

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
and
Public Hearing on FY-1985 Budget Amendment,
Including Revenue Sharing Funds

March 11, 1985

AGENDA

CALL TO ORDER: Mayor Abbott
ROLL CALL: Councilmember Aldrighetti
Councilmember Bradley
Councilmember Dalmat
Councilmember D'Ovidio
Councilmember Haney
Councilmember Iddings
Councilmember Williams

PLEDGE

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

READING AND APPROVAL OF THE MINUTES OF FEBRUARY 11, 13 AND 25, 1985

ADDITIONAL AGENDA ITEMS

GENERAL CITIZENS' REMARKS (those not directed at items for Council action)

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Wilson

- (1) Administrative reports and correspondence
- (2) Public hearing and first reading of amendment to Fiscal Year-1985 City Budget, including use of Revenue Sharing Funds
Citizens' comments
First reading
- (3) First reading of two ordinances amending or adding the following sections to Chapter 5, City Code, pertaining to personnel: Sec. 2-74, Holiday Leave; Sec. 2-75, Annual Leave; Sec. 2-76.1, Compensatory Leave
Citizens' comments
First reading
- (4) Second reading of an ordinance repealing and reenacting with amendments Article 4, "Finance," of Chapter 2, City Code, generally pertaining to procurement procedures
Citizens' comments
Council action
- (5) First reading of an ordinance authorizing installation of speed humps on Baltimore Avenue (between 7329 and 7401, and between 7418 and 7420 Baltimore Avenue)
Citizens' comments
First reading
- (6) First reading of facade design standards ordinance for Takoma Junction Revitalization Area (Public Hearing scheduled for 8:00 PM, 4-8-85)
Citizens' comments
First reading
- (7) Ordinance accepting bid on trees
Citizens' comments
Council action
- (8) First reading of an ordinance amending Ordinance No. 2608, Historic Preservation Committee, to provide two-year terms, remove limitation on number of terms, and set specific dates for appointments
Citizens' comments
First reading
- (9) Second reading of an ordinance authorizing installation of speed humps on Holly, Sycamore and Roanoke Avenues
Citizens' comments
Council action

- (10) Second reading of an ordinance authorizing Recreation Department to employ professional services of Interprofessional Planning and Design, Ltd. for design, construction coordination, etc. of development of POS park on Eastridge Avenue
 - Citizens' comments
 - Council action

- (11) Second reading of an ordinance authorizing Recreation Department to employ professional services of the Landscape group for design, construction coordination, etc. of development of POS park on Jackson Ave.
 - Citizens' comments
 - Council action

- (12) Second reading of an ordinance authorizing retention of the firm Peat, Marwick, Mitchell & Co. as City's auditor for a three-year period
 - Citizens' comments
 - Council action

ADJOURNMENT

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
and
Public Hearing on FY-1985 Budget Amendment,
Including Revenue Sharing Funds

March 11, 1985

CITY OFFICIALS PRESENT:

Mayor Abbott	City Administrator Wilson
Councilmember Bradley	Asst. City Administrator Habada
Councilmember Dalmat	Asst. City Administrator Robbins
Councilmember D'Ovidio	City Clerk Pusti
Councilmember Haney	Police Chief Fisher
Councilmember Iddings	Recreation Director Ziegler
EXCUSED: Councilmembers	Corporation Counsel Gagliardo
Aldrighetti and Williams	Asst. Corporation Counsel DeNovo

The Mayor and City Council of the City of Takoma Park met at 8:10 P.M. on March 11, 1985, in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland.

Following the pledge, Councilmember Iddings commented on the Mayor's lean and tan look, welcomed him back from his Florida vacation.

Minutes of February 11, 13 and 25, 1985 were moved for approval, duly seconded, carried unanimously. It was noted that in the February 25 minutes, at the bottom of page 1, the speaker identified as "Mort Hawkinson" should read "Mark Hawkinson."

GENERAL CITIZENS' REMARKS (not directed at items for Council action)
Wayne Upton, 7600 Maple Avenue: Commented on attending the rededication ceremony in Baltimore, renaming the court house for Clarence Mitchell, Jr.; distributed special edition copies of the Baltimore Sun containing information about Mr. Mitchell and referred to the resolution adopted by Council in September 1984 honoring him.

ITEMS FOR COUNCIL CONSIDERATION:

(1) **Administrative reports and correspondence.**

City Administrator Wilson noted receipt of correspondence from the Prince George's County Board of License Commissioners concerning application for a new license at Bombay Palace (Class B beer, on sale only); they inquired whether the business is within City limits and whether the City anticipates any problems with granting of the license. He noted that, regardless of the fact that the location is just outside the city boundary, the item will be on the March 18 worksession agenda. The Mayor commented that the county should be advised that the premises are outside the city but that Council wishes to forward an advisory opinion. Councilmember Haney remarked on receiving a copy of a recent Washington Times article concerning a new massage parlor (Kissing Booth) in the same shopping center area, owned by proprietors of 14th Street D.C. massage parlor(s); he expressed concern. The Mayor requested that a copy of the massage parlor article be forwarded to the county along with the letter concerning Bombay Palace and that they be queried about it; discussion to be on the March 18 agenda. Mr. Wilson noted receipt of a letter from the President of B. F. Gilbert's Citizens' Association advising that the organization had voted unanimously on requesting that the City acquire the Sister City property for use as a city park; he remarked that purchase of the property by the City is still pending. In response to query from the Mayor, he stated that the citizens' group expresses support for retention of the building and its use as a cultural arts center, if feasible. Mr. Wilson related seeing a letter from Michael Poole of Tribune-United to Mr. Alex Green of the Montgomery County cable office indicating that Takoma Park's equipment is one of the issues that has been finalized and the purchase order will be done within a few days; said he had heard from Chris Bailey, a member of T-U staff, that the purchase orders are awaiting signature. He commented that the Montgomery County Planning Board will be meeting on March 14; on the agenda is a consent item regarding mandatory referral of the Juniper Street pedestrian bridge CIP project; consent item is marked "approval" (probably a staff recommendation) and will occur as Park and Planning

sits as the Park Commission. He reminded that the retirement dinner for Police Sergeant Werner P. Winkler will take place at Walter Reed Officers' Club on March 29.

(2) Second reading of an ordinance authorizing installation of speed humps on Holly, Sycamore and Roanoke Avenues.

Adoption was moved by Councilmember D'Ovidio, duly seconded by Councilmember Iddings.

Sharon Wolchik, 7217 Holly Avenue: Reiterated support of residents of the street for the speed humps as a means of dealing with the excessive traffic volume and speed; urged adoption of the ordinance.

In response to query, Asst. City Administrator Robbins stated original location of one of the humps was changed as it would not be very effective in the proposed location - it will now be placed between 7418 and 7420; weather permitting, the humps will probably be installed early to mid-April. He also stated the flashing school signs will be installed on Philadelphia as soon as all parts are received. Councilmember Dalmat requested that traffic counts be done on Sycamore and Columbia Avenues both prior to and after installation of speed humps on Sycamore in order to monitor whether marked traffic displacement occurs. Councilmember Iddings commented on receipt of a copy of a letter Sgt. Holford sent to State Highway requesting a traffic count on Holly, Roanoke and Sycamore; he said Chief Fisher should be asked if that could be amended to include Columbia Avenue. Councilmember Bradley commented on having been lobbied heavily against the speed humps and expressed sympathy with those people opposing them; said she was frustrated that alternatives have not been developed such as undulations and rumble strips which might be more appropriate in some situations, however, understood that the Traffic Committee is now exploring such options and urged that they move ahead so that a choice is available; would support the ordinance despite a personal dislike for the speed humps in light of the fact that they meet a need. She also asked that the Traffic Committee consider comprehensive neighborhood surveys where all property owners in a particular area are made aware that a speed hump request is forthcoming rather than abiding by the 60% resident support requirement presently stated. Councilmember Iddings remarked that the humps to be installed are generically an undulation, testing of a proposed rumble strip would require City staff time and financial resources, so progress cannot be made on that without Council approval. Ms. Bradley suggested that the Traffic Committee submit a funding request to proceed with necessary experiments in the area during the upcoming budget process. Following dialogue between Mr. Iddings and Ms. Bradley concerning various alternative methods of speed control, the question was called; the ordinance was adopted by roll call vote as follows: AYE: Councilmembers Bradley, Dalmat, D'Ovidio, Haney and Iddings; NAY: None; EXCUSED: Councilmembers Aldrighetti and Williams.

ORDINANCE #1985-19
(attached)

(3) First reading of an ordinance authorizing installation of speed humps on Baltimore Avenue (between 7329 and 7401, and between 7418 and 7420).

It was noted that one of the humps originally proposed was deleted, original location of another was changed. The ordinance was accepted for first reading.

PROPOSED ORDINANCE
(attached)

(4) Public hearing and first reading of amendment to Fiscal Year 1985 City Budget, including use of Revenue Sharing Funds.

Asst. City Administrator Habada read the proposed Budget Amendment No. 2, giving a brief explanation of the purpose of the transfers and changes. The Mayor, for the record, wished it noted that he did not request nor did he favor the transfer of \$3,500 under subsection (h) to the City Newsletter account; said any shortfall could be made up by having several 8-page issues. Subsections (j), (k), and (l) generated discussion; it was noted this was money coming from the county to the

City as a result of a proposal submitted several years ago; it will be used to paint houses of low-income residents qualifying under federal standards; Newsletter advertising will be needed to hire persons to do the work. In relation to subsection (m), Councilmember Haney requested inclusion on the next worksession agenda of a final status report on street improvements accomplished under the CDBG Year 9 Program. Ms. Habada stated that the transfer under subsection (n) is being made in order to avoid dipping into the City's surplus; Councilmember Iddings, for the record, expressed concern about the bookkeeping being handled in that manner, said 2% was specifically set up for capital improvements, not to be part of an unbudgeted surplus. He went on to explain that that provision was adopted by the previous Council as a means of beginning to address the infrastructure problems the City faces, and the 2% was specifically intended to accomplish capital improvements such as street and sidewalk repairs, etc.; he said what is proposed is a shift in philosophy and should be recodified and re-presented for consideration. Mr. Wilson noted that the City faces a stringent future in regard to capital improvements since the majority of those improvements have in the past been accomplished through general revenue sharing funds, which it now appears will be gone next year; the City needs to build a backlog of revenue to address that loss of funding. He noted that General Contingency is budgeted rather than being held in reserve; Ms. Habada noted that if a reserve is going to be held for capital expenditures, it should be incorporated in the budget as a line item. Concerning subsection (o) regarding the "Gifts to the City" catalog, the Mayor stated he did not agree with transferring the funds to Mayor and Council Expense, did not feel Mayor and Council should function as a department; the catalog is to be disseminated to the public and certain institutions to solicit donations; he said the funds should properly be under Community and/or Economic Development. Following discussion, it was decided that prior to second reading the transfer would be changed to appear under Economic and Community Development with the appropriate budget code number. Concerning subsection (p), it was noted that a portion of the \$5,572 being transferred should be reflected under Fringe Benefits with a separate budget code number, however, the total amount required will remain the same. Chief Fisher commented on the proposed promotions and reorganization being discussed in detail at the prior worksession; he explained that following promotions the department will have a Chief of Police, a Captain who will be Deputy Chief of Police, a Lieutenant in charge of criminal investigations, and a Lieutenant in charge of the Patrol Division; the Captain will work primarily days, the 2 Lieutenants will rotate day/night each week. Following discussion of the work schedule, mention was made of Sgt. Winkler's approaching retirement (end of March); his position will be filled by a civilian Director of Administrative Services, reducing the number of sworn officers from 34 to 33. Councilmember Bradley commented that the promotions had been discussed during a couple of budget cycles in terms of increasing command supervision, which she supported, however, was frustrated that after a 3% increase in the police budget line no specific personnel plans had been forthcoming as requested; she asked that, in future, any personnel changes affecting the budget be presented in advance. She stressed that the supervisory personnel are to be on the street supervising police officers and not occupying desk jobs in the building; otherwise, anyone viewing the organization on paper would judge it to be topheavy. She supported making the promotions effective April 1 with the accompanying pay raise effective July 1 (next Fiscal Year); thought the verification of authority and responsibility of more pressing importance to the police officers than the immediate pay increase, and adherence to economy in the budget should be practiced where possible. Councilmember Haney commended the Chief for the improvement in efficient management of the department under his command; thought the new command structure would more efficiently utilize time; hoped during the budget process, the Chief would be able to provide a plan for implementing schedule adjustments that will assist in reducing the accumulated leave balances being carried on the City's books; Chief Fisher agreed that to the extent possible, that would be done. In response to Ms. Bradley's comments, Councilmember D'Ovidio stated that if a problem exists with funding the promotions during the current Fiscal Year, then they should not be made effective until July 1; he could not condone giving the individual(s) the responsibility of the job without appropriate reimbursement. Councilmember

Bradley questioned whether the City will ultimately be saved money by the new administrative services position being civilian; Chief Fisher stated the position will pay \$10,000 less than what the person currently occupying the job is earning (however, he is a long-time employee, as pointed out by Ms. Bradley). The Chief commented on the qualifications/background of the person being sought to fill the position. Ms. Bradley reiterated hopes that, in future, retirements, positions to be filled, promotions, etc., could be projected and included in budget proposals. Mr. Wilson noted that interviews for the administrative position would be conducted at the end of the week, he will be participating, starting salary advertised was \$20,000-\$22,000; questions were posed whether the new employee in a matter of a few years might not be up to the salary level of the uniform officer now in the position, nullifying any benefit to having a civilian replacement.

In relation to earlier comments on subsection (g) concerning insurance, Councilmember Iddings inquired whether rather than retaining a consultant to examine the City's insurance coverage, insurance agents would not do that assessment of needs as a part of the package if the insurance coverage were put out to bid; he remarked that the City Administrator three years ago was directed to bid out the insurance and that was never done. Ms. Habada commented that there is no one on staff knowledgeable about writing RFP's for insurance coverage; the City has six or seven kinds of insurance; she commented on the need for public official liability, which will have to be put out to bid. Mayor Abbott commented on the growing tendency to hire consultants and questioned whether that is the case in a cross-section of other area municipalities. Councilmember Bradley requested that, prior to second reading, information be provided indicating what other municipalities are doing in the insurance area and what they are paying for coverage, taking into consideration variation factors such as number of vehicles covered, etc.; said she did not oppose hiring a consultant, however, hoped they would provide a mechanism for staff to monitor insurance coverage so that another consultant would not be required further down the road. The Mayor questioned whether, if there is not in-house capability relative to insurance coverage, capability exists on staff to evaluate the consultant's report. Ms. Habada related that the City of Greenbelt has a situation similar to what Takoma Park had at one time, wherein an annual amount was set aside to pay an insurance consultant firm to do a continual review and advise the City of any changes that might be required - the Insurance Buyers Council of Maryland used to perform that service for the City - and that is what is needed in addition to the initial review of coverage. Asst. Corporation Counsel DeNovo seconded comments made by Ms. Habada concerning the need for a consultant to review the City's coverage; she said she participated in a preliminary review of the City's policies and feels a fairly serious situation exists, not only in terms of being possibly underinsured in some areas under Maryland law, but also overinsured in others; said policies do need to be custom tailored to fit the City's needs, retention of a consultant uninvolved with selling insurance would probably save money in the long run. The Mayor suggested checking with Laurel; said they are comparable in the services they provide, number of employees, etc.; also there might be City residents having expertise in the insurance area. Mr. Wilson noted that Maryland Municipal League and IGS will also be looked into; a citizens' committee comprised of residents knowledgeable in the insurance field might be formed to address the issue. The proposed ordinance was accepted for first reading.

PROPOSED ORDINANCE
(attached)

(5) First reading of two ordinances amending or adding the following sections to Chapter 5, City Code, pertaining to personnel: Sec. 2-74, Holiday Leave; Sec. 2-75, Annual Leave; Sec.2-76.1, Compensatory Leave.

Mr. Wilson stated that the two ordinances at hand are the only changes currently being proposed in the personnel section of the Code. In response to query from the Mayor, he explained that formation of committees representing administration and employees had been authorized and a process set in motion for the purpose of resolving areas of employees' concern in the proposed changes; meetings of the two

committees will take place during the upcoming two weeks. The Mayor expressed concern that substantial change could occur in the language of the current proposed ordinance; Mr. Wilson noted that this is the 7th-plus draft and as far as he was concerned, the final edition insofar as intent. He said many changes were made along the way to accommodate employee concerns, initial interpretations of the language, intent, etc. He noted that past practice had not always been based upon what is contained in the City Code and Charter, a serious financial liability to the City in the form of accumulated leave has been incurred without any formal authorization by Mayor and Council, either present or past. In the present situation, leave time is accruing at a rate that will leave less and less work time if past practices were continued. The uncodified past practice of compensatory leave accumulation, to be paid at time of separation, has in effect amounted to deferred payment of overtime. What is now being attempted is to establish the City's financial obligation and how it will be met; he assured that the obligation will be met, will be given in either time or revenue for the amounts accrued up to date of adoption of the ordinance. He stated that the second ordinance provides controls on future accruals of leave and mandates payment of holiday leave and overtime at the time it is earned; he noted that the accumulation of accrued leave has increased in value in ratio to whatever raises have been given from year to year. He stated that his interest was twofold: to protect the obligation the City has to employees and to specifically identify how that obligation will be dealt with; and, what steps will be taken for the City to gain control over leave and how it is accrued. Councilmember Bradley related that the process of resolving employees' problems with the proposed ordinances had appeared to be dragging out interminably with complaints coming forth piecemeal, thus she favored the current first reading in light of the need for closure on the issue; said while there had been an initial failure to provide for employee input on the matter, the numerous drafts submitted by the various involved parties have tended to converge in major areas of concern, and it is hoped that in the interim between first and second readings any remaining differences can be negotiated and worked out. The Mayor reiterated that he saw little benefit to holding the first reading until such time as the two committees have met and all problems have been laid on the table.

Ed Longen, Chairman of the Personnel Review Committee: Said he felt the majority of the major issues with employees have been resolved in meetings which occurred over the past few weeks, remaining issues will be addressed by the two committees and he thought they could be resolved within the framework of the existing proposed ordinances. Mr. Wilson noted that there were some points of detail that might be covered in administrative procedures rather than in the proposed ordinances and that will require discussion; remaining issues are basically dollars and cents-related. Mr. Longen commented that in the interests of objectivity, the Personnel Review Committee opted to remain neutral, sit in on the meetings as observers only, will furnish opinions if requested. Councilmember Iddings noted that while there may not be a consensus on the two committees on all items covered under the proposed ordinances, there is still a mandate for Council to move ahead on the issue. The ordinances were accepted for first reading.

PROPOSED ORDINANCES
(attached)

(6) Second reading of an ordinance repealing and reenacting with amendments Article 4, "Finance," of Chapter 2, City Code, generally pertaining to procurement procedures.

Asst. Corporation Counsel DeNovo noted that a few changes had been made in the ordinance since first reading, based on discussions at the last Council meeting and the intervening worksession; specifically, those expenditures requiring approval of Mayor and Council are those for professional services over \$1,000 and other expenditures of \$2,500 or more. In response to query from Councilmember Iddings, she stated that consensus in worksession was that criteria for evaluating bids would be included in related regulations which the City Administrator will establish; Mr. Wilson remarked that inclusion of reference to criteria in the ordinance would be unnecessarily complicating. Ms.

DeNovo commented that on procurements not required to go out to bid, there will be a requirement that proposals be acquired from 3 sources; if 3 sources do not exist, then that fact must be stated in writing to the Mayor and Council. The Mayor commented on examining city ordinances during his recent Florida visit and said, in both cases, they stated that other criteria being equal in bids, city residents would be given preference. Ms. DeNovo stated that a statement to that effect was considered for inclusion, however, she felt it might have possible Constitutional problems and/or Anti-Trust problems because what the statement would equate with would be that two bidders being equal, the city resident would be chosen, which might be interpreted as an unreasonable restraint on trade. The Mayor stated he was unaware of that statement having been stricken down anywhere. Mr. Wilson noted that what Greenbelt made reference to was a bidders' list upon which local bidders would be given preference, but preference in the final decision was not stated. Ms. DeNovo commented that the consensus, in the Mayor's absence, was that a stated giving of preference would not be a good idea, however, she would be willing to check it out legally if so desired. Councilmember Haney suggested that the City Clerk might check with MML or the Government Services Institute of Maryland for their opinion(s); felt sure this was not the first time the question had arisen. Following additional discussion, Councilmember D'Ovidio moved adoption, duly seconded by Councilmember Iddings. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers Bradley, Dalmat, D'Ovidio, Haney and Iddings; NAY: None; EXCUSED: Councilmembers Aldrighetti and Williams.

ORDINANCE #1985-20
(attached)

(7) First reading of facade design standards ordinance for Takoma Junction Revitalization Area (Public Hearing scheduled for 8:00 P.M., 4-8-85).

Mr. Wilson noted that the basis of contention at the worksession discussion seemed to be whether there should be more inducement for businesses to comply and less enforcement, or vice versa. In response to query, he stated that in Old Town, 90% of compliance was voluntary, the exception was Mr. Daugharthy and his properties; the Mayor cited several other properties not in compliance. Councilmember Iddings referred to concerns raised by Corporation Counsel as to whether the City has authority to issue municipal infractions for non-compliance with design standards and whether the municipal infraction paragraph was really necessary in order to set up some design standards for Takoma Junction. He stated that what was previously agreed upon was to accept the ordinance as drafted by the Takoma Junction Committee for first reading and ask the committee to reconsider the municipal infraction portion, which is the only sticky area; said the ordinance is the result of extensive work by the committee involving both businesses and citizens, as well as City staff. Rev. Albaugh stated that if the municipal infraction section(s) were removed from the ordinance, there would be no basis for enforcement of compliance; Councilmember Haney commented he would prefer to see those sections remain so there is some impetus for businesses to comply; Councilmember Iddings commented he felt the sections are required and did assist in getting compliance in Takoma Old Town, essentially what is being asked of the committee is that they affirm that they want the sections to remain as a part of the ordinance. The Mayor stated that he personally felt that after the amount of public funds expended in Old Town, those refusing to comply should be brought into court on the issue; did not want to see municipal infraction language in the Takoma Junction ordinance unless it is enforced in Old Town; questioned whose responsibility that would be City staff-wise. He said Mr. Daugharthy's attorney was in contact with the City Attorney, information was turned over to a City staff member and nothing further had transpired. Rev. Albaugh commented that there will always be a minority who feel compelled to test enforcement; reiterated that the provisions for enforcement should not be removed. Mr. Iddings remarked that Housing Department has agreed to assume responsibility for enforcement, consensus was that it properly fell within their realm; he also commented on the need for municipal infractions to be tied into the standardized

language in the City ordinances. The ordinance was accepted for first reading.

PROPOSED ORDINANCE
(attached)

(8) Ordinance accepting bid on trees.

Councilmember D'Ovidio moved adoption, duly seconded by Councilmember Haney. It was noted that this ordinance required one reading for adoption. Asst. City Robbins noted that letters were sent to all citizens' organizations requesting recommendations for planting locations; he said the quantity of 28 trees will not really address the needs for tree planting in the city; a meeting will take place with the Tree Commission to discuss their position and planting will most likely be done in areas devoid of street trees. Councilmember Iddings suggested that some be planted in Takoma Junction in the planting strip in front of the billboards; Mr. Robbins stated that planting strip is a part of the Kass' property; he invited input as to where trees would be desired, although all requests could not be satisfied immediately. In response to query, he stated that 150 trees were planted a couple of years ago in mid-summer, survival rate was excellent - only ± 5 were lost. He commented that out of 8 RFP's mailed, only 1 response was received, probably because it was specified that the trees be balled and burlapped for six months which provides a good root system. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers Bradley, Dalmat, D'Ovidio, Haney and Iddings; NAY: None; EXCUSED: Councilmembers Aldrighetti and Williams. Councilmember Haney expressed support for Mr. Iddings' suggestion that trees be planted on the Kass strip in front of the billboards if it could be ascertained that they would not have to be removed in the near future.

ORDINANCE #1985-21
(attached)

(9) First reading of an ordinance amending Ordinance No. 2608, Historic Preservation Committee, to provide two-year terms, remove limitation on number of terms, and set specific dates for appointments. The proposed ordinance was accepted for first reading.

PROPOSED ORDINANCE
(attached)

(10) First reading of an ordinance authorizing Recreation Department to employ professional services of Interprofessional Planning and Design, Ltd. for design, construction coordination, etc. of development of POS park on Eastridge Avenue.

and

(11) First reading of an ordinance authorizing Recreation Department to employ professional services of the Landscape Group for design, construction coordination, etc. of development of POS park on Jackson Ave.

Mr. Wilson commented that these ordinances had been subjected to review by the Asst. Corporation Counsel who has indicated that, in effect, the City is in compliance with Project Open Space guidelines and partially in compliance with CDBG guidelines, but not in compliance with pertinent City ordinances because of omission of several activities. He noted the lack of publicity/advertising of the process; recommended that the two ordinances be reintroduced as first readings, thus causing them to fall under jurisdiction of the procurement ordinance passed earlier, with the second reading to occur within a week or two so as not to unduly delay implementation of the projects. He said a third proposal could then be sought in order to comply with the new provisions, or, if that were not possible, a reason would have to be supplied for the lack of a third proposal. Councilmember Iddings so moved, duly seconded by Councilmember D'Ovidio. In response to query from Councilmember Iddings, Mr. Wilson read from Corporation Counsel's memorandum which stated that "if the City does not follow its own legal requirements in a particular procurement, the consequence is that the City officials responsible can be held personally liable for those expenditures." He did point out that under the City Code, the Mayor and Council are empowered to waive

certain procedural requirements. Councilmember Iddings expressed astonishment to learn at the time of second reading of these ordinances that procedures clearly set forth had not been followed.

Elaine LaVaute, 240 Park Avenue: Distributed copies of a letter she wrote to the Landscape Group to which she never received a response. She voiced complaints concerning unsatisfactory and inferior landscape work that group did in her backyard, thought the City would be making a big mistake to retain that firm; as a citizen, would object to any award of a City contract to the Landscape Group.

Councilmember Iddings stated that the landscape architect, Carl Reidel, for the purposes of submitting the bid formed an association with the Landscape Group, however, he would be the one making the design, grading plans, recommendations for planting, etc., and that firm would not be doing the actual construction or planting. Consensus was that the two ordinances would be rescheduled for second reading.

PROPOSED ORDINANCES
(attached)

(12) Second reading of an ordinance authorizing retention of the firm Peat, Marwick, Mitchell & Co. as City's auditor for a three-year period.

In response to query from the Mayor, Ms. Habada stated that during the first year, approximately 500 hours would be expended, less time would be needed in the subsequent two years since records, files, etc. would already be set up. Adoption was moved by Councilmember Bradley, duly seconded by Councilmember Dalmat. The ordinance was adopted by roll call vote as follows: AYE: Councilmembers Bradley, Dalmat, D'Ovidio and Iddings; NAY: None; EXCUSED: Councilmembers Aldrighetti, Haney and Williams.

ORDINANCE #1985-22
(attached)

(13) Amendment to MICRF Resolution.

Mr. Wilson noted this amends the resolution passed at an earlier date supporting the MICRF application made on behalf of Mr. Norton, includes the handicapped in the section dealing with minority and female participation goals; said this omission was pointed out by MICRF and a request made that this adjustment be accomplished. Passage was moved by Councilmember Bradley, duly seconded by Councilmember D'Ovidio; carried unanimously.

RESOLUTION #1985-5
(attached)

Upon motion, duly seconded, the meeting adjourned at 10:25 P.M., to reconvene in regular session on March 25, 1985, at 8:00 P.M.

Introduced by:

1st reading: 3-11-85
2nd reading:

ORDINANCE NO. 1985-

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Ordinance No. 2676, adopted June 27, 1983, be amended by the addition of a new subsection (i) to Section 1, as set forth below:

Section 1. That speed hump installations, as defined in Sec. 13-2(a)(14.2) of the Code of Takoma Park, Md., 1972, as amended, be installed at the following locations:

- (i) On Baltimore Avenue, between the southwest side of Albany Avenue and New York Avenue, with the speed hump installations to be located between 7329 and 7401, and 7418 and 7420 Baltimore Avenue.

SECTION 2. THAT funds to cover this work be appropriated from the capital expenditures account, #995.

Introduced by:
Councilmember Iddings

1st reading: 2-25-85
2nd reading: 3-11-85

ORDINANCE NO. 1985-19

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT Ordinance No. 2676, adopted June 27, 1983, be amended by the addition of new subsections (f), (g), and (h) to Section 1, as set forth below:

Section 1. That speed hump installations, as defined in Sec. 13-2(a)(14.2) of the Code of Takoma Park, Md., 1972, as amended, be installed at the following locations:

- (f) On Holly Avenue, between Eastern and Philadelphia Avenues;
- (g) On Sycamore Avenue, between Ethan Allen and Elm Avenues;
- (h) On Roanoke Avenue, between Houston and Hudson Avenues.

SECTION 2. THAT funds to cover this work be appropriated from the capital expenditures account, #995.

ADOPTED BY THE CITY COUNCIL MARCH 11, 1985.

Introduced by:

1st reading: 3-11-85
2nd reading:

ORDINANCE NO. 1985-_____

Budget Amendment No. 2

Section 1. BE IT ORDAINED AND ENACTED by the Mayor and City Council of Takoma Park, Maryland, that the FY 1985 Budget be amended as follows:

- (a) Transfer \$1,050 from General Contingency, budget code number 991, to Accounting Automation, budget code number 553.
- (b) Transfer \$579 from General Contingency, budget code number 991, to Capital Expenditures, budget code number 995, for purchase of medium-sized copier, Royal Model 2502MR.
- (c) A budget line item for "Contracts" is created for Government Administration with a designated budget code number of 535.
- (d) Transfer \$5,000 from General Contingency, budget code number 991, to Contracts, budget code number 535.
- (e) To increase amount allocated in Capital Expenditures for purchase of a trash truck from \$33,000 to \$85,738 with a corresponding decrease of \$30,000 in amount allocated for City-wide Office Automation and \$22,738 decrease for Police Radio Communications System purchase.
- (f) Transfer \$1,306 from General Contingency, budget code number 991, to Capital Expenditures, budget code number 995, for purchase of Police vehicles.
- (g) Transfer \$5,793 from General Contingency, budget code number 991, to Excess Liability, budget code number 977.
- (h) Transfer \$3,500 from General Contingency, budget code number 991, to City Newsletter, budget code number 530.
- (i) Transfer \$2,200 from General Contingency, budget code number 991, to Capital Expenditures, budget code number 995, for purchase of a pressure washer for the Public Works Department.

- (j) Increase revenues for Urban Development and Assistance, budget code number 430, by \$20,000, to incorporate funds received from Montgomery County for the Jobs Bill Community Paint Project.
- (k) A budget line item "Community Paint - Salaries" is created with a designated budget code number 590.1 with an appropriation of \$11,034.
- (l) A budget line item "Community Paint - Materials" is created with a designated budget code number of 590.2 with an appropriation of \$8,966.
- (m) Add to the Capital Expenditures budget, budget code number 995, an expenditure line item for Street Improvements, to match the Community Development Block Grant funds allocated for the Program Year Nine Street Improvements.
- (n) Transfer \$16,000 from General Contingency, budget code number 991, to Capital Expenditures, budget code number 995, specifically appropriated to the Street Improvements expenditure line item.
- (o) Transfer \$1,000 from General Contingency, budget code number 991, to Mayor and Council Expense, budget code number 502, to cover printing costs for the "Gifts to the City" catalog.
- (p) Transfer \$5,572 from General Contingency, budget code number 991, to Police Department-Salaries, budget code number 600, to cover costs of promotions in accordance with costs projected by the Police Department.

3-1-85

INTRODUCED BY:

1st reading: 3-11-85

2nd reading:

ORDINANCE NO. 1985-

AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE 5 (PERSONNEL OF THE CODE OF THE CITY OF TAKOMA PARK.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT THE FOLLOWING SECTIONS OF THE CITY CODE, Section 2-74. HOLIDAY LEAVE, Section 2-75. ANNUAL LEAVE, WITH A NEW SECTION, Section 2-76.1 COMPENSATORY LEAVE ADDED AS FOLLOWS:

Section 2-74. Holiday Leave

(k) An employee who, on or prior to the effective date of this ordinance has accumulated holiday leave shall:

1. Have all accrued holiday leave balances frozen at the salary rate that is in effect at the time of enactment of this ordinance.
 2. Use all such leave by December 31, 1988 except as provided herein;
 1. Employees shall make application for time off on or before January 1, 1988. Requests for time off shall not be unreasonably denied. If an employee has asked for time off and it cannot be scheduled because of the City's workload, accumulated holiday leave accrued prior to the effective date of this ordinance may be carried over upon approval by the City Administrator, until such time as the department head can schedule time off for the employee.
 3. Utilize accrued holiday leave by either of the following methods:
 - i. Draw time on an hour-for-hour basis at the salary rate the employee has attained at the time of withdrawal, up to December 31, 1988, or,
 - ii. Upon termination from the City, receive payment on an hour-for-hour basis at the salary rate the employee has attained on the effective date of this ordinance.
- (l) Notwithstanding the provisions of subsection (k) above, the Mayor and Council may at any time authorize payment in full or in part, to employees who have accrued holiday leave, at the salary rate in effect at the time of enactment of this ordinance.
- (m) Department Heads are to develop annual plans for the scheduling of holiday leave accumulated prior to the effective date of this ordinance. Quarterly reports are to be submitted to the City Administrator by the Department Heads on progress made towards the elimination of leave accrued on or prior to the effective date of this ordinance. Quarterly reports are to be made to the Mayor and Council on progress made towards elimination of leave accrued on or prior to the effective date of this ordinance.

Section 2-75. Annual Leave

(f) An employee who, on the effective date of this ordinance or the end of the current accrual period, has accumulated annual leave shall:

1. Have all accrued annual leave balances frozen at the salary rate that is in effect at the time of enactment of this ordinance.

2. Use all such leave by December 31, 1988 except as provided herein;

i. Employees shall make application for time off on or before January 1, 1988. Requests for time off shall not be unreasonably denied. If an employee has asked for time off and it cannot be scheduled because of the City's workload, accumulated annual leave accrued prior to the effective date of this ordinance may be carried over upon approval by the City Administrator, until such time as the department head can schedule time off for the employee.

3. Utilize accrued annual leave by either of the following methods:

i. Draw time on an hour-for-hour basis at the salary rate the employee has attained at the time of withdrawal, up to December 31, 1988, or,

ii. Upon termination from the City, receive payment on an hour-for-hour basis at the salary rate the employee has attained on the effective date of this ordinance.

(g) Notwithstanding the provisions of subsection (f) above, the Mayor and Council may at any time authorize payment in full or in part, to employees who have accrued holiday leave, at the salary rate in effect at the time of enactment of this ordinance.

(h) Department Heads are to develop annual plans for the scheduling of annual leave accumulated prior to the effective date of this ordinance. Quarterly reports are to be submitted to the City Administrator by the Department Heads on progress made towards the elimination of annual leave accrued on or prior to the effective date of this ordinance. Quarterly reports are to be made to the Mayor and Council on progress made towards elimination of annual leave accrued on or prior to the effective date of this ordinance.

Section 2-76.1 Compensatory Leave

(a) Compensatory leave is defined as time off as approved by the appropriate authorizing administrator in lieu of paid overtime; to be granted to salaried, non-department head employees only, or those so designated by the City Administrator.

(b) An employee who, on or prior to the effective date of this ordinance has accumulated compensatory leave shall:

1. Have all accrued compensatory leave balances frozen at the salary rate that is in effect at the time of enactment of this ordinance.

2. Use all such compensatory leave by December 31, 1988 except as provided herein;

1. Employees shall make application for time off on or before January 1, 1988. Requests for time off shall not be unreasonably denied. If an employee has asked for time off and it cannot be scheduled because of the City's workload, accumulated compensatory leave accrued on or prior to the effective date of this ordinance may be carried over upon approval by the City Administrator, until such time as the department head can schedule time off for the employee.

3. Utilize accrued compensatory leave by either of the following methods:

i. Draw time on an hour-for-hour basis at the salary rate the employee has attained at the time of withdrawal, up to December 31, 1988, or,

ii. Upon termination from the City, receive payment on an hour-for-hour basis at the salary rate the employee has attained on the effective date of this ordinance.

(c) Notwithstanding the provisions of subsection (b) above, the Mayor and Council may at any time authorize payment in full or in part, to employees who have accrued compensatory leave, at the salary rate in effect at the time of enactment of this ordinance.

(d) Department Heads are to develop annual plans for the scheduling of compensatory leave accumulated on or prior to the effective date of this ordinance. Quarterly reports are to be submitted to the City Administrator by the Department Heads on progress made towards the elimination of leave accrued on or prior to the effective date of this ordinance. Quarterly reports are to be made to the Mayor and Council on progress made towards elimination of leave accrued on or prior to the effective date of this ordinance.

(e) Any compensatory leave accrued on or prior to the effective date of this ordinance and unused on or before December 31, 1988, may be converted to sick leave at the option of the employee.

DRAFT 7A - 3/4/85

INTRODUCED BY:

1st Reading: 3/11/85

2nd Reading:

ORDINANCE NO. 1985-

AN ORDINANCE TO AMEND CHAPTER 2 (ADMINISTRATION), ARTICLE 5 (PERSONNEL) OF THE CODE OF THE CITY OF TAKOMA PARK, MARYLAND.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT THE FOLLOWING SECTIONS OF THE CITY CODE, SECTION 2-70, OVERTIME, SECTION 2-74, HOLIDAY LEAVE, AND SECTION 2-75, ANNUAL LEAVE, ARE HEREBY REPEALED AND SIMULTANEOUSLY REENACTED AS FOLLOWS:

Section 2-70. Overtime.

(a) It shall be City policy to make every effort to eliminate overtime work. However, recognizing that emergencies do occur which require overtime payment to be made, the City shall compensate employees in accordance with the Fair Labor Standards Act and Amendments of 1974 (P.L. 93-259).

(b) All full-time employees shall be paid time and one-half for any hours worked over their normal work or regular duty hours, except that this section shall not apply to the incumbents of the positions enumerated below:

- (1) City Administrator;
- (2) Department Heads, and designated supervisory personnel;
- (3) Assistant City Administrator(s);
- (4) City Clerk;
- (5) Economic and Community Development Coordinator.

Section 2-74. Holiday Leave.

(a) The following days shall be recognized as legal holidays for which compensation shall be made:

- (1) New Year's Day;
- ~~(2) --Presidential-Inauguration-Day-(every-fourth-year)~~
- (2) Martin Luther King, Jr.'s Birthday (January 15, 1986 and every year thereafter;
- (3) Washington's Birthday, third Monday in February;
- (4) Memorial Day, last Monday in May;
- (5) Independence Day, July 4;
- (6) Labor Day, first Monday in September;
- (7) Columbus Day;
- (8) Veteran's Day, ~~fourth-Monday-in-October~~ November 11
- (9) Thanksgiving Day, fourth Thursday in November;
- ~~(10) --Christmas-Eve-(1/2-day);-~~
- ~~(11) (10) Christmas Day;.~~
- ~~(12) --1/2-day-December-31;~~

(b) Compensation for a holiday shall be made only if the employee worked on his or her last regularly scheduled working day prior to the holiday and on his or her first regularly scheduled working day following the holiday; or be on

approved leave. Should an employee be in a full pay status on these two (2) days, for whatever reason, compensation for the holiday shall be paid.

(c) Employees who perform work for the City on a holiday shall be paid at one and one-half (1-1/2) times their regular rate for hours worked on such day in addition to the amount to which they are entitled for holiday compensation. Full-time employees are granted holiday leave for the total number of hours constituting their regularly scheduled workday or shift.

(d) Should one (1) of the above-mentioned holidays fall on a Saturday, all eligible employees shall take the next regularly scheduled working day as the holiday. Part-time employees are granted holiday leave only if they work at least forty (40) hours per pay period. When this eligibility requirement is met, part-time employees earn holiday leave in proportion to the number of hours reported in a pay status.

(e) Should one (1) of the above-mentioned holidays fall on a Sunday, all eligible employees shall take the next regularly scheduled working day as the holiday. Employees who perform work for the City on a holiday shall be paid during the next regular pay period at two (2) times their regular rate for hours worked on such day. Holiday leave may not be accumulated on or after the effective date of this ordinance.

(f) Police Department personnel working on a rotating shift basis shall be credited with holiday leave when they are working or when they are on a regular day off. The City Administrator determines the City services to be maintained on a holiday. As a result, an employee may be required to work on designated holidays. It is the City Administrator's responsibility, or his or her designee (e.g., department heads) to designate and inform those employees required to work on holidays.

(g) Should one (1) of the above-mentioned holidays fall on Saturday, all eligible employees shall take the regularly scheduled working day prior to Saturday as the holiday.

(h) Should one (1) of the above-mentioned holidays fall on a Sunday, all eligible employees shall take the next regularly scheduled working day as the holiday.

(i) An employee who works additional time beyond his/her regularly scheduled workday/shift on a holiday shall be paid at the regular overtime rate of 1-1/2 times his/her regular rate.

(j) When a holiday falls on a full-time shift-work employee's regularly scheduled day off, the employee shall be paid for their regular shift hours that falls on the holiday, at their regular rate.

Section 2-75. Annual Leave.

[No change to subsections (a), (b), (c), (d).]

(e) Beginning with the effective date of this ordinance, employees are permitted to accumulate unused annual leave in an amount not exceeding ~~sixty (60)~~ thirty (30) days (240 hours).

Introduced: Councilmember D'Ovidio
First Reading: 2-25-85
Second Reading: 3-11-85

Ordinance No. 1985-20

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS
CHAPTER 2, ARTICLE 4 (FINANCE), SECTIONS 2-40 THROUGH 2-49,
CITY OF TAKOMA PARK CODE

WHEREAS, the Mayor and City Council, by Ordinance No. 1985-2, enacted on January 14, 1985, have resolved and ordained that Section 1.7(d) of the City Charter be repealed and reeacted to provide, inter alia, that the Mayor and Council shall provide by ordinance for a centralized system of purchasing and contracting for all goods and services used by the City, for competitive bidding for any single purchase by, or contract with, the City above a minimum dollar amount which they shall set by ordinance; and

WHEREAS, the above Charter amendment reenacting Section 1.7(d) will become effective on the fiftieth day after the adoption of the above ordinance; and

WHEREAS, it is necessary and appropriate that the Mayor and Council provide by ordinance for City purchasing and contracting, including a competitive bidding requirement and exemptions from that requirement,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:

Section 1. THAT Sections 2-40 through 2-49, Article Four, Chapter 2 of the City of Takoma Park Code be repealed and simultaneously reenacted to read as follows:

Section 2-40. Definitions. The following terms shall have the following meanings when used in this Article:

(a) Contract means all types of City agreements, regardless of what they may be called, for the procurement or disposal of goods, supplies, services or construction.

(b) Cooperative purchasing means procurement conducted by, or on behalf of, more than one governmental unit.

(c) Department head means one of the following: the City Clerk, the Chief Police Officer, the Director of Public Works, the Municipal Librarian, the Director of Recreation,

the Director of Housing Services, and such other employees as the City Administrator may designate from time to time.

(d) Invitation for Bids means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(e) Procurement means buying, purchasing, renting, leasing, or otherwise acquiring any goods, supplies, services or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(f) Professional Services means personal services of members of a licensed or otherwise recognized profession, including but not limited to accountants, architects, attorneys, auditors, electricians, engineers, medical practitioners, surveyors and the like.

(g) Request for Proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

(h) Responsible Bidder or Offeror means a person or entity who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(i) Responsive Bidder means a person or entity who has submitted a bid which conforms in all material respects to the Invitation for Bids.

Section 2-41. Expenditure of City Funds. No City funds shall be expended unless:

(a) the expenditure is authorized in the budget ordinance for the current year previously approved by ordinance or an ordinance revising it; and

(b) the expenditure is made pursuant to a contract or purchase order signed in accordance with this Article; and

(c) the contract or purchase order pursuant to which the expenditure is made has been approved by the Mayor and Council or by the City Administrator, as required by this Article.

Section 2-42. Powers and Duties of Mayor, Council and City Administrator.

(a) The Mayor and Council shall, by ordinance duly enacted, approve:

(i) all expenditures of \$1,000.00 or more for professional services; and

(ii) all expenditures of \$2,500.00 or more for any other single purchase of goods or services other than professional services;

provided, however, that ordinances approving such expenditures may be enacted upon a single reading without being read at two meetings of the Mayor and Council prior to adoption, if each such expenditure is specifically authorized in the budget ordinance for the current year previously approved by ordinance or an ordinance revising it.

(b) The City Administrator shall:

(i) approve all City expenditures for goods or services which are not required to be approved by the Mayor and Council, whether made pursuant to contract or purchase order;

(ii) be responsible for the administration of a centralized system of purchasing and procurement of goods and services for the City and for effectuating the provisions of this Article;

(iii) establish such rules and regulations as he or she may deem necessary in order to carry out the provisions of this Article. Such rules and regulations shall be subject to review and approval of the Mayor and Council by resolution duly enacted.

(c) The City Administrator may delegate his or her powers and duties under this Article to a designated City employee.

(d) The City Administrator shall have the authority to enter into (i) contracts on behalf of the City for the purchase of goods and services once such purchases have been duly authorized in accordance with this Article and (ii) cooperative purchasing agreements as authorized in this Article. The Mayor shall have the authority to enter into all other contracts and agreements on behalf of the City, including but not limited to agreements with other governmental entities and agreements concerning matters of City policy.

Section 2-43. Competitive Bidding and Source Selection.

(a) All City contracts shall be awarded by competitive sealed bidding, except as provided in:

(i) Section 2-44(a) (small purchases);

- (ii) Section 2-44(b) (professional services);
- (iii) Section 2-44(c) (emergency procurement);
- (iv) Section 2-44(d) (sole source procurement);
- (v) Section 2-44(e) (cooperative purchasing).

(b) Procedure. The following procedure shall be followed for awarding contracts by competitive sealed bidding:

(i) Invitation for Bids or Request for Proposals. An Invitation for Bids or Request for Proposals shall be issued, which shall include a purchase description and all contractual terms and conditions applicable to the procurement.

(ii) Public Notice. Public notice of the Invitation for Bids or Request for Proposals shall be given a reasonable time prior to the date set forth therein for the opening of bids or proposals. Such notice may include publication in a newspaper of general circulation a reasonable time prior to the opening of bids or proposals.

(iii) Opening of Bids or Proposals. Bids or proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids or Request for Proposals. The amount of each bid, and such other relevant information as may be specified by regulation, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection.

(iv) Acceptance and Evaluation of Bids or Proposals. Bids or proposals shall be evaluated based on the requirements set forth in the Invitation for Bids or Request for Proposals, which may include criteria to determine acceptability such as inspection; testing; quality; workmanship; delivery; price; suitability for a particular purpose; the bidder's ability, capacity and skill to perform the contract or provide the service required within the specified time; the bidder's character, integrity, reputation, judgment, experience and efficiency, including the reputation, experience and qualifications of the principals or agents who would actually be performing the services; the quality of the bidder's performance of previous contracts or services; the bidder's previously and existing compliance with laws and ordinances relating to previous contracts or to the bidder's employment practices; the sufficiency of the bidder's financial resources and ability to perform the contract or to provide the services; the bidder's ability to provide future maintenance and service for the use of the subject of the contract; the resale value and life cycle costs of the subject of the contract; and whether the bidder is a defaulter on surety to the City or whether the bidder's City taxes are

delinquent. No criteria may be used in evaluation that are not set forth in the Invitation for Bids or Request for Proposals.

(v) Correction or Withdrawal of Bids or Proposals. Correction or withdrawal of inadvertently erroneous bids or proposals before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with such regulations as the City Administrator may establish under Section 2-42(c)(iii). After the opening of bids or proposals, no changes in bid prices or other provisions of bids or proposals prejudicial to the interest of the City or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids or proposals, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination by the City Administrator.

(vi) Award. The contract shall be awarded with reasonable promptness by written notice to the most responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids or Request for Proposals.

(vii) Multi-Step Sealed Bidding. When it is considered impractical to prepare initially a purchase description to support an award based on price, an Invitation for Bids or Request for Proposals may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids limited to those bidders or offerors whose offers have been qualified under the criteria set forth in the first solicitation.

(c) Cancellation of Invitations for Bids or Requests for Proposals. An Invitation for Bids, a Request for Proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the City.

(d) The City Administrator and his or her designees shall take all reasonable steps to assure that all qualified vendors or suppliers of goods or services residing, or having their principal offices in, the City of Takoma Park are made aware of the City's issuance of Invitations for Bids or Requests for Proposals and give an opportunity to submit bids or proposals in response thereto.

Section 2-44. Procurements Exempt From Competitive Bidding Requirement.

(a) Small Purchases. Any procurement not exceeding the amount of \$5,000.00 may be made without the requirement of competitive bidding, in accordance with such

regulations as the City Administrator may establish under Section 2-42(b)(iii); provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

(b) Professional Services. Any procurement of, or contract for, professional services may be made without the requirement of competitive bidding. The City Administrator may, by regulations made under Section 2-42(b)(iii), establish competitive negotiation or selection procedures for professional services contracts or classes of professional services contracts.

(c) Emergency Procurement. The City Administrator or his or her designee may make or authorize others to make emergency procurements, without the requirement of competitive bidding, when there exists a threat to public health, welfare or safety under emergency conditions; provided that: (i) the City Administrator or his or her designee shall make a written determination of the basis for the emergency, which shall be approved by the Mayor and Council by resolution; (ii) such emergency procurements shall be made with such competition as is practicable under the circumstances; and (iii) the City Administrator shall make a written determination of the basis for the selection of the particular contractor which shall be included in the contract file.

(d) Sole Source Procurement. A contract may be awarded for a supply, service or construction item without the requirement of competitive bidding when, under such regulations as the City Administrator may establish under Section 2-42(b)(iii), the City Administrator (i) determines in writing that there is only one source for the supply, service or construction item and (ii) so notifies the Mayor and Council. The City Administrator's determination shall be subject to review and approval by the Mayor and Council by resolution.

(e) Cooperative Purchasing. The City Administrator may enter into contracts or agreements for cooperative purchasing as defined in Section 2-40(b) of this Article, without the requirement of competitive bidding by the City of Takoma Park; provided that (i) such cooperative purchasing meets all of the requirements of this Article and Chapter 8A of the City of Takoma Park Code and is consistent with their provisions in every respect; and (ii) the cooperative purchasing agreement is subject to review and approval by the Mayor and Council by resolution prior to any actual purchase or purchases being made thereunder.

Section 2-45. Procedure For Procurements Exempt From Competitive Bidding Requirement. In all procurements exempt from the requirement of competitive bidding, proposals for the good or service required shall be solicited from at least

three qualified sources. In the event that three qualified sources do not exist, the City Administrator or his or her designee shall make a written determination of that fact and report that determination to the Mayor and Council.

Section 2-46. Validity of Claims. No person or entity shall have a valid or enforceable claim against the City for the payment of any monies or any other thing of value pursuant to an alleged contract or agreement unless the contract or agreement has been signed and authorized as provided in this Article.

Section 2-47. Records of Procurement Actions.

(a) Contents of Record. The City Administrator shall maintain a record of all procurement actions taken for a minimum of [three] years.

(i) For procurement actions taken following competitive bidding, the record shall contain: each contractor's name, the amount and type of each contract; a listing of the goods, supplies, services or construction procured under each contract; the Invitation for Bids and all attachments and specifications; all documents relating to the evaluation of bids; and both accepted and rejected bids or proposals.

(ii) For procurement actions taken without competitive bidding, the record shall contain: each contractor's name; the amount and type of each contract; a listing of the supplies, services or construction procured under each contract; records of all quotations or proposals obtained, whether orally or in writing; complete records of any competitive negotiation or other competitive selection procedures undertaken; in emergency procurements, any determination of the basis for an emergency and for the selection of a particular contractor under Section 2-44(c); in sole source procurements, the determination that there is only one source for a supply, service or construction item under Section 2-44(d); and any cooperative purchasing agreements entered into under Section 2-44(e).

(b) Submission to Mayor and Council. A copy of such records shall be submitted to the Mayor and Council upon request. Such records shall be available for public inspection.

Section 2-48. Compliance with Chapter 8A. Notwithstanding any other provision of this Article, all procurement actions shall comply in every respect with all the provisions of Chapter 8A of the City of Takoma Park Code, known as the "Takoma Park Nuclear Free Zone Act."

Section 2-49. Purchase Orders.

(a) City purchases shall be memorialized by a written

contract or a purchase order signed in accordance with this Article. Purchase orders shall be consecutively numbered from the start of each fiscal year. Purchase orders shall be signed by the City Administrator or his or her designee.

(b) No department head shall make any purchase on behalf of or chargeable to the City except by means of a purchase order signed in accordance with Section 2-49(a); provided, however that this subsection (b) shall not apply to the daily purchase of expendable supplies and incidental recurrent materials so designated in the budget or to expenditures made in advance of a purchase order in emergencies as defined in, and subject to, the regulations established by the City Administrator under Section 2-42(b)(iii); provided, however, that in the case of emergency expenditures, a purchase order must be obtained from the City Administrator or his or her designee within seventy-two (72) hours.

(c) No person employed by the City or providing services to the City as an independent contractor shall purchase, or cause to be purchased, through or from the City any item for his or her personal use. Without limitation on any other legal actions or remedies available, violation of this section shall be sufficient cause for dismissal, suspension or termination of employment or of any contract for services, as the Mayor and Council may determine.

ADOPTED BY THE CITY COUNCIL MARCH 11, 1985.

Introduced by:

1st reading: 3-11-85
2nd reading:

ORDINANCE NO. 1985-

WHEREAS, the Mayor and Council of Takoma Park, Maryland have designated Takoma Junction as a Commercial Revitalization Area; AND

WHEREAS, the City's commitment to commercial revitalization extends to the provision of substantial public improvements in Takoma Junction; AND

WHEREAS, to achieve success in commercial revitalization, these public commitments must be accompanied by private design improvements; AND

WHEREAS, design standards have been found to be a necessary and integral part of any commercial revitalization program;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT over and above the codes and ordinances of the City of Takoma Park, the following additional standards shall be applied to all commercial uses within the area described below in section B, "Boundary Description."

A. PURPOSE

The purpose of these design standards is to promote and enhance the existing architectural character and historic richness of Takoma Junction so that it provides a stable, healthy business environment serving the needs of a broad community. These standards will help create a neighborhood business district with enhanced economic viability, attractiveness and convenience for residents of the surrounding neighborhoods and the broader community. The standards have been developed to regulate facade and building treatments in order to protect and enhance property values by ensuring compliance by all property owners; to cultivate a clear and consistent image for business operations; to bring about a general physical improvement of the area through coordinated private and public improvements; and to promote the public welfare.

B. BOUNDARY DESCRIPTION

The standards set forth below shall apply to all structures within the officially designated area of the Takoma Junction commercial district. This area includes both sides of Carroll Avenue bounded on the northeast by Lee Avenue, and on the southwest by Philadelphia Avenue, to include the first blocks of Lee Avenue, Grant Avenue, and Sycamore Avenue.

C. ROOFS

(1) For pitched roofs visible from the sidewalk across the street either in front of, or to one side of a building, the following roof requirements shall apply:

(a) The finished roofing material shall be limited to the following materials: terne metal (steel with a corrosion resistive coating of either lead or tin); standing seam, painted sheet metal roofing; asphalt shingle or tile; slate; built-up flat roof; clay tile; wooden shakes.

(b) The finished roofing material shall be clean and kept in a good state of repair.

(c) The finished roofing material shall have a color compatible with the building color scheme.

(d) Dormers shall be compatible with the design of the building and street facade. The finished materials and colors shall be harmonious with both the roof and facade of the buildings.

(e) Skylights and solar collectors shall be integrated into the building profile, and all metal parts shall be coordinated with roofing material. Skylights shall be kept to the rear of the ridge of the roof whenever feasible.

(2) General Provisions

(a) Rooftop mechanical equipment shall be located far enough back from the edge of the roof so that it cannot be seen from the sidewalk across the street, either in front of or to one side of the building. Functional equipment may be retained until major repair or replacement of the equipment becomes necessary, at which time it shall be removed from view. All mechanical equipment shall be painted with a flat paint in a color compatible with the color of the front of the building upon which it rests or with the existing roof.

(b) All chimneys or other auxiliary structures on the roofs shall be clean and kept in good repair. All deteriorated masonry chimneys shall be either replaced or restored. All future metal chimneys shall be located so that they cannot be seen from the sidewalk across the street either in front of, or to the side of the building.

(c) Flashing visible from the sidewalk must be neat and free of pitch. Visible flashing shall be painted to match the surface of the wall above it.

(d) Television and radio antennae shall be located so as to be as inconspicuous as possible, preferably to the rear of the buildings.

(e) All inoperative or otherwise extraneous equipment, including but not limited to signs and billboards, shall be removed.

D. EXTERIOR WALLS

(1) All exterior building walls should be of the original architectural character of the building and maintained in good condition.

(2) All structural and decorative elements of building fronts and rear sides shall be repaired, replaced or uncovered in a workmanlike manner to match as closely as possible with the original materials and construction of that building.

(3) All miscellaneous elements on the exterior walls of the structures such as empty electrical boxes, conduits, pipes, unused sign brackets, alarm units, etc., shall be removed.

(4) All brick walls shall be cleaned, repaired, and re-pointed as required. Brick walls shall be either preserved in their natural color or painted a color compatible with the colors of the neighboring structures. Cleaning of brick walls by means of sand or grit blasting shall not be permitted (since this destroys the protective coating of the brick and allows it to deteriorate).

(5) All natural stone walls shall be cleaned, repaired, and pointed as necessary.

(6) All stucco surfaces shall be cleaned and repaired and shall have a similar texture to the existing surface. All stucco surfaces shall be in a color compatible with the colors of the neighboring structures.

(7) All tile finishes shall be removed and the original wall construction behind them restored.

(8) Asphalt shingle siding shall be removed and only a permissible exterior finish shall be allowed.

(9) All rotten, broken, or deteriorated wood siding shall be replaced. Existing material in sound condition and permissible under the local building codes shall be cleaned and painted or stained. All wood siding shall be designed to be compatible with the design of the building and the neighborhood. Textured plywood and/or plywood shall not be used.

(10) Use of air-conditioning units of the window type on the fronts of buildings should be avoided wherever possible. The location of wall-mounted air-conditioning units shall be in a place harmonious and functional to the store front design, not to interfere with or be hazardous to pedestrian circulation and shall not drain to the sidewalk wherever possible.

(11) Metal gutters and downspouts shall be repaired or replaced as necessary and shall be neatly located and securely installed. Gutters and downspouts shall be painted to harmonize with other building facade colors.

E. ARCHITECTURAL DETAILS

(1) Cornices. Where cornices exist, they shall be restored to their original design. The removal of cornice work, without prompt replacement of similar design, will not be permitted. Where cornices have been removed during previous renovation work, new cornices shall be installed. New cornices shall be compatible with the design of the building. All cornices shall be made structurally sound, and rotted or weakened portions shall be removed and repaired or replaced to match the original patterns. All exposed wood shall be painted or stained.

(2) Windows.

(a) All of the windows in a single facade shall be of matching design. All window openings shall, within reason, have the same height and width they did at the time that the wall in which the openings are located was originally built. Filling in these openings at the top, bottom, or sides shall not be permitted.

(b) All windows shall be kept in good repair. Vinyl-clad wood or metal or other weather resistant materials may be used provided that they are kept painted or have an acceptable integral color. Damaged or broken glass shall be replaced with a suitable glazing material.

(c) All windows must be tight-fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints, or broken or loose mullions or muntins shall be replaced. All broken and missing windows shall be glazed. All exposed wood shall be painted or stained.

(d) Ornamental window grilles and balconettes of iron or similar materials may be incorporated as a decorative or security device.

(e) The lintels over windows shall be preserved or restored. Rotten wood lintels shall be replaced. Brick archwork and stone lintels shall be restored.

(f) Window sills shall be preserved, replaced, or restored to match the original design of the building, as closely as possible.

(g) Boarding up or filling in windows on the front facade shall not be permitted. Reflective material to cover glazing shall not be permitted.

(h) Windows facing alleys, yards, or side streets shall be kept properly repaired or, with the Fire Department's approval, may be closed with materials and a design that matches or is compatible with the material design and finish of the adjacent wall. Plywood will not be allowed as an infill material.

(3) Doors. In cases where there are doorways to buildings that are not incorporated in the storefront, the character of the original doorway shall be preserved. Where possible, the original style of these doorways, including solid, paneled, wood doors; wood frames; brick or stone sills; transoms; overhangs; and glazed sidelights, shall be incorporated into the design of the remodeled shopfront. The following additional requirements shall apply to all doorways and entrances:

(a) Storm and screen doors shall be compatible with entrance doors.

(b) Hardware, including large exterior locks, visible from the outside should not detract from the overall appearance of the door.

(c) Any grilles, bars, and grates covering doors or windows shall be designed to be compatible with the design of the building and of the neighboring structures, and the public improvement design intent.

(d) New doorways shall be designed with consideration for the needs of the handicapped and the elderly

(e) Where steps or stoops are required at a doorway or entrance, they shall be designed to match the original design. In cases where there are more than two risers, the steps or stoops shall be provided with a railing of compatible design.

(4) Awnings. The use of awnings, canopies, or other overhangs for the purpose of protection over the sidewalk in front of an establishment is encouraged.

(a) Soft, retractable awnings are permitted over the first floor and on upper floors above windows only.

(b) Awnings should be flame retardant.

(c) Awnings should not project from the building front so as to interfere with street trees, lamp posts, etc.

(d) Awnings shall terminate against the building at a height not higher than one inch below the second floor window sill.

(e) Awnings should be coordinated in color and/or design to unify the commercial block.

(f) The width of front valance of awnings should not exceed one foot (1'-0") and size of striping at one foot (1'-0") maximum.

(g) Rigid or fixed awnings, sun screens, or permanent canopies are permitted if these are compatible, harmonious and consistent with the original scale and character of the structure.

(h) Signs, symbols or designs painted or sewn onto awnings are permitted.

(i) If graphics are to be placed on an awning, they should be on the awning valance.

F. SHOPFRONTS

(1) A shopfront as a part of the building facade shall be defined to include: the building face, porches, the entrance area leading to the door, side-lights, transoms, display platforms, devices including lighting and signing designed to be viewed from the public right-of-way and/or the areas visible to the public prior to entering the interior portion of the structure.

(2) General Provisions.

(a) Shopfronts, entrances, signs, lighting, sun protection, porches, security grilles, etc., shall be compatible, harmonious, and consistent with the original scale and character of the structure.

(b) All extraneous and unused hardware, signing, and equipment shall be removed.

(c) All broken, rotten, or damaged elements shall be removed and replaced with elements that are harmonious with the design of the building and with the neighborhood.

(d) Ribbed or patterned metal are not permitted as acceptable replacement materials for shopfront windows. Stained glass is permitted if compatible and consistent with original scale and character of the building.

(e) At such time as sign panels covering or replacing shop cornices are removed or deemed to need replacement, they shall be removed permanently and the cornice permanently restored.

(f) Grates, bars, and grilles shall be designed so as to be as inconspicuous as possible. They shall be kept painted and free of rust. In all cases they shall be kept open during

the normal daylight business hours. Non-metal grilles and screens shall be prohibited. Enclosures and housings for security grilles and screens shall be as inconspicuous as possible and shall be compatible with the design of the shopfront. Mesh security wire is permissible if removed during normal business hours.

(g) Solid, permanently enclosed, covered, or reflective covered shopfront windows shall not be permitted. Where the window treatment of the first floor must be modified such that the window openings will be made smaller, these new openings will not be smaller in size than the openings of the second or third floor windows of the subject structure.

(h) Vending machines shall not be located within 25 feet of the sidewalk and shall not be placed within the area defined as a shopfront in paragraph (1) of this section.

G. SIGNS AND COMMERCIAL ADVERTISING

(1) Signage materials shall be in harmony with the rest of the facade materials and be easily maintained, such as: treated fabric; natural or painted wood; metal; cut-out letters of metal, wood, or plastic; and individual painted letters.

(2) Signs on a building should be placed where they conceal the least amount of architectural detail.

(3) Signs may be a maximum of thirty (30) inches high and project not more than eight (8) inches from the outside face of the exterior wall. All signs shall be designed to be harmonious with the design of the building facade and the neighboring structures. The maximum allowable sign area shall be two times the frontage of the building in feet. Sign area shall be construed to include space between letters.

(4) Lettering applied to ground floor show windows or entrance doors shall not exceed four (4) inches in height and shall be limited to 50% of the glazed area. Signs identifying the occupant shall be permitted at rear entrance doors but shall not exceed six (6) square feet in size and shall be nonluminous.

(5) Signs may be painted on the inside surface of the shopfronts but must be designed to be compatible with the design of the entire facade. Signs painted on the facade or on the inside glass should be limited to lettering no greater than six (6) inches in height. When these signs are the only identifying sign for the property, twelve (12) inch lettering is permissible. These signs shall not exceed twenty percent (20%) of the area of the shopfront window.

(6) Non-illuminated secondary signs shall be permitted for the identification of commercial tenants occupying the upper floors of a building. These signs shall be designed to be

harmonious with the facade of the building. Each tenant shall be allowed one sign to be limited to 6 sq. ft. in area. Such signs may be perpendicular to the building but must be limited to 6 sq. ft. and may not project more than 3 ft. from the building exterior wall.

(7) "Temporary" signs may be displayed within shopfront windows provided that these signs are not larger than twenty percent (20%) of the square footage area of the window in which they are displayed and are on display not more than thirty (30) consecutive days.

(8) Permanent signs on the building facade shall be limited to signs identifying the business.

(9) If the shopfront design includes a cornice, the sign shall be incorporated in the cornice design or shall be placed in the shop window. If a shopfront cornice is not used, the sign shall be placed either in the shop window or on the portion of the building facade above the shop window and below the sill of the second floor windows.

(10) Flat signs may not be luminous but may be illuminated by any acceptable method listed below in the Lighting section.

(11) Flashing or moving signs other than barber poles shall not be permitted.

(12) Rooftop signs, above the parapet of the building, billboards, or outdoor advertising signs painted or mounted on the buildings shall not be permitted.

(13) Signs projecting perpendicular to the building are permitted but must be limited to 6 sq. ft.

(14) No signs painted on buildings will be permitted.

(15) Freestanding commercial billboards other than signage identifying Takoma Junction shall not be permitted and shall be removed in their entirety.

(16) Abandoned and unused signs and billboards, including posts and structures, shall be removed from premises within thirty (30) days of disuse.

H. LIGHTING

(1) Exterior lighting shall be limited to lighting fixtures designed to be in harmony with the character of the buildings and streetscape design intent. Such fixtures shall be mounted in the entrance ways and on the front facade of the building. Flood lighting concealed above storefront roofing may be used to light the facades of buildings. Lighting of the shops is encouraged during evening hours. Lighting of the facades of the buildings may be accomplished with projecting

fixtures at the roofline or at the storefront cornice line. Such fixtures shall be inconspicuous, harmonious with the design of the building, and project no more than twenty-four (24) inches from the face of the building.

(2) The following lighting methods are permitted:

(a) Fully recessed downlights or wallwashers in projecting metal boxes.

(b) Shielded fluorescent lamps with diffusers in projecting metal boxes.

(c) "Gooseneck incandescent," porcelain enamel reflector on bent metal tube arm. Housing should prevent glare at pedestrian eyeline.

(d) Individually back-lit letters or signs.

(3) The following lighting methods are not permitted to illuminate the front of any building or any side fronting on a major street:

(a) Exposed fluorescent lighting.

(b) Exposed quartz or mercury vapor lamps.

(c) Exposed incandescent lamps other than low wattage, purely decorative lighting.

(d) Flood lights which result in glare to pedestrians, vehicles, or occupants of buildings.

(4) Lights shall not blink, black out, flash, or have any mechanical motion.

(5) Electrical elements such as wires, conduits, junction boxes, transformers, ballasts, switches, and panel boxes shall be in metal conduit or otherwise concealed from view or integrated into the building design.

I. COLORS

(1) There should be continuous color treatment both in the overall base color and the trim accent color to create a unified appearance.

(2) All painting shall attempt to highlight existing architectural detailing of the building.

(3) Individual buildings should be one base color for cohesiveness. Building individuality is encouraged through accent colors, graphics, awnings, and signage.

J. REAR AND SIDE YARDS

(1) All yards should be neat in appearance and should not in any way obstruct passersby, nor detract from the appearance of the building.

(2) An unenclosed rear yard may be used as a parking or loading area providing that it is properly surfaced or paved with the use of gravel, asphalt, concrete, or other similar materials. Further, the yard should be illuminated and maintained.

(3) Merchants shall be responsible for the maintenance of their parking areas. No storage or trash containers shall be allowed in these areas except when housed in permanent structures of acceptable design. Commercial compactors in good repair shall be considered acceptable trash containers.

(4) All parking areas shall be effectively screened from adjoining residential property and shall have adequate landscaping and screening on property lines adjacent to public sidewalks.

(5) All outdoor refuse storage areas shall be screened from the view of adjacent properties and public rights-of-way. Screening shall consist of a masonry wall or durable fence or combination thereof, painted harmoniously, not less than four (4) feet in height. In lieu of such wall or fence, a compact evergreen hedge of not less than four (4) feet in height at time of original planting may be used.

(6) Method of refuse storage and collection shall be such that waste material will remain entirely contained at all times so as not to pose a potential or real litter problem to the area or its environs.

K. STANDARDS FOR REDEVELOPMENT

(1) New buildings should respect the traditional quality of the surrounding commercial area and of the residential neighborhood. They should be designed in such a way as to be consistent with the design standards and intent as outlined in this ordinance.

L. RELATIONSHIP OF MATERIALS, TEXTURE, AND COLORS FOR NEW DEVELOPMENT

(1) The relationship of the materials, texture, and color of the facade of a building should be visually compatible with the predominant materials used in the buildings to which it is visually related.

(2) All new buildings should attempt to create a richness of detail which will enhance the existing character and the

public improvements and be consistent with design standards and intent as outlined in this ordinance.

(3) The height of proposed buildings should be visually compatible with adjacent buildings and in conformance with zoning regulations.

(4) The shape of the roof of a building should be visually compatible with the buildings to which it is visually related both adjacent to it and within the commercial area overall.

(5) The relationship of solids to voids in the front facade of a building should be visually compatible with buildings, open spaces, and places to which it is visually related.

(6) The relationship of the width of the windows to the height of the windows in a building should be visually compatible with the buildings, open spaces, and places to which the building is visually related.

(7) The relationship of buildings to open space between it and adjoining buildings should be visually compatible with the buildings, open spaces, and places to which it is visually related.

(8) The relationship of the width of the building to the height of the front elevation should be visually compatible to the buildings, open spaces, and places to which it is visually related.

(9) Items placed next to the sides of a building such as walls, wrought iron, evergreen landscaping, fences, etc., should form cohesive walls of enclosure along the street. These items should ensure visual compatibility between the buildings and open spaces.

(10) The relationship of entrances and porch projections to sidewalks of a building should be visually compatible to the buildings, open spaces, and places to which it is visually related.

M. COMPLIANCE

(1) Rehabilitation - All business or property owners are encouraged to submit design plans for any exterior rehabilitation to the City Administrator before proceeding with work. Any owner benefitting from public financial assistance in meeting these design standards is required to submit design plans to the City Administrator before proceeding with work.

(2) Review of New Development - The City encourages the development of appropriate new development in the areas identified in the Commercial Revitalization Plan. The City requires the review and approval of developers' plans and specifications

with respect to their conformance with the provisions of the Commercial Revitalization Plan and design standards in order to achieve harmonious development of the designated area. The City also reserves the right to refuse to approve any such drawings, plans, or specifications that are not suitable or desirable for aesthetic or functional reasons; and in so passing upon such drawings, plans, and specifications, it shall have the right to take into consideration, but shall not be limited to, the suitability of the site plan, architectural treatment, building plans, elevations, materials and color, construction details, streets, sidewalks, and the harmony of the plans with the surroundings. The City shall inform the Montgomery County Department of Environmental Protection of its decision in each case.

N. DEMOLITION

(1) All applications for demolition permits shall be first submitted to the City of Takoma Park for review and approval. If the City finds that the proposal is consistent with the objectives of the Commercial Revitalization Plan, the City shall recommend approval by the Department of Environmental Protection. If the City finds that the proposal is inconsistent with the objectives of the Plan, the City shall recommend disapproval to the Department of Environmental Protection.

SECTION 2. THAT the following procedures for enforcement of these standards be adopted as integral to this ordinance.

A. NON-COMPLIANCE WITH DESIGN STANDARDS.

(1) Property owners shall be informed by the City Administrator or his appointed designee within three (3) months of the date of adoption of this ordinance of those properties determined not to be in compliance with this ordinance. Notice shall be in writing and shall include a statement of the corrective action required to bring the property into compliance with this ordinance.

(2) All properties subject to this ordinance shall be in compliance with its provisions within eighteen (18) months of the date of this notification by the City Administrator.

(3) Whenever the City Administrator or the Administrator's designee determines that a property is not in compliance with this ordinance, that official shall issue a notice of violation which shall be served on the property owner. The notice of violation shall:

(a) Be in writing and include a description of the property sufficient for identification;

(b) Include a statement of the reason or reasons why it is being issued;

(c) Include a restatement of the corrective action required to bring the property into compliance with this ordinance;

(d) State a reasonable time, not to exceed ten (10) working days, for the property owner to complete the corrective action necessary to bring the property into compliance with this ordinance.

The notice of violation shall be deemed to have been properly served on the property owner if it is served by personal delivery or if it is sent by registered or certified mail to the property owner's last known address or if the owner is served by any other method authorized by the laws of the state of Maryland.

(4) A procedure to appeal this notice of violation shall be established as follows:

(a) Any property owner may appeal the determination that the owner's property is not in compliance with this ordinance by filing a request for a hearing with the City Administrator within ten (10) working days of service of the notice of violation.

(b) The Mayor and Council shall appoint five (5) commissioners to decide, upon request by a property owner, whether properties subject to this ordinance are in compliance with its provisions. The commission shall be seated on an annual basis and shall consist of two (2) representatives of the business community, two (2) citizens at large, and one (1) individual with experience or expertise in urban planning.

(i.) Appointed commissioners shall disclose any financial interest they may have in properties affected by this ordinance.

(ii.) Should a conflict of interest be determined in conjunction with a hearing for non-compliance with this ordinance, a temporary alternate shall be appointed by the Mayor and Council.

(c) The commissioners appointed under subsection (b) above shall hold a fact-finding hearing to determine whether or not the property of an owner who has appealed is in compliance with this ordinance. Notice of the hearing and its time and place shall be given to the property owner and to any other persons known to the commissioners who may be affected by the determination. Such notice shall be prepared and transmitted in such form and process as the commissioners may prescribe. The hearing shall be open to the public. The commissioners may request from the property owner and other parties such information and documents as they may consider relevant. Any party to a hearing, at the party's option, may appear in person before the commissioners, or may appear by a duly authorized represen-

tative and may have the assistance of an attorney. The parties may present testimony and evidence which shall be given under oath or by affirmation. The parties may also cross-examine any witness presenting testimony at a public hearing. A verbatim record of the hearing shall be made. Upon request by any party to the proceeding, the City Administrator shall furnish such a party with a copy of the hearing record at such charges as are necessary to meet costs.

(d) The commissioners shall render their decision in writing, in such form and with such findings as they may prescribe. If the commissioners find, after the hearing, that the property is not in compliance with this ordinance, they may, at their discretion, extend the period for compliance with the provisions of this ordinance to a property owner who (1) has demonstrated that the property is under consideration for new development by submitting the design proposal, the financing proposal, and a letter of intent from the prospective developer; or (2) has initiated facade renovation and a plan and reasonable schedule for completion of the renovation satisfactory to the commission has been provided; or (3) documentation is provided to the commission demonstrating that the property under consideration is to be sold within a period of time to be prescribed as reasonable by the commission.

(5) Penalties for violations shall be as follows:

(a) Any violation of this ordinance not corrected within any extension period for compliance specified by the commissioners under subsection (3)(d) above shall be regarded as a municipal infraction. The fine shall be a minimum of \$25.00 per day, up to \$100.00 per day for each initial violation, and the maximum fine allowable by law for repeat or continuing violations. This section supercedes Sec. 1.17(b) of the City Code of Takoma Park, Maryland, 1972, as amended, and to the extent that they are inconsistent, the provisions herein shall prevail. The commission may not reduce or eliminate any fines imposed by the terms of this ordinance.

(b) Without limitation or election against any other available remedy, the City or any other aggrieved party may apply to a court of competent jurisdiction for an injunction enjoining any violation of this ordinance. The court shall award attorney's fees and costs to any party who succeeds in obtaining an injunction hereunder.

SECTION 3. Severability. In the event that it be judicially determined that any word, phrase, clause, sentence, paragraph, section, or part of this ordinance, or the application thereof to any person or circumstance is invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby, it being hereby declared that the remaining provisions of the ordinance with the word, phrase, clause, sentence, paragraph, section, or part, or the application thereof, so held invalid would have been adopted and approved.

Introduced by:
Councilmember D'Ovidio

ORDINANCE NO. 1985-21

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

- SECTION 1. THAT the Fiscal Year 1985 City Budget set aside \$3,300 for the purchase of trees; AND
- SECTION 2. THAT bids were solicited from qualified suppliers and advertised for two consecutive weeks in two weekly newspapers of local circulation; AND
- SECTION 3. THAT bids were publicly opened at 3:00 PM, February 27, 1985, with one bid meeting all specification requirements having been received from Behnke Nurseries Company, Beltsville, Maryland.
- SECTION 4. THAT Behnke Nurseries Company has submitted the required notarized statement certifying that company is not involved in the nuclear weapons industry or the sale of merchandise produced by companies so involved.
- SECTION 5. THEREFORE THAT the bid of Behnke Nurseries for the following varieties of trees in the amount of THREE THOUSAND, THREE HUNDRED DOLLARS (\$3,300) is hereby accepted:
- 14 Quercus acutissima (Sawtooth Oak), 2" diameter, balled and burlaped for 6 months, including delivery and 6 months warranty;
 - 14 Quercus phellos (Willow Oak), 2" diameter, balled and burlaped for 6 months, including delivery and 6 months warranty.
- SECTION 6. THAT funds to cover this purchase in the amount of \$3,300 be appropriated from the capital expenditures account, #995.

ADOPTED BY THE CITY COUNCIL MARCH 11, 1985.

Introduced by:
Councilmember Iddings

1st reading: 3-11-85
2nd reading:

ORDINANCE NO. 1985-

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the Takoma Park Historic Preservation Committee has requested certain changes in Ordinance No. 2608, to provide for two-year terms and to remove limitations on the number of terms an individual may serve.

SECTION 2. THEREFORE THAT Section 4.B., Article 2, of Ordinance No. 2608, adopted May 10, 1982, be amended to read as follows:

B. Term. The term of members of the committee shall be for a period of two years, with appointments to begin on January 1 or July 1. Interim appointments may be made by the Committee, but must be formally approved by Council appointment during the following January or July.

SECTION 3. THAT this ordinance shall become effective upon adoption.

Introduced by:

3-11-85
1st reading: ~~2-25-85~~
2nd reading:

ORDINANCE NO. 1985-

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the Recreation Department be authorized to employ the professional services of The Interprofessional Planning and Design Studio, Ltd. (IPDS), 802 Sligo Avenue, Silver Spring, Maryland, for the landscape improvement of the Eastridge Park located on the west side of Eastridge Avenue, adjacent to 8308 Eastridge Avenue and approximately 100 feet south of Roanoke Avenue, Lot 16, Pt. 13, Pt. 15, Bl 56B, BFG under the Takoma Park Community Development Block Grant Program.

SECTION 2. THAT IPDS will provide detailed plans, working drawings, specifications, assist in soliciting bids, consultations and construction supervision for the park for a fee not to exceed \$2,500.00, and other items supplied and extra work not to exceed \$500.00.

SECTION 3. THEREFORE, THAT funds in the amount not to exceed \$3,000.00 (THREE THOUSAND DOLLARS) to cover the services of Interprofessional Planning and Design Ltd. be allocated from YEAR 10 CDBG Funds.

Introduced by:

ORDINANCE NO. 1985-

3-11-85
1st reading: 2-25-85
2nd reading:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT the Recreation Department be authorized to employ the professional services of the Landscape Group, 206 Lincoln Avenue, Takoma Park, Maryland, for the landscape improvement of the Jackson/Boyd Park located at 7312 Jackson Avenue, Pt. Lot 10, Bl 91, Beale's Addition to Takoma Park, under the Takoma Park Community Development Block Grant Program.

SECTION 2. THAT the Landscape Group will provide the schematic design and design development, construction drawings and specification, construction coordination and assist in soliciting bids for an estimated fee of 10% of the construction budget or \$3,120.00.

SECTION 3. THEREFORE, THAT funds in the amount not to exceed \$3,120.00 (THREE THOUSAND ONE HUNDRED TWENTY DOLLARS) to cover the services of the Landscape Group be allocated from YEAR 10 CDBG Funds.

Introduced by: Councilmember Bradley

1st reading: 2-25-85
2nd reading: 3-11-85

ORDINANCE NO. 1985-22

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT proposals were solicited and advertised according to law for qualified firms to serve as the City's auditor for a three-year period, beginning in Fiscal Year 1986; AND

SECTION 2. THAT six CPA firms submitted proposals, which were subsequently reviewed by an ad hoc Auditor Selection Panel; AND

SECTION 3. THAT the Panel has recommended retention of the firm Peat, Marwick, Mitchell & Co.

SECTION 4. THEREFORE THAT the proposal of Peat, Marwick, Mitchell & Co. to perform the City's auditing functions for a three-year period beginning in Fiscal Year 1986 for the quoted amount of \$54,550.00 is hereby accepted.

ADOPTED BY THE CITY COUNCIL MARCH 11, 1985.

RESOLUTION 1985-5

WHEREAS, the State of Maryland requires that a recipient of a loan from the Maryland Industrial Commercial Redevelopment Fund (MICRF) will make a good faith effort to obtain minority participation; AND

WHEREAS, this Resolution will establish minority and female participation goals to be followed during the construction phase of the Norton Development Project as required by the Minority Business Enterprise Plan; AND

WHEREAS, the City of Takoma Park, in concert with the developer has agreed to adopt the following two (2) goals:

Goal 1: To subcontract at least 10% of the total project construction costs to minority-owned firms (\$17,550). Minority owned firms are considered to be firms that are 51% owned by the following minorities:

- a. Black Americans
- b. Hispanic Americans
- c. Asian Americans
- d. American Indians, American Eskimos, American Aleuts
- e. Females
- f. Handicapped (including non-profit workshops)

Goal 2: Ten per cent (10%) of the construction workers of non-minority firms working on the site will be minorities.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Council of the City of Takoma Park, Maryland adopt the above-stated minority participation goals for the Norton Development Project.

MARCH 11, 1985.