



October 16, 2025

Mayor and City Council
City of Foley
407 East Laurel Avenue
Foley, Alabama 36535

RE: Zoning Ordinance Amendments Recommendation

Dear Mayor Hellmich and City Council Members:

The City of Foley Planning Commission held a regular meeting on October 15, 2025 and the following action was taken:

Zoning Ordinance Amendments

Commissioner Hellmich made a motion to recommend the proposed zoning ordinance amendments to Mayor and Council with the condition to change item J under site plan contents to "Location of mechanical systems including screening and dumpster enclosures". Commissioner Hare seconded the motion. All Commissioners vote aye.

Motion to recommend the proposed zoning ordinance amendments to Mayor and Council with the condition to change item J under site plan contents to "Location of mechanical systems including screening and dumpster enclosures" passes.

Please let me know if you have any questions or concerns.

Respectfully,

Amanda Cole

Amanda Cole
Planning & Zoning Assistant
acole@cityoffoley.org

MAYOR: Ralph Hellmich

CITY ADMINISTRATOR: Michael L. Thompson

CITY CLERK: Christi Watkins

COUNCIL MEMBERS: J. Wayne Trawick; Vera Quaites; Roderick Burkle; Cecil R. Blackwell; Charles Ebert III

October 2025 PROPOSED ZONING ORDINANCE AMENDMENTS

- Changes to LANDSCAPE Section

Amend Section 8.5.C.1

1. Architectural Details - Include but are not limited to: porch railings; columns (size, taper, base, molding); dormer windows; bay windows; balconies; shutters; and similar.

Amend Section 8.5.C.3

3. Landscaping - Sod alone does not constitute landscaping for the purpose of this section. ~~trees, bushes, and other items included in the definition of "Landscaping Material" must also be provided~~ See 10.5.G.7 Site Specific Landscaping Requirements to effectively incorporate the duplex into the surrounding neighborhood.

Amend title to Article 10

ARTICLE X - ~~PARKING / LANDSCAPING / BUFFER / LIGHTING REQUIREMENTS / GREENBELT~~
ZONING SITE DESIGN REQUIREMENTS

Add 10.1.F

F. Legal non-conforming off-street parking facilities may continue until they are expanded by more than 5% of the existing parking capacity at which time the entire parking area must be brought into conformity with all aspects of this ordinance.

Add 10.1.G

G. The owner, tenant, agent of either, and any other person in charge of premises shall be jointly and severally responsible for the compliance with the parking sections of the ordinance as well as the maintenance of all landscaping, landscaped areas and incidentals as required by this ordinance. All trees and other plant material shall be kept in a healthy, living state and grounds shall be kept free of rubbish, refuse, and debris. Grass and shrubbery shall be kept neatly trimmed in accordance with applicable municipal ordinance.

Delete current 10.1.2 - info moving to 10.5.F.1

~~10.1.2 Off Street Parking Areas of Six (6) or more spaces~~

~~In order to create shade, reduce heat, define circulation, and visually soften large paved areas the following items are required for parking lots within the city. Framing primary drive entrances and site access points with landscaping helps to reinforce gateway visibility, protect pedestrians, and soften turning movements at key entries.~~

~~A. One tree shall be planted for every two thousand (2,000) square feet of the total site's impervious area including parking areas and building areas for all development with the exception of a retail car lot. For a retail car lot development, one tree shall be planted for every seventy five hundred (7,500) square feet of impervious surface area.~~

~~B. At least fifteen percent (15%) of the total interior area intended for off-street parking shall be suitably landscaped within the perimeter of the parking area. Such landscaping shall be protected from vehicular encroachment by the use of curbing.~~

~~C. Interior portions of the parking area at intervals of ten (10) parking spaces shall be broken by provision of 9 ft x 18 ft landscaped islands. Such landscape islands shall include the placement~~

~~of one (1) shade or flowering trees at least three (3) inches or greater in caliper and ten (10) feet in height at planting.~~

~~D. Terminal ends of all parking rows shall include landscaping with one (1) shade tree.~~

~~E. Parking lot perimeters adjacent to public streets should include a five (5) foot perimeter landscape strip with one (1) canopy tree every 40 feet and continuous evergreen shrub massing at 30-36 inches tall to soften the edges.~~

~~F. Cross-visibility at the intersection of any combination of streets, alleys or driveways, landscaping shall be so planted and maintained as to provide unobstructed visibility between the heights of two and one-half (2 ½) feet and fifteen (15) feet within an area defined by projecting lines parallel to and twenty five (25) feet from the point of intersection of curb lines projected.~~

Move section 10.1.5 to replace removed section 10.1.2

10.1.52 RESIDENTIAL LOTS THAT MAY BE USED FOR OFF-STREET PARKING

The Board of Adjustment and Appeals may allow property zoned for residential use to be used by an abutting non-residential enterprise for off street parking if the Board determines that the residential property will not be substantially or permanently injured and that the neighboring residential area will not be adversely affected by the use of the residential lot for parking. The owner or occupant of the land on which the non-residential enterprise is conducted must own the residential lot; no fee may be charged for parking on the residential lot; and the residential lot may not be used for off-street loading. The abutting lots may be separated by a street or alley. The Board may require certain conditions and safeguards for the adequate protection of the adjoining property and subject property.

Combine 10.1.3 & 10.1.4

10.1.3 OFF-STREET LOADING

On the same lot with every structure or use hereafter erected or created, there shall be provided and maintained space for loading and unloading of materials, goods, or things, and for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

- A.** Where any structure is enlarged, or any use is extended so that the size of the resulting occupancy comes within the scope of this Section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space the full amount of off-street loading space shall be supplied and maintained to comply with this ordinance.
- B.** For the purpose of this Section, an off-street loading space shall be an area of at least twelve (12) feet wide by forty-five (45) feet long with fourteen and one-half (14 ½) foot vertical clearance. Each off-street loading space shall be accessible from a street or alley, and arranged for convenience and safe ingress and egress by motor truck and/or trailer combination.
- C.** Off-street loading facilities supplied to meet the needs of one use shall not be considered as meeting the off-street loading needs of any other use.
- D.** No area or facility designated, designed or used to satisfy the off-street parking requirements of this Ordinance shall be used or counted towards the off-street loading requirements of this Ordinance.
- E.** Nothing in this section shall prevent one off-street loading zone to be used by more than one business, building, use or entity provided that the off-street loading facility is:
 - 1.** At least equal to the combined size and capacity requirements of all the several businesses, buildings, uses or entities who share the off-street loading facility;
 - 2.** Located on the same lot as all the businesses, buildings, uses and entities; and
 - 3.** Located and arranged so that it is capable of being conveniently used by all the users of the facility.
- F.** Plans for buildings or uses requiring off-street loading facilities under the provisions of this Article shall clearly indicate the location, dimensions, clearance, and access of all such required off-street loading facilities.

10.1.4 OFF-STREET LOADING SPACE

- G.** Off-street loading space shall be provided and maintained in accordance with the following schedule:

1. For each retail store, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:
 - a. Less than 10,000 square feet: 0 spaces.
 - b. 10,000 square feet or more, but less than 25,000 square feet: 1 space.
 - c. 25,000 square feet or more, but less than 60,000 square feet: 2 spaces.
 - d. 60,000 square feet or more, but less than 120,000 square feet: 3 spaces.
 - e. 120,000 square feet or more, but less than 200,000 square feet: 4 spaces.
 - f. 200,000 square feet or more, but less than 290,000 square feet: 5 spaces.
 - g. 290,000 square feet or more: 5 spaces plus an additional space for each additional 90,000 square feet over 290,000 or any portion thereof.
2. For each auditorium, convention hall, exhibition hall, museum, hotel, office building, sports arena, stadium, hospital, or similar use which has an aggregate gross floor area of:
 - a. Less than 10,000 square feet: 0 spaces.
 - b. 10,000 square feet or more, but less than 40,000 square feet: 1 space.
 - c. 40,000 square feet or more: 1 space plus an additional space for each 60,000 square feet over 40,000 square feet or any portion thereof.
3. For any use not specifically mentioned in this Section, the requirements for off-street loading for a use which is mentioned, and to which the unmentioned use is similar, shall apply, in the determination of the Community Development Director.

Amend Section 10.2

10.2 BUFFERS

Buffers shall be provided in accordance with the location and size requirements of Table 10.2.1 and Table 10.5.G.9.a and as described in this section. In cases where buffers are required or deemed necessary for the protection and/or separation of uses on abutting lots, the following provisions shall constitute the minimum requirements for each unless otherwise specified by the reviewing authority in individual cases. For the purposes of this Section, "fences" and "walls" shall have the same meaning, but shall not include the term "retaining wall".

~~10.2.1 BUFFER GENERAL REQUIREMENTS~~ General Buffer/Screening Requirements

1. Buffers are in addition to any required Street Trees, Parking Lot Landscaping, Greenbelt Zones, and other City requirements.
2. 100 percent of the applicable buffer requirements shall be the responsibility of the developing land use, except when the new use is developed abutting an existing more intensive use developed prior to the adoption of these standards and for which no buffer is in place. In this case, the new use shall be responsible for providing a minimum of fifty (50) percent of the required buffer.
3. Whenever the proposed use abuts an existing use on a property that is designated for another use within the Comprehensive ~~Master~~ Plan's Place Type Map, the approving authority may modify the required buffer in accordance with the projected use.
4. Whenever the proposed use abuts an existing use in a district in which such neighboring use is nonconforming, the approving authority may modify the required buffer in accordance with the type(s) of use permitted by the nonconforming use's zoning classification or projected by the Comprehensive ~~Master~~ Plan's Place Type Map, whichever is less.

5. Whenever the proposed use abuts a vacant property, the buffer required shall be based on the zoning of the abutting property or the use projected by the Comprehensive Master Plan's Place Type Map, whichever is less.
6. If the use relationships between two (2) abutting lots change so that a lesser buffer would be required, the width of the buffer may be reduced accordingly.
- ~~7. If the required buffer abuts a public right of way, up to one-half (1/2) of the right-of-way width may be counted toward the buffer width requirement and tree/shrub quantities.~~
8. Stormwater handling areas; golf courses, playfields, stables, swimming pools, tennis courts and other recreational facilities; parking and other vehicular use areas; buildings, dumpsters, and outdoor storage are prohibited in required buffers.
9. Where desirable and upon receipt of a written agreement between the affected property owners, ~~the Commission may permit~~ a pedestrian access way is encouraged ~~along a wall provided~~ as part of a required buffer, to allow access to and from compatible ~~an~~ abutting residential uses.
10. Buffer requirements may be more stringent if located adjacent to a wetland or stream bank. Refer to City of Foley Land Development Ordinances for wetland and stream bank buffer requirements.
11. Screening, and/or landscaping as appropriate, is required to shield the view of equipment from the street.
 - a. Rooftop mounted HVAC (or similar) equipment should be placed behind parapet walls or other methods of screening to minimize unsightly rooflines.
 - b. Ground equipment (HVAC units, electrical panels, etc) should be shielded from view and placed behind screening, walls, and/or landscaping whenever possible.
 - c. Dumpsters. While coordination with the Commercial Sanitation Department is required to assure location provides for accessible pickup, dumpster enclosures should not be planned adjacent to external streets unless there are no other alternatives acceptable to the City. Where no other location is available, landscaping shall be used in conjunction with the enclosure to minimize visibility. Complimentary materials and colors for the enclosure should be utilized to further blend into the site.

10.2.2 BUFFER DESIGN REQUIREMENTS

A. Buffer Reductions and Exemptions

1. Adjacent to a Park or Greenway

Any required buffer abutting an existing or proposed park or greenway plan location shall be waived in its entirety, if the property owner dedicated that land to be set aside for the required full buffer width to the City for incorporation into the park or greenway. Such land dedication shall be deemed acceptable only upon approval of the Mayor and City Council.

2. Fences/Walls and Berms

In accordance with the following standards, the width and planting quantities of a required buffer may be reduced by up to fifty (50) percent if a wall together with landscaping is used ~~and or~~ up to twenty-five (25) percent if a berm together with landscaping is used:

- a. Any wall shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof, as may be approved by the reviewing authority. No more than twenty-five (25) percent of the wall surface shall be left open, and the finished side of the wall shall face the abutting property. Chain-link fencing with plastic, metal, or wooden slats ~~or with fabric mesh~~ shall not be permitted.
- b. Walls shall be a minimum of six (6) ft high and shall avoid a stockade appearance. This can be accomplished through any or a combination of the following methods:
 - adding an evergreen hedge on the finished side of the wall,
 - using supports of a different material
 - by undulating the plane of the wall.
- c. Walls over 100 linear feet shall have no more than fifty (50) percent of their length in a straight line, unless the entire wall is set back five (5) ft or more from the lot line, with evergreen planting provided within such setback
- d. Berms shall be a minimum of four (4) ft in height with a maximum slope of three to one (3:1). Berms in excess of six (6) ft in height shall have a maximum slope of four to one (4:1) as measured from the exterior lot line. Berms shall be landscaped and stabilized to prevent erosion.

10.2.3 BUFFER LANDSCAPING REQUIREMENTS

~~A. Existing natural vegetation, which meets, in whole or in part, buffer planting requirements, may be applied toward the requirements of this Section. All plants shall be suitable for local planting conditions and the intended landscaping purposes. All exposed beds shall be maintained with mulch and shall be a minimum of two (2) inches deep at installation.~~

~~B. Shrubs shall be evergreen and at least thirty (30) inches tall at installation with an average height of five (5) to six (6) ft to be expected as normal growth within four (4) years. However, twenty five (25) percent of the shrubs may vary from this standard. The permitted variations are that such shrubs:~~

~~1. May be deciduous;~~

~~2. May be two (2) ft tall when planted, provided an average height of three (3) to four (4) ft is expected as normal growth within four (4) years; and~~

~~3. When planted on a berm, may be of a lesser height, provided that the combined height of the berm and planting is at least six (6) ft after four (4) years.~~

~~C. Deciduous trees shall have a minimum of two and one-half (2 1/2) inch caliper and be a minimum of (10) ft in height at installation. At installation, evergreen trees shall be a minimum of six (6) ft in height and multi-stemmed trees shall be eight (8) ft in height.~~

~~D. All landscaped areas shall be protected from vehicular encroachments by curbs, wheel steps, or other permanent barriers.~~

~~E. Stormwater management and drainage controls required by the City Engineering Department shall be coordinated with landscaping improvements and integrated into the overall site design.~~

Table 10.2.14 MINIMUM BUFFER TYPE BY DEVELOPING USE
(Use Table 10.5.F.2 for Landscape requirements by Buffer Type)

Developing Use	Abutting Use					
	SF & Duplex	TH & MF	MH1, RV	Institution/ Office	Business	Parks & Greenways
RESIDENTIAL	<i>Type of Buffer Required</i>					
SF & Duplex	none	none	None	none	none	none
Zero Lot Line Dwellings	C	none	none	none	none	none
Townhouses & Multi-family	C	none	C	none	none	C
MH & RV Park (see also RV Park section for further requirements)	C	C	C	C	C	C
OFFICE / INSTITUTION						
Clinics/Offices up to 50,000 sf	C	C	C	none	none	C
Clinic/Offices greater than 50,000 sf	B	B	C	none	none	C
Institutional	Low/Med B High A	Low/Med B High A	C	C	C	C
BUSINESS						
Amusement, Outdoor entertainment & retail	C	C	C	none	none	C
Retail, shopping centers, & restaurants up to 50,000 sf	B	B	C	none	none	C
Retail, shopping centers, & restaurants greater than 50,000 sf	B	B	C	none	none	C
INDUSTRIAL						
Warehousing & Storage	A	A	B	C	C	B
Light Manufacturing	A	A	B	C	C	B
Other Light Industrial	A	A	B	B	B	B
Heavy Industrial	A	A	A	A	A	A

Table 10.2.5 REQUIREMENTS BY TYPE OF BUFFER AND SITE ACREAGE

NO CHANGES TO Section 10.3

10.3 EXTERIOR LIGHTING

Amend 10.4.B.3.a.iii

- iii. Chain-link fencing with plastic, metal, or wooden slats, **or with fabric mesh** is prohibited.

Add NEW Section 10.5

10.5 LANDSCAPING

A. Purpose

The intent of this section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings, buffers, and tree preservation in order to achieve a healthy, beautiful, and safe community. Green areas create and preserve an ecological balance, control erosion, sedimentation and storm water runoff, provide shade and reduce heat and glare, abate noise pollution, and buffer incompatible land uses. It is critical that a balance be maintained between developed areas and natural/landscaped areas with appropriate existing and/or newly planted trees and other vegetation.

B. Applicability

The provisions of this Article shall be required for all residential projects involving the construction of planned developments (including duplexes, apartments, town homes, condominiums, RV parks, etc.), subdivisions with **five or more dwellings or lots less than 20,000 SF**, business, commercial, industrial, and/or institutional structures; and all existing structures which increase the gross floor area by thirty (30) percent or more within the City of Foley limits, unless expressly exempted by law or the list below.

1. Exemptions: The following are exempt from the landscaping and buffer requirements of this Article:
 - a. Single Family Residence
 - b. Accessory Dwelling Unit on a residential lot
 - c. Public utility construction activities within the public rights-of-way.

C. General Considerations

1. **All landscape materials and trees depicted on an approved landscape plan shall be installed prior to the issuance of a Certificate of Occupancy, or approval of a Final Site Plan or Final Plat.**
2. **Maintenance: The owner, tenant, agent of either, and any other person in charge of premises shall be jointly and severally responsible for the maintenance of all landscape areas which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. Maintenance shall include the replacement of all dead plant material. Dead plant material shall be replaced within a time appropriate to the growing season of the species in question, not to exceed six months.**

Grass and shrubbery shall be kept neatly trimmed in accordance with applicable municipal ordinance.

3. All landscaped areas shall be protected from vehicular encroachments by curbs, wheel stops, or other permanent barriers.
4. Stormwater management and drainage controls required by the City Engineering Department shall be coordinated with landscaping improvements and integrated into the overall site design.
5. To protect trees and other plantings during construction, refer to *Subdivision Regulations* Section 5.8.G as adopted by reference.

D. Place Type-Specific Considerations

1. Downtown Node areas as identified by the *Comprehensive Plan's* Place Types Map could face setback and development standards that render on-site landscaping impractical. In these cases the Planning Commission may approve alternative strategies which include the installation of street trees or landscape features within the City right-of-way (e.g., tree wells or curb extensions), or an alternative program dedicated to planting and maintaining trees and streetscape landscaping within appropriate areas of the Downtown core.

E. Modifications and Special Design Criteria

1. Modifications may be granted to these buffer and landscape requirements where:
 - a. Topographical or environmental constraints make full compliance impractical
 - b. An alternative landscaping plan providing equal or better screening and conservancy is proposed
 - c. A rural or conservation-based Place Type justifies reduced planted landscaping and more natural preservation with the sporadic addition of vegetation to achieve appropriate levels of screening.

All requests for exception or modification shall be accompanied by a written justification accompanying the landscape plan which will be subject to staff and/or planning commission review and approval.

2. More stringent design and landscape standards may be required by the Planning Commission in any district if it is determined the design would be more compatible with the development and/or more beneficial to the aesthetics of the City.

F. Planting Requirements

1. Trees

Refer to the Subdivision Regulations Appendix C for a list of approved native species of Canopy and Understory trees

a. Tree Planting Criteria

- i. A minimum of four (4) different approved native species (refer to SubRegs Appendix C for list) shall be planted on each site. Two (2) species shall be overstory/canopy (large) trees and two (2) species shall be understory (medium) trees in order to promote species richness.
- ii. Large (overstory/canopy) trees shall have at least three (3) inches or greater in caliper and ten (10) feet in height at planting.
- iii. Medium (understory) trees shall have at least three (3) inches in caliper and eight (8) feet in height at planting.
- iv. Multi-stemmed understory trees shall be a minimum of ten (10) feet in height and must have at least three (3) stems; each with a minimum caliper of $\frac{3}{4}$ (three-fourth) inches.

- v. All newly planted trees shall be located in a (twelve by six foot) 12' x 6' area at least seventy two square feet.
- vi. On-site relocated trees may be credited toward these requirements.
- vii. It is recommended that trees be obtained from a licensed source.

b. Tree Replacement Provisions

With the exception of Live Oak trees, the developer shall plant two (2) replacement trees for each significant tree (defined as a tree above 8 inches in caliper) proposed to be removed. The replacement trees shall be shade or flowering trees and shall be at least two and one half (2 ½) inches or greater in caliper and ten (10) feet in height at planting. The quantity of Live Oak trees to be replanted after removal shall be calculated by adding the calipers of all live oaks proposed for removal divided by six (measured in inches).

c. Credits and Calculation Procedures for Existing Significant Protected Trees

All plans submitted to the Planning Commission shall have an accurate tree survey denoting each tree above eight inches in caliper, its location, elevation and both proper scientific and common name. The landscape plan shall show the placement and species of the number of required new replacement trees. Calculations of trees to be protected and the quantity of credits to be applied shall be provided along with the calculations of trees to be removed and justification of proposed removal.

Measurements (all calculations shall be rounded up for a final count)

- i. Trees which are from 1" to 4.5" (one to four and one-half inches) in caliper shall be measured 6" (six) inches above the root zone at the base of the tree.
- ii. Trees which are over 4.5" up to 8" (four and one-half inches up to eight inches) in caliper shall be measured one foot above the root zone.
- iii. Trees which are greater than 8" (eight inches) in caliper shall be measured 4' (four feet) above the root zone.

d. Tree Credits

- i. Tree credits may only account for preserved trees which can be integrated into the design and calculations for the overall landscape plan.
- ii. All credited trees shall be at least 8" (eight inches) in caliper measured as provided above.
- iii. Tree credits shall not apply to trees for frontage areas or parking and impervious materials. These tree credits shall only be applied to those trees which are required for the perimeter tree requirements.
- iv. One tree credit may be applied for every six inches in total caliper of trees. The credit shall be calculated as follows: sum of calipers of preserved trees divided by six (measured in inches).
- v. Existing trees located within a greenbelt area may be credited at a rate of one to one.
- vi. In addition to the required tree planting requirements, all trees ten inches (10") in caliper or greater shall be protected if not located within the footprint of the building.
- vii. If a tree ten inches (10") or larger is not protected and is either removed or damaged during construction, then two additional trees will be required to

be planted for every six inches in total caliper of the trees to be removed. Said ten inch caliper tree shall be measured four feet above the root zone at the base of the tree. Calculation: Total tree calipers of trees to be removed divided by six (measured in inches).

2. Shrubs

- a. Shrubs shall be evergreen and at least thirty (30) inches tall at installation with an average height of five (5) to six (6) ft to be expected as normal growth within four (4) years.
- b. Twenty-five (25) percent of shrubs may vary from this standard. The permitted variations are that such shrubs:
 - i. May be deciduous;
 - ii. May be two (2) ft tall when planted, provided an average height of three (3) to four (4) ft is expected as normal growth within four (4) years; and
 - iii. When planted on a berm, may be of a lesser height, provided that the combined height of the berm and planting is at least six (6) ft after four (4) years.
- c. Shrubs pruned into tree form variations shall not be credited toward tree planting requirements. These include, but are not limited to the following: Ligustrum, Indian Hawthorn, Tree Yaupon and Camellia.

3. Ground Cover Plantings

Ground Covers are intended to provide a continuous "blanket" covering for an area and as such should be planted in groups and at a spacing no greater than eighteen (18) inches on center. Ground cover planting shall be established with pots sized four inches or greater.

4. Ornamental Grass

Any of a variety of grasses and other grass-like plants grown in gardens and landscapes for their aesthetic qualities of color, texture, shape, and movement. Clumping or bunching varieties grow in compact tufts that slowly expand in diameter. Ornamental grass plantings shall be established with pots sized 1 gallon or greater.

5. Turf Areas

In turf areas, grass shall be composed of solid sod. Seed and mulch shall not be accepted at final inspection.

G. Site Specific Landscape Planting Requirements

1. Off Street Parking Areas of Six (6) or more spaces

In order to create shade, reduce heat, define circulation, and visually soften large paved areas the following items are required for parking lots within the city. Framing primary drive entrances and site access points with landscaping helps to reinforce gateway visibility, protect pedestrians, and soften turning movements at key entries.

- a. One tree shall be planted for every two thousand (2,000) square feet of the total site's impervious area including parking areas and building areas for all development with the exception of a retail car lot. For a retail car lot development, one tree shall be planted for every seventy five hundred (7,500) square feet of impervious surface area.
- b. At least fifteen percent (15%) of the total interior area intended for off-street parking shall be suitably landscaped within the perimeter of the parking area.

Such landscaping shall be protected from vehicular encroachment by the use of curbing.

- c. Interior portions of the parking area at intervals of ten (10) parking spaces shall be broken by provision of 9 ft x 18 ft landscaped islands. Such landscape islands shall include the placement of one (1) shade or flowering trees at least three (3) inches or greater in caliper and ten (10) feet in height at planting.
- d. Terminal ends of all parking rows shall include landscaping with one (1) shade tree.
- e. Parking lot perimeters adjacent to public streets should include a five (5) foot perimeter landscape strip with one (1) canopy tree every 40 feet and continuous evergreen shrub massing at 30-36 inches tall to soften the edges.
- f. Cross-visibility at the intersection of any combination of streets, alleys or driveways, landscaping shall be so planted and maintained as to provide unobstructed visibility between the heights of two and one-half (2 ½) feet and fifteen (15) feet within an area defined by projecting lines parallel to and twenty five (25) feet from the point of intersection of curb lines projected.

2. Foundation Plantings

Foundation Plantings are not required in densely urban commercial settings such as the Comprehensive Plan's "Nodes" Place Type, but are intended for larger developments with intensive impervious surfaces such as parking areas.

- a. For buildings over 5,000 sq ft, foundation landscaping should be required along any façade facing a street or primary customer entrance.
- b. At least 50% of the façade should include a 3-foot-deep planting bed with shrubs and groundcover.
- c. Entrances should be highlighted with planters or ornamental landscaping.

3. Building Frontage Landscape Requirements

Applicable to both Commercial and Multifamily Residential developments, these frontage based planting areas are in addition to, not a replacement for, perimeter or buffer landscaping. Care should be taken so that landscaping doesn't obstruct building visibility or entrance, but instead enhances pedestrian scale and site legibility.

- a. For every 25 linear feet of street- or driveway frontage:
 - i. One (1) ornamental or understory tree
 - ii. Five (5) shrubs or clumps of ornamental grass
- b. Beds should be at least 3 feet deep, within 10 feet of the building, and not rely on turf for ground coverage.
- c. Areas with active entrances or storefronts could substitute with planters or trellises.
- d. In "Core Neighborhood" or "Village Center" place types, these requirements should be met using tree wells or streetscape-specific planters consistent with existing designs.

4. Civic Frontage Options

In core or village-scaled areas, there should be a 3'-5' civic frontage zone adjacent to sidewalks that includes:

- a. Tree wells at regular intervals
- b. Low seating walls, benches, or integrated public art

- c. Plantings may also be located within the sidewalk edge or right-of-way (ROW), depending on available width and streetscape conditions, so long as they are coordinated with utilities and visibility requirements

5. Signage Planting Standards

Monument signs, including both residential and commercial entryway/median signs, should be integrated into landscape frontage areas, with the following specific criteria:

- a. No monument signs may be left devoid of landscaping. Specific requirements shall not be mandated due to the many safety considerations regarding signs at intersections. At minimum, groundcover plantings and shrubs should be used in such a way as to enhance the sign placement and visibility.
- b. No monument signs may be placed within required tree strips, trail corridors, or bioswale zones.
- c. Must maintain minimum 5 ft clearance from tree trunks and 3 ft from shrubs.
- d. Must not interfere with Vision Clearance Areas as defined within Article XXII - Sign Regulations.

6. Duplexes

A minimum of 10% of the total lot must be suitably landscaped in order to incorporate the higher density use into the surrounding neighborhood with the remaining area covered by sod. These requirements are in addition to any other required greenbelt, street tree, or other City regulation requirements. The following items are required as a part of the 10% landscaped area:

- a. One (1) tree per 30 linear feet, or any portion thereof, of any street side building frontage.
- b. Four (4) shrubs or clumping ornamental grasses shall be provided per required tree.
- c. Landscape beds must be finished with ground cover plantings or mulch at least 2 inches deep after watering so that no bare ground remains.

7. Storm Water Detention/Retention areas

Where water depth and time of detention is sufficient to require safety fencing, such fencing shall be installed on the pond side behind appropriate landscape plantings to screen and soften the area from direct view of adjacent properties and streets.

8. Screening for Miscellaneous Commercial and Multifamily Residential uses

- a. Due to the variety of applications and situations, specific screening/landscaping requirements are not provided in the ordinance, but such covering shall be provided for by the developer in the following situations:
 - i. Ground equipment (Water/Gas/Electric Meters, A/C or mechanical units)
 - ii. Garbage Collection, including dumpsters, recycle bins, compactors, or any other refuse handling area
 - iii. Maintenance sheds, equipment, etc on a Mixed Use or Multifamily site
- b. Mail kiosk/shelter - Safety is the foremost concern for these areas. While landscaping should be used to soften and enhance the appearance of such structures, it shall in no way impede visibility. Appropriate pedestrian scaled lighting is a vital component to enhance security and usability of these areas. (Subdivision Regulation 5.7 is incorporated by reference)

- c. Screens and any associated landscaping shall not impede or divert the flow of water in any drainage way.

9. Buffer Areas

Existing natural vegetation, which meets, in whole or in part, buffer planting requirements, may be applied toward the requirements of Table 10.5.G.9.a when properly documented in a tree survey.

Table 10.5.G.9.a - Buffer Landscape Planting Requirements by Buffer Type

Type of Buffer		Site Area (In Acres)										
		1 or less	1 ≥ 2	2 ≥ 3	3 ≥ 4	4 ≥ 5	5 ≥ 6	6 ≥ 7	7 ≥ 8	8 ≥ 9	9 ≥ 10	>10
A	width (ft)	40	50	55	60	65	70	75	80	85	90	100
	trees per 100 lf	9	9	9	10	10	10	10	11	11	11	12
	shrubs per 100 lf	60										
B	width (ft)	25	30	35	40	45	50	55	60	65	70	75
	trees per 100 lf	6	6	7	7	8	8	9	9	10	10	11
	shrubs per 100 lf	40										
C	width (ft)	20	25	30	35	40	45	50	55	60	65	70
	trees per 100 lf	3	4	5	5	6	6	7	7	8	8	9
	shrubs per 100 lf	20										

H. Landscape Plan Contents

The landscape plan shall include the following information:

1. A tree survey showing the location, species and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
2. The location by species and size all trees, shrubs and other landscape material to be placed on the site. The existing trees to be removed and retained must be indicated on the landscape plan.
3. Location of proposed structures, driveways, parking areas, utilities and other improvements to be constructed or installed.
4. Location and specifications of irrigation system to be provided.
5. Tree barricade and root pruning plan, containing a tree barricade detail, to prevent damage to existing trees and other vegetation during construction.
6. All Landscape Plans shall contain a statement of compliance with these regulations from the Engineer of Record.

- Change from *USES PERMITTED ON APPEAL* to *CONDITIONAL USES*

4.1.3 CONDITIONAL USE REVIEW

The Planning Commission hears and decides requests for approval of Conditional Uses specified in the district regulations. Conditional uses are those that pose potential impacts different or greater than those of permitted uses or have uniqueness such that their effect upon the surrounding environment cannot be determined in advance of a use being proposed in a particular location. As such, conditional uses must be reviewed in terms of existing zoning and land uses in the vicinity; whether, and to what extent the use at the proposed location is consistent with the Comprehensive Plan, the intent of this Ordinance, and any other development policies and/or regulations of the City; and whether and to what extent all steps possible have been taken by the developer to minimize adverse effects on surrounding properties and on the public health, welfare and safety in general.

A. Procedure

1. Proposed Conditional Uses must be submitted to the Planning Commission for its review. The applicant must submit a Zoning Site Plan - Conditional Use application in accordance with the current adopted Planning Commission deadline and meeting calendar. Upon receipt of a complete application and all required materials, City Staff reviews the proposed Conditional Use and refers it to the PC for its review. The applicant must appear before the PC during its review.
2. Submittal Requirements. Conditional Use applications must include those materials required for Zoning Site Plan Review in Article 11 and the following:
 - a. One or more maps showing the location of the proposed use in relation to adjoining neighborhoods and business areas, including existing uses.
 - b. Location of exterior lighting and signs, including any illumination of signs.
 - c. Any noise, smoke, odors and other impacts that will be produced by the proposed development that may affect adjacent properties and associated mitigation measures.
3. A public hearing before the Commission will be scheduled with notice provided to adjoining and adjacent landowners at the cost of the applicant. Following the public hearing, the Commission will evaluate and approve, approve with conditions or disapprove the request, advising the applicant in writing of the decision, including any changes or conditions required by the Commission. The applicant must appear in person or by agent at the Commission meeting. Appeals of the Commission's decision are heard by the City Council.
4. Approval of a Conditional Use is void after 12 months if the applicant has not received either a Building Permit or a business license for the proposed use, or if the Conditional Use ceases for a continuous period in excess of 1 (one) year.
 - a. The Commission may extend the time limit for a Conditional Use when an applicant has not received either a Building Permit or business license, so long as approval is granted prior to the original expiration date. Such extension may not exceed 12 months. Any changes to the original Conditional Use proposal shall require re-approval by the Commission, including public hearings as required for original approval.

B. Criteria. In determining whether to approve a Conditional Use, the Commission will consider and may require conditions on the proposed use to assure the following:

1. Satisfactory ingress and egress, motorist and pedestrian safety and convenient traffic flow.

2. General compatibility with adjacent properties, neighborhood and business area, as applicable.
3. Compatibility of the bulk, density and lot coverage with that of adjoining properties.
4. Compatibility with land use, transportation and other development policies of the Master Plan.
5. Availability, location and adequacy of utilities.
6. Mitigation of any potential economic, noise, glare, and odor effects on adjoining properties.
7. Adequacy of buffering and screening of potentially adverse views and activities from surrounding properties.

If the Commission finds the proposed development is not within the spirit and intent of the district, does not meet, or is not capable of meeting, despite conditions the Commission could reasonably impose, the above criteria, the Commission may disapprove the proposed Conditional Use, providing the grounds for disapproval in writing to the applicant.

C. Conditions. The Commission may impose such conditions for approval as it deems necessary in the particular case to protect the public interest, in relation to the issues listed above and to any other factor it deems relevant. Such approval and conditions will be attached to the property, structure, and/or use and not to a particular person. Violations of conditions attached to the Conditional Use are considered violations of this Ordinance.

D. Limit on Reapplication. When the Planning Commission denies a Conditional Use, no new application shall be initiated for the same request on the same parcel of land for the next 12 months.

2.1 DEFINITIONS APPLICABLE TO THIS ORDINANCE

Boarding House / Bed and Breakfast: A building or structure which is capable of and used for providing lodging or lodging and meals for up to three (3) guest rooms. This use cannot be located within one-thousand (1,000) feet of the same use. The owner of the Bed and Breakfast must reside on site. This is a ~~Use Permitted on Appeal~~ Conditional Use and requires a city license to operate.

Child/Adult Care: The provision of care for individuals, who are not related to the primary caregiver. A child care facility which is the family home in which the operator resides and which receives not more than six (6) children, and is licensed as a Family Day / Night Care Home by DHR. A child care facility which is the family home in which the operator resides and which receives not more than twelve (12) children, and is licensed as a Family Group Day / Night Care Home by DHR. This use cannot be located within one-thousand (1,000) feet of the same use. This is a ~~Use Permitted on Appeal~~ Conditional Use and requires licensing from DHR and a city license to operate.

Conditional Use/Structure: A use or structure that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Planning Commission. In order to ensure compatibility and mitigate potential negative impacts on the surrounding area, a conditional use may be subject to special requirements different from those usual requirements for the zoning district in which the conditional use may be located.

Group Home / Family Care Home: Group home means a dwelling unit, operated by an affiliate of a national, regional, state or county organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the city, for the residents with

the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24-hour basis in case of complaints. A copy of the home rules shall be provided to the City. This use cannot be located within one-thousand (1,000) feet of the same use. This is a ~~Use Permitted on Appeal~~ **Conditional Use** and requires a city license to operate.

Transitional Home: A dwelling shared by four (4) or less mentally handicapped individuals who live for a short period while receiving social, psychological or similar therapy or counseling excluding jails, prisons, and other correctional institutions. Which may in addition, also include up to two (2) resident staff who need not be related by blood or marriage to each other or to any of the persons living within, who live together as a single housekeeping unit in which staff persons provide care. This use cannot be located within one-thousand (1,000) feet of the same use. This is a ~~Use Permitted on Appeal~~ **Conditional Use** and requires a city license to operate.

8.1.3 RESIDENTIAL ANTENNAS

Antennas and aerials for radios, televisions, weather monitoring, and similar pieces of equipment are permitted in addition to other accessory structures provided the unit, dish, rod, or other component of the structure does not exceed fourteen (14) feet in height, ten (10) feet in diameter, and shall meet all setback requirements as set forth in this section of the Ordinance. Roof mounted antennas shall not exceed ten (10) feet in diameter, and shall not extend over fifteen (15) feet above the height limits established for the district in which it is located; and no such antennas shall be used for any type commercial use or advertising purposes. All other antennas in residential districts shall be **conditionally permitted by the Planning Commission** ~~only on appeal to the Board of Adjustment and Appeals.~~

12.1 BED AND BREAKFAST

Bed and Breakfasts shall be a ~~use permitted on appeal~~ **conditional use** in all residential areas and other areas where residences are either permitted or permitted ~~on appeal~~ **as a conditional use.**

12.1.1 BED AND BREAKFAST REQUIREMENTS

No residential dwelling structure shall be erected solely for the purpose of creating a Bed and Breakfast use. Only existing structures shall be permitted for this use, and only upon approval for such use as a home occupation, a ~~use permitted on appeal~~ **conditional use** where residential uses are permitted or permitted ~~on appeal~~ **as a conditional use**, by the ~~Board of Adjustments and Appeals~~ **Planning Commission**. The proposed Bed and Breakfast will be in harmony with the surrounding neighborhood. Where conditions are attached by the ~~Board of Adjustments and Appeals~~ **Planning Commission**, they shall be included as part of the business or building permit if home modification is required.

13.1.2 **CONDITIONAL USES / STRUCTURES PERMITTED ON APPEAL**

Unless specifically prohibited in a particular zoning district, the following uses and structures are permitted ~~on appeal~~ **as Conditional Uses approved by the Planning Commission** in all districts.

14.1.1 R-1R RESTRICTED RESIDENTIAL SINGLE FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Modular Dwellings and home occupations

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ by this Section or by Sections 13.1.1 or 13.1.2 of Article XIII.

14.1.2 R-1A RESIDENTIAL SINGLE FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ by this Section or by Sections 13.1.1 or 13.1.2 of Article XIII.

14.1.3 R-1B RESIDENTIAL SINGLE FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ by this Section or in Sections 13.1.1 or 13.1.2 of Article XIII.

14.1.4 R-1C RESIDENTIAL SINGLE FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Sections 13.1.1 or 13.1.2 of Article XIII.

14.1.5 R-1D RESIDENTIAL SINGLE FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations.

C. Uses Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII.

14.1.6 R-2 RESIDENTIAL SINGLE FAMILY AND DUPLEX

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations.

C. Uses Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII.

14.1.7 R-4 RESIDENTIAL SINGLE FAMILY AND DUPLEX

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations, lodges and clubs not operated for profit; professional and business offices.

C. Uses Prohibited: Agriculture and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII.

14.1.8 GPH-1 RESIDENTIAL GARDEN PATIO HOMES

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Residential uses including structures specifically permitted or permitted on appeal in R-1C districts; home occupations.

C. Uses / Structures Prohibited: Agriculture, poultry and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Sections 13.1.1 or 13.1.2 of Article XIII.

16.1 MH-1 MOBILE / MANUFACTURED DWELLING PARK

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations; residential structures and uses specifically permitted in R-1C districts.

C. Uses / Structures Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII; poultry and livestock.

18.1.1 B-1 CENTRAL BUSINESS DISTRICT

B. **Conditional Uses / Structures Permitted on Appeal:** Automobile filling stations, motels, automobile repair (minor and major), large dry cleaners and laundries, veterinary clinics / hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not specifically restricted herein; storage structures / open storage; home based businesses; and home occupations.

C. **Uses / Structures Prohibited:** Any use or structure not specifically or conditionally permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; towing company storage yard; industrial uses not specifically permitted herein; mobile / manufactured dwellings; modular dwellings; R.V.'s; and wholesale businesses.

18.1.2 B-1A EXTENDED BUSINESS DISTRICT

B. **Conditional Uses / Structures Permitted on Appeal:** Automobile repair (major); large dry cleaners and laundries, veterinary clinics/hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not specifically restricted herein; storage structures / open storage.

C. **Uses / Structures Prohibited:** Any use or structure not specifically or conditionally permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein; travel trailers; mobile / manufactured dwellings; modular dwellings; wholesale businesses; and towing company storage yard.

18.1.3 B-2 NEIGHBORHOOD BUSINESS DISTRICT

B. **Conditional Uses / Structures Permitted on Appeal:** Large dry cleaners and laundries; veterinary clinics and hospitals; automobile repair (major), manufacturing incidental to a retail business where articles are sold at retail on the premises, wholesale businesses, storage structures / open storage.

C. **Uses / Structures Prohibited:** Any use or structure not specifically or conditionally permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein, travel trailers; mobile / manufactured dwellings; modular dwellings; and towing company storage yard.

18.1.4 B-3 LOCAL BUSINESS DISTRICT

B. **Conditional Uses / Structures Permitted on Appeal:** Veterinary clinics / hospitals; kennels; wholesale; storage structures / open storage.

C. **Uses / Structures Prohibited:** Any use or structure not specifically or conditionally permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including industrial uses not specifically permitted herein; poultry and livestock; residential use including RV / travel trailer parks, mobile / manufactured dwelling parks, modular dwelling subdivisions; automobile filling stations; and towing company storage yard.

18.2 PO - PREFERRED OFFICE DISTRICT

B. **Conditional Uses / Structures Permitted on Appeal:** Mortuaries, small retail establishments related to the office use such as snack bars and pharmacies provided the sole entrance to such establishment is inside the office structure; class 2 clubs or lodges; residential duplexes; modular dwellings; home occupations; and other uses not prohibited.

C. **Uses / Structures Prohibited:** Any use or structure not specifically or conditionally permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII; any retail business or establishment that is not related or incidental to the office use or any retail business or establishment that has an entrance other than from inside the office structure; veterinary clinics / hospitals; pet grooming; kennels and poultry and livestock; mobile/manufactured dwellings; recreational vehicles; towing company storage yard..

19.1 M1 – LIGHT INDUSTRIAL DISTRICT

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Any use permitted in districts B-1, B-2, or B-3, and other industrial or commercial uses not specifically prohibited; self-storage warehouses and towing company storage yards.

C. Uses / Structures Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including any residential use or structure, except that of a watch man or caretaker; Class 1, 2, 3 & 4 clubs or lodges, poultry and livestock; churches; daycares; storage of junk or wrecked automobiles other than for re pair or service, explosive products manufacture, garbage disposal plants or sanitary landfills; or borrow pits.

20.1 AO – AGRICULTURAL OPEN SPACE

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Temporary and unenclosed roadside stands for the sale of agricultural products, public and private utilities, airports, radio or television broadcasting towers, hospitals, institutions, mausoleums and cemeteries, and single mobile / manufactured dwellings (in accordance with provisions of Article XVI, Section 16.1.3).

C. Uses / Structures Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including any business or industry not contained in Sections 14.9A and 14.9B, billboards, and the excavation of minerals, or the removal of surface material.

20.2 OSP – OPEN SPACE / PRESERVATION DISTRICT

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Uses and structures not specifically permitted.

C. Uses / Structure Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII.

21.1.1 R-3 RESIDENTIAL MULTI-FAMILY

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Home occupations, modular dwellings; lodges and clubs not operated for a profit; professional and business offices; and hotels.

C. Uses / Structures Prohibited: Agriculture, poultry and livestock. Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Sections 13.1.1 or 13.1.2 of Article XIII, including mobile / manufactured dwellings and Recreational Vehicles.

21.1.2 TH-1 RESIDENTIAL TOWNHOUSE

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Residential structures including modular dwellings/uses specifically permitted in R-1C zones; home occupations.

C. Uses / Structures Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Sections 13.1.1 or 13.1.2 of Article XIII.

21.5.1 PDD – DEVELOPMENT STANDARDS

B. **Conditional** Uses / Structures ~~Permitted on Appeal~~: Automobile filling stations; and amusement parks.

C. Uses / Structures Prohibited: Any use or structure not specifically **or conditionally** permitted ~~or permitted on appeal~~ in this Section or in Section 13.1.1 or 13.1.2 of Article XIII, including any residential, commercial, industrial, or agricultural use or structure not specifically permitted by the City Council when zoning an area as a PDD; major automobile repairs; outdoor storage, heavy commercial, industry, adult entertainment, building materials, pawn shops, tattoo parlors, auto body shops, auto sales, parts and services, towing company storage yards and junkyards.

22.1 - GENERAL PROVISIONS

4. USES PERMITTED AND **CONDITIONAL USES** ~~PERMITTED ON APPEAL~~ - Signs allowed for Article XIII - District Regulations (Section 13.1.1 “Uses Permitted”, and Section 13.1.2 - “**Conditional Uses Permitted on Appeal**”) shall meet the requirements of the zoning district in which they are located.

25.2 “FOLEY DOWNTOWN OVERLAY DISTRICT (FDOD)”

C. LAND USES

1. **Uses / Structures Permitted:** Stores selling food; restaurants; general merchandise such as apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; pet grooming; offices; banks; post offices and similar services; any retail business not specifically restricted herein; hotels / motels; joint residential and commercial use.

~~1.~~ **2. Conditional Uses / Structures Permitted on Appeal:** Manufacturing incidental to a retail business where articles are sold at retail on the premises; and pet stores.

~~2.~~ **3. Uses / Structures Prohibited:** Any use or structure not specifically **or conditionally permitted or permitted on appeal** in this Section or in Section 13.1.1 or 13.1.2 of Article XIII including kennels; pawn shops; tattoo and body art shops; towing company storage yards; industrial uses not specifically permitted herein; mobile / manufactured dwellings; RV's; and wholesale business.

25.3 “FOLEY BEACH EXPRESS OVERLAY DISTRICT (FBEOD)”

C. LAND USES

2. **Conditional Uses / Structures Permitted on Appeal:** Manufacturing incidental to a retail business where articles are sold at retail on the premises.

3. **Uses / Structures Prohibited:** Any use or structure not specifically **or conditionally permitted or permitted on appeal** in this Section or in Section 13.1.1 or 13.1.2 of Article XIII including kennels; pawn shops; tattoo and body art shops; towing company storage yards; automobile repair, major; industrial uses not specifically permitted herein; and mobile / manufactured dwellings.

26.3 POWERS AND DUTIES OF THE BOARD

B. Special Exceptions

~~The Board of Adjustment and Appeals (ZBAA) shall hear and decide special exceptions to the terms of the zoning ordinance where such authority is conferred under the ordinance.~~

Standards for Approval of a Special Exception

~~The ZBAA may grant a special exception from the zoning ordinance only if the following criteria are met:~~

1. Consistency with the Zoning Ordinance

~~The special exception must be a permitted use under the applicable zoning district and explicitly authorized by the zoning ordinance. It must comply with all zoning ordinance regulations, such as setbacks, height, and bulk requirements. The board shall ensure that the proposed use is consistent with the intent and purpose of the ordinance for the district in which it is located.~~

2. No Detriment to Public Health, Safety, or Welfare

~~The proposed use shall not adversely affect public health, safety, morals, comfort, or general welfare. It must be demonstrated that the special exception will not create conditions that pose risks to the community or cause harm to neighboring properties.~~

3. Compatibility with Surrounding Land Uses

~~The special exception must be compatible with the existing uses and character of the surrounding properties. The use should not generate excessive traffic, noise, light, odor, or other nuisances that could negatively affect adjacent properties.~~

4. Consistency with the Comprehensive Plan

The proposed special exception should be consistent to the City's comprehensive plan. The use should support the long-term vision for development, land use, and growth management in the area, as outlined in the comprehensive plan.

5. Mitigation of Potential Adverse Impacts

The board may impose conditions as necessary to mitigate potential adverse impacts of the special exception. These conditions may include restrictions on hours of operation, buffering requirements, noise control, traffic management, or other safeguards to protect neighboring properties and the community.

6. No Substantial Alteration of Neighborhood Character

The proposed use shall not substantially alter the essential character of the neighborhood or district in which it is located. The special exception must not disrupt the balance of land uses or undermine the existing neighborhood character.

7. Substantial Evidence Required for Special Exceptions

The decision to grant or deny a special exception must be based on substantial, credible evidence presented during the public hearing. The applicant bears the burden of proof to demonstrate that the proposed use meets the applicable standards of the zoning ordinance, supported by appropriate documentation such as expert testimony, property surveys, or impact studies.

The board's decision must be based solely on the evidence presented and documented with clear factual findings and conclusions. These findings must explain how the evidence supports or fails to support compliance with the ordinance, ensuring the decision is fair, consistent, and not arbitrary.

The board may impose reasonable conditions to mitigate any potential adverse impacts or ensure consistency with the zoning ordinance's intent. These conditions must be directly related to the evidence presented and tailored to address the specific circumstances of the special exception request.

BB. Variances

- Changes to SITE PLAN REVIEW

ARTICLE XI - SITE PLAN REVIEW

11.1 SITE PLAN REVIEW

A zoning site plan review is a procedure designed to assist a developer in interpreting the Zoning Ordinance so that proposed developments will stand a better chance of not violating this Ordinance. Ultimate responsibility for compliance with this Ordinance rests with the land owner, developer, tenant, or person who is responsible for the building, structure, lot or use.

A zoning site plan review shall be required to be made in all cases on new construction, remodeling or refurbishing of existing structures, demolition and rebuilding on existing lots, and the change of occupancy or use of any structure, regardless of the district.

~~A conceptual review may be performed with the Community Development Director, and/or other City Staff during the planning stages of a project, but this will not be considered a formal review. Formal reviews will only be made on submitted, finalized plans.~~

A Pre-Application meeting is required for all site plans. An application is made using Citizenserve. Instructions are located on the cityoffoley.org website.

Site plans that are not required to go to the Planning Commission will be reviewed and administratively approved by City Staff. ~~Site plan approval by the Planning Commission is required for each phase of a Planned Development. Site plans are also required to be submitted to the Planning Commission for input in cases where the proposed development meets the following criteria:~~ A site plan approval will be valid for 12 months but will expire after this date if no building permits have been obtained. The Planning Commission may extend the site plan approval by twelve (12) months if it is determined there is an extenuating circumstance.

Site plans meeting the following criteria require approval by the Planning Commission.

- A. Each phase of a Planned Development
- B. Duplexes
- C. Commercial developments where the total area exceeds ~~three (3) gross~~ one (1) acres.
- D. Commercial and Industrial developments where the total structure area exceeds ~~fifty ten thousand (50,000)~~ (10,000) square feet.
- E. Places of amusement over three (3) acres.
- F. Conditional Uses
- G. Place Types (Nodes, Neighborhoods, Corridors, Overlay Districts, and Special Use Districts).

Planning and Development Services ~~The Community Development Director~~ and/or other City Staff will review the site plan and advise the applicant of changes that must be made in the plans so as to comply with applicable ordinances ~~the Zoning Ordinance~~. Such changes shall be accomplished prior to the Planning Commission review. ~~the issuance of a building permit.~~

Site plan review is a service to the applicant that is performed by municipal employees and officers in their official capacities. The failure of the reviewing officials to recognize or notice a violation or the incorrect interpretation of the reviewing officials at the site plan review stage shall not prevent or prohibit the City of Foley and these same officials from enforcing ~~the Zoning Ordinance~~ City Regulations against an applicant if a structure, lot, or use of land conflicts with this Ordinance.

11.1.1 SITE PLAN CONTENTS

- A. Boundary survey including acreage and easements;
- B. Location of bordering right-of-ways;
- C. Ownership deeds;
- D. Written narrative describing the overall plan including estimated time to begin the project and phasing;
- E. Location, occupancy type, square footage, height, stories, structure, setbacks and garage setbacks, coverage of lot area, gross & net density of proposed structures;
- F. Parking spaces including number, size & ADA, sidewalks, loading dock if required, total percent of landscaping;
- G. Landscape Plan (including Street Trees and Greenbelt Zones if applicable)
- H. Photometric Plans
- I. Architectural Renderings/Elevations for Proposed Buildings
- J. Location of mechanical systems (including screening) and dumpster enclosure;
- K. Preliminary traffic analysis;
- L. Official letters of commitment for water, sewer, electric, gas and other utilities.;
- M. Percentage of centralized open space with details regarding the proposed uses;
- N. Schematic with stormwater pond location and basic size
- O. Location and size of proposed signage
- P. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that one can readily interpret the site plan, and shall include more than one drawing where required for clarity.

- Changes to MISC DEFINITIONS

2.1 DEFINITIONS APPLICABLE TO THIS ORDINANCE

Place Types: A framework for classifying locations in the City of Foley according to their form which includes their physical appearance, character, and function. The Place Type Map includes Nodes, Neighborhoods, Corridors, Overlay Districts, and Special Use Districts.

Planned Developments: A Planned Development (PD) is a regulatory process which promotes holistic real estate development by segmenting potential development by land use or dwelling types, by clustering uses and strengthening the collaboration required between developers and municipalities. The goal of this type of regulation is to promote unified planning, sound economics and to protect the interests of all community members. The approved layouts can only be modified by the Planning Commission and in certain instances will require City Council approval as well.