



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:
Case No. ZRA-194
Date Filed: _____

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To amend the Howard County Zoning Regulations pertaining to the Planned Golf Course Community (PGCC) District to allow motor vehicle fueling facilities as a permitted use in the Multi-use Subdistrict, subject to approval by the Planning Board after a public hearing at which the petitioner establishes that the general standards and specific criteria of Section 131.0 regarding a conditional use for a motor vehicle fueling facility are met.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Harris Teeter, LLC

Address 701 Crestdale Road, Matthews, NC 28105

Phone No. 704-844-3021 (H)

Email Address _____

3. Counsel for Petitioner Sang W. Oh, Talkin & Oh, LLP

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, MD 21042

Counsel's Phone No. 410-964-0300

Email Address soh@talkin-oh.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed. Howard County's only PGCC zoned property, Turf Valley, is a mixed-use, planned unit development. Town Square at Turf Valley ("Town Square"), located in Turf Valley's Multi-use Subdistrict, contains various restaurant, retail, and other commercial uses. The purpose of this zoning regulation amendment is to allow a motor vehicle fueling facility in Town Square to serve the residents of Turf Valley and the employees and customers of Turf Valley's commercial establishments. Similar to other mixed-use, planned unit development districts in the County, such as the New Town (NT) District and the Mixed Use (MXD) Districts, the purpose of the PGCC District is to permit mixed-use development and the flexible use of land to promote efficient and effective development. Unlike the NT and MXD Districts, however, the PGCC District does not currently permit motor vehicle fueling facilities. This zoning regulation amendment would permit motor vehicle fueling facilities in the PGCC's Multi-use Subdistrict subject to Planning Board approval and provided the general standards and specific criteria under Section 131.0 applicable to a motor vehicle

fueling facility conditional use are satisfied, a process which is the same as provided in the NT District and substantially similar to that provided in the MXD Districts.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. See the attached Supplemental Statement.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. See the attached Supplemental Statement.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s). See the attached Supplemental Statement.

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? No, only properties in Turf Valley's Multi-use Subdistrict

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms. The proposed amendment will apply only to the PGCC's Multi-use Subdistrict in Turf Valley. Any potential unintended consequences is further limited by the fact that a PGCC motor vehicle fueling facility will only be permitted if approved by the Planning Board after a public hearing at which the petitioner establishes that the general standards and specific criteria for a motor vehicle fueling facility conditional use are met.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. _____

None.

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in **[Double Bold Brackets]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Harris Teeter, LLC
Petitioner's name (Printed or typed)

Sang W. Oh *VP Legal* *6/8/2020*
Petitioner's Signature Date

Sang W. Oh
Sang W. Oh, Counsel for Petitioner

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee.....\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night.....\$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty four (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:07/12

T:\Shared\Public Service and Zoning\Applications\County Council\ ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Harris Teeter, LLC

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: N/A

RECIPIENTS OF CONTRIBUTIONS:

| <u>Name</u> | <u>Date of Contribution</u> | <u>Amount</u> |
|-------------|-----------------------------|---------------|
| <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| <u> </u> | <u> </u> | <u> </u> |
| <u> </u> | <u> </u> | <u> </u> |

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Tanya Meade, VP legal

Signature: [Handwritten Signature]

Date: 6/8/2020

PETITIONER: Harris Teeter, LLC

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Harris Teeter, LLC, the applicant in the above zoning matter

_____, AM

X, AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Taryn G. Meola, VP legal

Signature: Taryn G. Meola

Date: 6/8/2020

Petition to Amend the Zoning Regulations of Howard County

Supplemental Statement

The proposed Zoning Regulation Amendment (“ZRA”) would allow motor vehicle fueling facilities in the PGCC (Planned Golf Course Community) zone. The one and only PGCC zoning district in Howard County covers Turf Valley Golf Course, resort, hotel, country club, commercial center, and surrounding housing. This area comprises approximately 817 acres, which, at present, include the aforementioned resort, residential (single-family attached, detached, and apartments), a skilled nursing facility, and a commercial center comprised of restaurants, a liquor store, a bank, and a supermarket grocery store. In sum, the region and zone include most of the primary commercial needs of its residents, save one – the ability to fuel their vehicles.

The PGCC zone was created to “permit mixed use development combining recreation, residential, commercial and conference center uses while preserving 50% of the district as open space.” Howard County Zoning Regulations, Section 126.0.A. It includes two subdistricts, the PGCC-1 or Residential Subdistrict and the PGCC-2 or Multi-use Subdistrict. Despite being a mixed-use zone, the PGCC does not allow motor vehicle fueling stations by right or as a conditional use. Notably, other mixed used zones, such as the NT (New Town) and MXD (Mixed Use), permit motor vehicle fueling stations. In order to ensure that developments in the PGCC provide complete communities that fully address the commercial needs of residents, the Zoning Regulations of Howard County (“Zoning Regulations”) should be amended to permit motor vehicle fueling facilities provided that the use is approved by the Howard County Planning Board after a public hearing at which the petitioner establishes that the general standards and specific criteria of Section 131.0 regarding a conditional use for a motor vehicle fueling facility are met. By making this use available in accordance with the conditional use criteria, any petitioner seeking to build a motor vehicle fueling station would have to prove that the proposed use met the applicable criteria and would not have adverse impacts on the surrounding area above and beyond those that may ordinarily be associated with the use.

Response to Section 5

The proposed amendment is consistent with the tenets of “smart growth”, which permeate the entirety of PlanHoward 2030. PlanHoward 2030 continued the precedent set in General Plan 2000 of identifying Turf Valley as a Targeted Growth and Revitalization area (“Targeted Growth Area”). 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.” PlanHoward 2030, p.74. More specifically, these areas have been designated for “increased compact, mixed use development.” *Id.* at 80. In pursuit of that goal, PlanHoward 2030 recommends flexibility within the Zoning Regulations to allow context sensitive design that fits well into the surrounding area with regard to uses and design. PlanHoward 2030, p.81.

PlanHoward 2030 recommends that Targeted Growth Areas be designed to facilitate compact development and meet market demand. Policy 6.1 states that policy-makers should “[m]aintain adequate facilities and services to accommodate growth” by “promoting more compact development in appropriate targeted growth and revitalization areas.” PlanHoward 2030, p.75. The absence of motor vehicle fueling stations in the PGCC leaves an everyday commercial need unmet and requires any resident of this zone to drive to the nearest commercial zone that allows this use

to fuel their vehicles. This ultimately results in more travel on Howard County's roadways, traffic, inconvenience, and less compact development.

Additionally, Policy 6.4 of PlanHoward 2030 recommends "that the County continues to capture future job and business growth opportunities." PlanHoward 2030, p.80. In pursuit of that, Implementing Action b. to Policy 6.4 proposes to "[u]pdate zoning and other regulations to address the evolving commercial and industrial markets and development trends." *Id.* at 80. When the PGCC was originally conceived, the vast majority of residential development in this area of the county had not been constructed. Now that this zone has been built out, the regulations should be amended to provide for this critical commercial need in the zone.

Fundamentally, this proposed amendment is consistent with ensuring that mixed-use zones in Targeted Growth Areas provide essential commercial services. The proposed amendment enables greater land use flexibility for Turf Valley that matches the flexibility afforded to similar Targeted Growth and Revitalization areas in the NT and MXD districts. Given the fact that PlanHoward 2030 designated Turf Valley for growth, and that Page 135 of PlanHoward 2030 recognizes that Turf Valley is "suburban and auto-oriented," allowing a motor vehicle fueling facility in the PGCC District, subject to Planning Board approval and in accordance with conditional use requirements governing such use, is appropriate and consistent with PlanHoward 2030.

Response to Section 6

The proposed amendment will be in harmony with the legislative intent provided in Section 100.0.A of the Zoning Regulations. Similar to PlanHoward 2030's goals of directing development to Targeted Growth Areas, Section 100.0.A.1 seeks to "prevent over-crowding of the land and undue congestion of population," while Section 100.0.A.2 seeks to "protect the ... economic stability of all parts of the County; to guide the orderly growth and development of the County, and to protect and conserve the value of land and structures appropriate to the various land use classes..." Furthermore, Section 100.0.A.4 of the Zoning Regulations seeks to "provide a guide ... for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County."

Allowing motor vehicle fueling facilities in Turf Valley will further these legislative objectives by permitting more flexible use of land in an area of the County that is expressly targeted for growth and revitalization. This will aid in facilitating orderly growth in the County and help ensure that available land and resources are used efficiently and effectively. This proposed amendment would also aid in protecting economic stability and providing a guide for future development by permitting a motor vehicle fueling facility to serve Turf Valley's existing and future residents, tenants, employees, and customers.

Response to Section 7

PlanHoward 2030 has designated specific areas for targeted growth and revitalization to ensure growth is orderly and that available land is used efficiently and effectively. With growth comes the demand for certain commercial services including motor vehicle fueling facilities. This proposed amendment will benefit the public by permitting motor vehicle fueling facilities in a district that has been identified as "auto-oriented", is specifically targeted by the County for growth, and was created to permit mixed-use development. This proposed use will support and

enhance other commercial uses in Turf Valley and will provide a convenience to Turf Valley's residents. Furthermore, the proposed amendment will require that any permitted motor vehicle fueling facility meet the general standards and specific criteria for a motor vehicle fueling facility conditional use and be subject to approval by the Planning Board. These requirements, which correspond to those in the NT and MXD Districts, will limit potential adverse impacts, thereby striking a proper balance between growth and the responsible use of land.

Petition to Amend the Zoning Regulations of Howard County

Petitioner's Proposed Text

Howard County Zoning Regulation Section 126.0.B.2:

Proposed Amendment:

2. Multi-use Subdistrict

The following uses shall be permitted only in the Multi-use Subdistrict.

- a. Ambulatory health care facilities.
- b. Animal hospitals completely enclosed.
- c. Antique shops, art galleries and craft shops.
- d. Banks, savings and loan associations, investment companies, credit unions, brokers, and similar financial institutions.
- e. Bicycle repair shops.
- f. Blueprinting, printing, duplicating or engraving services limited to 2000 square feet of net floor area.
- g. Catering establishments and banquet facilities.
- h. Child day care centers.
- i. Clothing and apparel stores with goods for sale or rent.
- j. Convenience stores.
- k. Day treatment and care facilities.
- l. Drug and cosmetic stores.
- m. Executive golf training and recreation centers.
- n. Farmers markets and farm produce stands.
- o. Food stores, not to exceed a gross floor area of 55,000 square feet, including a bakery, provided all goods baked on the premises shall be sold retail from the premises.
- p. Funeral homes and mortuaries.
- q. Health clubs, tennis clubs, athletic centers, commercial or community swimming pools.
- r. Hotels, motels, conference centers and country inns.
- s. Kennels, enclosed.
- t. Laundry and dry cleaning establishments without delivery services.
- u. Liquor stores.
- v. MOTOR VEHICLE FUELING FACILITIES, SUBJECT TO THE REQUIREMENTS OF SECTION 126.0.E.8.

- [[v.]] w. Museums, art galleries and libraries.
- [[w.]] x. Nonprofit clubs, lodges and community halls.
- [[x.]] y. Nursing homes, group care facilities, housing for elderly or handicapped, children's homes and similar institutions, and their related and supporting facilities.
- [[y.]] z. Offices, professional and business.
- [[z.]] aa. Personal service establishments.
- [[aa.]] bb. Pet grooming establishments.
- [[bb.]] cc. Private parks, swimming pools, playgrounds, athletic fields, tennis courts, basketball courts, and similar private, noncommercial recreational facilities.
- [[cc.]] dd. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry and similar items.
- [[dd.]] ee. Restaurants, carryout.
- [[ee.]] ff. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
- [[ff.]] gg. Schools, private academic, including colleges and universities.
- [[gg.]] hh. Service agencies.
- [[hh.]] ii. Specialty stores.

Example of how the text would appear normally if adopted:

2. Multi-use Subdistrict

The following uses shall be permitted only in the Multi-use Subdistrict.

- a. Ambulatory health care facilities.
- b. Animal hospitals completely enclosed.
- c. Antique shops, art galleries and craft shops.
- d. Banks, savings and loan associations, investment companies, credit unions, brokers, and similar financial institutions.
- e. Bicycle repair shops.
- f. Blueprinting, printing, duplicating or engraving services limited to 2000 square feet of net floor area.
- g. Catering establishments and banquet facilities.
- h. Child day care centers.
- i. Clothing and apparel stores with goods for sale or rent.
- j. Convenience stores.
- k. Day treatment and care facilities.

- l. Drug and cosmetic stores.
- m. Executive golf training and recreation centers.
- n. Farmers markets and farm produce stands.
- o. Food stores, not to exceed a gross floor area of 55,000 square feet, including a bakery, provided all goods baked on the premises shall be sold retail from the premises.
- p. Funeral homes and mortuaries.
- q. Health clubs, tennis clubs, athletic centers, commercial or community swimming pools.
- r. Hotels, motels, conference centers and country inns.
- s. Kennels, enclosed.
- t. Laundry and dry cleaning establishments without delivery services.
- u. Liquor stores.
- v. Motor Vehicle Fueling Facilities, subject to the requirements of Section 126.0.E.8.
- w. Museums, art galleries and libraries.
- x. Nonprofit clubs, lodges and community halls.
- y. Nursing homes, group care facilities, housing for elderly or handicapped, children's homes and similar institutions, and their related and supporting facilities.
- z. Offices, professional and business.
- aa. Personal service establishments.
- bb. Pet grooming establishments.
- cc. Private parks, swimming pools, playgrounds, athletic fields, tennis courts, basketball courts, and similar private, noncommercial recreational facilities.
- dd. Repair of electronic equipment, radios, televisions, computers, clocks, watches, jewelry and similar items.
- ee. Restaurants, carryout.
- ff. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor.
- gg. Schools, private academic, including colleges and universities.
- hh. Service agencies.
- ii. Specialty stores.

Howard County Zoning Regulation Section 126.0.E:

Proposed Amendment: Add a new subsection 8. as follows:

8. NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SECTION 126.0, IF THE CRITERIA IN A RECORDED FINAL DEVELOPMENT PLAN OR FINAL DEVELOPMENT PLAN AMENDMENT IDENTIFIES A MOTOR VEHICLE FUELING FACILITY AS A SPECIFIC PERMITTED USE, A NEWLY PROPOSED MOTOR VEHICLE FUELING FACILITY IS PERMITTED ONLY UPON APPROVAL BY THE PLANNING BOARD AFTER A PUBLIC HEARING WHERE THE PETITIONER ESTABLISHES THAT THE GENERAL STANDARDS AND SPECIFIC CRITERIA IN SECTION 131.0 WHICH ARE APPLICABLE TO A CONDITIONAL USE FOR A MOTOR VEHICLE FUELING FACILITY ARE MET. TO THE EXTENT THERE IS ANY CONFLICT BETWEEN THE CRITERIA IN THE RECORDED FINAL DEVELOPMENT PLAN OR FINAL DEVELOPMENT PLAN AMENDMENT AND THE GENERAL STANDARDS AND SPECIFIC CRITERIA FOR A CONDITIONAL USE FOR A MOTOR VEHICLE FUELING FACILITY IN SECTION 131.0, THE MORE RESTRICTIVE PROVISION SHALL APPLY.

Example of how the text would appear normally if adopted:

8. Notwithstanding any other provisions in this Section 126.0, if the criteria in a recorded Final Development Plan or Final Development Plan amendment identifies a Motor Vehicle Fueling Facility as a specific permitted use, a newly proposed Motor Vehicle Fueling Facility is permitted only upon approval by the Planning Board after a public hearing where the petitioner establishes that the general standards and specific criteria in Section 131.0 which are applicable to a conditional use for a Motor Vehicle Fueling Facility are met. To the extent there is any conflict between the criteria in the recorded Final Development Plan or Final Development Plan amendment and the general standards and specific criteria for a conditional use for a Motor Vehicle Fueling Facility in Section 131.0, the more restrictive provision shall apply.