

Appendix B

**Section 35. Nonconforming
Buildings and Uses**



SECTION 35. NONCONFORMING BUILDINGS AND USES

A. Nonconforming Buildings.

1. *Maintenance Permitted:* Nonconforming buildings or structures may be maintained, except as otherwise provided in this section.
2. *Repairs--Alterations:* Repairs and alterations may be made to a nonconforming building or structure; provided, that no structural alteration shall be made except those required by law or ordinance.
3. *Additions--Enlargements--Moving:*
 - a. A nonconforming building or structure shall not be added to or enlarged in any manner unless such building or structure, including such additions and enlargements, is made to conform to all the regulations of the district in which it is located.
 - b. A building or structure which does not comply with the height or area regulations shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all the regulations of the district in which it is located; provided, that the total aggregate floor area included in all such separate additions and enlargements does not exceed fifty (50) percent of the floor area contained in said building or structure, at the time this ordinance became effective.
 - c. A building or structure lacking sufficient automobile parking space in connection therewith as required in Section 33 may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of Section 33.
 - d. Nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the district in which it is located.
4. *Restoration of Damaged Building:* A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, to the extent of not more than seventy-five (75) percent of its value, exclusive of foundations at that time, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided the total cost of such restoration does not exceed seventy-five (75) percent of the value, exclusive of foundations of the building or structure, at the time of such damage and that such restoration is started within a period of one (1) year and is diligently prosecuted to completion. In the event such damage or destruction exceeds seventy-five (75) percent of the value exclusive of foundations of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the district in which it is located.
5. *One-year Vacancy:* A nonconforming building, structure or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.
6. *Removal:* In all "R" Districts, every nonconforming building or structure which was designed, arranged or intended for a use permitted only in the "C," "CM" and "M" Districts but not in the "R" Districts, shall be completely removed, or altered and converted to a conforming building, structure and use when such buildings or structures have reached, or may hereafter reach, the ages hereinafter specified, computed from the date the building permit therefor was issued; in the case of buildings defined in the County Building Code 6/ as Type I, forty (40) years; Types II and III, thirty (30) years; and Types IV and V, twenty (20) years; provided, however, that this regulation shall not become operative until ten (10) years from the effective date of this ordinance.

B. Nonconforming Use of Buildings.

1. *Continuation and Change of Use:* Except as otherwise provided in this section:
 - a. The nonconforming use of a building or structure, existing at the time this ordinance became effective, may be continued;

- b. The use of a nonconforming building or structure may be changed to a use of the same or more restricted classification, but where the use of a nonconforming building or structure is hereafter changed to a use of a more restricted classification, it shall not thereafter be changed to a use of a less restricted classification; and
 - c. A vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one (1) year after the effective date of this ordinance, and the use of a nonconforming building or structure which becomes vacant after the effective date of this ordinance, may also be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one (1) year after the building becomes vacant.
2. *Expansion Prohibited--Discontinuance:* A nonconforming use of a conforming building or structure (i.e., commercial use in a dwelling, etc.) shall not be expanded or extended into any other portion of such conforming building or structure, nor changed except to a conforming use. If such a nonconforming use or portion thereof is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located; provided, however, that all nonconforming uses of conforming buildings or structures shall be discontinued not later than three (3) years from the effective date of this ordinance, provided, further, however, that the board of zoning appeals may grant a variance from the strict application of this section.

C. Nonconforming Use of Land.

1. *Continuation of Use:* The nonconforming use of land (where no main building is involved), existing at the time this ordinance became effective, may be continued for a period of not more than three (3) years therefrom, provided:
- a. That no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.
 - b. That no such nonconforming use of land or any portion thereof is discontinued or changed, [and if so, that] any future use of such land shall be in conformity with the provisions of this ordinance.
 - c. That any sign, billboard, commercial advertising structure or statuary, which is lawfully existing and maintained at the time this ordinance became effective, may be continued although such use does not conform with the provisions hereof; provided, however, that no structural alterations are made thereto; and provided, further, that all such nonconforming signs, billboards, commercial advertising structures and statuary, and their supporting members shall be completely removed from the premises not later than three (3) years from the effective date of this ordinance.

D. Nonconforming Due To Reclassification.

The foregoing provisions of this section shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of districts under this ordinance or any subsequent change in the regulations of this ordinance; provided, however, that where a period of years is specified in this section for the removal of nonconforming buildings, structures or uses, said period shall be computed from the date of such reclassification or change.

Appendix C

**Executive Summary of the
Deloitte & Touche Report,
*Location Trends in Technology Industries: Implications
for Shirlington, January 1999***



Executive Summary

The purpose of this project was to assess whether the Shirlington area of Arlington County can be positioned as an attractive location for high technology target industries. This assessment required two lines of study. First, the type of technology companies that provide a good fit with Arlington County and the Shirlington area were identified. Second, the sites and buildings demanded by the identified industries were defined and evaluated in terms of their feasibility for Shirlington.

Based on the factors described below, Deloitte & Touche believes Shirlington has the potential to meet the needs of select high tech sectors, if a series of challenges primarily related to site development can be successfully addressed.

Key findings include:

- Arlington is a high tech center by any definition of the term. 36% of employment is in high tech industries, a figure above the Northern Virginia average. Specifically, the high tech service sector has a strong presence in Arlington, especially:
 - engineering services
 - computer programming
 - computer related services, and
 - research firms

The distribution of high tech firms in Shirlington is consistent with these patterns, though at much smaller numbers, indicating these targets are appropriate to Shirlington as well as to the rest of the County.

- Arlington attracts firms in these sectors, because it meets their basic operational needs, including:
 - access to a skilled workforce
 - access to local and national customers
 - availability of business amenities and services
 - an appropriate image, and
 - availability of a suitable facilities

However, Arlington's relatively high BPOL tax on business services, such as computer programming, can negatively affect location decisions and was cited by some companies as a problem.

- Shirlington also meets many of these criteria. Shirlington's location is a positive factor for both employee commutes and ability to travel to client sites because of its access to I-395 and National Airport, and the fact that it is near the District and Arlington's commercial corridors. The Village at Shirlington also provides a positive image and services, such as restaurants, that increase the area's attractiveness. The



high tech companies already operating in Shirlington highly praise the area on all these counts.

- Shirlington's main drawbacks are:
 - the lack of suitable sites for development, and
 - a weak image in the marketplace as a technology location
- Redevelopment of Shirlington's Four Mile Run Drive has been proposed as a way to address the lack of suitable sites, but the following problems deter such activity:
 - existing industrial uses that are incompatible with the image most technology firms strive to convey
 - potential environmental problems
 - the narrow size of the parcels, and
 - numerous small parcels that would need to be consolidated

Other sites in the Shirlington area appear to have greater potential than Four Mile Run, including the Rosenthal Automotive site.

- The identified high tech sectors primarily need office space. They generally do not need industrial or flex space. However, an office building that offers flexibility in terms of ability to reconfigure the work space and ability to adapt to future telecommunications standards would be attractive.
- Real estate market factors also support development of an office building. Recent transactions demonstrate that land is expensive in Shirlington relative to other Northern Virginia jurisdictions with which Arlington competes for high tech business. These high land prices make development of multi-story office buildings the most attractive option. Flex/industrial space cannot be developed at prevailing market rents without heavy subsidies. Development of an office facility specifically geared toward the needs of high tech industry may help position Shirlington in this market, as well as provide the necessary level of return to a developer.



Appendix D

**CM, M-1, and M-2
Industrial Zoning Districts**



SECTION 28. "CM" LIMITED INDUSTRIAL DISTRICTS

The intent of this classification is to provide areas for light manufacturing, wholesale businesses and distribution centers and other uses inappropriate to residential or service business areas. (6-25-77)

The following regulations shall apply in all "CM" Districts:

A. Uses Permitted.

1. All uses as permitted in "C-2" Districts, except that:
 - a. Public parking areas shall be as permitted and regulated in "C-2" Districts; and
 - b. Dwellings are prohibited, except as specified in subsection B.1.
2. Uses to be conducted wholly within a completely enclosed building except for on-site parking of delivery vehicles which are incidental thereto:
 - a. The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products, except fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils.
 - b. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, shell, textile, tobacco, wood (excluding planing mill) yarns and paint not employing a boiling process.
 - c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
 - d. The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.
 - e. Manufacture of musical instruments, toys, novelties and rubber and metal stamps.
 - f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling, tire retreading or recapping, battery manufacturing and the like.
 - g. Stone monument works employing not more than five (5) persons.
 - h. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rate capacity, drop hammers and automatic screw machines.
 - i. Foundry casting lightweight nonferrous metal not causing noxious fumes, noise or odors.
 - j. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
 - k. Distribution plants, parcel delivery, ice and cold storage plant, bottling plant, and food commissary or catering establishments.
 - l. Wholesale business, storage buildings and warehouses.
 - m. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including electroplating the manufacture of small parts only, such as coils, condensers, transformers, crystal holders and the like.
 - n. Laboratories; experimental, photo or motion picture, film or testing.
 - o. Veterinary or dog or cat hospitals, and kennels.
 - p. Poultry- or rabbit-killing incidental to a retail business on the same premises.
3. Uses to be conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall or uniformly painted board fence, not less than six (6) feet in height:
 - a. Building material sales yard, including the sales of rock, sand, gravel and the like, as incidental part of the main business, but excluding concrete mixing.
 - b. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.
 - c. Retail lumber yard, including only incidental mill work.
 - d. Feed and fuel yard.
 - e. Draying, freighting or trucking yard or terminal.

- f. Public utility service yard or electrical receiving or transforming station.
 - g. Small boat building, except shipbuilding.
 - h. Carpenter or cabinet shop.
 - i. Sheet metal shops.
 - j. Towing services and motor vehicle storage lots.
4. Uses to be conducted in areas that are developed as required in Section 33 and where any incidental repair of vehicles shall be conducted only within enclosed structures:
 - a. Motor vehicle dealership, sales or rental lot.
 5. Other uses which, in the judgment of the zoning administrator, are of the same general character as those listed in this subsection and will not be detrimental to the district in which located.
 6. Uses customarily incidental to any of the above uses and accessory buildings when located on the same lot.
 7. Conditional uses: The following use may also be permitted subject to securing a use permit as provided for in Section 36, subsection G.:
 - a. Outdoor cafes temporarily enclosed for up to ten (10) months per year. In considering applications for use permits to enclose cafes, the county board may require on- or off-site parking to be provided for the cafe up to the rate required for restaurant use.
 - [b. *Reserved.*]

(6-25-77; Ord. No. 84-37, 11-17-84; Ord. No. 86-30, 6-1-87; Ord. No. 92-35, 8-8-92; Ord. No. 94-20, 7-9-94)

B. Use Regulations.

1. One (1) dwelling unit for a caretaker or resident manager serving a storage or warehouse complex within the district may be permitted, provided that such dwelling unit is developed as an integral part of the storage or warehouse complex on the site and that the complex contains a minimum of thirty-five thousand (35,000) square feet of gross floor area. (Ord. No. 84-37, 11-17-84)

C. Area Requirements.

1. *Lot Area:* Same as specified for "C-2" Districts. (Ord. No. 84-37, 11-17-84)

D. Bulk Regulations.

1. *Height Limit:* Same as specified for "C-2" Districts.
2. *Floor Area Requirements.* The ratio of the gross floor area of all structures erected on a "CM" District site to the total area of the site shall not exceed a total of 1.5 to 1.

(6-25-77; Ord. No. 84-37, 11-17-84)

E. Landscaping.

Ten (10) percent of total site area is required to be landscaped open space in accordance with the requirements of Section 32A, Landscaping. (6-25-77; Ord. No. 84-37, 11-17-84)

F. Additional Regulations.

1. For supplemental regulations, see Section 31.
2. Bulk, coverage and placement requirements as regulated in Section 32.
3. Automobile parking space to be provided as required in Section 33.
4. Loading space to be provided as required in Section 33.
5. Signs as regulated in Section 34. (Ord. No. 84-37, 11-17-84)

SECTION 29. "M-1" LIGHT INDUSTRIAL DISTRICTS

The following regulations shall apply in all "M-1" Districts:*

*Note--For supplemental regulations, see Section 31.

A. Uses Permitted.

1. All uses as permitted in "CM" Districts within or without a building or an enclosed area, except that:
 - a. Public parking areas shall be as permitted and regulated in "CM" Districts; and
 - b. Dwellings are prohibited, except as permitted in "CM" Districts.
2. Railroad lines and related accessory activities.
3. Publicly operated facilities for the processing, treatment, or reduction of refuse material or water-carried waste.
4. Motor vehicle storage lots and towing services, provided:
 - a. That such area is located and developed as required in Section 33; and
 - b. That any incidental repair of automobiles or trailers shall be conducted and confined wholly within a building.
5. Conditional uses: The following uses may also be permitted subject to securing a use permit as provided for in Section 36, subsection G.
 - a. Concrete batching operations and related accessory activities.
6. Uses customarily incidental to any of the above uses and accessory buildings when located on the same lot.
7. Automobile parking space to be provided as required in Section 33.
8. Loading space to be provided as required in Section 33. (1-5-80; Ord. No. 84-37, 11-17-84; Ord. No. 92-35, 8-8-92)

B. Height Limit.

Same as specified in "C-3" Districts.

C. Floor Area Requirements.

The ratio of the gross floor area of all structures erected on an "M-1" site to the total area of the site shall not exceed a total of 1.5 to 1. (7-13-74)



SECTION 30. "M-2" SERVICE INDUSTRIAL DISTRICTS

The following regulations shall apply in all "M-2" Districts:*

*Note--For supplemental regulations, see Section 31.

A. Uses Permitted.

1. All uses as permitted in "M-1" Districts, except that:
 - a. Public parking areas shall be as permitted and regulated in "M-1" Districts; and
 - b. Hotels are prohibited.
2. Concrete batching and related accessory activities.
3. Conditional uses: The following uses may also be permitted subject to securing a use permit as provided for in Section 36, subsection G.
 - a. Junkyard, subject to the following conditions:
 - (1) No junkyard shall be located within two hundred twenty-five (225) feet of an arterial highway.
 - (2) All junkyards shall be located on lots containing not less than twenty-five thousand (25,000) square feet.
 - (3) All junkyards shall be surrounded by a wall seven (7) feet high or of such additional height as needed to provide suitable screening of the operation with due regard to topography.
 - (4) No material shall be reduced by fire, except when reduced in an approved incinerator.
 - b. Asphalt batching and related accessory activities.
4. Uses customarily incidental to any of the above uses and accessory buildings when located on the same lot.
5. Automobile parking space to be provided as required in Section 33.
6. Loading space to be provided as required in Section 33. (Ord. No. 92-35, 8-8-92)

B. Height Limit.

Same as specified in "C-3" Districts.

C. Floor Area Requirements.

The ratio of the total floor area of all structures erected on a "M-2", site to the total area of the site shall not exceed a total of 1.5 to 1. (7-13-74)

