



**AGENDA
TOWN OF SUNNYVALE TOWN COUNCIL
PLANNING AND ZONING COMMISSION
JOINT WORKSHOP SESSION
OCTOBER 25, 2011
6:00 P.M.**

THE TOWN COUNCIL AND PLANNING AND ZONING COMMISSION OF THE TOWN OF SUNNYVALE WILL MEET IN JOINT WORKSHOP SESSION ON OCTOBER 25, 2011 AT 6:00 P.M. IN THE COUNCIL CHAMBERS OF THE SUNNYVALE TOWN HALL LOCATED AT 127 N. COLLINS ROAD, SUNNYVALE, TEXAS UNDER V.T.C.A., GOVERNMENT CODE SECTION 551.041 AND GOVERNMENT CODE SECTION 551.071. ITEMS TO BE DISCUSSED:

- **CALL MEETING TO ORDER**

- **WORKSHOP DISCUSSION:**

A REQUEST FROM RKS INVESTMENT LP TO PRESENT INFORMATION AND DISCUSS A PROPOSED MASTER PLANNED DEVELOPMENT (SUNNYVALE CENTRE) ON APPROXIMATELY 123.5 ACRES AT THE SOUTHWEST CORNER OF U.S. 80 AND COLLINS ROAD IN SUNNYVALE.

THIS ITEM IS FOR PRESENTATION AND DISCUSSION ONLY AND NO FORMAL ACTION WILL BE TAKEN AT THIS WORKSHOP.

- **ADJOURN**

ALL LOCATIONS IDENTIFIED ARE IN THE TOWN OF SUNNYVALE UNLESS OTHERWISE INDICATED. FOR A DETAILED PROPERTY DESCRIPTION, PLEASE CONTACT THE BUILDING OFFICIAL AT TOWN HALL. ALL ITEMS ON THE AGENDA ARE FOR POSSIBLE DISCUSSION AND ACTION. PLEASE TURN OFF ALL TELEPHONES AND HANDHELD COMMUNICATION DEVICES WHILE IN ATTENDANCE AT THIS MEETING.

THE SUNNYVALE TOWN COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE SECTION 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATION ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), AND 551.086 (ECONOMIC DEVELOPMENT).

THE TOWN OF SUNNYVALE IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). REASONABLE ACCOMMODATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED TO THOSE WHO PROVIDE NOTICE TO THE DIRECTOR OF COMMUNITY SERVICES AT 972-226-7177 AT LEAST 48 HOURS PRIOR TO THE MEETING.

I HEREBY CERTIFY THAT THE FOREGOING NOTICE WAS POSTED ON THIS THE 21ST DAY OF OCTOBER 2011 IN THE FOLLOWING LOCATIONS:

**TOWN HALL AT 127 N. COLLINS ROAD SUNNYVALE ISD 417 E. TRIPP ROAD
SUNNYVALE LIBRARY AT 402 TOWER PLACE**

KATHRYN DEWEY, TOWN SECRETARY

Town of Sunnyvale

To: Town Council and Planning and Zoning Commission

From: Scott Campbell, Town Manager

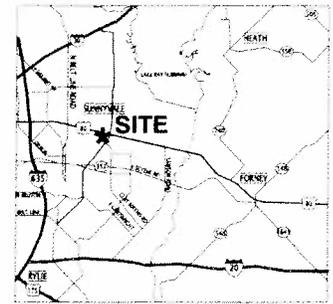
CC:

Date: October 21, 2011

Re: Joint Workshop – Tuesday, October 25 – 6:00 p.m.

Attached please find the agenda for the joint workshop on Tuesday night at 6:00. During the last several months, Town staff has met on several occasions with the owners of the property at the southwest corner of Collins and U.S 80 regarding a Master Planned Development (MPD) as indicated on the attached site plan. The MPD zoning classification was added to the zoning ordinance recently as a mechanism for large-scale master planned commercial developments. Attached is a copy of the MPD ordinance for those of you appointed since its adoption.

While the owner has not yet made formal application for MPD, they have requested this opportunity to present information on their plan to P&Z and Council, and to answer questions and receive feedback as they move forward.



VICINITY PLAN ↑
NORTH

TABLATIONS	BLDG AREA	PRKG REQD
Major Anchor	123,428	1,200 @ 620
Jr Anchor	106,400	1,200 @ 550
Retail	91,300	1,200 @ 457
TOTAL <small>(INCLUDE PADS)</small>	324,129	1627
PARKING PROVIDED <small>(INCLUDE PADS)</small>		1526
TOTAL SITE AREA <small>(INCLUDE PADS)</small>	± 79.44 ac	Parking Ratio 0.84 - 1.00
PAD SITE AREA	± 25.38 ac	

MASTER SITE PLAN ↑
NORTH

Local Retail (LR)	Retail
General Business (GB)	Retail
Lakeside Commercial (LC)	Retail
Highway Commercial (HC)	Commercial
Industrial (I)	Industrial
Flood Plain (FP)	Flood plain - Open Space
Planned Commercial (PC)	Neighborhood Center
<u>Master Planned Development</u>	<u>Retail</u>

Section 3: That Chapter 17A shall be added to read as follows:

Chapter 17A – Master Planned Development (MPD) District

17A.1 Purpose, Applicability, Nature and Size of District

- A. **Purpose.** The purpose of a Master Planned Development ("MPD") zoning district is to provide for the development of land as an integral unit for single or mixed non-residential uses in accordance with an MPD concept plan that may include uses, regulations and other requirements that vary from the provisions of other zoning districts. MPD districts are generally intended to encourage flexible and creative planning, to ensure the compatibility of land uses, to allow for the adjustment of changing demands to meet the current needs of the community, and to result in a higher quality development for the community than would result from the use of conventional (or straight) zoning districts.
- B. **Applicability.** An MPD district may only be established if at least one of the following circumstances exists:
1. The land, or adjacent property that would be affected by the development of the land, has sensitive or unique environmental features requiring a more flexible approach to zoning and clustering of uses, or special design standards, in order to afford the best possible protection of the unique qualities of the site or the adjacent property;
 2. The land is proposed for development as a non-residential or mixed-use development requiring more flexible and innovative design standards, or requiring special design standards to ensure high quality development;
 3. The land serves as transition between different and seemingly incompatible land uses;
 4. The land is of such a character that it is in the community's best interest to encourage high quality development through flexible development

standards to further the goals and objectives of the Town's Comprehensive Plan; or

5. The land consists of unusually configured parcels that cannot be developed efficiently under normal base district standards.
- C. **Nature of the District.** Each MPD district shall be based on the conventional zoning district(s) that most closely resembles the intensity and type of development anticipated. Development in an MPD district must be consistent with a concept plan that identifies the boundaries of each base district and is incorporated as part of the district by the adopting ordinance for the district.
- D. **Minimum District Size.** The minimum acreage for a MPD district shall be fifteen (15) contiguous acres.
- E. **Multiple Ownership.** Where the land within a MPD district is divided among multiple owners, all property owners must authorize and jointly submit any application for MPD zoning.
- F. **Prohibition.** The MPD district may not be used simply as a means of varying standards otherwise applicable in the base district or required by the supplemental regulations.

17A.2 Authorized Uses; Consistency with Concept Plan

- A. **Base Zoning District Uses.**
 1. Any use allowed by right in the base district(s) of the MPD district shall be permitted in the district, either by right or conditionally, unless the use is prohibited in the regulations adopted for the MPD district. For a mixed-use MPD district that has several sub-areas designated for different base districts, uses within the designated boundaries are limited to those authorized in the base district except as expressly provided in the adopting MPD ordinance.
 2. Uses that may be allowed only by Conditional Use Permit (CUP) for the base district(s) of the MPD may be authorized of right in the MPD district in accordance with the provisions of the adopting MPD ordinance.
- B. **Additional Uses.** The MPD district may provide for uses not otherwise allowed in the base zoning district(s), provided the ordinance establishing the MPD district shall specifically identify such uses and any conditions or standards to be applied to such uses.
- C. **Location and Arrangement of Buildings.** The location and arrangement of all buildings in the MPD district shall be shown on the concept plan approved with the district.

D. **Consistency Required.** All subsequent development applications within an MPD district shall be consistent with the approved concept plan. Failure of a subsequent development application to conform to the approved concept plan for the MPD district shall result in denial of the application, unless the MPD district regulations are amended through incorporation of a revised concept plan with which the development application is consistent. The degree of conformity required between the concept plan and subsequent development applications shall be set forth in the adopting MPD ordinance.

17A.3 Development Standards

- A. **Base District and Supplemental Standards.** In an MPD district, development shall conform to all development standards in the base zoning district(s) unless specifically stated otherwise in the MPD ordinance. Development shall also conform to all supplemental regulations including expressly those contained in Chapters 19, 20 and 29 of the Zoning Ordinance (the "supplemental regulations") unless expressly modified in the adopting MPD ordinance.
- B. **Special Standards.** An MPD district may contain alternative development standards applicable to particular uses or that generally apply within the district in lieu of the base district development standards and supplemental standards of the Zoning Ordinance, provided that each alternative standard is expressly delineated in the ordinance that establishes the MPD district.
- C. **Other Permitted Areas of Regulation.** An MPD district may also be used to:
1. Specify development standards and actions required to protect the environment and to preserve natural features and vegetation within the district,
 2. Specify the location and design of streets, drives, parking areas, pedestrian ways and bikeways;
 3. Modify the standards of the Subdivision Ordinance related to design of public and private facilities, but only where a specific finding is made by the Town Council that the alternative standard does not decrease public safety, impair traffic movement, harm other nearby properties, or result in a higher ongoing maintenance cost; standards within the Subdivision Ordinance pertaining to the design, performance and cost participation for public improvements also may be amended by an MPD district;
 4. Specify the timing, sequencing and phasing of development, including coordinating the type and intensity of development with the construction and availability of public facilities and services; and

5. Provide for the construction of public improvements and facilities onsite or within public easements or rights-of-way abutting the site, as required to serve and benefit development within the MPD district, or as may be required to mitigate impacts on other properties resulting from the development.

17A.4 Application Requirements and Procedures

- A. **Zoning Change.** An application for establishment of an MPD district shall be processed as a request for a change in zoning in accordance with procedures set forth in Chapters 21 and 23.
- B. **Contents of Application for MPD Zoning.** An application for an MPD district shall include all of the following items:
 1. All submission materials required for a change of zoning request, per Chapter 23 and as may be required by the Town for a zoning change request;
 2. A concept plan, prepared in accordance with Section 17A.5;
 3. A list of uses that differ from those allowed by right or by CUP in the applicable base zoning district(s) and any conditions which apply to such uses; and
 4. A detailed description of, and written justification for, any development standards or supplemental regulations that differ from those in the base zoning district(s) and supplemental regulations, and how the modified standards fulfill the items listed in 1 through 5 of Section 17A.1.B.

17A.5 Concept Plan

- A. **Requirement for Concept Plan.** The concept plan shall be included with the MPD district zoning application and shall, if the application is approved, become incorporated as part of the MPD district ordinance.
- B. **Purpose of Concept Plan.** The purpose of a concept plan is to provide a general layout of the proposed development, prior to a more specific plan for development of the district. A concept plan shall be construed to be an illustration of the development concepts only and not an exact representation of the specific development proposed.
- C. **Contents of an MPD Concept Plan.** Application for an MPD district shall include a dimensioned engineer-scaled drawing on a sheet size 24" x 36", at scale not less than 1" = 100', including existing and proposed site conditions and improvements:
 1. Name and address of landowner and date of preparation of the plan.

2. Name and address of architect, landscape architect, planner, engineer, surveyor, or other persons involved in the preparation of the plan.
3. Site boundaries and dimensions, site acreage and square footage, and approximate distance to the nearest cross street.
4. Location map, north arrow and title block.
5. Topography at five-foot intervals or less.
6. Boundaries of each proposed base district.
7. Zoning district classifications and existing uses for all properties that lie within 200 feet of the subject property.
8. Proposed land uses for each base zoning district, with a generalized depiction of building envelopes.
9. Adjacent public and private streets with pavement widths, buffers, right-of-way widths, median openings, turn lanes (including storage and transitional space), and driveways on adjacent property and on the other side of roadway(s) with approximate dimensions and a proposed layout of major streets within the MPD.
10. A general description of proposed dedications and reservations of land for public or common use, including but not limited to: rights-of-way, easements, park land, open space, drainageways, flood plains and facility sites.
11. Generalized depiction of existing and proposed utilities and easements.
12. Anticipated phasing of development, if any, delineating areas, building sites, land use and improvements to be constructed in independent phases and the anticipated scheduled timing and sequencing of development.
13. A general depiction of proposed perimeter buffering and screening.
14. A general depiction of proposed project design features.
15. A data table depicting the following information by phase, and for the total development:
 - a. Acreage and square footage within the boundaries of each depicted base district
 - b. Anticipated use and approximate square footage of building(s)
 - c. Preliminary parking calculations for each use/planned lot
 - d. Proposed maximum height of all buildings
16. Any existing easements onsite or adjacent to the site.
17. Existing natural features (tree cover, drainageways, ponds, etc.).

18. Proposed open space features and a general description of project amenities.

D. **Development Plan in Lieu of Concept Plan.** A development plan, prepared in accordance with section 17A.9, may be submitted in lieu of a concept plan and shall be incorporated within the adopting MPD ordinance.

17A.6 Development Plans and Site Plans

A. **MPD Development Plan.** An MPD development plan is the second step of the MPD development process. An MPD development plan includes more detailed information as to the specific land uses and their boundaries. An MPD development plan may be used where the developer requests or the Council requires certain standards for the MPD district to be specified after initial establishment of the district, and in such case constitutes an amendment to the approved concept plan and MPD ordinance. The purposes of an MPD development plan are to allow flexibility in the development process by deferring specification of all development standards at the time of MPD district creation and to enable developers to satisfy conditions imposed on creation of the district prior to submittal of a site plan.

B. **MPD Site Plan.** A site plan is the final step of the MPD development process. The purposes of a site plan are to assure that the development of individual building lots, parcels, or tracts within the MPD district are consistent with the approved concept plan and development plan, and to assure that the standards applicable within the MPD district are met for each such lot, parcel or tract. If a site plan expires, development of the land covered by the expired site plan cannot occur until a new site plan has been approved.

C. **Consistency.** The development plan shall be consistent with the approved concept plan. The site plan shall be consistent with the approved development plan for the lot or tract being developed.

17A.7 Establishment of a Master Planned Development District

A. **Factors.** The following criteria will be used by the Town in deciding whether to approve, approve with modifications, or deny an application for an MPD district:

1. The extent to which the land covered by the proposed MPD district fits one or more of the special circumstances in Section 17A.1.B warranting an MPD district classification.
2. The extent to which the proposed MPD district is consistent with the adopted Comprehensive Plan and furthers Town planning policies.

3. The extent to which the proposed MPD district will result in a superior development than could be achieved through conventional zoning classifications.
 4. The extent to which the proposed MPD district will resolve or mitigate any compatibility issues with surrounding development.
 5. The extent to which proposed uses and the configuration of uses depicted in the concept plan are compatible with existing and planned adjoining uses.
- B. Approval Process.** The establishment of an MPD district is a change of zoning; therefore, the approval process for an MPD district ordinance, including the approval of a concept plan (or a development plan in lieu of a concept plan) shall follow the process set forth for a change of zoning in Chapters 21 and 23.
- C. Conditions.** The Planning and Zoning Commission and Town Council may impose such conditions to the MPD district regulations and concept plan as are deemed necessary to assure that the purpose of the MPD district is implemented and to safeguard the public health, safety and welfare. The Town Council in its sole discretion may provide that specification of development standards, supplemental regulations or concept plan requirements may be deferred until approval of a development plan, in which case the development plan as subsequently approved shall be considered an amendment to the MPD district.

17A.8 Adopting MPD Ordinance

- A. Items Specific to the Ordinance.** The ordinance establishing an MPD district shall incorporate the approved concept plan (or a development plan in lieu of a concept plan) as part of the district regulations and shall set forth the following:
1. The base zoning district(s) for each portion of the development, together with the boundaries of the MPD district;
 2. A statement as to the purpose and intent of the MPD district;
 3. The permitted, conditional and accessory uses authorized in the MPD district if any such differ from those authorized in the base zoning district(s);
 4. The alternative development standards and supplemental regulations applicable to development within the district that differ from those in the base zoning district(s);
 5. Provisions stating that all zoning and development standards not expressly set forth for the MPD district in the adopting ordinance shall

be as provided in the base zoning district(s) and supplemental regulations, and that any standard in the Zoning Ordinance that has not been expressly modified in the adopting MPD district ordinance shall be applicable to all subsequent development applications for land within the MPD district;

6. Any special use-related or operational standards (such as hours of operation, access restrictions, etc.) applicable to development and use operations within the district that differ from those in the base zoning district(s);
7. Anticipated dedications of land or public improvements;
8. A general phasing schedule for the project, where applicable, setting forth the approximate anticipated timing of each phase;
9. Any additional conditions established by the Town Council; and
10. Specification of any development standards, supplemental regulations or concept plan requirements that may be deferred until approval of a development plan.

17A.9 Development Plan Applications

- A. **MPD Development Standards.** Development standards, supplemental regulations or concept plan requirements that were not specified in the MPD district ordinance, as authorized by the Council, shall be submitted and approved as an amendment to the MPD ordinance and incorporated therein, in conjunction with approval of the initial development plan for the district.
- B. **Application and Processing.** No permits for development in an MPD district shall be approved until a development plan consistent with the approved concept plan has been approved under the following procedures. In the event that the Town Council has authorized deferral of development standards, supplemental regulations or concept plan requirements in the adopting MPD ordinance, the initial development plan application shall be processed as a zoning amendment and incorporated within the MPD district ordinance. A development plan may be prepared and submitted for the entire development at one time or may be prepared and submitted for an individual phase or multiple phases of development, and each such plan shall be submitted in fifteen (15) copies to the Town Manager.
- C. **Submittal Requirements for Development Plan.** The development plan application shall include the following information:
 1. A dimensioned, engineer-scaled drawing on a sheet size 24" x 36", at a scale not less than 1" = 100', including existing and proposed site conditions and improvements;

2. Name and address of landowner and date of preparation of the plan;
3. Name and address of architect, landscape architect, planner, engineer, surveyor, or other persons involved in the preparation of the plan;
4. Site boundaries and dimensions, lot lines, site acreage, square footage of the entire project, a chart showing square footage of lots, and approximate distance to the nearest cross streets;
5. Location map, north arrow, title block and site data summary table;
6. Topography at two foot intervals or less;
7. Natural features including tree masses and anticipated tree loss, drainage ways, creeks, and limits of the 100-year flood plain and floodway as shown on current FEMA mapping, including location and acreage;
8. Boundaries of each proposed base zoning district and zoning classifications and existing uses for property within 200 feet of the boundaries of the MPD district;
9. Building locations and footprints including building size, intensity, density, height, setback, use, building materials proposed and location of entrances and exits;
10. Elevations and perspectives to show the relationship of building heights to surrounding topography;
11. Public streets (including country lanes), private drives, alleys and fire lanes with pavement widths, rights-of-way, buffers, median openings, turn lanes (including storage and transition space), and driveways (including those on or planned on adjacent property) with dimensions and radii;
12. Parking areas and structures, aisles and spaces, handicap spaces, ramps, crosswalks, sidewalks and other facilities for pedestrian circulation, and loading areas with typical dimensions;
13. Access easements and off-site parking;
14. Accurate outlines of proposed dedications and reservations of land for public or common use, including but not limited to: rights-of-way, easements, park land, open space, drainage ways, flood plains, and facility sites;
15. Screening walls, fences, living screens, retaining walls, headlight screens and service area screens;
16. Landscaping and open space areas;

17. Existing and proposed topography reflecting proposed handling of on-site surface drainage, proposed improvements and method of maintenance for any drainage channels;
 18. Existing and proposed gas mains or other underground structures, water and sanitary sewer mains and service lines with sizes, valves, fire hydrants, manholes and other structures on site or immediately adjacent to the site specified; and
 19. Proposed buffers from existing uses and between planned residential developments, where applicable.
 20. A reclamation concept plan (if applicable).
- D. **Deferred Standards.** Where the Town Council has authorized deferral of development standards, supplemental regulations or concept plan requirements, such standards, regulations and requirements shall accompany the development plan application for inclusion in the ordinance amending the MPD district.
- E. **Traffic Impact Analysis.** The applicant shall submit to the Town Engineer a traffic impact study with the proposed development plan unless such study has been waived by the Town Council in the ordinance establishing the MPD district. The analysis must be approved concurrent with approval of the initial development plan for the district. The traffic impact may be used to condition the timing of development with the district based upon the existence of a supporting roadway network to accommodate the expected traffic generation. The traffic impact analysis shall be updated with each subsequent development plan application.
- F. **Commission Action.** Upon determination by the Town Manager that the content of the development plan is complete in accordance with Town procedural requirements, the Town Manager shall forward the application to the Planning and Zoning Commission for its recommendation. The Commission shall make its recommendations to the Town Council for approval, approval with modifications, or disapproval of the development plan.
- G. **Town Council Decision.** Upon receipt of the Commission's recommendation, the Town Council shall consider and approve, approve with modifications or disapprove the development plan application.
- H. **Approval Standards.** Except where the development plan is being submitted in lieu of a concept plan, or the application contains additional deferred development standards, supplement regulations or concept plan requirements, the Planning and Zoning Commission in making its recommendations to the Town Council, and the Town Council, in acting upon the development plan, shall determine whether the plan meets the following general standards:

1. The development plan generally is consistent with the approved concept plan and the standards and conditions set forth in the adopting MPD ordinance;
2. The development plan provides for the adequacy of and design of roads and other public facilities serving each phase of the development;
3. The project is adequately buffered from adjoining uses in accordance with the adopting MPD ordinance;
4. Landscaping plans meet ordinance requirements or standards set forth in the adopting MPD ordinance; and
5. Where the preservation and maintenance of common open space and natural features of the project are to be undertaken by the developer, adequate covenants and assurances have been provided.

17A.10 Amendments to Concept Plans

A. **Minor Deviations from Approved Concept Plan.** For subsequent development applications, minor deviations from the concept plan may be approved by the Town during review and approval of the development plan as applicable for each portion of the MPD district. Unless otherwise specified in the adopting ordinance, the interpretation of what constitutes minor deviations shall be at the Town Manager's discretion, and may include (but are not limited to) the following:

1. Corrections in spelling, distances, and other labeling that does not affect the overall development concept.
2. Changes in the proposed interior property lines provided that the original stated project acreage is not exceeded or altered, and provided that such property lines are correctly adjusted and recorded through platting or replatting in accordance with the Subdivision Ordinance.
3. Changes (increases or decreases) in the number of required parking spaces or in parking layout that, in the Town Manager's opinion, do not adversely affect traffic circulation, public safety or neighboring properties, and provided that the number of required parking spaces is not increased, the general original design is maintained, and no parking spaces or vehicular drive aisles shift closer to a residential district boundary.
4. Changes to the location or orientation of a dumpster or other waste receptacle provided that such do not shift closer to a residential district boundary or to a public right-of-way.

5. Location or orientation of a free-standing sign(s) provided that such sign(s) are in compliance with the sign regulations in Chapter 29.
 6. Location, design or layout of landscaped areas or screening devices, provided that such landscaping or screening are in compliance with Section 20.5 of the Zoning Ordinance.
- B. Major Deviations from Approved Concept Plan.** All other deviations from the approved concept plan that are not deemed to be minor, at the discretion of the Town Manager, shall be considered major and shall be submitted for approval as a change of zoning application to the Planning and Zoning Commission and Town Council to amend the MPD district.

17A.11 Site Plans

- A. Site Plan Required.** A site plan prepared and processed in accordance with Chapter 25 of the Zoning Ordinance shall be required prior to issuance of any building permit for development within the MPD district. The site plan shall be consistent with the MPD district regulations, the approved development plan, and the standards contained in Chapter 25.

17A.12 Lapse of Development Authorization in MPD Districts

- A. Lapse of Authority to Submit a Subsequent Development Application.** After creation of an MPD district, progress toward the submission of a subsequent development application shall occur in conformance with the following:
1. The initial development plan shall be approved within two (2) years of the date of establishment of the MPD district, unless otherwise provided in the adopting ordinance. If the initial development plan application is not submitted within such period, the authority to submit subsequent development applications for the MPD district shall be suspended.
 2. If development within an MPD district will occur in phases, the approval of subsequent development plans shall be as provided in the phasing schedule, or if no phasing schedule has been provided, within two (2) years of the preceding development plan approved for the district. Otherwise the right to submit subsequent development applications for that phase and later phases shall be suspended.
 3. If a site plan is not submitted for the land subject to the development plan within two (2) years of the approval of the development plan, or an approved site plan expires, the right to submit additional site plans for such land shall be suspended.
- B. Action Following Suspension of Development Approval.**

1. **Commission Recommendation.** Following suspension of the right to submit a development application for an MPD district, the Planning and Zoning Commission shall consider whether the land subject to the suspension should be changed to another zoning classification or whether the right to submit additional development applications within the MPD district should be reinstated, with or without conditions. The Commission thereafter shall recommend to the Town Council whether the right to submit a development application should be reinstated, or whether the property should be zoned to another classification.
2. **Council Action.** The Town Council, after considering the Commission's recommendation, shall determine whether the right to submit a development application should be reinstated, or whether the property should be rezoned to another classification. In making such determination, the Council shall consider the following factors:
 - a. Whether the MPD district remains consistent with the Comprehensive Plan and other Town planning policies;
 - b. Whether the uses authorized in the MPD district are compatible with existing and planned land uses adjacent to the site;
 - c. Whether there are extenuating circumstances justifying the failure to submit a development application during the applicable time period; and
 - d. Whether rezoning the property to another classification constitutes confiscation of a vested property right or deprives the owner of the economically viable use of the land.
- C. **Council Options.** The Town Council may take the following actions:
 1. Reinstatement of the right to submit a development application within a time certain, subject to any conditions that may be appropriate to ensure that significant progress will be made toward development of land within the MPD district;
 2. Modify the MPD district regulations applicable to the property in accordance with procedures for a zoning amendment; or
 3. Repeal the MPD district for the affected portions of the property and zone such property to another zoning district classification in accordance with procedures for a zoning amendment.