

## CHAPTER 2017-20

**No. 280** AN ORDINANCE IN AMENDMENT OF CHAPTER 27 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, ENTITLED: "THE CITY OF PROVIDENCE ZONING ORDINANCE", APPROVED NOVEMBER 24, 2014, AS AMENDED, TO CHANGE CERTAIN TEXT IN ARTICLES 2, 4, 5, 6, 9, 12, 13, 15, 17, 18, 19 AND 20, AND TO AMEND THE OFFICIAL ZONING MAP

Approved June 19, 2017

*Be it ordained by the City of Providence:*

**SECTION 1:** Chapter 27 of the Code of Ordinances of the City of Providence, entitled "The City of Providence Zoning Ordinance," approved November 24, 2014, as amended, is hereby further amended by making the following changes, with additions underlined and deletions struck out:

### ARTICLE 2. DEFINITIONS AND RULES OF MEASUREMENT

#### 201 DEFINITION OF GENERAL TERMS

**Cross-Access.** A vehicular and/or pedestrian connection between abutting properties that connects the two sites and allows vehicles and/or pedestrians to travel between sites without ~~the~~ having to exist to the street.

**Freeboard.** A factor of safety expressed in feet above the base flood elevation of a flood hazard area for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**Shed.** An accessory structure, often purchased pre-built or as a kit in pre-fabricated sections, that is not designed to be served by heat or plumbing and does not need to be placed on a permanent foundation. A shed is ~~typically~~ intended to store lawn, garden, or recreational equipment.

**Sign.** Any identification, description, illustration, or device illuminated or non-illuminated that is visible to the public from adjoining streets or adjoining properties and that directs attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard, temporary sign, lights, balloons or other device designed to attract attention, advertise, identify or convey information. Building details that are an integral part of the overall architectural design of a building or works of art accessory to a building are not ~~be~~ considered signs.

**Unified Development Review.** The review and approval, approval with conditions, or denial of requests for variances and special-use permits submitted as part of land development and subdivision applications, pursuant to §45-24-46.4 of the Rhode Island General Laws.

#### 202 RULES OF MEASUREMENT

##### B. Building Height

1. For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. This method of building height applies to all structures unless specifically exempted by this Ordinance. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like, as described in item 2 below. (Figure 2-4). For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), where freeboard, as



defined in Section 201, is being utilized or proposed, such freeboard area, not to exceed five feet, shall be excluded from the building height calculation.

Building height is measured as the vertical distance from grade to the top of the highest point of the roof or structure. This method of building height applies to all structures unless specifically exempted by this Ordinance. The distance may exclude spires, chimneys, flag poles, and the like, as described in item 2 below: (Figure 2-4)

## ARTICLE 4. RESIDENTIAL DISTRICTS

### 402 DIMENSIONAL STANDARDS

TABLE 4-1: RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS

Key: SF = Single-Family // SD = Semi-Detached // 2F = Two-Family 3F = Three-Family // RH = Rowhouse // MF = Multi-Family						
	R-1A	R-1	R-2	R-3	R-4	RP
<b>Bulk Standards</b>						
<b>Minimum Lot Area</b>	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 7,500sf  Non-Residential: 7,500sf	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 5,000sf  Non-Residential: 5,000sf	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 5,000sf  2F - Existing Lots: 4,000sf  2F - New Subdivisions: 5,000sf  Non-Residential: 5,000sf	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 5,000sf  2F - Existing Lots: 3,500sf  2F - New Subdivisions: 5,000sf  3F: 5,000sf  RH: 5,000sf min. with at least 1,650sf/du  Non-Residential: 5,000sf	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 3,500sf  2F: 3,500sf  3F: 3,500sf  RH: 3,500sf min. with at least 1,150sf/du  MF: 3,500sf min. with at least 1,200sf/du  Non-Residential: 3,500sf	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 5,000sf  2F - Existing Lots: 3,500sf  2F - New Subdivisions: 5,000sf  3F: 5,000sf  RH: 5,000sf min. with at least 1,650sf/du  MF: 5,000sf min. with at least 1,650sf/du  Non-Residential: 5,000sf
<b>Minimum Lot Width</b>	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions & <del>Non-Residential</del> : 75'  Non-Residential: 75'	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 50'  Non-Residential: 50'	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 50'  2F - Existing Lots: 40'  <del>2F - New Subdivisions: 50'</del>  Non-Residential: 50'	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 50'  2F & 3F - Existing Lots: 35'  <del>2F - New Subdivisions: 50'</del>  3F: 50'  RH: 50' minimum with at least 12'/du  Non-Residential: 50'	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 35'  2F, 3F & MF - Existing Lots: 35'  3F: 35'  RH: 35' minimum with at least 12'/du  <del>MF: 35'</del>  Non-Residential: 35'	<del>SF &amp; SD</del> - Existing Lots: None  <del>SF &amp; SD</del> - New Subdivisions: 50'  2F - Existing Lots: 35'  <del>2F - New Subdivisions: 50'</del>  3F, MF & Non-Residential: 50'  RH: 50' minimum with at least 12'/du  MF: 50' minimum with at least 12'/du  Non-Residential: 50'

## ARTICLE 5. COMMERCIAL DISTRICTS

### 503 DESIGN STANDARDS

#### A. C-1 and C-2 District Design Standards

##### 2. Building Entry

- a. All buildings shall have an orientation to and ~~public~~ entrance from the sidewalk along the primary building frontage. ~~Public~~ entrances shall be visually distinctive from the remaining portions of the façade along which ~~it~~ is they are located. (Figure 5-1)

#### B. C-3 District Design Standards

##### 2. Fenestration

- a. Ground floor ~~transparency~~ facades shall contain a total area of transparency of 50% or more of the wall area of the ground floor, measured between two and nine feet above the adjacent grade.

## ARTICLE 6. DOWNTOWN DISTRICT

### 603 DEVELOPMENT INCENTIVES

#### C. Incentives – General

Two types of development incentives are permitted in the D-1 District to encourage development that is compatible with the goals of the comprehensive plan: bonuses and transfer of development rights.

1. All ~~requests~~ for development incentives shall be reviewed by the Downtown Design Review Committee at a public hearing in accordance with Section 190~~6~~7 of this Ordinance.

### 604 DEVELOPMENT STANDARDS

#### G. Off-Street Parking

1. Parking in the D-1 District shall conform to the requirements of Article 14 of this Ordinance.
2. Access to parking lots and structures from A Streets is permitted only when the lot has no frontage on a B Street. The Downtown Design Review Committee may waive this provision. For lots with A and B Street frontage, such access from an A Street may also be granted when the B Street is determined by the City Traffic Engineer to be substandard for maintaining adequate traffic flow.

### 606 DESIGN STANDARDS FOR NEW CONSTRUCTION

#### C. Entrance Design

1. Buildings shall have their main entrance from a sidewalk on an A Street, or if the building has no A Street frontage, on a B Street.
2. Buildings shall be designed to have multiple entrances, with no ~~less~~ more than 35 feet between entrances. This provision may be waived by the Downtown Design Review Committee.



ARTICLE 9. WATERFRONT DISTRICTS

902 DIMENSIONAL STANDARDS

TABLE 9-1: WATERFRONT DISTRICT DIMENSIONAL STANDARDS		
	W-2	W-3
Bulk Standards		
Minimum Lot Area	5,000sfNone	None
Minimum Lot Width	50'None	None
Maximum Building Height	75'	90'
Minimum Setback Requirements		
Front Setback	None	None
Interior Side Setback	6'	6'
Corner Side Setback	None	None
Rear Setback	None, unless abutting a residential district, then 20'	None, unless abutting a residential district, then 30'

903 W-2 DISTRICT DESIGN STANDARDS

B. Building Entry

1. All buildings shall have an ~~an~~ ~~public~~ entrance oriented to the sidewalk along the primary building frontage. (Figure 9-1)

ARTICLE 12. USES

1200 GENERAL REGULATIONS

- A. No structure or land may be used or occupied unless allowed as a permitted or special use within the zoning district.
- B. In the W-3 District, all permitted and special uses shall be part of a marine enterprise or dependent on access to the waterfront.
- C. All uses shall comply with any applicable federal and state requirements and any regulations of the Providence Code of Ordinances.
- D. Noncompliance with any of the use standards of Section 1202 and any conditions imposed as a part of the approval of a special use or any other zoning approval is considered a violation of this Ordinance and subject to enforcement provisions.
- E. §45-24-37 of Rhode Island General Laws permits the following uses within all residential districts of a municipality and all industrial and commercial districts except where ~~residential-such~~ uses ~~isare~~ prohibited for public health or safety reasons. Therefore, if any such use is not permitted by right or by special use permit, as indicated in the use matrix, it is presumed to be prohibited for health or safety reasons. For the purposes of this Ordinance, this permission includes any amendments to the general laws that modify such list. All uses permitted by Rhode Island General Laws shall meet any required standards of the general laws. For reference purposes, these uses include:
  1. One aAccessory dwelling unit in an owner-occupied, single-family residence is permitted as a reasonable accommodation only for family members with disabilities or who are 62 years of age or older. The appearance of the structure shall remain that of a single-family residence and there shall be an internal means of egress between the principal unit and the accessory family dwelling unit. If possible, no additional exterior entrances should be added. Where additional entrance is required, placement should generally be in the rear or side of the structure. When the structure is serviced by an individual, sewage-disposal system, the applicant shall have the existing or any new system approved by the department of environmental management. The zoning-enforcement officer shall require that a declaration of the accessory family dwelling unit for the family member, or members, and its restrictions be recorded in the land-evidence records and filed with the zoning-enforcement officer and the building official. Once the family member, or members, with disabilities or who are 62 years of age or older, no longer reside(s) in the premises on a permanent basis, or the title is transferred, the property owner shall notify the zoning official in writing, and the accessory family-



dwelling unit shall no longer be permitted, unless there is a subsequent, valid application. When used in this section the terms "people with disabilities" or "member, or members, with disabilities" means a person(s) who has a physical or mental impairment that substantially limits one or more major life activities, as defined in §42-87-1(7) of the Rhode Island General Laws.

- 2. Community residences – Type I.
- 3. Family day care homes.
- 4. Plant Agriculture is a permitted use within all districts, including all industrial and commercial zoning districts, except where prohibited for public health or safety reasons or the protection of wildlife habitat. Plant Agriculture does not include Compassion Center/Cultivation Center.

1201 USE MATRIX

Table 12-1: Use Matrix																					
Key: P = Permitted // S = Special Use																					
Use	R-1A	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	D-1	W-2	W-3	M-1	M-2	M-MU	I-1	I-2	PS	OS	CD	Use Standard
Day Care - Family Day Care Home	P	P	P	P	P	P	P	P	P	P	P		P		P	P	P				Sec. 1200.E & 1202.I
Dwelling - Accessory   Dwelling Unit	P	P	P	P	P	P									P	P	P				Sec. 1200.E
Dwelling - Rowhouse				P	P	P	P	P	P	P	P				P	P	P				Sec. 1202.K
Dwelling - Single-Family	P	P	P	P	P	P				P						P	P				Sec. 1202.L
Dwelling - Three Family				P	P	P	P	P	P	P	P				P		P				Sec. 1202.L
Dwelling - Two-Family			P	P	P	P	P	P	P	P					P		P				Sec. 1202.L
Compassion Center/Cultivation Center									S				P		P						

1202 PRINCIPAL USE STANDARDS

M. Educational Facility - Primary or Secondary

1. Development Plan Review

For primary or secondary educational facility campuses with two or more existing or planned principal buildings in a residential district, Development Plan Review by the City Plan Commission is required for any new principal building and/or parking facility in accordance with Section 1906. A plan of development shall be submitted that includes the following:

- a. An existing conditions site plan for the entire site that identifies the location, square footage, and building heights of all existing structures, outdoor recreation areas, parking facilities, and general uses.
- b. A development plan for the entire site that identifies the location, square footage, and building heights of:
  - i. All planned new structures.
  - ii. All planned additions to existing structures of more than 25% of gross floor area or 5,0002,500 square feet of gross floor area, whichever is less.



## DD. Wireless Telecommunications

### 6. Specific Standards for Wireless Telecommunications Antennas

Wireless telecommunications antennas are a special use in all districts, unless they are stealth design in which case they are considered a permitted use. Stealth design for wireless antennas is encouraged ~~and is considered a permitted use in all districts, subject to development plan review and approval.~~

## 1204 USE DEFINITIONS

**Dwelling - Accessory Dwelling Unit.** A dwelling unit rented to and occupied ~~either~~ by one or more ~~people with disabilities or who are 62 years of age or older and who are~~ members of the family of the occupant or occupants of the principal residence, ~~or reserved for rental occupancy by a person or a family where the principal residence is owner occupied, and which meets the following provisions:~~

- ~~1. In zoning districts that allow residential uses, no more than one accessory dwelling unit may be an accessory to a single family dwelling.~~
- ~~2. An accessory dwelling unit shall include separate cooking and sanitary facilities, with its own legal means of ingress and egress, and is a complete, separate dwelling unit. The accessory dwelling unit shall be within or attached to the principal dwelling unit structure or within an existing structure, such as a garage or barn, and designed so that the appearance of the principal structure remains that of a single family residence.~~

**Dwelling - Rowhouse.** A structure consisting of three or more dwelling units, configured in a manner such that the dwelling units are stacked horizontally and separated by a party wall. A rowhouse is typically designed so that each unit has a separate exterior entrance and direct ground level access to the outdoors. A rowhouse dwelling does not include a multi-family dwelling. ~~A rowhouse structure may contain dwellings that are each located on separate lots.~~

## ARTICLE 13. SITE DEVELOPMENT

### 1302 ACCESSORY STRUCTURES AND USES

#### A. General Regulations for Accessory Structures

9. In all residential zones, a mobile home, manufactured home, recreational vehicle, semi-tractor trailer, shipping container, boat or motor vehicle shall not be used as an accessory structure.

#### J. Garage

##### 1. Attached Garage

- a. Front-loaded attached garages shall be limited to 50% of the width of the front building line or 22 feet, whichever is greater. Garage width is measure between garage doors; in the case of garages designed with multiple garage doors the distance is measured between the edge of the outmost doors. (Figure 13-4)
- b. Attached garages shall be set back a minimum of five feet from the front building line.
- c. There shall be a driveway, at least 18 feet long, between a street lot line and a garage door. Where the garage door faces an alley, the front of the garage may be set to the lot line.

##### 2. Detached Garage

- a. One detached garage is permitted per lot.
- b. The area above the vehicle parking spaces in a detached garage shall not contain a kitchen or sleeping area but may contain an office or recreation room.



- c. Detached garages are permitted only in the rear, interior side, and corner side yards. Detached garages shall be set back a minimum of five feet from the front building line. No setback is required from any side or rear lot line.
- d. If a lot abuts a public alley that provides adequate access to a street, a detached garage shall be constructed so that access is from the public alley.
- e. There shall be a driveway, at least 18 feet long, between a street lot line and a garage door. Where the garage door faces an alley, the front of the garage may be set to the lot line.

## ARTICLE 15. TREES AND LANDSCAPING

### 1503 ON-SITE LANDSCAPING AND REQUIRED TREES

#### B. Significant Tree Preservation

1. A significant tree is any tree that measures 32 inches or more in diameter at four and one-half feet above the ground. No significant tree may be removed without the permission of the City Forester.
2. Any person wishing to remove a significant tree shall file a request with the City Forester. In order to grant permission to remove a significant tree, the City Forester shall make one or more of the following findings within 30 days of receipt of the request:
  - a. The tree is in poor health or diseased with an expected life span less than two years.
  - b. The removal of the tree is unavoidable because the tree poses a danger to property or human health, safety, and welfare.
  - c. The tree prevents the property owner from developing the property in conformance with this ordinance, and there are no alternatives to removal of the tree. In this case, the City Forester shall not approve removal of the tree until a permit for new construction has been approved.

## ARTICLE 17. ORDINANCE ADMINISTRATORS

### 1702 CITY PLAN COMMISSION

The City Plan Commission has the following powers, pursuant to this Ordinance:

- A. To make recommendations to the City Council on zoning map and text amendment petitions or proposals.
- B. To make final decisions on land development project applications.
- C. To make final decisions on certain development plan review applications.
- D. To periodically review this Ordinance to ensure that it is carrying out the goals as set forth in the City's Comprehensive Plan, and to recommend changes to the City Council.
- E. To make final decisions on unified development review applications. -

### 1714 ZONING BOARD OF REVIEW ORGANIZATION AND PROCEDURES

#### B. Procedures

##### **5. Filing Fees**

~~An application to the Board for an appeal, variance, or special use permit shall be accompanied by a filing fee as set by the City Council, which shall be deposited with the City Collector. The fee includes the cost of recording decisions of the Zoning Board of Review. No part of the fee is returnable to the petitioner.~~



## 1715 DOWNTOWN DESIGN REVIEW COMMITTEE ORGANIZATION AND PROCEDURES

### B. Procedures

#### ~~7. Filing Fees~~

~~Any application for Downtown Design Review Committee approval shall be accompanied by a filing fee as set by the Council, which shall be deposited with the City Collector. No part of said fee shall be refunded to the applicant.~~

## ARTICLE 18. APPLICATION AND NOTICE PROCEDURES

### 1800 APPLICATION

#### G. Fees

Each application shall be accompanied by the required filing fee. The failure to pay such fee when due is grounds for refusing to process the application and renders the application incomplete. No part of the fee is returnable to the applicant. If an application is submitted by the City, then all fee requirements are waived. ~~-The filing fee is as established and modified, from time to time, in the Providence Code of Ordinances or as established on the application, unless specifically described~~ below:

1. A petition or proposed ordinance for an amendment to this Ordinance, including the Zoning Map, will not be accepted by the City Clerk unless accompanied by a filing fee which shall be deposited with the City Clerk, no part of which is returnable to the petitioner. The filing fee is a \$150 processing fee plus an advertising fee, which is the actual cost of advertising, as determined by the City Clerk when the advertisement is prepared and delivered to the newspaper, plus a mailing fee, which is the actual cost of mailing the required notice to abutters, as determined by the City Clerk when the mailing is prepared.
2. The fee for a zoning certificate is \$25.00.
3. The fee for an application to the Zoning Board of Review for an appeal, variance, or special use permit is set by the City Council under a separate ordinance.
4. The fee for an application for a Certificate of Appropriateness from the Historic District Commission is as follows:
  - i. New Construction and Demolition: \$400
  - ii. Major Alterations: \$100
  - iii. Minor Alterations: \$50
5. The fee for an application for Development Plan Review is as follows:
  - a. Institutional Master Plan: \$500
  - b. Downtown Design Review Committee Development Plan Review:
    - i. New Construction: \$400
    - ii. Major Alterations: \$100
    - iii. Minor Alterations: \$50
    - iv. Waiver or Development Incentive: add \$100 to above categories
  - c. Staff Level Development Plan Review: \$100
  - d. City Plan Commission Development Plan Review:



i. Educational Facilities- Primary or Secondary: \$200

ii. Waivers from design regulations: \$50

6. The fee for an application for a Land Development Project is established by the City Plan Commission in its development review regulations.

## 1801 NOTICE

### B. City Council Notice

3. Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required by Section 1801.B.1, with the additional requirements that:
  - a. Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and city and town boundaries where appropriate; and
  - b. Written notice of the date, time, and place of the public hearing and the nature and purpose of the hearing shall be sent to all owners of real property whose property is located in or within not less than 200 feet of the perimeter of the area proposed for change, whether within the City or within an adjacent city or town. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the amendment. The notice shall be sent by registered, ~~or~~ certified, or first-class mail to the last known address of the owners, as shown on the current real estate tax assessment records of the city or town in which the property is located; provided, for any notice sent by first-class mail, the sender of the notice shall utilize and obtain a United States Postal Service certificate of mailing, PS form 3817, or any applicable version thereof, to demonstrate proof of such mailing.

## ARTICLE 19. ZONING APPLICATIONS AND APPROVALS

## 1901 SPECIAL USE PERMIT

### A. Authority

The Zoning Board of Review or the City Plan Commission, as part of unified development review, will take formal action on special use permit applications.

### B. Procedure

1. Upon receipt of a complete application for a special use permit, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, will request that the Department of Planning and Development staff prepare a written report of the staff's findings and recommendations, which will be submitted to the ~~Zoning Board of Review~~ applicable review body. The findings and recommendations shall include a statement on the general consistency of the application with the goals and purpose of the Comprehensive Plan. ~~The written report must be submitted to the Zoning Board of Review within 30 days of the Department of Planning and Development staff's receipt of the application. The Zoning Board of Review will refer all petitions for special use permits to the Department of Planning and Development for written recommendations at least ten business days prior to the hearing. The Department's report shall be received by the Office of the Zoning Board of Review no later than one full business day prior to the date of the public hearing.~~
2. The Zoning Board of Review, or the City Plan Commission, as part of unified development review, will hold a public hearing on the special use permit application in an expeditious manner, after receipt, in proper form, of an application, and shall give notice as required by Section 1801.



3. To authorize a special use permit, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, shall:
  - a. Consider the written opinion from the Department of Planning and Development.
  - b. Make specific findings of fact, in writing, with evidence supporting them, that demonstrate that:
    - i. The proposed special use permit is set forth specifically in this Ordinance, and complies with any conditions set forth therein for the authorization of such special use permit, including those listed in Article 12.
    - ii. Granting the proposed special use permit will not substantially injure the use and enjoyment of nor significantly devalue neighboring property.
    - iii. Granting the proposed special use permit will not be detrimental or injurious to the general health or welfare of the community.
  - c. To grant a special use permit for a health care institution or educational facility – college or university in a commercial or downtown district, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, shall find that such uses are essential and desirable to the public convenience and welfare, are in conformance with the objectives of the Comprehensive Plan, and that the following criteria have been met:
    - i. The proposed institutional use adheres to all dimensional requirements.
    - ii. The proposed use cannot be reasonably located on any existing property of the institution within an existing institutional district in which the use is permitted.
    - iii. Parking is provided for the proposed use in accordance with this Ordinance.
    - iv. An institutional master plan has been filed and approved, and the proposed use is in conformance with the institution's master plan.

#### C. Special Use Permit and Variance

The Zoning Board of Review, or the City Plan Commission, as part of unified development review, may issue a dimensional variance in conjunction with a special use permit. If the special use could not exist without the dimensional variance, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, will consider the special use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the special use criteria and the variance evidentiary standards.

#### D. Expiration

Any special use permit granted by the City Plan Commission, in conjunction with a land development project or subdivision as part of unified development review, shall expire when the approval for the associated land development project or subdivision expires.

Any special use permit granted by the Zoning Board of Review shall expire six months after the date of the filing of the resolution in the Office of the Board unless the applicant, within the six months:

1. Obtains a legal, complete building permit for the project and proceeds with construction of the proposed improvements. For purposes of this section, demolition permits and foundation permits are not construed to be building permits.
2. Obtains a legal building permit or a certificate of occupancy when no construction is required.



### E. Extension of Time

1. The Zoning Board of Review may, upon written request and for cause shown prior to the expiration of the initial six month period, renew the special use permit for a second six month period. The request for an extension need not be advertised.
2. If an applicant fails to obtain a legal building permit within the second six month period, the Zoning Board of Review may upon written request prior to the end of the second six month period, renew the special use permit for a third six month period provided that the applicant can demonstrate due diligence in proceeding and substantial financial commitment in promoting the subject of the special use permit since the date of the filing of the resolution. The request for the third six month period shall be advertised and notice given in accordance with Section 1801. A hearing will be held on the request.
3. No extension may be granted during an appeal to Superior Court.

### F. Modifications to Approved Special Use Permits

Modifications to an approved special use permit shall follow the process for approval of a special use permit.

### G. Appeals

Any aggrieved party may appeal the decision of the Zoning Board of Review to the Rhode Island Superior Court within 20 days after a decision is recorded and posted in the office of the City Clerk. The process for appeals of decisions by the City Plan Commission is outlined in the City Plan Commission's Development Review Regulations.

## 1902 VARIANCE

### A. Authority

The Zoning Board of Review, or the City Plan Commission, as part of unified development review, will take formal action on variance applications.

### B. Procedure

1. Upon receipt of a complete application for a variance, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, will request that the Department of Planning and Development staff prepare a written report of the staff's findings and recommendations, which will be submitted to the Zoning Board of Review~~applicable review body~~. The findings and recommendations shall include a statement on the general consistency of the application with the goals and purpose of the Comprehensive Plan. ~~The report must be submitted to the Zoning Board of Review within 30 days of the Department of Planning and Development staff's receipt of the application. The Zoning Board of Review will refer all petitions for variances to the Department of Planning and Development for written recommendations at least ten business days prior to the hearing. The Department's report shall be received by the Office of the Zoning Board of Review no later than one full business day prior to the date of the public hearing.~~
2. The Zoning Board of Review, or the City Plan Commission, as part of unified development review, will hold a public hearing on the variance application in an expeditious manner, after receipt, in proper form, of an application, and shall give notice as required by Section 1801.
3. In granting a variance, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:



- a. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in Rhode Island General Laws §45-24-30(16).
  - b. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
  - c. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan.
  - d. That the relief to be granted is the least relief necessary.
4. In addition, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, requires that evidence be entered into the record of the proceedings showing that:
- a. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this Ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district are not considered in granting a use variance.
  - b. In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted will amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.
5. In addition to the above, the Zoning Board of Review, or the City Plan Commission, as part of unified development review, will consider the written opinion of the Department of Planning and Development prior to making a decision on a variance petition.

### C. Conditions

The Zoning Board of Review, or the City Plan Commission, as part of unified development review, may impose such conditions regarding the proposed variance as it deems appropriate. Special conditions may be required, in the opinion of the Zoning Board of Review, or the City Plan Commission, as part of unified development review, to promote the intent and purposes of the Comprehensive Plan and the Zoning Ordinance. Failure to abide by any special conditions attached to approval constitutes a zoning violation. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:

- 1. Minimizing the adverse impact of the development upon other land, including the type, intensity, design, and performance of activities.
- 2. Controlling the sequence of development, including when it shall be commenced and completed.
- 3. Controlling the duration of use or development and the time within which any temporary structure shall be removed.
- 4. Assuring satisfactory installation and maintenance of required public improvements.
- 5. Designating the exact location and nature of development.
- 6. Establishing detailed records by submission of drawings, maps, plats, or specifications.



#### D. Expiration

Any variance granted by the City Plan Commission, in conjunction with a land development project or subdivision as part of unified development review, shall expire when the approval for the associated land development project or subdivision expires.

Any variance ~~permit~~ granted by the Zoning Board of Review shall expire six months after the date of the filing of the resolution in the Office of the Board unless the applicant, within the six months:

1. Obtains a legal, complete building permit for the project and proceeds with construction of the proposed improvements. For purposes of this section, demolition permits and foundation permits are not construed to be building permits.
2. Obtains a legal building permit or a certificate of occupancy when no construction is required.

#### F. Appeals

Any aggrieved party may appeal the decision of the Zoning Board of Review to the Rhode Island Superior Court within 20 days after a decision is recorded and posted in the office of the City Clerk. The process for appeals of decisions by the City Plan Commission is outlined in the City Plan Commission's Development Review Regulations.

### 1904 LAND DEVELOPMENT PROJECT

#### B. Authority

The City Plan Commission may approve a land development project. The City Plan Commission may also approve modifications to select dimensional standards as described in item E. The City Plan Commission may also approve variances and special use permits through unified development review. No demolition, foundation, or building permits will be issued, and no site work will be allowed for any development requiring approval of a land development project until the City Plan Commission has approved the final plan.

#### D. Procedure

All land development projects, including requests for unified development review, shall be reviewed by the City Plan Commission according to the "Development Review Regulations" adopted by the City Plan Commission, pursuant to Rhode Island General Laws §45-23.

### 1906 CITY PLAN COMMISSION DEVELOPMENT PLAN REVIEW

#### C. Applicability

1.
  - b. Waivers from design regulations of the C-1, C-2, C-3, M-MU, and W-2 Districts, and the TOD Overlay District. The CPC may review applications that require staff level development plan review when a design waiver is also required.

### 1913 ZONING INTERPRETATION

#### A. Purpose

The interpretation authority is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. However, this zoning interpretation authority is not intended to add or change the essential content of the Ordinance.



## B. Authority

The Director of the Department of Inspection and Standards is authorized to issue zoning certificates and written guidance and clarification of the Ordinance, upon receipt of a written application or request for same, will review and make final decisions on written requests for zoning interpretations.

## C. Procedure

1. The Director of the Department of Inspection and Standards reviews a written request for an interpretation a zoning certificate or for guidance and clarification and shall render the interpretation within 15 days of receipt of a complete application. The Director of the Department of Inspection and Standards may request additional information prior to rendering an interpretation.
2. ~~If no written response is provided within the 15 day timeframe, the applicant has the right to appeal to the Zoning Board of Review for the interpretation.~~

## D. Appeals

~~Any aggrieved person may appeal the decision of the Director of the Department of Inspection and Standards to the Zoning Board of Review within 20 days after a decision is rendered.~~

# ARTICLE 20. NONCONFORMITIES

## 2003 NONCONFORMING LOT

### A. Definition

~~A nonconforming lot is a lot of record that at one time conformed to the lot dimension requirements (lot area, lot width, lot depth) of the zoning district in which it is located but because of subsequent amendments to the Ordinance no longer conforms to the applicable lot dimensions. synonymous with a substandard lot of record, as defined in Section 201.~~

### E. Merger of Substandard Lots of Record

~~In all residential districts, if two or more contiguous, lawfully established substandard lots of record, where one or more of the lots is less than 4,000 square feet and are under the same ownership on or, anytime after October 24, 1991, such lots are considered to be one lot and undivided for the purpose of this Ordinance, provided that the merger does not result in more than one principal building on the lot. For purposes of this provision, a garage is not considered a principal building. If after merging, the resulting lot does not meet the minimum lot area requirements of the district, then item B above applies. Notwithstanding the above, this section does not apply if such a merger would create a through lot. Further, a subdivision of lots that are merged by this section may be performed in accordance with the Commission's regulations, without zoning relief, to create lots that are conforming by dimension.~~

In all residential districts, two or more contiguous lawfully established substandard lots of record are considered to be one lot and undivided for the purpose of this Ordinance if all of the following conditions exist:

1. The lots are under the same ownership on or at any time after October 24, 1991.
2. One or more of the lots is less than 3,200 square feet.
3. The merger would not result in more than one principal building on the lot. For purposes of this provision, a garage is not considered a principal building.
4. The merger would not create a through lot.

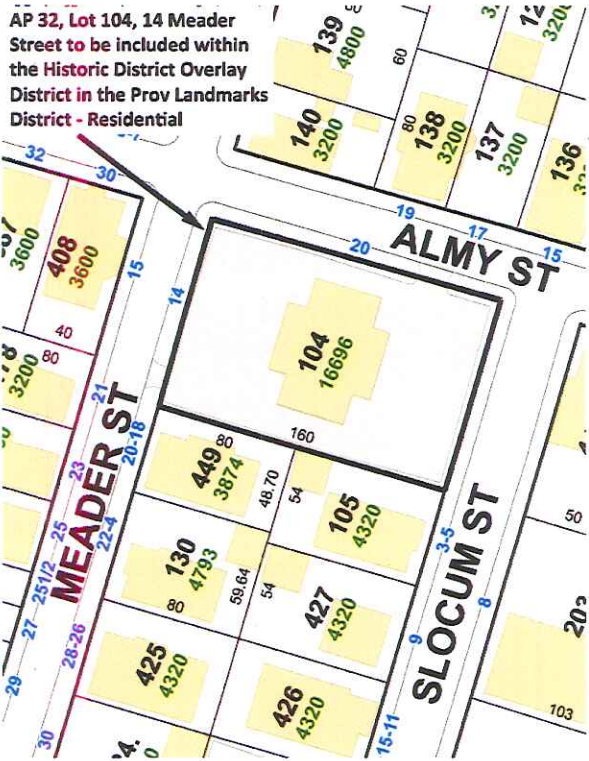
A subdivision of lots that are merged by this section may be performed in accordance with the City Plan Commission's regulations, without zoning relief, to create lots that are conforming by dimension to the regulations of Table 4-1 for new subdivisions.



**SECTION 2:** The official zoning map shall be amended as follows:

- A. The following lots, as indicated on the attached maps, shall be included within the Historic District Overlay District:

Plat 32, Lot 104 (14 Meader St.),



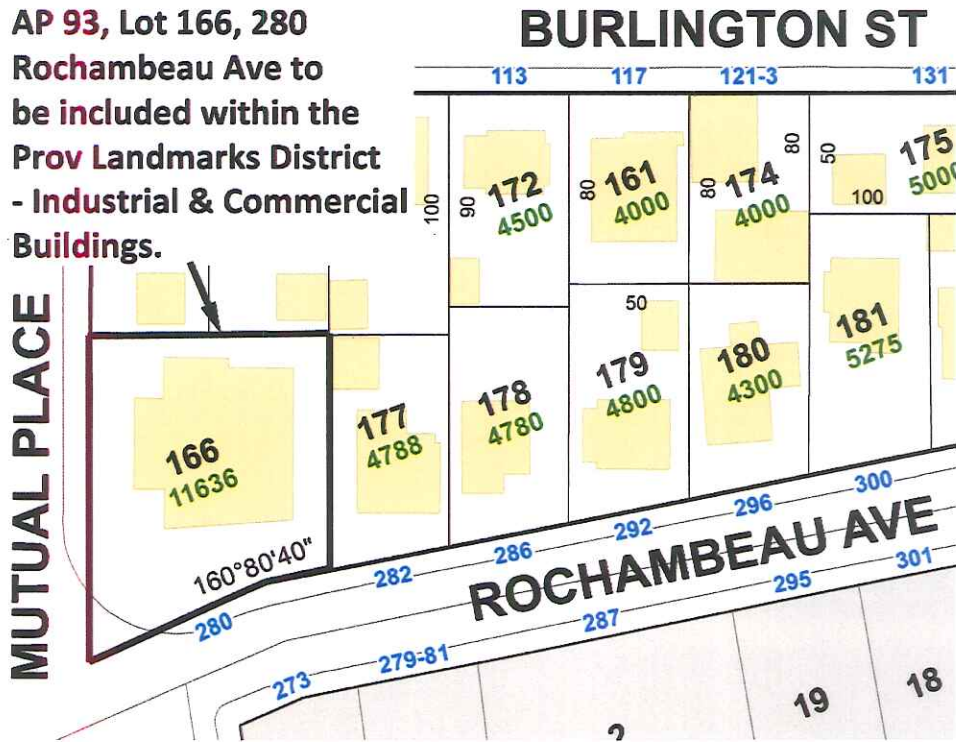
Plat 36, Lots 133 and 139 (12-18 Spruce St.),





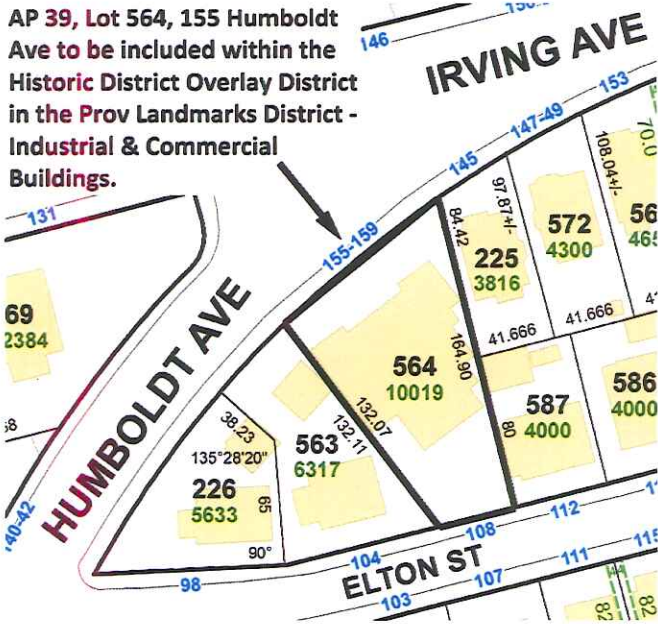
Plat 93, Lot 166 (280 Rochambeau Ave.),

**AP 93, Lot 166, 280 Rochambeau Ave to be included within the Prov Landmarks District - Industrial & Commercial Buildings.**



Plat 39, Lot 564 (155 Humboldt Ave.)

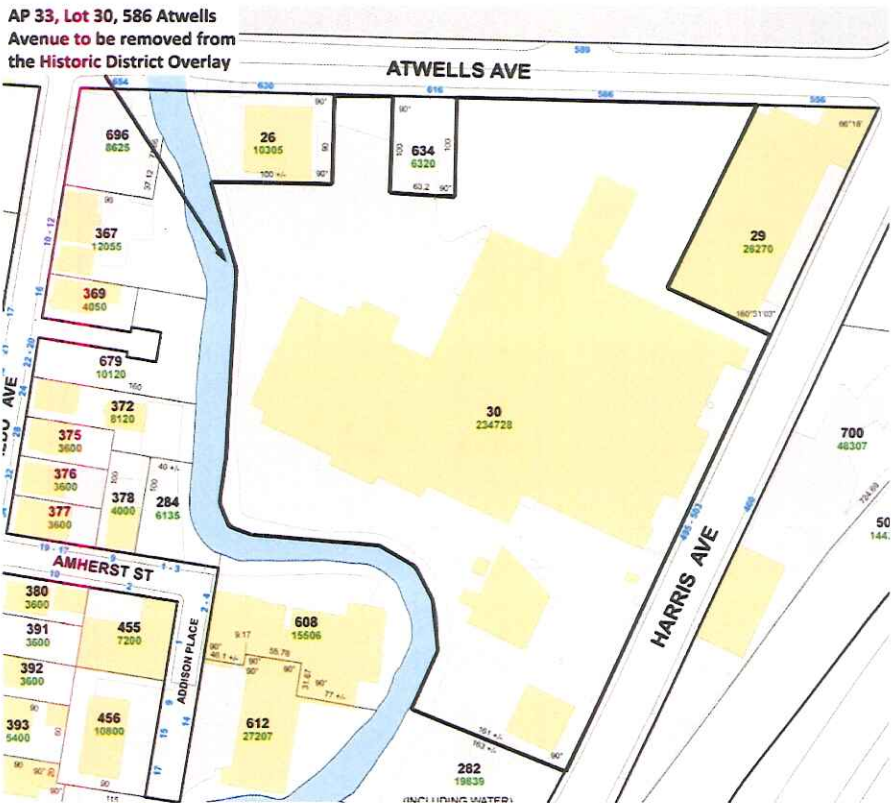
**AP 39, Lot 564, 155 Humboldt Ave to be included within the Historic District Overlay District in the Prov Landmarks District - Industrial & Commercial Buildings.**





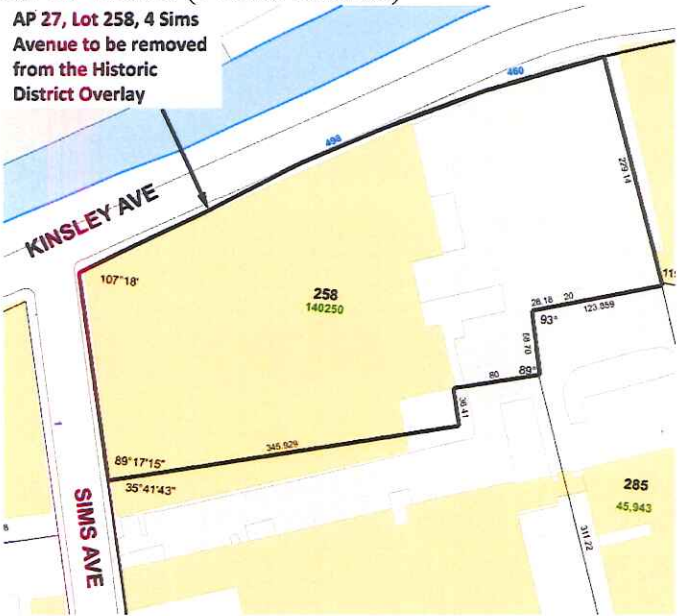
B. The following lots, as indicated on the attached maps, shall be removed from the Historic District Overlay District:

Plat 33, Lot 30 (586 Atwells Ave.)



AP 27 Lot 25 (4 Sims Avenue)

AP 27, Lot 258, 4 Sims Avenue to be removed from the Historic District Overlay



C. The zoning for following lots, AP 54 Lots 317, 316, 893, 894, 903, 825, 309, 313, 307, 929 and 904 (193-265 Thurbers Ave) shall be changed from R-3 to C-1





