimum lot area per dwelling unit (or per dwelling unit type if a mix of units is proposed) required by the district or districts in which the development is located. Gross development area shall be the area of the zoning lot as a whole. The area of land set aside for common open space or recreational use may be included in determining the number of dwelling units permitted. If the gross development area of the property includes property within the Resource Conservation Area of the Critical Area Overlay, density shall be determined, as per Section 20.24.130(G) and (H).

2. In a business or special mixed planned development, the maximum number of dwelling units may not exceed the number of units determined by dividing the gross residential development area by the minimum lot area per dwelling unit required by the R4 district.

21.24.070 - Procedures for planned developments.

A. Application Procedures. All planned development applications must be submitted to the Planning and Zoning Director in accordance with the requirements of Section 21.10.010 Common Procedures for Review of Applications. Applications must be submitted on forms provided by the Planning and Zoning Director and accompanied by any required fees, preliminary or final plans or other required submittals.

B. Application Options. An applicant may elect one of the following procedural options:

1. An applicant may submit a preliminary plan for informal review by the Planning and Zoning Director and other City departments the Director deems appropriate, prior to the submission of a final planned development application.

2. An applicant may submit a preliminary plan for formal review and decision by the Board of Appeals Planning Commission.

3. An applicant may elect to submit only a complete final planned development application.

C. Review of Preliminary Planned Development Plans. The following procedures shall apply to the review of preliminary planned development plans.

1. Staff Review. The Planning and Zoning Director may distribute copies of a preliminary plan for review by the appropriate City departments.

2. Staff Comments on Preliminary Plan. Following review of any preliminary plan, the Planning and Zoning Director and any other City department reviewing the preliminary plan will provide the applicant with any written comments prepared in connection with the review of the preliminary plan and will transmit a copy of any written comments to the Board of Appeals Planning Commission.

3. Optional Work Session or Public Meeting. If the Planning and Zoning Director deems necessary, the Director or the Planning Commission may hold a work session or public meeting for the review of the preliminary plan. Notice of the work session or public meeting must be given by the applicant in accordance with the notice requirements set forth in Section 21.10.020(D).

4. Public Hearing. If the applicant requests action on a preliminary plan by the Board of Appeals Planning Commission, the Board of Appeals Planning

Commission shall schedule and hold a public hearing on a preliminary planned development application. The applicant shall give notice of the hearing in accordance with the notice requirements set forth in Section 21.10.020(B) and 21.10.020(C) and any other requirements established by the ~~Board of Appeals~~ Planning Commission.

5. Decision on Preliminary Plan. Within thirty days of the conclusion of the public hearing, the ~~Board of Appeals~~ Planning Commission shall decide to: (1) approve the preliminary plan, (2) approve the preliminary plan subject to specific conditions; or (3) deny the preliminary plan.

D. Review of Final Plans and Application. The following procedures shall apply to the review of final planned development plans.

1. Staff Review. The Planning and Zoning Director shall distribute copies of a final planned development application to appropriate City departments for review after having determined that the submission is complete.

2. Staff Report. Following review of any complete final planned development application, the Planning and Zoning Director and any other City department reviewing the application will prepare a staff report on the final planned development application and transmit the staff report to the Planning Commission and the ~~Board of Appeals~~ prior to the required Planning Commission public hearing and ~~Board of Appeals~~ public hearing on the application.

3. ~~Planning Commission Public Hearing.~~ The Planning Commission will consider the application at a regular monthly public meeting. Notice of the public hearing must be given by the applicant in accordance with the notice requirements set forth in Section 21.10.020(B) and 21.10.020(D). At this meeting the Planning Commission shall accept evidence and testimony as it may judge to be relevant to the proper consideration of the case.

4. ~~Planning Commission Recommendation.~~ Within thirty days after the Planning Commission has completed its review of the application, it shall forward its written findings of fact and recommendations on the application to the ~~Board of Appeals~~. In no case may the Planning Commission forward its findings and recommendations to the ~~Board of Appeals~~ more than ninety days after first placing the application on the agenda of a Planning Commission meeting.

5. Public Hearing. The ~~Board of Appeals~~ Planning Commission shall schedule and hold a public hearing on the complete final planned development application. The applicant shall give notice of the hearing in accordance with the notice requirements set forth in Section 21.10.020(B) and 21.10.020(C) and any other requirements established by the ~~Board of Appeals~~ Planning Commission.

6. Decision on Final Plan and Application. Any staff reports received by the ~~Board of Appeals~~ Planning Commission will be considered at the public hearing. Within thirty days of the conclusion of the public hearing, the ~~Board of Appeals~~ Planning Commission shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application.

21.24.080 - Rights-of-way.

The ~~Board of Appeals~~ Planning Commission may authorize reductions in the right-of-way width and paving width based on the following findings:

A. The proposed width will promote the public welfare and will not endanger public safety.

B. The proposed width will not impede normal and orderly development and improvement of surrounding property.

C. The proposed width will not impair the provision of adequate ingress, egress and access within the planned development.

D. The proposed width of right-of-way has been approved by the Department of Public Works, the Fire Department or other appropriate City agencies.

21.24.090 - Planned development review criteria and findings.

In deciding planned development applications the ~~Board of Appeals~~ Planning Commission shall make written findings based on the following:

A. The planned development is compatible with the character of the surrounding neighborhood and the Comprehensive Plan and the purposes of planned developments.

B. The proposed locations of buildings, structures, open spaces, landscape elements, and pedestrian and vehicular circulation systems are adequate, safe, and efficient and designed to minimize any adverse impact upon the surrounding area.

C. The planned development will promote high quality design and will not result in greater adverse impacts to the surrounding area compared to the development that may otherwise be permitted pursuant to the Zoning Code if a planned development were not approved.

D. The planned development complies with the planned development use standards and bulk and density standards.

E. The planned development complies with the Site Design Plan Review criteria provided in Section 21.22.080

F. The planned development plan includes adequate provision of public facilities and the proposed infrastructure, utilities and all other proposed facilities are adequate to serve the planned development and adequately interconnect with existing public facilities.

21.24.110 - Expiration.

A. Expiration.

1. A preliminary planned development approval shall expire ~~within~~ one year ~~of~~ from the date of final approval if the applicant has not submitted a final planned development application prior to that ~~expiration~~ date.

2. A final planned development approval shall expire ~~within one two~~ years ~~of~~ from the date final approval if a building permit is not obtained prior to that ~~expiration~~ date. If substantial site development has not commenced within a period of three years ~~of from~~ the date of final approval, or in the case of larger developments, for each phase of the project indicated on the planned development plan, the planned development approval shall expire.

B. Extension. If an extension is requested prior to the expiration of a preliminary or final planned development approval, the Planning and Zoning Director may extend a preliminary or final planned development approval, and the corresponding expiration dates in subsection A. above, for a period not to exceed up to three years from the date or dates on which the approval would otherwise have expired, of initial approval by the Board of Appeals Planning Commission subject to the notification requirements of Section 21.10.020A.

C. Abandonment. If, within any continuous three year period after approval of a planned development, no building permits are issued for that planned development, then that planned development shall be deemed to be abandoned.

D. Abandoned or Expired Planned Developments. In the event that a planned development is abandoned or expires, no building permits shall be issued for the planned development unless it is determined by the Planning and Zoning Director that the planned development complies with the current Comprehensive Plan, site design standards and zoning regulations. Should the Planning and Zoning Director decline to make a determination that an abandoned or expired planned development complies with the current Comprehensive Plan, site design standards and zoning regulations, the An abandoned or expired planned development may be reinstated in the same manner as a new planned development.

E. Conditions. Any conditions of approval related to those phases of the planned development which were complete prior to the abandonment of the planned development shall remain in full effect and shall be enforceable.

21.24.130 - Appeals.

Appeal of ~~Board of Appeals~~ Planning Commission Decision. An appeal from a decision of the ~~Board of Appeals~~ Planning Commission under this chapter shall be made to the Circuit Court of Maryland for Anne Arundel County Board of Appeals Circuit Court of Maryland for Anne Arundel County.

21.26.030 – Procedures for Special Exceptions.

A. Application Procedures. All applications for special exceptions shall be filed with the Planning and Zoning Director in accordance with the requirements of Section 21.10.010 Common Procedures for Review of Applications.

B. Review Procedures for Special Exception Applications. In the review and decision of special exception applications, the following procedures shall apply:

1. Staff Review. The Planning and Zoning Director, after having determined that the submission is complete pursuant to Section 21.10.010, may distribute copies of the application to appropriate City departments for review.
2. Staff Report. Following review of any special exception application, the Planning and Zoning Director and any other City department reviewing the application will prepare a staff report on the application and transmit the staff report to the ~~Planning Commission~~ Board of Appeals prior to the required ~~Planning Commission~~ Board of Appeals public hearing on the application.
3. ~~Public Hearing. The Planning Commission will consider the application at a regular monthly public meeting. Notice of the public hearing must be given by the applicant in accordance with the notice requirements set forth in Sections 21.10.020(B) and 21.10.020(D). At this hearing the Planning Commission shall accept evidence and testimony as it may judge to be relevant to the proper consideration of the case.~~
4. ~~Planning Commission Recommendation. Within thirty days after the Planning Commission has completed its review of the application, it shall forward its written findings of fact and recommendations on the application to the Board of Appeals. In no case may the Planning Commission forward its findings and recommendations to the Board of Appeals more than ninety days after first placing the application on the agenda of a Planning Commission meeting.~~
- 5 3. Public Hearing. The Board of Appeals shall hold a public hearing on each application. The hearing shall be conducted, and a record of the proceedings shall be preserved, in the manner the Board of Appeals, by rule, prescribes from time to time. Notice of the public hearing must be given by the applicant in accordance with the notice requirements set forth in Sections 21.10.020(B) and 21.10.020(C). At the hearing, ~~the Planning Commission's findings and recommendations and a report from the Planning and Zoning Director shall be placed in evidence.~~
- 6 4. Action on Application. Within thirty days of the conclusion of the public hearing, the Board of Appeals shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application.
- 7 5. Conditions of Approval. ~~The Planning Commission may recommend, and the Board of Appeals may stipulate, conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as are deemed necessary for the protection of the public interest and to secure compliance with the requirements specified in Section 21.26.050. However, the Board of Appeals may not impose any condition, or enforce any condition previously imposed, which restricts the applicability or approval of a special exception to a particular applicant, owner or operator.~~

21.26.050 - Review criteria and findings.

The ~~recommendation of the Planning Commission and~~ decision by the Board of Appeals must be based upon written findings with respect to the following:

- A. The establishment, maintenance or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.
- B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
- C. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- D. Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
- E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.
- F. The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, including any use provisions or standards set forth in Chapter 21.64
- G. In the case of food service establishments, the following additional standards for review apply. The review of the proposed food service operation shall be based upon an analysis of the proposed use's impact in the following areas:
 1. Environmental:

- a. Noise, including the noise of the mechanical equipment and of the patrons while on the premises.
 - b. Odors: control of odors from the cooking process and from the storage of garbage,
 - c. Trash and litter: the type of trash and garbage the food service operation will generate; the precautions to be taken to prevent littering of the streets.
2. Traffic:
- a. Streets: adequacy of the street system to handle additional traffic,
 - b. Loading/unloading: off-street loading facilities available and adequate to handle the intensity and the type of trucks needed to service the proposed use; if on-street loading facilities are used, whether the use will impede traffic flow,
 - c. Parking: adequate parking available either on-site or within the area for employees and patrons.
3. Neighborhood:
- a. Hours: the hours of operation are compatible with the surrounding commercial and/or residential neighborhood,
 - b. Loitering: the measures the restaurant will employ to discourage loitering; whether the type of use is compatible with the surrounding commercial and residential neighborhood.
4. Adequacy of public facilities:
- a. Water and sewer: excess capacity exists and is available,
 - b. Police: police coverage is available,
 - c. Fire: the Fire Department has access to the site; sufficient water pressure for firefighting purposes is available and the building meets life safety standards,
5. Community need: a community need for the use has been established.

H. An appeal from a decision of the Board of Appeals shall be made to the Circuit Court of Maryland for Anne Arundel County.

21.26.060 - Reapplication after denial.

No application for a special exception, which has been denied wholly or in part by the Board of Appeals, shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission and the Board of Appeals.

21.30.010 - Purpose and authority.

An appeal may be taken to the Board of Appeals by a person aggrieved or by an officer, department, board or bureau of the City aggrieved by a decision of the Planning and Zoning Director or an enforcement action of the Director of Neighborhood and Environmental Programs other than the issuance of a misdemeanor citation.

21.48.030 - Table of Uses—Office and Mixed Use Zoning Districts.

[Table Notes]

3. Uses and combinations of uses located on zoning lots of 40,000 square feet or more require special exception approval, unless such uses are approved as part of a planned development.

21.64.510 - Planned developments.

Planned developments are permitted subject to approval by the Board of Appeals Planning Commission pursuant to regulations and procedures set forth in Chapter 21.24.

21.68.070 - Expansion of nonconforming uses.

No nonconforming use may be expanded except in the manner provided in this section.

A. Applications for Expansion.

1. Applications for expansion of nonconforming uses shall be subject to the procedures established in Section 21.26.030 (special exceptions).

2. Upon approval by the Board of Appeals, a nonconforming use of a structure may be expanded throughout the same structure to occupy a part of a structure that it did not occupy on the effective date of this Zoning Code.

B. Application Requirements. All applications for expansion of nonconforming

uses shall be accompanied by plans and on any forms prescribed by the Planning and Zoning Director and shall at a minimum include the following:

1. A statement in writing by the applicant and adequate evidence showing that the expanded nonconforming use will conform to the standards set forth in this chapter.
2. Applicants shall provide the names and addresses of all persons having a financial or vested interest in the project and in the case of firms, partnerships and corporations, the names and addresses of all principals of the firm, partnership or corporation, who have a financial or vested interest in the project for which the application is made.

C. Review Criteria and Findings. The ~~recommendation of the Planning Commission and decision by the Board of Appeals~~ must be based upon written findings with respect to the following:

1. Compared with the existing nonconforming use, the expanded use will not be substantially more detrimental to the public health, safety, or general welfare.
2. The expanded use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
3. The expanded use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, road access, drainage and necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.

D. Expiration of Approval. No approvals of expansion of a nonconforming use shall be valid for a period longer than one year from the date of the approval, unless the building permit is obtained within that period and the expansion of the use is commenced within that period. However, the Planning and Zoning Director, upon a showing of good cause, may grant up to two successive extensions of the approval for periods not longer than six months each, provided that a written application for each extension is filed while the prior approval is still valid.

E. Appeals. Appeals from decisions of the Board of Appeals under this section shall be made to the Circuit Court of Maryland for Anne Arundel County.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage, and it shall apply to all future and all pending applications for planned development and/or special exception approvals, except that with regard to a planned development application for which the Planning Commission has opened the public hearing pertaining thereto as of the date of passage of this Ordinance, the Planning Commission shall complete the public hearing and its review of the planned development application and shall issue a recommendation on such planned development application, and the Board of Appeals shall consider and decide the planned development application in accordance with the procedures in place prior to the passage of this Ordinance.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION:

Highlighting indicates matter added to existing law.
Strikeout indicates matter deleted from existing law.

Underlining indicates amendments.

Seconded. CARRIED on voice vote.
The order of the agenda was resumed.

R-45-11 Annexation Plan – Hayes Property – For the purpose of adopting an annexation plan for the Hayes Property, which property is contiguous to the existing boundary of the City and which property is generally located south of the City’s jurisdictional boundary and to the east of Old Solomons Island Road and Dorsey Drive.

Postponed

BUSINESS and MISCELLANEOUS

1. Referral of O-51-11 to the Planning Commission

- Mayor Cohen referred O-51-11 to the planning Commission.

2. Strategic Planning Meeting pursuant to Charter and Code Section 2.16.020

- Alderman Arnett move pursuant to Charter and Code Section 2.16.020 to hold the meeting at the Roger “Pip” Moyer Community Center on February 6, 2012 from 2 p.m. to 4 p.m. **Seconded. CARRIED on voice vote.**

3. Budget Revision Request

Control number **GT- 28-12**, Department Public Works, Department justification for request, to reallocate U S Justice Energy Funds for installation of Geothermal Wells at the Market House.

- Alderwoman Finlayson moved to approve GT- 28-12. **Seconded. CARRIED on voice vote.**

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:32 p.m.

Regina C. Watkins-Eldridge, MMC
City Clerk