

CITY OF ANNAPOLIS
SPECIAL MEETING OF THE CITY COUNCIL
November 26, 2012 7:00 p.m.

Call to Order
Invocation
Pledge of Allegiance
Roll Call
Approval of Agenda

Mayor Cohen
Alderman Hoyle
Mayor Cohen
City Clerk Watkins-Eldridge

PETITIONS, REPORTS AND COMMUNICATIONS

Reports by Committees

MainStreets Annapolis Partnership - Take Back the Tug

Lisa Craig
Chief, Historic Preservation

Capt. Robert Clark
United States Naval Academy

Proposed City Dock Master Plan

Hon. Kurt Schmoke
Chair, City Dock Advisory Committee

Jon Arason
Director, Department of Planning and Zoning

Virginia Burke
Chief, Comprehensive Planning
Department of Planning and Zoning

Comments by the General Public

<i>A person appearing before the City Council with a petition, report or communication shall be limited to a presentation of not more than three minutes.</i>

PUBLIC HEARINGS

O-26-12 Revision to the Zoning Map Amendment Process – For the purpose of amending Chapter 21.34 (Zoning Map Amendments) of the Annapolis City Code by establishing new procedures for local zoning map amendments, sectional zoning map amendments, and comprehensive zoning map amendments. Repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition Section 21.34.020, Section 21.34.030, Section 21.34.040.

LEGISLATIVE HISTORY <i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>

First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/23/12	11/26/12	9/14/12	1/21/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/23/12		
Planning Commission	7/23/12	10/4/12	Favorable

LEGISLATIVE ACTIONS

ORDINANCES and RESOLUTION – 2ND READING

O-51-11Amd. Use and Redevelopment of Property in C2 Zoning Districts – For the purpose of adding certain provisions governing use and redevelopment of property located in a C2 Zoning District. *Proposed to be postponed.*

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/11	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11 1/23/12	7/21/11	Favorable

O-52-11Amd. Rezoning Parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A – For the purpose of rezoning parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2, “Conservation Business” Zoning District. *Proposed to be postponed.*

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/11	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11	7/21/11	Favorable

O-28-12 Amending the Procedures for the Sale and Rental of Moderately Priced Dwelling Units – For the purpose of amending the procedures for the sale and rental of moderately priced dwelling units.

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/23/12	9/24/12	9/14/12	1/21/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/23/12	11/13/12	No action
Housing and Human Welfare	7/23/12	11/5/12	Favorable
Planning Commission	7/23/12	9/13/12	Favorable w/amd

O-30-12 Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Residential Zoning Districts – For the purpose of designating certain areas for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft in residential zoning districts. *Proposed to be withdrawn.*

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12 To be considered jointly with R-39-12.	10/13/2012	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	9/24/12	11/19/12	No action taken

R-39-12 Fines Schedule Updated for Violations of Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Undesignated Areas within Residential Zoning Districts – For the purpose of establishing a fine for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft in undesignated areas within residential zoning districts. *Proposed to be withdrawn.*

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			

First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12 To be considered jointly with O-30-12.	10/13/12	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Finance	9/24/12	11/20/12	No action taken

O-40-12 Lease of City Property: Fall Boat Shows in 2013 - For the purpose of authorizing an amendment to the lease of certain municipal property located in the general harbor to United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., in the following manner - Line eight of *ARTICLE I, SECTION 1.1, PREMISES and TERM* of the original Lease Agreement reading: "2013 – October 7 through October 22, inclusive" shall be and is hereby deleted and is hereby replaced with the following language: "2013 – September 30 through October 15."

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
10/22/12	11/05/12012	11/5/12	01/13/13
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	10/22/2012	11/19/12	Favorable

ORDINANCE – 1st READER

O-42-12 Residency Requirements for Certain Department Directors – For the purpose of changing the residency requirement for certain department directors by amending the following portion of the Code of the City of Annapolis, 2011 Edition: 2.04.060.

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
11/26/12			
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Government			

BUSINESS and MISCELLANEOUS

1. Appointments and reappointments
2. Budget Revision Requests

3. Referrals

O-27-12 **Removing the Requirement that a Certified Public Accountant Attest to Ratio Reports for Restaurants Renewing Their Alcoholic Beverage Licenses.** *To be referred to the Alcoholic Beverage Control Board.*

O-36-12 **Permitted Hours of Sidewalk Cafes.** *To be referred to the Alcoholic Beverage Control Board and the Planning Commission.*

UPCOMING CITY COUNCIL EVENTS

Regular Meeting; Monday, December 10, 2012, 7:00 p.m. City Council Chambers
Special Meeting; Monday, December 17, 2012, 7:00 p.m. City Council Chambers
Work Session; Thursday, December 20, 2012 1:30-4:30 p.m. City Council Chambers

Carol Richardson
Legislative and Policy Analyst
City of Annapolis Office of Law
E) cdrichardsons@annapolis.gov
P) 410-263-1184

November 7, 2012

TO: The Capital Legal Notices: legalad@capgaz.com
FROM: Carol Richardson, Legislative and Policy Analyst
RE: Notice of Public Hearing and Notice of Charter Amendment

Please send bill and certificate of publication to the City of Annapolis Office of Law, 93 Main Street, 3rd Floor, Annapolis, MD 21401.

Publication 1 of 2

Please publish the following on **Monday, November 12, 2012 and Monday, November 19, 2012:**

NOTICE OF ANNAPOLIS CITY COUNCIL PUBLIC HEARING

Notice is hereby given that the Annapolis City Council will hold a public hearing on Monday, November 26, 2012 at 7:00 p.m., in City Council Chambers, 160 Duke of Gloucester Street, Annapolis, to consider:

O-26-12 Revisions to the Zoning Map Amendment Process – For the purpose of amending Chapter 21.34 (Zoning Map Amendments) of the Annapolis City Code by establishing new procedures for local zoning map amendments, sectional zoning map amendments, and comprehensive zoning map amendments.

The above legislation on the City Council agenda for public hearing can be viewed on the City's website at: <http://www.annapolis.gov/Government/Departments/LawOffice/PendingLegis.aspx>.

and

NOTICE OF ADOPTION OF CHARTER AMENDMENT

Notice is hereby given that on November 5, 2012 the Annapolis City Council adopted Charter Amendment **CA-4-12 - Designating Emergency Preparedness and Risk Management Responsibility to the City of Annapolis Fire Department**, for the purpose of making the City Charter consistent with the City Code by designating emergency preparedness and risk management responsibility to the City of Annapolis Fire Department. The Charter Amendment will become effective on December 27, 2012 unless a petition signed by twenty per centum of the persons who are qualified to vote in the City of Annapolis general elections that the proposed Charter Amendment be submitted on referendum to the voters of the City of Annapolis.

The Charter Amendment may be viewed at City Hall or on the on the City's website at: <http://www.annapolis.gov/Government/Departments/LawOffice/AdoptedLegis.aspx>.

Additional publication on following page.

Publication 2 of 2

Please publish the following on **Monday, November 26, 2012 and Monday December, 3, 2012:**

NOTICE OF ADOPTION OF CHARTER AMENDMENT

Notice is hereby given that on November 5, 2012 the Annapolis City Council adopted Charter Amendment **CA-4-12- Designating Emergency Preparedness and Risk Management Responsibility to the City of Annapolis Fire Department**, for the purpose of making the City Charter consistent with the City Code by designating emergency preparedness and risk management responsibility to the City of Annapolis Fire Department. The Charter Amendment will become effective on December 27, 2012 unless a petition signed by twenty per centum of the persons who are qualified to vote in the City of Annapolis general elections that the proposed Charter Amendment be submitted on referendum to the voters of the City of Annapolis.

The Charter Amendment may be viewed at City Hall or on the on the City's website at:
<http://www.annapolis.gov/Government/Departments/LawOffice/AdoptedLegis.aspx>.

1 **CITY COUNCIL OF THE**
2 **City of Annapolis**

3 **Ordinance No. O-26-12**

4 **Introduced by: Mayor Cohen**
5
6
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/23/12	11/26/12	9/14/12	1/21/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	7/23/12		
Planning Commission	7/23/12	10/4/12	Favorable

8 **AN ORDINANCE** concerning
9

10 **Revisions to the Zoning Map Amendment Process**

11 **FOR** the purpose of amending Chapter 21.34 (Zoning Map Amendments) of the Annapolis
12 City Code by establishing new procedures for local zoning map amendments, sectional
13 zoning map amendments, and comprehensive zoning map amendments.

14 **BY** repealing and re-enacting with amendments the following portions of the Code of the
15 City of Annapolis, 2011 Edition
16 Section 21.34.020
17 Section 21.34.030
18 Section 21.34.040
19

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

22 **Chapter 21.34 - ZONING MAP AMENDMENTS**
23

24 **21.34.010 - Purpose and authority.**

25 A. Purpose. For the purpose of promoting the public health, safety, morals and general welfare,
26 and conserving the value of property throughout the City, the City Council, from time to time, in
27 the manner set forth in this chapter may amend the district boundary lines; provided, that in all
28 amendatory ordinances adopted under the authority of this chapter, due allowance shall be
29 made for existing conditions, the conservation of property values, the direction of building
30 development to the best advantages of the entire City and the uses to which property is devoted
31 at the time of the adoption of the amendatory ordinance.
32

33 B. Authority. The City Council shall decide amendments under this chapter, which may be
34 proposed by the City Council, the Planning Commission, a property owner in the City or any
35 person who has a contractual interest which may become a freehold interest or an exclusive
36 possessory interest of property proposed to be rezoned.

1 **21.34.020 - Procedures.**

2 A. Application Procedures. AN APPLICATION MAY BE FILED FOR ANY OF THE
3 FOLLOWING TYPES OF AMENDMENTS TO THE ZONING MAP:

4 1. LOCAL ZONING MAP AMENDMENT. A LOCAL ZONING MAP AMENDMENT COVERING A
5 SINGLE TRACT OF LAND, ALL OR PORTIONS OF WHICH MAY BE PROPOSED TO BE
6 CLASSIFIED IN DIFFERENT ZONES. A LOCAL ZONING MAP AMENDMENT APPLICATION
7 MAY BE FILED BY ANY GOVERNMENTAL AGENCY OR BY A PERSON WITH A FINANCIAL,
8 CONTRACTUAL, OR PROPRIETARY INTEREST IN THE PROPERTY TO BE AFFECTED BY
9 THE PROPOSED AMENDMENT.

10
11 Any member of the City Council may introduce a LOCAL zoning map application before the City
12 Council that would then be referred to the Planning and Zoning Director to assist in the
13 development of a LOCAL zoning map amendment. All other applications for a LOCAL zoning
14 map amendment shall also be filed with the Planning and Zoning Director in accordance with
15 the requirements of Section 21.10.010 Common procedures for review of applications, including
16 the preapplication conference with the Director pursuant to Section 21.10.010(A).

17
18 2. SECTIONAL ZONING MAP AMENDMENT. A SECTIONAL ZONING MAP AMENDMENT
19 COVERING A SECTION OF THE CITY, ALL OR PORTIONS OF WHICH MAY BE PROPOSED
20 TO BE CLASSIFIED IN DIFFERENT ZONES. AN APPLICATION FOR A SECTIONAL
21 ZONING MAP AMENDMENT MAY BE FILED ONLY BY THE PLANNING COMMISSION UPON
22 COMPLETION OF A SECTOR OR AREA PLAN.

23
24 3. COMPREHENSIVE ZONING MAP AMENDMENT. A COMPREHENSIVE ZONING MAP
25 AMENDMENT COVERING THE ENTIRE CITY, ALL OR PORTIONS OF WHICH MAY BE
26 PROPOSED TO BE CLASSIFIED IN DIFFERENT ZONES. A COMPREHENSIVE ZONING
27 MAP AMENDMENT INCLUDES, BUT IS NOT LIMITED TO, TECHNICAL CORRECTIONS. AN
28 APPLICATION FOR A COMPREHENSIVE ZONING MAP AMENDMENT MAY BE FILED ONLY
29 BY THE PLANNING COMMISSION.

30
31 B. Review Procedures.

32 1. Complete Application Forwarded to Planning Commission. Upon determination of
33 completeness, the Planning and Zoning Director shall forward the application to the Planning
34 Commission, for its recommendation to the City Council.

35
36 2. Staff Review and Report. The Planning and Zoning Director may circulate the application to
37 other City departments deemed appropriate by the Director. The Planning and Zoning Director
38 will forward a report on the application for amendment to the Planning Commission and the City
39 Council.

40
41 3. Planning Commission Public Hearing. An application, when complete, shall be placed upon
42 the agenda of the Planning Commission for consideration at a public hearing. Notice of the
43 hearing shall be published in accordance with Sections 21.10.020(B) and 21.10.020(C)[, Notice
44 Requirements] FOR A LOCAL ZONING MAP AMENDMENT, AND IN ACCORDANCE WITH
45 SECTION 21.10.020(C)(1) FOR A SECTIONAL OR COMPREHENSIVE ZONING MAP
46 AMENDMENT. At the public hearing the Planning Commission may accept evidence and
47 testimony as it may judge to be relevant to the proper consideration of the case.

48
49 4. Findings and Recommendations. Within thirty days after the Planning Commission has
50 completed its review of the application, but in no case longer than ninety days after the date of
51 the first session of the public hearing held by the Commission, the Commission shall make

1 written findings of fact and shall submit the findings together with its recommendations to the
2 City Council. The City Council shall not act upon the application until it has received a written
3 report and recommendation from the Planning Commission on the proposed amendment.
4

5 5. City Council Action. After the Planning Commission has completed its review of the proposed
6 amendment, an ordinance shall be drafted by the Mayor and introduced at the City Council. It
7 shall be introduced on First Reader and referred to the appropriate Standing Committees of the
8 City Council.
9

10 6. City Council Public Hearing. The City Council shall hold a public hearing on the ordinance.
11 The hearing shall be advertised, conducted, and a record of the proceedings shall be preserved,
12 in the manner as the City Council, by rule, prescribes from time to time. Notice of the hearing
13 shall be in accordance with Section 21.10.020(C)[, Notice Requirements] FOR A LOCAL
14 ZONING MAP AMENDMENT AND IN ACCORDANCE WITH SECTION 21.10.020(C)(1) FOR A
15 SECTIONAL OR COMPREHENSIVE ZONING MAP AMENDMENT. Other appropriate notices
16 may be posted in a place or places as the City Council designates. At the hearing, the
17 recommendation of the Planning Commission and report from the Planning and Zoning Director
18 shall be placed in evidence. The Director of Planning and Zoning shall be available at the
19 hearing for examination by all interested persons.
20

21 7. Decision and Vote. Following the City Council public hearing and the Standing Committee
22 reports, the City Council shall vote on the ordinance.
23

24 8. Date of Decision. Whenever an application for an amendment has been properly filed, it shall
25 be acted upon by the City Council within six months from the date of application, and whenever
26 it has been denied by the City Council, the application shall not be renewed for one year after
27 the denial.
28

29
30 **21.34.030 - Application requirements.**

31 All zoning map applications shall be accompanied by plans and on any forms prescribed by the
32 Planning and Zoning Director, and shall at a minimum include the following:
33

34 A. A statement in writing by the applicant and adequate evidence describing how the proposed
35 map amendment conforms to the review criteria set forth in this chapter.
36

37 B. FOR A LOCAL ZONING MAP AMENDMENT, Applicants shall provide the names and
38 addresses of all persons having a financial or vested interest in the project and in the case of
39 firms, partnerships and corporations, the names and addresses of all principals of the firm,
40 partnership or corporation, who have a financial or vested interest in the project for which the
41 application is made.
42

43
44 **21.34.040 - Planning Commission review criteria and findings.**

45 The Planning Commission shall not recommend the adoption of a proposed zoning map
46 amendment unless it finds that the adoption of the amendment is in the public interest and is not
47 solely for the interest of the applicant. The Planning Commission may recommend the adoption
48 of an amendment changing the zoning classification of the property to a more restrictive district
49 than that requested by the applicant. The Planning Commission shall make findings based upon
50 the evidence presented to it in each specific case with respect to the following matters:
51

- 1 [A. Existing uses and zoning classification of properties within the general area of the property
- 2 that is the subject of the application.]
- 3 [B. The suitability of the property in question to the uses permitted under the existing zoning
- 4 classification compared to the uses permitted under the proposed zoning classification.]
- 5 [C. The trend of development in the general area, including any changes in zoning classification
- 6 of the subject property or other properties in the area and the compatibility with existing and
- 7 proposed development for the area.]
- 8 [D. Whether there has been a substantial change in the character of the neighborhood where
- 9 the property is located or that there was a mistake in the existing zoning classification.]
- 10 [E. The availability of public facilities, present and future transportation patterns.]
- 11 [F. The relationship of the proposed amendment to the City's Comprehensive Plan.]
- 12
- 13 A. POPULATION CHANGE;
- 14 B. THE AVAILABILITY OF PUBLIC FACILITIES;
- 15 C. PRESENT AND FUTURE TRANSPORTATION PATTERNS;
- 16 D. COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA;
- 17 E. THE RELATIONSHIP OF THE PROPOSED AMENDMENT TO THE CITY'S
- 18 COMPREHENSIVE PLAN;
- 19 F. A SUBSTANTIAL AND UNANTICIPATED CHANGE IN THE CHARACTER OF THE
- 20 NEIGHBORHOOD WHERE THE PROPERTY IS LOCATED;
- 21 G. A MISTAKE IN THE EXISTING ZONING CLASSIFICATION.
- 22

23 **21.34.050 - City Council review criteria and findings.**
 24 The City Council shall make findings of fact in each specific case including, but not limited to,
 25 the criteria set forth above in Section 21.34.040.

26
 27 **21.34.060 - Appeal.**
 28 Any person aggrieved by a decision of the City Council pursuant to this chapter may appeal to
 29 the circuit court of Anne Arundel County.
 30

31 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
 32 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.
 33

34 **ADOPTED** this _____ day of _____, _____.
 35
 36

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

 Regina C. Watkins-Eldridge, MMC, City Clerk

 Joshua J. Cohen, Mayor

37
 38
 39 **EXPLANATION**
 40 CAPITAL LETTERS indicate matter added to existing law.
 41 [brackets] indicate matter stricken from existing law.
 42 Underlining indicates amendments.

1 **Policy Report**

2
3 **O-26-12**

4
5 **Revisions to the Zoning Map Amendment Process**

6
7 The proposed ordinance would amend Chapter 21.34 (Zoning Map Amendments) of the
8 Annapolis City Code by establishing new procedures for local zoning map amendments,
9 sectional zoning map amendments, and comprehensive zoning map amendments.

10
11 Title 21 currently has no explicit mechanism for a comprehensive or sector area
12 rezoning process. The proposed ordinance would authorize three types of zoning map
13 amendments: local zoning map amendments, sectional zoning map amendments, and
14 comprehensive zoning map amendments.

15
16 The local zoning map amendment would preserve the existing procedure for a zoning
17 change affecting a single tract of land. The sectional zoning map amendment would
18 apply to a portion of the City where rezoning was proposed following the completion of a
19 sector or area plan. An example would be an adopted neighborhood or corridor plan
20 that recommended either a different zoning district or a re-alignment of existing zoning
21 districts. The comprehensive zoning map amendment would be a proposed rezoning
22 affecting the entire city. Examples would be if multiple zoning districts were combined
23 into one zoning district or the use of Geographic Information Systems mapping
24 technology to provide a technical update to the zoning maps (i.e., property zoning would
25 not change, but the technological mechanism for physically displaying and storing the
26 zoning information would be updated).

27
28
29
30
31
32 Prepared by Sally Nash, Senior Comprehensive Planner, Planning and Zoning
33 Department at SNash@annapolis.gov or (410) 263-7961 and Jessica Cowles,
34 Legislative and Policy Analyst, Office of Law at JCCowles@annapolis.gov or (410) 263-
35 1184.

FISCAL IMPACT NOTE

Legislation No: O-26-12

First Reader Date: 7-23-12

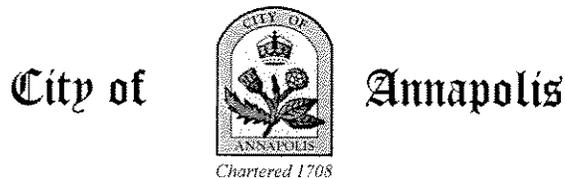
Note Date: 9-14-12

Legislation Title: Revisions to the Zoning Map Amendment Process

Description: For the purpose amending Chapter 21.34 (Zoning Map Amendments) of the Annapolis City Code by establishing new procedures for local zoning map amendments, sectional zoning map amendments, and comprehensive zoning map amendments.

Analysis of Fiscal Impact:

This legislation produces no significant fiscal impact.



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

October 4, 2012

To: Annapolis City Council

From: Planning Commission

Re: Findings for O-26-12: Revisions to the Zoning Map Amendment Process

SUMMARY

O-26-12 proposes changes to Chapter 21.34 (Zoning Map Amendments) of the Annapolis City Code that will establish three categories of map amendments. The three categories are: local zoning map amendments, sectional zoning map amendments, and comprehensive zoning map amendments.

STAFF RECOMMENDATION

At a regularly scheduled meeting on October 4, 2012, the Planning and Zoning staff presented their analysis and recommendations for approval of the legislation.

Staff reviewed the background of the proposed regulations and then provided an analysis. This information was forwarded to the Planning Commission for review in a report dated September 10, 2012.

Staff stated that under the current City Code, there is no explicit mechanism provided for a sectional or comprehensive rezoning process. What is currently provided is the process for a rezoning of a single tract of land that typically would be requested by the property owner based on a change in the character of the neighborhood or a previous mistake in the zoning classification. This type of map amendment is distinct from a sectional or comprehensive zoning map amendment because an application for a local map amendment does not necessarily follow a study, plan, or public process that has specifically recommended a zoning change.

The sectional zoning map amendment would apply to a portion of the City where rezoning was proposed following the completion of a sector or area plan. An example would be an adopted neighborhood or corridor plan that recommended either a different zoning district or a re-alignment of existing zoning districts. The comprehensive zoning map amendment would be a proposed rezoning affecting the entire city. Examples would be if multiple zoning districts were combined into one zoning district or the use of Geographic Information Systems (GIS) mapping technology to provide a technical update to the zoning maps (i.e., property zoning would not change, but the technological mechanism for physically displaying and storing the zoning information would be updated).

The proposed ordinance would maintain the process for introducing a local zoning map amendment—such amendment can be introduced by any governmental agency or any person with a proprietary interest in the property. A sectional zoning map amendment can be filed only by the Planning Commission upon completion of a sector or area plan. Likewise, a comprehensive zoning map amendment could only be filed by the Planning Commission.

Another difference between the local zoning map amendment and the proposed sectional and comprehensive zoning map amendments are the notification requirements. A local map amendment retains the requirements of City Code Sections 21.10.020(B) and 21.10.020(C), which are:

B. Notice to Abutting Property Owners. If the Zoning Code Division II provisions applicable to a specific type of application provide for notice to abutting property owners, unless specific notice procedures are otherwise provided for in another Zoning Code chapter, notice must be given as follows:

- 1. The applicant must send written notification to all parties with a financial or vested interest in the property that is the subject of the application and to property owners within two hundred feet of the property boundary. Notice of public hearings must be mailed not less than fifteen days prior to the date of hearing.*
- 2. Prior to any public meeting or public hearing on an application, the applicant must provide the Planning and Zoning Director with verification of mailing of written notification. An applicant must provide evidence that notices of the public hearing were mailed not less than fifteen days prior to the date of hearing.*
- 3. The notification must be posted at a designated central location for similar notices at the Department of Planning and Zoning.*

C. Notice of Formal Public Hearing. If notice of a formal public hearing is required, unless specific notice procedures are otherwise provided for in another Division II chapter of the Zoning Code, notice must be given as follows:

- 1. Notice of the application and any required public hearings at which the application will be considered shall be published in a newspaper of general circulation in the City no fewer than once each week for two successive weeks. The first notice of the hearing must be at least fifteen days before the hearing.*
- 2. Notice must be posted on the property that is the subject of an application by the applicant or the property owner, if not the same, at least fifteen days prior to any public hearing on the application and in a manner prescribed by the Planning and Zoning Director. Any sign posted on a property by an applicant must be removed by the applicant within seven days following the close of the public hearing. Failure to post shall be governed by (A)(4) above.*

Annapolis City Council

Findings: O-26-12

October 4, 2012

Page 3

The notice requirements for a sectional or comprehensive zoning map amendment are in accordance with Section 21.10.020(C)(1), which is notice published in a newspaper of general circulation no fewer than once each week for two successive weeks. Because these zoning map amendments can only be filed after an extensive public planning process, a posting on the properties concerned or written notification to all parties with a financial or vested interest in the property that is the subject of the application and to property owners within two hundred feet of the property boundary would be redundant with previous efforts.

The ordinance also proposes a change to the wording of the review criteria and findings that are required for a zoning map amendment. This change is proposed to update Title 21 to be in accordance with Maryland Annotated Code Article 66B – Land Use.

PUBLIC HEARING AND DELIBERATION

In accordance with the Annapolis City Code, a public hearing was held and the public was invited to comment on the proposed text amendment. No one spoke on the legislation.

At the close of the public hearing, the Planning Commission entered into deliberations. The Commission concurred with staff.

RECOMMENDATION

By a vote of 6-0, the Planning Commission voted to recommend approval of O-26-12.

Adopted October 4, 2012



Dr. Eleanor M. Harris, Chair

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-51-11 Amended

**Introduced by: Mayor Cohen Alderwoman Finlayson,
Alderwoman Hoyle and Alderman Kirby**

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/12	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/11	5/31/12	Favorable
Planning Commission	11/14/11 1/23/12	5/31/12	Favorable

A ORDINANCE concerning

Use and Redevelopment of Property in C2 Zoning Districts

FOR the purpose of adding AN ADDITIONAL PERMITTED USE AND ADDING certain provisions governing use and redevelopment of property located in a C2 Zoning District.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition
Section 21.42.080
SECTION 21.48.020

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:

Chapter 21.42 – COMMERCIAL AND INDUSTRIAL DISTRICTS

21.42.080 - C2 Conservation Business district.

- A. Purpose. The C2 Conservation Business district is designed to encourage the preservation of the old City by allowing a compatible mixture of business and home crafts and shops, unique to the early development of the City.
- B. Uses. Uses that may be permitted in the C2 district are set forth in the table of uses for commercial and industrial districts in Chapter 21.48
- C. Development Standards. Chapter 21.50 contains the bulk regulations table for the C2 district.

D. Additional Standards.

1. All business, servicing or processing in the C2 district, except for off-street parking or loading, shall be conducted within completely enclosed buildings.
2. Food service establishment restrictions apply in the C2 district, see Section 21.64.300
3. Off-street loading spaces are not required in the C2 district.
4. WATERFRONT PROPERTIES DESIGNATED AS PART OF THE C2 CONSERVATION BUSINESS DISTRICT SHALL PROVIDE A PUBLIC PEDESTRIAN ACCESS ACROSS THE WATERWAY FRONTAGE OF THE PROPERTY.
5. UPON REDEVELOPMENT OF A SITE IN THE C2 ZONING DISTRICT, THOSE SCENIC VIEWS RECOGNIZED IN THE ANNAPOLIS COMPREHENSIVE PLAN OR OTHER PLANS ADOPTED AS AMENDMENTS THERETO BY THE ANNAPOLIS CITY COUNCIL MUST BE RESTORED OR PRESERVED. FOR PURPOSES OF THIS SECTION, REDEVELOPMENT SHALL MEAN NEW CONSTRUCTION, ALTERATIONS OR RENOVATIONS TO THE EXTERIOR OF THE STRUCTURE(S) ON THE SITE, NOT INCLUDING DECKS, WINDOWS, DOORS AND FAÇADE TREATMENTS OR OTHER IMPROVEMENTS WITHIN THE EXISTING FOOTPRINT AND BUILDING ENVELOPE, IN EXCESS OF FIFTY PERCENT (50%) OF THE VALUE OF THE IMPROVEMENTS ON THE SITE AS OF THE DATE OF PERMIT REQUESTS.

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

21.48 – USE TABLES

21.48.020 – Table of Uses – Commercial and Industrial Zoning Districts

P = Permitted Use; S = Special Exception Use; -Std = Use Subject to Standards (Chapter 21.64); A = Accessory Use; Blank = Not Permitted

A use, including a special exception use, that is not normally permissible as a permitted use or use subject to standards in a zoning district may be permitted in that district as a planned development use pursuant to Section 21.24.020.

Important. The notes at the end of the table are as much a part of the law as the table itself.

<u>USES</u>	<u>District B1</u>	<u>District B2</u>	<u>District B3</u>	<u>District B3-CD</u>	<u>District BCE</u>	<u>District BR</u>	<u>District C2</u>	<u>District C2A</u>	<u>District PM2</u>	<u>District I1</u>
<u>Boat Showrooms</u>			<u>P</u>	<u>P</u>	<u>P</u>					
<u>BOAT SHOWS</u>							<u>P⁵</u>			

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

Policy Report

Ordinance O-51-11

Use and Redevelopment of Property in C2 Zoning Districts

The proposed ordinance would add two provisions governing the use and redevelopment of property located in the C2 Zoning District. The first provision of O-51-11 would require public pedestrian access across the waterway frontage of property in the C2 Conservation Business District.

The second provision of the proposed ordinance would require restoration or preservation of scenic views recognized in the Comprehensive Plan (or amendments to it) upon the redevelopment of a site in the C2 Zoning District. The proposed ordinance defines redevelopment to mean new construction, alterations or renovations to the exterior of the structure(s) on the site in excess of 50% of the value of the improvements on the site as of the date of permit requests, excluding decks, windows, doors and façade treatments, or other improvements within the existing footprint and building envelope.

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.



City of Annapolis
DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401
Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

JON ARASON, AICP
DIRECTOR

March 1, 2012

MEMORANDUM

To: Planning Commission

From: Jon Arason *JA*
Planning Director

Re: Ordinance O-51-11 concerning standards for the development and redevelopment of property in the C2, Conservation Residence District

Attachments: 1. Ordinance O-51-11
2. Planning Commission findings from 110 Compromise zoning map amendment request

Summary of Ordinance

This ordinance would require that development in the C2 district incorporate the following design characteristics:

1. If it is a waterfront property, it would be required to provide a pedestrian access along the waterway frontage of the property as illustrated on the next page.
2. Upon redevelopment of a site, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto must be restored or preserved.

Redevelopment means new construction, alterations or renovations to the exterior of a structure in excess of fifty percent of the value of the improvements on the site as of the date of permit requests. Decks, windows, doors or other improvements within the existing footprint are excluded.

This ordinance grew out of the Planning Commission recommendation on the rezoning request for 110 Compromise Street (aka Fawcett's). The staff report on the rezoning request contained the following:

There are two important considerations in the development/redevelopment of this site. A longstanding consideration is to maintain pedestrian access around City Dock. This is a key parcel for this pedestrian access.

Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Fleet Street street-end right-of-way avoiding a dead-end and creating pedestrian opportunities.

The second consideration has been brought up from time-to-time but not in the context of city policy. This has become an important consideration for the City Dock Advisory Committee (CDAC) and will probably be a part of their final report—the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on subject property blocks a portion of this view and it is proposed that any significant redevelopment of this site be done in a manner that this view shed is restored.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district will be proposed to address these considerations in conjunction with this rezoning request.

Since the writing of this report the CDAC did recommend the enhancement and maintenance of views from downtown across the harbor.

The Planning Commission agreed with this assessment and recommended code changes to address pedestrian access and enhanced views. The language of O-51-11 is the language recommended by the Planning Commission. It has been referred back to the Planning Commission because it was introduced as a new ordinance.

This amendment was recommended by staff and the Planning Commission and is consistent with City plans and policies. Staff recommends approval of Ordinance O-51-11.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-51-11

**Introduced by: Mayor Cohen Alderwoman Finlayson,
Alderwoman Hoyle and Alderman Kirby**

LEGISLATIVE HISTORY			
First Reading 11/14/11	Public Hearing	Fiscal Impact Note	180 Day Rule 5/12/12
Referred to Rules and City Gov't Planning Commission	Referral Date 11/14/11 11/14/11	Meeting Date	Action Taken

A ORDINANCE concerning

Use and Redevelopment of Property in C2 Zoning Districts

FOR the purpose of adding certain provisions governing use and redevelopment of property located in a C2 Zoning District.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition
Section 21.42.080

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:

Chapter 21.42 – COMMERCIAL AND INDUSTRIAL DISTRICTS

21.42.080 - C2 Conservation Business district.

A. Purpose. The C2 Conservation Business district is designed to encourage the preservation of the old City by allowing a compatible mixture of business and home crafts and shops, unique to the early development of the City.

B. Uses. Uses that may be permitted in the C2 district are set forth in the table of uses for commercial and industrial districts in Chapter 21.48

C. Development Standards. Chapter 21.50 contains the bulk regulations table for the C2 district.

D. Additional Standards.

1. All business, servicing or processing in the C2 district, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

2. Food service establishment restrictions apply in the C2 district, see Section 21.64.300



Chartered 1708

City of Annapolis
DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401
Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

JON ARASON, AICP
DIRECTOR

October 19, 2011

MEMORANDUM

TO: City Council of Annapolis
FROM: Planning & Zoning Commission
RE: Zoning map amendment of 110 Compromise from WMC, Waterfront Maritime Conservation to C2, Conservation Business District. ZMA2011-001

SUMMARY

Subject property is the site of the former Fawcett's marine supply store. The property had been zoned C2, Conservation Business District until the adoption of the Waterfront Maritime Districts in 1987, at which time the property was zoned WMC. Before the property's use as a retail store specializing in marine hardware and operating under the Fawcett's name, the subject property had been used for general retail, including a grocery store. The WMC zone is more restrictive in that non-maritime retail and office uses are severely limited.

C2 is the prevalent zone downtown and is the only general commercial zone used in the historic district. Until 1987 this property had a C2 designation. Adjacent, developed properties affected by the 1987 rezoning had been zoned M1, Light Maritime before being rezoned to WMC.

The zoning map amendment rezones the property back to C2, Conservation Business District consistent with the non-waterfront properties downtown and consistent with the non-conforming uses of several of the neighboring waterfront properties.

STAFF RECOMMENDATION

At a regularly scheduled meeting on July 21, 2011, the Planning and Zoning staff presented their analysis and recommended approval of the rezoning request.

Staff reviewed the background of the request and analyzed the request based upon State law and the requirements of the City Code. In addition, staff analyzed the request based upon the Annapolis Comprehensive Plan recommendations and the recommendations of the City Dock Advisory Committee.

Staff found that there had been a change in the social and economic character of the area that would warrant approval of the request for rezoning. Staff also recommended additional legislative changes to the C2 zone. One change would require the provision of a pedestrian access along the water for waterfront properties. The other would require adherence to view cones for redeveloped properties.

REQUIRED FINDINGS

Article 66b is the State enabling legislation that grants local governments to power to regulate the use of land through zoning. Art. 66b, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning. Chapter 21.34 of the Annapolis City code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

- A. Existing uses and zoning classification of properties within the general area of the property

that is the subject of the application.

In the vicinity of the property there are three zoning classifications. Subject property abuts land zoned C2 and WMC. In the area, but not abutting subject property there is land zoned C1, Conservation Residence District. The WMC zone on the other side of the water consists of the Natural Resources Police building, the Annapolis Harbormaster building, and a large car parking lot. The WMC zone on the side of the subject property consists of the Fleet Reserve building – which is essentially a social and dining club, the Marriott Hotel building – which has no maritime uses and includes a popular waterfront restaurant, the Annapolis Yacht marina, and the Annapolis Yacht Club – both of which are maritime. The Fleet Reserve and the Marriott Hotel are both nonconforming uses though both are in the WMC. The City of Annapolis also owns two small car parking lots in this portion of the WMC zone.

The C-1 zone contains the Annapolis Elementary School, an Anne Arundel Board of Education administration building, a car parking lot, and a playground. The school has coexisted for decades with the surrounding commercial activity. The entire area, known generally as the City Dock area, is intensively commercial.

The Commission finds that a general commercial zone for this will not be discordant with the general commercial tenor of the general area.

B. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.

As mentioned earlier, the property was zoned from C2, Conservation Business to WMC, Waterfront Maritime Conservation in 1987, no doubt due, at least in part, to the presence of Fawcett's as a tenant. At the time of the WMC zoning, all of the properties abutting City Dock were zoned WMC irrespective of the extant use or whether the properties were or would be rendered nonconforming by the change.

For the non-maritime uses listed there are additional standards that must be met and size limitations for the use to be allowed in the WMC District.

The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The Commission finds that the nature of City Dock has changed dramatically from supporting the Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-based day trippers, and local and regional customers of the restaurant and retail establishments. These users of City Dock are not arriving downtown with the specific intent to purchase maritime-related goods. The Maritime Zones were created to concentrate maritime uses so each could take advantage of proximity to another. Current downtown maritime use consists of a marina and a yacht club, which do not create the synergies contemplated. A survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

C. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.

As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the maritime economic and land use strategy. As noted above the nature of City Dock has changed over time from watermen related uses to a visitor destination—both land based and water based. The mix of retail goods sold downtown has changed as well. The C2 zoning designation proposed for the property is consistent with zoning in the area since C2 is the predominant commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and trends in thinking envision the City Dock area as a gathering place for local residents, regional residents, state employees, county employees, City employees, and visitors who may or may not have business in the City. None of these populations support a maritime business. The mix of uses allowed in the C2 zoning can support visitor, resident and employment populations.

The Commission finds that the trend in development, including the proposed zoning change, will be compatible with current and proposed development in the general area.

D. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.

The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the business mix and functions in the downtown have undergone change. The so-called hard maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to reflect its emerging role as a visitor destination. The Commission finds there has been a substantial change in the character of the neighborhood where the property is located.

E. The availability of public facilities, present and future transportation patterns.

The Commission finds there are adequate public facilities in place to support the requested rezoning. The Commission further finds the requested rezoning will have no impact on present or future transportation patterns.

F. The relationship of the proposed amendment to the City's Comprehensive Plan.

The Annapolis Comprehensive Plan recommends mixed-use development for this site. The proposed C2 zoning classification is consistent with the comprehensive plan recommendation. The Commission finds that the proposed zoning amendment is compatible with the Comprehensive Plan.

Other Considerations

As noted above, staff identified two additional and important considerations in the development/redevelopment of this site. Both can be resolved if the Council adopts two changes to Code requirements.

The first is a longstanding responsibility to maintain pedestrian access around City Dock. This goal is key to the primary recommendation of the City Dock Advisory Committee to make the general City Dock area a pedestrian-friendly place with as much pedestrian access to the water as possible. This parcel is a key parcel for pedestrian access. Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Newman Street street-end right-of-way, thereby avoiding a dead-end and creating some pedestrian opportunities.

Consequently, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.4.:

"Waterfront properties designated as part of the C2 Conservation Business District shall provide a pedestrian access across the waterway frontage of the property."

The second consideration has been brought up from time-to-time but not in the context of city policy. This is an important goal identified by the City Dock Advisory Committee (CDAC) and is a part of their final report—namely, the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on the subject property blocks an important portion of this view. Any significant redevelopment of this site must be done in a manner that restores this significant viewshed.

Hence, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.5.:

Upon redevelopment of a site in the C2 Zoning District, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto by the Annapolis City Council must be restored or preserved. For purposes of this section, redevelopment shall mean new construction, alterations or renovations to the exterior

of the structure(s) on the site, not including decks, windows, doors and façade treatments or other improvements within the existing footprint and building envelope, in excess of fifty percent (50%) of the value of the improvements on the site as of the date of permit requests.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district must be proposed to address these considerations in conjunction with this rezoning request.

Additionally, the Planning Commission voted to amend the rezoning map change request to include the city-owned parking lot adjacent to Newman Street, between 110 Compromise and the Fleet Reserve Club, parcel 1248.

PUBLIC HEARING AND DELIBERATION

The Planning Commission found that proper notification of the application and hearing was given. In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the rezoning request. Additionally, the owner of the property and his agents made a presentation to the Planning Commission.

Upon the close of the public hearing the Planning Commission entered into deliberations. Based on the staff analysis, applicants' presentation and comments received from the public, the Commission found that the requisite findings were met. The Commission further found that the recommended code changes noted above were appropriate in furthering the normal and orderly development of the City and consistent with the Comprehensive Plan.

RECOMMENDATION

The Planning & Zoning Commission on July 21, 2011 by a vote of 6-0 held that the requirements of 21.34.040 have been met, that there has been a change in the social and economic character of the area that warrants approval of this request, and that the change in zoning classification will be compatible with current and proposed uses. The Commission by the same vote further recommends that the proposed code changes be enacted coincident with the zoning change.

Chair:



David DiQuinzio



**CITY OF ANNAPOLIS
OFFICE OF LAW**

**Karen M. Hardwick
City Attorney**

**410-263-7954
Fax 410-268-3916**

MEMORANDUM

To: Mayor Joshua J. Cohen
Ald. Richard E. Israel
Ald. Frederick M. Paone
Ald. Classie G. Hoyle
Ald. Sheila M. Finlayson
Ald. Mathew Silverman
Ald. Kenneth A. Kirby
Ald. Ian Pfeiffer
Ald. Ross H. Arnett, III

Cc: Michael Mallinoff
Bruce Miller
Jon Arason
Carol Richardson
Hilary Raftovich

From: Karen M. Hardwick

Date: November 14, 2012

Re: Proposed Rezoning of the Chandler LLC Property, O-51-11 & O-52-11

Enclosed, as requested, is a May 17, 2012 memorandum to members of the Rules & City Government, Economic Matters and Finance Committees regarding the law applicable to proposed re-zonings on the grounds of "change or mistake."

Please do not hesitate to call me with any questions you may have.

KMH/ks

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**CITY OF ANNAPOLIS
OFFICE OF LAW**

Karen M. Hardwick
City Attorney

410-263-7954
Fax **410-268-3916**

MEMORANDUM

To: Ald. Richard E. Israel, Chair, Rules & City Government Committee
Ald. Ross H. Arnett, III, Chair, Finance Committee
Ald. Frederick M. Paone, Chair, Economic Matters Committee
Ald. Sheila M. Finlayson
Ald. Classie G. Hoyle
Ald. Ian Pfeiffer

From: Karen M. Hardwick

Date: May 17, 2012

Re: Proposed Rezoning of the Chandler LLC Property, O-51-11 & O-52-11

QUESTION:

The City Council Committees on Finance and Rules & City Government have asked for guidance on the law governing a proposed rezoning on the grounds of “change or mistake.”

ANSWER:

The applicable law is rooted in decisions of the Maryland Court of Appeals, the Maryland Court of Special Appeals, Article 66B of the Annotated Code of Maryland, and Title 21 of the Annapolis City Code. The decisions of the Court of Appeals and the Court of Special Appeals are the most instructive as they illustrate how the law applies to a variety of fact patterns.

In its epic decision in *The Mayor and Council of Rockville et al. v. Rylyns Enterprises Inc.*, 372 Md. 514, 814 A.2d 469 (2002), the Court of Appeals (Harrell, J.) provided a comprehensive summary of the law of land use in the State of Maryland. Especially relevant here is a passage defining the “change-mistake rule”:

The “change-mistake” rule is a rule of the either /or type. The “change” half of the “change-mistake” rule requires that, in order for a piecemeal Euclidean zoning change to be approved, there must be a satisfactory showing that there has been significant and unanticipated change in a relatively well-defined area (the “neighborhood”) surrounding the property in question since its original or last comprehensive rezoning,

whichever occurred most recently. The “mistake” option of the rule requires a showing that the underlying assumptions or premises relied upon by the legislative body during the immediately preceding original or comprehensive *539 rezoning were incorrect. In other words, there must be a showing of a mistake of fact. Mistake in this context does not refer to a mistake in judgment. Additionally, even where evidence of a change or mistake is adduced, there is no reciprocal right to a change in zoning, nor is there a threshold evidentiary standard which when met compels rezoning.

The Court further counseled that, the “change-mistake” rule applies to all applications for rezoning; however, even if the requisite showing of change or mistake has been made, a legislative body may—but is not required to—grant the requested piecemeal zoning:

Even with very strong evidence of change or mistake, piecemeal zoning may be granted, but is not required to be granted, except where a failure to do so would deprive the owner of all economically viable use of the property. *See Mayor and Council of Rockville v. Stone*, 271 Md. 655, 660–64, 319 A.2d 536, 540–41 (1974); *Burgess v. 103–29 Ltd. P’ship*, 123 Md.App. 293, 298–99, 718 A.2d 613, 616 (1998); *People’s Counsel for Baltimore County v. The Prosser Co., Inc.*, 119 Md.App. 150, 179, 704 A.2d 483, 498 (1998); *The Bowman Group v. Dawson Moser*, 112 Md.App. 694, 699–702, 686 A.2d 643, 646–47 (1996); *People’s Counsel for Baltimore County v. Beachwood I Ltd. P’ship*, 107 Md.App. 627, 638–59, 670 A.2d 484, 489–500 (1995); *Boyce v. Sembly*, 25 Md.App. 43, 49–53, 334 A.2d 137, 141–44 (1975). In Maryland, the change-mistake rule applies to all piecemeal zoning applications involving Euclidian zones, including those involving conditional zoning.¹⁴ The change-mistake rule does not apply, in any **484 event, to changes in zoning made in a comprehensive rezoning, or the piecemeal grant of a floating zone.

Mayor & Council of Rockville v. Rylyns Enterprises, Inc., 372 Md. at 538-39, 814 A.2d at 483-84.

A related question has been raised as to when a request for piecemeal rezoning would result in invalid spot zoning. The Court addressed this issue as well in the *Rylyns* case:

“Spot zoning occurs when a small area in a District is placed in a different zoning classification than the surrounding property ... Spot zoning is not invalid *per se*. Rather, its validity depends on the facts of each individual case ...while spot zoning is illegal if it is inconsistent with an established comprehensive plan and is made solely for the benefit of a private interest, it is a valid exercise of the police power where the zoning is in harmony with the comprehensive plan and there is a substantial relationship to the public health, safety and general welfare. . . .

“Zoning is permissible only as an exercise of the police power of the State. When this power is exercised by a city, it is confined by the limitations fixed in the grant by the State and to the accomplishment of the purposes for which the State authorized the city to zone....

“Spot zoning,” the *arbitrary* and *unreasonable* devotion of a small area within a zoning district to a use which is inconsistent with the use to which the rest of the

district is restricted, has appeared in many cities in America as the result of pressure put upon councilmen to pass amendments to zoning ordinances solely for the benefit of private interests.... It is, therefore, universally held that a 'spot zoning' ordinance, which singles out a parcel of land within the limits of a use district and *marks it off into a separate district* for the benefit of the owner, thereby permitting a use of that parcel inconsistent with the use permitted in the rest of the district, is invalid *if it is not in accordance with the comprehensive zoning plan and is merely for private gain.*

**547 On the other hand, it has been decided that a use permitted in a small area, which is not inconsistent with the use to which the larger surrounding area is restricted, although it may be different from that use, is not 'spot zoning' when it does not conflict with the comprehensive plan but is in harmony with an orderly growth of a new use for property in the locality.* The courts have accordingly upheld the creation of small districts within a residential district for use of grocery stores, ... and even gasoline filling stations, for the accommodation and convenience of the residents of the residential district.

Id. at 353–56, 73 A.2d at 488–90 (emphasis added) (internal citations omitted).

For ease of use, I have limited this memorandum to essential principles relevant to the factual findings you may have occasion to render. I would be please to provide additional authority or a supplemental memorandum if you believe the circumstances so warrant.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 5/31/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Rules and City Government Committee has reviewed 0-5/-11 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Israel, Chair NO

Ald. Hoyle YES

Ald. Arnett NO

Meeting Date 5/31/12

Signature of Chair Richard E. Israel



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 5/31/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Economic Matters Committee has reviewed 0-51-11 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

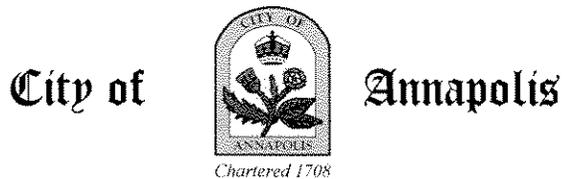
Roll Call Vote:

Ald. Paone, Chair YES

Ald. Finlayson Yes

Ald. Pfeiffer YES

Meeting Date 5/31/12 Signature of Chair Frederick M. Paone



PLANNING COMMISSION

(410)263-7961

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401

March 1, 2012

MEMORANDUM

To: Annapolis City Council
From: Planning Commission
Re: Findings on Ordinance O-51-11 concerning standards for the development and redevelopment of property in the C2, Conservation Residence District

Summary of Ordinance

This ordinance would require that development in the C2 district incorporate the following design characteristics:

1. If it is a waterfront property, it would be required to provide a pedestrian access along the waterway frontage of the property as illustrated on the next page.
2. Upon redevelopment of a site, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto must be restored or preserved.

Redevelopment means new construction, alterations or renovations to the exterior of a structure in excess of fifty percent of the value of the improvements on the site as of the date of permit requests. Decks, windows, doors or other improvements within the existing footprint are excluded.

This ordinance grew out of the Planning Commission's recommendation on the rezoning request for 110 Compromise Street (aka Fawcett's). Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district will be proposed to address these considerations in conjunction with this rezoning request.

Since the original recommendation to the City Council, the CDAC did recommend the enhancement and maintenance of views from downtown across the harbor.

Public Hearing

At its regular meeting on March 1, 2012 the Planning Commission conducted a public hearing on this ordinance.

Recommendation

The Planning Commission recommends approval of Ordinance O-51-11 with the following amendments. The Planning Commission recommends two important amendments to the language of the suggested ordinance. As to paragraph 4, the Commission recommends:

“shall provide uninterrupted and unimpeded public pedestrian access...”

As to paragraph 5, the Commission recommends: “...redevelopment shall mean new construction, alterations or exterior renovations to the structures...”

The Commission retaining the scenic view now obstructed by 110 Compromise street is an important condition to progress towards a rejuvenated City Dock.

Eleanor M. Harris

Dr. Eleanor M. Harris, Chair *gmh*

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-52-11 Amended

Introduced by: Alderwoman Finlayson, Alderwoman Hoyle and Alderman Kirby

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
11/14/11	4/23/12	11/27/12	5/12/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	11/14/11	5/31/12	Unfavorable
Economic Matters	11/14/12	5/31/12	Favorable
Planning Commission	11/14/11	7/21/12	Favorable
Maritime Advisory Board		12/20/11	Unfavorable

A ORDINANCE concerning

Rezoning Parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A

FOR the purpose of rezoning parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2, "Conservation Business" Zoning District.

BY repealing and re-enacting with amendments the Zoning District Map contained in Section 21.06.020 of the Code of the City of Annapolis 2011 Edition, to reflect the rezoning of parcels [1244] 1247 and 1255, Grid 20, Tax Map 52A to C2 "Conservation Business" Zoning District.

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:

Chapter 21.06 – ZONING DISTRICTS AND MAPPING

21.06.020 - Zoning District Map.

The location and boundaries of the zoning districts of this Zoning Code are established as shown on the zoning map entitled "City of Annapolis Zoning District Map," which is incorporated in this section and made a part of this Zoning Code. The map, together with everything shown on the map and all amendments to the map, is as much a part of this Zoning Code as though fully set forth and described in this Zoning Code. (Amended during 2007 edition: Ord. O-30-05 Revised Attach., 2006: Ord. O-11-05 Revised Amended § 1 (part), 2005: Ord. O-1-04 Revised (part), 2005). THE ZONING REFLECTED ON THE ZONING DISTRICT MAP IS AMENDED TO REFLECT THE ZONING OF PARCELS [1244] 1247 AND 1255, GRID 20, TAX MAP 52A AS C2 "CONSERVATION BUSINESS" ZONING DISTRICT LOCATED AT 110 COMPROMISE STREET IN ANNAPOLIS AS CONTAINED IN EXHIBIT A ATTACHED TO THIS ORDINANCE.

1 The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The
2 Commission finds that the nature of City Dock has changed dramatically from supporting the
3 Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-
4 based day trippers, and local and regional customers of the restaurant and retail
5 establishments. These users of City Dock are not arriving downtown with the specific intent to
6 purchase maritime-related goods. The Maritime Zones were created to concentrate maritime
7 uses so each could take advantage of proximity to another. Current downtown maritime use
8 consists of a marina and a yacht club, which do not create the synergies contemplated. A
9 survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting
10 goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

11
12 **C. The trend of development in the general area, including any changes in zoning
13 classification of the subject property or other properties in the area and the compatibility
14 with existing and proposed development for the area.**

15 As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the
16 maritime economic and land use strategy. As noted above the nature of City Dock has changed
17 over time from watermen related uses to a visitor destination--both land based and water based.
18 The mix of retail goods sold downtown has changed as well. The C2 zoning designation
19 proposed for the property is consistent with zoning in the area since C2 is the predominant
20 commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and
21 trends in thinking envision the City Dock area as a gathering place for local residents, regional
22 residents, state employees, county employees, City employees, and visitors who may or may
23 not have business in the City. None of these populations support a maritime business. The mix
24 of uses allowed in the C2 zoning can support visitor, resident and employment populations.

25
26 The Commission finds that the trend in development, including the proposed zoning change, will
27 be compatible with current and proposed development in the general area.

28
29 **D. Whether there has been a substantial change in the character of the neighborhood
30 where the property is located or that there was a mistake in the existing zoning
31 classification.**

32 The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the
33 business mix and functions in the downtown have undergone change. The so-called hard
34 maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides
35 of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are
36 no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to
37 reflect its emerging role as a visitor destination. The Commission finds there has been a
38 substantial change in the character of the neighborhood where the property is located.

39
40 **E. The availability of public facilities, present and future transportation patterns.**

41 The Commission finds there are adequate public facilities in place to support the requested
42 rezoning. The Commission further finds the requested rezoning will have no impact on present
43 or future transportation patterns.

44
45 **F. The relationship of the proposed amendment to the City's Comprehensive Plan.**

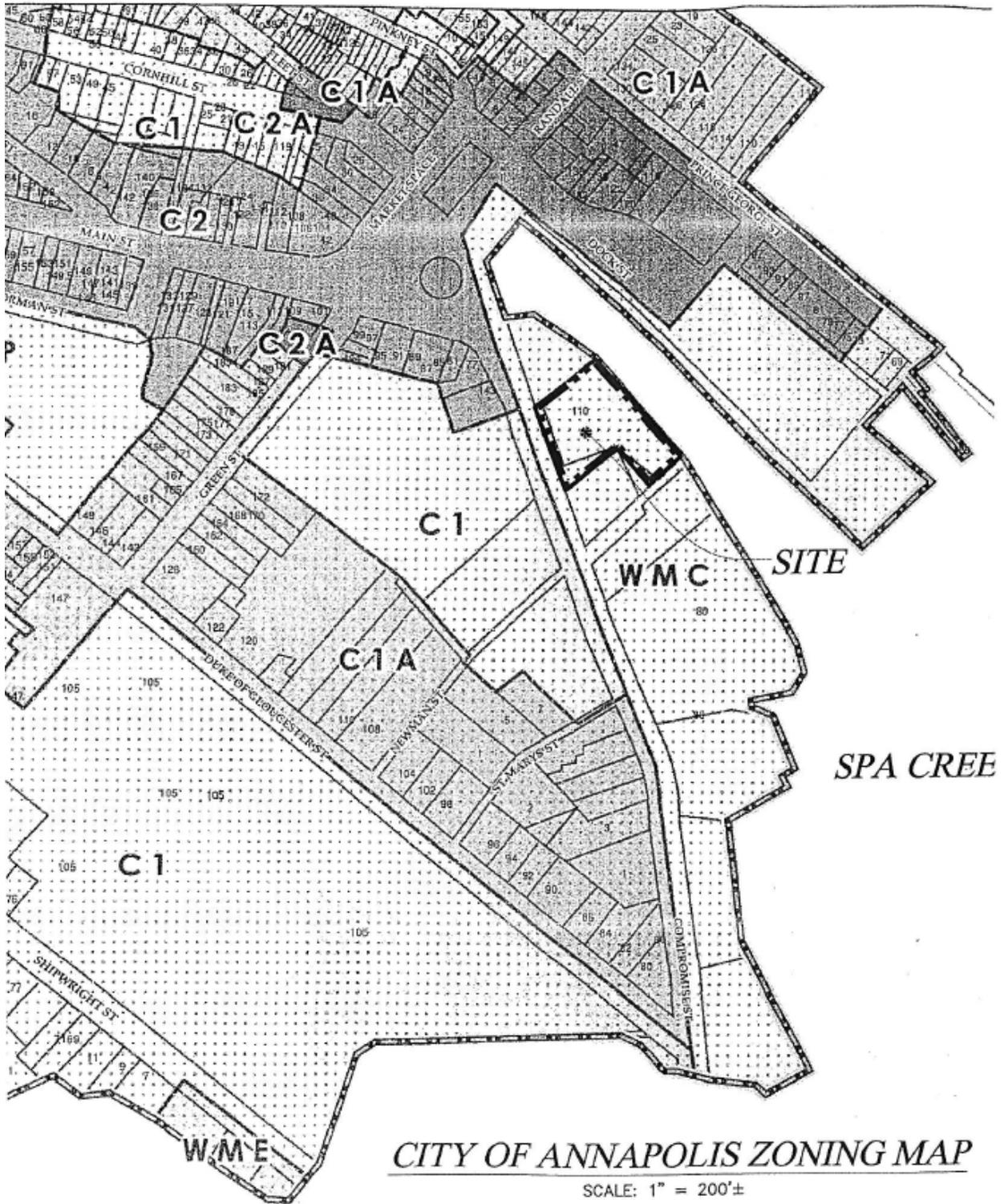
46 The Annapolis Comprehensive Plan recommends mixed-use development for this site. The
47 proposed C2 zoning classification is consistent with the comprehensive plan recommendation.
48 The Commission finds that the proposed zoning amendment is compatible with the
49 Comprehensive Plan.

50
51

Exhibit A

EXHIBIT A (Revised)

O-52-11
Page 5



CITY OF ANNAPOLIS ZONING MAP

SCALE: 1" = 200'±

Policy Report

Ordinance O-52-11

Rezoning Parcels 1244 and 1255, Grid 20, Tax Map 52A

The proposed ordinance would rezone parcels 1244 and 1255, Grid 20, Tax Map 52A from WMC (Waterfront Maritime Conservation) to C2 (Conservation Business) Zoning District.

Article 66B is the State enabling legislation that grants local governments the authority to regulate the use of land through zoning. Article 66B, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning.

Chapter 21.34 of the Annapolis City Code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

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

Prepared by Jessica Cowles, Legislative and Policy Analyst in the City of Annapolis Office of Law at 410.263.1184 or JCCowles@annapolis.gov.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 5/31/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Economic Matters Committee has reviewed B-52-11 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Paone, Chair NO

Ald. Finlayson Yes

Ald. Pfeiffer Yes

Meeting Date 5/31/12 Signature of Chair Richard M. Paone



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 5/31/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Rules and City Government Committee has reviewed 0-52-11 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Israel, Chair Yes

Ald. Hoyle NO

Ald. Arnett Yes

Meeting Date 5/31/12

Signature of Chair Alderman Israel for th



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City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Annapolis 410-263-7961 • FAX 410-263-1129 • MD Relay (711)

JON ARASON, AICP
DIRECTOR

October 19, 2011

MEMORANDUM

TO: City Council of Annapolis

FROM: Planning & Zoning Commission

RE: Zoning map amendment of 110 Compromise from WMC, Waterfront Maritime Conservation to C2, Conservation Business District. ZMA2011-001

SUMMARY

Subject property is the site of the former Fawcett's marine supply store. The property had been zoned C2, Conservation Business District until the adoption of the Waterfront Maritime Districts in 1987, at which time the property was zoned WMC. Before the property's use as a retail store specializing in marine hardware and operating under the Fawcett's name, the subject property had been used for general retail, including a grocery store. The WMC zone is more restrictive in that non-maritime retail and office uses are severely limited.

C2 is the prevalent zone downtown and is the only general commercial zone used in the historic district. Until 1987 this property had a C2 designation. Adjacent, developed properties affected by the 1987 rezoning had been zoned M1, Light Maritime before being rezoned to WMC.

The zoning map amendment rezones the property back to C2, Conservation Business District consistent with the non-waterfront properties downtown and consistent with the non-conforming uses of several of the neighboring waterfront properties.

STAFF RECOMMENDATION

At a regularly scheduled meeting on July 21, 2011, the Planning and Zoning staff presented their analysis and recommended approval of the rezoning request.

Staff reviewed the background of the request and analyzed the request based upon State law and the requirements of the City Code. In addition, staff analyzed the request based upon the Annapolis Comprehensive Plan recommendations and the recommendations of the City Dock Advisory Committee.

Staff found that there had been a change in the social and economic character of the area that would warrant approval of the request for rezoning. Staff also recommended additional legislative changes to the C2 zone. One change would require the provision of a pedestrian access along the water for waterfront properties. The other would require adherence to view cones for redeveloped properties.

REQUIRED FINDINGS

Article 66b is the State enabling legislation that grants local governments the power to regulate the use of land through zoning. Art. 66b, Section 4.05 establishes the 'change or mistake' rule wherein a zoning map amendment can only be granted based on a finding that there was a substantial change in the character of the neighborhood where the property is located, or that there was a mistake in the original zoning. Chapter 21.34 of the Annapolis City code sets forth the six criteria and findings that must be made in order to make the finding for change or mistake in considering a rezoning. They are as follows:

A. Existing uses and zoning classification of properties within the general area of the property

that is the subject of the application.

In the vicinity of the property there are three zoning classifications. Subject property abuts land zoned C2 and WMC. In the area, but not abutting subject property there is land zoned C1, Conservation Residence District. The WMC zone on the other side of the water consists of the Natural Resources Police building, the Annapolis Harbormaster building, and a large car parking lot. The WMC zone on the side of the subject property consists of the Fleet Reserve building – which is essentially a social and dining club, the Marriott Hotel building – which has no maritime uses and includes a popular waterfront restaurant, the Annapolis Yacht marina, and the Annapolis Yacht Club – both of which are maritime. The Fleet Reserve and the Marriott Hotel are both nonconforming uses though both are in the WMC. The City of Annapolis also owns two small car parking lots in this portion of the WMC zone.

The C-1 zone contains the Annapolis Elementary School, an Anne Arundel Board of Education administration building, a car parking lot, and a playground. The school has coexisted for decades with the surrounding commercial activity. The entire area, known generally as the City Dock area, is intensively commercial.

The Commission finds that a general commercial zone for this will not be discordant with the general commercial tenor of the general area.

B. The suitability of the property in question to the uses permitted under the existing zoning classification compared to the uses permitted under the proposed zoning classification.

As mentioned earlier, the property was zoned from C2, Conservation Business to WMC, Waterfront Maritime Conservation in 1987, no doubt due, at least in part, to the presence of Fawcett's as a tenant. At the time of the WMC zoning, all of the properties abutting City Dock were zoned WMC irrespective of the extant use or whether the properties were or would be rendered nonconforming by the change.

For the non-maritime uses listed there are additional standards that must be met and size limitations for the use to be allowed in the WMC District.

The Planning & Zoning Commission heard testimony and had the benefit of staff expertise. The Commission finds that the nature of City Dock has changed dramatically from supporting the Chesapeake Bay seafood industry to becoming a destination for recreational boaters, land-based day trippers, and local and regional customers of the restaurant and retail establishments. These users of City Dock are not arriving downtown with the specific intent to purchase maritime-related goods. The Maritime Zones were created to concentrate maritime uses so each could take advantage of proximity to another. Current downtown maritime use consists of a marina and a yacht club, which do not create the synergies contemplated. A survey by BBP, LLC found that respondents felt there was a need for specialty food, sporting goods/hobby, clothing and limited service restaurants but not for maritime services and goods.

C. The trend of development in the general area, including any changes in zoning classification of the subject property or other properties in the area and the compatibility with existing and proposed development for the area.

As noted above area properties were rezoned in 1987 from C2 to WMC with the adoption of the maritime economic and land use strategy. As noted above the nature of City Dock has changed over time from watermen related uses to a visitor destination—both land based and water based. The mix of retail goods sold downtown has changed as well. The C2 zoning designation proposed for the property is consistent with zoning in the area since C2 is the predominant commercial zoning district downtown. City Dock is viewed as the focal point of Annapolis and trends in thinking envision the City Dock area as a gathering place for local residents, regional residents, state employees, county employees, City employees, and visitors who may or may not have business in the City. None of these populations support a maritime business. The mix of uses allowed in the C2 zoning can support visitor, resident and employment populations.

The Commission finds that the trend in development, including the proposed zoning change, will be compatible with current and proposed development in the general area.

D. Whether there has been a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification.

The Commission finds that since the adoption of the WMC zoning twenty-four years ago, the business mix and functions in the downtown have undergone change. The so-called hard maritime uses have become concentrated on the Eastport side of Spa Creek and on both sides of Back Creek. Other than the AYC (and the proposed National Sailing Hall of Fame) there are no maritime uses in the WMC zone. As noted above, uses around City Dock are changing to reflect its emerging role as a visitor destination. The Commission finds there has been a substantial change in the character of the neighborhood where the property is located.

E. The availability of public facilities, present and future transportation patterns.

The Commission finds there are adequate public facilities in place to support the requested rezoning. The Commission further finds the requested rezoning will have no impact on present or future transportation patterns.

F. The relationship of the proposed amendment to the City's Comprehensive Plan.

The Annapolis Comprehensive Plan recommends mixed-use development for this site. The proposed C2 zoning classification is consistent with the comprehensive plan recommendation. The Commission finds that the proposed zoning amendment is compatible with the Comprehensive Plan.

Other Considerations

As noted above, staff identified two additional and important considerations in the development/redevelopment of this site. Both can be resolved if the Council adopts two changes to Code requirements.

The first is a longstanding responsibility to maintain pedestrian access around City Dock. This goal is key to the primary recommendation of the City Dock Advisory Committee to make the general City Dock area a pedestrian-friendly place with as much pedestrian access to the water as possible. This parcel is a key parcel for pedestrian access. Pedestrian access is not permitted by the Fleet Reserve Club, but the walkway adjacent to subject property links up to the Newman Street street-end right-of-way, thereby avoiding a dead-end and creating some pedestrian opportunities.

Consequently, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.4.:

"Waterfront properties designated as part of the C2 Conservation Business District shall provide a pedestrian access across the waterway frontage of the property."

The second consideration has been brought up from time-to-time but not in the context of city policy. This is an important goal identified by the City Dock Advisory Committee (CDAC) and is a part of their final report—namely, the enhancement of the view down Main Street, across City Dock to the mouth of the Severn River and beyond. The structure now on the subject property blocks an important portion of this view. Any significant redevelopment of this site must be done in a manner that restores this significant viewshed.

Hence, the Planning & Zoning Commission finds the following change to the zoning code is a necessary addition to its recommendation of approval of the zoning map amendment:

New Subsection 21.42.080 D.5.:

Upon redevelopment of a site in the C2 Zoning District, those scenic views recognized in the Annapolis Comprehensive Plan or other plans adopted as amendments thereto by the Annapolis City Council must be restored or preserved. For purposes of this section, redevelopment shall mean new construction, alterations or renovations to the exterior

of the structure(s) on the site, not including decks, windows, doors and façade treatments or other improvements within the existing footprint and building envelope, in excess of fifty percent (50%) of the value of the improvements on the site as of the date of permit requests.

Neither of these considerations can be attached to a rezoning of the property. Nevertheless, general amendments to the C2 zoning district must be proposed to address these considerations in conjunction with this rezoning request.

Additionally, the Planning Commission voted to amend the rezoning map change request to include the city-owned parking lot adjacent to Newman Street, between 110 Compromise and the Fleet Reserve Club, parcel 1248.

PUBLIC HEARING AND DELIBERATION

The Planning Commission found that proper notification of the application and hearing was given. In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the rezoning request. Additionally, the owner of the property and his agents made a presentation to the Planning Commission.

Upon the close of the public hearing the Planning Commission entered into deliberations. Based on the staff analysis, applicants' presentation and comments received from the public, the Commission found that the requisite findings were met. The Commission further found that the recommended code changes noted above were appropriate in furthering the normal and orderly development of the City and consistent with the Comprehensive Plan.

RECOMMENDATION

The Planning & Zoning Commission on July 21, 2011 by a vote of 6-0 held that the requirements of 21.34.040 have been met, that there has been a change in the social and economic character of the area that warrants approval of this request, and that the change in zoning classification will be compatible with current and proposed uses. The Commission by the same vote further recommends that the proposed code changes be enacted coincident with the zoning change.

Chair:



David DiQuinzio



City of Annapolis City Council
Committee & Commission Referral Action Report

Date: January 5, 2012

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Maritime Advisory Board has reviewed O-52-11, rezoning of Parcels 1244 and 1255 (Chandler, LLC) and has taken the following action:

Favorable

Favorable with amendments

Unfavorable (7-3)

No Action

Other

Comments:

The Board again recognized that substantive inconsistencies exist between the 4 maritime zoning districts which demonstrate the need for a comprehensive, not piecemeal, review of those zoning districts. Such a comprehensive review was recommended by the 1996 Comprehensive Plan¹ but not implemented. In the 2009 Comprehensive Plan, the Planning Commission and City Council in Land Use and Economic Development Policy 7 (p. 36) stated:

Acknowledging the importance of the Maritime Industry to Annapolis' character, identity and economy, strive to ensure the Maritime Industry's sustained health and viability.

¹ 7C-3, page 59: "Maintain The Existing Maritime Zones And Evaluate Whether Any Changes Are Needed To Strengthen The Maritime Industry"; [T]he existing maritime zones could be evaluated to identify whether any adjustments should be made to enhance maritime businesses without altering the intent of the zoning."

Piecemeal elimination of maritime zoning, particularly where it is directed to single properties, is inconsistent with the mandates of the Comprehensive Plan and adversely affects the "character, identity and economy" of Annapolis.

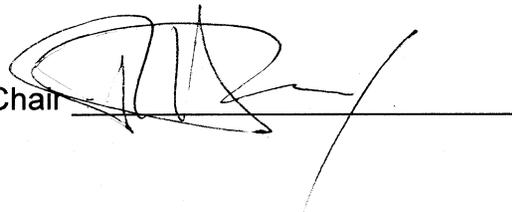
The Board also notes that Policy 6 of the 2009 Comprehensive Plan notes that a plan for the future of City Dock "must be developed with broad participation by the entire community". The City Dock Advisory Committee has not completed its recommendations and there is an on-going study of the Compromise Street corridor. Zoning changes to properties located along Compromise Street, and in the City Dock area, should only be done in conjunction with the implementation of broader plans for Compromise Street and the City Dock area.

The City must continue to act to preserve and promote the maritime industry, and the City's maritime character, so that it does not die by attrition. Accordingly, any change in the zoning (or a zoning text amendment) that affects properties in the maritime zones should only be undertaken in connection with a comprehensive review. The Board recommends that the appropriate City agencies commence that review within the next 120 days and make recommendations based upon that review to the Planning Commission and City Council within 180 days thereafter. Piecemeal changes should not be undertaken or approved.

cc: Members, Maritime Advisory Board

Legislative Referral - O-51-11 (Chandler rezoning)

Meeting Date: December 20, 2011 Signature of Chair

A handwritten signature in black ink, appearing to be "D. R. ...", is written over a horizontal line. The signature is stylized and somewhat illegible.

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**CITY COUNCIL OF THE
City of Annapolis**

Ordinance No. O-28-12

Introduced by: Mayor Cohen

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/23/12	09/24/12	09/14/12	01/21/13
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't	07/23/12	11/05/12	Favorable
Planning Commission	07/23/12	09/13/12	Favorable w/amd.

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AN ORDINANCE concerning

Amending the Procedures for the Sale and Rental of Moderately Priced Dwelling Units

FOR the purpose of amending the procedures for the sale and rental of moderately priced dwelling units.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2011 Edition
Section 20.30.130

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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:

CHAPTER 20.30 – MODERATELY PRICED DWELLING UNITS.

20.30.130 - Procedures for sale and rental of MPDUs.

[A. Procedures for Sale or Rental of MPDUs.]

[1]A. Every MPDU required under this chapter [must] SHALL be [rented or] sold OR RENTED to eligible persons to be used for his or her OR THEIR own residence.

[2]B. Before offering any MPDUs for sale or rent, the applicant [must] SHALL notify the Department of Planning and Zoning of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The notice [must] SHALL include:

1. THE ADDRESS OF EACH MPDU OFFERED FOR SALE OR RENT; [a. Whether the units will be sold or rented;]
2. IDENTIFICATION OF WHICH MPDUS SHALL BE SOLD AND WHICH SHALL BE

1 OFFERED FOR RENT;

2 [b. The number of units offered;]

3 [c]3. The number of bedrooms IN EACH MPDU OFFERED;

4 [d]4. The floor area for each [unit type] MPDU;

5 [e]5. A description of the amenities [offered] in each MPDU; [unit and a statement of the
6 availability of each unit for sale or rent;]

7 [f]6. A vicinity map of the offering; and

8 [g]7. Other information or documents as the Department of Planning and Zoning finds
9 necessary [to determine] FOR compliance with this chapter. [This notice by the Department of
10 Planning and Zoning shall be issued within thirty days of the date from which the applicant first
11 submitted its notice to commence marketing.]

12 [3]C. The Department of Planning and Zoning [will] SHALL maintain a list of eligible persons and
13 [must] SHALL SEND WRITTEN NOTICE TO [notify] eligible persons OF AN MPDU OFFERING
14 [by mail and by newspaper] prior to the start of the marketing period. THE NOTICE SHALL
15 INCLUDE A STATEMENT INDICATING THAT IF NO ELIGIBLE PERSON RESPONDS IN
16 WRITING TO THE NOTICE WITHIN FIFTEEN (15) BUSINESS DAYS AFTER THE DATE OF
17 THE NOTICE, OR IF ELIGIBLE PERSONS DO RESPOND WITHIN FIFTEEN (15) BUSINESS
18 DAYS AFTER THE DATE OF THE NOTICE BUT DO NOT QUALIFY FOR FINANCING OR
19 CANNOT PURCHASE THE MPDU FOR ANY OTHER REASON, OR IF NO ELIGIBLE
20 PERSON HAS ENTERED INTO A CONTRACT OF SALE FOR THE MPDU WITHIN NINETY
21 (90) DAYS AFTER THE START OF THE MARKETING PERIOD, THE CITY MAY PURCHASE
22 THE MPDU AT THE PURCHASE PRICE ESTABLISHED FOR THE MPDU, BUT THAT IF THE
23 CITY DOES NOT OPT TO PURCHASE THE MPDU, THE DEPARTMENT OF PLANNING AND
24 ZONING INTENDS TO ISSUE A WRITTEN NOTICE TO THE APPLICANT AUTHORIZING
25 THE APPLICANT TO OFFER THE MPDU TO THE GENERAL PUBLIC FOR SALE. THE
26 DEPARTMENT OF PLANNING AND ZONING SHALL NOT BE REQUIRED TO ISSUE ANY
27 FURTHER NOTICE TO ELIGIBLE PERSONS BEFORE AUTHORIZING THE APPLICANT TO
28 OFFER THE MPDU FOR SALE TO THE GENERAL PUBLIC.

29 [4]D. An applicant [must] SHALL not sell or rent any [unit] MPDU to aN ELIGIBLE [qualified]
30 person as defined in this chapter] until such person has obtained a certificate of eligibility issued
31 by the Department of Planning and Zoning. [from the buyer or lessee. A copy of each certificate
32 must be maintained on file by the Department of Planning and Zoning.]

33 [5]E. IF NO ELIGIBLE PERSON HAS ENTERED INTO A CONTRACT OF SALE FOR ANY
34 MPDU OFFERED FOR SALE WITHIN ninety (90) days after the start of a marketing period,
35 THE CITY [Department of Planning and Zoning] may purchase THE MPDU AT THE
36 PURCHASE PRICE ESTABLISHED FOR THE MPDU [a for sale MPDU if no eligible person
37 has entered into a purchase agreement or contracted to buy that MPDU]. IF THE CITY
38 PURCHASES AN MPDU UNDER THESE CIRCUMSTANCES, THE STATUS OF THE MPDU
39 AS A FOR SALE MPDU SHALL NOT CHANGE. THE CITY [The Department of Planning and
40 Zoning] shall only [rent or] sell the CITY OWNED MPDU to an eligible person AND THE CITY
41 OWNED MPDU SHALL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

42 F. IF THE CITY OPTS NOT TO PURCHASE AN MPDU FOR WHICH NO ELIGIBLE PERSON
43 HAS ENTERED INTO A CONTRACT OF SALE WITHIN THE NINETY (90)

1 DAY MARKETING PERIOD TO ELIGIBLE PERSONS, THE DEPARTMENT OF PLANNING
2 AND ZONING SHALL PROVIDE WRITTEN NOTICE TO THE APPLICANT CONTAINING AN
3 AUTHORIZATION TO MARKET THE MPDU TO THE GENERAL PUBLIC FOR SALE AT THE
4 APPROVED PURCHASE PRICE. THE DEPARTMENT OF PLANNING AND ZONING SHALL
5 NOT ISSUE AN AUTHORIZATION TO MARKET TO THE GENERAL PUBLIC UNLESS ALL
6 REQUIREMENTS OF THIS CHAPTER HAVE BEEN SATISFIED. THE STATUS OF AN MPDU
7 FOR SALE SHALL NOT CHANGE AS A RESULT OF AN OFFERING TO THE GENERAL
8 PUBLIC, AND ALL MPDUS THAT ARE SOLD TO THE GENERAL PUBLIC SHALL BE
9 SUBJECT TO MPDU INCOME REQUIREMENTS AND SHALL BE OFFERED TO RESIDENTS
10 OF ANNE ARUNDEL COUNTY.

11 [6]G. The deposit required with the sales contract for the purchase of an MPDU shall not exceed
12 one thousand dollars.

13 [7]H. Every buyer or renter of an MPDU, INCLUDING THOSE MPDUS BOUGHT OR LEASED
14 BY MEMBERS OF THE GENERAL PUBLIC UNDER THE PROVISIONS OF THIS CHAPTER,
15 [must] SHALL occupy the [unit] MPDU as his or her OR THEIR primary residence during the
16 [control] OCCUPANCY period. [Each] EVERY buyer and renter [must] SHALL certify before
17 taking occupancy that he or she OR THEY SHALL [will] occupy the [unit] MPDU as his or her
18 primary residence during [the] ANY occupancy period. The Director of Planning and Zoning may
19 require an MPDU owner who does not occupy the [unit] MPDU as [his or her] A primary
20 residence to offer the unit for resale [to an eligible person] under the [resale] provisions of THIS
21 CHAPTER [Section 20.30.140] OR MAY REQUIRE A RENTER WHO IS NOT AN ELIGIBLE
22 PERSON TO VACATE. [Every MPDU required under this chapter must be offered to the
23 general public for sale or rental to a good-faith purchaser or renter to be used for his or her own
24 primary residence, except units offered for sale or rent to a non-profit corporation, whose
25 purpose is to provide housing for persons of moderate income.]

26 [8]I. An owner of an MPDU [may] SHALL not rent the [unit] MPDU unless the renter is an
27 eligible person, and the rental is approved in writing by the Department of Planning and Zoning
28 annually. ALL ANNUAL RENTAL RENEWALS SHALL BE GOVERNED BY TITLE 17 OF THE
29 ANNAPOLIS CITY CODE.

30 [9]J. ANY MPDU OWNER WHO RENTS AN MPDU TO AN INELIGIBLE PERSON [Any rent
31 obtained for a MPDU that is rented to an ineligible person must] SHALL [be paid] PAY ALL
32 SUCH RENT into the CITY'S Homeownership Assistance Trust Fund [by the owner within
33 ninety] THIRTY (30) days after the Department of Planning and Zoning notifies the owner of the
34 rental violation. THE DEPARTMENT OF PLANNING AND ZONING MAY ASSESS THE
35 OWNER [Any amount unpaid after ninety days is grounds for the Department of Planning and
36 Zoning to assess] a monthly fee that is equal to the HUD fair market rent for the MPDU["] FOR
37 EACH MONTH THAT RENT WAS CHARGED AND RECEIVED IN VIOLATION OF THIS
38 CHAPTER.
39

40 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
41 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.
42

43 **ADOPTED** this _____ day of _____, _____.
44
45

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

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EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.

1 **Policy Report**

2
3 **O-28-12**

4
5 **Amending the Procedures for the Sale and Rental**
6 **of Moderately Priced Dwelling Units**

7
8 The proposed ordinance would amend the procedures for the sale and rental of
9 moderately priced dwelling units (MPDU). Specifically, if the City opts not to purchase
10 an MPDU for which no eligible person has entered into a contract of sale within the 90
11 day marketing period to eligible persons, the Department of Planning and Zoning shall
12 provide written notice to the applicant containing an authorization to market the MPDU
13 to the general public for sale at the approved purchase price. The Department of
14 Planning and Zoning shall not issue an authorization to market to the general public
15 unless all requirements of Chapter 20.30 of the City Code have been satisfied. The
16 status of an MPDU for sale shall not change as a result of an offering to the general
17 public and all MPDUs that are sold to the general public shall be subject to MPDU
18 income requirements and shall be offered to residents of Anne Arundel County.

19
20 Any MPDU owner who rents an MPDU to an ineligible person shall pay all such rent into
21 the City's Homeownership Assistance Trust Fund 30 days after the Department of
22 Planning and Zoning notifies the owner of the rental violation. The Department of
23 Planning and Zoning may assess the owner a monthly fee that is equal to the HUD fair
24 market rent for the MPDU for each month that rent was charged and received in
25 violation of this chapter.

26
27 Prepared by Jessica Cowles, Legislative and Policy Analyst, Office of Law at
28 JCCowles@annapolis.gov or (410) 263-1184.
29

FISCAL IMPACT NOTE

Legislation No: O-28-12

First Reader Date: 7-23-12

Note Date: 9-14-12

Legislation Title: Amending the Procedures for the Sale and Rental of Moderately Priced Dwelling Units

Description: For the purpose of amending the procedures for the sale and rental of moderately priced dwelling units.

Analysis of Fiscal Impact:

This legislation produces no significant fiscal impact.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 11/13/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Rules and City Government Committee has reviewed 0-28-12 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

*with the understanding that
staff will work on legislation
to revamp the MPDU program*

Roll Call Vote:

Ald. Israel, Chair yes

Ald. Hoyle yes

Ald. Arnett yes

Meeting Date 11/13/12

Signature of Chair *Rebel Grand*



City of Annapolis City Council
Committee & Commission Referral Action Report

Date: 11/05/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Housing and Human Welfare Committee has reviewed 0-28-12 and
has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Kirby, Chair yes Ald. Hoyle yes Ald. Silverman n/A

Meeting Date 11-5-12

Signature of Chair Kenneth A Kirby

PLANNING COMMISSION
(410) 263-7961
MUNICIPAL BUILDING
ANNAPOLIS, MARYLAND 21401

September 13, 2012

MEMORANDUM

To: Annapolis City Council

From: Planning Commission

Re: Findings on Ordinance 0-28-12; Procedures for the Sale and Rental of Moderately Priced Dwelling Units.

SUMMARY

The proposed amendment to City Code Title 20 Chapter 20.30.130 modifies the procedure for developers to sell their MPDUs if the City cannot find eligible buyers within the specified marketing period. The amendment would change the law to allow sale to the public once the 90-day marketing period is completed and the Department is not interested in purchasing the MPDU.

On September 6, 2012, the Planning Commission held its regularly scheduled meeting and heard the proposed amendment, being properly advertised in accordance with the Annapolis City Code.

STAFF RECOMMENDATION

At the meetings referenced above, the Planning and Zoning staff presented their analysis of the amendment in a report dated August 29, 2012. Staff recommended approval of the amendment.

PUBLIC HEARING AND DELIBERATION

In accordance with the Annapolis City Code a public hearing was held and the public was invited to comment on the Application. No member of the public spoke at the public hearing.

RECOMMENDATION

In the discussion, it became clear that there was an inadvertent grammatical error in the language of the proposed amendment. The correct wording should be:

“IF NO BUYER WHO IS INCOME ELIGIBLE AND AN ANNE ARUNDEL COUNTY RESIDENT IS FOUND WITHIN 30 DAYS OF THE NOTICE TO SELL TO THE GENERAL PUBLIC THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING SHALL HAVE THE AUTHORITY TO WAIVE THESE REQUIREMENTS.” (Change underlined).

The Planning Commission, by a vote of 5-0-1, recommends approval of the amendment, as further amended.

Adopted this 4th day of October, 2012

Annapolis City Council
"Rodgers Property" Findings
October 20, 2005
Page 2

A handwritten signature in cursive script that reads "Dr. Eleanor Harris". The signature is written in dark ink and is positioned above the printed name.

Dr. Eleanor Harris, Chair

1 **CITY COUNCIL OF THE**
2 **City of Annapolis**

3
4 **Ordinance No. O-30-12**

5 **Introduced by: Alderman Arnett**
6
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12 To be considered jointly with R-39-12	10/13/12	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	9/24/12		

8
9 **AN ORDINANCE** concerning

10 **Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational**
11 **Vehicles, Boats, and Personal Watercraft in Residential Zoning Districts**

12 **FOR** the purpose of designating certain areas for parking and storage of automobiles,
13 motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft
14 in residential zoning districts.

15 **BY** repealing and re-enacting with amendments the following portions of the Code of the
16 City of Annapolis, 2011 Edition
17

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

20 **Chapter 17.40 – RESIDENTIAL PROPERTY MAINTENANCE CODE**

21 **Article I - Definitions.**

22 **17.40.265 - Property Maintenance Code.**

23 A. The International Property Maintenance Code, 2012 Edition, as published by the
24 International Code Council, Inc., a copy of which is on file in the Department of Neighborhood
25 and Environmental Programs, is adopted as the Property Maintenance Code of the City of
26 Annapolis in the State of Maryland for the control of buildings and structures with the following
27 amendments:

- 28 1. In Section 101.1 for "[NAME OF JURISDICTION]" insert "City of Annapolis"
29 2. In Section 103.5 for "[APPROPRIATE SCHEDULE]" insert "Fees established by
30 resolution of the City Council"

1 3. In Section 304.14 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October
2 31st"

3 4. In Section 602.3 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October
4 31st"

5 5. In Section 602.4 for "[DATES IN TWO LOCATIONS]" insert "April 15th - October
6 31st"

7 6. Strike the entire Section 404.5 Overcrowding and substitute Section 17.40.460 of the
8 Code of the City of Annapolis.

9 7. AMEND SECTION 302.8 TO READ AS FOLLOWS:

10 **302.8 Motor vehicles.**

11 **302.8.1 MAINTENANCE.** Except as provided for in other regulations, no inoperative or
12 unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle
13 shall at any time be in a state of major disassembly, disrepair, or in the process of being
14 stripped or dismantled. Painting of vehicles is prohibited unless conducted inside
15 an approved spray booth.

16 **Exception:** A vehicle of any type is permitted to undergo major overhaul, including body
17 work, provided that such work is performed inside a structure or similarly enclosed area
18 designed and approved for such purposes.

19 **302.8.2 STORAGE.** RESIDENT STORING OR PARKING OF, OR ALLOWING ANY
20 OTHER PERSON TO STORE OR PARK, ANY AUTOMOBILE, MOTORCYCLE,
21 TRAILER, MOTOR HOME, RECREATIONAL VEHICLE, BOAT, PERSONAL
22 WATERCRAFT, OR ANY OTHER MOTOR VEHICLE SHALL BE LIMITED TO GARAGES,
23 STREETS, OR CITY AUTHORIZED DRIVEWAYS OR PARKING LOTS WITHIN A
24 RESIDENTIAL ZONING DISTRICT. STORAGE OR PARKING IS NOT ALLOWED ON
25 YARDS OR OTHER UNPAVED AREAS.

26 B. In the event of any inconsistencies between the provisions of the International Property
27 Maintenance Code and the City Code, the more stringent shall govern.

28 Appendix A - Boarding standard shall be adopted as the City of Annapolis standard.
29

30 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
31 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

32 **ADOPTED** this _____ day of _____, _____.

33 ATTEST: THE ANNAPOLIS CITY COUNCIL
34

Regina C. Watkins-Eldridge, MMC, City Clerk

BY _____
Joshua J. Cohen, Mayor

35 **EXPLANATION**
36 CAPITAL LETTERS indicate matter added to existing law.
37

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[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

O-30-12

Designating Certain Areas for Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Residential Zoning Districts

R-39-12

Fines Schedule Updated for Violations of Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Undesignated Areas within Residential Zoning Districts

Policy Report

The proposed ordinance would designate garages, driveways, parking lots, and streets as the only areas for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, personal watercraft, or other motor vehicles in the 12 residential zoning districts. The residential zoning districts include all districts beginning with an "R" and C1, Conservation Residence, and C1-A, Special Conservation Residence.

The fine for violating this provision would be \$25 for the first violation and \$25 per violation per day for repeat or continuous violations.

Prepared by: Jessica Cowles, City of Annapolis Office of Law, JCCowles@annapolis.gov or (410) 263-1184.

FISCAL IMPACT NOTE

Legislation No: O-30-12

First Reader Date: 9/24/12

Note Date: 10/13/12

Legislation Title: Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Residential Zoning districts

Description: For the purpose of designating certain areas for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft in residential zoning districts.

Analysis of Fiscal Impact: This legislation produces no significant fiscal impact. Accompanying legislation R-39-12 provides for a fine of \$25 for the first violation and \$25 per violation day for repeat or continuous violations.

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**CITY COUNCIL OF THE
City of Annapolis**

Resolution No. R-39-12

Introduced by: Alderman Arnett and Alderman Kirby

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12 To be considered jointly with O-30-12	10/13/12	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	9/24/12		

8
9
10

A RESOLUTION concerning

Fines Schedule Updated for Violations of Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Undesignated Areas within Residential Zoning Districts

FOR the purpose of establishing a fine for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft in undesignated areas within residential zoning districts.

WHEREAS, Pending ordinance O-30-12 authorizes designated areas within residential zoning districts for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft as garages, driveways, parking lots, and streets; and

WHEREAS, R-39-12 establishes the fine for violations of O-30-12.

NOW, THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL that the Fines Schedule is hereby amended as follows:

28

Section in Code	Section Name	Fine for Initial Offense	Fine for Repeat or Continuous Violations
17.40.265	RESIDENTIAL PROPERTY MAINTENANCE CODE – PARKING IN UNDESIGNATED AREAS	\$25 PER VIOLATION	\$25 PER VIOLATION PER DAY

29

1 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that this Resolution
2 shall take effect from the date of its passage.

3
4 **ADOPTED** this _____ day of _____, _____.
5

ATTEST: THE ANNAPOLIS CITY COUNCIL

Regina C. Watkins-Eldridge, MMC, City Clerk

BY _____
Joshua J. Cohen, Mayor

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EXPLANATION
CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

FISCAL IMPACT NOTE

Legislation No: R-39-12

First Reader Date: 9/24/12

Note Date: 10/13/12

Legislation Title: Fines Schedule Updated for Violations of Parking and Storage of Automobiles, Motorcycles, Trailers, Motor Homes, Recreational Vehicles, Boats, and Personal Watercraft in Residential Zoning Districts

Description: For the purpose establishing a fine for parking and storage of automobiles, motorcycles, trailers, motor homes, recreational vehicles, boats, and personal watercraft in residential zoning districts.

Analysis of Fiscal Impact: This legislation provides for a fine of \$25 for the first violation and \$25 per violation day for repeat or continuous violations. The fiscal impact from fines depends on the number of violations cited.

1 **CITY COUNCIL OF THE CITY OF ANNAPOLIS**

2
3 **ORDINANCE NO. O-40-12**

4
5 **Introduced by Mayor Cohen**

LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
10/22/12	11/5/12012	11/5/12	01/13/13
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	10/22/12	11/19/12	Favorable

8
9
10 **AN ORDINANCE** concerning

11
12 **An Amendment to Lease of City Property: Boat Shows in Fall 2013**

13
14 **FOR** the purpose of authorizing an amendment to a lease of certain municipal property
15 to the United States Sailboat Shows, Inc. and United States Powerboat Shows,
16 Inc., to conduct boat shows for a certain period of time, including time in October
17 2013, subject to certain terms, provisions and conditions; and all matters relating
18 to the amendment of the lease.

19
20 * * * * *

21
22 **WHEREAS,** pursuant to Ordinance O-35-08 of the Annapolis City Council, and a lease
23 agreement dated January 21, 2009, the City of Annapolis has leased to
24 the United States Sailboat Shows, Inc., and United States Powerboat
25 Shows, Inc., certain municipal property to conduct boat shows during the
26 period October 7, 2013 through October 22, 2013, inclusive; and

27
28 **WHEREAS,** the Lessee has requested that the City of Annapolis amend the lease to
29 change the dates October 7, 2013 through October 22, 2013 to
30 September 30, 2013 through October 15, 2013;

31
32 **WHEREAS,** except as specifically amended above, all other provisions of the January
33 21, 2009 lease are to remain in full force and effect;

34
35 **WHEREAS,** the Annapolis City Council believes that these proposed boat shows
36 benefit the City of Annapolis; and

37
38 **WHEREAS,** Article III, Section 8 of the Charter of the City of Annapolis requires the
39 passage of an ordinance to authorize a lease;

1
2 **WHEREAS**, an amended lease setting forth terms has been prepared and is
3 considered satisfactory; and
4

5 **NOW THEREFORE:**
6

7 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS**
8 **CITY COUNCIL** that the amended lease, a copy of which is attached hereto, between
9 the City of Annapolis and United States Sailboat Shows, Inc., and United States
10 Powerboat Shows, Inc., amending the January 21, 2009 lease between the City of
11 Annapolis and United States Sailboat Shows, Inc., and United States Powerboat
12 Shows, Inc., a copy of which is attached hereto, deleting "2013 - October 7 through
13 October 22, inclusive, and replacing this with 2013 - September 30 through October 15,
14 inclusive with all other provisions of the January 21, 2009 lease remaining in full force
15 and effect, is hereby approved and the Mayor is hereby authorized to execute the
16 amended lease on behalf of the City of Annapolis.
17

18 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
19 **ANNAPOLIS CITY COUNCIL** that it is expressly found by the Annapolis City Council
20 that the property which is the subject of the amended lease will better serve the public
21 need for which the property was acquired by stimulating local interest in the boating
22 industry, by encouraging visitors and residents of the City to visit the harbor and dock
23 area, by generating tax revenues and rental income to the City of Annapolis, and by
24 otherwise providing economic benefits to the City of Annapolis.
25

26 **SECTION III: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
27 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its
28 passage.
29

30
31 **ADOPTED** this _____ day of _____, _____.

32
33 **ATTEST:**
34
35

THE ANNAPOLIS CITY COUNCIL

36
37 _____
38 Regina C. Watkins-Eldridge, CMC
39 City Clerk

BY: _____
Joshua J. Cohen, MAYOR

LEASE AGREEMENT

Authorized by O-35-08

THIS AGREEMENT, made this _____ day of _____, 2009, by and between **THE CITY OF ANNAPOLIS**, a municipal corporation (hereinafter called "Lessor") on the one hand and the **UNITED STATES SAILBOAT SHOWS, INC.** and **UNITED STATES POWERBOAT SHOWS, INC.** (hereinafter jointly and severally called "Lessee").

Article I

Section 1.1. Premises and Term: Lessor hereby leases to Lessee, for the purpose of holding two boat shows, that property and water hereinafter called the "premises" described and shown on Exhibit A, (the sidewalk on Dock Street between Craig Street and the bulkhead at the Department of Natural Resources is not within the "premises" and is to be left open for public access), which is attached hereto and made a part hereof, for the periods of time hereinafter designated, subject to the provisions and terms of this agreement:

2013 – October 7 through October 22, inclusive

2014 – October 6 through October 21, inclusive

Section 1.2. Revisions to Premises: Lessor shall have the right to change the area of the premises from time to time in order to reflect any change in ownership or infrastructure. If the total area of the premises (exclusive of the Edgewood Road property) is reduced pursuant to this paragraph by five percent (5%) or more of the total area, Lessee shall be entitled to pro rata reduction in the Base Rent. If the total area of the premises is reduced pursuant to this paragraph by ten percent (10%) or more of the total area, Lessee shall have the right to pro rata reduction or to terminate the Lease. If Base Rent is determined using Ticket Sales Base Rent, then the reduction hereunder shall be calculated by reducing the fifty percent (50%) multiplier under Section 1.3(a) to reflect the area reduction (e.g. If the premises is reduced ten percent (10%) then Base Rent will equal: [50% x 90%] x gross ticket receipts). If the Base Rent is determined using Minimum Base Rent, then the reduction hereunder shall be determined using Minimum Base Rent, then the reduction hereunder shall be calculated by reducing the Base Rent by the percentage of the reduction of the total area. For purposes of this Section, the Edgewood Road property shall not be included in premises area calculations or in rent adjustments.

Section 1.3. Rent: Except as provided in Section 2.3, Base Rent shall be: (A) the greater of (i) 50% of Lessee's gross receipts (after deducting admission taxes) from the sale by Lessee of tickets for admission to the shows for that year (hereinafter "Ticket Sales Base Rent") or, (ii) Three Hundred Seventy-Five Thousand Nine Hundred Fifty Dollars (\$375,950.00) (hereinafter "Minimum Base

1 Rent"); plus (B) if the Edgewood Road property is used, Two Thousand Sixty
2 Dollars (\$2,060.00) each year used (hereinafter "Edgewood Road Rent"), Lessee
3 shall pay Lessor the Minimum Base Rent, in full, within thirty (30) days of the
4 close of the show. Any further monies over the Minimum Base Rent due to
5 Lessor as a result of ticket sales shall be paid by Lessee to Lessor
6 simultaneously with the payment of the State admissions tax. Proof of gross
7 receipts from ticket sales shall be supplied at that time to the City of Annapolis
8 Director of Finance in a form satisfactory to the said Director. In addition to the
9 Base rent, Lessee shall pay Lessor, Additional Rent equal to Twenty-Five
10 Thousand Seven Hundred Fifty Dollars (\$25,750.00) toward the costs incurred by
11 the City in providing electricity, water, inspections and public safety services to
12 the Boat Shows and in providing increased public services during the Shows.
13 Lessee shall pay Lessor the Additional Rent and (if applicable) Edgewood Road
14 rent, in full, at the time Lessee pays the Minimum Base Rent.

15
16 **Article II**

17 **Section 2.1. Number of Days:** Lessor grants to Lessee the right to add
18 one day at the end of either or both of the two boat shows for general public
19 admission. Lessee shall have the right, in its sole discretion, to reduce the
20 number of days of either or both of the boat shows.

21 **Section 2.2. Other Boat Shows:** Lessor covenants that it will not lease
22 the premises for the purpose of holding boat shows on the premises from June 1
23 through November 30 in each of the years of 2013 and 2014. Lessee may, within
24 its sole discretion, provide written authority to waive these restrictions. These
25 restrictions shall be deemed to be waived by Lessee automatically as to either
26 boat show (power or sail) reduced to less than one 10-hour day under Section
27 2.1.

28 **Section 2.3. Adjustment to Rent:** The Minimum Base Rent and
29 Additional Rent shall be increased or reduced proportionately, if Lessee
30 exercises its rights to extend or shorten the number of days pursuant to Section
31 2.1. Notice of any such extension or shortening shall be given by Lessee in
32 writing to Lessor by June 1 of the year in which the affected show is to be held.
33 All of the other provisions of the lease shall remain in full force and effect.

34
35 **Article III**

36 **Section 3.1. Facilities and Services:** Lessee shall have the use of the
37 following facilities and services without additional charge:

38 All that area indicated on Exhibit A (except as the area may be revised pursuant
39 to Paragraph 1.2 hereof), which is attached hereto and made a part hereof,
40 including Lessor's right and interest in the so-called "Fawcett's Lot", and all
41 related facilities including ingress and egress, existing and normal street and
42 harbor lighting, existing and normal electricity, water supply for said area, and
43 normal police and fire protection.

1 **Section 3.2. Police Services:** Lessor agrees to provide police services
2 related to traffic control outside the show, security for Boat Show office within the
3 show and liaison with Lessee's security guards inside the show without further
4 charge.

5 **Section 3.3. Fire Services:** Lessor agrees to provide fire protection as
6 required without further charge. Following the erection of all booths and other
7 show structures as described under Section 7.1 hereof but before the show
8 opens, the parties shall meet at the premises to assure compliance with Fire
9 Department regulations and accessibility of fire lanes and turning radius. No
10 open flame devices or running of watercraft propulsion engines shall be
11 permitted on the demised premises during the open hours of the shows.

12 **Section 3.4. Utilities:** Lessor shall provide water and electricity without
13 further charge. Lessee at its own expense shall install all temporary electrical
14 equipment, lines and devices required to provide power to the premises in
15 compliance with National Electric Code. Lessee shall be responsible for refuse
16 removal as provided under Section 8.1 hereof.

17 **Section 3.5. Parking and Transportation:** The Lessee shall coordinate
18 all plans for the provision of any intra-city mode of transportation during the
19 course of the boat shows with the City of Annapolis Department of
20 Transportation. Lessee shall furnish to Lessor a transportation plan including a
21 parking element.

22 **Section 3.6. Pre-Show Meetings and Inspection:** Prior to the opening of
23 each show, representatives of the Department of Neighborhood and
24 Environmental Programs, Annapolis Police Department, Annapolis Fire
25 Department, Harbormaster, and Annapolis Department of Public Works shall
26 inspect the premises and nearby areas with Lessee's representative to determine
27 compliance with City requirements and for determination of the condition of City
28 property to be leased. Written approval by representatives of all these
29 departments is required before Lessee may open the show. The opening of the
30 show shall not be delayed by any department whose representative is not
31 present for said inspection. Lessor shall not refuse permission to open the show
32 or any part of the show under this paragraph unless a threat to health or safety
33 has been identified. Lessor shall make every effort to limit that part of the show
34 not opened in the event of such threat and to allow Lessee to open the closed
35 portion of the show as soon as the threat is abated to Lessor's satisfaction. All
36 other federal, state or county permits which may be required shall be the
37 responsibility of the Lessee.

38 **Section 3.7. Transportation:** The Lessee shall prepare and submit to the
39 Director of Transportation a Transportation Plan with a Parking Element. The
40 Plan shall address matters specified by the Director and shall be submitted no
41 later than August 15 of each year for which the premises are leased. Except for
42 public ways within the leased premises, the Plan shall not provide for the closure
43 of any street or restrict parking to those associated with the boat shows.

1 Moreover in publicizing the boat shows, the Lessee will direct all persons
2 attending the event to park their vehicles at satellite lots and ride the shuttle to
3 the site of the boat shows. Upon receipt of the Plan, the Director shall make
4 copies available to relevant agencies and to interested parties who have
5 requested a copy.

6
7 **Article IV**

8 **Section 4.1. Insurance:** Lessee shall, at its own expense, obtain and
9 keep in full force and effect comprehensive commercial general liability insurance
10 of no less than Two Million Dollars (\$2,000,000.00) combined single limit, bodily
11 injury and property damage; and Eight Million Dollars (\$8,000,000.00) umbrella
12 policy; which shall be effective during the entire period of time during which the
13 Lessee shall use or occupy the premises, or any part thereof.

14 Such insurance policy shall specifically name the City of Annapolis, and in their
15 capacity as such, the officers, agents and employees thereof, as additionally
16 insured, and insure against any and all loss, costs, damages, and expenses
17 suffered by any person, or to any property, including property owned by Lessor,
18 due to or alleged to be due to: an act, omission or the negligence of Lessee, its
19 officers, agents, employees, vendors, subtenants or contractors; or directly or
20 indirectly to the use of the premises, or any part thereof by Lessee, its officers,
21 agents, employees, vendors, subtenants or contractors.

22 The insurer or insurers of the policy or policies referred to in the preceding
23 paragraph shall be: authorized to write the required insurance; approved by the
24 Insurance Commissioner of the State of Maryland; and subject to the reasonable
25 approval of the City Attorney of Annapolis. The form and substance of the policy
26 or policies of insurance shall also be subject to reasonable approval by the City
27 Attorney of the City of Annapolis, and shall be submitted to the City Attorney for
28 such approval not less than thirty (30) days prior to Lessee's occupancy of the
29 premises. Said policy or policies of insurance shall then be secured by Lessee
30 and filed with the City Attorney of the City of Annapolis not less than fifteen (15)
31 days prior to Lessee's occupancy of the premises. Said approvals shall not be
32 unreasonably withheld.

33 The Certificate for each such insurance policy shall contain a statement on its
34 face that the insurer will not cancel the policy or fail to renew the policy, whether
35 for nonpayment of premium, or otherwise, and whether at the request of Lessee
36 or for any other reason, except after thirty (30) calendar days advance written
37 notice mailed by the insurer to the City Attorney of the City of Annapolis and that
38 such notice shall be transmitted postage prepaid, with return receipt requested.

39 The obligations of Lessee under this Article are part of but do not limit or satisfy
40 Lessee's obligations under Article V.

41
42 **Article V**

43 **Section 5.1. Indemnity:** Lessee agrees that it shall forever indemnify,

1 defend and hold harmless the Lessor, its officers, agents, employees, from and
2 against any and all claims, suits, actions, judgments, and liability for loss, injury,
3 damages and/or expenses suffered or alleged to have been suffered by any
4 person or to any property due to or alleged to be due to: an act, omission or the
5 negligence of Lessee, its officers, agents, employees, vendors, subtenants or
6 contractors; or directly or indirectly the use of the leased premises, or any part
7 thereof, by Lessee, its officers, agents, employees, vendors, subtenants or
8 contractors.

9 Lessee agrees to reimburse Lessor, within thirty (30) days after demand for such
10 reimbursement, for any damage done to Lessor's buildings, facilities, equipment
11 or property caused by an act, omission or the negligence of Lessee, its officers,
12 agents, employees, vendors, subtenants or contractors during Lessee's use and
13 occupancy of the leased premises or any part thereof.

14
15 **Article VI**

16 **Section 6.1.** Security: Lessee shall contract with and pay, as independent
17 contractors, security guards from an agency duly licensed by the State of
18 Maryland, in numbers sufficient to maintain security, peace and order at the boat
19 shows inside the premises during the lease term.

20
21 **Article VII**

22 **Section 7.1. Interior Construction:** Lessee shall have the right to
23 construct, install or erect seats, platforms, booths, tanks, scaffolding, rigging,
24 floating piers, pilings, docks, catwalks, tents, exhibits, and any other apparatus or
25 structure which Lessee may deem necessary or desirable for the purpose of
26 presenting the boat shows. In addition, the Lessee shall have the right to erect
27 and construct a temporary fence so as to enclose the premises in such a manner
28 as to limit entry onto the premises through controlled entrances. Such fence shall
29 not contain barbed wire, razor wire or any similar materials.

30 **Section 7.2. Exterior Construction:** Lessee agrees to erect and
31 construct temporary wooden sidewalks, wherever necessary to provide for
32 pedestrian traffic, outside of the leased premises where the existing sidewalks
33 are enclosed in the premises by said temporary fence described in Section 7.1.
34 Said walks shall be handicap accessible and illuminated during the hours of
35 darkness and maintained by Lessee in a safe and secure condition.

36 **Section 7.3. ADA and Other Permits:** Lessee hereby assumes exclusive
37 responsibility for compliance with any and all applicable provisions of the
38 Americans with Disabilities Act of 1990, as amended from time to time at the
39 demised premises, during the entire time Lessee uses or occupies those
40 premises, or any part thereof, pursuant to this Lease Agreement. Subject to the
41 inspection provisions of Section 3.7 and to standard public safety and health
42 approvals, any and all permit, license or authorization required to be obtained
43 from the City or any agency thereof by the Lessee during the term of this Lease

1 for the purpose of constructing or erecting the temporary structures described in
2 Sections 7.1 and 7.2 above or for operating the shows, shall be deemed granted
3 and issued upon the execution of this Lease by the Lessor and Lessee. All other
4 federal, state or county permits, which may be required, shall be the
5 responsibility of the Lessee.

6
7 **Article VIII**

8 **Section 8.1. Trash:** Lessee, at its own expense, shall provide an
9 adequate number of trash containers for its use within the show grounds during
10 the entire occupancy period of the premises and shall provide for the prompt
11 removal of said containers, trash and refuse. Lessor, at its own expense, shall
12 provide an adequate number of trash dumpsters outside the show grounds for
13 the use of Lessee during the occupancy period and shall provide for the prompt
14 removal of trash and refuse in these dumpsters.

15 **Section 8.2. Cleanliness:** Lessee shall be responsible for keeping the
16 premises free of debris, trash and refuse and shall place the same in dumpsters
17 or receptacles.

18 **Section 8.3. Sanitation and Toilets:** Lessee shall, at its own expense,
19 provide adequate and sanitary toilet facilities throughout the demised premises
20 for use by the general public and others attending or participating in the boat
21 shows.

22
23 **Article IX**

24 **Section.9.1. Quiet Enjoyment:** Lessor covenants with Lessee that at all
25 times during the term of this Lease Agreement, Lessee shall peacefully hold and
26 quietly enjoy the demised premises without any disturbance or hindrance from
27 Lessor or from any other person claiming through Lessor, except that the City or
28 others claiming through the Lessor, may enter onto the demised premises to
29 effect necessary repairs to their own facilities as reasonably contemplated by the
30 terms of this Agreement and to assure compliance with the terms of this
31 Agreement. Lessee shall cooperate with the Lessor to effect this access to the
32 demised premises.

33 **Section 9.2. Trash and Public Safety Cooperation:** The parties agree to
34 cooperate with each other and use their best efforts to ensure that there is
35 prompt trash removal, public safety protection and adequate traffic control during
36 the designated period of occupancy by the Lessee of the premises.

37
38 **Article X**

39 **Section 10.1. Condition of Premises After Show:** Following the
40 occupancy period, the Lessee, at Lessee's sole expense, shall return the
41 premises in the same or superior condition than received, natural wear and tear
42 excepted.

43 **Section 10.2. Lessee's Equipment After Show:** Prior to the expiration of

1 the lease term, Lessee shall immediately remove all of its property, fixtures and
2 chattels from the leased premises. In the event that Lessee, its officers, agents,
3 employees, vendors, subtenants or contractors fail to remove any item of
4 property, Lessor reserves the right to remove and store any such property after
5 the expiration or termination of the lease term at Lessee's expense or as an
6 alternative, to leave the property at the leased premises. In either case, Lessor
7 shall charge Lessee per diem rental for storage of such property. Lessor shall
8 bear no responsibility or liability for damage to or expense incurred as a result of
9 property left, removed or stored under the provisions of this Section. Lessee shall
10 pay to Lessor any expenses or charges under this Section billed to Lessee by
11 Lessor within thirty (30) days after delivery of any such bill by Lessor to Lessee.

12 **Section 10.3. Post-Show Inspection:** Within ten (10) days following the
13 expiration of the occupancy period, Lessee shall accompany Lessor during a tour
14 of the premises to determine the condition thereof. Items corrected or repaired by
15 Lessor, deemed by Lessor to be the responsibility of Lessee, shall be billed by
16 Lessor and paid by Lessee within thirty (30) days after receipt of such bill.

17 **Article XI**

18 **Section 11.1. Remedies:** It is understood and agreed that any and all
19 duties, liabilities and/or obligations imposed upon or assumed by Lessee and
20 Lessor by or under this lease shall be taken or construed as cumulative and that
21 the mention of any specified duty, liability or obligation imposed upon or assumed
22 by Lessee or Lessor under this Lease, shall not be taken or construed as a
23 limitation or restriction upon any or all of the other duties, liabilities, or obligations
24 imposed upon or assumed by Lessee under this Lease. The remedies provided
25 herein shall be construed to be cumulative and in addition to any other remedies
26 provided herein, or any remedies provided in law or equity which Lessor or
27 Lessee would have in any case. It is understood and agreed that Lessor shall
28 have the right to seek and obtain in any court of competent jurisdiction an
29 injunction without the necessity of posting a bond to restrain a violation or alleged
30 violation by Lessee of any covenant or covenants contained in this agreement,
31 anything to the contrary notwithstanding. In no case shall a waiver by either party
32 of the right to seek relief under this provision constitute a waiver of any other or
33 further violation. The remedies provided hereunder shall not be deemed
34 exclusive of other remedies not specified.

35 **Article XII**

36 **Section 12.1. Impossibility of Performance:** If, for any reason, an
37 unforeseen event not the act of Lessor occurs, including but not limited to fire,
38 casualty, act of God, labor strike or other unforeseen occurrence which renders
39 impossible the fulfillment of any rental period of this Lease, Lessee shall have no
40 right to nor claim for damages against Lessor; but Lessee shall not be liable for
41 the payment of rent for said rental period, except that if such impossibility relates
42
43

1 only to more than five percent (5%) of the rental period, Base Rent, if determined
2 under Section 1.3(A)(ii) hereof, shall be prorated to account for the number of
3 scheduled hours the Show is not open to the public.

4
5 **Article XIII**

6 **Section 13.1. Payment:** Lessee shall make all payments due under this
7 Agreement by check, made payable to the City of Annapolis. In addition to all
8 other amounts due hereunder, Lessee shall pay Lessor a monthly late fee of
9 1.5% (18% per annum) of any payment more than sixty (60) days past due, until
10 paid.

11
12 **Article XIV**

13 **Section 14.1. Time is of the Essence:** Time is of the essence in the
14 performance of this Agreement, and the times herein granted shall not be
15 extended for any reason, except as provided herein, for the occupancy or use of
16 the aforementioned premises or for the installation or removal of equipment,
17 materials or displays therefrom without written permission from the Lessor.

18
19 **Article XV**

20 **Section 15.1. Assignment:** Lessee shall not assign, transfer, or
21 otherwise dispose of this Lease without the prior written consent of Lessor, but
22 such consent shall not be unreasonably or arbitrarily withheld. The foregoing
23 shall not prevent Lessee from subleasing portions of the premises to boat show
24 exhibitors provided the portion of the premises subleased to any exhibitor does
25 not exceed twenty-five percent (25%) of the total area of the Premises.

26
27 **Article XVI**

28 **Section 16.1. Independent Contractor:** Lessee herein is an
29 independent contractor and not the agent or employee of the Lessor. Under no
30 circumstances shall this Lease be considered a partnership or joint venture.

31
32 **Article XVII**

33 **Section 17.1. Liens, Etc:** Lessee hereby consents to and Lessor shall
34 have a lien upon all property of Lessee located from time to time upon the
35 premises for any and all unpaid charges which arise under this Lease. Lessee
36 hereby consents to and Lessor shall have the power to impound and retain the
37 possession of such property until all such charges and late fees due under Article
38 XIII have been paid, in full, to the satisfaction of Lessor. In the event such
39 charges remain unpaid ten (10) days after the termination of the rental period,
40 the Lessor shall have the power to sell such property at public auction, and apply
41 the receipts from such auction to all such unpaid charges.

42
43 **Article XVIII**

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INC. UNITED STATES SAILBOAT SHOWS,

Witness

BY: _____
C. EDWARD HARTMAN, PRESIDENT

UNITED STATES POWERBOAT SHOWS, INC.

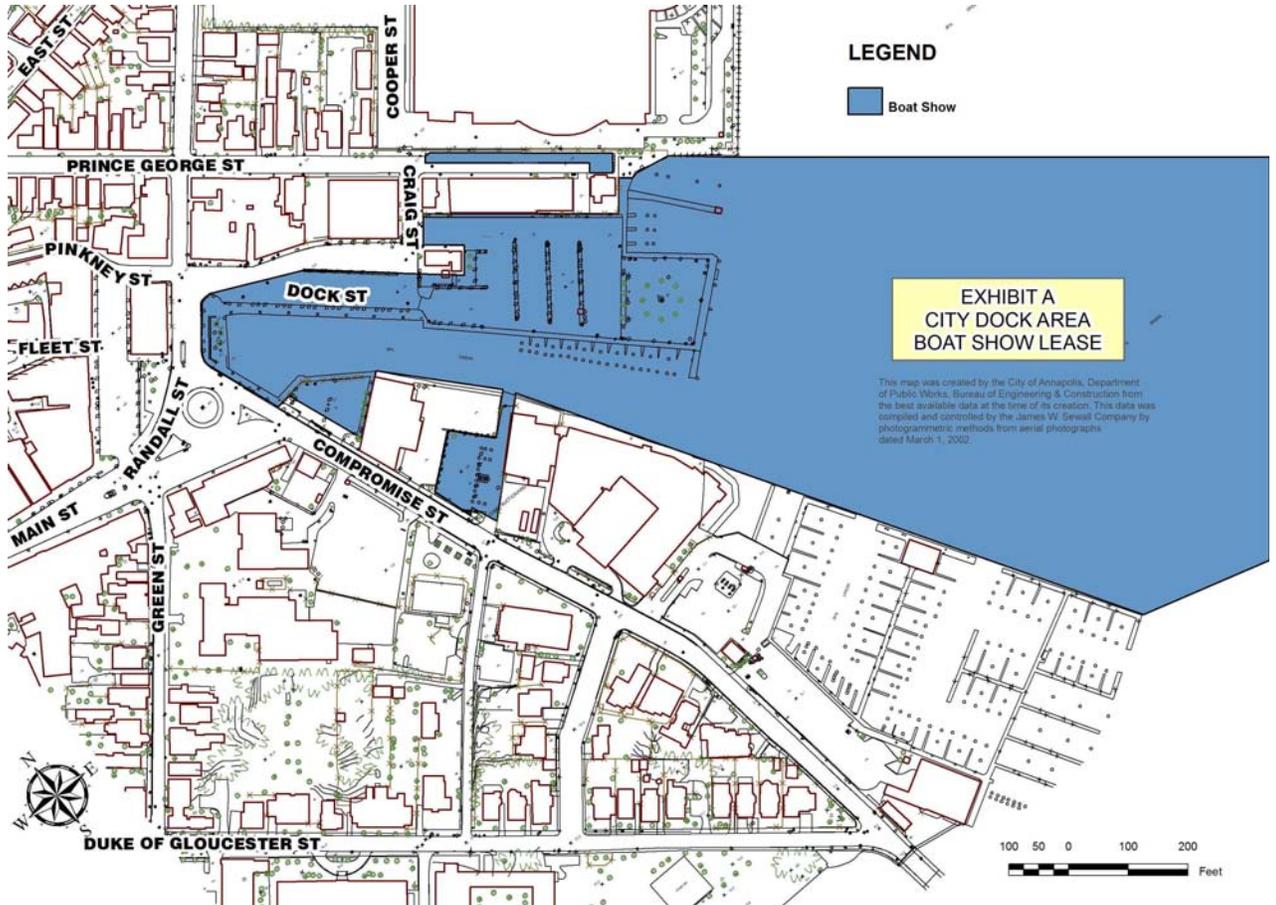
Witness

BY: _____
C. EDWARD HARTMAN, PRESIDENT

Approved as to form and legal sufficiency:

Steve Kling Date
Acting City Attorney

Exhibit A



AMENDMENT TO LEASE AGREEMENT

THIS AMENDEMENT TO LEASE AGREEMENT is made this ____ day of _____, 2012, by and between **THE CITY OF ANNAPOLIS**, a municipal corporation of the State of Maryland (“Lessor”), and **UNITED STATES SAILBOAT SHOWS, INC.**, and **UNITED STATES POWERBOAT SHOWS, INC.** (jointly and severally “Lessee”)

PREAMBLE

By a lease agreement dated January 21, 2009, Lessor leased to Lessee City property for use for boat shows for a term in 2013 beginning October 7 and ending October 22, inclusive. The parties now desire to change the dates of occupancy, but otherwise retain in full force effect all remaining portions of the lease agreement.

AMENDMENT

Line eight of **ARTICLE I, SECTION 1.1, PREMISES and TERM** of the original Lease Agreement reading: “2013 – October 7 through October 22, inclusive” shall be and is hereby deleted and is hereby replaced with the following language: “2013 – September 30 through October 15.”

Except as specifically amended above, all of the remaining provisions of the January 21, 2009 lease agreement shall remain in full force and effect and are hereby ratified by all parties.

IN WITNESS WHEREOF, the parties have duly executed this Amendment to Lease Agreement the day and year first written above.

ATTEST:

CITY OF ANNAPOLIS

Regina C. Watkins-Eldridge, CMC, City Clerk

By: _____
Joshua J. Cohen, Mayor

UNITED STATES SAILBOAT SHOWS, INC.,

Witness

By: _____
C. Edward Hartman II, President

INC.

UNITED STATES POWERBOAT SHOWS,

Witness

By: _____
C. Edward Hartman II, President

Approved as to form and legal sufficiency:

Gary M. Elson, Assistant City Attorney

Date

Staff Paper

O-35-08 Lease of City property: Boat Shows in 2013 & 2014

Under Article II, Section 8 of the Annapolis City Charter, it is necessary for the City Council to enact an ordinance to authorize a lease of City property. O-35-08 seeks to do just that for the Boat Shows in 2013 & 2014. Areas of the City to be leased include municipal property located in the general harbor, Dock Street, and the Edgewood Road area.

The lease would be executed as between the City of Annapolis (Lessor) and United States Sailboat Shows, Inc., and United States Powerboat Shows, Inc. (Lessee). Under the terms of the lease, rent shall be (A) the greater of (i) 50% of Lessee's gross receipts (after deducting admission taxes) from the sale by Lessee of tickets for admission to the shows for that year (hereinafter "Ticket Sales Base Rent") or, (ii) Three Hundred Seventy-Five Thousand Nine Hundred Fifty Dollars (\$375,950.00) (hereinafter "Minimum Base Rent"); plus (B) if the Edgewood Road property is used, Two Thousand Sixty Dollars (\$2,060.00) each year used (hereinafter "Edgewood Road Rent"). In addition to the Base rent, Lessee shall pay Lessor, Additional Rent equal to Twenty-Five Thousand Seven Hundred Fifty Dollars (\$25,750.00) toward the costs incurred by the City in providing electricity, water, inspections and public safety services to the Boat Shows and in providing increased public services during the Shows. Lessee shall pay Lessor the Additional Rent and (if applicable) Edgewood Road rent, in full, at the time Lessee pays the Minimum Base Rent.

Just as with the lease executed last year (O-01-07; for years 2009, 2010, and 2011), the Lessee is responsible for the development of a transportation plan which includes a parking element.

Prepared by Seth B. Zirkle, Office of Law

FISCAL IMPACT NOTE

Legislation No: O-40-12 **First Reader Date:** 10/22/12
Note Date: 11/2/12

Legislation Title: An Amendment to Lease of City Property: Boat Shows in Fall 2013

Description: For the purpose of authorizing an amendment to a lease of certain municipal property to the United States Sailboat Shows, Inc. and United States Powerboat Shows, Inc., to conduct boat shows for a certain period of time, including time in October 2013, subject to certain terms, provisions and conditions; and all matters relating to the amendment of the lease.

Analysis of Fiscal Impact: This legislation changes the dates of the 2013 show from October 7, 2013 through October 22, 2013, inclusive, to September 30, 2013 through October 15, 2013. The date change produces no significant fiscal impact.



City of Annapolis City Council
Standing Committee Referral Action Report

Date: 11/19/12

To: Jessica Cowles,
City of Annapolis Office of Law,
Legislative and Policy Analyst

The Economic Matters Committee has reviewed 0-40-12 and has taken the following action:

Favorable

Favorable with amendments

Unfavorable

No Action

Other

Comments:

Roll Call Vote:

Ald. Paone, Chair yes

Ald. Finlayson yes

Ald. Pfeiffer yes

Meeting Date _____ Signature of Chair _____

1 CITY COUNCIL OF THE
2 City of Annapolis

3 Ordinance No. O-36-12

4 Introduced by: Mayor Cohen and Alderman Arnett
5
6
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12	10/13/12	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	9/24/12		

8
9 **AN ORDINANCE** concerning

10 **Permitted Hours of Sidewalk Cafes**

11 **FOR** the purpose of authorizing permitted sidewalk cafes to remain open during the normal
12 business hours governing such establishments.

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Chapter 7.42
16

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

19 **Chapter 7.42 – Sidewalk Cafes**

20 **7.42.010 - Sidewalk café—Defined—Permit required.**

21 A. A person shall not construct, maintain, use or operate a sidewalk café without first
22 obtaining a permit as provided in this chapter.

23 B. An application for a sidewalk café permit shall be made to the City Clerk on forms provided
24 by the City Clerk. The application shall be made by the operating establishment.

25 C. A sidewalk café permit shall be for one year from May 1st in each year until the following
26 April 30th, except that, for the 1996-1997 term, the permit shall be valid from the date on which
27 the permit is issued, even if prior to May 1, 1996. The holder of a permit shall pay an annual fee
28 as established by resolution of the City Council. The annual fee shall be paid with the original
29 permit application and with the request for renewal of the permit.

30 D. For purposes of this chapter, "sidewalk café" means any area situated on a public sidewalk
31 where food, refreshments, and/or beverages are sold by a restaurant, delicatessen, ice cream
32 shop or coffee shop (hereinafter "operating establishment") for public consumption at tables or
33 counters located on the sidewalk fronting the operating establishment. Sidewalk cafés shall

1 operate only as authorized pursuant to this chapter.

2

3 **7.42.020 - Standards.**

4 A. No part of a sidewalk café area shall encroach upon any part of the sidewalk frontage of
5 any adjacent premises, right-of-way or alley.

6 B. A sidewalk café must leave a minimum six-foot unobstructed passageway for pedestrians
7 along the length of the café. For operating establishments adjacent to sidewalks less than ten
8 feet wide at the location of the proposed sidewalk café, the City Clerk, with the consent of the
9 Department of Public Works, may reduce the unobstructed passageway to not less than that
10 required by the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) or its successors.

11 C. The holder of a sidewalk café permit shall fully insure, indemnify, defend and hold
12 harmless the City and in their capacity as such, the officers, agents and employees thereof from
13 and against any and all claims and damages in any way arising out of or through the acts or
14 omissions of the permit holder or its employees in the construction, operation, maintenance,
15 use, placement or condition of the sidewalk café. An applicant for sidewalk café shall provide
16 proof of such insurance before a permit may be issued or renewed under this chapter.

17 D. A sidewalk café shall close and all café seating shall be removed from the café area no
18 later than [eleven p.m.] THE PERMITTED CLOSING TIME OF THE OPERATING
19 ESTABLISHMENT. The café area shall be cleared of all other furniture (excepting any furniture
20 approved pursuant to Section 21.08.060(C) to remain in the café area overnight), debris and
21 obstructions to the sidewalk no later than [midnight] THE PERMITTED CLOSING TIME OF
22 THE OPERATING ESTABLISHMENT.

23 E. An operating establishment shall not sell, serve or allow consumption of alcoholic
24 beverages on its sidewalk café without obtaining the required license from the Alcoholic
25 Beverage Control Board. Alcoholic beverages shall be served on the sidewalk café only in
26 conjunction with the service of food. Notwithstanding any contrary or different hours of operation
27 in its alcoholic beverages license, an operating establishment shall not sell, serve or allow
28 consumption of alcoholic beverages on its sidewalk café after the [sidewalk café's]
29 OPERATING ESTABLISHMENT'S PERMITTED closing time.

30 F. Sidewalk café furniture shall comply with any and all guidelines adopted pursuant to
31 Section 21.08.060(C) of this code. Except as otherwise provided pursuant to Section
32 21.08.060(C), all sidewalk café furniture shall be readily moveable and shall be stored indoors
33 when not in use. No permanent structures or improvements shall be installed in or near the café
34 area.

35 G. The following are prohibited in the café area: cooking of food; unshielded trash or refuse
36 storage; advertisements (exclusive of menus intended to be read from café); outdoor
37 entertainment, music, speakers, or public address system; exclusively carry-out transactions.

38 H. A sidewalk café shall comply with all applicable building, health, safety, fire, zoning and
39 environmental standards.

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7.42.030 - Existing sidewalk cafés.

Sidewalk cafés in existence in the C2 district as of November 13, 1995 under authority of a lease agreement with the City, may, at the option of the lessee, continue to operate pursuant to either the existing terms of such lease agreement or the terms of this chapter.

7.42.040 - Sidewalk café violation.

The provisions of this chapter shall be enforced by the Department of Public Works. A person who continues to violate this chapter after a written request to take corrective action is guilty of a municipal infraction and shall be fined for each violation as established by resolution of the City Council plus costs. In addition, the City Council may revoke or suspend a permit issued pursuant to this chapter upon a second or subsequent conviction under this section in any twelve month period.

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.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

O-36-12

Permitted Hours of Sidewalk Cafes

Policy Report

The proposed ordinance would authorize permitted sidewalk cafes to remain open during the operating hours of such establishments. For permitted sidewalk cafes, the operating hours for such establishments are authorized generally in the zoning code or may be subject to a special exception or restrictions from the Alcoholic Beverage Control Board (ABCB). If there is a discrepancy in operating hours between a special exception or ABCB restrictions, the special exception operating hours prevail.

Prepared by: Jessica Cowles, City of Annapolis Office of Law, JCCowles@annapolis.gov or (410) 263-1184.

FISCAL IMPACT NOTE

Legislation No: O-36-12

First Reader Date: 9/24/12

Note Date: 10/13/12

Legislation Title: **Permitted Hours of Sidewalk Cafes**

Description: For the purpose of authorizing permitted sidewalk cafes to remain open during the normal business hours governing such establishments.

Analysis of Fiscal Impact: This legislation should produce no significant fiscal impact.

1 CITY COUNCIL OF THE
2 City of Annapolis

3
4 Ordinance No. O-42-12

5 Introduced by: Alderwoman Finlayson
6
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LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
11/26/12			
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Government			

8
9 AN ORDINANCE concerning

10
11 Residency of Certain Department Directors

12 FOR the purpose of amending the residency requirement for certain department directors.

13 BY amending the following portion of the Code of the City of Annapolis, 2012 Edition:
14 2.04.060.
15

16
17 SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY
18 COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

19 2.04.060 – Residency of department directors.

20 The department directors specified in this section shall reside either in the City or within a
21 [fifteen] FIFTY-road-mile radius of the City's boundaries, except at the time of appointment or
22 employment. The residence required by this section shall be established within three months of
23 appointment or employment by the following department directors:

- 24 A. Chief, Police Department;
25 B. Chief, Fire Department;
26 C. Director of Public Works.
27

28 SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE
29 ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage.
30

31 ADOPTED this _____ day of _____, _____.
32
33

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

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EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

[brackets] indicate matter stricken from existing law.

Underlining indicates amendments.



Chartered 1708

Joshua J. Cohen, Mayor
City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

November 21, 2012

To: City Council

CC: Regina Watkins-Eldridge

From: Josh Cohen

Re: Council Compensation Commission

I respectfully submit for your approval the appointment of Mayor Richard Hillman and Ms. Candice Donoho to the Council Compensation Commission. These appointments are in addition to those approved in the original legislation.

Thank You.

JJC/hrr



Chartered 1708

Joshua J. Cohen, Mayor
City of Annapolis
160 Duke of Gloucester Street
Annapolis, Maryland 21401

November 21, 2012

To: Mayor Josh Cohen and the City Council

CC: Regina Watkins-Eldridge

From: Transportation Committee

Re: Hillman Garage Advisory Commission

I respectfully submit for your approval the appointment of Mr. Charles Weikel and Ms. Ann Berger to the Hillman Garage Advisory Commission. These appointments are in addition to those approved in the original legislation.

Thank You.

IP/hrr

November 5, 2012

To: City Council

From: Mayor Joshua J. Cohen

Re: Hillman Garage Advisory Committee

Pursuant to Resolution R-32-12, the nine proposed members of the Hillman Garage Advisory Committee are as follows:

John Giannetti, Jr. - Chair

Joe Budge

Whitney Chellis

Arthur "Jib" Edwards

Keith Gross

Jim Jaffre

Sean O'Neill

Steve Samaras

Jay Schwarz

Thank You.

JJC/hrr

John Gianetti

JohnGiannetti.law@gmail.com

Former Senator, District 21, Anne Arundel & Prince George's Counties

Member of Senate, January 8, 2003 to January 10, 2007. Member, Judicial Proceedings Committee, 2003-07; Joint Committee on Federal Relations, 2003-07; Joint Advisory Committee on Legislative Data Systems, 2003-07; Joint Committee on Legislative Ethics, 2003-07; Joint Technology Oversight Committee, 2003-07; Article 27 (crimes & punishments) Revision Committee, 2003-07; Joint Oversight Committee on the Department of Juvenile Services, 2006-07. Member, Maryland Bicycle and Pedestrian Caucus, 2003-07; Maryland Legislative Sportsmen's Caucus, 2003-07. Member, National Conference of State Legislatures (communications, technology & interstate commerce committee).

Member, Task Force to Study Driver Licensing Documentation, 2003-04; State Commission on Criminal Sentencing Policy, 2003-07; National Capital Region Transportation Planning Board, Metropolitan Washington Council of Governments, 2003-07. Chair, College Park Pedestrian Lighting Task Force, 2005. Member, Governor's Work Group on Young Drivers, 2005-07. Committee analyst and legislative aide, Judiciary Committee, House of Delegates, 1996-99. Member, Board of Appeals, City of Laurel, 1996-99. Member of House of Delegates, January 13, 1999 to January 8, 2003. Member, Judiciary Committee, 1999-2003 (criminal justice subcommittee, 1999-2003). Co-Chair, Rules Committee, Prince George's County Delegation, 1999-2003 (member, bi-county committee, 1999-2003).

Born at Camp Lejeune, North Carolina, June 9, 1964. Attended Prince George's County and Carroll County public schools; Westminster High School; Bucknell University, B.S. (biology), 1986; president, student government; member, Mortarboard Honor Society, Omicron Delta Kappa (leadership fraternity); cofounder & president, Bucknell chapter, Chi Phi Fraternity. University of Maryland School of Law, J.D., 1994 (president, student government, 1993; chair, university system student council, 1994). Admitted to Maryland Bar; District of Columbia Bar;. Associate attorney, Vallario & Collins, 1996-98; Fossett & Brugger, 1998-2001. Attorney, Jackson & Campbell, P.C., Washington, DC, 2001-04. Partner, Renaissance Law Firm, 2004-06. Partner, Leibowitz, Band, & Jezic, 2006-07. Managing Partner, Law Offices of John Giannetti, 2007-. Member, American and Federal Bar Associations; Maryland State Bar Association (section of real property, planning & zoning; section of state & local government); Anne Arundel County Bar Association; Howard County Bar Association; Prince George's County Bar Association. Cofounder, Paca Chapter, Phi Delta Phi Legal Honor Society. Member, Laurel Jaycees; Sons of the American Legion, Post 60; Panixent Council, Knights of Columbus; Gatto Lodge, Sons of Italy. Member, Young Men's Democratic Club of Prince George's County; Columbia Democratic Club; North Prince George's County Democratic Club. Member, Laurel Board of Trade; Friends of Laurel's Historic Main Street. National Executive Board, Chi Phi Fraternity, 1995-. Outstanding Student Leader Award, 1993, & Leadership Achievement Award, 1994, University of Maryland, Baltimore. Legislative Excellence Award, Mothers Against Drunk Drivers (MADD), 2002. Distinguished Legislator, Impaired Driving Coalition, 2003. Top legislative award for work on hate crimes legislation, Equality Maryland, 2005. Maryland State Police Legislator of the Year, 2005. Award of Excellence, College Park Bicycle Coalition, 2006. Member, St. Mary's Catholic Church, Annapolis.

Joe Budge was born on the West Coast and educated in New England and North Carolina. He spent a dozen years working in Silicon Valley designing and marketing software. Then the Internet came along which allowed him to practice software development on the shores of the Chesapeake Bay. He and his family moved to Severna Park in '94, then to the Historic District in '02. They live on Randall Court.

Joe spends his spare time flying small planes, fishing, and goofing around in old boats. Three college-age children are doing their best to see that he ages prematurely. Joe also serves as Chairman of the Board for the Summit School in Edgewater.

Joe represented Ward One on the Citizen's Advisory Committee for the recent Comprehensive Plan, the City Dock Advisory Committee and on the West Street Vision Committee. Joe joined the WORA board in early 2010 and currently serves as Vice President. Since joining the Board he has been active in organizing Ward One's feedback and responses to alcoholic beverage laws, Market House, and other subjects.

WHITNEY CHELLIS
18 Lafayette Avenue
Annapolis, Maryland 21401
Home: 410-295-2969 Cell: 443-458-8171

EXPERIENCE:

October 22, 2007-
Present

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION,
Prince George's County Planning Department, Development Review Division,
Subdivision Section

Planner Coordinator: Lead planner/coordinator for the Section. Delegated by the Section Supervisor to establish policy direction and decisions for the Section. Coordinates the work of other planning and technical staff assigned. Develops goals, schedules, and deadlines to insure that objectives are met for completion. Troubleshoot problems to achieve a resolution that meet the needs and objectives of those affected. Review and monitor the work of other planners and technical staff. Consolidate, prepare, and present the final planning reports to the Prince George's County Planning Board at a public hearing, and answer questions on land use and planning policy at the Planning Board public hearing. Represent the Section and the Planning Department in meetings with the County Council, the Planning Board, citizens, and other County agencies.

Chairman of the standing Subdivision Review Committee which requires complete understanding of complex land use and policy issues associated with a particular development scenario. Ensure that the other planning staff understands the issues associated with their cases to ensure sound planning principles are used, and ensure adherence to policies of the Planning Department and Planning Board. The position requires the ability to embrace significant responsibility, and exercise technical expertise to plan land use, development, public facilities, and parks. Plan and oversee multi-faceted projects and studies that typically involve leading a work team and coordination with other department staff, County agencies, and community groups to complete the project while providing technical guidance and expertise to other staff working on the project.

July 10, 2006-
September 1, 2007

MONTGOMERY LAND DEVELOPMENT, INC.
Land Development Company

Project Coordinator: Coordinates the activities of project employees, engineers, and consultants seeking various County, State, and Federal approvals and permits within Maryland. Acts as the principal liaison between Montgomery Land Development and the various government agencies seeking all necessary approvals and permits to develop residential and commercial projects. Coordinates with attorneys in development review activities in obtaining approvals as it relates to land use and site plan development process.

Coordinates all of the community and agency meetings to make presentations and provide expertise testimony on the functions and approval processes of County agencies. Identifies and evaluates properties for potential acquisition and development, based on zoning, subdivision, physical characteristics, location, applicable land use laws, site history and site visit.

Establishes process and procedures for the monitoring of development activities, works with builders, utility companies and excavation contractors relating to infrastructure development and coordination. Coordinates engineers and the permitting process relating to stormwater management, stormdrain, paving and grading approvals and permitting activities.

Reports directly to the President and Vice President of Montgomery Land Development (MLD) and makes specific recommendations to further the goals of MLD to ensure quality development while meeting established timeframes.

January 16, 2005-
June 30, 2006

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION,
Prince George's County Planning Department, Development Review Division,
Subdivision Section

Planner Coordinator: Served as the lead planner/coordinator for the Section. Planned and coordinated the work of other planning and technical staff assigned. Developed goals, schedules, and deadlines to insure that objectives were met for completion. Often required to troubleshoot problems to achieve a resolution that met the needs and objectives of those affected. Reviewed and monitored the work of other planners and technical staff. Consolidated, prepared, and presented the final planning reports to the Prince George's County Planning Board at a public hearing. Performed advanced professional planning work which required considerable knowledge of the principles and concepts of planning, engineering, environmental science, design, recreation, County geography, community development, planning regulations and process.

Reviewed and analyzed plans of development including detailed site plan, special exceptions, comprehensive design plans, master plans, preliminary plans of subdivision, woodland conservation and referrals. Conducted site inspections and incorporated field observations into recommendations that included specific recommendations to ensure compliance to zoning and subdivision regulations, and best practices.

Served as the Chairman of the Subdivision Review Committee which required complete understanding of complex land use and policy issues associated with a particular development scenario. The position required the ability to embrace significant responsibility, and exercise technical expertise to plan land use, development, public facilities, and parks.

July 1, 2006
April 1989

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION,
Prince George's County Planning Department, Development Review Division,

PROFESSIONAL ACHIEVEMENTS AND ASSOCIATIONS:

Chairwoman of the Citizen Committee to Review Alcohol Beverage Laws
City of Annapolis February 2010 to July 2010

M-NCPPC Bi-County Mediator
Employee Alternative Dispute Program

Vice President of the Murry Hill Resident Association
January 2006-2008

Member of the City of Annapolis Public Safety Committee
March 2006-2008

Chairman of the City of Annapolis Planning Commission
January 2003 –January 2006

Vice-Chairman of the City of Annapolis Planning Commission,
February 1999 – January 2003

Member of the City of Annapolis Planning Commission,
August 1993-January 1995

1997- 1998 *Leadership Prince George's Class of XIII*

Arthur W. "Jib" Edwards, Jr., President

Mr. Arthur Edwards, Jr., president of Severn Management, has over 15 years of real estate experience. He currently manages 100 employees and 65 multi-family housing properties that produce over \$15 million in revenue.

Mr. Edward's first position with the company was as an asset manager. Mr. Edwards advanced in this position until he was responsible for 55 properties, managed over \$500,000 in annual capital expenditures, provided oversight for \$8 million of rental income, and directly managed 45 employees. His key accomplishment was developing budgets and cost control systems that substantially increased cash flow for all properties under his supervision. Mr. Edwards is a HCCP and C3P the recognized designations for compliance in the IRS Sec 42 LIHTC program.

Prior to joining Severn Management, Mr. Edwards served as a naval pilot and flew the SH-2F during Desert Storm. He also served as a maintenance officer in charge of 45 personnel and 3 helicopters. He was awarded two Navy Achievement awards, one for operations during Desert Storm.

Keith J. Gross, Esquire

The Law Office of Keith J. Gross, LLC, located in Annapolis, Maryland, represents clients through the dedication, hard work, and expertise of Attorney Keith J. Gross. The firm's practice areas are criminal defense, traffic offenses, juvenile matters, and family law.

In 1981, Mr. Gross graduated from the United States Naval Academy with a Bachelor of Science degree in Political Science (International Security Affairs). Upon graduation, he was commissioned as a Second Lieutenant in the U.S. Marine Corps. In the Marine Corps, Mr. Gross served as a Communications Officer and Legal Officer. In 1989, he earned his Juris Doctor degree from Southwestern Law School, in Los Angeles, California. In 1990, after a distinguished and honorable military career, Mr. Gross departed from the Marine Corps at the rank of Captain. He became a member of the Maryland bar in 1991. He became a member of the federal bar (U.S. District Court, District of Maryland) in 1998.

Mr. Gross has almost 20 years of experience as a trial attorney. Over that time period, he has successfully represented thousands of clients. He has extensive jury trial experience in criminal cases. In 2002, Mr. Gross was the lead attorney in a jury trial for the matter of State of Maryland v. John Ashby (case no. K-2000-1931), a death penalty murder case that resulted in a full acquittal for his client. This was just one of many cases which demonstrate how Mr. Gross, an experienced, skilled, and dedicated litigator, can achieve the best result possible in a case.

Mr. Gross is a member of the following organizations:

- Maryland State Bar Association
- Anne Arundel Bar Association
- James C. Cawood, Jr. Inn of Court
- Maryland Criminal Defense Attorneys' Association
- United States Naval Academy Alumni Association
- Annapolis Youth Services Bureau (Advisory Committee)

Jim Jaffre is one of the two owners of CASA NOVA & WYNN BONE GALLERY located at 161 Main Street. CASA NOVA just celebrated its 10 year anniversary.

Prior to owning his own business, Jim spent over 30 years as a Senior Vice President in the international end of the Quick Service Restaurant, and Hotel Lodging industries, specifically Hardee's Food Systems, Inc., and Choice Hotels International.

Jim is 65 years old, a native of New York City, and grew up in an expatriate family with assignments in Mexico, Brazil & Morocco. Jim is a graduate of Mercer University, Macon GA . While working for Hardee's, Jim was chosen to attend business courses at both The University of North Carolina and The Harvard School of Business.

Sean O'Neill

Qualifications

Since graduating from Arizona State University's College of Liberal Arts & Sciences in 1994, I have worked in several areas of the securities industry and earned my Series 7, 63, and 65 securities licenses. Additionally, I hold an agent license for annuities, life and health insurance in various states. I have most recently, attended Bryant University's Certificate Program in Financial Planning. My previous firm experience includes three years at Deutsche Bank Alex. Brown as an associate and six years as a financial advisor at UBS Financial Services Inc., before joining RBC Wealth Management. I have been able to assist businesses, large and small, in the construction, implementation and management of their company retirement plans as a Chartered Retirement Plans Specialist. During the winter of 2012, I earned the CERTIFIED FINANCIAL PLANNER™ certification, which is useful in assisting families plan for their financial future.

I regularly host continuing education classes for Certified Public Accountants, and write a monthly financial column, titled "Planning Ahead," in The Capital Newspaper. My most recent column can be found here: [Planning Ahead: Boost Your Income Even When Rates Are Low.](#)

Personal

Currently, I live in Annapolis, Maryland, with my wife and two children, where I enjoy being active in my community and serving on the board of directors for a number of non-profit organizations, including the Annapolis Business Association as president, the Annapolis Musicians Fund for Musicians (AMFM) as vice-president, and the Eastport-A-Rockin' Street Festival as the music director. My prior leadership roles have contributed to the success of the Maryland Seafood Festival, the Entrepreneurs' Exchange organization, the Admiral Heights Improvement Association board of directors, the City of Annapolis Alcohol Beverage Control Board, and the Annapolis & Anne Arundel County Chamber of Commerce.

Steve Samaras, the owner of Zachary's Jewelers, brings more than 30 years of experience to the jewelry industry. Samaras continues to oversee every diamond and jewelry purchase so that it meets his strict standards for both quality and design. Recognized for his expertise in diamond and jewelry appraising, he has appraised more than 10,000 items for the U.S. Marshall Service in the Baltimore and Washington regions. A member of Jewelers of America and Couture Jeweler, Samaras is highly revered in the industry and sits on the advisory committee for the Centurion Jewelry Show.

Samaras' continued involvement with local charities and their fundraising efforts has solidified the respect he receives from the local community. It was Steve's vision that good deeds would translate into good business. Our local schools, hospital, Hospice, and dozens of other charities and civic organizations have become part of the Zachary's family.

Steve has served as President of the Annapolis Business Association, Vice President of the Annapolis and Anne Arundel County Conference and Visitor's Bureau, Board member of the Annapolis and Anne Arundel County Chamber of Commerce, and a director of Commerce 1st Bank. His service is followed by the entire Zachary's staff who pride themselves on belonging to at least two community charities. We open the store for these good organizations' fundraisers and get together, and have shared many wonderful evenings with these great hearts

April 2009

John J. Schwarz, Architect
Annapolis, Maryland

Vita

EDUCATION

1977 Bachelor of Architecture
Virginia Polytechnic Institute and State University
Blacksburg, Virginia

PROFESSIONAL LICENSING

- Registered Architect, State of Maryland, 1984
- Registered Architect, State of Pennsylvania, 1998
- Registered Architect, State of Virginia, 2001
- National Council of Architectural Registration Board
Certificate of Registration 1995
- LEED AP 2008

PROFESSIONAL EXPERIENCE

1996 - present Architect **Alt Breeding Schwarz Architects LLC**
Annapolis, Maryland
Principal

1994 - 1996 Architect **John J. Schwarz, Architect • Parallel Architects**
Annapolis, Maryland and Washington, D.C.
Principal

1986 - 1993 Architect **Schwarz Purcell Architects, P.A.**
Annapolis, Maryland
Principal

1984 - 1986 Architect **Ayers Saint Gross Associates, Inc.**
Baltimore, Maryland
Associate/Project Manager

1982 - 1984 Architect **RTKL Associates, Inc.**
Baltimore, Maryland
Project Architect/Project Designer

1979 - 1982 Intern Architect **Weller, Fishback and Bohl, P.A.**
Annapolis, Maryland
Project Designer/Architectural Support

1978 - 1979 Printmaker **IZMO Productions.**
New York, New York
Serigraphy Studio

TEACHING EXPERIENCE

Spring, 1987 Guest Lecturer	Foundation Design <u>Anne Arundel Community College</u> Arnold, Maryland
Spring, 1986 Visiting Critic	Architectural Studio <u>University of Miami, College of Architecture</u> Miami, Florida
Fall, 1985 Guest Lecturer	Architectural Building Systems <u>Maryland Institute College of Art</u> Baltimore, Maryland
Spring, 1981 Instructor	Two Dimensional Design Studio <u>Virginia Polytechnic Institute and</u> <u>State University, College of Architecture</u> Blacksburg, Virginia
Summer, 1980 Instructor	Printmaking/Serigraphy <u>Maryland Hall for the Arts</u> Annapolis, Maryland
Spring, 1976 Assistant Instructor	Foundation Design Studio <u>Virginia Polytechnic Institute and</u> <u>State University, College of Architecture</u> Blacksburg, Virginia

PROFESSIONAL AWARDS, HONORS and EXHIBITS

2008	AACO Historical Preservation Society Wiley H. Bates Adaptive Re-use
2008	Urban Land Institute - Award of Excellence Wiley H. Bates Adaptive Re-use
2007	Mayor/City of Annapolis - Green Star Environmental Award Severn Bank Building
2006	Historic Annapolis Foundation Wiley H. Bates Adaptive Re-use
2006	ABC Baltimore - Outstanding Project Award Wiley H. Bates Adaptive Re-use
2005	AIACBC - Award of Excellence USNA MarineCorp Memorial Stadium
2004	Mayor/City of Annapolis - Green Star Environmental Award USNA MarineCorp Memorial Stadium
2002	ABC Baltimore - Project of the Year Suburban Federal Bank , Crofton, MD
2000	ABC Washington - Outstanding Project Award PGCO Hearing Room , Largo, MD
1999	Historic Annapolis Foundation - Preservation Award 180 Main Street , Annapolis, MD
1999	ABC Baltimore - Outstanding Project Award Pinkney Hall - St. John's College

1997 Historic Annapolis Foundation - Preservation Award
Mangia/81 Main Street, Annapolis, MD

1993 ABC Baltimore - Outstanding Project Award
Mountain Christian Church, Joppa, MD

1990 *Baltimore Magazine*, Residential Design Award
Reddick Residence, Annapolis, Maryland.

1990 Anne Arundel Cty. Executive Excellence in Design Award
Forest Plaza Adaptive Reuse, Annapolis, MD

1988 Tarnished Vistas Competition Design Award
MFA Gallery/HAF, Annapolis, MD

1986 Baltimore Chapter, AIA Award of Merit
Savings Bank of Baltimore, Baltimore, MD

1986 Baltimore Chapter, AIA Design Citation
Tremont Plaza Hotel, Baltimore, MD

1983 Print Casebooks Environmental Design Award
Mazza Galleria, Bethesda, MD

1981 Vietnam Veterans Memorial Competition
Washington, D.C.

1980 Kodak International Photography Exhibit
Merit Award.

1979 Maryland Federation of Art Gallery
One Man Show, serigraphs.

1978 Maryland Biennial Exhibit,
Baltimore Museum of Art, Baltimore, MD.

PUBLICATIONS

November, 2008 *Spaces Magazine*
Alt Breeding Schwarz - Kitchen Design

Winter, 2008 *Real Estate and Construction Review*
Alt Breeding Schwarz - Severn Bank Project

November, 1988 *Publick Enterprise*
Schwarz Purcell Architects, P.A.

November, 1988 *Publick Enterprise*
Schwarz Purcell Architects, P.A.

June, 1988 *Baltimore Sun, Arundel Sun*
Tarnished Vistas

October, 1987 *Interiors*
BNU Restaurant

April, 1987 *Interiors*
Savings Bank of Baltimore

1984 (Annual) *Print Casebooks*
Mazza Galleria

COMMUNITY SERVICE

Spa Creek Conservancy
2005-present Member/Volunteer

AACO/St. Mary's-Annapolis Youth Lacrosse
1990 - present Coach

City of Annapolis 2005	Commission on Environmental Matters (Appointment by Mayor's Office)
Severn River Association 1987 - 2005	Member
Historic Annapolis Foundation 1989 - 2004	Member
National Trust for Historic Preservation 1990 - 2004	Member
City of Annapolis 2002	Commission on Fire Safety (Appointment by Mayor's Office)
Chesapeake Bay Foundation 1987-2002	Member/Volunteer
Severn River Commission 1992 - 1999	Commission Member (City of Annapolis)
President's Hill Community Association 1989-1998	Board Member, President, 1990-1992.
Red Cross Blood/Hemapheresis Program 1981 - present	Donor

PERSONAL AND REFERENCES UPON REQUEST

**Budget Transfers Report
Finance Committee**

November 21, 2012

GT-7-13 CIP Transfers for Park Projects	Approved
GT-8-13 lease payments for 93 Main Street	No Action
GT-9-13 Outstanding invoices from FY12	Approved
GT-10-13 Water Treatment Plant – Emergency repair	Approved

JOURNAL VOUCHER

JV # _____

of Lines 5

Expected Totals:

Activity Date _____

GT-7-13

JE#	Description/Comment	Org	Object	Project	INCREASE	DECREASE
1	2009 Bond Truxtun Park Imps	30400	583000	20008		20,000.00
2	2009 Bond Truxtun Park Trails	30400	583000	50006	20,000.00	
3						
4	2012 Bond Kinsport Park	30095	491512	50007	15,000.00	
5	2012 Bond Kinsport Park	30400	583000	50007	15,000.00	
6	2012 Truxtun Park Trails	30095	491512	50006		15,000.00
7	2012 Truxtun Park Trails	30400	583000	50006		15,000.00
8						
9						
10						
11	2012 truxtun Park Pool	30095	491512	50008	50,000.00	
12	2012 Truxtun Park Pool	30400	583000	50008	50,000.00	
13	2012 Truxtun Park Trails	30095	491512	50006		50,000.00
14	2012 Truxtun Park Trails	30400	583000	50006		50,000.00
15						
16						
17						
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26						

EXPLANATION: Scope and total project budget remains unchanged for three approved capital projects: Truxtun Park Trail Improvements (FY12 Capital Budget); Kingsport Park (FY13 Capital Budget); Truxtun Park Pool (FY13 Capital Budget). Transfer of funds manages cash flow and allows planning/design activity to proceed for all three projects. From Truxtun Park Trail CIP Project, shift \$15,000 to Kingsport Park Project and \$50,000 to Truxtun Park Pool Project. = \$65,000

WV
 APPROVED BY
 11-19-12
 INPUT DATE

RECEIVED

NOV 15 2012
 MAYOR'S
 OFFICE

Approved: *[Signature]* 11/20/12
 Finance Committee RHA 11/20/12

LEASE

This Lease is made this _____ day of _____ 2012, by and between Mills Real Estate, LLC, a Maryland limited liability company ("Landlord"), and the City of Annapolis, a municipal corporation of the State of Maryland ("Tenant").

Whereas, the Tenant seeks from the Landlord a lease for certain premises at 93 Main Street, Annapolis, Maryland 21401, which the Landlord owns and is willing to let to the Tenant under the terms stated in this Lease.

Now, Therefore, in consideration of this premise and the terms stated in this Lease, the parties agree as follows:

1. Leased Premises and Utilities

a. The Landlord leases to Tenant and Tenant leases from Landlord all of the second floor at the building known as 93 Main Street, Annapolis, Maryland 21401, the total square footage being 2200 along with all furniture, fixtures and improvements at the premises, in as is condition, without warranty from the Landlord.

b. The Landlord shall provide and pay for all maintenance and repair of the leased premises including, but not limited to, water, sewage, electric, heating and air conditioning for the leased premises during the course of this Lease.

c. The tenant shall use the premises only for municipal business.

d. The Landlord shall let the leased premises to the Tenant in good condition.

2. Common Areas

a. The Tenant, its employees and business invitees shall have the right to use the common areas of the building in common with the Landlord.

b. The Landlord shall have exclusive control over the common areas of the building and shall be responsible for their maintenance and repair of the common areas.

c. The Tenant shall have no responsibility for the maintenance and repair of the common areas in the building.

3. Alterations

a. The Tenant shall not make any alterations or additions to the leased premises without the Landlord's prior written consent.

b. The Tenant shall pay for any alterations or additions which the Landlord permits the Tenant to make unless the parties otherwise agree.

4. Term

a. The term of the Lease shall commence on December 1, 2012 and end on December 31, 2013.

5. Rent and Utilities

a. The annual rent is \$64,441.00, payable in 13 monthly installments of \$4,957.00.

b. The annual charge for all utilities is \$8,437.00, payable in 13 monthly installments of \$649.00.

<p>Per month = \$4,957.00 + \$649.00 = \$5,606 \$5,606 × 7 months (December 1, 2012 – June 30, 2012) = <u>\$39,242</u> Budget Revision Request for <u>\$39,300</u></p>
--

c. If the Landlord installs a new heating and air-conditioning system in the building that can be measured or pro-rata proportionate use by the Tenant through meter reading by the utility company, the Landlord shall then charge the Tenant for utilities for actual use starting with the first month after meter reading is available, instead of the fixed utility rate set forth in this provision.

d. The payment for rent and utilities shall be received by the Landlord no later than the fifth day of each month.

e. Rent and utilities shall increase by 4% for each subsequent term of this Lease, if any.

f. There shall be no security deposit paid by the Tenant to the Landlord for the initial term or any subsequent term under this Lease.

g. The Landlord may charge the Tenant a late charge of 5% of the rent and utilities for a payment of the same that is not received by the Landlord, from the Tenant by the fifth day of each month.

h. The Landlord's acceptance of any late payment of rent or utilities shall not excuse any future late or constitute a waiver of any of the Landlord's rights under this Lease.

6. Notice

a. This Lease shall not automatically renew.

b. If the Landlord has no intention of allowing a subsequent term, the Landlord shall give written notice to the City no later than September 30, 2013.

c. Absent a notice from the Landlord of intent not to allow a subsequent term, if the Tenant desires a subsequent term, the Tenant shall give the Landlord written notice to this effect no later than October 31, 2013, and such notice shall be binding on the Landlord, the result being that a subsequent one year term shall go into effect on January 1, 2014 and end on December 31, 2014.

7. End of Lease

a. At the end of the Lease, whether it is the initial term or a subsequent term, the Tenant shall quit and surrender the leased premises to the Landlord broom clean and in good order and condition, ordinary wear and tear excepted, and all keys for the leased premises and the building.

8. Holding Over

a. The Tenant shall vacate the leased premises at the end of the Lease.

b. The Tenant shall not hold over under any circumstances.

c. The Landlord shall be entitled to the benefit of all legal proceedings allowed by the laws of the State of Maryland to recover possession of the leased premises at the end of the Lease.

d. If the Tenant holds over and remains in possession of the leased premises after the end of the Lease, such action shall not cause a renewal of this Lease.

e. Nothing in this Lease and no action of the Tenant shall be deemed a consent by the Landlord to the Tenant's holding over and remaining in the leased premises.

f. If Tenant fails to vacate the leased premises at the end of the Lease, the Tenant shall be liable to the Landlord for rent and utilities for any month or part of any month that the Tenant continues to hold over at 4% above the amount for the term just ended and all other covenants of this Lease shall remain in full force and effect.

9. Sale of Building

a. The Landlord shall give notice to the Tenant of any contract of sale into which the Landlord enters for the sale of the building.

b. In the event of a sale of the building, the tenant shall be allowed to complete the existing term of the Lease.

10. Indemnity

a. The Tenant agrees that the Landlord shall not be liable for injuries to its employees or other persons or damages to its property or the property of others caused by reason of the Tenant's use, occupancy or enjoyment of the leased premises, or any repairs or alterations which

Tenant may make upon the Premises, and the Tenant shall indemnify and hold the Landlord and its agents and employees harmless from all claims, actions, demands, damages, costs and expenses and liability whatsoever therefor, including reasonable attorneys fees,

b. The Tenant's indemnity shall not, however, extend to injuries to its employees or other persons or damages to its property or the property of others occasioned by the negligence or the willful acts of the Landlord or its agents or employees.

11. Equipment Failures

a. As long as the Landlord has not been negligent and has not engaged in willful conduct related to any of the conditions set forth in this provision, the Landlord shall not be liable to the Tenant for loss or damage to the Tenant's business or injury or damage to persons or property sustained by Tenant, or any person claiming by, through or under the Tenant, resulting from equipment or appurtenances being or becoming out of repair, from wind or weather, from any defect in or failure to operate any sprinkler, HVAC equipment, electric wiring, gas, water or steam pipe, stair, railing, or walk, from broken glass, from the backing up of any sewer pipe or downspout, from water, snow or ice being upon the property or coming into the leased premises, or from the falling of any fixture, plaster, tile, stucco, or other material.

b. The Landlord shall not be liable to the Tenant for the quality, quantity, failure, unavailability, or disruption of any public utility service.

12. Insurance

a. The Tenant is a self insured municipality and acknowledges that the Tenant will appropriate sufficient funds to cover injuries to person or damages to the leased premises the Tenant may cause during the course of this Lease.

b. The Tenant shall not do anything in or about the leased premises which contravenes any policy of insurance which the Landlord has protecting against loss by fire, vandalism or otherwise.

13. Janitorial Services

a. The Tenant shall provide and pay for janitorial services and supplies for the leased premises during the course of this Lease.

14. Assignment/Sublet

a. The Tenant shall not assign this Lease or sublet the leased premises without the Landlord's prior written consent.

15. Destruction of Premises

a. If, for any period of time, the leased premises are destroyed or rendered untenable or uninhabitable by fire, vandalism, unavoidable accident or otherwise, the Tenant may terminate the tenancy and the Tenant's liability for rent shall cease upon payment of rent proportionately to the date the leased premises became unattainable or uninhabitable.

16. Default or Breach

a. Either party may pursue statutory or other lawful remedies for a default or breach of this Lease.

17. No Waiver

a. No act or omission by the Landlord shall be deemed to be an acceptance or a surrender of the leased premises or a termination of the Tenant's liabilities under this Lease, unless the Landlord shall execute a written release of the Tenant.

b. The Tenant's liability under this Lease shall not be terminated by the execution by the Landlord of any new lease for all or any portion of the Premises or the acceptance of rent from any assignee or subtenant.

18. Applicable Law

a. This Lease shall be interpreted and governed in accordance with the laws of the State of Maryland.

b. The venue for all actions pursuant to this Lease shall be the courts of Anne Arundel County, Maryland.

c. The parties waive a jury trial in any action brought pursuant to this Lease.

19. Modification/Amendment

a. This Lease may be modified or amended only by a written instrument signed by the parties and witnesses.

20. Severability

a. If a court exercising competent jurisdiction finds that any provision of this Lease may not be enforce or is illegal for any reason, the remaining provisions shall continue in force and effect.

21. Availability of Funds

a. All terms of this Lease are dependent upon necessary funding authorized by the Annapolis City Council for each fiscal year.

22. Binding Effect

a. This Lease Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

23. Integration

a. This Lease represents the final and entire agreement of the parties with respect to the subject matter set forth herein. There are no conditions, terms or understandings, verbal or written, other than those expressly set forth herein.

Witness the signatures and seals of the parties.

Mills Real Estate, LLC

Witness

By: _____
Hillard Donner, Co-Owner (Seal)
Co-owner

Witness

By: _____
Cynthia Donner Reiner, (Seal)
Co-Owner

Witness

By: _____
Janis Donner Rotner, (Seal)
Co-Owner

Attest:

City of Annapolis

Regina Watkins-Eldridge, City Clerk

By: _____
Joshua J. Cohen, Mayor (Seal)

Approved for form and legal sufficiency:

Approved for financial sufficiency:

Karen M. Hardwick,
City Attorney

Bruce Miller,
Director of Finance

City of Annapolis Budget Revision Request

Control number GT-9-13

Department Finance

Date 14-Nov-2012

Number	Account Title	Amount	
		Increase	Decrease
01152-530110	Legal Human Resources	11,736.00	
01960-597100	Contingency		11,736.00
01150-530110	Legal Negotiations Law Dept	21,861.00	
01960-597100	Contingency		21,861.00

To provide funds for Legal Negotiations for Human Resources and Law Departments.

Approved for Financial & Accounting Sufficiency:

 Finance Director


 Department Director

Approved by:
 Mayor
 Finance Committee
 City Council


 Keith H. Arnett 20 Nov 12

RECEIVED
 NOV 15 2012
 MAYOR'S
 OFFICE

City of Annapolis
Check Request

Document no. HR12-114

Date 6/13/12

Department 09

To

Kollman & Saucier, P.A.
The Business Law Building
1823 York Road
Timonium, MD 21093-5119

Amount 10,272.00

Description

General Labor 2012: Invoice 55199 – 3,384.00; invoice 55682 – 2,760.00; invoice 55936 – 4,128.00;

Use only when
there is a PO

PO line item no.	F/I	Account number	Amount Debit (Credit)
		01152-530110	10,272.00

Total Amount \$10,272.00

Vendor # 43429

Signature



PO # _____

Extended description - not for remittance advice

Distribution: Original to Finance • Copy of original to Requestor • Remittance advice to Payee

Revised 07/2/2008

RECEIVED

JUN 11 2012

CITY OF ANNAPOLIS
HUMAN RESOURCES DEPT

Kollman & Saucier, P.A.

The Business Law Building
1823 York Road
Timonium, Maryland 21093-5119

Telephone: 410-727-4300 Fax: 410-727-4391

City of Annapolis

Human Resources
145 Gorman Street, 2nd Floor
Annapolis, MD 21401

As of Jun 7, 2012

REMINDER NOTICE

Bill Date	Matter #	Inv #	Billed	Paid	Due	Aging
Feb -29-12	1983-012	54803	3,288.00	0.00	3,288.00	<=120 days <i>submitted</i>
Mar -31-12	1983-012	55199	3,384.00	0.00	3,384.00	<=90 days
Apr -30-12	1983-012	55682	2,760.00	0.00	2,760.00	<=60 days
May -31-12	1983-012	55936	4,128.00	0.00	<u>4,128.00</u>	<=30 days
					<u>10,272.00</u>	
Totals			\$13,560.00	\$0.00	\$13,560.00	

Balance Due and Owing

\$13,560.00

We accept VISA, Mastercard and American Express

01152-530110

Balance 0.00

City of Annapolis
Check Request

Document no. HR12-126

Date 7/12/12

Department 09

To Kollman & Saucier, P.A.
The Business Law Building
1823 York Road
Timonium, MD 21093-5119

Amount 1,464.00

Description

General Labor 2012: Invoice 56400 – 1,464.00

Use only when there is a PO		Account number	Amount Debit (Credit)
PO line item no.	F/I	01152-530110	1,464.00

Total Amount \$1,464.00

Vendor # 43429

Signature *Rose Mary Brown*

PO # _____

Extended description - not for remittance advice

Distribution: Original to Finance • Copy of original to Requestor • Remittance advice to Payee

Kollman & Saucier, P.A.
 The Business Law Building
 1823 York Road
 Timonium, Maryland 21093-5119

RECEIVED

JUL 09 2012
 CITY OF ANNAPOLIS
 HUMAN RESOURCES DEPT

Telephone: 410-727-4300 Fax: 410-727-4391

City of Annapolis
 Human Resources
 145 Gorman Street, 2nd Floor
 Annapolis, MD 21401

As of Jul 5, 2012

REMINDER NOTICE

Bill Date	Matter #	Inv #	Billed	Paid	Due	Aging
Mar -31-12	1983-012	55199✓	3,384.00	292.50	3,091.50	<=120 days <i>submitted</i>
Apr -30-12	1983-012	55682✓	2,760.00	0.00	2,760.00	<=90 days <i>for</i>
May -31-12	1983-012	55936✓	4,128.00	0.00	4,128.00	<=60 days <i>Payment</i>
Jun -30-12	1983-012	56400	1,464.00	0.00	1,464.00	<=30 days <i>6/13/12</i>
Totals			\$11,736.00	\$292.50	\$11,443.50	

Balance Due and Owing \$11,443.50

We accept VISA, Mastercard and American Express

Accounts Receivable Ledger
January 1, 2010 - September 26, 2012

ID	Name/Description	Date	Type	Reference	Beg Bal	Debit	Credit	Balance
16768	CITY ANMAP		Beginning Balance		2,800.00			2,800.00
		03/08/10	Check	143060			2,800.00	0.00
		06/30/10	Invoice #1000017959			0.00		0.00
		08/31/10	Invoice #1000018917			2,000.00		2,000.00
		09/30/11	Invoice #1000022941			2,000.00		4,000.00
		12/05/11	Check	201132			2,000.00	2,000.00
		08/31/12	Invoice #1000026677			2,000.00		4,000.00
	CITY ANMAP Totals				2,800.00	6,000.00	4,800.00	4,000.00
	Report Totals				2,800.00	6,000.00	4,800.00	4,000.00

Toal, Griffith, Ayers & Kullman, LLC

Certified Public Accountants

200 Harry S. Truman Parkway

Suite 300

Annapolis, MD 21401

Phone: (410) 224-0343

Fax: (410) 224-0043

City of Annapolis
145 Gorman Street, 3rd Floor
Annapolis, MD 21401

ID: 16768
Invoice: 1000018917
Date: 08/31/2010
Due Date: Upon Receipt

INVOICE

For professional services rendered as follows:

Work relating to examination of Campaign Fund Reports for the period ending of July 1, 2010	2,000.00
Billed Time & Expenses:	<u>\$2,000.00</u>
Invoice Total:	<u><u>\$2,000.00</u></u>

<u>08/31/2010</u>	<u>07/31/2010</u>	<u>06/30/2010</u>	<u>05/31/2010</u>	<u>04/30/2010+</u>	<u>Total</u>
2,000.00	0.00	0.00	0.00	0.00	\$2,000.00

This invoice reflects only payments made up to the invoice date.

Please return this portion with payment.

ID: 16768
City of Annapolis
410-263-7942

Invoice: 1000018917
Date: 08/31/2010

Card Type: _____ Amount Due: \$2,000.00
Card #: _____ Exp Date: _____ Amount Enclosed: \$ _____
Signature: _____

FY'12



Federal Identification Number: 23-1416352

Accounting Phone: 215-972-7708

www.saul.com

Invoice Date: 07/27/12

Invoice No.: 2167324

Client/Matter No.: 362498.00003

For professional services rendered through 06/30/12

Professional Charges	\$ 11,180.50
TOTAL AMOUNT DUE FOR THIS INVOICE	\$ 11,180.50
NET AMOUNT DUE FOR THIS INVOICE	\$ <u>11,180.50</u>

THIS INVOICE IS PAYABLE UPON RECEIPT.

For inquiries regarding your payment please provide the following information:

Contact Name: _____
Telephone Number: _____

Please return this page with your remittance to:

Saul Ewing LLP
Centre Square West
1500 Market Street, 38th Floor
ATTN: Linda Gonczy
Philadelphia, PA 19102-2186

Wiring Instructions

Bank: PNC Bank, N.A.; Philadelp
Routing/ABA #: 03100001
Account Title: Saul Ewing LLP/ Acct
Text: Client/Matter _____

11,180.50
La 8600.34
19,860.84

Saul Ewing LLP

500 East Pratt Street • Baltimore, MD 21202-3133 • Phone: (410) 332-8600 • Fax: (410) 332-8862

DELAWARE MARYLAND MASSACHUSETTS NEW JERSEY NEW YORK PENNSYLVANIA WASHINGTON, DC

A DELAWARE LIMITED LIABILITY PARTNERSHIP



Federal Identification Number: 23-1416352
Accounting Phone: 215-972-7708
www.saul.com

Invoice Date: 07/27/12

Invoice No.: 2167325

Client/Matter No.: 362498.00007

For professional services rendered through 06/30/12

Professional Charges	\$ 7,912.90
Expenses	\$ 767.44
TOTAL AMOUNT DUE FOR THIS INVOICE	\$ 8,680.34
NET AMOUNT DUE FOR THIS INVOICE	\$ 8,680.34

REMITTANCE

THIS INVOICE IS PAYABLE UPON RECEIPT.

For inquiries regarding your payment please provide the following information:

Contact Name: _____
Telephone Number: _____

Please return this page with your remittance to:

Saul Ewing LLP
Centre Square West
1500 Market Street, 38th Floor
ATTN: Linda Gonczy
Philadelphia, PA 19102-2186

Wiring Instructions

Bank: PNC Bank, N.A.; Philadelphia, PA
Routing/ABA #: 031000053
Account Title: Saul Ewing LLP/ Acct #: 8610441299
Text: Client/Matter _____ / _____

City of Annapolis Budget Revision Request

Control number GT-10-13

Department

Finance

Date 19-Nov-2012

Number	Account Title	Amount	
		Debits	Credits
1			
01990-597030	TRSF TO Capital Projects	75,000.00	
01960-597100	Contingency		75,000.00
2			
62340-583000-71004	Repair Wellhead #5	75,000.00	
62392-484500-71004	Other Financing Sources		75,000.00

1. To record budget from Contingency to Transfer to Capital Project
2. To record receipt from General fund for budget to repair Wellhead #5

Approved for Financial & Accounting Sufficiency:



Finance Director

Department Director

Approved by:

Mayor

Finance Committee

City Council

_____ *Rose M. Amato* 20 Nov 12

1 CITY COUNCIL OF THE
2 City of Annapolis

3 Ordinance No. O-27-12

4 Introduced by: Mayor Cohen
5
6
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
7/23/12			10/19/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	7/23/12		

8
9 **AN ORDINANCE** concerning

10 **Removing the Requirement that a Certified Public Accountant Attest to Ratio Reports for**
11 **Restaurants Renewing Their Alcoholic Beverage Licenses**

12 **FOR** the purpose of removing the requirement that a certified public accountant attest to the
13 ratio reports that restaurant class alcoholic beverage licensees must provide when
14 renewing their licenses and instead allowing the owner to provide a sworn statement
15 regarding the ratio of food and liquor sales.

16 **BY** repealing and re-enacting with amendments the following portions of the Code of the
17 City of Annapolis, 2011 Edition
18 Section 7.12.230
19

20 **WHEREAS,** the July 2010 report from the Citizens Committee to Review Alcoholic Beverage
21 Laws (CCRABL) recommended that the restaurant licensee owner be allowed to
22 provide a sworn statement that the gross receipt from food sales in the restaurant
23 is at least equal to the required ratio, rather than requiring a certified public
24 accountant to attest to the ratio report.
25

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

28 **Chapter 7.12 – ALCOHOLIC BEVERAGES.**

29 **7.12.230 - Restaurants.**

30 A. This section applies to restaurants.

31 B. Holders of restaurant class licenses shall keep in bound book form complete records of
32 food purchases and food sales in their restaurants, as well as records of all purchases and
33 sales of alcoholic beverages. They also shall preserve for a period of at least four months the
34 original invoices or sales tickets of food and alcoholic beverages so purchased.

1 C. Upon making application for renewal of a restaurant class license, the applicant shall
2 furnish a report [from a certified public accountant] stating the ratio of the daily receipts from the
3 sale of food to the combined daily receipts from the sale of food and from the sale of alcoholic
4 beverages. The daily receipts shall be averaged on a quarterly basis for the calendar year
5 preceding the year for which application for renewal of the restaurant class license is being
6 made.

7 D. Restaurant-class licenses are as follows:

8 1. Class B-1: Alcoholic beverages shall be served only with meals and sales shall be
9 only between the hours of six a.m. and twelve midnight, Monday through Saturday. The
10 premises shall not contain a bar open to the public.

11 2. Class B-1.X: Alcoholic beverages shall be served only with meals and sales shall be
12 only between the hours of six a.m. and two a.m., Monday through Saturday. The premises
13 shall not contain a bar open to the public.

14 3. Class B-2: Alcoholic beverages shall be served only with meals and sales shall be
15 only between the hours of six a.m. and twelve midnight, seven days a week. The premises
16 shall not contain a bar open to the public.

17 4. Class B-2.X: Alcoholic beverages shall be served only with meals and sales shall be
18 only between the hours of six a.m. and two a.m., seven days a week. The premises shall
19 not contain a bar open to the public.

20 5. Class B-3: Alcoholic beverages are restricted to on sale only and sales shall be only
21 between the hours of six a.m. and twelve midnight, Monday through Saturday.

22 6. Class B-3.X: Alcoholic beverages are restricted to on sale only and sales shall be
23 only between the hours of six a.m. and two a.m., Monday through Saturday.

24 7. Class B-4: Alcoholic beverages are restricted to on sale only and sales shall be only
25 between the hours of six a.m. and twelve midnight, seven days a week.

26 8. Class B-4.X: Alcoholic beverages are restricted to on sale only and sales shall be
27 only between the hours of six a.m. and two a.m., seven days a week.

28 9. Class B-3.a, class B-3.X.a, class B-4.a and class B-4.X.a: In addition to the on sale of
29 alcoholic beverages, off sale is permitted Monday through Saturday during authorized
30 hours.

31 10. Class B-4.a.b and class B-4.X.a.b: In addition to the on sale of alcoholic beverages
32 and off sale of alcoholic beverages Monday through Saturday, off sale is permitted on
33 Sunday during authorized hours.

34

35 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**
36 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

37
38 **ADOPTED** this _____ day of _____, _____.

39
40
41

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

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EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

Policy Report

O-27-12

Removing the Requirement that a Certified Public Accountant Attest to Ratio Reports for Restaurants Renewing Their Alcoholic Beverage Licenses

The proposed ordinance would enact the recommendation of the Citizens Committee to Review Alcoholic Beverage Laws (CCRABL) regarding the removal of the requirement that a certified public accountant attest to a restaurant class alcoholic beverage licensee's ratio report as part of the license renewal process. Instead, the owner would be allowed to submit a sworn statement regarding the ratio of food and liquor sales.

Prepared by Jessica Cowles, Legislative and Policy Analyst, Office of Law at JCCowles@annapolis.gov or (410) 263-1184.

1 **CITY COUNCIL OF THE**
2 **City of Annapolis**

3
4 **Ordinance No. O-36-12**

5 **Introduced by: Mayor Cohen and Alderman Arnett**
6
7

LEGISLATIVE HISTORY			
<i>Legislative referrals are subject to City Council action at the time of introduction and are reflected in the City Council's adopted minutes</i>			
First Reading	Public Hearing	Fiscal Impact Note	90 Day Rule
9/24/12	10/22/12	10/13/12	12/21/12
Referred to	Referral Date	Meeting Date	Action Taken
Economic Matters	9/24/12		

8
9 **AN ORDINANCE** concerning

10 **Permitted Hours of Sidewalk Cafes**

11 **FOR** the purpose of authorizing permitted sidewalk cafes to remain open during the normal
12 business hours governing such establishments.

13 **BY** repealing and re-enacting with amendments the following portions of the Code of the
14 City of Annapolis, 2011 Edition
15 Chapter 7.42
16

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

19 **Chapter 7.42 – Sidewalk Cafes**

20 **7.42.010 - Sidewalk café—Defined—Permit required.**

21 A. A person shall not construct, maintain, use or operate a sidewalk café without first
22 obtaining a permit as provided in this chapter.

23 B. An application for a sidewalk café permit shall be made to the City Clerk on forms provided
24 by the City Clerk. The application shall be made by the operating establishment.

25 C. A sidewalk café permit shall be for one year from May 1st in each year until the following
26 April 30th, except that, for the 1996-1997 term, the permit shall be valid from the date on which
27 the permit is issued, even if prior to May 1, 1996. The holder of a permit shall pay an annual fee
28 as established by resolution of the City Council. The annual fee shall be paid with the original
29 permit application and with the request for renewal of the permit.

30 D. For purposes of this chapter, "sidewalk café" means any area situated on a public sidewalk
31 where food, refreshments, and/or beverages are sold by a restaurant, delicatessen, ice cream
32 shop or coffee shop (hereinafter "operating establishment") for public consumption at tables or
33 counters located on the sidewalk fronting the operating establishment. Sidewalk cafés shall

1 operate only as authorized pursuant to this chapter.

2

3 **7.42.020 - Standards.**

4 A. No part of a sidewalk café area shall encroach upon any part of the sidewalk frontage of
5 any adjacent premises, right-of-way or alley.

6 B. A sidewalk café must leave a minimum six-foot unobstructed passageway for pedestrians
7 along the length of the café. For operating establishments adjacent to sidewalks less than ten
8 feet wide at the location of the proposed sidewalk café, the City Clerk, with the consent of the
9 Department of Public Works, may reduce the unobstructed passageway to not less than that
10 required by the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) or its successors.

11 C. The holder of a sidewalk café permit shall fully insure, indemnify, defend and hold
12 harmless the City and in their capacity as such, the officers, agents and employees thereof from
13 and against any and all claims and damages in any way arising out of or through the acts or
14 omissions of the permit holder or its employees in the construction, operation, maintenance,
15 use, placement or condition of the sidewalk café. An applicant for sidewalk café shall provide
16 proof of such insurance before a permit may be issued or renewed under this chapter.

17 D. A sidewalk café shall close and all café seating shall be removed from the café area no
18 later than [eleven p.m.] THE PERMITTED CLOSING TIME OF THE OPERATING
19 ESTABLISHMENT. The café area shall be cleared of all other furniture (excepting any furniture
20 approved pursuant to Section 21.08.060(C) to remain in the café area overnight), debris and
21 obstructions to the sidewalk no later than [midnight] THE PERMITTED CLOSING TIME OF
22 THE OPERATING ESTABLISHMENT.

23 E. An operating establishment shall not sell, serve or allow consumption of alcoholic
24 beverages on its sidewalk café without obtaining the required license from the Alcoholic
25 Beverage Control Board. Alcoholic beverages shall be served on the sidewalk café only in
26 conjunction with the service of food. Notwithstanding any contrary or different hours of operation
27 in its alcoholic beverages license, an operating establishment shall not sell, serve or allow
28 consumption of alcoholic beverages on its sidewalk café after the [sidewalk café's]
29 OPERATING ESTABLISHMENT'S PERMITTED closing time.

30 F. Sidewalk café furniture shall comply with any and all guidelines adopted pursuant to
31 Section 21.08.060(C) of this code. Except as otherwise provided pursuant to Section
32 21.08.060(C), all sidewalk café furniture shall be readily moveable and shall be stored indoors
33 when not in use. No permanent structures or improvements shall be installed in or near the café
34 area.

35 G. The following are prohibited in the café area: cooking of food; unshielded trash or refuse
36 storage; advertisements (exclusive of menus intended to be read from café); outdoor
37 entertainment, music, speakers, or public address system; exclusively carry-out transactions.

38 H. A sidewalk café shall comply with all applicable building, health, safety, fire, zoning and
39 environmental standards.

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7.42.030 - Existing sidewalk cafés.

Sidewalk cafés in existence in the C2 district as of November 13, 1995 under authority of a lease agreement with the City, may, at the option of the lessee, continue to operate pursuant to either the existing terms of such lease agreement or the terms of this chapter.

7.42.040 - Sidewalk café violation.

The provisions of this chapter shall be enforced by the Department of Public Works. A person who continues to violate this chapter after a written request to take corrective action is guilty of a municipal infraction and shall be fined for each violation as established by resolution of the City Council plus costs. In addition, the City Council may revoke or suspend a permit issued pursuant to this chapter upon a second or subsequent conviction under this section in any twelve month period.

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.

ADOPTED this _____ day of _____, _____.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

BY

Regina C. Watkins-Eldridge, MMC, City Clerk

Joshua J. Cohen, Mayor

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.
[brackets] indicate matter stricken from existing law.
Underlining indicates amendments.

O-36-12

Permitted Hours of Sidewalk Cafes

Policy Report

The proposed ordinance would authorize permitted sidewalk cafes to remain open during the operating hours of such establishments. For permitted sidewalk cafes, the operating hours for such establishments are authorized generally in the zoning code or may be subject to a special exception or restrictions from the Alcoholic Beverage Control Board (ABCB). If there is a discrepancy in operating hours between a special exception or ABCB restrictions, the special exception operating hours prevail.

Prepared by: Jessica Cowles, City of Annapolis Office of Law, JCCowles@annapolis.gov or (410) 263-1184.