

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

3
4 **Ordinance No. O-31-11**

5 **Introduced by: Mayor Cohen**
6
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LEGISLATIVE HISTORY			
First Reading	Public Hearing	Fiscal Impact Note	180 Day Rule
7/11/11			1/13/12
Referred to	Referral Date	Meeting Date	Action Taken
Rules and City Gov't Planning Commission	7/11/11 7/11/11		

8
9 **A ORDINANCE** concerning

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

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

16 **BY** repealing and re-enacting with amendments the following portions of the Code of the
17 City of Annapolis, 2010 Edition

18 Section 21.08.030
19 Section 21.08.040
20 Section 21.24.070
21 Section 21.24.080
22 Section 21.24.090
23 Section 21.24.110
24 Section 21.24.130
25 Section 21.26.030
26 Section 21.26.050
27 Section 21.26.060
28 Section 21.64.510
29

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

32 **21.08.030 - Planning Commission.**

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

35 B. Membership. The Planning Commission shall consist of seven residents of the City who
36 have a demonstrated interest with regard to planning policy and with regard to land use matters

- 1 and procedures of the City. The members shall be appointed by the Mayor and confirmed by the
2 City Council.
- 3 C. Term. The term of office of each member of the Planning Commission shall be as provided
4 in Article 66B of the Annotated Code of Maryland. The term of each member shall commence
5 on July 1st of the year in the appointment is made.
- 6 D. Rules. The Planning Commission may adopt rules to assist the Commission in carrying out
7 its duties under this Zoning Code.
- 8 E. Duties. The Planning Commission shall have the following powers and duties:
- 9 ~~1. Review all applications for special exceptions and report the findings and recommendations~~
10 ~~to the Board of Appeals in the manner prescribed in this Zoning Code, Chapter 21.26~~
- 11 ~~2~~ 1. Review all proposed amendments to this Zoning Code and Zoning Map and to report to the
12 City Council its findings and recommendations in the manner prescribed in this Zoning Code,
13 Chapter 21.32 and Chapter 21.34
- 14 ~~3~~ 2. Receive the Planning and Zoning Director's recommendations related to the effectiveness
15 of this Zoning Code and report its conclusions and recommendations to the City Council not
16 less frequently than once a year.
- 17 ~~4~~ 3. Hear and ~~make recommendations~~ **decide applications** on planned developments pursuant
18 to the provisions of Zoning Code Chapter 21.24
- 19 ~~5~~ 4. Execute all powers conferred to Planning Commissions under Article 66B of the Annotated
20 Code of Maryland.
- 21

22 **21.08.040 - Board of Appeals.**

- 23 A. Establishment. The Board of Appeals is established pursuant to and has the authority to
24 execute all of the powers granted to Boards of Appeals by Article 66B of the Annotated Code of
25 Maryland.
- 26 B. Membership. The Board of Appeals shall consist of five members who shall be residents and
27 registered voters of the City of Annapolis and who shall serve without compensation. The
28 regular members and one alternate member shall be appointed by the Mayor and confirmed by
29 the City Council and be removable for cause, upon written charges, and after public hearing.
30 When an alternate member is absent, the Mayor with the confirmation of the City Council may
31 designate a temporary alternate.
- 32 C. Term. The term of office of each member of the Board of Appeals shall be for three years, as
33 provided in Article 66B of the Annotated Code of Maryland. Vacancies shall be filled for the
34 unexpired term of any member whose term becomes vacant.
- 35 D. Rules. The Board of Appeals shall adopt rules in accordance with the provisions of this
36 section and in accordance with the provisions of Article 66B of the Annotated Code of Maryland.
37 The Board shall adopt and amend rules as follows:
- 38 1. After a public session to consider the proposed rules or amendments, the Board shall
39 adopt and periodically amend rules of practice and procedure.
- 40 2. The Board shall give reasonable notice of the date, time, and place of the public
41 session and the category of rule or amendment to be considered at the session.
- 42 3. After approval by the Board, the rules of the Board of Appeals shall be published and
43 shall be available to the public through the Department of Planning and Zoning.
- 44 E. Duties. The Board of Appeals shall have the following powers and duties:
- 45 1. To hear and decide appeals, pursuant to the provisions of Zoning Code Chapter
46 21.30 where it is alleged there is error in any order, requirement, decision or
47 determination made by an administrative official or body in the enforcement of: (a) this
48 Zoning Code; or (b) any ordinance adopted pursuant to this Zoning Code.
- 49 2. To hear and decide applications for special exceptions pursuant to Chapter 21.26 of
50 this Zoning Code.

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

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

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

7 ~~5.~~ 5. To hear and decide applications for physical alteration of a nonconforming use
8 pursuant to the provisions of Chapter 21.68

9 ~~6.~~ 6. To hear and decide all matters referred to it or upon which it is required to decide
10 by this Zoning Code, and as prescribed by Article 66B of the Annotated Code of
11 Maryland.

12 F. Tolling of Approvals. Approvals granted by the Board of Appeals pursuant to Section
13 21.08.040E of this Code and extensions thereof which are active and valid as of December 31,
14 2010, shall be tolled until June 30, 2012, so that all such approvals and extensions shall expire
15 on, or any applicable extension request shall have been requested by, June 30, 2012.

16 G. Meetings. The meetings of the Board of Appeals shall be held at the call of the chair and at
17 other time determined by the Board. The Board shall provide public notice of any meeting by
18 publication in at least one newspaper of general circulation in the City not less than seven days
19 prior to the meeting. The chair or the acting chair may administer oaths and compel the
20 attendance of witnesses. All meetings shall be open to the public. The Board shall make a
21 transcript of all proceedings, showing the vote of each member on each question, or the
22 member's absence or failure to vote. The board shall immediately file the transcript of its
23 proceedings in the Office of Planning and Zoning. Each transcript shall be a public record. If a
24 recording or a transcript of a recording is not prepared in the normal course of the Board's
25 proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of
26 preparing the recording or transcript.

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29 **21.24.070 - Procedures for planned developments.**

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

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

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

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

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

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

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

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

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

6 4. Public Hearing. If the applicant requests action on a preliminary plan by the Board of
7 Appeals Planning Commission, the Board of Appeals Planning Commission shall
8 schedule and hold a public hearing on a preliminary planned development application.
9 The applicant shall give notice of the hearing in accordance with the notice requirements
10 set forth in Section 21.10.020(B) and 21.10.020(C) and any other requirements
11 established by the Board of Appeals Planning Commission.

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

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

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

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

27 ~~3. Planning Commission Public Hearing. The Planning Commission will consider the~~
28 ~~application at a regular monthly public meeting. Notice of the public hearing must be~~
29 ~~given by the applicant in accordance with the notice requirements set forth in Section~~
30 ~~21.10.020(B) and 21.10.020(D). At this meeting the Planning Commission shall accept~~
31 ~~evidence and testimony as it may judge to be relevant to the proper consideration of the~~
32 ~~case.~~

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

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

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

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

- 3 A. The proposed width will promote the public welfare and will not endanger public safety.
- 4 B. The proposed width will not impede normal and orderly development and improvement of
5 surrounding property.
- 6 C. The proposed width will not impair the provision of adequate ingress, egress and access
7 within the planned development.
- 8 D. The proposed width of right-of-way has been approved by the Department of Public Works,
9 the Fire Department or other appropriate City agencies.

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11 **21.24.090 - Planned development review criteria and findings.**

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

- 14 A. The planned development is compatible with the character of the surrounding neighborhood
15 and the Comprehensive Plan and the purposes of planned developments.
- 16 B. The proposed locations of buildings, structures, open spaces, landscape elements, and
17 pedestrian and vehicular circulation systems are adequate, safe, and efficient and designed to
18 minimize any adverse impact upon the surrounding area.
- 19 C. The planned development will promote high quality design and will not result in greater
20 adverse impacts to the surrounding area compared to the development that may otherwise be
21 permitted pursuant to the Zoning Code if a planned development were not approved.
- 22 D. The planned development complies with the planned development use standards and bulk
23 and density standards.
- 24 E. The planned development complies with the Site Design Plan Review criteria provided in
25 Section 21.22.080
- 26 F. The planned development plan includes adequate provision of public facilities and the
27 proposed infrastructure, utilities and all other proposed facilities are adequate to serve the
28 planned development and adequately interconnect with existing public facilities.

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31 **21.24.110 - Expiration.**

32 A. Expiration.

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

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

41 B. Extension. If an extension is requested prior to the expiration of a preliminary or final
42 planned development approval, the Planning and Zoning Director may extend a preliminary or
43 final planned development approval for a period not to exceed three years from the date of initial
44 approval by the ~~Board of Appeals~~ **Planning Commission**.

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

48 D. Abandoned or Expired Planned Developments. In the event that a planned development is
49 abandoned or expires, no building permits shall be issued for the planned development unless it
50 is determined by the Planning and Zoning Director that the planned development complies with

1 the current Comprehensive Plan, site design standards and zoning regulations. An abandoned
2 or expired planned development may be reinstated in the same manner as a new planned
3 development.

4 E. Conditions. Any conditions of approval related to those phases of the planned development
5 which were complete prior to the abandonment of the planned development shall remain in full
6 effect and shall be enforceable.
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8 **21.24.130 - Appeals.**

9 Appeal of ~~Board of Appeals~~ **Planning Commission** Decision. An appeal from a decision of the
10 ~~Board of Appeals~~ **Planning Commission** under this chapter shall be made to the ~~Circuit Court of~~
11 ~~Maryland for Anne Arundel County~~ **Board of Appeals**.
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14 **21.26.030 - Procedures.**

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

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

20 1. Staff Review. The Planning and Zoning Director, after having determined that the
21 submission is complete pursuant to Section 21.10.010, may distribute copies of the
22 application to appropriate City departments for review.

23 2. Staff Report. Following review of any special exception application, the Planning and
24 Zoning Director and any other City department reviewing the application will prepare a
25 staff report on the application and transmit the staff report to the Planning Commission
26 prior to the required ~~Planning Commission~~ **Board of Appeals** public hearing on the
27 application.

28 ~~3. Public Hearing. The Planning Commission will consider the application at a regular~~
29 ~~monthly public meeting. Notice of the public hearing must be given by the applicant in~~
30 ~~accordance with the notice requirements set forth in Sections 21.10.020(B) and~~
31 ~~21.10.020(D). At this hearing the Planning Commission shall accept evidence and~~
32 ~~testimony as it may judge to be relevant to the proper consideration of the case.~~

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

39 ~~5 3. Public Hearing. The Board of Appeals shall hold a public hearing on each~~
40 ~~application. The hearing shall be conducted, and a record of the proceedings shall be~~
41 ~~preserved, in the manner the Board of Appeals, by rule, prescribes from time to time.~~
42 ~~Notice of the public hearing must be given by the applicant in accordance with the notice~~
43 ~~requirements set forth in Sections 21.10.020(B) and 21.10.020(C). At the hearing, the~~
44 ~~Planning Commission's findings and recommendations and a report from the Planning~~
45 ~~and Zoning Director shall be placed in evidence.~~

46 ~~6 4. Action on Application. Within thirty days of the conclusion of the public hearing, the~~
47 ~~Board of Appeals shall decide to: (1) approve the application, (2) approve the application~~
48 ~~subject to specific conditions; or (3) deny the application.~~

49 ~~7 5. Conditions of Approval. The Planning Commission may recommend, and the Board~~
50 ~~of Appeals may stipulate, conditions and restrictions upon the establishment, location,~~

1 construction, maintenance and operation of the special exception as are deemed
2 necessary for the protection of the public interest and to secure compliance with the
3 requirements specified in Section 21.26.050. However, the Board of Appeals may not
4 impose any condition, or enforce any condition previously imposed, which restricts the
5 applicability or approval of a special exception to a particular applicant, owner or
6 operator.

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9 **21.26.050 - Review criteria and findings.**

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

12 A. The establishment, maintenance or operation of the special exception will not be detrimental
13 to or endanger the public health, safety, morals, convenience or general welfare.

14 B. The special exception will not be injurious to the use and enjoyment of other property in the
15 immediate vicinity for the purposes already permitted, or substantially diminish and impair
16 property values within the neighborhood.

17 C. The establishment of the special exception will not impede the normal and orderly
18 development and improvement of the surrounding property for uses permitted in the district.

19 D. Adequate utilities, access roads, drainage and necessary facilities have been or are being
20 provided.

21 E. Adequate measures have been or will be taken to provide ingress and egress designed to
22 minimize traffic congestion in the public streets.

23 F. The special exception shall, in all other respects, conform to the applicable regulations of the
24 district in which it is located, including any use provisions or standards set forth in Chapter 21.64

25 G. In the case of food service establishments, the following additional standards for review
26 apply. The review of the proposed food service operation shall be based upon an analysis of the
27 proposed use's impact in the following areas:

28 1. Environmental:

29 a. Noise, including the noise of the mechanical equipment and of the patrons
30 while on the premises,

31 b. Odors: control of odors from the cooking process and from the storage of
32 garbage,

33 c. Trash and litter: the type of trash and garbage the food service operation will
34 generate; the precautions to be taken to prevent littering of the streets,

35 2. Traffic:

36 a. Streets: adequacy of the street system to handle additional traffic,

37 b. Loading/unloading: off-street loading facilities available and adequate to
38 handle the intensity and the type of trucks needed to service the proposed use; if
39 on-street loading facilities are used, whether the use will impede traffic flow,

40 c. Parking: adequate parking available either on-site or within the area for
41 employees and patrons,

42 3. Neighborhood:

43 a. Hours: the hours of operation are compatible with the surrounding commercial
44 and/or residential neighborhood,

45 b. Loitering: the measures the restaurant will employ to discourage loitering;
46 whether the type of use is compatible with the surrounding commercial and
47 residential neighborhood,

48 4. Adequacy of public facilities:

49 a. Water and sewer: excess capacity exists and is available,

50 b. Police: police coverage is available,

- c. Fire: the Fire Department has access to the site; sufficient water pressure for firefighting purposes is available and the building meets life safety standards,
- 5. Community need: a community need for the use has been established.

21.26.060 - Reapplication after denial.

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

21.64.510 - Planned developments.

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

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:

Highlighting indicates matter added to existing law.
~~Strikeout indicates matter deleted from existing law.~~
Underlining indicates amendments.