



January 9, 2018

## TECHNICAL STAFF REPORT

*Planning Board Meeting on January 25, 2018*

**Case No./Petitioner: ZRA-182 – David Moxley**

**Request: Zoning Regulation Amendment to Section 119.0 B-2 (Business: General)**

Amend Section 119.0.B.61 to eliminate the requirement that nursing homes and residential care facilities be limited to sites located in the Non-Planned Service Area for Water and Sewerage.

### I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

The B-2 zoning district was established in the 1954 Zoning regulations and permitted nursing homes as a matter of right. The use was eliminated from B-2 in the 1961 Zoning Regulations, which only permitted Home-aging, Convalescent, Nursing, Children's and Shelter Housing through a Board of Appeals "Special Permit" in the R-20 and R-90 zoning districts.

The 1977 Zoning Regulations permitted Homes-Aging, Convalescent, Nursing, Children's and Sheltered Housing as a Special Exception, but only in the R, R-20, R-12, R-SC, RA-1, R-ED, R-HR, R-VH and RMH zoning districts. Nursing homes and residential care type use categories continued as Conditional Uses mainly in residential zoning districts. However, in the 2013 Comprehensive Zoning Plan, they were added back to the B-1 and B-2 zoning districts as a matter of right, but were restricted to the Non-Planned Service Area for Water and Sewerage (PSA).

### II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains DPZ's technical evaluation of ZRA-182. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A, Petitioner's Proposed Text.

#### **SECTION 119.0 B-2 (Business: General) District**

**Section 119.0.B.61 – Eliminate the requirement that Nursing Homes and Residential Care Facilities be limited to the Non-Planned Service Area for Water and Sewerage in B-2.**

#### DPZ recommends approval

Sec. 119.0.B allows nursing homes and residential care facilities as a matter of right in B-2, but only in the Non-Planned Service Area. The Petitioner proposes to eliminate this restriction to

allow them in the PSA.

The proposed amendment is consistent with the the Zoning Regulation's intent to "provide adequate housing choices in a suitable living environment within the economic reach of all citizens", the B-2 zoning district's purpose to "provide services to the general public", and similar commercial/service zoning districts found in the PSA. The PSA covers the eastern portion of the County and allows many services by-right that support nursing home/residential care facility residents such as public transportation, healthcare, community and government facilities. Allowing these facilities in B-2 within the PSA will locate housing facilities near services. Furthermore, nursing homes and residential care facilities are currently permitted in similar commercial/service zoning districts found within the PSA, such as POR (Planned Office Research) and CCT (Community Center Transition). Finally, B-2 allows other similar residential uses, including age restricted adult housing and residential/commercial buildings, through the Conditional Use process.

### **III. GENERAL PLAN**

The proposed amendment is in harmony with the following General Plan policies that encourage new development in designated growth/revitalization areas and housing options for the County's aging population. The B-2 zoning district is typically located in growth and revitalization areas in the PSA, such as Route 1 and Route 40. The proposed amendment will encourage infill development in these areas and reduce competition for land in the rural west.

#### **Policy 6.1**

"Maintain adequate facilities and services to accommodate growth."

#### **Implementing Action e.**

"**Zoning.** Reduce competition for land resources by promoting more compact development in appropriate targeted growth and revitalization areas."

#### **Targeted Growth and Revitalization Designation**

"These areas include the Route 1 Corridor, the Snowden River Parkway area, Maple Lawn, Emerson, Turf Valley, Waverly Woods, Columbia Village Centers, nodes along the Route 40 Corridor, and other locations. These are areas where current policies, zoning, and other regulations, as well as policies suggested in PlanHoward 2030, seek to focus most future County growth."

#### **Policy 9.4**

"Expand housing options to accommodate the County's senior population who prefer to age in place and people with special needs."

### **IV. AGENCY COMMENTS**

Agency comments are attached.

**V. RECOMMENDATION**

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-182 be **APPROVED**.

Approved by:

 1-9-18  
Valdis Lazdins, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

## **Exhibit A – Petitioner’s Proposed Text**

CAPITALS indicates text to be added. [[Text in double brackets]] indicates text to be deleted.

### **SECTION 119.0: - B-2 (Business: General) District**

#### **A. Purpose**

The B-2 District is established to provide for commercial sales and services that directly serve the general public.

#### **B. Uses Permitted as a Matter of Right**

1. Adult entertainment business (including adult book or video stores, movie theaters and live entertainment establishments), subject to the requirements of Section 128.0.H.
2. Ambulance services.
3. Ambulatory health care facilities.
4. Amusement facilities.
5. Animal hospitals, completely enclosed.
6. Antique shops, art galleries, craft shops.
7. Athletic Facilities, Commercial.
8. Auction facilities.
9. Bakeries.
10. Banks, savings and loan associations, investment companies, credit unions, brokers, and similar financial institutions.
11. Bicycle repair shops.
12. Blueprinting, printing, duplicating or engraving services.
13. Building cleaning, painting, roofing, exterminating and similar establishments, provided that all supplies and equipment are enclosed within a building.
14. Bulk retail stores.
15. Bus terminals.
16. Business machine sales, rental and service establishments.
17. Car wash facilities.
18. Carnivals and fairs sponsored by and operated on a nonprofit basis for the benefit of charitable, social, civic or educational organizations, subject to the requirements of Section 128.0.D.
19. Carpet and floor covering stores.
20. Carpet and rug cleaning.
21. Catering establishments and banquet facilities.
22. Child day care centers and nursery schools.
23. Clothing and apparel stores with goods for sale or rent.
24. Commercial communication antennas.
25. Commercial communication towers with a height of less than 200 feet measured from ground level, subject to the requirements of Section 128.0. E.2. and 128.0. E.3.
26. Concert halls.

27. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
28. Convents and monasteries used for residential purposes.
29. Convenience stores.
30. Day treatment or care facilities.
31. Department stores, appliance stores.
32. Drug and cosmetic stores.
33. Fairgrounds.
34. Farmers markets and farm produce stands.
35. Farm supply stores.
36. Farming, provided that on a residential lot or parcel of less than 40,000 square feet no livestock shall be permitted. However, residential chicken keeping is allowed as noted in Section 128.0.
37. Firewood sales.
38. Flea markets, indoor.
39. Food stores.
40. Funeral homes and mortuaries.
41. Furniture stores.
42. Furniture, appliance and business machine repair, furniture upholstery, and similar services.
43. Government structures, facilities and uses, including public schools and colleges.
44. Hardware stores.
45. Home improvement stores including, but not limited to, the following: electrical supplies, glass, garden supplies, hardware, plumbing supplies, wallpaper, and building materials and supplies related to home improvements.
46. Hotels, motels, country inns and conference centers.
47. Kennels.
48. Laundry and/or dry-cleaning establishments.
49. Lawn and garden sheds and equipment sales, maintenance and repair.
50. Liquor stores.
51. Livestock sales and auction markets.
52. Lumber yard for the retail sale of lumber and other building materials and supplies.
53. Mobile home and modular home sales and rentals, but not including occupancy.
54. Motor vehicle, construction equipment and farm equipment maintenance, repair and painting facilities, including full body repairs and incidental sales of parts.
55. Motor vehicle, construction equipment and farm equipment sales and rentals.
56. Motor vehicle inspections stations.
57. Motor vehicle parts or tire store, including installation facilities.
58. Movie theaters, legitimate theaters, dinner theaters.
59. Museums and libraries.
60. Nonprofit clubs, lodges, community halls.
61. Nursing homes and residential care facilities, [[ IN THE NON-PLANNED SERVICE AREA FOR WATER AND SEWERAGE]].
62. Offices, professional and business.

63. One square foot of residential space is permitted for each square foot of commercial space and must be located within the same structure.
64. Personal service establishments.
65. Pet grooming establishments and daycare, completely enclosed.
66. Pizza delivery service and other services for off-site delivery of prepared food.
67. Recreation Facilities, Commercial.
68. Recreational vehicle, marine equipment and boat sales, maintenance and repair facilities.
69. Recycling collection facilities.
70. Religious facilities, structures and land used primarily for religious activities.
71. Rental centers which rent a variety of goods including equipment and tools.
72. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry, and similar items.
73. Restaurants, carryout.
74. Restaurants, fast food.
75. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
76. Retail greenhouses, garden centers and nurseries.
77. Seasonal sale of Christmas trees or other decorative plant materials, subject to the requirements of Section 128.0.D.
78. Schools, commercial.
79. Schools, private academic, including colleges and universities.
80. Service agencies.
81. Specialty stores.
82. Taxicab businesses, including facilities for dispatch and maintenance of related vehicles.
83. Taxidermies.
84. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a Conditional Use.
85. Volunteer fire departments.
86. Wholesale sales, made from retail sales establishments and limited to products permitted to be sold at retail in this district, provided sales and storage incidental to the sales use are conducted wholly within an enclosed building and all loading and unloading of merchandise is conducted on private property.

### **C. Accessory Uses**

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.
2. Communication towers and antennas which are accessory to a principal use on the lot and which exclusively serve that use. Towers are subject to the requirements of Sections 128.0.E.2 and 128.0.E.3.
3. Retail sale of propane on the site of a principal retail business.
4. Snowball stands, subject to the requirements of Section 128.0.D.5.
5. Private parks, athletic fields, exercise facilities, tennis courts, basketball courts, and similar private, noncommercial recreation facilities.

6. Small Wind Energy System, building mounted, subject to the requirements of Section 128.0.L.
7. Accessory Solar Collectors.
8. Accessory storage buildings and shipping containers, as accessory storage structures, subject to the requirements in Section 128.0.D.

#### **D. Bulk Regulations**

(Also see Section 128.0.A, Supplementary Bulk Regulations.)

1. The following maximum height for structures shall be observed:
  - a. Maximum height ..... 40 feet
  - b. Maximum height for a structure with a pitched roof ..... 48 feet
2. The following minimum structure and use setback requirements shall be observed:
  - a. From public street right-of-way ..... 30 feet  
Except for parking uses ..... 10 feet  
Except for the display of for-sale passenger cars, pick-up trucks, and passenger vans from the right-of-way of a local road ..... 10 feet
  - b. From residential districts other than public street right-of-way ..... 30 feet

#### **E. Conditional Uses**

Conditional Uses in the B-2 District are subject to the detailed requirements for Conditional Uses given in Section 131.0. For the list of permitted Conditional Uses, refer to the chart in Section 131.0





Department of Planning and Zoning  
Howard County, Maryland  
Recommendations/Comments

Date: October 5, 2017

Hearing Examiner \_\_\_\_\_  
Planning Board. TBD Board of Appeals \_\_\_\_\_ Zoning Board \_\_\_\_\_

Petition No. ZRA-182 Map No. \_\_\_\_\_ Block \_\_\_\_\_ Parcel \_\_\_\_\_ Lot \_\_\_\_\_

Petitioner: David Moxley

Petitioner's Address: \_\_\_\_\_

Address of Property: \_\_\_\_\_

Return Comments by November 6, 2017 to Public Service and Zoning Administration

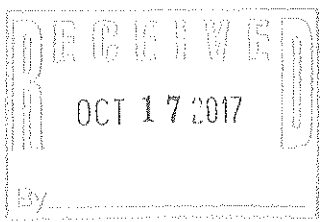
Owner: (if other than applicant) \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Petition: SEE APPLICATION

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- To:
- \_\_\_\_\_ MD Department of Education – Office of Child Care
  - \_\_\_\_\_ 3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
  - \_\_\_\_\_ Bureau of Environmental Health
  - \_\_\_\_\_ Development Engineering Division
  - \_\_\_\_\_ Department of Inspections, Licenses and Permits
  - \_\_\_\_\_ Department of Recreation and Parks
  - \_\_\_\_\_  Department of Fire and Rescue Services
  - \_\_\_\_\_ State Highway Administration
  - \_\_\_\_\_ Sgt. Karen Shinham, Howard County Police Dept.
  - \_\_\_\_\_ James Irvin, Department of Public Works
  - \_\_\_\_\_ Office on Aging, Terri Hansen (senior assisted living)
  - \_\_\_\_\_ Police Dept., Animal Control, Deborah Baracco, (kennels)
  - \_\_\_\_\_ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
  - \_\_\_\_\_ Land Development - (Religious Facility & Age-Restricted Adult Housing)
  - \_\_\_\_\_ Housing and Community Development
  - \_\_\_\_\_ Resource Conservation Division – Beth Burgess
  - \_\_\_\_\_ Route 1 Cases – DCCP – Kristen O'Connor
  - \_\_\_\_\_ Telecommunication Towers – (Comm. Dept.)
  - \_\_\_\_\_ Division of Transportation – Dave Cookson



COMMENTS: None

[Signature]  
SIGNATURE



Department of Planning and Zoning  
Howard County, Maryland  
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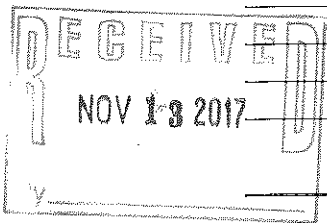
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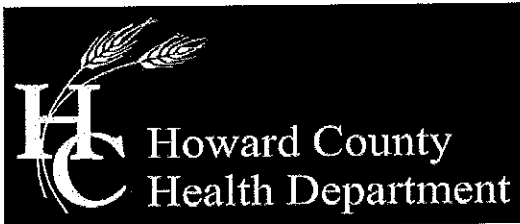
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COMMENTS: No Comments  
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[Signature] 11.13.17  
SIGNATURE





## Bureau of Environmental Health

8930 Stanford Boulevard, Columbia, MD 21045

Main: 410-313-2640 | Fax: 410-313-2648

TDD 410-313-2323 | Toll Free 1-866-313-6300

[www.hchealth.org](http://www.hchealth.org)

Facebook: [www.facebook.com/hocohealth](https://www.facebook.com/hocohealth)

Twitter: [HowardCoHealthDep](https://twitter.com/HowardCoHealthDep)

Maura J. Rossman, M.D., Health Officer

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### MEMORANDUM

TO: Geoff Goins  
Division of Zoning Administration and Public Service

FROM: Jeff Williams  
Program Supervisor, Well & Septic Program  
Bureau of Environmental Health

RE: **ZRA-182**

DATE: November 8, 2017

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The Health Department has reviewed the above referenced petition and has the following comments:

- The Health Department has no objection. All Health Department requirements such as food licensing and usage limitations for properties served by private water/sewer must be met prior to Health approval of any building permits.



Department of Planning and Zoning  
Howard County, Maryland  
Recommendations/Comments

Date: October 5, 2017

Planning Board. TBD <sup>2/1/18</sup> Hearing Examiner \_\_\_\_\_  
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COMMENTS:

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- \_\_\_\_\_ Division of Transportation – Dave Cookson

COMMENTS:

WE HAVE NO COMMENTS

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\_\_\_\_\_

Paul Walsh  
SIGNATURE

