

ORDINANCE TO AMEND CHAPTER 48, ARTICLE IV, DIVISION 10, "B-2 CENTRAL BUSINESS DISTRICT", OF THE CODE OF THE CITY OF FALLS CHURCH TO AMEND SEC. 48-486. "PRINCIPAL USES PERMITTED BY RIGHT" IN ORDER TO ALLOW ADDITIONAL USES AND TO EDIT LANGUAGE REGARDING PERSONS WITH DISABILITIES; AND TO AMEND SEC. 48-488. "SPECIAL EXCEPTIONS" FOR DEVELOPMENT PROJECTS ON SITES DESIGNATED AS SPECIAL REVITALIZATION DISTRICT FOR EDUCATION AND ECONOMIC DEVELOPMENT AND DESIGNATED FOR MIXED-USE ON THE FUTURE LAND USE PLAN MAP

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS that Chapter 48 "Zoning" Division 10 of the Code of the City of Falls Church be amended and reenacted as follows:

Ch. 48 – Zoning

DIVISION 10. B-2, CENTRAL BUSINESS DISTRICT

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Sec. 48-486. - Principal uses permitted by right.

- (a) Principal uses permitted by right in the B-2, central business district are as follows:
- (1) Public buildings and facilities.
 - (2) Hotels, motels.
 - (3) Business and professional offices, including medical and dental.
 - (4) Clinics.
 - (5) Offices for medical, dental and optical laboratories and offices for operations devoted exclusively to scientific research.
 - (6) Restaurants.
 - (7) Inns, bed and breakfasts.
 - (8) Private, noncommercial clubs, lodges, and recreational or community facilities.
 - (9) Museums.
 - (10) Group homes in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401 of the Code of Virginia. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to the Code of Virginia.
 - (11) Parking lots, subject to site plan review by the planning commission.
 - (12) The following retail business and service establishments, provided, that all business, service, fabrication, preparation or processing shall be conducted entirely within an

enclosed building, and that all goods shall be only for retail sale on the premises: Food stores and beverage stores, drugstores, bakeries, confectioneries, self-service laundries, laundry or cleaning depots, shoe repair shops, barbershops or beauty salons, clothing stores, variety stores, gift shops, studios, banks, antique shops, jewelry stores, florists, photo shops, music stores, bookstores or stationery stores, appliance store, office equipment store, furniture store, hardware store, garden supply stores, mortuaries, department stores, theaters and any other retail and service uses determined by the zoning administrator to be consistent with uses permitted in this subsection.

- (13) Mixed-use redevelopments, as permitted and regulated in article V, division 5 of this chapter.

- (b) In addition to uses permitted by subsection 48-486(a) above, the following uses are permitted by-right on sites that are located in the B-2, central business district and in areas designated “Special Revitalization District for Education and Economic Development” on the Future Land Use Plan Map:
 - (1) Elementary and secondary schools, up to seven stories in height, parks and playgrounds.
- (c) When an applicant who is either the owner, or has the written consent of the owner, of a property, has applied for and obtained city council approval for a Special Exception Entitlement (SEE) as permitted by Section 48-488.B below, then all uses on the site, including by-right uses, will be controlled by and as specified in that Special Exception Entitlement. By-right uses not specified in the SEE shall not be permitted after such approval.

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Sec. 48-488. Special Exceptions.

A. Generally

The city council may, by special exception, modify the requirements of this division, for the B-2, central business district, to allow:

- (1) *Single-story commercial development.* Single-story commercial development or a 500 square foot or greater expansion of an existing single-story commercial use; or
- (2) *Residential development within mixed-use development projects.* The following shall also apply to the residential special exception:
 - a. A height bonus of up to 40 feet may be granted by the city council if the city council determines that the project is exemplary in terms of conformance with the criteria in section 48-90(d)(1) and (2), and the bonus shall significantly assist in conformance with section 48-90(d)(2) and (3). Maximum height shall not exceed 115 feet. The height of all structures within a special exception project that abut an R district must be tapered to the district, taking into consideration the height of existing buildings in that area. The upper stories of structures should be stepped back to be compatible with the maximum by-right height permitted within the B district in which the structure will reside.
 - b. A height bonus of up to 40 feet may be granted by the city council for certain preferred uses. Maximum height shall not exceed 115 feet. These uses must be located on the primary street frontage portion of the structures. These uses may include, but are not

- limited to, entertainment uses, health clubs open to the public, theaters, art galleries, antique stores, clothing stores, and restaurants with outdoor dining facilities, and will be incorporated into the special exception conditions. The height of all structures within a special exception project that abut an R district must be tapered to be compatible with the maximum heights permitted in the buildings in that area. The upper stories of structures should be stepped back to be compatible with the maximum by-right height permitted within the B district in which the structure will reside.
- c. The city council may identify certain uses that will not be encouraged in the primary street frontage portion of the first floor of the required commercial component for each application. These uses may include, but are not limited to, travel agencies, insurance agencies, nail salons, laundromats, mortuaries, and offices for financial advisers, consultants, dentists, doctors and realtors.
 - d. The retail component of projects, if any, shall be located adjacent to major thoroughfares or designated shopping streets on the first or second floor of structures, but may extend to upper floors.
 - e. All structures containing residential uses shall be a minimum of four stories in height.
- (3) A height bonus of up to 40 feet may be granted by the city council for projects composed solely of commercial uses. Maximum height shall not exceed 115 feet. The height of all structures within a special exception project that abut an R district must be tapered to be compatible with the maximum heights permitted in the abutting R district, taking into consideration the height of existing buildings in the area. The upper stories of structures should be stepped back to be compatible with the maximum buy-right height permitted within the B district in which the structure will reside.

Additional criteria and requirements applying to special exceptions shall be as set forth in section 48-90(f).

B. Special Revitalization District for Education and Economic Development

Properties in areas designated “Special Revitalization District for Education and Economic Development” and designated for mixed-use development on the Future Land Use Plan Map may be the subject of a two-step process, as set forth below: (1) a Special Exception Entitlement to determine the layout, heights and general uses; and (2) a Special Exception Site Plan which shall function as any other special exception and site plan approved under the zoning ordinance and which will establish final design. When a Special Exception Entitlement has been approved for a property, development on that property can proceed only after a Special Exception Site Plan has been approved.

- (1) Special Exception Entitlement Elements: A Special Exception Entitlement may be sought and approved for a site of five (5) acres or more and shall define land uses, height, transportation, public facilities, utilities and infrastructure for the project and shall govern future Special Exception Site Plan approval(s) for the site. All Special Exception Entitlements shall include the following elements:
 - a. Density. Density in the “Special Revitalization District for Education and Economic Development” will not be limited, per se, but approved densities will be consistent with guidance in the City’s Comprehensive Plan.

- b. Use. Office, Hotel, Retail, and Multifamily Residential uses may be permitted where the city council finds that significant commercial (retail, office or hotel) uses are included in the project and where the residential uses contribute significant positive net revenue benefits, build community, and help achieve the goals and strategies of the “Special Revitalization District for Education and Economic Development” and related plans and policies,
- c. Building Height. Building heights and massing should vary over the site, be compatible with adjacent schools or other uses and allow for higher building heights adjacent to arterial roads and nearby commercial development, up to a maximum height of fifteen (15) stories, not including mechanical penthouses. Penthouses may exceed the height limits provided they are set back from the building edge a distance equal to their height.
- d. Parking: As part of Special Exception Entitlement approval, minimum parking requirements may be reduced or modified (Sec. 48-970), provide for shared parking arrangements (Sec. 48-971) and off-site parking agreements (Sec. 48-972). Additional reductions may be approved for provision of exemplary non-motorized vehicular options or other transportation demand management elements. Above ground structured parking must be wrapped or otherwise screened from view.

(2) Special Exception Entitlement Applications: The following information shall be provided as part of the SEE application:

- a. Statement of Justification including how the project will further the goals of the “Special Revitalization District for Education and Economic Development” and be consistent with the Comprehensive Plan, Future Land Use Plan Map, and any site-specific studies.
- b. Current aerial photograph of the site with surrounding uses within a distance of 400 feet of the site boundary to show context
- c. Plot and location plan(s) at 1” = 20’ scale (unless an alternate scale is approved by the city) showing:
 - (1) Dimensions and site area;
 - (2) Topography at two-foot contour intervals;
 - (3) Utilities and Infrastructure: Locations and descriptions of all existing underground and aerial utilities within or on the periphery of the site and streets serving the site and all proposed infrastructure that will be necessary to serve the proposed uses and the site;
 - (4) Proposed Structures: Locations, gross floor area and heights (stories and feet) of all proposed structures, and all uses to be contained therein including the type of commercial and gross floor area, the number of residential units and the number of hotel rooms and parking locations and extent;
 - (5) Interim Uses: If the applicant desires to make interim uses of any portion of the site prior to final SESP approval, the extent and nature of such uses shall be included in the plot and location plan(s) and other submission;
 - (6) Transportation and Street Plan: Proposed street layout including general location and dimensions, connections to existing streets or to those existing or proposed on adjacent properties, ownership of existing and proposed streets, sidewalks, curb

- cuts, and bus and transit facilities;
- (7) Open Space and Recreation: General location and dimensions of proposed open space including but not limited to parks, plazas and common open space, and any proposed recreational facilities (type, number square feet);
 - (8) Adjacent roadway median strips and existing and proposed median openings for vehicular access;
 - (9) Adjacent Sites: Outline of block faces and structures on adjacent contiguous sites and across adjacent streets, with curb cuts for garage entrances and loading docks shown.
- d. Conceptual landscape master plan providing a general description and location of landscape elements, including streetscape elements, plazas, parks, and common open space.
 - e. Phasing Plan: If the project is expected to be developed in phases, or to be divided in parcels that can be individually built, then the applicant shall provide the following information:
 - 1. Proposed timing of construction (as related to construction of phases or parcels) for each element that ensures that commercial uses will be constructed.
 - (a) Proposed gross floor area, number of dwelling units or number of hotel rooms to be included in any phase or parcel for each use;
 - (b) Proposed parking to be included in any phase or parcel for each use and phasing plan for construction of parking;
 - (c) Parking shall be provided for each use at or prior to occupancy of each building.
 - f. A statement of any proposed variances, waivers and modifications to zoning regulations or adopted city plans and policies.
 - g. Special Exception Entitlement Review: The Special Exception Entitlement review process will include review by staff and, concurrently, circulation to the Planning Commission and any other relevant boards or commissions, who will provide recommendations to the City Council for its consideration. Review of the Special Exception Entitlement shall consist of 1) referral of the application by city council to boards and commissions, 2) staff review and review by the planning commission and any other boards and commissions to whom the city council refers the application and 3) approval by council.
 - h. Special Exception Entitlement Approval: The city council shall approve a Special Exception Entitlement and may modify the requirements of this division to allow height above the limits set forth in section 48-1101 and residential uses within a mixed-use development project. The approval and any modifications to Zoning Ordinance requirements shall be based on a finding that the project substantially achieves the goals of the “Special Revitalization District for Education and Economic Development” and is consistent with the Comprehensive Plan and with the recommendations of any site-specific studies. The city council may adopt conditions as part of its approval to ensure that the project will meet these standards.
 - i. Effect of Special Exception Entitlement Approval: Once approved by city council, the Special Exception Entitlement will govern all uses on the site, and the height, location, uses, transportation, utilities and infrastructure to be allowed under Special Exception Site Plans approved for the property. No other use shall be permitted on the site after such approval, including uses permitted by-right in the B-2 zoning

district, except those expressly permitted by the Special Exception Entitlement. Amendments to an approved SEE shall be treated, procedurally, the same as a new application, should rely on prior approvals and meet the standards of the zoning ordinance. Once a Special Exception Entitlement has been approved, application may be made for a Special Exception Site Plan (SESP) that is consistent with the Special Exception Entitlement, including any amendments that are approved by the city council.

- (3) Special Exception Site Plan Requirements: The Special Exception Site Plan process is intended to result in approval that is equivalent to a site plan as called for in 48-1134.
- a. Special Exception Site Plan Elements: The elements of the Special Exception Site Plan shall comply in all respects with the Special Exception Entitlement, as approved, except to the extent the applicant seeks an amendment to that Special Exception Entitlement. A Special Exception Site Plan may be sought and approved for all or any phase identified in the approved Special Exception Entitlement.
 - b. Special Exception Site Plan Application: An application for a Special Exception Site Plan shall include:
 1. Relevant parts of the approved Special Exception Entitlement.
 2. All materials listed in Section 48-1137 of this Ordinance, provided that any waiver pursuant to Section 48-1138 may be approved by the city manager, after making the finding required by that section.
 3. A Preliminary Survey as called for by Section 48-1135.
 - c. Special Exception Site Plan Review: Review of the Special Exception Site Plan shall consist of 1) referral of the application by city council to boards and commissions, 2) staff review and review by the planning commission and any other boards and commissions to whom the city council refers the application and 3) approval by council. The elements approved through the Special Exception Entitlement are not subject to reversal or modification through the SESP process, except upon application by the applicant and approval by city council.
 - d. Special Exception Site Plan Approval:
 1. The Special Exception Site Plan will be approved or denied by the city council based on the recommendations from the staff and boards and commissions and the considerations set forth in Section 48-1141 for approval of site plans as well as the criteria in Section 48-90. Denial shall not be based on elements previously approved in the Special Exception Entitlement. The approved project shall meet all requirements of the zoning ordinance unless specific waivers or modifications are enacted. Any waivers or modifications (but not variances) to particular requirements that are permitted under the zoning ordinance to be made by any entity may be made by the city council. Amendments to an approved SESP shall be treated, procedurally, the same as a new application, should rely on prior approvals and meet the standards of the zoning ordinance.
 2. The city council may impose other requirements as set forth in Section 48-1140 and may modify zoning ordinance requirements where it finds that doing so will better achieve the goals and objectives of the “Special Revitalization District for Education and Economic Development”. The city council may adopt conditions as

part of its approval to ensure that the project will meet standards for SESP approval. Any utilities or other infrastructure for a site or parcel that is either needed for a building(s) or other improvements to be constructed, or that must be constructed before those improvements so that other, later buildings can be served, shall be included in and built as part of the Special Exception Site Plan.

- e. Effect of Special Exception Site Plan Approval: Once approved, an SESP shall function as any other 1) special exception, and 2) site plan, approved under the zoning ordinance, and shall be subject to all requirements set forth therein unless modified or waived as part of the SESP approval.

(4) Maps: The area designated “Special Revitalization District for Education and Economic Development” is shown on the Future Land Use Plan Map.

1st Reading: June 25, 2018
2nd Reading: August 13, 2018
Adoption:
(TO18-01)

1st Reading: 06-25-18
2nd Reading: 08-13-18
Adoption: 08-13-18
(TO18-01)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on August 13, 2018 as Ordinance 1989.



Celeste Heath
City Clerk