

**Waite Hill**  
**Summary of Proposed Zoning Code Amendments**  
**Prepared October 12, 2011**

In March 2009 our zoning consultants, *D.B. Hartt, Planning and Development Consultants* presented to Village officials, for review, a preliminary summary generally outlining the changes to be considered in the update of the Waite Hill Zoning Code. Based on that review a draft of the revised code has been developed and discussed at numerous meetings with the Mayor, Chair of the Planning and Zoning Commission, and the Law Director.

Most of the recommendations outlined in 2009, as well as some additional provisions, have been incorporated in the proposed regulations currently being considered by the Planning Commission and Council. This document is a summary of the zoning text amendments that are in the proposed Zoning Code.

*In developing the proposed regulations the Consultant's responsibility was not to set, or change, Village policy but to strengthen and reinforce the Village's traditional zoning philosophy; to eliminate conflicts and contradictions; and, overall, to make the code as defensible as possible.*

The proposed changes, moving from larger to smaller issues, fall into two Parts:

Part I – Fundamental Revisions are related to: Zoning Districts and their Permitted Uses; Building Zone Development; Administrative Procedures; and the revised Zoning Map.

Part II – Detailed Revisions are related to: Specific Use Regulations; Detailed Procedural Considerations; and the Code's Organization.

**PART I – FUNDAMENTAL REVISIONS**

**A. Zoning Districts and the Permitted Uses**

The Zoning code establishes and clarifies that the **R-10 District** (10-acre minimum lot size) **is the primary residential district** in the Village and will continue to be applied throughout most of the Village. The R-3 District (3-acre minimum lot size) is only applied along Gardenside Drive and Mountainview Drive where these smaller lot sizes prevail. References to all of the other single family districts (and their lot sizes) are not longer needed and have been deleted.

Any existing lots, within either the R-10 or R-3 District, which are smaller than the minimum size required, become non-conforming. Such lots could be developed without a rezoning.

However, no further subdivision of land to create new lots below these minimum lot sizes (in the respective districts) would be permitted.

The former Park and Recreation District has been **renamed the Open Space Natural Area Preservation District**. Additionally, the permitted uses have been modified, to reflect the intention that this district be confined to natural area preservation. Park type recreational uses and facilities are no longer permitted.

**B. Building Zone Development (Existing Section 1141.03)** This section has been revised and clarified by separating the two existing development possibilities that this section seems to permit (1. the flexible arrangement of the **same number** of dwellings permitted, and 2. the flexible arrangement of the units when **more units** are requested than currently permitted) into two distinct procedures:

1. Conservation Development is being added as a permitted use in the R-10 Residential District. In a conservation development a proposal would be subject to an **administrative process** when the applicant is requesting flexibility in the placement of a building(s) (but not in compliance with all of the numerical/objective standards) and **no additional homes are proposed** than are otherwise permitted. This administrative review would be conducted by the Planning and Zoning Commission and the Architectural Board of Review. The Board of Zoning Appeals has been removed from this administrative process. Since the placement of the home(s) generally tends to be based on what is the “appropriate location” rather than the practical difficulty or hardship the review by the Architectural Board of Review and Planning and Zoning Commission is more suited than the criteria generally applicable before the Board of Zoning Appeals.
2. The second Building Zone Development provision continues to apply when an applicant proposes a **higher density than the current zoning permits**. This would be considered a **zoning amendment** subject to the **legislative process**. Such rezoning is concurrently subject to a development plan approval. This process is actually the same as a typical Planned Unit Development (PUD) overlay (often established as a rezoning) and is subject to the Village making certain findings that justifies the higher density. When this provision is utilized the land receiving the higher density will be so indicated on the zoning map.

The criteria for evaluating both the Conservation Development and the Building Zone Development, while expanded, remain essentially the same as in the existing code.

### **C. Administrative Procedures – Significant Considerations**

Consistent with current practice and the Charter both the Planning and Zoning Commission and the Architectural Board of Review are explicitly designated to review development plans. However, in the current Zoning Code the Architectural Board Review is not mentioned as being part of this process. The **basic site development parameters** (the arrangement and location of the facilities) are the responsibility of the Planning and Zoning Commission. The **detailed landscaping and the exterior of the building** are the responsibility of the Architectural Board of Review.

Any proposed amendments to an approved Plan are re-reviewed by the same bodies, and in the same sequence, that applied to the initial plan. Therefore, the current provision that plan amendments should start with Council is being deleted.

Some of the criteria for reviewing plans and some of the submission requirements are irrelevant in determining if the proposal meets the review criteria, have been deleted.

**D. Zoning Map** - A new zoning map has been created that will include three (3) components:

1. A typical zoning map depicting the boundaries of the four (4) Zoning Districts – the R-3 Single Family Residence District (3-acre minimum lot size; the R-10 Single Family Residence District (10-acre minimum lot size), the Open space and Natural Area Preservation District; and, the Building Zone Development District which depicts the properties that have received, or will receive “building zone development” approval – with **more dwelling units** than otherwise permitted;
2. The Ecologically Sensitive Area Map; and
3. The Building Zone Map.

Both the Ecologically Sensitive Area Map and the Building Zone Map have been the hallmark of Waite Hill’s zoning policy for more than two decades.

**PART II – MORE DETAILED REVISIONS**

**A. Specific Use Regulations**

1. The size of a private garage is being regulated by numerical/dimensional limitations and not merely being based on the number of vehicles to be stored. The current approach does not provide enough guidance as to how much area is devoted to each vehicle, or, therefore, how big the garage may be.
2. Additional living quarters (in the current code, limited to house-keepers and gardeners) has been deleted as a permitted accessory use. Since this limited application has no less impact on the community than an independent “unrelated” tenant/occupant, it is difficult, from a zoning perspective to permit living quarters for house-keepers and gardeners while prohibiting living quarters for others – whether relatives or unrelated persons. Furthermore, if the living quarters were to be built for the “limited” purpose, it is difficult for the Village to later say that “when the facts of the occupancy change,” the capital investment can no longer be utilized.

**B. Procedures**

The title “Zoning Administrator” is being used consistently throughout the Code as the person (or designee) responsible for administering the Zoning Code. Currently, several staff positions are specifically named as having zoning administration responsibility. While the proposed code uses the title Zoning Administrator, the responsibilities may be delegated to one or more

persons consistent with the current practice. If, however, those with the responsibilities change, such re-delegation under the generic title Zoning Administrator, avoids the risk of having a delegated responsibility in violation of the Code.

Additionally, the Code has:

1. Added that the notification of Council's public hearing for zoning amendments requires mail or delivery notification to all residences within 1,000 feet in addition to the current requirement that a notice be placed in a newspaper. This change is consistent with the Charter (Section 13.2).
2. Specified that an approved development plan is voided if the "next step" is not pursued within one (1) year. That means the applicant must submit for final plan approval within one year after a preliminary plan is approved; and starting construction within one year after a final plan is approved – unless these times are explicitly extended by the Village.
3. The zoning approval certificate is being referred to as a "certificate of compliance" rather than "certificate of occupancy." "Compliance" relates to zoning issues; the current term "occupancy" relates to building code compliance which is outside the Planning and Zoning Code.
4. The "inspection of foundations" (Section 1305.05) is being shifted to a single person for verification. This should not be the responsibility of the entire Planning and Zoning Commission.

### **C. Code Organization**

In order to have all matters related to the uses permitted and the placement of buildings and structures on the property in one place some sections in the Building Code have been shifted to the Planning and Zoning Code - i.e. the site plan requirements (Section 1305.03), permit expiration (1305.06 (c)) and fences (Chapter 1317). Conversely, the fee schedules (i.e. Sections 1105.07, 1133.01, 1133) have been deleted from the Planning and Zoning Code in order to avoid the necessity of the zoning amendment process each time a fee is changed.