

REPORT – ORDINANCE COMMITTEE
February 3, 2025

The Standing Committee on Ordinances and Rules to which was referred the following reports as follows:

#1 on agenda

1. Ordinance: An Ordinance to adopt a new section of the Zoning Ordinance to establish the Fair Grounds Overly District for mixed-use residential, commercial, and light industrial uses for the parcel identified in the ordinance, containing approximately 66.685 acres.

having considered the same, report FAVORABLE AS AMENDED by Motion of Councilor Rodrigues, 2nd by Councilor Griffin.

MINUTES – ORDINANCE COMMITTEE
February 3, 2025

Held in City Council Chambers at Brockton City Hall. The Standing Committee on Ordinances and Rules was called to order at 5:40 p.m. by Councilor Asack, Farwell, Lally, Rodrigues, Teixeira and Griffin present.

Agenda read into the record.

The Committee first considered the following:

#1 on agenda

Comments by Councilor Farwell

(met on 8th of January, dialog back and forth with developer and legal counsel, challenge to have the parties come together for improvement on what was submitted, meeting held, thanks to those involved)

Comments by Councilor Griffin

(all for the project from the get go, transform city of Brockton, modern city, 66 acres, qualified development, 600 million-1 billion in the city, revenue to generate, change how business is handled in Brockton, future development on Belmont street, wants to get this moved forward into council)

Comments by Mayor Robert Sullivan

(excited about project, big job ahead, lawyers working on this, goal of overlay, success with Thatcher Street, medical marijuana, Fairgrounds most important piece of property in Brockton, Belmont is the new main street, statute for the fairgrounds, make sure it's the right development, housing, supports the ordinance, thanks the planner and solicitor, game changer, traffic flows, entrance to Brockton High, financial boom for tax base, only get one shot)

Comments by Rob May, Director of Economic Planning and Development

(most important parcel, future and present of Brockton, original ordinance had concerns, back to table and worked with developer and their attorney, use of Thatcher Street as a template, striking where needed and replacing with this language, in the future will discuss amendments)

Comments by James Burke, Attorney for Copper Mill Development

(fully understands impact and benefits to be done right, young developer, 5,700 units in Boston and surrounding areas, skeletal ordinance submitted for discussions, progress over the last 3 weeks, changes different of proposal with some changes, 40R language used, some language are modifications, looking for developer's proposal to be discussed, second reading and third reading, conversations will continue, legislative decision to proceed, exciting project,

interest in housing, looking to have something going in the 2nd quarter of this year, hopes this is moved forward tonight, planning board would need to re-do)

Comments by Megan Bridges, City Solicitor

(excellent framework and everyone's work has been commendable, draft tonight built on collect work, there are a few differences, city has an opinion that are different than those of Attorney Burke, map to show what area we are talking about, huge parcel and small parcel for about 44 acres, townhomes, other parcels to be for future conversations, 1,500 units by right, percentage of green space, permit granting authority, agreement on other aspects)

Comments by Andrew Flynn, Copper Mill Development

(responsibility for fairgrounds site, measured approach, still more work to be done, collaborative process, realize modifications for future readings, continue to the work)

Motion by Councilor Farwell to accept changes proposed by Law Department and Legislative Counsel, 2nd by Councilor 2nd by Councilor Rodrigues.

Legislative Counsel read changes adopted in the form of a Motion. Copies of the Amendment is attached with these minutes.

Motion carried unanimously.

Comments by James Burke, Attorney for Copper Mill Development

(wants the 46 acres to proceed under the overlay, vast majority was taken verbatim, uses from 1967, in original language, important because of some preliminary comments, uses to remain as part of allowed uses)

Comments by Councilor Farwell

(true anyways?)

Comments by Councilor Rodrigues

(1967 uses examples?)

Comments by James Burke, Attorney for Copper Mill Development

(commercial storage, vehicles parked industrially, school buses parked, C-2 allowed but some disagreement with building department)

Comments by Councilor Rodrigues

(beautification)

Comments by Andrew Flynn, Copper Mill Development

(less than a dozen open items, roots in Brockton, believers in Brockton, inadvertent barriers to entry, not to be in front of ZBA)

Comments by Megan Bridges, City Solicitor
(already a process to establish pre-existing nonconforming uses, any prior lawful use is preserved, we do not need it)

Comments by Councilor Rodrigues
(agrees with the Solicitor, scares to hear about pre-existing, funny feelings, for the project and moving forward, uneasy feeling as to why this was put in there)

Comments by James Burke, Attorney for Copper Mill Development
(okay to move on)

Comments by Councilor Farwell
(triage, what are so objectionable needs to be discussed tonight)

Comments by James Burke, Attorney for Copper Mill Development
(site plan review, statement of commitment)

Comments by Councilor Farwell
(enforcement? Meaning of unreasonable delay, why not put in a timeframe?)

Comments by James Burke, Attorney for Copper Mill Development
(statement to planning board, willing to discuss days)

Motion by Councilor Rodrigues to Amend to include “S Site Plan Review shall proceed expeditiously within ninety (90) days of submission of the application, with time being of the essence, and without any unreasonable delay.”, 2nd by Councilor Farwell. Motion carried unanimously.

Comments by James Burke, Attorney for Copper Mill Development
(traffic issue, development will have impact on traffic)

Comments by Councilor Farwell
(planning board or zoning board)

Comments by James Burke, Attorney for Copper Mill Development
(planning board to do site plan, suggests planning board for waivers)

Comments by Megan Bridges, City Solicitor
(thoughtful overlay, 1,500 units – 2,000 units by right, developer has always wanted planning board, but not traditional, development is preplanned, past 2,000 units to go before the planning board, synergy, special permit granting is always the ZBA, being asked to remove specific criteria, only direction would be what is in here, not what they normally do)

Comments by James Burke, Attorney Copper Mill Development

(problem for denials, discretionary like a special permit, takes it out of as of right project, financing for big project)

Comments by Councilor Farwell
(true for projects)

Comments by Megan Bridges, City Solicitor
(restrict language to building above as of right units, should apply to special permit needed units)

Comments by James Burke, Attorney Copper Mill Development
(agrees to discussion on conditional approval, remainder to be discussed by developer)

Comments by James Burke, Attorney Copper Mill Development
(hard to comply with all of them with one, moderate slightly, sidewalk language to leave, dumpster language, green space moved to 20%, mixed use language on other perimeter streets, could exclude Thurber Ave, parking)

Motion by Councilor Rodrigues to report FAVORABLE AS AMENDED, 2nd by Councilor Griffin. Motion carried unanimously.

Motion to adjourn by Councilor Rodrigues, 2nd by Councilor Farwell. Motion carried unanimously.

The meeting was adjourned at 6:44 p.m.

Documents: Law Department/Legislative Counsel Edits Track Changes, Clean Version, Developer changes

ATTACHMENT: Copy of Amended Ordinance

ORDINANCE

AN ORDINANCE AMENDING CHAPTER XXVII OF THE REVISED ORDINANCE OF THE CITY OF BROCKTON

Be it ordained by the City Council of Brockton as follows:

Chapter 27. Zoning is hereby amended by adding the following new Section the “**Fair Grounds Overlay District**” as follows:

Sec. 27- **Generally**

1. *Purpose.* The purpose of the Fairgrounds Overlay District is to provide opportunities for new multifamily residential development, while ensuring high quality site planning, architecture and landscape design that includes new construction; and to provide for a diversified housing stock within the neighborhood at a variety of costs including senior housing, and in housing types that meet current and projected future needs of the city's population.
2. *Establishment and Delineation of the Fairgrounds Overlay District.* The Fairgrounds Overlay district is an overlay district that is superimposed over the underlying C-2 zoning district. The boundaries of the Fairgrounds Overlay are delineated as existing lots known as PARCEL IDs: 026-116 and 029-045. These two sites are comprised of approximately 46.56 acres of land.
3. *Site plan review.* Development within the Fairgrounds Overlay District shall require Site Plan Review in accordance with the procedures provided in Section 27-[].
4. *Approvals.* The permit granting authority for Site Plan Review and the granting of waivers from the requirements of this section will be the Brockton Planning Board. Their approval shall be a written authorization which includes the (i) Criteria for Approval set forth at Section 27-89 subsections 1-6, insofar as such criteria ensure there will be reasonable use of the proposed site with the Fairgrounds Overlay District, and (ii) any waivers deemed necessary and appropriate by the Planning Board, acting as a permit granting authority and shall be recorded and enforced by the City of Brockton like special permits issued by the zoning board of appeals, but such a permit shall not be considered a special permit subject to the procedural requirements of M.G.L chapter 40A or chapter 27 of the Revised Ordinances of the City of Brockton.
5. *Development Agreement.* Prior to the issuance of any building permits for the development of any parcel or sub parcel within the Overlay District the Owners and Developer shall enter into a reasonable Development Agreement with the City of Brockton for that parcel relating to such issues pertinent to the parcels in question.

Sec. 27- Definitions

As used in this article, the following terms shall have the meanings set forth below:

Active Use – retail, restaurant, recreation, entertainment, and arts are considered Active Uses

Affordable housing—Housing that is affordable to and occupied by eligible households.

Affordable housing restriction—A deed restriction of an affordable housing unit meeting statutory requirements in M.G.L.A. c. 184 § 31 and the requirements of Section 27-[] .

Affordable rental unit—A dwelling unit required to be rented to an eligible household per the requirements of Section 27-[] .

Affordable homeownership unit—A dwelling unit required to be sold to an eligible household per the requirements of this article.

Approving authority / Plan Approval Authority (PAA)—The planning board of the City of Brockton acting as the authority designated to review projects and issue approvals under this article.

As-of-right development—A development project allowable under this article without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A development project that is subject to the Site Plan Review requirement of this article shall be considered an as-of-right Development.

Curb level—For the purposes of measuring building height, the level of the curb in front of the center of the building or portion thereof under consideration. Where no curb level has been established, the level of the ground at the center of the traveled portion of the street shall be considered the equivalent of the curb level, and where the building does not adjoin the street, the average level of the proposed grade line of the ground immediately adjacent to the building as shown on the building plans shall be considered as the curb level.

Common ownership – Two (2) or more lots within the Fairgrounds Overlay District shall be deemed to be in common ownership if majority control of each is held by a common entity.

Design standards—Standards for the appearance and construction of development listed in Section 27-[] that are applicable to all development projects within the Fairgrounds Overlay District subject to Site Plan Review by the approving authority.

Development project or project—A development undertaken pursuant to this article, including the construction, reconstruction, conversion, alteration, relocation, enlargement

or substantial rehabilitation of any structure(s) or building(s) on a lot or lots within the Fairgrounds Overlay District.

Dwelling unit—One (1) room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same building and containing independent cooking and sleeping facilities. The following types of dwelling units are specifically defined:

- (1) *Two-family* – A detached residential building containing two (2) dwelling units, either vertically or horizontally adjacent, designed for occupancy by not more than two (2) families.
- (2) *Three-family* – A residential building containing three (3) dwelling units, , either vertically or horizontally adjacent designed for occupancy by not more than three (3) families.
- (3) *Multifamily*—A residential building containing four (4) or more dwelling units designed for occupancy by the same number of families as the number of dwelling units.
- (4) *Townhouse/Row House* —Attached multi-story row housing containing four (4) or more dwelling units in the aggregate.

Eligible household – An individual or household whose annual income is at or below one hundred twenty (120) percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD’s rules of attribution of income to assets.

Institutional use – A nonprofit or quasi-public use or uses , such as a church, library, public or private school, or municipally owned or operated building, structure or land, used for public purpose.

Mixed-use development project – A development project containing a multi-family residential use over at least one (1) floor of Active Uses where the active use is not less than fifty percent (50%) of the first-floor area and provided that separate and distinct building entrances are provided for residential and nonresidential uses.

Nonresidential use – Office, retail, restaurant or institutional use, inclusive, or some combination of the same, not located within a mixed-use development project.

Restaurant – Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

Retail use – Business establishments selling goods and/or services to customers on site, generally for end use personal business or household consumption. A reasonable

amount of storage of said goods shall also be assumed to be an integral part of Retail Use.

Parties in interest—The petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list.

Site plan—A plan depicting a proposed development project for all or a portion of the Fairgrounds Overlay District and which is submitted to the approving authority for its review and approval in accordance with the provisions of Section 27-148.

Site plan approval or plan approval—The approving authority's authorization for a proposed development project based on a finding of compliance with this article and design standards after the conduct of a site plan review.

Site plan review—The review procedure established by this article and administered by the planning board of the City of Brockton, acting solely in its capacity as the approving authority.

Underlying zoning—The zoning requirements adopted pursuant to M.G.L.A. c. 40A that are otherwise applicable to the geographic area in which the Fairgrounds Overlay District is located, as said requirements may be amended from time to time.

Unrestricted unit—A dwelling unit that is not restricted as to rent, price or eligibility of occupants.

Use, accessory—A use subordinate to the principal use on the same lot or in the same structure and serving a purpose customarily incidental to the principal use, and which does not, in effect, constitute conversion of the principal use of the lot, site or structure to a use not otherwise permitted in the smart growth district. Accessory uses are permitted or prohibited in the Fairgrounds Overlay District to the same extent as if such uses were principal uses.

Use, principal—The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this article.

Sec. 27- Permitted Uses.

1. Residential - Permitted as of right uses. Any principal permitted use as stated in Section 27-276, with any number of Dwelling Units, up to 1500 units, including but not limited to residential group development as defined in Section 27-61. Any units in excess of 1500 require a Special Permit from the Planning Board. Any use not specifically permitted in this article is considered prohibited.

2. *Residential - Standards.* The following dimensional standards shall apply to Residential buildings within the Fairgrounds Overlay District:

Building Height (maximum)	Seven (7) stories or eighty-five (85) feet.
Lot area (minimum)	None
Lot frontage (minimum)	None
Lot depth (minimum)	Townhouse: 150 feet
Yards (minimum)	
Front	Single Family/Two Family/Townhouse: 20 feet Three Family/Multifamily: none
Side	Single Family/Two Family/Townhouse: 20 feet Three Family/Multifamily: none
Rear	Single Family/Two Family/Townhouse: 40 feet Three Family/Multifamily: 5 feet
Floor area ratio	None
Green space (minimum)	25%

- a) *Green Space.* For purposes of this provision, Green Space may be satisfied with active or passive recreational use, and may be provided on the roof or at grade.
- b) *Age-restricted housing units* – An applicant may propose a residential or mixed-use development project in which all dwelling units are designed for or accessible to the elderly or the handicapped under all applicable laws and regulations. All such development projects shall be governed by the requirements of this article and applicable Design Standards.

3. *Mixed-Use Provisions*

Building Height (maximum)	Seven (7) stories or eighty-five (85) feet.
Lot area (minimum)	None
Lot frontage (minimum)	None
Lot depth (minimum)	None
Yards (minimum)	
Front	None
Side	None
Rear	None
Floor area ratio	None
Green space (minimum)	5%

- a) *Building Separation.* Multiple buildings shall be allowed on any site within the Fairgrounds Overlay District provided that if the buildings are not connected above-grade there is a minimum setback of (20) feet between each structure above-grade.
- b) *Mixed-Use Development.* May only abut West Street.

4. *Prohibited uses*

- a) Any use which emits strong odors, dust particles, smoke, or poses any danger, such as manufacture of acids, gases, fertilizers, glue, petroleum refining, reduction of animal matter, cement, gypsum, or explosives.
- b) Any other use dangerous to persons within or outside the district by reason of emission of odor, fumes, gases, particulate matter, smoke, noise, vibration, glare, radiation, electrical interference, threat of fire or explosion, or any other reason.
- c) Any use not listed as a permitted as of right use is expressly prohibited.

5. *Parking*

- a) *Residential.* A minimum of one point five (1.5) parking spaces per residential unit. Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking provided; however, on-site surface parking shall not provide more than thirty percent (30%) of the required parking per project.
- b) *Active Uses within a Mixed-Use Development.* There shall be no minimum parking requirement for parking accessory to an Active Use.
- c) *Disability access.* Parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act (ADA).
- d) *Parking Waiver.* The Planning Board has the authority to grant a waiver from the parking ratio requirements of this section for up to a 50% reduction in required parking provided that the Planning Board finds, in addition to any requirements set forth in Section 27-[__].2, that the mixed-use nature of the development reduces overall vehicular demand, or that the project is implementing transportation demand measures to reduce vehicular demand and/or impacts from the project.

- e) *Off-Street Parking.* Any required parking, except required accessible parking spaces, may be provided on any other parcel located within the Fairgrounds Overlay District by a cross parking agreement.
- f) *Location and buffering of surface parking.* Any surface parking lot shall, to the maximum extent feasible, be located at the rear of a building, relative to any public right-of-way, public open space, or pedestrian way. Surface parking areas shall be shielded from the public right-of-way, public park space or pedestrian way by a seven (7) foot wide landscaped buffer yard. The buffer yard shall be separated into a two (2) foot auto overhand area and a five (5) foot wide densely planted landscaped area, the two (2) areas separated by a four (4) foot non-obscuring decorative metal fence. A row of deciduous shade trees shall be planed in the landscaped area, not less than one (1) tree for each twenty-five (25) feet of frontage.

Sec. 27- Design standards.

Design Standards for the Fairgrounds Overlay District will be adopted by the Planning Board and recorded.

(1) *Architecture and buildings.*

a. *Materials.*

- (1) Structures shall convey a sense of quality, durability and permanence. Buildings shall use materials that are durable, economically maintained, and of quality that will retain their appearance over time.
- (2) Building facade materials permitted within the district include but are not limited to brick, wood, cementitious fiber board, manufactured limestone, cast stone, masonry, stone, glass, cellular PVC trim, aluminum, and tile.
- (3) A combination of materials shall be used in order to create visual interest.
- (4) Windows may include aluminum, wood, or fiberglass for the purposes of achieving energy efficient design.

b. *Grade.*

- (1) To increase privacy, the elevation of the first floor of a residential building shall be three (3) feet above the adjacent grade.

c. *Features.*

- (1) Building roofs may generally include: dormers, cornices, pitched roofs, and flat roofs;
- (2) Windows may include: fixed, single or double-hung, casement, hopper or awning;
- (3) Residential buildings may be sited to allow for front steps, balconies, planted front setbacks with raised front entrances, and front and/or rear porches.

- (2) *Landscaping.* The following should be taken into account:
 - a. Drought tolerant and native non-invasive plant species that require minimal irrigation and fertilizer shall be selected.
 - b. Preservation of significant existing trees or other native site vegetation should occur as practical.
 - c. Residential Buildings shall have foundation landscaping where practical.
 - d. Amenities may include, but not be limited to, bicycle racks, street furniture, fences, stone walls, courtyards, playgrounds, gazebos, water features, and picnic benches.
- (3) *Site lighting.*
 - a. Lighting shall not create overspill onto adjacent properties or upwards into the night sky except per subsection 2(b).
 - b. Uplighting is encouraged when used as follows:
 - (1) To light entrances.
 - (2) To light site signage.
 - (3) To light architectural features.
 - c. Lighting should be provided for sidewalks and paths that link buildings with public spaces and parking areas, wherever practical.
- (4) *Stormwater management.*
 - a. Systems shall be designed to incorporate "Best Management Practices" (BMP) as prescribed by MA DEP, in addition to employing Low Impact Development (LID) strategies, where practical.
 - b. Comply with the Brockton Stormwater Ordinance
- (5) *Roadways.*
 - a. Vehicular circulation shall meet the needs of emergency and public safety vehicles based on reasonable requirements of the Brockton Chief of Police and Fire Chief.
 - b. Roadways shall be designed to encourage traffic calming and safety for pedestrians and bicyclists.
 - c. Sidewalks, crosswalks, and walkways should be provided as needed for connectivity within the district.
 - d. Sidewalks abutting Forest Avenue, Belmont and West Streets and other major internal circulations ways shall be no less than 15 feet wide.
- (6) *Dumpsters, utilities, service areas.*
 - a. All utilities shall be underground.

b. All dumpster shall be internal to the building.

(7) *Loading*: No loading shall be required for Residential developments under 20 units.

Loading for mixed-use properties shall reasonably be determined by the Planning Board.

Sec. 27- Administration.

(1) *Applicability*. Proposals for development projects in the Fairgrounds Overlay District shall require site plan review by the approving authority/plan approval authority. The approving authority may adopt administrative rules and regulations relative to the site plan approval process. Such rules and regulations and any subsequent amendments must be on file with the city clerk.

Site Plan Review shall proceed expeditiously within ninety (90) days of submission of the application, with time being of the essence, and without any unreasonable delay.

(2) *Pre-application review*. The applicant is encouraged to participate in a pre-application review at the office of the city planner. The purpose of the pre-application review is to obtain the advice and direction of municipal departments typically involved in the regulatory permitting process prior to filing the application. At the pre-application review the applicant shall outline the proposal and seek preliminary feedback from the office of the city planner and other municipal review entities.

(3) *Application procedures*.
The applicant and/or his/her agent are to complete an application form available from the city and submit site plans in accordance with Sections 27-87 through 27-89, inclusive.. The city clerk shall stamp the time and date received on this application form, which is the official date of the application.

(4) *Site plan review decision*.
Unless the time period for a decision is extended by written agreement between the applicant and the approving authority, the approving authority shall make a decision on the site plan application filed under Section 27-[] above, in accordance with Sections 27-86, 27-87, 27-88 and 27-89 and M.G.L.A. c. 40A. The time limit for public hearings and taking of action by the approving authority may be extended by written agreement between the applicant and the approving authority. A copy of such agreement shall be filed with the city clerk.

(5) *Criteria for conditional approval*. The approving authority may impose conditions on a development project as necessary to ensure compliance with this article and the design standards set forth in Section 27-[], or to mitigate any extraordinary adverse impacts of the development project on nearby properties and do not unduly restrict opportunities for development. The approving authority may allow construction of an approved development project to be phased for the purpose of coordinating the development project with:

a. Anticipated on-site or off-site infrastructure improvements;

- b. Securing of financial subsidies related affordable housing restrictions;
 - c. The review of other related permit applications on the site including but not limited to applications for a subdivision, or applications before the conservation commission, Board of Health/Department of Health and Human Services, or any state agency.
- (6) *Criteria for denial.* The approving authority may deny an application for site plan approval pursuant to this article only if it finds one (1) or more of the following:
 - a. The development project does not meet the conditions and requirements set forth in this article and applicable design standards.
 - b. The applicant failed to submit information and fees required by this article and necessary for an adequate and timely review of the design of the development project or potential development project impacts.
 - c. It is not possible to adequately mitigate significant adverse development project impacts on nearby properties by means of suitable conditions.
- (7) *Time limit.* A site plan approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within three (3) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multiphase development project.
- (8) *Appeals.* Pursuant to M.G.L.A. c. 40A, any person aggrieved by a decision of the approving authority must appeal to the superior court, the land court, or the district court within twenty (20) days after the site plan decision or notice under subsection 5(c) above has been filed in the office of the city clerk.
- (9) No certificate of occupancy shall be issued unless and until all deeds, covenants, contractual agreements, and other documents necessary to ensure compliance with this article have been submitted to and approved by the Permitting Authority's designee and the payment of all fees has been made.

Sec. 27- Fair housing requirement.

All development projects within the Fairgrounds Overlay District shall comply with applicable federal, state and local fair housing laws.

Sec. 27- Change in plans after approval by approving authority.

- (1) *Minor change.* After plan approval, an applicant may apply to make minor changes. Minor changes are those that do not qualify as a major change as defined in subsection (2) below. Such minor changes must be submitted to the approving authority on so-called "bubbled" prints of the approved plan, reflecting the proposed changes. The approving authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The approving authority shall set forth any decision to approve or deny such

minor change by motion and written decision within thirty (30) days after the applicant has filed the application, and the approving authority shall provide a copy of its decision to the applicant for filing with the city clerk and failure by the approving authority to act on a minor change application within thirty (30) days shall result in the deemed approval of the application and proposed change as a minor change.

- (2) Major change. Major changes shall be processed by the approving authority as an amendment for plan approval pursuant to this article, including a public hearing. Major changes shall include:
 - a. An increase to the proposed number of dwelling units by ten (10) percent or greater.
 - b. A decrease to the proposed number of parking spaces by ten (10) percent or greater.
 - c. An increase to the proposed number of parking spaces by ten (10) percent or greater, or by an amount that would require increases to the proposed design capacity of on-site stormwater management BMPs.
 - d. Increase or decrease to the footprint of any proposed residential structure by more than five thousand (5,000) square feet.
 - e. Movement of any automobile access point along the public right-of-way by more than thirty (30) feet.
 - f. Realignment of any interior roads or parking features that would make circulation of emergency response vehicles more difficult.
 - g. Any change that, in the opinion of the approving authority, could pose a threat to public health, safety, or welfare.

Sec. 27- Freeze during process; effectiveness and validity of plan approval.

- (1) An application to the approving authority for plan approval shall be governed by the applicable provisions of this article in effect at the time of the submission of the application, while the plan is being processed, during the pendency of any appeal, and for fifty-seven (57) years after the resolution of an appeal after plan approval. If an application is denied, such provisions in effect at the time of the application shall continue in effect with respect to any further application filed within two (2) years after the date of the denial, except as the applicant may otherwise choose.
- (2) A plan approval, and any and all minor changes thereto sought by an applicant, shall remain valid and shall run with the land indefinitely, and a project shall be governed by the applicable provisions of this article in effect at the time of the submission of the original application for such original plan approval (without regard to applications for minor changes) indefinitely, provided that construction of the project covered by such plan approval has commenced within three (3) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the project proponent is actively pursuing other required permits for the project or there is other good cause for the failure to commence construction, or as may be further extended as provided in a plan approval for a multiphase project. Such commencement of construction of the first phase of a project covered by such plan approval

within such three-year period, as so extended, shall constitute the timely commencement of construction of all phases of the entire project for the purposes of this article. No phase of a project shall be in violation of zoning on account of a violation of zoning solely by one (1) or more other phases of such project. For purposes of this article, commencement of construction shall include any material expenditure of funds on utility relocation, site work or environmental remediation, footings or foundation for any portion or phase of the project.

- (3) The approving authority may impose, but shall not be required to impose, such outside time limits for the commencement of the final phase of a phased project as it sees fit, provided that the earliest date for such required commencement of such final phase shall not be earlier than eight (8) years after the plan approval decision is issued, as extended as provided above, nor later than fifteen (15) years after the plan approval decision is issued, as extended as provided above, and further provided that any failure to meet such outside time limits shall only affect the right to construct the unbuilt phase(s) and shall not affect the previously constructed phase(s) or the respective rights of the same. In the event of a casualty affecting a building or structure which itself, or the use thereof, would be nonconforming with the provisions of this article but for the grandfathering provided by this section, such structure may be repaired, rebuilt and/or reconstructed, as necessary, provided that any such repair, rebuilding or reconstruction shall be commenced within three (3) years after the date of such casualty, and shall thereafter be diligently and continuously prosecuted to completion. Except as provided in any one (1) or more of the preceding sentences of this subsection, any amendment to this article shall apply to building permits applied for after the first notice of public hearing on such amendment.
- (4) The owner of a project, or applicable portion thereof, may choose to waive the benefit of the provisions of this section in writing.
- (5) No further plan approval, special permit, variance or the like shall ever be required to reconstruct a project, or portion thereof, following any casualty.

Sec. 27- Date of effect.

The effective date of this article shall be the date on which such adoption is voted upon by the Brockton City Council pursuant to the requirements of M.G.L.A. c. 40A § 5 provided, however, that an applicant may not proceed with construction pursuant to this article prior to the receipt of final approval of this article and accompanying zoning map by the department of housing and community development.

Sec. 27- Severability.

The provisions of this article are severable. If any provision of this article is held invalid, the other provisions shall not be affected but shall remain in full force.

Be it further ordained pursuant to Section 27-5 of the City Ordinances “Zoning Map” whereby reference is made to and incorporation of said boundaries of each of the zones establishes as shown on the map entitled, “The City of Brockton, Massachusetts Zoning District Map” dated November 10, 1967, and thereafter amended, that said map be amended to reflect the following zoning change:

PARCEL IDs: 026-116 and 029-045. C-2/Fairgrounds Overlay District