

General Business Overlay: Ordinance Guide

The following guide is intended to summarize and explain the standards set forth in the draft of Ordinance 768-08. Council advertised a public hearing to be held before Council concerning this ordinance on April 16, 2008.

Most sections of the ordinance only apply to the “General Business Overlay,” which is proposed to be defined on the Zoning Map. An overlay is a modification of the base zoning that allows additional uses or imposes additional restrictions in a particular area. The state code allows municipalities to modify base zoning in certain areas to encourage innovation and creative development. These areas may lie near interchanges or transportation corridors where a modified treatment of the base zoning occurs. In other words, if a parcel is zoned R-1 and lies within the overlay, its zoning remains R-1 but the overlay allows for additional uses to occur subject to the standards and procedures of the ordinance.

The ordinance is divided into sections. Each section is formatted as an addition or amendment of existing articles or sections of Chapter 220, Zoning. While separate, each of the sections works in concert with the others to achieve the overall goals and objectives that are outlined by the preamble of the ordinance. The preamble is set forth on the first two pages of the proposed ordinance.

Section 1

This section simply adds a “purpose statement” to those listed for the existing zoning districts.

Section 2

Section 2 adds “performance standards” to ALL parcels in the B District. A leading purpose of the overall ordinance is to encourage central development with limited access points and with buffering. This objective is met, in part, by introducing performance standards that address environmental, access, and architectural standards.

Is summary the performance standards of Section 2:

- Complement and codify storm water practices or “BMP’s” as they relate to commercial construction. This includes minimization of disturbance by terracing parking rather than “table topping.”
- Require stricter revegetation standards for finished slopes greater than 3:1.

- Access limitations and encouragement of “frontage streets” (streets than parallel the main route such as Route 22 and provide access to multiple developments fronting the street.)
- Architectural standards that refer to Section VII of the Ordinance.
- Express limitations on the amount of parking.

Architectural and similar aesthetic provisions have held as reasonable standards within an ordinance where protection of property values is demonstrated. Such impacts are more easily demonstrated with relatively larger developments. Also, certain performance standards are much less applicable when lot coverage or building is minimal. Therefore this section exempts certain developments under certain lot coverage.

Section 3

Section 3 establishes the Overlay District and authorizes additional uses. The District authorizes three additional uses on all parcels within the overlay, regardless of the underlying zoning.

The first is PRD authorized to the number of units and standards that could be constructed in R-2. This allows B zoned parcels, that may be zoned B due to adjacency to Route 22 and other routes but otherwise may have limited access for commercial development, to develop townhomes, patio homes, or similar residential uses. Apartments or multifamily highrises could not be incorporated in such a development. The purpose of this authorization is to provide options for B parcels in a way that ensures compatible residential development and discourages use for noxious commercial purposes.

Secondly, Mixed Use PRD is authorized. This is explained in Section V.

Thirdly, Commercial Centers are authorized as a conditional use, as outlined in Section VI.

Section 4

Section 4 is not a direct function of the Overlay. Like Section 2, it seeks to refine or add performance standards to the existing B District. It amends a conditional use that currently authorizes “mixed use” development on parcels of five acres or greater in the B or General Business District. Essentially, a property owner would utilize this provision if he sought to include residential development integrated with nonresidential or commercial development in the B District. Given the generality of the existing standards, references to the performance standards and additional standards are proposed including:

- Limitations on lot coverage for residential portions of the plan.

- References to performance standards and architectural standards listing enumerated under Sections 2 and 7.

Section 5

SECTION OF ORDINANCE: Article to be added immediately following Article IV, Planned Residential Development.

PURPOSE:

Mixed Use Planned Residential Development is proposed as a separate article. State Law authorizes Planned Residential Development or PRD to include commercial or mixed uses. The current PRD, found in Article IV of the zoning ordinance, allows a developer to cluster the same number of units that are otherwise permitted in the respective zoning district. The Mixed Use Planned Residential Development allows a developer to cluster the impervious surface coverage which the developer could otherwise build as residential or as commercial on a B zoned lot, as centralized mixed use development with open space and buffering.

LINK TO OTHER SECTIONS:

- The B District Performance Standards (Section 2) are incorporated.
- Architectural Standards (Section 7) are incorporated.

SUMMARY OF SECTIONS

220-28

Sets forth where this PRD type applies and a list of objectives against which applications are evaluated.

220-29. Relationship to Other Ordinances

This section specifies or references those ordinances such as storm water and grading which apply to development proposed as a Mixed Use Planned Residential Development. It also enumerates those sections of the zoning ordinance which may be modified in accordance with the standards of the article.

§ 220-30. Basic Site Criteria and Definition of the Site.

- Sets forth minimum size of the site.
- Specifies that site must be served by adequate road infrastructure and public water and sewer.
- Lists definitions that apply to use in the Article. Examples include:
 - Large Retail Stores or “big boxes” which are then limited by the sections of the ordinance.

- Impervious Surface Coverage means the parking, paving, and building areas that are devoted to a particular use category of residential, retail or office.

§ 220-31. Permitted Uses

- Specific uses are listed in Article II of the Zoning ordinance and the use authorization tables of Article III, District Regulations.
- This section summarizes the specific uses that are under each use category. Therefore, where “retail uses” are authorized; they include the specific uses listed in the table.
- Large Retail or “big boxes” are limited to one per every fifty gross acres of a site.

§ 220-32. Required Ratio of Impervious Surface Area by Use.

- Requires a minimum amount of 30 percent office and residential where residential must make up at least 30 percent.
- Residential units are credited a certain amount toward the required share as the precise square footage of each unit will vary.
- The percentages or ratios are determined by impervious surface. This is explained in the next section.

§ 220-33. Impervious Surface Coverage and Dwellings Units Authorized.

- Details how the total amount of impervious surface is calculated.
- In residential, the developer must ultimately submit a plan showing the number of lots he could achieve in that zoning district.
- Those lots are converted to a certain amount of impervious (paving or building) authorized per lot. The amount is based on the likely coverage of dwelling, street, driveway, and compacted lawn areas which the ordinance assumes equal the maximum of amount of impervious coverage authorized per district on a minimum sized lot. For example, in R-2, minimum lot size is 20,000 square feet and up to half of the lot can be covered with paving or structures. Therefore, each R-2 lot the developer can demonstrate yields 10,000 square feet of impervious surface coverage.
- Coverage yielded by B District parcels is determined in a similar fashion by the amount of coverage, up to 80% which is the maximum in B, that is achievable given the character of the parcel.
- The above amounts account for the total that can be developed or covered on the site. The total site may include business or residentially zoned properties within the overlay.

§ 220-34. Site Configuration and Design.

- Outlines standards for the location of uses by their intensity.
- Institutes performance standards for lighting and parking.
- Sample configurations and designs are found in Appendix A.

§ 220-35. Open Space and Buffering Standards.

- Requires minimum landscaping and buffering around the perimeter of the site.
- Allows two options for buffering.
- Option 1 permits a transition of compatible housing (relative to surrounding neighborhoods) within a prescribed Buffer area. The area may be determined based on topography, existing vegetation, and surrounding neighborhoods. Setbacks are imposed on commercial structures.
- Option 2 assumes the buffer area will contain no residential structures and will consist of topographic, landscaping, and planted woodlands to provide for proper buffering. Relatively small structures may encroach slightly into the buffer area, but parking and loading areas are restricted.

§ 220-36. Phasing Requirements, Application Requirements and Process and Modifications

- Sets forth thresholds for future modifications of the approved plan. PRD's may be modified by Council after approval with express standards.
- Requires "phasing" in that a certain amount of approved office or residential must be constructed prior to later retail phases. This provision is meant to ensure that construction of a mixture of uses actually occurs.

Section VI, Commercial Center Conditional Use

The Commercial Center Conditional Use essentially mirrors the standards of the Mixed Use PRD. It requires a mixture of a minimum of 15% coverage devoted to office uses. No residential is required or authorized. Therefore, the ordinance employs a conditional use. The following highlights key differences between the conditional use and the Mixed Use PRD.

- The developer must dedicate additional land at a rate twice the impervious surface that he could have covered with residential uses and streets through the Mixed Use PRD.
- "Option 2" as defined under the Mixed Use PRD is utilized.

Appendix

The appendix is reference as an integral part of the ordinance. The appendix provides illustrations of:

- General plan layout.
- Samples of compliant buffering or transitional zones.
- Examples of impervious surface calculations.
- Building design or architectural standards.