PUBLIC NOTICE
WILLIAMSBURG PLANNING COMMISSION

The Williamsburg Planning Commission will hold a public hearing on Wednesday, November 14, 2012, 3:30 P.M. in the Council Chambers of the Stryker Building, 412 North Boundary Street, to consider the following:

PCR #12-021: Request of Parkway Partners LLC to amend the zoning proffers for 222 Parkway Drive, also identified as Williamsburg Tax Map No. 438-18-00-001. This property is zoned RM-2 Multifamily Dwelling District Conditional. The original proffers, approved in 2003, were for a 46 unit condominium building. The proposed proffers are for a 30 lot townhouse subdivision.

PCR #12-022: Amend the Zoning Ordinance to place limitations on helicopter landings and departures [Sec. 21-621]. This will allow a single helicopter landing and departure only in the B-2, ED, ED-2 and MS Districts, and repeated landings and departures of non-commercial helicopters for private use in all zoning districts with a special use permit. This revision is mandated by the Code of Virginia.

PCR #12-023: Amend the Zoning Ordinance to update provisions for the demolition of buildings located in the Architectural Preservation District [Secs. 21-854 and 21-862]. This clarifies the provision that a building in the AP District may be demolished without Architectural Review Board approval if it is determined to be a hazard by the City's code official. This revision is mandated by the Code of Virginia.

PCR #12-024: Amend the Zoning Ordinance to extend the sunset date for various land use approvals from July 1, 2014 to July 1, 2017 [Secs. 21-46, 21-777 and 21-856], and to stipulate that until July 1, 2017 cash proffers for residential developments are not payable or collected until after completion and final inspection, but before a certificate of occupancy is issued [Sec. 21-77]. These revisions are mandated by the Code of Virginia.

PCR #12-025: Amend the Zoning Ordinance to revise the voting procedures for the Board of Zoning Appeals. This will allow the applicant, in the case of a tie vote, to request that the matter be carried over until the next scheduled meeting. This revision is mandated by the Code of Virginia.

PCR #12-026: Expansion of the Midtown Parking District by adding properties zoned B-3 General Business District that are located southeast of Bypass Road and New Hope Road. Residential parking regulations will be unchanged. Hotels/motels will require one parking space per bedroom. All other business uses will have a uniform parking requirement of one space for each 400 square feet of floor area. These changes are intended to provide more flexibility for establishing new uses in the Midtown Planning Area.

Additional information is available at www.williamsburgva.gov/Index.aspx?page=1036 or at the Planning Department (757) 220-6130, 401 Lafayette Street. Interested citizens are invited to attend this hearing and present their comments to Planning Commission.

If you are disabled and need accommodation in order to participate in the public hearing, please call the Planning Department at (757) 220-6130, (TTY) 220-6108, no later than 12:00 noon, Wednesday, November 7, 2012.

Reed T. Nester

Reed T. Nester
Planning Director

CITY OF WILLIAMSBURG
MEMORANDUM

TO: **Planning Commission**

DATE: **October 12, 2012**

SUBJECT: **PCR #12-021**
Request of Parkway Partners LLC to amend the zoning proffers for 222 Parkway Drive

Parkway Partners LLC are proposing to amend the zoning proffers for 222 Parkway Drive. This property was rezoned to RM-2 High Density Multifamily Residential Conditional in August 2003 (PCR #03-009) for a 46 unit condominium building with underground parking. The zoning proffers that were approved with the rezoning were: one building on the property with buffers as shown on the conceptual plan, exterior of the building to be brick, dwelling units to be operated as a condominium, condominium instruments shall contain a covenant providing that no more than 15% of the units may be rented at any one time. The architectural plans for the original project were approved in March 2004 (ARB #04-024), and the site plan for the original project was approved in April 2004 (SPR #04-004). The project has not been built.

The new proposal is for a townhouse subdivision of 30 townhouse lots with buffers and setbacks that meet the RM-2 zoning requirements. Since this proposal is not consistent with the existing proffers, they need to be amended. The amended proffers are: no more than 30 townhouse lots; developed generally in accordance with the Conceptual Plan, with the minimum buffers shown on the Conceptual Plan; and a covenant that no more than 10 townhouses may be rented at any one time, to be enforced by the homeowners association.

The applicant states that:

> *This proposal is consistent with the City's Comprehensive Plan. The site and its immediate surroundings are designated as High Density Residential (up to 14 units per acre) on the 2006 Comprehensive Plan. Significant wooded buffers surround the developed portion of the property, mitigating any perceived conflicts between adjacent land uses which include single family residential, office/warehouse uses, a hotel and a restaurant, and an on ramp for the Colonial Parkway. This proposal significantly reduces the density originally proposed with the condominium use. The 30 town home community is consistent with the existing RM-2 zoning and the Architectural Review Board has granted the project conceptual approval. The applicant is committed to working with the Architectural Review Board, City staff, the Planning Commission, and City Council to produce the best result for the site and the City of Williamsburg.*

COMPREHENSIVE PLAN

This property is designated by the 2006 Comprehensive Plan as High Density Multifamily Residential land use (14 units per net acre). The Plan states that this land use category is applied to the City's high density multifamily residential areas, implemented by the RM-2 zoning district, and notes that Parkway Drive between Second Street and Capitol Landing Road has developed as a residential area since the 1998 Comprehensive Plan.

ZONING

This property is zoned High Density Multifamily Residential District RM-2. The RM-2 District allows single family, duplex, townhouse and multifamily dwellings at a density of 14 dwelling units/net acre. Uses such as day care centers, nursing homes, private clubs and lodges, schools and churches are allowed with a special use permit.

The statement of intent for the RM-2 District reads:

> *This district is established as a residential area with a high population density. Uses such as schools, churches, public buildings and other uses that may be compatible with multifamily residential uses may be allowed with special use permits.*

ANALYSIS

This parcel has 3.3 net acres, and supports up to 46 dwelling units at the permitted density of 14 dwelling units/net acre. The original approved plans were for a single four story 46-unit brick condominium building with enclosed parking on the ground floor, and three stories of condominiums above.

To mitigate the size (268 feet by 168 feet) and height (35 feet) of the original condominium building, additional yards and buffers were proffered:

- 100 foot rear yard adjacent to Pinecrest with an 85 foot buffer area (the Zoning Ordinance requires a 25 foot rear yard plus a 25 foot transitional screening buffer)
- 75 foot left side yard with a 45-50 foot buffer (the Zoning Ordinance requires a 15 foot side yard)
- A 50 foot right side yard, with a 20-25 foot buffer (the Zoning Ordinance requires a 15 foot side yard)
- A 40 foot buffer for the front of the site (the Zoning Ordinance only requires a 15 foot landscape strip for parking lots)

The new proposal reduces the number of dwelling units to 30 and changes the dwelling unit type to three story townhouses, which breaks up the massing of the proposed development. The following yards and buffers are proffered:

- A 93-113 building setback from Pinecrest with a 50 foot buffer area. A small guest parking area plus two recreation areas are between the end townhouses and the buffer area.
- A 65 foot building setback from the left and right property lines (30 foot rear yard plus 35 foot buffer).
- A 57.5 foot building setback along the front of the site (50 foot buffer plus 7.5 foot side yard for the front townhouses).

The Architectural Review Board approved the conceptual architectural plans for this development on August 28 (ARB #12-010).

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Reed T. Nester, AICP
Planning Director

[PC\PCR\2012\12-021M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE TO AMEND ZONING PROFFERS FOR 3.35 ACRES AT 222 PARKWAY DRIVE, ZONED RM-2 CONDITIONAL (PCR #12-021)

WHEREAS, this property was rezoned to RM-2 Conditional on August 14, 2003 (Ordinance #03-27); and

WHEREAS, this rezoning incorporated proffers for a 46 unit condominium building with specified buffers and yard requirements; and

WHEREAS, a revised application has been submitted with new proffers for a 30 lot townhouse subdivision with specified buffers and yard requirements; and

WHEREAS, it has been determined by City Council that the general welfare of the City of Williamsburg would be served by amending the zoning proffers for 3.35 acres at 222 Parkway Drive to enable the development of the property as a 30 lot townhouse subdivision.

NOW, THEREFORE, BE IT ORDAINED that the original proffers pertaining to 3.35 acres at 222 Parkway Drive, identified as Williamsburg Tax Map Nos. 438-18-00-001, and as further described as Exhibit A (attached hereto), be replaced by the PROFFER AGREEMENT made by and between the owners of said property, PARKWAY PARTNERS LLC, dated _____, a copy of which is attached hereto, and that this ordinance hereby incorporates all of the terms and conditions of this PROFFER AGREEMENT. The City Council Clerk shall cause the PROFFER AGREEMENT to be duly acknowledged, recorded and indexed among the land records in the Clerk's Office for the Circuit Court of the City of Williamsburg and the County of James City.

BE IT FURTHER ORDAINED that in accordance with the terms and conditions of Chapter 21, Zoning, Section 21-79 of the City Code, the City's Zoning Administrator shall indicate on the City's Zoning Map that this parcel is subject to conditional zoning and shall further enter this parcel in the City's conditional zoning index.

This ordinance shall become effective on the tenth day following its passage.

Adopted: _____

_____
Clyde A Haulman, Mayor

_____
Donna Scott, City Council Clerk

[PC\PCR\2012\12-021OD1]

PCR #12-021
PARKWAY PARTNERS LLC PROFFER AMENDMENT
222 PARKWAY DRIVE

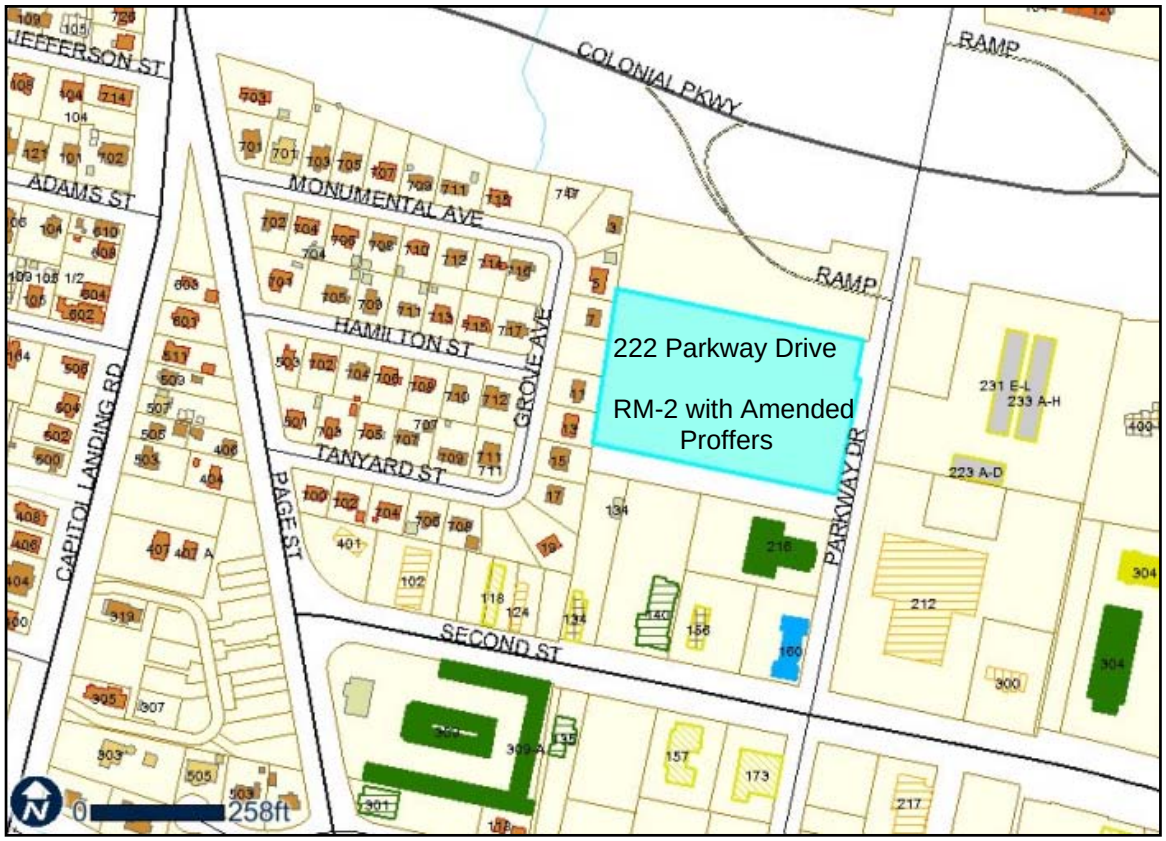


EXHIBIT A

PROFFERS

THESE PROFFERS are made this ___ day of _____, 2012 by **PARKWAY PARTNERS, LLC**, a Virginia limited liability company, (together with its successors and assigns, the "Owner") to be indexed as Grantor in the City of Williamsburg land records and the **CITY OF WILLIAMSBURG**, a Virginia municipal corporation, ("City") to be indexed as Grantee in the City of Williamsburg land records.

RECITALS

A. Owner is the owner of a tract or parcel of land located in the City of Williamsburg, Virginia, consisting of Tax Map #438-18-00-001 with an address of 222 Parkway Drive, Williamsburg, Virginia, which land is more particularly described on Exhibit A hereto (the "Property"). The Property contains a total of approximately 3.35 acres and is now zoned RM-2, with proffers.

B. Owner has applied to rezone the Property from RM-2, Conditional, to RM-2, Conditional, with amended proffers.

C. Owner has submitted to the City a conceptual development plan for the development of the Property entitled "Conceptual Plan Parkway Townhomes" dated 11/14/11, revised 1/30/12 and prepared by AES Consulting Engineers (the "Conceptual Plan"). The Conceptual Plan is attached hereto as Exhibit B.

D. Owner desires to offer to the City certain amended conditions on the development of the Property not generally applicable to land zoned RM-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and Article II, Division 4 of the City Zoning Ordinance, Owner agrees that Owner or its successors in title, as the case may be, shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the City, these Proffers shall be null and void.

CONDITIONS

1. Development. The Property shall contain no more than 30 townhouse lots. If and when developed, the Property shall be developed generally in accordance with the Conceptual Plan. Minor changes in the Conceptual Plan may be approved by the Planning Director based on actual site conditions. There shall be the minimum buffers on the Property shown on the Conceptual Plan.

2. Rental Restrictions. The declaration of covenants and restrictions for the Property shall contain a covenant providing that no more than 10 townhomes may be rented at any one time. The covenant shall be enforced by the Board of Directors of the homeowners association.

The City of Williamsburg joins herein to and does hereby confirm its acceptance of these proffers as part of the rezoning of the subject Property from RM-2, Conditional, to RM-2, Conditional with amended proffers.

WITNESS the following signatures.

PARKWAY PARTNERS, LLC

By:_____
Title:

CITY OF WILLIAMSBURG, VIRGINIA

By:_____

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____ day of _____, 2012, by _____, _____ of Parkway Properties, LLC, a Virginia limited liability company, on its behalf.

_____
NOTARY PUBLIC

My commission expires: _____.
Registration No.: _____

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged this _____ day of _____, 2012, by _____, _____ of the City of Williamsburg, on its behalf.

_____
NOTARY PUBLIC

My commission expires: _____.
Registration No.: _____

AES
CONSULTING ENGINEERS

5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
Phone (757) 253-0040
Fax (757) 220-8994
aesva.com

RECEIVED
SEP 17 2012

Mr. Reed T. Nester
Planning Director
City of Williamsburg
401 Lafayette Street
Williamsburg, Virginia 23185

Re: Amending the Master Plan and Proffers at 222 Parkway Drive
AES Project No. 9297-03

Dear Reed,

With this letter please find our application to amend the zoning and proffers for 222 Parkway Drive. With the application and fee we are enclosing 6 copies of the Master Plan, 6 sets of the building elevations, one color copy of the plan (pdf provided), and draft proffers for the property. Parkway Partners, LLC, proposes to amend the current RM-2 zoning at 222 Parkway Drive. At the 2003 rezoning a 46 unit condominium building was approved with proffers. The current proposal is a response in part to the current economy and the general marketability of condominiums. This amendment proposes 30 town home units with buffers and setbacks per RM-2 zoning. The 3.35 acre site is located within the Corridor Protection District and, in August 2012, Parkway Partners, LLC, received conceptual approval of the plan and the proposed building elevations from the Williamsburg Architectural Review Board. This approval was required prior to making application to amend the current zoning and proffers.

A portion of the site lies within the Resource Management Area. There are no Resource Protection Areas (RPA) or wetlands located within the site. The enclosed revised master plan shows 30 town home units representing a net density of 9.1 dwelling units per acre (a small amount of the site contains slopes between 10% and 20%). These town homes front on a private street entering the middle of the 3.35 acre property from Parkway Drive. The required parking is provided via individual garages and driveways long enough to park one additional vehicle. The required number of guest parking spaces is located at the end of the private street. A recreation area is located at the rear of the property and shall be designed to provide active recreational opportunities for the residents. The total recreation area shown exceeds the minimum required area based on 200 square feet per unit. Sidewalks line both sides of the private street connecting to the proposed sidewalk along Parkway Drive. Landscaping for the developed portions of the site including entry area, building perimeters, recreation areas and parking shall be landscaped per Section 21-784 of the Ordinance as amended.

Public water shall be provided from the existing 6" water main along Parkway Drive as originally shown and designed with Site Plan SPR #04-004. Since the project now consists of town home product and not condominiums, there is no longer a need for a detector check vault or fire line. The sewer shall be extended to the site from an existing manhole located on Third Street to the south of the property. Capacities for the water main and sewer main were provided with the original site plan referenced above.

Stormwater management will be accommodated with a single, underground facility with an outlet towards the southwest corner of the project. We hope to treat and attenuate the entire site through this facility, but if that is not possible, another facility can be put in place to outlet into the existing drop inlet at Parkway Drive to the northeast of the property. The previous site plan designed both of these facilities, but this site is less impervious and should only require the one outfall.

This proposal is consistent with the City's Comprehensive Plan. The site and its immediate surroundings are designated as High Density Residential (up to 14 units per acre) on the 2006 Comprehensive Plan. Significant wooded buffers surround the developed portion of the property, mitigating any perceived conflicts between adjacent land uses which include single family residential, office/warehouse uses, a hotel and a restaurant, and an on ramp for the Colonial Parkway. This proposal significantly reduces the density originally proposed with the condominium use. The 30 town home community is consistent with the existing RM-2 zoning and the Architectural Review Board has granted the project conceptual approval. The applicant is committed to working with the Architectural Review Board, City staff, the Planning Commission, and City Council to produce the best result for the site and the City of Williamsburg.

Sincerely,

AES Consulting Engineers

James S. Peters, L.A.
Landscape Architect / Land Planner

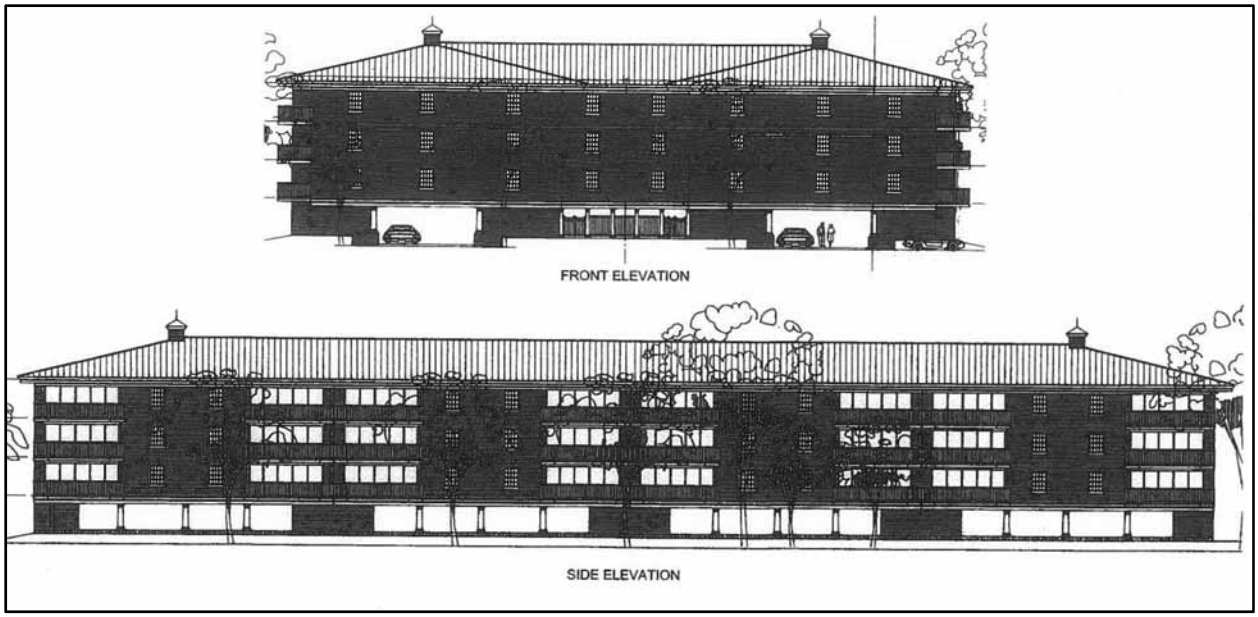
JSP:gcs

S:\Jobs\9297\03-Parkway-ZoningAmend\Admin\Correspondence\Letters\W0929703L01-jsp.doc.docx

ORIGINAL PROPOSAL (PCR #03-009)

REVISED PROPOSAL (PCR #12-021)

ORIGINAL BUILDING PROPOSAL (PCR #03-009)



REVISED BUILDING PROPOSAL (PCR #12-021)

CITY OF WILLIAMSBURG

MEMORANDUM

TO: **Planning Commission**

DATE: **October 10, 2012**

SUBJECT: **PCR #12-022**
Zoning Text Amendment – Limitations on Helicopter Landing and Departures

During its 2012 session, the General Assembly passed House Bill 526, which provides that no local zoning ordinance shall impose a total ban on departures and landings within the locality by non-commercial helicopters for personal use. Localities are permitted to require a special exception, special use permit, or conditional use permit for repeated landings on the same parcel.

The City's Zoning Ordinance currently provides for only landings and departures of medical transport helicopters in the LB-4 district, with a special use permit. The Zoning Ordinance provides no right to land non-commercial private helicopters. Based on the change to the state law, and in order to prevent the inadvertent creation of a vested right to land non-commercial helicopters, the City is now required to allow some non-commercial helicopter landings. The proposed ordinance provides that a single helicopter landing and departure may occur on parcels only in the B-2 Corridor Business District, the ED and ED-2 Economic Development Districts, and the MS Museum Support District. The proposed ordinance also provides that with a special use permit, repeated landings and departures of non-commercial helicopters for private use may occur in all zoning districts. Conditions necessary for the protection of neighboring property owners, as well as applicable FAA regulations may be imposed as part of any special use permit granted.

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Christina W. Shelton
City Attorney

[PC\PCR\2012\12-022M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS, BY ADDING SEC. 21-621 LIMITATION ON HELICOPTER LANDINGS
(PCR #12-022)

WHEREAS, during the 2012 Session of the General Assembly, House Bill 526 was adopted, which added §15.2-2293.2 to the Code of Virginia; and

WHEREAS, §15.2-2293.2 of the Code of Virginia prohibits localities from imposing a total ban on departure and landings within the locality by non-commercial helicopters for personal use, but does allow localities to adopt regulations regarding repeated helicopter landings and departures on the same parcel of land in some or all zoning districts; and

WHEREAS, the zoning ordinance does not currently provide for non-commercial helicopter landings or departures, and currently only provides for helicopter landings and departures for medical transport at heliports approved by a special use permit in the LB-4 District; and

WHEREAS, in order to comply with the Code of Virginia, the zoning ordinance must be amended to allow some landings and departures of noncommercial helicopters for private use, and to provide a process for repeated helicopter departures and landings for private helicopters with a special use permit.

NOW, THEREFORE, BE IT ORDAINED that Chapter 21, Article IV, Section 21-621 is hereby **ADDED** to read:

Section 21-621. Limitation on Helicopter Landings.

Except as otherwise provided in Section 21-257.4, and the provisions of this section, helicopter landings are generally not permitted in the City of Williamsburg. A single landing and departure of a non-commercial helicopter for personal use may be made in the B-2 Corridor Business District, the ED Economic Development District and ED-2 Economic Development District, and the MS Museum Support District, so long as said landing and departure is made in compliance with all applicable Federal Aviation Administration regulations. Except as otherwise provided in Section 21-257.4, repeated helicopter landings and departures on the same parcel of land may occur, in all districts, only with the issuance of a special use permit. A special use permit issued for this purpose may be issued only for non-commercial helicopters for personal use, and may contain reasonable conditions necessary for the protection or benefit of owners and occupants of neighboring parcels, including but not limited to compliance with applicable regulations of the Federal Aviation Administration.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted:_____ _____
Clyde A. Haulman, Mayor

Attest: _____
Donna Scott, City Council Clerk

[PC\PCR\2012\12-022OD1]

CITY OF WILLIAMSBURG

MEMORANDUM

TO: **Planning Commission**

DATE: **October 10, 2012**

SUBJECT: **PCR #12-023**
Demolition of Buildings in Architectural Preservation District

During its 2012 session, the General Assembly passed House Bill 327, amending Section 36-105 of the Code of Virginia. This amendment creates a statutory exception to the authority of localities to prohibit the demolition of buildings or structures located within a preservation district. Said exception provides that when the local code official determines that the condition of the building or structure contributing to a preservation district constitutes a hazard sufficiently severe that the structure must be razed, no approval of the locality is required before the structure shall be razed or removed. There is currently a similar provision in Sec. 21-862 of the Zoning Ordinance, which states that "Nothing in this article shall be construed to prevent the construction, reconstruction, alteration or demolition of any such element which the authorized city officials shall certify as required by public safety," but the proposed changes add the new language in House Bill 327, making the Architectural Review section of the Zoning Ordinance consistent with the amended provisions of Sec. 36-105 of the State Code.

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Christina W. Shelton
City Attorney

[PC\PCR\2012\12-023M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE IX, ARCHITECTURAL REVIEW, SECS. 21-854 AND 21-862, BY ADDING PROVISIONS PERTAINING TO RAZING, DEMOLISHING OR MOVING HISTORIC LANDMARKS, BUILDINGS AND STRUCTURES IN THE AP DISTRICT (PCR #12-023)

WHEREAS, at its 2012 Session the General Assembly enacted House Bill 327 pertaining to razing, demolition or moving of buildings and structures in certain zoning districts; and

WHEREAS, in order to comply with such mandate, it is necessary to amend the City Code accordingly;

NOW, THEREFORE, BE IT ORDAINED, that Chapter 21, Article IX, Secs. 21-854(b) and 21-862(b) of the Williamsburg Code are hereby amended to read:

Sec. 21-854. Approval required.

(a) No building, structure, sign or exterior architectural feature within the architectural preservation district AP or the corridor protection district CP shall be erected, reconstructed, altered or restored unless approval has been granted by the architectural review board. Interior features or alterations are not subject to review.

(1) For the purpose of this article, "exterior architectural feature" shall include, but shall not be limited to, walls, fences, and light fixtures and poles.

(b) No historic landmark, building or structure in the architectural preservation district shall be razed, demolished or moved in whole or in part unless approval has been granted by the architectural review board, unless the City's code official, consistent with the Uniform Statewide Building Code, Part III Maintenance, determines that it constitutes such a hazard that it shall be razed, demolished or moved.

(1) For the purpose of this article, a contributing landmark, building or structure is one that adds to or is consistent with the historic or architectural qualities, historic associations, or values for which the district was established pursuant to § 15.2-2306, because it (i) was present during the period of significance, (ii) relates to the documented significance of the district, and (iii) possesses historic integrity or is capable of yielding important information about the period.

Sec. 21-862. Exclusions.

(a) Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building, structure, sign or exterior architectural feature described in this article. Ordinary repair and maintenance is work done to prevent deterioration or to replace parts of a building, structure, sign or exterior architectural feature with equivalent materials in order to correct any deterioration, decay of or damage to any such building, structure, sign or exterior architectural feature.

(b) Nothing in this article shall be construed to prevent the construction, reconstruction, alteration or demolition of any such element which the authorized city officials shall certify as required by public safety.

(1) Demolition of a historic landmark, building or structure located in the architectural preservation district AP is addressed in section 21-854 (b).

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: _____, 2012

_____
Clyde A. Haulman, Mayor

Attest: _____
Donna Scott, City Council Clerk

[PC\PCR\2012\12-023OD1]

CITY OF WILLIAMSBURG

MEMORANDUM

TO: **Planning Commission**

DATE: **October 10, 2012**

SUBJECT: **PCR #12-024**
Zoning Text Change – Land Use Approval Extension Date and Cash Proffer Payments

As required by House Bill #571 enacted at the 2012 Session of the General Assembly, the attached proposed ordinance amends the Zoning Ordinance chapter of the City Code to extend the sunset date for various land use approvals from July 1, 2014 (a previously mandated extension) to July 1, 2017. The bill also mandates that until July 1, 2017, cash proffers for residential developments on a per-dwelling unit or per-home basis not be payable or collected until after completion and final inspection, but before a certificate of occupancy is issued. Affected Zoning Ordinance sections include special use permits (Sec. 21-46); zoning proffers (Sec. 21-77); site plan approvals (Sec. 21-777) and ARB approvals (Sec. 21-856). The extension of validity and extension of deadlines will not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with a proposed development are continued in force.

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Christina W. Shelton
City Attorney

[PC\PCR\2012\12-024M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE TO AMEND CHAPTER 21, ARTICLE II, DIVISION 2, SECTION 21-46; ARTICLE II, DIVISION 4, SECTION 21-77; ARTICLE VII, SECTION 21-777 AND ARTICLE XI, SECTION 21-856 TO EXTEND THE SUNSET DATE FOR SEVERAL MEASURES RELATED TO VARIOUS LAND USE APPROVALS, THE TIMING OF CASH PROFFER PAYMENTS, AND BONDING REQUIREMENTS FROM JULY 1, 2014, TO JULY 1, 2017
(PCR #12-024)

WHEREAS, at its 2012 Session the General Assembly enacted House Bill 571 Amends §§ 15.2-2209.1 and 15.2-2303.1:1 of the Code of Virginia and to amend and reenact the second enactment of Chapter 193 of the Acts of Assembly of 2009 thereby extending the sunset date for several measures related to various land use approvals, the timing of cash proffer payments, and bonding requirements from July 1, 2014, to July 1, 2017.; and

WHEREAS, in order to comply with such mandate, it is necessary to amend the City Code accordingly;

NOW, THEREFORE, BE IT ORDAINED, that the following sections of Chapter 21, Zoning, of the Williamsburg Code are hereby amended as follows: Article II, Division 2, Section 21-46; Article II, Division 4, Section 21-77; Article VII, Section 21-777 and Article XI, Section 21-856:

Sec. 21-46. - Action by city council.

(a) Before approving a special use permit, the city council shall hold at least one public hearing after public notice as required by Code of Virginia, § 15.2-2204, after which the city council may make appropriate changes to or impose appropriate conditions upon the proposed special use.

(b) Approval of a special use permit by city council shall expire one year from the date of the approval of the special use permit, unless a final site plan in accordance with the special use permit has been approved in accordance with Article VII. If an applicant for a special use permit presents a specific construction schedule for the project as a part of the application, city council may specify an expiration date for the submittal of the final site plan or plans based on the submitted time schedule; provided that city council concludes that the schedule is necessary based on the nature and scope of the project. If the final site plan has been approved, the special use permit shall expire five years from the date of the approval of the final site plan, unless a building permit has been obtained for construction; or, if a building permit has been issued and construction has not commenced, upon the expiration of the building permit. The above notwithstanding, in accordance with Virginia Code § 15.2-2209.1B, any valid special exception, special use permit, or conditional use permit outstanding as of

January 1, 2011, and related to new residential or commercial development, any deadline in the exception permit, or in the zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2017, or longer as agreed to by the city. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years. Such extension shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force;

Sec. 21-77. - Proffer of conditions.

(a) Prior to a public hearing before the city council, in accordance with the provisions of division 3, Amendments, of this article, the owner or owners of property sought to be rezoned under the provisions of this chapter may voluntarily proffer in writing reasonable conditions, in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. Said conditions shall be proffered as a part of the requested rezoning or amendment to the official zoning map. Conditions so proffered are subject to the following limitations:

(1) The rezoning itself must give rise for the need for the conditions;
(2) Such conditions shall have a reasonable relation to the rezoning;
(3) All such conditions shall be in conformity with the city's comprehensive plan;
(4) No proffer shall be accepted by the city unless it has adopted a capital improvement program pursuant to Virginia Code, § 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the city from accepting proffered conditions which are not normally included in such capital improvement program;
(5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered;
(6) Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55, Code of Virginia, which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in § 15.2-2241, Code of Virginia; however, such facilities shall

not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the city.

(7) Payments of cash proffered on a per-dwelling unit or per-home basis for residential construction shall be collected or accepted only after completion of the final inspection and prior to the time of the issuance of any certificate of occupancy for the subject property. In accordance with Virginia Code § 15.2-2303.1:1 C, this paragraph (7) shall expire on July 1, ~~2015~~ 2017.

Sec. 21-777. In general.

(b) *Site plan administration.*

(4) Approval of site plans.

a. A decision to approve, approve with conditions or disapprove a site plan shall be made by the planning commission.

b. When denying a site plan, the planning commission shall state specific reasons for the denial.

c. Approval of a site plan shall expire five years after the date of approval, unless a building permit has been obtained for construction; or, if a building permit has been issued and construction has not commenced, upon the expiration of the building permit. No change or amendment to this chapter adopted subsequent to the date of approval of the site plan shall adversely affect the right of the developer to commence and complete the development in accordance with the approved site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare. The above notwithstanding, in accordance with Virginia Code § 15.2-2209.1B, any valid special exception, special use permit, or conditional use permit outstanding as of January 1, 2011, and related to new residential or commercial development, any deadline in the exception permit, or in the zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended until July 1, 2017, or longer as agreed to by the city. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years. Such extension shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force;

d. When a site is being developed in phases, the site plan shall remain valid so long as substantial construction work does not stop for more than two years.

Sec. 21-856. Duration of approval.

(a) Approval by the review board of any erection, reconstruction, alteration, restoration, razing, demolition or moving of a building, structure, sign or exterior architectural feature (except when plans are reviewed in conjunction with a site plan submitted in accordance with Article VII) shall expire 12 months from the date of approval unless a building permit has been obtained for construction; or if a building permit has been issued, upon the expiration of the building permit.

(b) When reviewed in conjunction with a site plan submitted in accordance with Article VII, approval by the review board of any erection, reconstruction, alteration, restoration, razing, demolition or moving of a building, structure, sign or exterior architectural feature shall remain in force for the duration of the site plan approval ~~expire five years from the date of the approval of the final site plan~~, unless a building permit has been obtained for construction; or, if a building permit has been issued, upon the expiration of the building permit.

(c) The applicant may apply to the review board for re-approval in the event that the original approval has expired.

(d) No action of the review board shall affect the approval period for a site plan, which is determined by section 21-777(3) c.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: _____, 2012 _____

Clyde A. Haulman, Mayor

Attest: _____

Donna Scott, City Council Clerk

CITY OF WILLIAMSBURG

MEMORANDUM

TO: **Planning Commission**

DATE: **October 10, 2012**

SUBJECT: **PCR #12-025**
Board of Zoning Appeals Voting Procedure

As required by House Bill 1269 enacted at the 2012 Session of the General Assembly, the attached ordinance amends Sec. 21-99 of the Zoning Ordinance to provide that in case of a tie vote by the Board of Zoning Appeals on an appeal, the person who filed the appeal may request that the matter be carried over until the next scheduled meeting.

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Christina W. Shelton
City Attorney

[PC\PCR\2012\12-025M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE II, DIVISION 5, SECTION 21-99 PERTAINING TO VOTING PROCEDURES FOR THE BOARD OF ZONING APPEALS (PCR#12-025)

WHEREAS, Chapter 21, Article II, Division 5, Section 21-99 of the Williamsburg Code sets forth procedures regarding appeals to the Board of Zoning Appeals as provided by §15.2-2311 of the Virginia Code; and

WHEREAS, House Bill 1269 enacted by the Virginia General Assembly at its 2012 Session amended said Virginia Code Section to allow the person who filed an appeal before the Board to request that the matter be carried over to the next scheduled meeting in event of a tie vote; and

WHEREAS, it is necessary to amend Williamsburg's zoning ordinance accordingly;

NOW, THEREFORE, BE IT ORDAINED that Chapter 21, Article II, Division 5, Section 21-99 of the Williamsburg Code are hereby **AMENDED** by adding subparagraph (c) as follows:

Sec. 21-99. Procedure on appeal.

(a) All applications or appeals to the board shall be made to the Zoning Administrator, and shall be accompanied by a filing fee in the amount listed on the fee schedule adopted by City Council.

(b) The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within 90 days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the members of the board present and voting shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the board and shall be public records. The chairperson of the board, or, if absent, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(c) In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

EXCEPT, as here amended, the Williamsburg Code shall remain unchanged.

Adopted: _____, 2012

_____
Clyde A. Haulman, Mayor

Attest: _____
Donna Scott, City Council Clerk

[PC\PCR\2012\12-025OD1]

CITY OF WILLIAMSBURG
MEMORANDUM

TO: **Planning Commission**

DATE: **October 10, 2012**

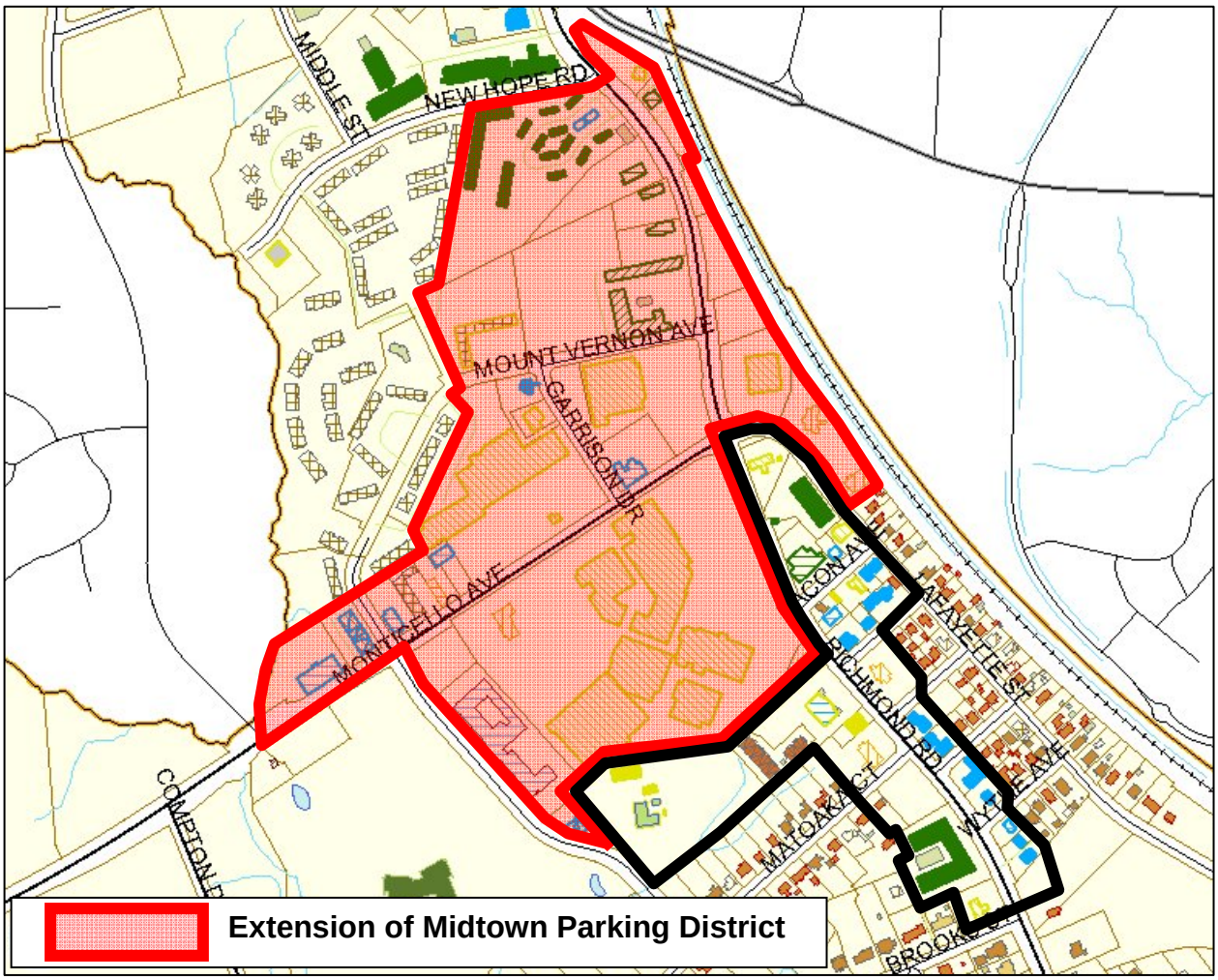
SUBJECT: **PCR #12-026**
Expansion of the Midtown Parking District

As a part of the changes made to the zoning regulations for the Arts District area, the Midtown Parking District was created on June 14, 2012 (PCR #12-008). The Midtown Parking District included the LB-2 District and B-3 District portions of the Arts District, and had special regulations designed specifically for this area, as was done when the Downtown Parking District was created and expanded. It was noted when the Midtown Parking District was created that it raised " …the future possibility that it could be expanded to serve the entire Midtown Planning Areas as we move forward with the implementation of the 2012 Comprehensive Plan."

The Midtown Parking District allows great flexibility for existing buildings used for business uses, and since the parking requirement is the same for all uses, uses can be changed between any permitted business use without providing additional off-street parking. This would allow, for example, a bakery or cupcake shop to add tables and chairs for a small café. It would allow an office use to be changed to a retail store or restaurant without providing additional parking; however, larger businesses may require a special use permit for the use, but not for the parking requirement. The Midtown Parking District allows the prime determinant of business uses to be market demand rather than off-street parking requirements. And it would provide additional flexibility for constructing new buildings.

As part of the discussion of the Midtown Planning Area at the September 5 Community Forum, it was requested that the Midtown Parking District be expanded to include the remaining portion of the B-3 District. Specifically, Steve Munday, owner of Creative Cuisine, 1300 Garrison Avenue, said he is looking to host catered events at his business for up to 50 people. He would like to have the Midtown Parking District extended to cover his area and give him the same flexibility that is available in the Arts District. The draft of *Chapter 10 – Commercial and Economic Development* supports this request, and states that the Midtown Parking District should be extended to the Shopping Centers Area and the Richmond Road Corridor to provide the same flexibility that exits in the Arts and Cultural District.

A map of the proposed expansion of the Midtown Parking District, as well as the present parking requirements for the Midtown Parking District, are shown on the next page.



MIDTOWN PARKING DISTRICT REQUIREMENTS

- Single Family – 2
- Duplex – 2 for each unit. Duplex dwellings are not allowed in the B-3 District.
- Multifamily – 1.25 for each efficiency and one bedroom dwelling unit, and 1.5 for each two or more bedroom unit (unchanged), plus 0.25 parking spaces per dwelling unit for visitor parking.
- Hotels/motels – 1 for each bedroom
- Room rentals to roomers – 1 for each roomer. Room rentals to roomers not allowed in B-3 District.
- Room rentals to visitors – 1 for each bedroom rented. Room rentals to roomers not allowed in B-3 District.
- Business uses (retail establishments, restaurants, offices, art galleries, museums, etc.) – 1 for each 400 square feet of gross floor area (this is a major change)

Under the current parking regulations, the Williamsburg and Monticello Shopping Centers have a requirement of one space per 300 square feet of floor area for all uses, so that once the parking requirement is met, there is complete freedom to change between uses. The proposal to extend the Midtown Parking District would lower this requirement to one space per 400 square feet of floor area, and extend this concept throughout the B-3 District. A similar change was also made for the ED District on September 13, 2012, when the Economic Development Parking District was created (PCR #12-013).

PLANNING COMMISSION PUBLIC HEARING

The Planning Commission public hearing is scheduled for the regular Planning Commission meeting on November 14.

Reed T. Nester, AICP
Planning Director

[PC\PCR\2012\12-026M01]

ORDINANCE #12-__
PROPOSED ORDINANCE #12-__

AN ORDINANCE AMENDING CHAPTER 21, ZONING, ARTICLE V. PARKING, BY EXPANDING THE BOUNDARIES OF THE MIDTOWN PARKING DISTRICT, SEC. 21-711 (PCR #12-026)

These revisions to Chapter 21, Zoning, are intended to promote the health, safety and general welfare of the public, and to carry out the purpose and intent of Chapter 21 as stated in Sec. 21-1.

BE IT ORDAINED that Chapter 21, Zoning, Article V. Parking, be amended by revising the boundaries of the official midtown parking district map, originally adopted on June 14, 2012, as follows:

ARTICLE V. PARKING

Sec. 21-711. Midtown parking district.

(a) A midtown parking district is created to establish special parking requirements appropriate to the unique character of this area, which is included in the city's Arts and Cultural District.

(b) The boundaries of the midtown parking district are delineated on the official midtown parking district map, adopted on June 14, 2012, and amended on [*insert date of adoption*]. The official midtown parking district map, and all notations, references and other information shown thereon, is a part of this article, and has the same force and effect as if the official midtown parking district map were fully set forth or described in this article.

(c) The offstreet parking required for the midtown parking district shall be provided and maintained on the basis of the following table:

	Use Type		Required Parking Spaces
(1)	***Residential uses:***		
	a.	Single-family detached dwelling	2 for each dwelling unit
	b.	Duplex dwellings	2 for each dwelling unit
	c.	Multifamily dwellings	1.25 for each efficiency and one bedroom dwelling unit, and 1.5 for each two or more bedroom dwelling unit, plus 0.25 for each dwelling unit for visitor parking.
(2)	***Transient lodgings:***		
	a.	Hotels/motels:	1 for each bedroom
		Meeting rooms, banquet rooms and restaurants located within a hotel/motel	1 for each 400 square feet of floor area
	b.	Room rentals in single-family detached dwellings (in addition to the parking required by section 21-711(a)):	
		For more than 1 roomer	1 for each roomer
		For visitors	1 for each bedroom rented
(3)	***Business uses:***		
	a.	Retail establishments, restaurants, offices, art galleries, museums and other non-residential uses.	1 for each 400 square feet of floor area

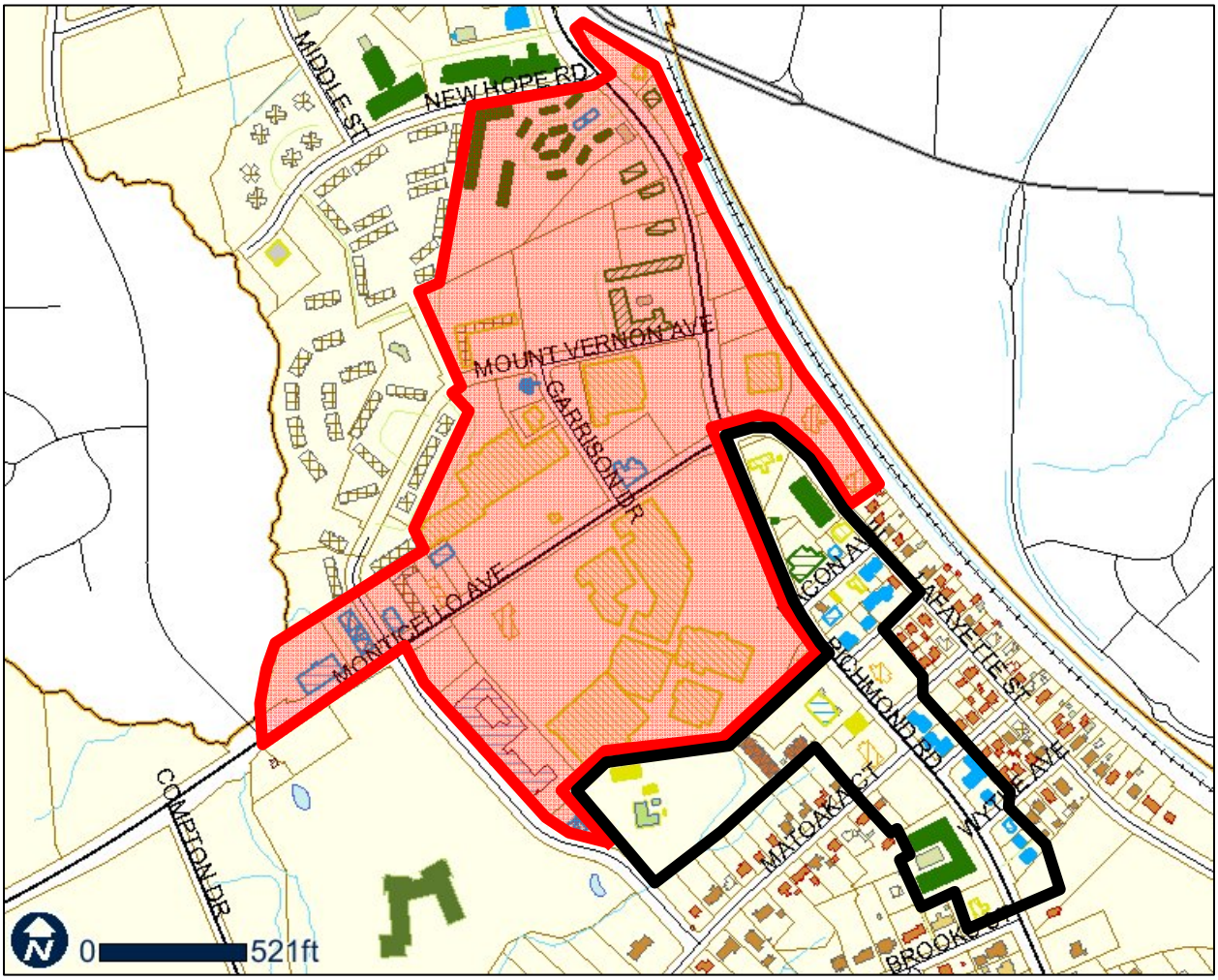
Adopted: _____

_____
Clyde A. Haulman, Mayor

_____
Donna Scott, City Council Clerk

[PC\PCR\2012\12-026OD1]

Midtown Parking District Map



MIDTOWN PARKING DISTRICT MAP

Original Midtown Parking District – June 14, 2012

Expanded Midtown Parking District – *[insert adoption date]*