

**CITY OF DARIEN  
PLANNING AND ZONING COMMISSION**

Wednesday, August 16, 2023

7:00 PM

City Hall Council Chambers

1702 Plainfield Road

**AGENDA**

- 1) Call to Order
- 2) Roll Call
- 3) Regular Meeting – New Business
  - a. **Public Hearing – PZC2023-05 (PAGE 5)**  
**O’Brien Text Amendment & Special Use**  
Petition from Stephen O’Brien requesting the following:
    - 1) Zoning Text Amendment to Section 5A-9-3-4 of the Zoning Ordinance listing “motor vehicle sales” as a special use within the Office, Research, and Light Industry (OR&I) Zoning District; and
    - 2) Special use approval for motor vehicle sales within the Office, Research, and Light Industry (OR&I) Zoning District.
  - b. **Public Hearing – PZC2023-06 (PAGE 29)**  
**Mixed-Use District Text Amendment**  
Petition from the City of Darien to amend the Zoning Ordinance (i.e. Text Amendment) to create a Mixed-Use Zoning District.
- 4) Staff Updates & Correspondence
- 5) Approval of Minutes                      June 7, 2023
- 6) Next Meeting                                September 6, 2023
- 7) Public Comments                        [On Any Topic Related to Planning and Zoning]
- 8) Adjournment

**MINUTES CITY OF DARIEN**  
**PLANNING & ZONING COMMISSION MEETING**

**Wednesday, June 7, 2023**

**PRESENT:** Lou Mallers – Chairperson, Robert Erickson, Shari Gillespie, Chris Jackson, John Johnson, Julie Kasprovicz

**ABSENT:** Hilda Gonzalez, Chris Green

**OTHERS:** Jordan Yanke - City Planner; Alderman Eric Gustafson

Chairperson Lou Mallers called the meeting to order at 7:00 p.m. at the Darien City Hall, Council Chambers, 1702 Plainfield Road, Darien, Illinois. Chairperson Mallers declared a quorum present and swore in the audience members wishing to present public testimony.

**Regular Meeting – New Business**

- a. **Public Hearing – PZC2023-03 (PAGE 8) Short-Term Rentals Petition from the City of Darien to amend the Zoning Ordinance to prohibit rentals for a period of less than thirty (30) days (i.e., short-term rentals). The proposed text amendment is for all zoning districts throughout the City.**

Mr. Jordan Yanke, City Planner reported that the City Council heard public comment regarding short-term rentals (i.e., vacation rentals) and how they are regulated. He reported that the City does not have an ordinance for short term rentals.

Mr. Yanke reported that without prohibition or ordinance Council asked to restrict all rentals that are less than 30 days. He reported that the ordinance defines short term rentals.

Mr. Yanke reported that the host will be notified and that if not compliant the City would follow up. He reported that this went to Municipal Services and Council and that attachment one has the language for the proposed Ordinance.

Chairperson Mallers reported that his subdivision is amending the by-laws for short term rentals for no less than one year. He stated that it makes more sense to coincide with the City.

Alderman Eric Gustafson stated that there is a home on Gordon Court using it as an Airbnb and a party house. He stated that police have been notified many times. Alderman Gustafson stated that he looked at Naperville and they passed a thirty-day restriction and after ordinance never had to issue a ticket again due to the hefty fine.

He stated that if the City does not pass this a lot of time and money spent issuing tickets. He further stated that the house sits next to the school

Commissioner Julie Kasprovicz asked about the fines and the 30 days.

Alderman Gustafson stated that the fines are \$1000 and \$2500 and the same as proposed.

There was some conversation regarding issues with Argonne and housing and disruptions to the neighborhoods.

Alderman Kasprovicz stated that she would like to see at least 60-90 days. She asked how many Airbnb's are in Darien.

Mr. Yanke reported that based on his search that there are at least twenty rentals. He reported that there are tax implications associated with 30 days and that legal has approved.

There was some discussion on licensing and complaints in the last few years.

Mr. Yanke reported that from short term rentals in the last few years there have been a couple of instances.

Commissioner Robert Erickson recommended reviewing the ordinance after six months to gauge if it is working.

Mr. Yanke reported that recommend staff after 6 months to report back to PZC to review calls and discuss if changes are needed. The PZC discussed looking at 12 months as a minimum so there is not a month-to-month situation.

There was no one else in the audience wishing to present public comment.

**Commissioner Jackson made a motion, and it was seconded by Commissioner Gillespie to approve PZC2023-03 Short-Term Rentals Petition from the City of Darien to amend the Zoning Ordinance to prohibit rentals with the following recommended changes to the text:**

- a. No rental for a period of less than 12 months (i.e., short-term rentals).**
- b. Timeframe extended to a 12-month provision and that the term of any lease due to maintaining the integrity of the community and the unique situation.**

**Upon voice vote the MOTION CARRIED 6-0.**

### **Staff Updates & Correspondence**

Mr. Jordan Yanke suggested that PZC is welcome to attending MSC meetings. He reported on upcoming meetings.

**Minutes**

**Commissioner Erickson made a motion, and it was seconded by Commissioner Gillespie to approve the April 19, 2023, Regular Meeting Minutes.**

**Upon voice vote, THE MOTION CARRIED 6-0.**

**Next Meeting**

Mr. Yanke announced that the next meeting is scheduled for June 21, 2023, at 7:00 p.m.

**Public Comments (On any topic related to Planning and Zoning)**

Alderman Eric Gustafson discussed Chestnut Court and the City to purchase and take the center over.

Chairperson Lou Mallers introduced new member John Johnson.

**Adjournment**

**With no further business before the Commission, Commissioner Jackson made a motion, and it was seconded by Commissioner Gillespie. Upon voice vote, THE MOTION CARRIED unanimously, and the meeting adjourned at 8:31 p.m.**

**RESPECTFULLY SUBMITTED:**

**APPROVED:**

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**Elizabeth Lahey  
Secretary**

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**Lou Mallers  
Chairperson**

# NEW BUSINESS - AGENDA ITEM (A)

## AGENDA MEMO PLANNING AND ZONING COMMISSION AUGUST 16, 2023

### CASE

PZC2023-05

Zoning Text Amendment – Motor Vehicle Sales  
Special Use (8408 Wilmette Avenue, Units B & C)

### ISSUE STATEMENT

Petitioner (Stephen O'Brien) requests the following:

- 1) Zoning Text Amendment to Section 5A-9-3-4 of the Zoning Ordinance listing “motor vehicle sales” as a special use within the Office, Research, and Light Industry (OR&I) Zoning District; and
- 2) Special use approval for motor vehicle sales within the Office, Research, and Light Industry (OR&I) Zoning District.

While the proposed text amendment applies to the zoning ordinance in general, the special use application applies to the subject property at 8408 Wilmette Avenue, Units B & C. The property is located within the Office, Research, and Light Industry (OR&I) District.

Applicable Regulations:

Ordinance No. O-02-16, Special Use  
Zoning Section 5A-9-3, OR&I District Standards

### GENERAL INFORMATION

Petitioner:	Stephen O'Brien
Property Owner:	GJSK Company
Property Location:	8404 Wilmette Avenue, Units B & C
PIN Number:	09-34-300-020
Existing Zoning:	Office, Research, and Light Industry (OR&I)
Existing Land Use:	Multi-Tenant Industrial Building, Auto Repair/Body Shop
Comprehensive Plan:	Office (Existing); Office (Future)
Surrounding Zoning & Uses	
North:	Office, Research, and Light Industry (OR&I); Industrial
East:	Multi-Family Residence District (R-3); Multi-Family
South:	Office, Research, and Light Industry (OR&I); Industrial
West:	Office, Research, and Light Industry (OR&I); Kennel
History:	The subject property contains a longstanding industrial building that has multiple tenants. The subject space (Units B & C) were approved for an auto repair/body shop in 2016 under special use authorization per Ordinance No. O-02-16.
Size of Property:	0.92 Acres
Floodplain:	N/A
Natural Features:	N/A
Transportation:	The petition site gains access from Wilmette Avenue.

**PETITIONER DOCUMENTS (ATTACHED TO MEMO)**

- 1) APPLICATION
- 2) JUSTIFICATION NARRATIVE
- 3) FLOOR PLAN
- 4) SUBDIVISION PLAT
- 5) SECRETERAY OF STATE DOCUMENTS

**CITY STAFF DOCUMENTS (ATTACHED TO MEMO)**

- 6) ZONING SECTION 5A-9-3\_OR&I DISTRICT
- 7) LOCATION MAP & AERIAL IMAGE
- 8) SITE PHOTOS

**PLANNING OVERVIEW/DISCUSSION**

The subject property is located off Wilmette Avenue. It is slightly less than one (1) acre in size and is zoned Office, Research, and Light Industry (OR&I). The property contains a longstanding industrial building housing multiple tenants. The petitioner would occupy two (2) of the existing tenant spaces totaling 4,000 square feet in floor area. The space is currently occupied by an auto repair/body shop, including a paint booth, which was authorized via a zoning text amendment and special use approved in 2016. A condition tied to these approvals requires all auto repair activity and vehicles to be within the building.

At this time the petitioner has proposed adding motor vehicle sales as part of the overall business operation on site. While the sales activity would be limited in nature, the zoning ordinance does not permit any type of vehicle sales within the OR&I District. After being informed of this and having further discussion the petitioner decided to submit for a text amendment to allow motor vehicles sales and a special use within the OR&I District. The petition is similar to the aforementioned case in 2016 but pertains to vehicles sales instead of auto repair.

The Planning and Zoning Commission is to consider the proposed text amendment and special use in tandem, and is tasked with recommending conditions or edits for the zoning text amendment and special use if deemed appropriate. Items to be considered are hours of operation, storage of vehicles, parking, and signage.

***Site Plan Review & Findings of Fact***

City staff has reviewed the submittal documents and staff does not have review comments outside of requesting input from the Commission regarding items above. The project involves almost no physical site work and the existing character of the site would remain the same.

Additionally, the petitioner submitted a Justification Narrative detailing the request. The narrative is attached to this memo. Included on the next page are the standards for amendments and the special use criteria that the Planning and Zoning Commission is to consider for recommending on the case.

Standards for Amendments:

*The Plan Commission shall consider the following factors and other pertinent factors in developing a recommendation for the City Council:*

- 1. Existing uses of property within the general area of the property in question, and the resulting character of the general area;*
- 2. The zoning classifications of property within the general area of the property in question;*
- 3. The suitability of the property in question to the uses permitted under the existing zoning classification including consideration of the length of time the property has been vacant as zoned;*
- 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classifications and the impact to surrounding property likely to result from the proposed use;*
- 5. The reduction in value of the subject property resulting from the particular zoning restriction as compared to the gain to the public if the property remains restricted; and*
- 6. The policies of all current official plans or plan elements of the City.*

Special Use Criteria:

*No special use shall be recommended to the City Council by the Plan Commission, nor approved by the City Council, unless findings of fact have been made on those of the following factors which relate to the special use being sought:*

- 1. That the special use is deemed necessary for the public convenience at the location specified.*
- 2. That the establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, or general welfare.*
- 3. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.*
- 4. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
- 5. That the exterior architectural design, landscape treatment, and functional plan of any proposed structure will not be at variation with either the exterior architectural design, landscape treatment, and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.*
- 6. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.*
- 7. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*
- 8. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Council pursuant to the recommendations of the Plan Commission and Planning and Development Committee.*

**DECISION MODE**

The Planning and Zoning Commission will consider this item at its meeting on August 16, 2023.

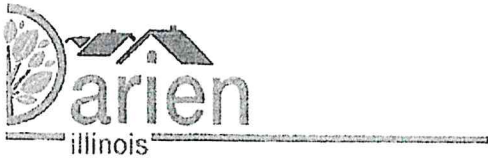
**MEETING SCHEDULE**

Planning and Zoning Commission  
Municipal Services Committee  
City Council

August 16, 2023  
September 25, 2023  
October 2, 2023



# ATTACHMENT (1): APPLICATION



## ZONING APPLICATION

CITY OF DARIEN  
1702 Plainfield Road, Darien, IL 60561  
www.darienil.us 630-852-5000

### CONTACT INFORMATION

Applicant's Name: Stephen O'Brien Stephen O'Brien Owner's Name: J KERINS

Address, City, State, Zip Code: 25 W 120 Ridgeland Ave. Naperville IL, 60563 Address, City, State, Zip Code: 8408 WILMETTE AVE DARIEN 60561

Telephone: 630 674 1181 Telephone: 630 515 9111

Email: stevemob1@yahoo.com Email: KERINSINDUSTRIES@MSU.COM

### PROPERTY INFORMATION

Property address: 8408 Wilmette Ave. UNIT C PIN Number(s): 09-34-300-020

Zoning District: OR&I Current Land Use(s): LIGHT industry

RECEIVED

JUL 03 2023

Community Development  
City of Darien

(Attach additional information per the Submittal Checklist.)

### REQUEST

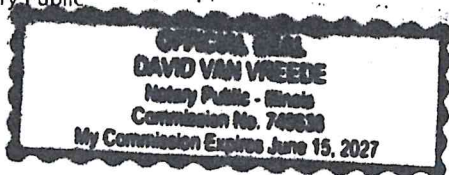
Brief description of the zoning approval requested. (Contact the City Planner for guidance.)

Amendment TO TEXT AND Special use.

As Notary Public, in and for DuPage County in Illinois, I do hereby certify that STEPHEN O'BRIEN is personally known by me to be the same person whose name is subscribed above and has appeared before me this day in person and acknowledged that they have signed this document as their own free and voluntary act, for the purposes therein set forth.

Given under my hand and seal, this 30 day of JUNE 2023

Notary Public



For office use only	
Date Received:	<u>07/03/2023</u>
Case Number:	<u>PZC2023-05</u>
Fee Paid:	<u>\$ 985.00</u>
Hearing Date:	<u>08/14/2023</u>

# ATTACHMENT (2): JUSTIFICATION NARRATIVE

June 29, 2023

Darien City Counsel  
1702 Plainfield Rd.  
Darien, IL 60561

RECEIVED  
JUL 03 2023  
Community Development  
City of Darien

RE: Integrity Auto Group Text Addition Request and Special use permit for property located at; 8408 Wilmette Ave, Unit C, Darien IL.

As far as Integrity Auto business model is concerned, the day-to-day operations are as follows:

- We purchase insurance company total loss vehicles from the insurance company auction and repair them in our body shop in the unit next to ours.
- We then list the vehicles for sale on eBay and other internet sites such as auto trader and cars.com.
- Before the vehicles are sold, a potential buyer comes to inspect the vehicle inside our facility.
- After vehicles are sold, the paperwork is completed, and the vehicles are picked up by the customer.
- These vehicles are mainly between 1-3 years old with low mileage.
- The vehicles are stored inside our unit to keep them clean, dry and out of the weather.

We are anticipating selling between 4-6 vehicles per month. We will have signage with the business name and phone number on the building unit glass (window glass size approx. 3X5). Also, we will have posted hours of operation (10AM-5PM M-F), (9AM-noon Saturdays) and closed on Sunday, this will be posted on the entrance door glass, which is (approx. 2X3).

No vehicles will be displayed outside, all business will be conducted within all Illinois State Laws and guidelines, also Darien City Laws and guidelines, with Community and neighbors in mind. It is of paramount importance we do not impact the City of Darien in a negative way.

It is our commitment to maintain a clean and safe exterior and parking area as well as the office and showroom inside the building.

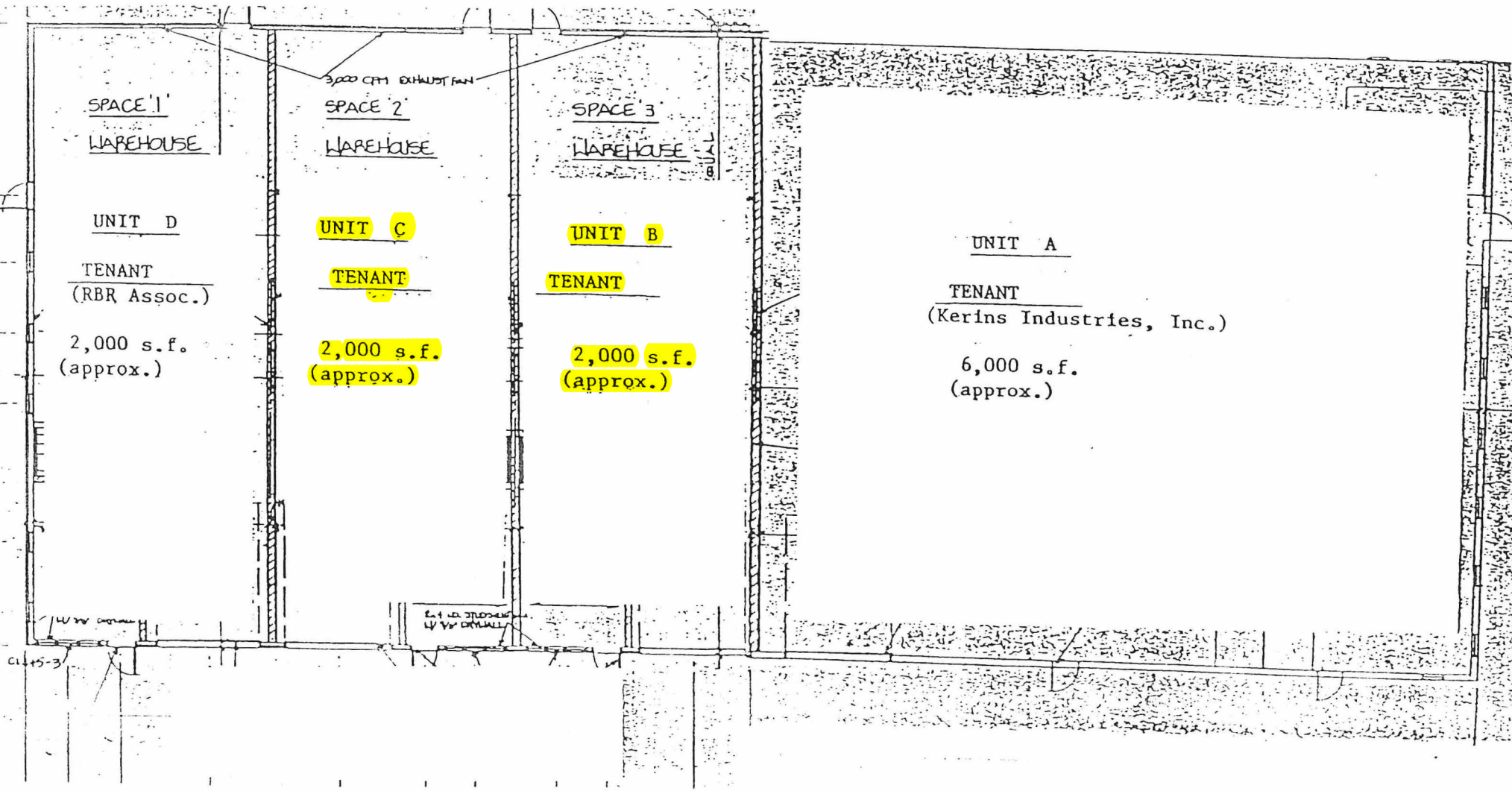
Thank you for considering the opportunity for me to start and grow this new business.

Sincerely,

Steve O'Brien

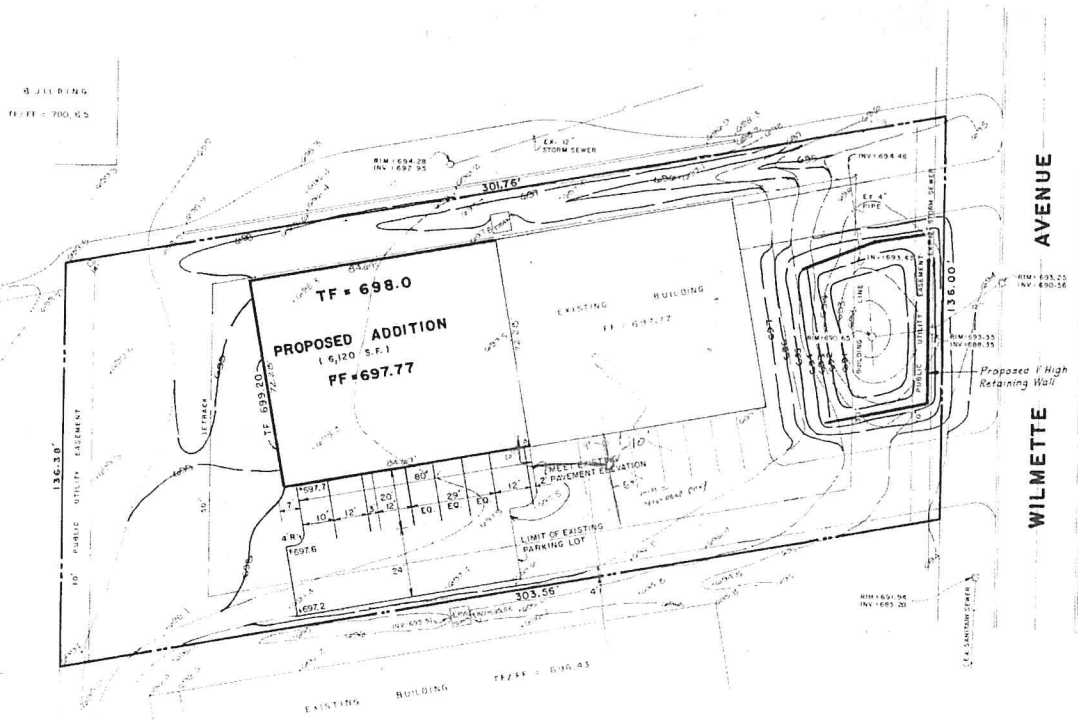
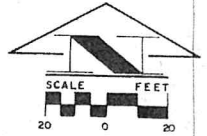
# ATTACHMENT (3): FLOOR PLAN

EXHIBIT A  
SITE PLAN  
8408 Wilmette Ave.  
Darien, Illinois

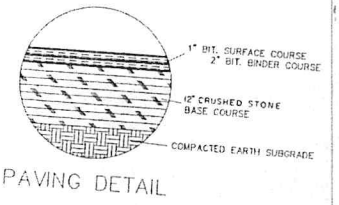


# ATTACHMENT (4): SUBDIVISION PLAT

## LOT 3 GASAWAY SUBDIVISION



NOTE: FORD TO BE REGRADED IN ACCORDANCE WITH APPROVED PLAN DATED 3-19-89 VOLUME.



NOTE:  
GUTTERS TO DISCHARGE TO THE NORTH SIDE OF THE BUILDING ONLY  
3 UNITS TO RECEIVE THEIR SEWER AND WATER FROM THE EXISTING BUILDING

STORM SUMMARY	
EXISTING IMPERVIOUS	= 12,275 S.F.
PROPOSED IMPERVIOUS	= 9,356 S.F.
<b>TOTAL IMPERVIOUS</b>	<b>= 22,363 S.F.</b>
TOTAL IMPERVIOUS PROVIDED FOR UNDER 12-5-87 PLAN = 22,366 S.F. (LATEST REC. 3-19-89)	
NET INCREASE (DECREASE)	= -3 S.F.

BENCHMARK  
RIM OF SANITARY MANHOLE  
BY THE SOUTHEAST CORNER  
OF THIS LOT 3.  
ELEVATION.....691.50  
(U.S.C.S.)

GEORGE KERRIN  
Kerrin's Industries  
8408 Wilmette Avenue  
Darien, IL 60561  
708-515-9111

	DESIGNED BY	DATE
	12-5-87	12-16-94
CONSULTING CIVIL ENGINEERS • LAND SURVEYORS 309 CANAL STREET, LEMONT, IL 60459 1700 637-7770	CHECKED BY	DATE
	12-16-94	12-16-94

# ATTACHMENT (5): SECRETERY OF STATE DOCUMENTS

To the building and development department of Darien Illinois the dealer license is required and needed to buy and sell vehicles legally by the state law in Illinois the intention is to purchase insurance company total loss vehicles to repair in our body shop and sell on eBay and online auctions we have an indoor show room space for one vehicle in an indoor showroom meets requirements for space; by Illinois secretary of state law as per 625 IL cs 5/5-100 established place of business statute.

Thank you Stephen obrien 630 674 1181 [slevemob1@yahoo.com](mailto:slevemob1@yahoo.com)

*Stephen O'Brien*

Sent from my iPad

May 12, 2023

Dear Jordan Yanke,

Thank you for reviewing my letter of intent. The classification type we are looking to obtain specifically is (5/1-215 used car dealer). As per Illinois Secretary of State Dealer handbook. This is Pertaining to; 8408 Wilmette Ave, Unit B, Darien, Illinois.

Thank you,

Stephen O'Brien

A handwritten signature in cursive script that reads "Stephen O'Brien". The signature is written in black ink and is positioned below the typed name.



Secretary of State
Notice of Proper Zoning

This space for use by Secretary of State

Secretary of State
Vehicle Services Department
Dealer Licensing Section
501 S. Second St., Rm. 069
Springfield, IL 62756
217-782-7817
ilsos.gov

In order to process your Dealer License application, you must complete the applicant section below and then have the proper zoning jurisdiction complete the bottom portion of the form.

TO BE COMPLETED BY APPLICANT

I Stephen O'Brien am filing an application with the Office of the Secretary of State to obtain a license to conduct the business of a Used Car Dealer

located at 8408 Wilmette Ave, Darien IL 60561 Unit B

Signature of Applicant: Stephen O'Brien

TO BE COMPLETED BY ZONING OFFICIAL

The Zoning Office of hereby affirms the business mentioned above is in compliance with local zoning laws and regulations to conduct this type of business.

Signature of Authorized Zoning Official

Subscribed and sworn to before me this day of 20

(SEAL)

Notary Public

# DEALER HANDBOOK

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Illinois Secretary of State Police  
110 E. Adams St.  
Springfield, IL 62701

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JESSE WHITE • SECRETARY OF STATE

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April 2022

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This booklet was created to assist persons licensed or required to be licensed by the Secretary of State as a:

1. New vehicle dealer
2. Used vehicle dealer
3. Repairer
4. Rebuilder
5. Auto Parts Recycler
6. Scrap Processor
7. Buy Here, Pay Here

This booklet consists of two separate and distinct parts:

**PART ONE:**

**ESTABLISHED PLACE OF BUSINESS  
REQUIREMENTS**

**PART TWO:**

**RECORD-KEEPING REQUIREMENTS**

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Information contained within this booklet is excerpted from applicable  
Illinois Vehicle Code and Illinois Administrative Code sections.

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# **PART ONE**

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## **Established Place of Business Requirements**

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**JESSE WHITE · SECRETARY OF STATE**

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ILLINOIS VEHICLE CODE  
ILLINOIS COMPILED STATUTES

**Definitions**

**5/1-105.3. Automotive parts recycler**

§ 1-105.31. Automotive parts recycler. A person who is in the business of acquiring previously owned vehicles and vehicle parts for the primary purpose of disposing of parts of vehicles in a manner other than that described in the definition of a "scrap processor" in this Code or disposing of previously owned vehicles in the manner described in the definition of a "scrap processor" in this Code.

**5/1-110.2. Certificate of purchase**

§ 1-110.2. Certificate of purchase. A bill of sale given to a licensee making an acquisition of a vehicle under Sections 4-208 and 4-209 of this Code.

**5/1-111.1b. Chassis**

§ 1-111.1b. Chassis. Every frame or supportive element of a vehicle whether or not a manufacturer's identification number, serial number, or other identifying numbers are present on said part.

**5/1-115. Dealer**

§ 1-115. Dealer. Every person engaged in the business of acquiring or disposing of vehicles or their essential parts and who has an established place of business for such purpose.

**5/1-115.1. Disposition of vehicle or vehicle part**

§ 1-115.1. Disposition of vehicle or vehicle part. The purchase, exchange, transfer, sale, assignment or other change of ownership or possession or the junking or wrecking of a vehicle or vehicle part.

**5/1-118. Essential parts**

§ 1-118. Essential parts. All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. "Essential parts" includes the following: vehicle hulks, shells, chassis, frames, front end assemblies (which may consist of headlight, grill, fenders and hood), front clip (front end assembly with cowl attached), rear clip (which may consist of quarter panels, fenders, floor and top), doors, hatchbacks, fenders, cabs, cab clips, cowls, hoods, trunk lids, deck lids, bed, front bumper, rear bumper, transmissions, seats, engines, and similar parts. "Essential parts" also includes fairings, fuel tanks, and forks of motorcycles. "Essential parts" shall also include stereo radios. An essential part which does not have affixed to it an identification number as defined in Section 1-129 adopts the identification number of the vehicle to which such part is affixed,

installed or mounted. "Essential parts" does not include an engine, transmission, or a rear axle that is used in a glider kit.

**5/1-123.3. Frame**

§ 1-123.3. Frame. The main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.

**5/1-128. House trailer**

§ 1-128. House trailer. (a) A trailer or semitrailer equipped and used for living quarters or for human habitation (temporarily or permanently) rather than for the transportation of freight, goods, wares and merchandise; or

(b) A house trailer or a semitrailer which is used commercially (temporarily or permanently), that is, for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

**5/1-129. Identification number**

§ 1-129. Identification Number. The numbers and letters, if any, on a vehicle or essential part, affixed by its manufacturer, the Illinois Secretary of State or the Illinois State Police for the purpose of identifying the vehicle or essential part, or which is required to be affixed to the vehicle or part by federal or state law.

**5/1-134.1. Junk vehicle**

§ 1-134.1. Junk vehicle. A junk vehicle is a vehicle which has been or is being disassembled, crushed, compressed, flattened, destroyed or otherwise reduced to a state in which it no longer can be returned to an operable state, or has been branded or assigned as junk or a similar designation by another state or jurisdiction.

**5/1-144.05. Model year**

§ 1-144.05. Model year. The year of manufacture of a vehicle based upon the annual production period of the vehicle as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

**5/1-146. Motor vehicle**

§ 1-146. Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not

## 625 ILCS 5/5-100 Established Place of Business

**Established Place of Business** is the place owned, or leased, and occupied by any person duly licensed or required to be licensed as a dealer for the purpose of engaging in:

1. selling,
2. buying,
3. bartering,
4. displaying,
5. exchanging or dealing in, on consignment or otherwise, vehicles and their essential parts and for such other ancillary purposes as may be permitted by the Secretary by rule.

The established place of business shall include an office in which the dealer's records shall be separate and distinct from any other business or tenant which may occupy space in the same building.

This office shall not be located in a:

1. house trailer,
2. residence,
3. tent,
4. temporary stand,
5. temporary address,
6. room or rooms in a hotel or rooming house, nor the premises occupied by a single or multiple unit residence.

"Established place of business" only includes a place with an outdoor lot capable of parking at least 5 vehicles or an indoor lot with space for a minimum of one vehicle to be parked in its indoor showroom.

**Established place of business for a scrap processor** shall be the fixed location where the scrap processor maintains its principal place of business.

The Secretary of State shall, by rule and regulation, adopt guidelines for the administration and enforcement of this definition, such as, but not limited to:

1. issues concerning the required hours of operation,
2. descriptions as to where vehicles are displayed and offered for sale,
3. where books and records are maintained and requirements for the fulfillment of warranties

A dealer may have an additional place of business (supplemental) as defined in this Section:

**"Additional place of business"** means a place owned or leased and occupied by the dealer in addition to its established place of business, at which the dealer conducts or intends to conduct business on a **permanent** or **long-term** basis. It does not include:

**"Off site sale"** which means the temporary display and sale of vehicles, for a period of not more than 7 calendar days (excluding Sundays), by a dealer licensed under 5-101 or 5-102, at a place other than the dealer's established place of business or additional places of business.

**"Display Exhibition"** means a temporary display of vehicles by a dealer licensed under 5-101 or 5-102 at a location at which **no** vehicles are offered for sale, that is conducted at a place other than the dealer's established and additional places of business.

**"Relevant market area"**, for a new vehicle dealer and for a used vehicle dealer, means the area within 10 miles of the established or additional place of business of the dealer located in a county with a population of 300,000 or more, or within 15 miles if the established place of business is located in a county with a population of less than 300,000.

**"Trade Show Exhibition"** is a display exhibition that is participated in by at least 3 dealers, 2 of which must be licensed under 5-101 or 5-102; and a trade show exhibition of new vehicles shall only be participated in by licensed new vehicle dealers at least 2 of which must be licensed under Section 5-101.

ILLINOIS ADMINISTRATIVE CODE  
ESTABLISHED PLACE OF BUSINESS

**Requirements**

The following requirements for an established place of business are set forth in the Illinois Administrative Code, Title 92, TRANSPORTATION, CHAPTER II, SECRETARY OF STATE, PART 1020.10, DEALERS, WRECKERS, TRANSPORTERS AND REBUILDERS.

**Section 1020.10 (a) Dealers Established Place of Business**

Each person seeking to be or already duly licensed as a new or used vehicle dealer under the Illinois Vehicle Code (IVC) (625 ILCS 5) shall maintain an established place of business that shall, in addition to those requirements in Section 5/5-100 of the Illinois Vehicle Code meet the following requirements:

1. Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, a house trailer in a licensed mobile home park or dealership lot with tires removed and utilities attached.
2. Be properly and permanently equipped with the necessary office equipment and machines, and documents and papers adequate to properly conduct business as a dealer and must be within a permanent building or structure as required in subsection (a)(1).
3. Be equipped with an operating telephone for inbound and outbound calls and have the business telephone number published in the telephone directory generally available in the dealership area, and be adequately equipped with operating electric lights.
4. Have the name of the dealership posted on the front entrance door.
5. Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business.

A dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public and the dealership must be operated consistent with general dealer practices.

The dealership must be open:

- a. five (5) days out of seven (7) days in a week
- b. minimum of four (4) consecutive hours per day.

However, dealers who operate their dealerships less than 12 months shall state in the license application those months closed and shall post the months of closure in a prominent place for the public to see in the dealership office. During the posted closure months, the dealership is not required to maintain regular business hours.

6. Maintain a lot, being the area not occupied by a building, that shall be surfaced with rock or better surface material, and that shall be properly illuminated, if open after sundown, so that vehicles for sale can be properly inspected by any prospective customer.
  - a. The lot used for the sale of vehicles shall be separate and apart from any other business. In addition, where a dealer is selling new and used vehicles, the new cars shall be parked separately and apart from the used vehicles.
  - b. The above lot requirement shall not be applicable if the place of business has an indoor showroom, properly illuminated, for the display of vehicles held for sale.
  - c. The separate lot requirement specified in subsection (6) (a) (b) shall not prohibit the operation by the dealer of other businesses on the same premises, which shall include the lot, provided:
    - 1) the businesses are reasonably related to the sale or operation of new or used automobiles,
    - 2) further that the sale of new or used automobiles shall constitute at least 50% of the gross revenues of the licensed holder, and

Businesses reasonably related to the sale or operation of automobiles shall include only:

- the sale of automobile parts and accessories,
- the sale of gasoline, diesel fuel, oil and lubricant,
- the sale of automobile tires,
- the leasing of automobiles,
- insuring automobiles, and
- financing of automobiles sold by the licensed dealers engaged in these businesses.

Licensed dealers engaged in operating businesses other than those stated herein shall remove such businesses or modify to comply with this rule within 60 days of notification by the Secretary of State, or be subject to the revocation or suspension of their dealers license.

7. Dealership in a Department Store

- Where a dealer maintains a place of business within a department store, the dealership shall be separated from other operations within the department store.

8. Sign

- A permanent sign bearing the name of the dealership must be displayed
  - if the dealership is open after sundown, the sign shall be properly illuminated
  - the sign shall be visible from the highway leading to the established place of business.

9. Display a federally required pricing document on all new motor vehicles held for sale.

10. If the premises are leased, such lease must be for at least the duration of the current licensed period.

**IAC 1020.10 (b) Supplemental Lot**

An Illinois licensed dealer may operate as an additional place of business a permanent supplemental lot which will meet all the requirements as previously stated except:

- records required to be kept shall be maintained at the principal place of business **UNLESS** the supplement lot is more than one mile from the main dealership.

The one mile shall be measured by the most direct road between the dealership and the supplemental lot.

1. A licensed dealer shall apply for the supplemental lot authorization when filing the application required by Sections 5/5-101 or 5/5-102 or the application may be filed for the supplemental lot authorization during the licensed period.
2. The applicable fee as provided in Sections 5/5-101 (b) (7) and 5/5-102 (b) (5) is required.
3. No vehicle sales at supplemental lots shall be allowed on Sundays except as provided for in Section 5/5-106 of the Illinois Vehicle Code.

**NOTE:** Each person seeking to be or already duly licensed as a scrap processor, automotive parts recycler, rebuilder, repairer or out of state salvage buyer under the I.V.C. shall maintain an established place of business which shall meet the requirements contained within Section (a) above, except that no lot as set forth in (a)6 is required. However, if open after sundown, the premises shall be adequately illuminated so that prospective purchasers may inspect the items held for sale.

None of the requirements of this section shall apply to the place of business of a vehicle auctioneer licensed under Chapter 5, Article VII of the I.V.C.

**IAC 1020.10 (c) Trade Show Exhibition, Display Exhibition and Off Site Sale**

A licensed dealer may operate as an additional place of business an exhibition area in a trade show exhibition, display exhibition, or off site sale provided:

1. The trade show exhibition, display exhibition or off site sale must be conducted separate and away from the licensed dealer's established and additional places of business.
2. The licensed dealer has a currently valid new or used vehicle dealer's license issued by the Secretary of State of Illinois or another State where applicable.
3. The applicant dealer meets the requirements of subsection (c) (7), (8) or (9) of this section.
4. No permit granted for an additional location in a trade show exhibition, display exhibition or off site sale may be transferred nor removed to another location.

# ATTACHMENT (6): OR&I DISTRICT

## 5A-9-3: OR&I OFFICE, RESEARCH AND LIGHT INDUSTRY DISTRICT:

### 5A-9-3-1: INTENT:

The OR&I Office, Research and Light Industry District is intended to provide an environment suitable for and limited to research and development activities, engineering and testing activities, and related operations, office uses, and warehousing, and also limited manufacturing uses that will not have an adverse effect upon the environmental quality of the community.

No OR&I District shall be established by any new regulation unless the proposed new district area, by itself or in conjunction with any contiguous territory which either lies within the City and is already zoned OR&I or which lies within an adjacent municipality and is in a similar zoning classification, is at least six (6) acres. (Ord. 0-03-00, 4-3-2000)

### 5A-9-3-2: SITE PLAN APPROVAL PROCESS:

To ensure that the details of development of office and industrial areas for authorized uses will be such that the operation of the use will not offend the public interest, will be compatible and be planned in conformity with surrounding uses and will not adversely affect the flow of traffic within the community, a site plan shall be submitted. Refer to the approval process and submittal requirements as outlined in Chapter 2 of this Title. (Ord. 0-03-00, 4-3-2000)

### 5A-9-3-3: PERMITTED USES:

No building, structure, or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the following uses:

- (A) Laboratories, offices, and other facilities for research and development including basic, applied, development, and technical services conducted by or for any individual, organization, or concern, whether public or private.
- (B) Production of prototype products when limited to the scale reasonably necessary for full investigation of the merits of a product, including commercial viability.
- (C) Pilot plants in which processes planned for use in production elsewhere can be tested to the extent reasonably necessary for full investigation of the merits of a product or process including commercial viability.
- (D) Engineering and testing laboratories and offices.
- (E) Offices, business or professional.
- (F) Clinics, medical and dental.
- (G) Banks and financial institutions.
- (H) Light industrial activities, including, but not limited to, electronic and scientific precision instruments manufacture, cloth products manufacture, light machinery production and assembly, printing and publishing.
- (I) Warehouses, wholesale and storage facilities, but excluding motor freight terminals.
- (J) Civic buildings.
- (K) Auxiliary retail and services. (Ord. 0-03-00, 4-3-2000)

### 5A-9-3-4: SPECIAL USES:

The following special uses may be permitted in specific situations in accordance with the procedures outlined in section 5A-2-2-6 of this title, as appropriate:

Brewing facilities, as defined in section 3-3-7-14, "Class N License", of this code.

Garages for storage, repair and servicing of motor vehicles, including body repair, painting and engine rebuilding.

Height limit increases as specified in subsection 5A-9-3-9(A) of this chapter.

Planned unit developments (in accordance with the requirements of chapter 3 of this title). The primary use within a planned unit development shall be one or more of the principal permitted uses, and may include any of the following uses:

Commercial services, business support services, motorist services, and employee services.

Cultural and recreational facilities, churches, auditoriums, and public gathering places.

Educational facilities.

Health clubs.

Kennels, indoor boarding only.

Restaurants.

Public and private utility facilities. (Ord. 0-03-00, 4-3-2000; amd. Ord. 0-04-02, 2-4-2002; Ord. 0-32-14, 11-3-2014; Ord. 0-02-16, 1-18-2016)

### 5A-9-3-5: REQUIRED CONDITIONS:

The following conditions shall be required:

(A) No product shall be produced on the premises in a pilot plant primarily for sale either directly or indirectly, except with respect to such products, which, by their character, require production within a research and development environment.

(B) Auxiliary retail and services shall be incidental to the principal uses and shall be for the convenience of the tenants and

employees of the building, structure or district in which located. These uses shall be conducted wholly within a building or structure and there shall be no exterior display of the auxiliary function.

(C) Outside storage is not allowed. (Ord. 0-03-00, 4-3-2000)

**5A-9-3-6: AREA REQUIREMENTS:**

The minimum lot area on the OR&I district shall be two (2) acres, except for planned unit developments which shall have a minimum land area of three (3) acres. (Ord. 0-03-00, 4-3-2000)

**5A-9-3-7: WIDTH REQUIREMENTS:**

The minimum lot width in the OR&I district shall be one hundred fifty feet (150'). (Ord. 0-03-00, 4-3-2000)

**5A-9-3-8: YARD REQUIREMENTS:**

The minimum yards required in the OR&I district shall be as follows:

(A) Front And Corner Side Yards:

1. Abutting Or Adjoining A Nonresidential District:

(a) Yard Depth: There shall be a required front and corner side yard of not less than fifty feet (50') in depth; provided, however, that such yard shall be increased in depth by one foot (1') for each three feet (3') in height by which any building on the lot exceeds a height of thirty feet (30').

(b) Off-Street Parking Facilities Setback: Off-street parking facilities are not allowed within the first thirty feet (30') of the required front or corner side yard.

2. Abutting Or Adjoining A Residential District:

(a) Yard Depth: There shall be a required front or corner side yard of not less than fifty feet (50') in depth; provided, however, that such yard shall be increased in depth by one foot (1') for each three feet (3') in height by which any building on the lot exceeds a height of thirty feet (30'), and shall be increased an additional twenty five feet (25') if it abuts to or adjoins a lot in a residence district.

(b) Off-Street Parking Facilities Setback: Off-street parking facilities are not allowed within the first thirty feet (30') of the required front or corner side yard.

(B) Interior Side And Rear Yards:

1. Abutting Or Adjoining A Nonresidential District:

(a) Yard Depth: There shall be a required side and rear yard of not less than thirty feet (30') in depth, except that such side and rear yard shall be increased by one foot (1') for each three feet (3') in height that any building on the lot exceeds a height of thirty feet (30').

(b) Off-Street Parking Facilities Setback: Off-street parking facilities within an interior side or rear yard are not allowed within the first twenty feet (20') of the required yard.

2. Abutting Or Adjoining A Residential District:

(a) Yard Depth: There shall be a required interior side and rear yard of not less than thirty feet (30') in depth, except that such interior side or rear yard shall be increased by one foot (1') for each three feet (3') in height that any building on the lot exceeds a height of thirty feet (30'), and shall be increased an additional forty five feet (45') if such rear or interior side lot line abuts or adjoins a lot in a residence district.

(b) Off-Street Parking Facilities Setback: Off-street parking facilities within an interior side or rear yard shall not be nearer than thirty feet (30') from an adjoining lot in a residential district.

(c) Required Fence: Where a rear or interior side lot line in the OR&I District coincides with an interior side or rear lot line in an adjacent residential district, a fence of at least seventy five percent (75%) opacity shall be provided within the yard along the property line. The height of such fence shall be a minimum of six feet (6'), not to exceed eight feet (8').

(C) Accessory Structures: Accessory structures shall comply with yard and setback requirements as prescribed in Section 5A-5-9 of this Title.

(D) Permitted Obstructions In Required Yard: Permitted obstructions in required yards are allowed as described herein and as prescribed in Section 5A-5-7-3 of this Title and Chapter 11 of this Title including:

1. Drives And Off-Street Parking Facilities: Required yards may be occupied by drives and off-street parking facilities when constructed in accordance with the setback requirements of this District and in compliance with Section 5A-5-7-3 of this Title and Chapter 11 of this Title.

2. Joint Parking: In the case of joint parking facilities, parking may occur in the required yard without regard to the side lot line at the point of the combination of the parcels, and in compliance with subsections 5A-11-2-1(B) and (C) of this Title. (Ord. 0-03-00, 4-3-2000)

**5A-9-3-9: HEIGHT LIMITATIONS, BULK REGULATIONS:**

The maximum height, floor area ratio, and other bulk regulations for all buildings and structures in the OR&I District shall be as follows:

(A) The maximum height for all buildings and structures in the OR&I District shall be forty feet (40'); however, this limit may be increased by special use approval granted by the City Council, and after public hearings before the Plan Commission. Any such



increased height shall be reasonably required for the particular research or development use to which the property in question is to be put, and such increase shall not unduly conflict with the intent of this Title or interfere with the rights of the public.

(B) The basic floor area ratio in the OR&I district shall be 0.6.

1. If seventy five percent (75%) or more of the required parking is provided underground or within the building, then a floor area ratio premium of 0.20 shall be allowed.

2. Under a planned unit development, a floor area ratio premium of 0.1 will be granted for each additional five percent (5%) open space over the minimum requirement of twenty five percent (25%) of the total net site area, up to a maximum total of thirty five percent (35%).

(C) Not more than seventy five percent (75%) of the net site area shall be covered by principal and accessory buildings and structures and paved or impervious areas. (Ord. 0-03-00, 4-3-2000)

**5A-9-3-10: COMPLIANCE WITH THIS TITLE AND OTHER APPLICABLE TITLES OF THIS CODE REQUIRED:**

Properties located in this district shall comply with all applicable regulations of this title as well as all other applicable regulations with this code. At a minimum, the following regulations must be adhered to:

(A) Landscape Requirements: All establishments shall comply with the landscaping requirements of chapter 10 of this title.

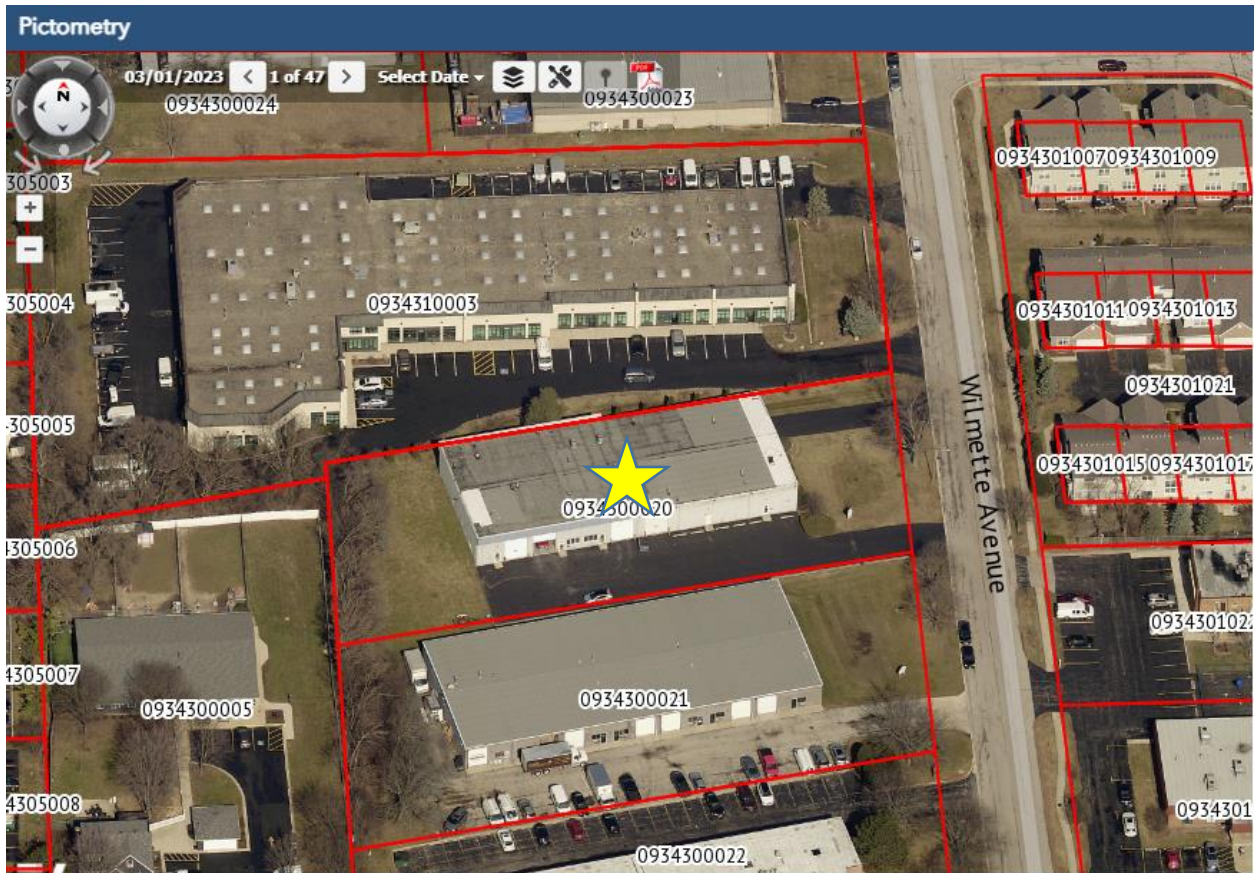
(B) Off Street Parking And Loading Requirements: All establishments shall comply with the off street parking and loading requirements of chapter 11 of this title.

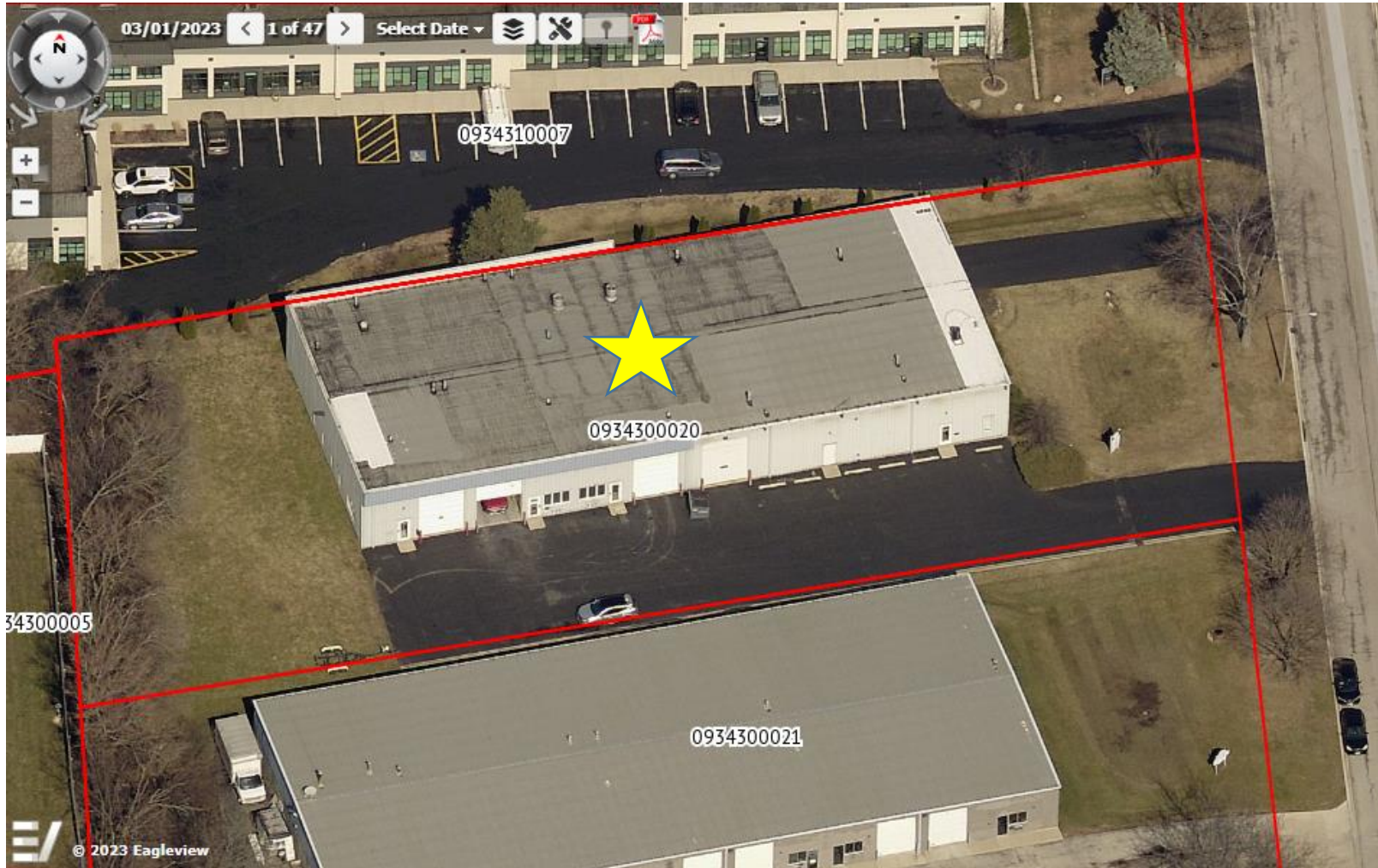
(C) Final Engineering: Provisions for stormwater management and engineering must be made in compliance with applicable codes.

(D) Performance Standards: Processes and equipment employed within the office, research and light industrial district shall be limited to those which comply with the performance standards of chapter 12 of this title.

(E) Sign Regulations: The signs on the property shall comply with the Darien sign code (title 4, chapter 3 of this code). (Ord. 0-03-00, 4-3-2000)

# ATTACHMENT (7): LOCATION MAP & AERIAL IMAGE





# ATTACHMENT (8): SITE PHOTOS



# NEW BUSINESS - AGENDA ITEM (B)

## AGENDA MEMO PLANNING AND ZONING COMMISSION AUGUST 16, 2023

### CASE

PZC2023-06

Mixed-Use District – Zoning Text Amendment

### ISSUE STATEMENT

Petition from the City of Darien to amend the Zoning Ordinance (i.e. Text Amendment) to create a Mixed-Use Zoning District.

### ATTACHMENTS

- 1) **DRAFT ORDINANCE REVISIONS (MIXED-USE DISTRICT)**
- 2) **OTHER MUNICIPAL ORDINANCES**
- 3) **ZONING SECTION 5A-2-2-5(G): STANDARDS FOR AMENDMENTS**

### BACKGROUND/OVERVIEW

On November 14, 2022, the City Council held its annual goal-setting session. Part of the meeting focused on the City's zoning ordinance and its current list of permitted/special uses in the business, office, and industrial districts. During the focus session Council pointed to the fact the zoning ordinance does not include a mixed-use district. After discussion, Council directed staff to review the list of uses and create a mixed-use zoning district.

Staff developed the recommended ordinance revisions (attached) creating a mixed-use district. After Municipal Services Committee review, the City Council made a motion on June 5, 2023, to recommend the ordinance revisions to the Planning and Zoning Commission for public hearing. The Planning and Zoning Commission is to review and recommend on the mixed-use district ordinance provided per this agenda memo. In addition to the attached revision document, note the other municipal ordinances used/researched in order to formulate the text amendment. Also included are the standards that the Planning and Zoning Commission is to consider in recommending on the case.

### DECISION MODE

The Planning and Zoning Commission will consider this item at its meeting on August 16, 2023.

### MEETING SCHEDULE

Planning and Zoning Commission  
Municipal Services Committee  
City Council

August 16, 2023  
September 25, 2023  
October 2, 2023

# ATTACHMENT (1): ORDINANCE REVISIONS

## MIXED-USE (M-U) ZONING DISTRICT (5A-6-X & 5A-8-X)

(A) Intent: The intent of this M-U Mixed Use District is to accommodate development characterized by a mixture of housing types in commercial areas and to facilitate the development and redevelopment of areas suited to a combination of commercial and residential uses within the same building. It is recognized that some mature areas of the City are comprised of a variety of compatible uses and the M-U Mixed Use District is created for the purpose of maintaining the vitality of such areas and encouraging appropriate redevelopment.

(B) Purpose: The purposes of the M-U Mixed Use District are to:

1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the non-residential space;
2. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;
3. Allow for the conversion of dwelling units in older commercial areas of mixed dwelling types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization; and
4. Serve as a zone of transition between commercially dense districts and residential districts by permitting residential occupancy in the units above the non-residential space.

(C) Definition: Mixed-Use Building: A building that contains at least one floor devoted to allowed non-residential uses and at least one devoted to allowed residential uses.

(D) Permitted Uses: The following uses are permitted in the M-U Mixed Use District:

- Banks.
- Barbershops.
- Fire stations.
- Hotels and motels.
- Laundromats.
- Offices.
- Printing shops.
- Recreational activities, commercial types.
- Restaurants.
- Retail stores.
- Single-family residential (upper level only).
- Theaters, other than drive-ins.
- Other uses of the same general character as above.

**PZC TO ADVISE ON DEVELOPMENT STANDARDS, USES, & DEFINITIONS**

(E) Building Height: No principal structure shall exceed three (3) stories or thirty five feet (35') in height. No accessory structure shall exceed one story or fifteen feet (15') in height.

(F) Lot Requirements: The following minimum lot requirements shall be observed:

1. Lot Area: Two thousand five hundred (2,500) square feet for all mixed use.
2. Lot Width: No minimum.

(G) Yard Requirements:

1. Minimum Depths: Yards of the following minimum depths shall be provided:
  - a. Front Yards: No minimum.
  - b. Side Yards: No minimum.
  - c. Rear Yard: Not less than ten feet (10').
  - d. If the side yard or rear yard abuts a residential district, there shall be a minimum five foot (5') side yard and twenty foot (20') rear yard.

2. Vegetation in Yards: Property owners may plant bushes, trees, flowers or other ornamental plantings; however, for any growth extending over the lot line of an adjoining neighbor, or that any way may reasonably become a danger or nuisance to the community, the vegetation may be required to be abated.
- (H) Off-Street Parking and Loading Requirements: All off-street parking and loading shall conform to the requirements enumerated in Chapter 11 of this title.
- (I) Fences:
1. Height Limitations: If a fence is to be constructed at the rear or side yard of a M-U Mixed Use lot that abuts a residential district, it shall be at least six feet (6') in height along the lot line that abuts the residence district.
  2. Location: The fence must be at least six inches (6") from the lot line. If there are complaints by an adjoining neighbor and the fence is determined to be closer than six inches (6") from the lot line, the responsibility is upon the fence owner to remove it at his own expense.
  3. Jointly Owned Fences: If adjoining property owners agree in writing and file an acknowledgment with the City Clerk, a fence may be built on the precise lot line between the properties. The agreement must specify that neither owner may remove the fence without the permission of the other owner. Both parties are responsible for the maintenance of the fence.
- (J) Indoor/Outdoor Operations: All permitted uses, including commercial and residential purposes, in the M-U Mixed Use District must be conducted completely within the enclosed buildings on the lot unless expressly authorized otherwise by the City Council. This requirement does not apply to off-street parking or load areas, outdoor seating areas, or other specifically allowed outdoor activities in a Business District.
- (K) Signs: All signs shall conform to the requirements enumerated in Chapter 3 of Title 4.
- (L) Zoning Map Amendment Guidelines: In making its legislative determination to zone or rezone property to the M-U Mixed Use District zoning classification, the Planning and Zoning Commission and City Council may apply the following guidelines to the proposal under consideration:
1. The capacity of existing and proposed community facilities and utilities including water, sewer, and transportation systems to serve the permitted uses which might lawfully occur on the property so zoned;
  2. The relationship of the subject property to the various aspects of the City's transportation system including pedestrian ways, bicycle paths, major and collector streets, and public transit;
  3. The adequacy of public services including schools, police and fire protection, and solid waste collection serving the property and the impact the permitted uses would have upon these services;
  4. The potential impact existing or permitted uses in the vicinity would have upon the land uses authorized in the M-U Mixed Use District and the impact such uses, if developed, would have upon existing uses in the vicinity;
  5. The extent to which the proposal will promote balanced growth in the community and will be consistent with the City's goals for equal housing opportunity and a variety of housing types;
  6. The impact any natural disasters, including flooding, would have upon the permitted uses;
  7. The impact the proposal would have upon the environment including noise, air and water pollution;

8. The conformance of the proposal to the overall comprehensive plan and map for the City.



11-7-10: MX MIXED USE ZONING DISTRICT:

A. Intent: The intent of this MX Mixed Use District is to accommodate development characterized by a mixture of housing types in commercial areas and to facilitate the development and redevelopment of areas suited to a combination of commercial and residential uses within the same building. It is recognized that some mature areas of the Village are comprised of a variety of compatible uses and the MX Mixed Use District is created for the purpose of maintaining the vitality of such areas and encouraging appropriate redevelopment.

B. Purpose: The purposes of the MX Mixed Use District are to:

- 1. Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the non-residential space;
- 2. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;
- 3. Allow for the conversion of dwelling units in older commercial areas of mixed dwelling types in order to extend the economic life of these structures and allow owners to justify expenditures for repairs and modernization; and
- 4. Serve as a zone of transition between commercially dense districts and residential districts by permitting residential occupancy in the units above the non-residential space.

C. Definition:

MIXED-USE BUILDING:	A building that contains at least one floor devoted to allowed non-residential uses and at least one devoted to allowed residential uses.
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D. Permitted Uses: The following uses are permitted in the MX Mixed Use District:

- Banks.
- Barbershops.
- Fire stations.
- Hotels and motels.
- Laundromats.
- Offices.
- Printing shops.
- Recreational activities, commercial types.
- Restaurants.
- Retail stores.
- Single-family residential (upper level only).
- Theaters, other than drive-ins.
- Other uses of the same general character as above.

E. Building Height: No principal structure shall exceed three (3) stories or thirty five feet (35') in height. No accessory structure shall exceed one story or fifteen feet (15') in height.

F. Lot Requirements: The following minimum lot requirements shall be observed:

- 1. Lot Area: Two thousand five hundred (2,500) square feet for all mixed use.
- 2. Lot Width: No minimum.

G. Yard Requirements:

- 1. Minimum Depths: Yards of the following minimum depths shall be provided:
  - a. Front Yards: No minimum.
  - b. Side Yards: No minimum.
  - c. Rear Yard: Not less than ten feet (10').

d. If the side yard or rear yard abuts a residential district, there shall be a minimum five foot (5') side yard and twenty foot (20') rear yard.

- 2. Vegetation In Yards: Property owners may plant bushes, trees, flowers or other ornamental plantings; however, for

any growth extending over the lot line of an adjoining neighbor, or that any way may reasonably become a danger or nuisance to the community, the vegetation may be required to be abated.

H. Off-Street Parking And Loading Requirements: All off-street parking and loading shall conform to the requirements enumerated in chapter 11 of this title.

I. Fences:

1. Height Limitations: If a fence is to be constructed at the rear or side yard of a MX Mixed Use lot that abuts a residential district, it shall be at least six feet (6') in height along the lot line that abuts the residence district.

2. Location: The fence must be at least six inches (6") from the lot line. If there are complaints by an adjoining neighbor and the fence is determined to be closer than six inches (6") from the lot line, the responsibility is upon the fence owner to remove it at his own expense.

3. Jointly Owned Fences: If adjoining property owners agree in writing and file an acknowledgment with the village clerk, a fence may be built on the precise lot line between the properties. The agreement must specify that neither owner may remove the fence without the permission of the other owner. Both parties are responsible for the maintenance of the fence.

J. Indoor/Outdoor Operations: All permitted uses, including commercial and residential purposes, in the MX Mixed Use District must be conducted completely within the enclosed buildings on the lot unless expressly authorized otherwise by the Village Board. This requirement does not apply to off-street parking or load areas, outdoor seating areas, or other specifically allowed outdoor activities in a C Commercial zoning district.

K. Signs: All signs shall conform to the requirements enumerated in chapter 10 of this title.

L. Zoning Map Amendment Guidelines: In making its legislative determination to zone or rezone property to the MX Mixed Use District zoning classification, the Zoning Committee, Zoning Board of Appeals and/or Planning Commission may apply the following guidelines to the proposal under consideration:

1. The capacity of existing and proposed community facilities and utilities including water, sewer, and transportation systems to serve the permitted uses which might lawfully occur on the property so zoned;

2. The relationship of the subject property to the various aspects of the village's transportation system including pedestrian ways, bicycle paths, major and collector streets, and public transit;

3. The adequacy of public services including schools, police and fire protection, and solid waste collection serving the property and the impact the permitted uses would have upon these services;

4. The potential impact existing or permitted uses in the vicinity would have upon the land uses authorized in the MX Mixed Use District and the impact such uses, if developed, would have upon existing uses in the vicinity;

5. The extent to which the proposal will promote balanced growth in the community and will be consistent with the village's goals for equal housing opportunity and a variety of housing types;

6. The impact any natural disasters, including flooding, would have upon the permitted uses;

7. The impact the proposal would have upon the environment including noise, air and water pollution;

8. The conformance of the proposal to the overall comprehensive plan and map for the village. (Ord. 2013-48, 11-7-2013)

## SECTION 19-153 – DEVELOPMENT DISTRICTS

**(3) MIXED USE DISTRICT: MXD**

**(A) Definition.** A development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial, residential and institutional. The uses may be located in the same building or in separate buildings.

**(B) Intent.** The intent of this district is to encourage and promote well planned, suitable and appropriate mixed use developments with residential, civic uses, and commercial components within identified areas. The focus is to allow a more balanced mix of uses in the siting and design of new developments and redevelopment to anticipate changes in the marketplace and to provide for the diverse needs of the residents of the City. Flexibility will be allowed to accomplish such goals through the utilization of streets as public places that encourage pedestrian and bicycle travel and the encouragement of efficient land use by facilitating compact, high-intensity development, minimizing the amount of land needed for surface parking and, facilitation of development (e.g., land use mix, density, and design) that supports public transit where applicable.

**(C) Pre-Application Conference.** Before submitting an application for MXD zoning, pre-application consultation between the applicant and the Planning and Development Manager is encouraged to obtain information and guidance prior to entering binding commitments or incurring substantial expense in the preparation of plans, surveys, impact assessments and other data.

**(D) Master Development Plan.** A Master Plan for the entire Mixed Use District shall be submitted. The proposed Plan shall be prepared by a licensed engineer, surveyor, architect or planner. It shall be drawn to scale and include the following:

- (1) An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions, or major landmarks;
- (2) A north arrow;
- (3) Topography of the district showing 10 foot contour lines for the site;
- (4) Land uses for the district and proposed density (in a single building of vertical mixed uses the gross area floor ratio must be provided);
- (5) Approximate location of existing buildings, structures and uses on the properties adjacent to the district;
- (6) Natural features of the site including, but not limited to, drainage patterns, riparian areas, water bodies, wetlands, steep slopes or ravines;
- (7) Type, size, and location of any proposed signs;
- (8) Approximate location of proposed streets, driveways, alleys, and rights-of-way with an indication of whether public or private;
- (9) Location of pedestrian access such as sidewalks or trails to key areas of attraction within the district;

- (10) The proposed lot pattern, lot standards, and lot coverage requirements;
- (11) Schematic plans which shall indicate the phasing of the development;
- (12) A landscaping and tree planting plan, including the location of street trees, with a notation indicating the location and retention of existing trees;
- (13) The location, layout, and the surfacing of all vehicle parking and loading areas;
- (14) The location and layout of mass transit stations if applicable;
- (15) A written statement satisfactory to the City of Tega Cay on the guarantees and assurances to be provided for the maintenance of common areas, open space, recreation areas, sidewalks, parking, private streets, driveways or alleys and other privately owned but common facilities serving the district.

**(E) Specific Development Standards and Requirements.** Each MXD must ensure that the following development standards are met.

- (1) Elevations for all buildings and structures, other than single family dwellings, shall be provided and include architectural treatments that create visual interest and community character and promote a sense of pedestrian scale and shall contain the following:
  - (a) Where applicable, cornices (e.g., building tops or first-story cornices) shall be aligned to generally match the height(s) of those on adjacent buildings. Building height limitations shall be governed by the applicable Building Codes.
  - (b) Maximum Building height for Mixed Use Buildings shall be 4 stories/55 feet including roof design and profile. Building height is limited to 65 feet when locating mechanical equipment on the roof. Mechanical area can contain no living space and must be accessible by elevator. In addition, all mechanical equipment must be screened from other rooftop uses. Building height “transitions” or step-downs shall be provided where the MXD district abuts adjacent residential properties where the maximum building height is three stories/45 feet.
  - (c) Mixed use buildings shall have a minimum Ground floor height, floor to ceiling, of 12 feet and Upper story height, floor to ceiling, of 10 feet with a minimum of 9 feet.
  - (d) Any building façade oriented to the public view shall provide ground floor transparent windows to allow visual access into and out of the building;
  - (e) Primary entrances shall open on to a street or interior courtyard.
  - (f) Building frontages along streets shall break any flat, monolithic façade by including architectural features such as, but not limited to, bay windows, recessed entrances, fluted masonry, fenestration, cornices, or other articulation so as to provide visual interest and a pedestrian scale to the first floor.
  - (g) Multi-story buildings shall extend the same architectural features above the ground floor level through variations in design, detail, and proportion, and by avoiding designs featuring a monolithic street façade.
- (2) To encourage the use of design to minimize opportunities for crime and to increase public safety the following should be utilized:

- (a) Building entrances, parking areas, private and public open spaces, and pathways should be accentuated with appropriate features such as landscaping, pavement treatment, art and signs which draw attention to the area. Such features should be placed or designed in such a manner that the view into the area is not obscured.
- (b) The proposed layout, building, and landscape design should promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site.
- (c) The proposed site layout and building design should encourage activity in public spaces.
- (d) The development should control access wherever possible by properly siting and designing entrances and exits (i.e., clear view from the store) and through the appropriate use of lighting, signs and/or other features.
- (3) To encourage buildings to be designed to a human scale for pedestrian access, safety and comfort and to promote a design which would provide direct and safe access between the site and adjacent land uses that is convenient and pleasant for the pedestrian the following should be utilized:
  - (a) The site layout should cluster buildings on the site to promote linked trips via interconnected pedestrian promenades (such that a pedestrian need not cross more than 64 lineal feet of parking or driveway area, or one double loaded row of parking (not inclusive of sidewalks, pathways, landscaping, plazas, and other pedestrian facilities), whichever is less, between buildings).
  - (b) The development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities.
- (4) Residential uses may be located in a separate building or in mixed configuration with commercial in the same structure. When in a mixed configuration, residential uses should be located on the upper stories; or, on ground floors when they do not use storefront space. In no case shall residential uses be located on the ground floor of a building located on commercial street frontage.
- (5) Live/Work should incorporate the following criteria:
  - (a) May not be converted to purely residential use.
  - (b) May be converted to an all commercial use, with the review and approval of the City.
  - (c) May constitute all or part of the residential percentage of the mixed-use development. A mixed-use development should not consist exclusively of live/work units.
  - (d) Shall be located near the commercial portion of the mixed-use development.
- (6) Units of various sizes (e.g., studios, one and two bedroom units) are encouraged.
- (7) On-site parking areas:
  - (a) Parking areas shall be located where residents and businesses have easy and convenient access. Opportunities for shared parking shall be utilized. However, the project may consider dedicating a certain portion of the parking for each use.
  - (b) Surface parking should be oriented behind buildings when possible.
  - (c) Surface Parking shall not be located on street corners.

- (d) Surface parking shall not exceed 110% of the minimum parking requirement for the subject land use(s) as identified in the Section 19-301 of the Zoning Code. Exemptions to the standard can be approved through site/design review for developments that provide parking structures, shared parking, valet parking spaces, market rate parking, or similarly managed parking facilities;
- (e) Parking Structures with frontages on commercial corridors must allocate space for commercial use on the first floor.
- (f) Parking Structures located adjacent to a residential use shall have a side and rear setback of 20 feet and be landscaped and screened. Should the Parking Structure be located on a corner adjacent to residential uses, the first floor commercial use must wrap the corner and the landscaped setback may be reduced to 10 feet.
- (g) The Parking Structure must be screened or wrapped with the Mixed Use Structure with a minimum of 25 feet of either hard or softscape design or an approved mixture of both.
- (8) The area covered by impervious surfaces (i.e., area covered by buildings and pavement) shall be minimized to the greatest extent practicable; best practices for surface water management shall be required.
- (9) Building setbacks shall be as follows:
  - (a) Front setback along a primary or major street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (b) Front setback along a secondary or minor street shall utilize a Build-to Zone of 0 feet minimum to 10 feet maximum.
  - (c) Side setback along a primary or major street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (d) Side setback along a secondary or interior street shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum.
  - (e) Rear setback shall utilize a Build-to Zone of 0 feet minimum and 10 feet maximum to other properties within the MXD.
  - (f) Side and Rear setbacks abutting residential districts shall be 20 feet.
- (10) Side and Rear setbacks abutting other commercial properties shall be 10 feet. The maximum Floor Area Ratio (FAR) shall be [2.0] for mixed-use buildings and [1.25] for all other buildings.

**(F) Permitted Uses.** The following are the principal uses permitted in this district:

- (1) Single Family Residential detached and attached.
- (2) Live/Work Space located above the ground floor of commercial buildings.
- (3) Multi-Family Residential (for-lease apartments, condominiums).
- (4) Commercial recreation establishments, including movie theaters, pool and video game rooms, bowling and skating rinks.
- (5) Primary retail establishments such as department stores, general mercantile stores, clothing, variety, and similar low bulk items.
- (6) Secondary retail establishments such as those selling principally one-stop items, usually high-bulk, including furniture, appliance, home furnishings, floor coverings,

- business machines, heating and air conditioning sales and service, bicycle sales and services, and similar establishments.
- (7) Social retail uses such as coffee shops, brew pubs, bookstores, art galleries, bakeries, and florists.
  - (8) Convenience retail establishments such as small scale grocery and beverage stores.
  - (9) Restaurants, including those with or without on premise alcohol sales.
  - (10) Personal service establishments such as barber and beauty shops; laundromats; laundry pick-up; tailor; dressmaker; shoe shops; photo studio
  - (11) Business Services (printing, copying, parcel services).
  - (12) Medical offices, clinics, and pharmacies.
  - (13) Educational institutions, primary through graduate, public and private.
  - (14) Commercial adult and child care facilities as a Conditional Use.
  - (15) Churches and places of worship or religious institutions.
  - (16) Financial institutions, banks, credit unions, CDA & Accounting and Brokerage.
  - (17) Professional Office such as legal services, architectural and engineering services.
  - (18) Fresh Farm/Open Air Markets.
  - (19) Public and private transportation service and facilities, including bus terminals, bus stops and taxi stands.
  - (20) Animal Services, including kennels, veterinary clinics and grooming facilities.
  - (21) Hotels and Bed and Breakfast Establishments.
  - (22) Assisted Living facilities as a Special Use.
  - (23) Instructional studios, art, music, dance and drama studios.

#### **(G) Approval Process**

- (1) **Public Hearing:** The procedures for public hearing and consideration by the Planning Commission and the City Council shall be as set forth in Article XV of Ordinance #77 Zoning. The Planning Commission and City Council shall conduct a joint public hearing to consider the Mixed Use District application.
- (2) **Planning Commission Recommendation:** After the public hearing is closed the Planning Commission shall consider the Mixed Use District Master Plan to determine a) the need for the proposed amendment; b) the effect of the amendment on the property and the surrounding properties; and, c) the relationship of the proposed amendment with the Comprehensive Plan, and the general planning programs of the city. Within thirty days, the Planning Commission shall submit its recommendation to City Council.
- (3) **City Council Action:** The City Council shall consider the Planning Commission recommendation and make a decision on the matter. The City Council may also approve additions, deletions and/or changes to the Mixed Use District Master Plan prior to final approval. Upon approval of the Mixed Use District Master Plan by the City Council, the Mixed Use District is deemed established. The Mixed Use District shall be designated on the Zoning Map as MXD.

# ATTACHMENT (3): STANDARDS FOR AMENDMENTS

## 5A-2-2-5: AMENDMENTS:

(G) Standards: The Plan Commission shall consider the following factors and other pertinent factors in developing a recommendation for the City Council:

1. Existing uses of property within the general area of the property in question, and the resulting character of the general area;
2. The zoning classifications of property within the general area of the property in question;
3. The suitability of the property in question to the uses permitted under the existing zoning classification including consideration of the length of time the property has been vacant as zoned;
4. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classifications and the impact to surrounding property likely to result from the proposed use;
5. The reduction in value of the subject property resulting from the particular zoning restriction as compared to the gain to the public if the property remains restricted; and
6. The policies of all current official plans or plan elements of the City.