

**Joint Working Group (JWG)
for Western Howard County**

**Report and Recommendations
Comprehensive Rezoning 2012**

Presented to

The Department of Planning and Zoning

Marsha McLaughlin, Director

April 30, 2012

Joint Working Group (JWG) for Western Howard County

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Oakdale Meeting, March 13, 2011



Joint Working Group, (JWG) for Western Howard County
Issues for presentation to DPZ
April 30, 2012

1. **Commercial development of the Rural West.**
 - A. **Establish two new zones within the NPSA area, to be designated: B-1R and B-2R. The principal reasons for this approach are:**
 - i. **The preservation of the fresh well water supply is of paramount importance to residential and commercial development interests.**
 - ii. **The necessity of septic, its limitations and The MD tier system.**
 - iii. **The limited road network.**
 - iv. **It also allows the planners and in turn the public to view and focus upon the unique needs of the West. We see these new zones and the BR zone as 2 separate issues.**
 - B. **Delete the BR zone because the new Rural B Zones serve the needs of the West and are redundant to the conditional uses. At a minimum, reduce the permitted uses in the BR Zone for the same reasons. In addition the zone creates a source of conflict generated by the nature of the floating zone and the inappropriate inclusion of uses that are not rural or local in nature.**
2. **The Conditional Use Process. It needs revision to level the field between the applicant and the affected neighborhood because of:**
 - A. **The presumption of compatibility once a use is included.**
 - B. **The invisibility - to the average or even knowledgeable citizen - of the profound effects of the overlay of Maryland case law that governs the process all the way through the courts of appeals.**
3. **Review of conditional uses, summary conclusions.**
 - A. **Less latitude for the Hearing Authority to reduce requirements or setbacks.**
 - B. **More review by the Design Review Panel, and attention to the composition of its members**
 - C. **Larger area requirements and setbacks to reflect the nature of the RC and RR zones.**
 - D. **Review of each use's specific conditions.**
4. **The need to strengthen the cluster subdivision process.**
5. **Proposed Debate: The DEO should be restricted to the originating zone or imported to the designated growth zones.**
6. **The role of the Rural West Advisory Committee going forward.**

	A	B	C	D	E
1		Proposed New Zones		in the NPSA	
2					
3	Business Local Rural (B-1R)	Business Local Rural (B-1R)	x	Business General Rural (B-2R)	Business General Rural (B-2R)
4	Code: Blue=new	Green=permit but modify	x	Black=currently permitted uses	Red=remove
5	Uses permitted by right	Uses permitted by right	x	Uses permitted by right	Uses permitted by right
6	Adult book or video stores		x	Adult book or video stores	Motor vehicle, construction equipment, and farm sales
7	Ambulatory health care facilities		x	Ambulatory health care facilities	Motor vehicle inspection stations
8		Motor vehicle parts or parts stores without installation	x	Ambulance Services	Motor vehicle parts or tire store, including installation
9			x	Amusement Facilities	Motor vehicle rentals
10	Animal Hospitals, completely enclosed		x	Animal Hospitals, completely enclosed	Movie theaters, legitimate theaters, dinner theaters.
11		Museums & libraries	x	Athletic and recreational facilities, including bowling billiards and skating	Museums & libraries
12	Antique shops, art galleries, craft shops	Non-profit clubs, lodges and community hall	x	Antique shops, art galleries, craft shops	Non-profit clubs, lodges and community hall
13	Bakeries (retail only)	Offices, professional and business	x	Bakeries (retail only)	Offices, professional and business
14	Banks, financial institutions and similar	One dwelling unit per business-50% SF limit	x	Banks, financial institutions and similar	One dwelling unit per business-50% SF limit
15	Bicycle sales and repairs	Personal care service establishment	x	Bicycle sales and repairs	Personal care service establishment
16	Blueprinting, Printing	Pet grooming establishment and daycare	x	Blueprinting, Printing	Pet grooming establishment and daycare
17			x	Building cleaning, painting, roofing, exterminators	Pizza delivery service and other services for off-site
18			x	Bulk retail stores	Recycling collection facilities
19			x	Bus terminals	Recreational vehicle, marine equipment and boat sales, maintenance and repair
20		Religious activities structures (Needs limits on number of seats)	x	Business machine sales, rental and service	Religious activities structures (Needs limits on number of seats)
21			x	Car wash facilities	Rental centers which carry a variety of goods including equipment and tools
22	Community Fairs (remove carnivals)	Repair of electronic equipment and jewelry	x	Carnivals and Fairs	Repair of electronic equipment and jewelry
23	Carpet and Floor covering	Restaurants, carryout (<31 seats by definition)	x	Carpet and Floor covering	Restaurants, carryout
24			x	Carpet and rug cleaning	Restaurants, fast food
25	Catering establishments and banquet facilities (limit to permitted restaurant size)	Restaurants, standard and beverage establishments	x	Catering establishments and banquet facilities	Restaurants, standard and beverage establishments
26	Child day care centers and nursery schools	Retail greenhouses and garden centers	x	Child day care centers and nursery schools	Retail greenhouses and garden centers
27	Clothing and apparel stores	Seasonal sale of Christmas trees	x	Clothing and apparel stores	Seasonal sale of Christmas trees
28	Commercial communication antennas		x	Commercial communication antennas	Schools, commercial,
29	Commercial communication towers	Schools, private academic (establish size limit)	x	Commercial communication towers	Schools, private academic
30	Computer Repair and retail (5K ft. Limit)	Service agencies, such as real estate, insurance, computer, travel	x	Computer Repair and retail (5K ft. Limit)	Service agencies, such as real estate, insurance, computer, travel
31		Specialty stores	x	Concert halls	Specialty stores

	A	B	C	D	E
32	Conservation areas	Swimming pools, commercial or community	x	Conservation areas	
33	Convenience Stores		x	Convenience Stores	Taxicab business including facilities for dispatch and maintenance
34	Convents and monasteries		x	Convents and monasteries	Taxidermies
35		Underground pipelines, electric trans. Etc	x	Department stores, appliance stores(5K Ft limit)	Underground pipelines, electric trans. Etc
36	Drug and cosmetic stores	Volunteer fire departments	x	Drug and cosmetic stores	Volunteer fire departments
37			x	Fairgrounds	Wholesale sales, restricted
38	Farmer's market or farm stand		x	Farmer's market or farm stand	
39	Farming, restricted		x	Farming	
40		Accessory Uses	x	Farm Supply stores	Accessory Uses
41		Communication towers/antennas accessory to a principal use	x		Communication towers/antennas accessory to a principal use
42		retail sale of propane on the site of a principal retail business	x	Firewood sales	retail sale of propane on the site of a principal retail business
43		Snowball stands	x	Flea Markets, indoor	Snowball stands
44	Food Stores (7500 ft limit)	Private parks, athletic fields, exercise facilities	x	Food Stores	Private parks, athletic fields, exercise facilities
45	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)	Small Wind Energy System, building mount	x	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)	Small Wind Energy System, building mount
46			x	Furniture stores	
47	Furniture, appliance and business machine repair	Conditional Uses	x	Furniture, appliance. And business machine rep.	Conditional Uses
48		Cemeteries and mausoleums	x		Cemeteries and mausoleums
49	Government structures, facilities and uses	Commercial communication towers	x	Government structures, facilities and uses	Commercial communication towers
50	Hardware stores		x	Hardware stores	Contractor storage facility
51	Home Improvement Stores (7500 ft. limit)	Fast food restaurant	x	Home Improvement Stores	
52			x	Hotels, motels, country inns and conference centers	Gasoline, fuel oil, and liquefied petroleum, bulk storage of
53			x	Kennels (subject to new regulations)	Gasoline service station
54	Laundry and/or dry-cleaning (retail only)	Historic building uses, apartments	x	Laundry and/or dry-cleaning (retail only)	Historic building uses, apartments
55	Lawn and garden equipment sales, service and repair	Kennels	x	Lawn and garden equipment sales, service and repair	
56	Liquor stores		x	Liquor stores	School bus, boat or recreational vehicle
57	Livestock sales and auction markets	Utility uses, public	x	Livestock sales and auction markets	Utility uses, public
58			x	Lumber yards	Wrecked vehicle storage (temporary)
59	Mobile home & modular home sales		x	Mobile home & modular home sales	
60			x	Motor vehicle, construction equipment, and farm equipment maintenance, repair and	

	A	B	D	E
1		Proposed New Zones	in the NPSA	
2				
3	Business Local Rural (B-1R)	Business General Rural (B-2R)	Business Local Rural (B-1R)	Business General Rural (B-2R)
4	Code: Blue=new	Green=permit but modify	Black=currently permitted uses	Red=remove
5	Uses permitted by right	Uses permitted by right	Uses permitted by right	Uses permitted by right
6	Adult book or video stores	Adult book or video stores		Motor vehicle, construction equipment, and farm sales
7	Ambulatory health care facilities	Ambulatory health care facilities		Motor vehicle inspection stations
8		Ambulance Services	Motor vehicle parts or parts stores without installation	Motor vehicle parts or tire store, including installation
9		Amusement Facilities		Motor vehicle rentals
10	Animal Hospitals, completely enclosed	Animal Hospitals, completely enclosed		Movie theaters, legitimate theaters, dinner theaters.
11		Athletic and recreational facilities, including bowling billiards and skating	Museums & libraries	Museums & libraries
12	Antique shops, art galleries, craft shops	Antique shops, art galleries, craft shops	Non-profit clubs, lodges and community hall	Non-profit clubs, lodges and community hall
13	Bakeries (retail only)	Bakeries (retail only)	Offices, professional and business	Offices, professional and business
14	Banks, financial institutions and similar	Banks, financial institutions and similar	One dwelling unit per business-50% SF limit	One dwelling unit per business-50% SF limit
15	Bicycle sales and repairs	Bicycle sales and repairs	Personal care service establishment	Personal care service establishment
16	Blueprinting, Printing	Blueprinting, Printing	Pet grooming establishment and daycare	Pet grooming establishment and daycare
17		Building cleaning, painting, roofing, exterior		Pizza delivery service and other services for off-site
18		Bulk retail stores		Recycling collection facilities
19		Bus terminals		Recreational vehicle, marine equipment and boat sales, maintenance and repair facilities
20		Business machine sales, rental and service	Religious activities structures (Needs limits on number of seats)	Religious activities structures (Needs limits on number of seats)
21		Car wash facilities		Rental centers which carry a variety of goods including equipment and tools
22	Community Fairs (remove carnivals)	Carnivals and Fairs	Repair of electronic equipment and jewelry	Repair of electronic equipment and jewelry
23	Carpet and Floor covering	Carpet and Floor covering	Restaurants, carryout (<31 seats by definition)	Restaurants, carryout
24		Carpet and rug cleaning		Restaurants, fast food
25	Catering establishments and banquet facilities (limit to permitted restaurant size)	Catering establishments and banquet facilities	Restaurants, standard and beverage establishments	Restaurants, standard and beverage establishments
26	Child day care centers and nursery schools	Child day care centers and nursery schools	Retail greenhouses and garden centers	Retail greenhouses and garden centers
27	Clothing and apparel stores	Clothing and apparel stores	Seasonal sale of Christmas trees	Seasonal sale of Christmas trees
28	Commercial communication antennas	Commercial communication antennas		Schools, commercial,
29	Commercial communication towers	Commercial communication towers	Schools, private academic (establish size limit)	Schools, private academic
30	Computer Repair and retail (5K ft. Limit)	Computer Repair and retail (5K ft. Limit)	Service agencies, such as real estate, insurance, computer, travel	Service agencies, such as real estate, insurance, computer, travel
31		Concert halls	Specialty stores	Specialty stores

	A	B	C	D	E
32	Conservation areas	Conservation areas	x	Swimming pools, commercial or community	
33	Convenience Stores	Convenience Stores	x		Taxicab business including facilities for dispatch and maintenance
34	Convents and monasteries	Convents and monasteries	x		Taxidermies
35		Department stores, appliance stores(5K Ft limit)	x	Underground pipelines, electric trans. Etc	Underground pipelines, electric trans. Etc
36	Drug and cosmetic stores	Drug and cosmetic stores	x	Volunteer fire departments	Volunteer fire departments
37		Fairgrounds	x		Wholesale sales, restricted
38	Farmer's market or farm stand	Farmer's market or farm stand	x		
39	Farming, restricted	Farming	x		
40		Farm Supply stores	x	Accessory Uses	Accessory Uses
41			x	Communication towers/antennas accessory to a principal use	Communication towers/antennas accessory to a principal use
42		Firewood sales	x	retail sale of propane on the site of a principal retail business	retail sale of propane on the site of a principal retail business
43		Flea Markets, indoor	x	Snowball stands	Snowball stands
44	Food Stores (7500 ft limit)	Food Stores	x	Private parks, athletic fields, exercise facilities	Private parks, athletic fields, exercise facilities
45	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)	x	Small Wind Energy System, building mount	Small Wind Energy System, building mount
46		Furniture stores	x		
47	Furniture, appliance and business machine repair	Furniture, appliance. And business machine rep.	x	Conditional Uses	Conditional Uses
48			x	Cemeteries and mausoleums	Cemeteries and mausoleums
49	Government structures, facilities and uses	Government structures, facilities and uses	x	Commercial communication towers	Commercial communication towers
50	Hardware stores	Hardware stores	x		Contractor storage facility
51	Home Improvement Stores (7500 ft. limit)	Home Improvement Stores	x	Fast food restaurant	
52		Hotels, motels, country inns and conference centers	x		Gasoline, fuel oil, and liquefied petroleum, bulk storage of
53		Kennels (subject to new regulations)	x		Gasoline service station
54	Laundry and/or dry-cleaning (retail only)	Laundry and/or dry-cleaning (retail only)	x	Historic building uses, apartments	Historic building uses, apartments
55	Lawn and garden equipment sales, service and repair	Lawn and garden equipment sales, service and repair	x	Kennels	
56	Liquor stores	Liquor stores	x		School bus, boat or recreational vehicle
57	Livestock sales and auction markets	Livestock sales and auction markets	x	Utility uses, public	Utility uses, public
58		Lumber yards	x		Wrecked vehicle storage (temporary)
59	Mobile home & modular home sales	Mobile home & modular home sales	x		
60		Motor vehicle, construction equipment, and farm equipment maintenance, repair and	x		

	A	B	C	D	E
1				Summary of Changes	
2	Code:	Blue=new	Red=remove	Green=permit but modify	Black=currently permitted uses
3		Existing		Proposed new zones in the NPSA	Non-Planned Service Area
4	Limits?	Business Rural (BR)	XXXX	Business Local Rural (B-1R)	Business General Rural (B-2R)
5					
6		Uses permitted by right	XXXX	Uses permitted by right	Uses permitted by right
7			XXXX	Adult book or video stores	Adult book or video stores
8			XXXX		Amusement Facilities
9			XXXX		Athletic and recreational facilities, including bowling billiards and skating
10	Y		XXXX	Bakeries (retail only)	Bakeries (retail only)
11			XXXX	Blueprinting, Printing	Blueprinting, Printing
12		Bicycle sales and repairs	XXXX	Bicycle sales and repairs	Bicycle sales and repairs
13	Y		XXXX		Car wash facilities (accessory to gas only)
14		Carnivals and Fairs	XXXX	Community Fairs (remove carnivals)	Carnivals and Fairs
15			XXXX	Carpet and Floor covering	Carpet and Floor covering
16			XXXX		Carpet and rug cleaning
17	Y		XXXX	Catering establishments and banquet facilities (limit to permitted restaurant size)	Catering establishments and banquet facilities
18		Contractors office and storage	XXXX		
19		Commercial communication antennas	XXXX	Commercial communication antennas	Commercial communication antennas
20		Commercial communication towers	XXXX	Commercial communication towers	Commercial communication towers
21	Y		XXXX	Computer Repair and retail (5K ft. Limit)	Computer Repair and retail (5K ft. Limit)
22			XXXX		Concert halls
23	Y		XXXX		Department stores, appliance stores(5K Ft limit)
24			XXXX	Food Stores (7500 ft limit)	Food Stores
25	Y		XXXX	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)	Funeral Homes (But need Regs. on lot size, parking, traffic, and septic/ health)
26		Gasoline service stations	XXXX		
27			XXXX	Home Improvement Stores (7500 ft. limit)	Home Improvement Stores
28	Y				Kennels (subject to new regulations)
29	Y		XXXX	Laundry and/or drycleaning (retail only)	Laundry and/or drycleaning (retail only)
30			XXXX	Livestock sales and auction markets	Livestock sales and auction markets
31			XXXX	Mobile home & modular home sales	Mobile home & modular home sales
32			XXXX	Motor vehicle parts or parts stores without install.	Motor vehicle parts or parts stores without install.
33			XXXX		Motor vehicle rentals
34		Offices, professional and business	XXXX	Offices, professional and business	Offices, professional and business
35	Y	One dwelling unit per business-50% SF limit	XXXX	One dwelling unit per business-50% SF limit	One dwelling unit per business-50% SF limit
36	Y	Religious activities structures (Needs limits on # of seats)	XXXX	Religious activities structures (Needs limits on # of seats)	Religious activities structures (Needs limits on # of seats)
37			XXXX	Restaurants, carryout (<31 seats by definition)	Restaurants, carryout
38	Y	Restaurants, standard and beverage (Only on major collector road)	XXXX		
39		School bus storage	XXXX		
40	Y		XXXX	Schools, private academic (establish size limit)	Schools, private academic
41			XXXX	Swimming pools, commercial or community	
42	Y	Taxidermies (establish size limit)	XXXX		Taxidermies
43		XXXX	XXXX	XXXX	XXXX
44		Accessory Uses	XXXX	Accessory Uses	Accessory Uses
45		Communication towers/antennas accessory to a principal use	XXXX	Communication towers/antennas accessory to a principal use	Communication towers/antennas accessory to a principal use
46		XXXX	XXXX	XXXX	XXXX
47		Conditional Uses	XXXX	Conditional Uses	Conditional Uses
48		Commercial communication towers	XXXX	Commercial communication towers	
49		Kennels	XXXX	Kennels	Kennels
50		Wrecked vehicle storage (temporary)	XXXX		Wrecked vehicle storage (temporary)

SECTION 130: Hearing Authority

C. Limitations, Guides and Standards

Where in these regulations certain powers are conferred upon the Hearing Authority, or the Hearing Authority is called upon to decide certain issues, such Hearing Authority shall examine the specific property involved and the immediate neighborhood. The application shall not be approved where the Hearing Authority finds that the proposed structure, addition, extension of structure or use, use or change of use, would ~~menace~~ endanger the public health, safety, security, or general welfare, or would result in ~~dangerous hazardous or congested~~ traffic-conditions, or would ~~jeopardize~~ produce serious negative effects on the lives or property of people living in the neighborhood. In deciding such matters, the Hearing Authority shall give consideration, among other things, to the following:

1. The number of people residing, working or studying in the immediate areas.
2. Traffic conditions including facilities for pedestrians, such as sidewalks and safety zones and parking facilities and the access of cars to highways.
3. The orderly growth of the community.
4. The reasonable needs of the entire community and particular neighborhoods.
5. The legislative intent of these regulations as provided in Section 100.A.
6. The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.
7. Facilities for sewers, water supply, solid waste collection and disposal and the ability of the County to supply such services.
8. Availability of fire-fighting equipment.
9. Decisions of the Circuit Court for Howard County and the Court of Appeals of Maryland.
10. The effect of such use upon the peaceful enjoyment of people in their homes.
11. The most appropriate use of land and structures.
12. The type and kind of structures in the vicinity where people are apt to gather in large numbers such as schools, churches, theaters, hospitals and the like.
13. The General Plan for Howard County including master plans for land use, highways, recreation and parks, schools, sewers, water, conservation and the like.
14. The effect of the proposed use or development on the natural, environmental or landscape resources of the site and adjacent sites, including such resources or features as historic resources, floodplains, wetlands, steep slopes and vegetation.
15. The positions of vicinal community associations as presented by their appointed representatives.

SECTION 131: Conditional Uses

A. Statement of Legislative Intent

Conditional uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts. However, particular uses in particular locations may have characteristics or impacts that are not typical. Conditional uses are not permitted automatically, but are subject to the regulations of this section and the conditions imposed by the Board of Appeals upon approval of the proposed development.

B. General Standards Required for Approval

The Hearing Authority shall have the power to permit conditional uses, provided the following general standards are met:

1. The proposed conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located. In evaluating the plan under this standard, the Hearing Authority shall consider:
 - a. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site; and
 - b. If a conditional use is combined with other conditional uses or permitted uses on a site, whether the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.
2. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the plan under this standard, the Hearing Authority shall consider whether:
 - a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally be elsewhere in the zone or applicable other zones.
 - b. The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.
 - c. Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts on adjacent properties. Adverse effects arising from failure(s) to meet these conditions shall not be considered inherent to the specific use.
 - d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. Adverse effects arising from failure(s) to meet these conditions shall not be considered inherent to the specific use.

Design Review of Conditional Uses

The review of the conditional uses continually pointed to the need for design review of a number of used. The JWG recommends that the role of the Design Review Advisory Panel be expanded to include review of the following conditional uses in the RC and RR district. Those underlined should receive priority for review if it is deemed too demanding to review all.

1. Age-restricted Adult Housing
12. Charitable and Philanthropic Institutions
14. Country Clubs and Golf Courses
16. Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities
17. Entrance Features for Subdivisions – Buildings
21. Funeral Homes and Mortuaries
23. Home-Based Contractors, **new structures only.**
24. Home Occupations, **new structures only.**
26. Landscape Contractors and Retail Greenhouses or Nurseries
27. Museums and Libraries
28. Nonprofit Clubs, Lodges, Community Halls and Camps
29. Nursing Homes and Residential Care Facilities
31. Religious Activities, Structures Used Primarily For, **large churches over 600 seats only**
32. Retreat Center.
36. School buses (Parking and Storage)

Highlighted portions are added language

Prepared by Theodore F. Mariani and JWG 2/12/12

Age Restricted Housing

This section needs a complete re-write. Suggestions and comments:

1. Consider raising the threshold qualification standard for this type of housing from 55 years of age to either 60 or preferably 62.
(This would shrink the market and eliminate some of the s ham nature of these developments.)
2. Consider a maximum size for such developments.
3. The setback standards are overly complicated and should be restudied. It is hard to figure out the rational for many of the standards. It looks like someone produced a design and the staff tailored the regs to fit the design. Biggest problem is not sufficient setback from property lines for all types of housing in the RR and RC zones. (Especially for projects of over 20 units)
4. Seriously consider increasing the parking requirement to 1.5 per unit.
5. Is the guest parking requirement adequate?

2. **Agribusiness**

- a. A conditional use may be granted in the RC and RR District for the following commercial and industrial uses:
- (1) Local agricultural processing facilities, provided that at least 51 percent of the ingredients, measured by weight or volume as appropriate, are grown on the farm or land under the same ownership as the farm where the conditional use is located. Commercial grain milling and processing is permitted by right in the RC District and does not require conditional use approval (see Section 104.B.4).
 - (2) Farm supply and machinery sales, storage and services.
 - (3) Fuel production as an agricultural by-product.
 - (4) Bulk produce storage facilities including cooperatives, except that bulk grain storage is permitted as a matter of right.
 - (5) Livestock slaughtering.
- b. These uses are subject to the following:
- (1) The use shall be located on a parcel of at least 100 acres in the RC district only, or on a parcel of any size in the RC or RR District if subject to an Agricultural Land Preservation Easement or a preservation parcel easement, excluding fuel production (a.3) and livestock slaughtering (a.5)
 - (2) For meat and dairy processing facilities or livestock slaughtering facilities, all structures and uses shall be at least ~~300~~ 500 feet from lot lines.
 - (3) All other facilities, structures and uses shall be at least 150 feet from adjoining residential lots.

3. Aircraft Landing and Storage Areas (Private Ownership)

a. Private Use-storage of Three or Fewer Aircraft

A conditional use may be granted in the RC, RR, M-1 or M-2 Districts for private aircraft landing and storage areas where storage is limited to three or fewer aircraft, provided that:

- (1) The minimum area shall be 25.50 acres. Petitions where the minimum area comprises more than one lot must contain all property owners as petitioners.
- (2) The application for conditional use under this subsection shall be referred to the appropriate State and Federal aviation agencies for comments.
- (3) Areas used by fixed wing aircraft during take-off or landing shall be located at least 100 feet from any property line, at least 1,000 feet from any public or private institution, such as schools, hospitals, and churches, and at least 500 feet from any property line on the approach or departure ends of the runway. Areas used by helicopters during take-off and landing shall be at least 700 feet from any property line and at least 1,000 feet from any public or private institution, such as schools, hospitals, and churches.
- (4) Hangars shall be at least 200 feet from any property line. Other structures related to the conditional use shall be at least 150 feet from any residential property line, and no parking of aircraft shall be allowed within 100 feet of any residential property line and 50 feet of any non-residential property line. All setbacks provided for herein are to be measured from property lines.
- (5) Where feasible, all or part of the 500 feet "clear zone" from the approach or departure ends of the runway may be satisfied by properly certified navigational easements.
- (6) The use shall be limited to the storage of three or fewer aircraft, each having a gross weight of 12,500 pounds or less, and in the RC and RR Districts at least one of the aircraft shall be owned and principally used by a bona fide resident of the property.
- (7) No use granted herein shall allow instruction by or to any person in the operation or maintenance of aircraft.
- (8) Jet fixed wing aircraft may not use this facility.

b. Public or Private Use - Storage of 12 or Fewer Aircraft

Should we allow in RC and RR?

A conditional use may be granted in the RC, RR, M-1 or M-2 Districts for aircraft landing

and storage areas where storage is limited to 12 or fewer aircraft, provided that:

- (1) The minimum area shall be 45 acres. Petitions where the minimum area comprises more than one lot must contain all property owners as petitioners.
- (2) The application for conditional use under this subsection shall be referred to the appropriate State and Federal aviation agencies for comments.

(3) Areas used by fixed wing aircraft during take-off or landing shall be located at least 200 feet from any property line, at least 1,000 feet from any public or private institution, such as schools, hospitals, and churches, and at least 500 feet from any property line on the approach or departure ends of the runway. Areas used by helicopters during take-off and landing shall be at least 700 feet from any property line and at least 1,000 feet from any public or private institution, such as schools, hospitals, and churches.

(4) Hangars shall be at least 200 feet from any existing residential property line. Other structures related to the conditional use shall be at least 150 feet from any existing residential property line, and no parking of aircraft shall be allowed within 100 feet of any residential property line. All setbacks provided for herein are to be measured from property lines or buildings on property not owned by any of the petitioners.

(5) Where feasible, all or part of the 500 feet "clear zone" from the approach or departure ends of the runway may be satisfied by properly certified navigational easements.

(6) The use shall be limited to the storage of 12 or fewer aircraft each having a gross weight of 12,500 pounds or less, and in the RC and RR Districts, at least one of the aircraft shall be owned and principally used by a bona fide resident of the property.

(7) Jet fixed wing aircraft may not use this facility.

c. Public or Private Use - Storage of 13 or More Aircraft

A conditional use may be granted in the RC, RR, M-1 or M-2 Districts for an aircraft landing and storage area with storage area for 13 or more aircraft, provided that:

(1) The minimum lot size is 150 acres.

(2) The application for conditional use under this subsection shall be referred to the appropriate State and Federal aviation agencies for comments.

(3) The operation of the airport in accordance with the standards and requirements of the State and Federal aviation agencies will not require limitation of the heights of structures on adjacent land to less than the height limit specifically prescribed for the district in which such land is situated.

(4) The use shall be limited to the storage of fifty non-jet aircraft for which a current airworthiness certificate has been issued by the Federal Aviation Administration, each having a gross weight of 6,000 pounds or less. All airport take-off and landing areas shall be provided with a dustless surface.

(5) Areas used by fixed wing aircraft during take off or landing shall be located at least 500 feet from any residential property line, 350 feet from any non-residential property line, 1,000 feet from any public or private institution, including schools, hospitals, and churches, and 1,000 feet, measured along an extension of the runway centerline, from any adjacent residential or commercial zones on the approach or departure ends of the runway. Areas used by helicopters during take-off and landing shall be at least 700 feet from any property line and at least 1,000 feet from any public or private institution, such as schools, hospitals, and churches.

Structures, including hangars, shall be at least 200 feet from any residential property line, and 100 feet from any non-residential property line, and no parking of aircraft or vehicles shall be allowed within 100 feet from any property line.

(6) No commercial accessory uses are permitted except that tie-down fees may be charged by the owner and the sale of navigation charts and equipment is permitted.

(7) Every airplane operator based at the airfield must register with the airport manager the following information:

(a) aircraft registration number

(b) owner's name, address and telephone number(s)

(c) names, addresses and phone numbers of all pilots authorized to fly registered planes

(d) type of plane and airplane colors or paint scheme

(8) The airfield shall not be used for take-off and landing instruction or practice.

(9) The aircraft landing and storage area must meet a need of the residents of Howard County for such a facility.

JWG: Approved 1/15/12

SECTION 131: Conditional Uses

5. **Antique Shops, Art Galleries and Craft Shops (Commercial)**

A conditional use may be granted in the RC and RR Districts for antique shops, art galleries and craft shops in existing structures, provided that:

- a. No merchandise will be stored outside of structures, except outside displays during store hours only. Such displays may not extend into minimum required structure or use setback areas.
- b. The design of structures will be compatible with that of other structures in the vicinity.
- c. The use shall be operated by the person or persons residing in a residence located on the same lot.

JWG: no changes

6. Athletic Facilities, Outdoor

Except where permitted as a matter of right, a conditional use may be granted in the RC, RR, RED, R-20, R-12, R-SC, R-SA-8, R-A-15 or R-MH Districts for the following outdoor athletic facilities: athletic fields, community swimming pools, commercial swimming pools, and tennis courts, provided that:

a. A conditional use shall not be required for facilities which are reserved for use by residents of a community and their guests, and which are located within neighborhoods or communities where all properties are included within recorded covenants and liens which provide for the operation and maintenance of the facilities.

b. Other athletic or recreational uses accessory to these principal uses are permitted if approved by the Hearing Authority.

c. Buildings, parking areas, and outdoor activity areas will be at least 50-100 feet from adjoining residentially-zoned properties ~~other than public road right-of-ways~~. This buffer area shall not be available-used for athletic or recreational activities. ~~The Hearing Authority may reduce this setback, if:~~

~~(1) The adjoining land is committed to an agricultural or environmental preservation easement or a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; or~~

~~(2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring residential properties.~~

d. Adequate landscaping or other acceptable forms of buffering will be provided to screen outdoor uses from residential properties.

e. Reasonable standards for hours of operation and a detailed lighting plan in strict compliance with Section 134 shall be proposed by the petitioner and established by the Hearing Authority for each use.

f. Outdoor sound amplification will be permitted only if the source of the sound is at least 500 feet from adjacent residential property lines, and it will not constitute a nuisance for residential properties in the vicinity. The petition must indicate the purposes of proposed amplification (such as announcing sports events, safety announcements, or entertainment), hours of use and the maximum noise level at the property lines.

Approved with changes, 5/1/11

7. Beauty Parlor/Barber Shop

A conditional use may be granted in RC, RR or R-20 District for a beauty parlor or barber shop provided that:

- a. The use shall be located within a residence and conducted by the person or persons residing in said residence.
- b. On lots less than one acre in size, the use shall be limited to one resident operator, with no other employees. On lots of one acre or larger, one additional operator or other employee may be permitted.
- c. If there is one additional operator or employee, three off-street parking places shall be provided.

JWG: Approved 5/1/11

Prepared By T.F. Mariani

#8 Bed and Breakfast Inns

- f. Only possible issue is that a CU (Cond. use) is not required on farms in RR or Rc that are in Ag pres. This seems reasonable since all of these are at least 50 acres in size.

9. Boarding Houses

A conditional use may be granted in the RC or RR districts for a boarding house, provided that:

- a. The site has frontage on and direct access to a collector or arterial road designated in the General Plan.
- b. Parking, refuse storage and outdoor activity areas shall be at least 20-30 feet from adjoining residentially zoned property.
- c. The minimum lot size shall be 5 acres if ~~10 or more~~ 5 but no more than 8 non-transient residents are accommodated.
- d. The boarding house is occupied as a residence by the owner.

e. No commercial trash pickup shall be permitted.

Approved with changes 5/1/11

10. Bottling of Spring or Well Water

A conditional use may be granted in the RC or RR Districts for bottling of spring or well water, provided that:

a. The site has frontage on and direct access to a collector or arterial road designated in the General Plan.

ba. The minimum lot size shall be ~~5~~ 50 acres.

cb. All structures, driveways, parking areas, loading zones and uses related to the bottling operation shall be at least ~~75~~ 100 feet from side and rear property lines.

~~dc. Public tours and retail sales shall be permitted provided such uses are clearly accessory and incidental to the bottling operation and are approved by the Board of Appeals.~~

e. To insure that the wells and water supply of vicinal properties are preserved, a system to monitor both the quantity and the quality of the vicinal water supply must be installed by the owner, and periodically monitored by the Howard County Health Department.

JWG: approved 5/11/11

Cemeteries and Mausoleums

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, RMH R-SI, R-VH, HO, HC, POR, CCT, B-1, B-2, SC, M-1 or M-2 Districts for cemeteries and mausoleums provided that:

- a. Graves with headstones or permanent markers greater than 3 feet in height shall not be located within ~~[[20]]~~ 50 feet ~~[[from]]~~ OF the property lines of adjacent residentially zoned lots in residential use.
- b. The Hearing Authority may require walls, fences and/or planting of shrubbery, trees or vines as may be reasonable and proper to afford adequate screening. ~~[[may be required.]]~~
- c. When approving a cemetery, the Hearing Authority may authorize future construction of accessory structures, such as mausoleums, vaults, columbaria, and sheds, IF SAID CONSTRUCTION IS ALSO PRESENTED AND APPROVED IN THE ORIGINAL CONDITIONAL USE PLAN ~~[[not requiring further Hearing Authority approval,]]~~ The area within which the future changes are authorized must be delineated on the conditional use plan and located at least 50 feet from all property lines.]]

Justification: c. All matters of a cemetery or mausoleum to include future accessory structures should be included in the original Conditional Use Plan.

13. Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, RVH, HO, HC or M-2 Districts for day treatment and care facilities, child day care centers and nursery schools provided that:

- a. On-site circulation and parking areas shall be designed to minimize vehicular/pedestrian conflicts and to provide safe areas for dropping off and picking up passengers.
- b. For child day care centers or nursery schools in industrial or commercial districts, outdoor play areas shall be fenced, screened and located to minimize exposure to noise and other emissions from roads, parking areas, and industrial activities.
- c. The minimum lot size for child day care centers shall be 500 gross square feet of lot area per child.
- d. Outdoor play areas or activity areas shall be fenced, located to the side or rear of the principal structure, and buffered from adjoining residential properties by landscaping or adequate distance or both.
- e. Parking areas shall be located and landscaped to minimize their visibility from roads and adjacent residential properties. minimum level C landscaping
- f. The design and massing of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition. Additional setbacks from property lines and landscape buffering shall be required if necessary to make the appearance of the site compatible with surrounding residential properties.
- g. For facilities in residential districts with a capacity of more than 30 children or adult clients at one time, the following standards apply:
 - (1) The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a conditional use that was approved prior to the effective date of Council Bill No. 11-2001 are permitted.
 - (2) Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. ~~The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater, if:~~
 - ~~(a) The adjoining land is committed to a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; or~~

~~(b) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring residential properties.~~

(3) At least 20 percent of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.

14. **Communication Towers or Antennas (Commercial)**

a. A conditional use may be granted for commercial communication towers or antennas in the following districts:

(1) In the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, R-MH, or PGCC Districts, except that antennas meeting the requirements of Section 128.E.4., and commercial communication towers located on government property, excluding School Board property, and with a height of less than 200 feet measured from ground level, are permitted as a matter of right.

(2) In the POR, PEC, B-1, B-2, SC, BR and CE Districts for towers with a height of 200 feet or greater (including antennas) measured from ground level.

b. **Conditional Use Criteria:**

(1) An applicant for a new communication tower shall demonstrate that a diligent effort has been made to locate the proposed communication facilities on a government structure or, on an existing structure or within a non-residential zoning district, and that due to valid considerations, including physical constraints, and economic or technological feasibility, no appropriate location is available. The information submitted by the applicant shall include a map of the area to be served by the tower within a 5-mile radius regardless of County, showing all existing communication antennas and, its relationship to other antenna sites in the petitioner's network, and an evaluation of existing buildings taller than 50 feet, communication towers and water tanks, and the identification of all government, institutional and commercial zoned land -within ~~one-half~~ 1.25 miles of the proposed tower.

(2) New communication towers shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons. Unless collocation has been demonstrated to be infeasible, the conditional use plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.

(3) Ground level equipment and buildings and the tower base shall be screened from public streets and residentially-zoned properties.

(4) Communication towers shall be grey or a similar color that minimizes visibility, unless a different color is required by the Federal Communications Commission or the Federal Aviation Administration.

(5) No signals or lights shall be permitted on a tower unless required by the Federal Communications Commission or the Federal Aviation Administration.

(6) A communication tower that is no longer used shall be removed from the site within one year of the date that the use ceases.

2/15/12 DOL+TM

15. **Contractor Storage Facility**

A conditional use may be granted in the B-2 District for a contractor storage facility provided that:

- a. The minimum lot size shall be five acres and the maximum lot size shall be 10 acres.
- b. All outdoor storage uses, commercial vehicle and equipment parking shall be located a minimum of 100 feet from an adjacent residential district, 30 feet from other adjacent non-residentially zoned properties, and 50 feet from the public street rights-of-way of all public roads.
- c. All outdoor storage uses, commercial vehicle and equipment parking shall be screened from all adjacent properties and public street rights-of-way with a Type D landscape screen as defined in the Subdivision and Land Development Regulations, and expressly in addition, a 6-foot tall opaque fence. The fence shall comply with the setbacks set forth in Section B above.

d. ~~d-~~ If the contractor storage facility is adjacent to a residential zoning district, **the hours of operation shall be proscribed as follows:**

<u>Monday – Friday</u>	<u>7 AM – 9 PM</u>
<u>Saturday</u>	<u>7 AM – 7 PM</u>
<u>Sunday</u>	<u>11 AM – 7 PM</u>

The Hearing Authority may extend the hours of operation by one hour, either AM or PM if the applicant demonstrates extreme hardship.

Prepared By T.F. Mariani

#16 Country club and golf course

- a. 50 foot buffer for buildings should be increased to 100 feet
- b. Edge of fairways should be 150 feet from adjacent property lines and 200 feet from existing structures.

Prepared By T.F. Mariani

17 Country Inn

- d. We should consider allowing more than a 50% increase in size if needed for economic viability , but in no event more than 100 %.

Entrance Features For Subdivisions - Buildings

A conditional use may be granted in the RC and RR Districts for an ornamental building which is part of an entrance feature, provided that the building:

- a. Is part of an entrance feature identifying a residential subdivision of at least 25 lots;
- b. ~~[[May be located closer to the public street right-of-way than allowed by the district setback requirements, if the location is approved by the Hearing Authority;]]~~
- c. Is no more than 20 feet wide, 20 feet deep, and 15 feet in height;
- d. Does not interfere with sight distance along public roads;
- e. Is compatible in appearance and character with structures on surrounding properties **AND THE AREA WHERE THE COMMUNITY IS ESTABLISHED, AS APPROVED BY THE DESIGN REVIEW BOARD.**
- f. ~~[[Will]]~~ **SHALL** be maintained in good condition by the Homeowner's Association for the subdivision.

Suggestions:

Remove para b. above.

In e. above, insert new words requiring Design Review Board Approval.

JUSTIFICATION: Para b. above, as currently written, fails to provide the Hearing Authority with specific guidelines, therefore suggest it be removed.

Para e. above establishes needed county Design Review Board approval.

Prepared By T.F. Mariani

#19 Explosive storage

A statement of the type and quantity of explosive as well as how it is stored should be submitted, along with a professionally prepared risk analysis. A 140 foot setback seems arbitrary. Setbacks should be based on risk analysis with 150 as a minimum.

Prepared By T.F. Mariani

#20 Farm Tenant house

b. what is the rationale for 25 acres and 50 acres? What is maximum number of tenant houses per farm? This needs clarification.

21. Fast Food Restaurant

A conditional use may be granted for a fast food restaurant in the B-I, M-I or M-2 Districts, provided that:

a. At least 20 percent of the site area will be landscaped. The landscaping plan must include plantings which enhance the appearance of the site from public roads and provide buffering for adjacent uses, and give great weight to the recommendations of The Design Advisory Panel.

b. The petition demonstrates that noise generated by speakers for drive-through service lanes will not be audible from residentially-zoned land.

c. If the site borders a residential district:

(1) A detailed lighting plan must be approved by the Hearing Authority.

(2) Solid walls such as masonry or wood and masonry may be required by the Hearing Authority. When solid walls are required, landscape planting is required between the wall and the property line.

d. The lighting must be downward directed and not be a nuisance to any residential property within 500 feet of any property line.

The JWG opposes this use in the NPSA, but if it is deemed a necessity, the following changes are recommended.

22. Funeral Homes and Mortuaries

A conditional use may be granted in the RC, RR, R-ED or R-20 Districts for funeral homes or mortuaries provided that:

- a. The area of the lot shall be not less than ~~three~~ five acres.
- b. The site has frontage on and direct access to a collector or arterial highway designated in the General Plan.
- c. The design of new structures or additions to existing structures will be compatible in scale and character with residential development in the vicinity, especially with respect to its appearance from the public highway, as demonstrated by architectural elevations or renderings submitted with the petition.
- d. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater, if
 - (1) The adjoining land is committed to a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development or;
 - ~~(2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring properties.~~
- ~~e.~~ e.—At least 20 percent of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.
- ~~f.~~ f. The Hearing Authority must give special consideration to any potentially adverse effects arising from its location in the NPSA. A fully detailed site plan showing proposed septic systems and their relation to any well, septic system, or storm water management facility within 200 feet of any property line must be submitted. The Hearing Authority must require testimony from the Health Department as to the benign effects of the proposal.
- ~~g.~~ f.—Crematoriums are permitted as accessory uses to a funeral home or mortuary, but not in the RR, RC. And BR Zones.

- h. A traffic study shall be required demonstrating safe access and egress at all times but especially while the facility is operating at or exceeding maximum capacity.

(Since this proposal was developed Council adopted the parking provisions recommended by DPZ in the TSR of ZRA-131, essential to the continuation of this use. The text follows)

Minimum Parking Requirements for Specific Uses

7. Institutional and Other Uses

- b. Funeral homes
- 10.0 spaces per public viewing room, OR 1 SPACE PER 50 SQUARE FEET OF FLOOR AREA IN PUBLIC ROOMS (CHAPEL, RECEPTION ROOMS, VISITATION ROOMS, AND ANY FLEXIBLE SPACE ADJACENT TO THESE ROOMS THAT CAN BE USED AS OVERFLOW WHEN NECESSARY), WHICHEVER IS GREATER, BASED UPON A REQUIRED FLOOR PLAN OF THE PROPOSED FACILITY SUBMITTED WITH A CONDITIONAL USE PETITION AND/OR A SITE DEVELOPMENT PLAN [; plus 1.0 space per employee.]

23. **Gases, Manufacture, Sale, Storage and Distribution of Acetylene and Other Non-toxic Industrial**

A conditional use may be granted in the M-2 Zoning District for the manufacture, sale, storage and distribution of acetylene and other non-toxic industrial gases provided that:

Page 2

- a. Maximum above-ground storage shall not exceed 10,000 gallons or its equivalent in pounds or cubic feet for each square feet of lot area; 20,000

- b. When the site is closed or not operated for a continuous period of twelve months, the gas storage facilities shall be dismantled and removed from the site;

- c. The minimum setback from all property lines shall be fifty feet when determined to be clearly safe to adjacent properties and
human activity.

24. **Gasoline, Fuel Oil and Liquefied Petroleum, Bulk Storage of**

A conditional use may be granted in the B-2, M-1 or M-2 Districts for the storage or sale of gasoline, fuel oil, bottled gas or liquefied petroleum, provided that:

- a. Maximum storage above ground shall not exceed 10,000 gallons or its equivalent in pounds or cubic feet, for each 20,000 square feet of lot area. Except that total storage of liquefied petroleum in the B-2 district shall not exceed 2,000 gallons and no single container may contain more than 1,000 gallons of liquefied petroleum, total storage shall not exceed 20,000 gallons in the ~~B-2 and M-1~~ districts. In B-2 districts, setback from property lines shall be 100 feet.

Home-Based Contractors

A conditional use may be granted in the RC and RR Districts for home-based contractors, subject to the following requirements, except that landscape contractors **are (may be)** permitted elsewhere in Section 131.N., and home-based contractors meeting the requirements of Section 128.C.2 are permitted accessory uses:

- a. The number of commercial vehicles parked on the site shall be limited to one commercial vehicle for lots one acre or smaller, two commercial vehicles for lots between one and three acres, three commercial vehicles for lots at least three and not more than 20 acres, and five commercial vehicles for lots larger than 20 acres.
- b. The area used for parking and storage of commercial vehicles, equipment and supplies, whether exterior or interior, shall be limited to no more than five percent of the area of the lot or 10,000 square feet, whichever is less.
- c. Structures used for the conditional use shall be at least 50 feet from lot lines and all outdoor parking or storage areas shall be at least 100 feet from lot lines, ~~unless the Hearing Authority finds that a lesser setback is more appropriate and will not adversely affect neighboring properties due to visual impact, activity, noise, dust, fumes, or other cause.~~
- d. The location and design of the operation shall be such that the use will not be a nuisance to residents of neighboring properties due to noise, dust or fumes. Particular consideration shall be given to the location of loading areas, parking and circulation areas, and driveways in relation to neighboring properties.
- e. If the driveway providing access to the proposed site is shared with other properties, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway.
- f. Parking and other outdoor uses shall be screened from adjoining properties and public roads by landscaping ~~or other appropriate means.~~ **in conformance with the Howard County Landscape Manual; Schedule B, Schedule C and Chapter IV.**
- g. New structures or additions to existing structures shall be designed to be compatible in appearance with other residential or agricultural structures in the vicinity, as demonstrated by architectural elevations or renderings submitted with the petition. **All new structures or additions/modifications to existing structures are subject to review and permit approval by the Department of Planning and Zoning.**
- h. Minor repairs to vehicles or equipment shall be permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting and similar activities shall not be permitted.

JWG: Approved 1/15/12

Home Occupations

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, RMH, R-VH, PGCC, TOD, CAC and TNC Districts for home occupations subject to the following requirements, except that home occupations meeting all requirements of Section 128.C.1 are permitted accessory uses:

- a. Home occupations approved under this section shall be limited to the following uses:
 - (1) art or hand craft studios;
 - (2) dressmaker, seamstress, tailor and similar uses;
 - (3) typing or computer services;
 - (4) business or professional offices.
- b. The total area devoted to a home occupation shall not exceed 33% of the gross floor area of the dwelling, **and accessory building.**
- c. The home occupation shall be located entirely within the dwelling, an accessory building, or both, ~~except that a home office which may be visited by clients shall be located within the principal dwelling.~~
- d. The home occupation shall not alter the residential character or appearance of the dwelling or the lot. An accessory building used for the home occupation must be compatible in scale, character and appearance with the residential character of the site and the neighborhood. **All new structures or additions/modifications to existing structures are subject to review by the Design Review Panel and permit approval by the Department of Planning and Zoning.**
- e. There shall be no exterior evidence, other than a permitted sign, to indicate that the site is being used for any purpose other than that of a dwelling. Exterior evidence shall include outdoor display or storage, noise, dust, vibration, glare, fumes or odors.
- f. No sale or rental of commodities shall take place on site.
- g. The home occupation shall be conducted by persons residing in the dwelling. In addition, not more than three employees not residing in the dwelling may work on site at one time in connection with the home occupation.
- h. No business-related deliveries by trucks with more than two axles shall be permitted. Parcel post and other similar delivery trucks are permitted.
- i. Business-related off-street parking areas shall be screened from public roads and neighboring properties.

SECTION 128: Supplementary Zoning District Regulations

A. Supplementary Bulk Regulations

The following supplementary regulations shall apply in addition to the requirements of the applicable zoning district.

C. Home Businesses

1. Home Occupations

Home occupations which meet the following requirements are permitted accessory uses in all residential zoning districts and in residential land use areas of the NT, PGCC and MXD Districts.

If more than one home occupation is located within a residence or on a residential lot, the requirements given below apply to the cumulative total of all home occupations on the site.

- a. The total area devoted to home occupations shall not exceed 33% of the gross floor area of the dwelling or 800 square feet, whichever is less.
- b. A home occupation shall be located entirely within a dwelling, an accessory building, or both, except that a home office which may be visited by clients shall be located within a dwelling. ~~An office visited by clients may not be separated from the remainder of the structure by an attached garage or an open or enclosed breezeway.~~
- c. A home occupation shall not alter the residential appearance and character of the dwelling, accessory building or lot.
- d. There shall be no exterior evidence, other than a permitted sign, to indicate that the lot is being used for any purpose other than that of a dwelling. Exterior evidence shall include outdoor display or storage, noise, dust, vibration, glare, fumes, odors or extensive parking area.
- e. No sale or rental of commodities shall take place on the lot.
- f. A home occupation shall be conducted by persons residing in the dwelling. In addition the following number of nonresident employees may work on the lot in connection with the home occupation:
 - (1) On a lot 40,000 square feet or larger, no more than two full-time equivalent employees not residing in the dwelling, not to exceed four individuals, shall be permitted.
 - (2) On a lot smaller than 40,000 square feet which is improved by a single-family detached dwelling, no more than one full-time equivalent employee not residing in the dwelling, not to exceed two individuals, shall be permitted.
 - (3) Within a single-family attached or apartment dwelling, no more than one fulltime equivalent employee not residing in the dwelling, not to exceed one individual, shall be permitted provided that the nonresident employee shall work only between 9:00 a.m. and 5:00 p.m. Monday through Friday.
- g. No business-related deliveries by trucks with more than two axles shall be permitted. Parcel post and other similar delivery trucks are permitted.
- h. Home occupations may include the uses listed below, as well as other uses which comply with all requirements of this section.
 - (1) Art or hand craft studios.
 - (2) Direct sale product distribution (e.g., Amway, Avon, Tupperware, etc.).
 - (3) Mail-order or telephone sales.
 - (4) Dressmaker, seamstress, tailor, and similar uses.

- (5) Typing and computer services.
 - (6) Repair services for (small electronics,) computer hardware, clocks, jewelry, cameras, guns, and similar uses.
 - (7) Tutoring.
 - (8) Business or professional offices which have no more than two vehicles visiting the home occupation at any one time.
 - (9) Catering, subject to Health Department approval.
 - (10) In the RC and RR Districts only, lawn mower and small engine repair on lots of three to five acres shall be enclosed within existing structures or open on lots greater than five acres. or larger.
- i. The following uses are not permitted as home occupations:
 - (1) Vehicle repair, sales or rental.
 - (2) Restaurants.
 - (3) Manufacturing and processing operations, other than production of handcrafts and similar activities.
 - (4) Furniture refinishing.
 - (5) Add: Dry cleaning
 - (6) Uses which require a conditional use in any residential zoning district.
 - j. Certain home occupations which do not comply with the requirements of this section may be permitted as conditional use, subject to the provisions of Section 131.N.28 and other applicable regulations.

2. Home-Based Contractors

In the RC and RR Districts, and on lots larger than two acres in the R-ED, R-20, AND R-12 Districts, a home-based contractor shall be a permitted accessory use, provided that:

- a. The site shall have at least 60 feet of frontage on a public road. and be a minimum of three acres.
- b. In addition to the commercial or unregistered vehicles which may be parked on the lot according to the accessory use requirements of the applicable zoning district, the following is allowed:
 - (1) In the RC and RR Districts, one additional commercial vehicle may be parked on lots larger than two acres.
 - (2) In the R-ED, R-20, and R-12 Districts, one additional commercial vehicle may be parked on lots larger than three acres.
- c. Employees who do not live on the lot may visit the lot for the sole purpose of picking up or returning vehicles or equipment. Such trips shall be limited to:
 - (1) In the RC and RR (all) Districts, no more than four trips per day for lots two acres or less, six trips on three to five acre lots eight trips for lots larger than two and less than three acres, and twelve trips for lots of three five or more acres.
 - (2) In the R-ED, R-20, and R-12 Districts, no more than eight trips per day for lots larger than one acre.
- d. In addition to the employee visits allowed by Paragraph 2.c, one non-resident, full-time equivalent office employee, not to exceed two individuals, may work on site. Nonresident employees are not permitted to perform non-office functions (e.g. equipment repair, loading, etc.).

- e. No nonresident employees shall be on the lot and no commercial vehicles or equipment shall be taken from or returned to the lot between 7:00 p.m. and ~~7:00~~ 6:30 a.m.
- f. The total area used for parking and storage of commercial vehicles, equipment and supplies, whether outdoors or indoors, shall be limited to the following:
 - (1) In the RC and RR Districts, no more than two percent of the gross lot area or 5,000 square feet, whichever is less.
 - (2) In the R-ED, R-20, R-12 and R-SC Districts, no more than two percent of the gross lot area or 1,000 square feet, whichever is less.
- g. Parking and storage areas shall be restricted as follows:
 - (1) In the RC and RR Districts, supplies shall be stored within a building, except that mulch, compost, soil, sand, stone and other natural materials may be stored outdoors. Supplies stored outdoors must be fully screened from surrounding properties and roads by vegetation, fencing or other appropriate means. **in conformance with the Howard County Landscape Manual; Schedule B, Schedule C and Chapter IV.**
 - (2) Equipment shall be either stored within a building or fully screened from surrounding properties and roads by vegetation, fencing or other appropriate means.
 - (3) In the R-ED, R-20, AND R-12 Districts, vehicles, supplies and equipment shall be parked or stored within a building, except that one commercial vehicle may be parked outdoors on lots of less than three acres, and two commercial vehicles may be parked outdoors on lots of three or more acres. Equipment and supplies may be stored on the commercial vehicles.
- h. All storage areas shall meet the accessory structure setback requirements, except that structures used for parking, storage or loading of commercial vehicles larger than 5.0 tons gross vehicle weight, or excavating, paving or similar construction equipment shall be at least 50 feet from all property lines and outdoor parking or storage areas for these items shall be at least 100 feet from property lines.
- i. No major repairs of vehicles or equipment shall be permitted on the lot. Major repairs include body work, engine rebuilding, painting, and similar activities.
- j. Where two or more adjacent lots are under common ownership and used as a single homesite, home-based contracting uses may be located on a different lot than the principal dwelling, if the Director of Planning and Zoning determines that this will allow more effective screening to be provided by using existing features of the site, or will result in decreased impacts on neighboring lots due to noise, dust or fumes. Parking surfaces, fencing and landscaping may be installed; however, no new accessory building shall be constructed and no existing accessory building shall be enlarged unless located on the same lot as the principal dwelling.
- k. A home-based contractor shall operate only upon approval of a permit by the Department of Planning and Zoning, based upon compliance with the requirements listed above. The permit application shall include a plot plan showing the location and dimensions of structures, parking and storage areas, screening, and driveways, and a description of the proposed use.
- l. Certain home-based contractors which do not comply with the requirements of this section may be permitted as conditional uses, subject to the provisions of Section 131.N.27 and other applicable regulations.

Junk Yard

A conditional use may be granted for a junk yard in the M-2 District, provided that:

- a. The lot for the proposed junk yard shall be not less than one, but not more than five acres.
- b. Outdoor areas used for the processing, dismantling, cleaning or storage of parts, material or motor vehicles will be:
 - (1) At least 300 feet from any other zoning district, at least 50 feet from public street rights-of-way and at least 30 feet from property lines; and
 - (2) Enclosed by a solid wood or masonry wall or fence, **AT LEAST 8** [[6 to [[8]] feet high, of a design approved by the Hearing Authority. Building walls may form part of the enclosure.
- c. No storage of tires shall be permitted in a junk yard without the required permits from the Maryland Department of the Environment.

C. ALL TOXIC MATERIALS SHALL BE PROPERLY DISPOSED OF IN ACCORDANCE WITH ESTABLISHED FEDERAL, STATE AND COUNTY REGULATIONS AND SHALL NOT BE DISPOSED OF OR STORED, EVEN TEMPORARILY, IN THE JUNK YARD.

JUSTIFICATION: New Para C. attempts to update important, recent environmental requirements currently prescribed. It is important to mitigate the risk, strongly regulate and avoid potential environmental impact caused by inadvertent spillage of toxic liquid materials.

JWG recommends that DPZ draft specific conditions for each of these "new" uses, and give the JWG the opportunity to review them

CONDITIONAL USE #30 (Pages 293-294)

**Reasons For Requirement of New Definitions For
Kennels, Cattery, Pet Grooming, Pet Day Care, Hobby Kennels, and Hobby Cattery**

In these new and difficult economic times we find owners of pet establishments also looking for new creative ways to expand their businesses and remain profitable. The times have changed with lateral expansion of businesses, and have created a rise in popularity of many different pet services in one facility and at one location. For example, "Pet Day Care" in the present zoning regulations is considered a "supplemental use" under pet grooming establishments. However, pet day care facilities usually supply outside facilities for more pets on a daily basis than a pet grooming facility. A pet day care facility should be considered as a separate conditional use with separate zoning regulations. It is more environmentally invasive, and generally involves more pets per day at the site where "play yards" are built to enclose many animals at one time either inside or outside or both.

When a long term boarding facility expands into having a pet grooming establishment and pet day care facilities as well, the population of animals during the day will increase and zoning must take this into account with regulations that provide for a more intense and higher population of pets and traffic than there is with strictly an overnight boarding operation. With larger pet populations and more multiple use activities on the same property at the same time, zoning changes should consider longer setbacks from neighboring property lines to the facilities' buildings and outdoor pens, and waste disposal structures. Adequate screening and landscaping of outside pens and runs should be increased so that they are not visible from adjoining properties and public street rights-of-ways. In addition such screening should be tall enough to provide a visual barrier from parked cars and trucks, outside kennels and runs and buildings that are used for kennels, garbage disposal units, feed rooms, and other areas used for purposes of pet grooming, training or kenneled animals. Road frontage requirements may need adjusting with increased traffic. Other considerations should include provisions for adequate waste and garbage disposal, safe site distances of vehicles entering or exiting the pet facility onto collector or connecting roads, and the possibility of having acceleration and deceleration lanes into and out of the facility's driveway for safety reasons. Consideration must be given to the closeness of the facilities to the areas' neighboring wells and the impact of increased water use in the in NPSA in rural conservation and rural residential areas. Again with increased commercial "conglomerates" of pet services, populations of animals at one location and activities being provided for pets, there will be a need for requirements of adequate parking facilities, adequate sustainable driveway width and paving type, adequate noise, dust and odor deterrents and controls, increased need for adequate restrictive fencing, and designation of hours of operation.

The sale of grooming and pets supplies has expanded into various domestic dog and cat facilities. Expansion of the sale of goods at such facilities that are not directly associated with the needs of dogs and cats must be specified, if not prohibited. Some sort of definition of allowance of sales of products should be more specifically laid out. There has also been an upsurge in obedience and performance training of dogs that are dropped off for the day in facilities that also house pets being boarded long term. Expanding chiropractic services are being offered where pets are being kept or dropped off for the day for a fee. All these areas involve sales and services that once did not exist so that adequate provisions for these new areas need to be taken into account as well as time of day for deliveries, training, chiropractic visits, etc. otherwise we may be having "mini Petsmart stores" developing within a facility in rural conservation and rural residential areas.

With "Hobby" Kennels and "Hobby" Catteries, I have included these terms and defined these facilities for domestic dogs and cats under conditional uses. The basic difference in these hobby kennels and hobby catteries is that the dogs and cats are being raised and kept not for a fee and only non commercial, not for profit activities are being done. Some control of the numbers of pets, acreage needed, etc still must be considered under conditional uses as it is too easy to have "unnoticed" puppy mills.

Some commercial pet facilities have specified only a particular species of animal they will be boarding, rather than both dogs and cats. However, some pet boarding facilities will house only dogs and some will house only cats, thus the term "Cattery" now exists for those facilities that only board cats. A "cattery" can also have grooming and day care facilities as well as long term boarding of only cats. The zoning requirements and conditional use for a cattery and the space for keeping cats (traditionally indoors) should be different than requirements for large and small dogs (traditionally having outdoor access as well as indoor). Thus zoning must become more specific and set backs and acreage must be adjusted according to the use being solely inside a facility or one that also needs outside use and facilities as well. The species of dog or cat use must be taken into consideration when setting up conditional use zoning.

The point to be made is that with this lateral expansion of commercial pet enterprises at one site and diversification of what a commercial pet facility can have going on at one time on one properly requires more in depth requirements and zoning challenges that once defined a kennel as boarding so many cats and dogs and requiring so many acres of land and set backs for so many buildings or structures on the facility.

The population number of dogs and cats at a facility could vary daily with some pets being dropped off for the day and picked up at night and those that occupy the facility overnight. Therefore the granting of a conditional use for a minimum lots size required based on the number of dogs or cats at the facility could vary greatly with the time of day the pet population use is at its highest or lowest at that one facility site.

With this in mind, I have tried to set some basic definitions of what type of pet facilities we now have to deal with that exist today in order to revamp the conditional use zoning dependant on the type and extent of pet facilities we are talking about in this changing economic dynamic for pet care services.

This review I have made of Conditional Use #30 (pages 293-294) on "Kennels and Pet Grooming Establishments" desperately needs more in depth zoning revamping. This comprehensive review will help to put in place clearer zoning regulations when people request a new or expanding pet facility conditional use. In my opinion comprehensive review of zoning starting with clear cut definitions to go by, will help to alleviate what is considered to be (by DPZ's own admission) " one of the four most troublesome conditional uses to have to deal with presently." I stand ready to help if needed.

Dr. Brenda Stewart
Small Animal Veterinarian (retired)
Co-Chairman of the Howard County Rural Crossroads Sub-Committee (Ulman Appointed)

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2752 Daisy Road
Woodbine, MD 21797-8124

New Definitions and Additional Definitions

1. Commercial Kennel: A commercial kennel is a facility that routinely boards 6 or more domestic dogs and/or cats overnight for a fee. Such kennels may include sale of grooming and pet supplies. This does not include small animal hospitals or clinics or pet shops. A kennel license is required for 6 or more domestic pets being boarded.
2. Hobby Kennel: This is a noncommercial, not for profit facility at or adjoining a private residence where adult dogs and or cats are bred or kept for the enjoyment of the species. Such activities of enjoyment could be for dog or cat shows, hunt training, obedience trials, tracking, search and rescue work, therapy training, and agility trials. When the number of adult dogs or cats exceeds 5, a kennel license is required. This does not include animal hospitals, animal clinics or pet shops.
3. Commercial Cattery: A commercial cattery is a facility that boards overnight strictly domestic cats for a fee. This establishment may include sale of grooming and pet supplies. This does not include animal hospitals, animal clinics or pet shops. A cattery license is required for 6 or more cats at the facility.
4. Hobby Cattery: This is a noncommercial, not for profit, strictly cat facility (cattery) at or adjoining a private residence where adult cats are bred or kept for exhibit for organized shows or for the enjoyment of the species. When the number of cats exceeds 5, a kennel cattery license is required.
5. Pet Grooming Establishment: A commercial establishment which clean, trims, and bathes domestic pets such as dogs and cats for a fee. This establishment may include sale of grooming and pet supplies. No animals are boarded overnight.
6. Pet Day Care: A commercial facility that takes care of domestic dogs and cats during the day for a fee. No animals are boarded overnight. When the number of domestic dogs and cats exceeds 5 or more animals, a license is required for this usage.

31. Landscape Contractors or Retail Greenhouses and Nurseries

A conditional use may be granted in the RC and ~~RR~~-Districts for retail greenhouses, retail nurseries, and landscape contractors, provided that:

- a. The site is at least 5 10 acres in area.
- b. All structures and uses which are part of the conditional use including parking, driveways, storage, and areas open to retail customers, shall be at least 50 100 feet from lot lines, and at least 300 feet from residences on other lots. unless the Hearing Authority finds that a lesser setback is more appropriate and will not adversely affect neighboring properties due to visual impact, activity, noise, dust, fumes or other cause.
- c. The location and design of the operation shall be such that the use will not be a nuisance to neighboring properties due to noise, dust or fumes. Noise shall not exceed 60db at the lot lines.
- d. Buildings used for sales, storage or offices will be screened or compatible in scale and character with other residential or agricultural structures in the vicinity. If new structures or additions to structures are proposed, architectural elevations or renderings must be submitted with the petition.
- e. The following requirements apply to retail nurseries or greenhouses:
 - (1) The principal business use shall be the sale of plants. In addition, accessory sales of other items related to gardening or lawn care may be permitted, including the following: seeds, fertilizers, pesticides, firewood, hand tools, hand spraying and watering equipment, and incidental seasonal items. Sale of general hardware or power equipment is not permitted.
 - (2) Sites for retail greenhouses or nurseries must have frontage on and direct access to a collector or arterial road as designated in the General Plan.
 - (3) Areas to be used for accessory sales of items related to gardening or lawn care shall be designated on the conditional use plan.
 - (4) Adequate landscaping shall be provided to screen parking, storage, display and other activity areas related to the conditional use from residential properties.
- f. The following requirements apply to all landscape contractors:
 - (1) On lots of five acres and more, a A-landscape contractor which is a home-based contractor as defined in these regulations and meets the requirements of Section 128.C.2 is a permitted accessory use and does not require a conditional use, but must meet the conditions described in all the sections below.
 - (2) Buildings and outdoor areas to be used for parking, loading and storage of vehicles, equipment, tools and supplies shall be delineated on the conditional use plan and located at least 100 feet from lot lines and public roads, and at least 300 feet from residences on other lots.
 - (3) Outdoor parking and storage areas shall be fully screened from neighboring properties and roads.
 - (4) Minor repairs to vehicles or equipment are permitted, provided such activities

take place inside a building. Body work, engine rebuilding, engine reconditioning, painting and similar activities are not permitted.

(5) Hours of operation are limited to 7:00 am to 6:00 pm, Monday through Friday, and 9:00 am to 5:00 pm on Saturday.

(6) A traffic study, demonstrating safe access and egress at all times, shall be required.

(7) Snow removal operations are not permitted nor to be considered an accessory use unless specifically included in the decision and order of the Hearing Authority granting conditional use.

(Note: snow removal is only permitted in the BR and M-1 zones as an activity permitted under Contractor Office.)

32. **Limited Outdoor Social Assemblies**

A conditional use may be granted for limited outdoor social assemblies in the RC District, provided that:

- a. The lot is the site of a historic structure as defined in these regulations.
- b. The minimum lot size is 5 20 acres or greater, unless the land is surrounded on all sides, but the public right of way side, by land in a preservation easement of 50 acres or more.
- c. If the driveway providing access to the proposed site is shared with other properties or has direct access to and frontage on a local road, the petitioner shall demonstrate that the use will not result in damage to or deterioration of the shared driveway or in increased hazards to other users of the driveway or local road. The Hearing Authority shall prescribe appropriate conditions and safeguards to ensure the conditional use operator's responsibility for repair of any damage or deterioration of the shared driveway caused by the conditional use, including requirements for surfacing of access driveways. [Council Bill 6-2009 (ZRA 107) Effective 5/6/09] if the site is not located on an arterial or collector road the applicant must prepare a detailed traffic study that defines the level of impact on all surrounding roads within a 2-mile radius of the site.
- d. A traffic management plan must be prepared and submitted at the time of the hearing. Traffic control shall be provided for both incoming traffic and traffic leaving the venue.
- e. A site utilization plan must be prepared and submitted with the application for conditional use. It shall contain information such as:
 - 1) All required parking and loading zones
 - 2) Emergency access and egress.
 - 3) Trash containers and storage
 - 4) Public sanitary facilities
 - 5) All required screening
 - 6) The location of all signs.
 - 7) Other information by the Department.
- f. The limited outdoor social assemblies are the following private functions: Picnics, weddings, anniversary/retirement parties, bridal or baby showers, not for profit organization fund raisers, banquets, rehearsal dinners, philanthropic events, or other similar events.
- g. No permanent structures, including catering or restaurant facilities shall be constructed on site.
- h. The outdoor assembly area is located and designed to shield residential property from noise or nuisance and screened from adjacent residential properties. Noise generated at the site shall not exceed 60 db or 10 db above the ambient nighttime sound level at the adjacent property line, whichever is less
- i. Limited social assembly events shall have the following limitations:
 - (1) Maximum capacity is not to exceed 150 attendees;
 - (2) No more than 25 of these events shall be held within a one year period, and no more than one per week unless attendance at one event is less than 50 persons.

- (3) Operation hours shall be restricted to between 9:00 a.m. and 10:00 p.m., Monday thru Thursday; between 12:00 p.m. and 12:00 a.m., Friday and Saturday; and between 12:00 p.m. and 10:00 p.m., Sunday.

Hj. All event activities occur outdoors.

Ik. Special events with catered food or food prepared on-site are subject to review by the food protection program of the Howard County Department of Health and may require a special events permit. The conditional use may not commence until the applicant has obtained approval of all necessary permits for its operation. Tents, spot-a-pots or other temporary uses associated with the event shall be removed from the site within 3 days after the event.

l. The dimensions and locations of signs advertising the venue shall be shown at the time of the hearing. These signs shall be modest in size; discreetly lit and properly set back from the road.

33. Mobile Homes for Security Purposes

A conditional use may be granted in the M-1 or M-2 District for one mobile home to be used for security purposes, provided that the property is at least 10 acres in size and contains an outdoor storage facility for equipment, supplies or products in connection with a use permitted in the M-1 or M-2 District.

JWG: no changes

Movie Theaters, Legitimate Theaters, Dinner Theaters

A conditional use may be granted in the M-1 District for movie theaters, legitimate theaters and dinner theaters, provided that a determination is made by the Hearing Authority that such use will not constitute a nuisance because of sidewalk or street traffic, noise or physical activity, that such use will not adversely affect the use of adjoining properties, that adequate off-street parking facilities are available in close proximity to the proposed use, and that there is a reasonable need for the proposed use within the Light Manufacturing District (M-1).

No Changes

35. Museums and Libraries

A conditional use may be granted in the RC, RR, R-ED, or R-20 districts for museums, art galleries, and libraries, provided that a determination is made by the Hearing Authority that such use will not constitute a nuisance because of sidewalk or street traffic, noise or physical activity, and that such use will not tend to adversely affect the use and development of adjoining properties.

Parking areas shall be located and landscaped, level C or D, as appropriate, to minimize their visibility from roads and adjacent residential properties.

36. **Nonprofit Clubs, Lodges, Community Halls and Camps**

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC and R-SA-8 Districts for non-profit clubs, including health or athletic clubs, and similar organizations, provided that:

a. The minimum size lot in the RC District shall be 5 acres; in the RR District 3 acres; and 40,000 square feet otherwise.

A b. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties ~~other than public road right-of ways~~, but 100 feet in the RC District and 75 feet in the RR District. The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater, if:

~~(1) The adjoining land is committed to a long-term institutional or open space use that provides an equivalent or better buffer for vicinal residential development.~~

~~(2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring properties.~~

B c. At least 20 percent, but 50 percent in the RC and RR Districts, of the area within the building envelope will be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.

C d. Outdoor uses will be located and designed to shield residential property from noise or nuisance, noise shall not exceed 60db at the property line or 10 db above the ambient nighttime sound level at the adjacent property line, whichever is less

e.. Reasonable standards for hours of operation and a detailed lighting plan in strict compliance with Section 134 shall be proposed by the petitioner and established by the Hearing Authority for each use.

D f. The site has frontage on and direct access to a collector or arterial road designated in the General Plan.

37. Nursing Homes and Residential Care Facilities

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, RMH, R-VH, CAC and TNC Districts for nursing homes and residential care facilities, provided that this use will be secondary to the primary residential use and that:

- a. The facility shall have 16 or fewer beds.
- b. The lot for which the home is proposed is at least ~~40,000 square feet~~ 3 acres in size in the RR and RC Districts.
- c. The design of new structures or additions to existing structures will be compatible in scale and character with residential development in the vicinity, especially with respect to its appearance from the public highway as demonstrated by architectural elevations or renderings submitted with the petition showing.
- d. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater, if:
 - (1) The adjoining land is committed to a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; ~~or~~
 - (2) ~~The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring residential properties.~~
- e. At least 20 percent of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.
- f. A traffic study shall be required demonstrating safe access and egress at all times but especially while the facility is operating at maximum capacity.
- g. The Hearing Authority must give special consideration to any potentially adverse effects arising from its location in the NPSA. A fully detailed site plan showing proposed septic systems and their relation to any well, septic system, or storm water management facility within 200 feet of that system must be submitted. The Hearing Authority must require testimony from the Health Department as to the benign effects of the proposal.
- h. Each apartment provided for resident staff shall have two separate parking places in addition to all other parking requirements.

Quarries - Rock, Stone, Sand, and Borrow Pits

A conditional use may be granted in the RC [[RR]], M-1 or M-2 Districts for quarries and borrow pits and other similar excavations for sand, rock, stone and minerals, provided that:

- a. In the M-2 District, accessory-processing uses, such as concrete manufacture, may be permitted if approved by the Hearing Authority.
 - b. The approved portion of the tract SHALL HAVE a peripheral area OF A MAXIMUM OF 100 FEET IN WIDTH, which shall be retained in its natural topographic condition, undisturbed by excavation or mining, The setback area shall not be used for any purpose except planting, fencing and roads for ingress and egress to the tract.
 - c. The height of structures and any man-made landforms may be limited by the Hearing Authority.
 - d. Equipment for washing, sorting, crushing, grinding, loading, unloading, spreading, weighing, screening, sizing or similar operations shall not be located within [[three hundred]] 300 feet of a property line, except that the Hearing Authority may permit sedimentation ponds to be closer than 300 feet, but not closer than 100 feet to such property line if the applicant demonstrates the topographic necessity of such a location and that sufficient safeguards will be provided for the protection of neighboring residents and uses.
 - e. All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical or environmental damage to lands and improvements and damage to any street, bridge or public right-of-way as a result of the development or operation of the quarry.
 - f. Existing trees and ground cover along public road frontage and lot lines shall be preserved, maintained and supplemented by selective cutting, transplanting, and addition of new trees, shrubs and ground cover.
- G. GREAT CARE SHALL BE GIVEN TO DESIGNATED SCENIC ROADS TO PRESERVE THEIR PRISTINE, NATURAL APPEARANCE.**
- h. Excavated areas shall be maintained AND thoroughly drained, except for draining and ponding areas which are used for production.
 - i. All driveways serving the facility shall be treated or surfaced as necessary to control dust.
 - j. The Hearing Authority shall limit the permit to operate such quarry to a specific expiration date.

k. Operation hours for excavation, processing and filling operations shall be restricted to between 7:00 a.m. and 6:00 p.m. No blasting shall be permitted between the hours of 6:00 p.m. and 7:30 a.m. No operation shall be permitted on Sundays except for repairs to equipment. Only sales and deliveries may be permitted on Saturdays **BETWEEN THE HOURS OF 7:00 AM AND 6 PM.**

l. The conditional use plan submitted with the conditional use application shall show the following:

- (1) Setback area, including screening and fencing.
- (2) Portion of tract, if any, actually being excavated, and proposed excavation areas;
- (3) Existing and proposed structures and major mechanical equipment;
- (4) Existing and proposed access roads;
- (5) Water supply and sewage disposal;
- (6) All necessary pollution control measures;
- (7) Stockpile area;
- (8) Points of access to the site and provisions to control unauthorized entry to the site along the entire perimeter;
- (9) Survey boundaries of the subject property and proposed operation based on the Maryland State Plane Coordinate System.
- (10) A road condition study to determine the adequacy of the structural elements serving the site for truck traffic to be generated by the quarry.

DISCUSSION/SUGGESTED NEW WORDING:

Remove Rural Residential (RR) as an allowed zone.

JUSTIFICATIONS:

In b. above, a 100 foot restriction is deemed fair to protect neighbors close to an operation of this size.

To protect Scenic Roads, this new provision, g., is more of a reminder.

In k. above, because sales and deliveries can be permitted on Saturdays, hours of operation need to be aligned in accordance with hours permitted Monday through Friday.

41. **Residential/Commercial Buildings**

This section added by [Council Bill 7-2010 (ZRA-122) Effective 7/5/10]

A conditional use may be granted in the B-1 and B-2 Districts for residential/commercial buildings, provided that:

- a. The site is at least 1.5 acres but not more than ~~15~~ 10 acres.
- b. The site has frontage on and direct access to a collector or arterial road designated in the General Plan, ~~except that access will be allowed from a local road if a detailed traffic study shows that there will be minor impact on all adjacent roads and intersections and no safety hazards are created thereby.~~
- c. One square foot of residential space is permitted for each square foot of commercial space and must be located within the same structure.
- d. ~~All residential units shall be located above the first floor.~~
- e. ~~The site adjoins a residentially zoned district not separated by a public street.~~
- f. Appropriate landscape buffering, level C or D as determined by the Hearing Authority, from adjacent land-uses shall be provided.
- g. Proposed residential/commercial buildings shall be compatible with on and off-site commercial development, ~~and must be approved by the Design Review Panel.~~

Prepared By T.F. Mariani

#40 Retreat Center

- a. Minimum lot size of 6 acres seems small unless there is some limit on the size of the center.
- b. Set backs should relate to size of center
- f. There should be some guidelines as regard uses and level of activity. Such guidelines should relate to size of the site. An example would be the guidelines for retreat centers in R-ED districts.

Riding Academies and Stables

A conditional use may be granted in the RC or RR Districts for riding academies and stables, provided that:

a. Adequate areas for horseback riding shall be available on the site. If the operation will include off-site horseback riding; the petition must indicate the location of off-site trails and include written permission from the property owners.

b. Minimum required setbacks for stables and indoor or outdoor riding arenas:

1. For an outdoor riding arena, from all lot lines 100 feet.

2. For an indoor riding arena, from all lot lines 200 feet, except that this can be reduced to 100 feet if the facility is 300 feet from any residence on an adjacent lot.

3. For a stable of 12 stalls or less, from all lot lines 100 feet

4. For a stable of more than 12 stalls, from all lot lines 200 feet, except that this can be reduced to 100 feet if the facility is 300 feet from any residence on an adjacent lot.

5. if the setback from the property line for an arena or barn of more than 12 stalls is less than 200 feet, a landscape screen shall be provided between any structure and the adjacent property. The type of screen would depend on the size of the structure but a type C or D shall be at the discretion of the Hearing Authority.

~~(1) For a use where 20 or fewer horses are kept on the property, from any property line other than a public street..... 100 feet~~

~~(2) For a use where more than 20 horses are kept on the property, from any property line other than a public street..... 200 feet~~

c. The site has a minimum area of five acres.

(1) The site has a minimum area of one acre of pasture for every horse kept on the property with adequate shelter. Shelter will be provided as per Maryland State regulations for a licensed stable facility.

(2) Manure shall be collected, stored and managed in an environmentally safe manner. State of Maryland Save the Bay regulations for horse manure collection must be respected.

d. Parking areas, driveways and outdoor riding areas will be located and designed to shield neighboring properties from noise, dust and odors. The acreage needed for these facilities is in addition to the acres dedicated to horse pasture.

Note: replaces Susan's proposal and based on Letter to Fox in Feb 2012

Rubble Landfill and Land Clearing Debris Landfill Facilities

A conditional use may be granted in the [[RC, RR, or]] M-1 District[[s]] (or in any other district with respect to land which has been previously mined or excavated pursuant to the grant of a conditional use specifically for mining, quarrying or barrow pit uses) for a land clearing debris landfill facility or rubble landfill facility, provided that:

- a. Only non-hazardous material shall be received for disposal on the site.
- b. The waste materials, which may be accepted at the rubble fill facility, unless specifically prohibited by the Hearing Authority, are:
 - (1) Land Clearing Debris, as defined in these regulations.
 - (2) Demolition Debris - The types of demolition debris that may be accepted for disposal are as follows:
 - (a) Acceptable demolition debris associated with the razing of buildings, roads, bridges, and other structures includes structural steel, concrete, bricks (excluding refractory type), lumber, plaster and plasterboard, insulation material, cement shingles and roofing material, floor and wall tile, asphalt, pipes and wires, and other items physically attached to the structure, including appliances if they have been or will be compacted to their smallest practical volume.
 - (b) Unacceptable demolition debris includes industrial waste or byproducts, any waste materials contained within the structure or on the grounds of the structure being demolished that are not physically part of the structure, or which are comprised of or contain materials that pose an undue risk to public health or the environment.
 - (3) Construction Debris - The types of construction debris that may be accepted for disposal are as follows:
 - (a) Acceptable construction debris is structural building materials including cement, concrete, bricks (excluding refractory type), lumber, plaster and plasterboard, insulation, shingles, floor, wall and ceiling tile, pipes, glass, wires, carpet, wallpaper, roofing, felt, or other structural fabrics. Paper or cardboard packaging, spacing, or building materials, provided that they do not exceed 10 percent by volume of the waste, may be accepted at the rubble landfill. Paint containers, caulk containers, or glaze containers, provided that they are empty, and any residual material which is dried before acceptance at the rubble fill, and further provided that this waste category does not exceed 1 percent by volume of the waste accepted at the rubble fill.
 - (b) Unacceptable construction debris includes commercial, domestic, or industrial wastes or by-products, paint, tar or tar containers, caulking compounds, glazing compounds, paint thinner or other solvents or their containers, creosote or other preservatives or their containers, tile, paneling, or carpet cement or other adhesives, and other solid waste

which may contain an unacceptable waste or substance as may be determined by the approving authority to be unacceptable.

(4) Tires, asbestos waste and appliances may be accepted for disposal in accordance with the requirements of the State of Maryland Department of the Environment for proper disposal of these materials.

c. The waste materials which may be accepted at the land clearing debris fill facility are restricted to land clearing debris as defined in these regulations.

d. The Hearing Authority may further limit the waste materials which may be accepted at or disposed of in a land clearing debris landfill facility or a rubble landfill facility upon a finding of a specific adverse effect associated with the acceptance or disposal of such waste materials on the proposed site. The Hearing Authority shall approve the method by which unacceptable materials, which are delivered to the site, will be segregated and handled for final removal and disposal.

e. In addition to all other required setbacks, the following use setbacks shall apply, except for landfill facilities on permitted quarry sites, in which case the Hearing Authority shall establish setback requirements on a case-by-case basis:

- (1) From an existing residence on a different lot..... 500 feet
- (2) From adjacent residentially zoned lots..... 300 feet
- (3) From public street and utility rights-of-way..... 100 feet
- (4) From existing streams and wetlands..... 100 feet

The approved portion of the tract shall have a surrounding landscaped buffer at least 100 feet wide which shall be retained in its existing topographic condition and undisturbed by excavation or fill. The buffer area shall not be used for any purpose except planting, fencing and roads for ingress and egress to the tract. In the event that the provision of a 100-foot buffer is not feasible, the applicant shall provide for alternative means of buffering in concert with a Site Development Plan. Within the approved portion of the tract, all land within 50 feet of a stream or wetland shall be retained in its existing topographic condition and undisturbed by excavation or fill.

f. Existing trees and ground cover along public road frontage and lot lines shall be preserved, maintained and supplemented by selective cutting, transplanting, and addition of new trees, shrubs and ground cover.

g. The height of structures and any man-made land forms may be limited by the Hearing Authority.

h. Equipment for washing, sorting, crushing, grinding, loading, unloading, spreading, weighing, screening, sizing or other operations associated with a land clearing debris landfill facility or a rubble landfill facility shall not be located within one hundred feet of a property line. Sedimentation ponds shall not normally be located closer than 300 feet from a property line.

However, the Hearing Authority may permit sedimentation ponds to be closer than 300 feet, but not closer than 100 feet from a property line, if the applicant demonstrates the topographic necessity of such a location and that sufficient safeguards will be provided for the protection of neighboring residents and uses.

i. All operations shall be conducted in a safe and environmentally sound manner with respect to the likelihood of hazard to persons or damage to lands, natural resources, improvements, streets, bridges, or public rights-of-way as a result of the development or operation of the facility.

j. Any area under excavation shall be maintained in a thoroughly drained condition. Fill areas shall be maintained at all times by burial of material received for disposal.

k. Operation hours for excavation, processing and filling operations shall be restricted to between 7:00 a.m. and 6:00 p.m. No operation shall be permitted on Sundays except emergency repairs to equipment and the fill site.

l. The conditional use plan submitted with the conditional use application shall show the following:

- (1) Setback and buffer area, including type of screening and fencing;
- (2) Portion of tract, if any, actually being excavated, and proposed fill areas;
- (3) Portion of tract, separate from fill areas, to be used for recycling operations including areas for unloading, storage, processing, and loading.
- (4) Existing and proposed structures and major mechanical equipment;
- (5) Existing and proposed access roads;
- (6) Water supply and sewage disposal including any liquid waste generated by processing and filling operations;
- (7) Stockpile area;
- (8) Other uses and their extent on the property;
- (9) Existing or proposed points of access to the site and provisions to control unauthorized entry to the site along the entire perimeter;
- (10) Areas to be used for rubble and/or land clearing debris disposal shall be identified either as non-buildable areas or as future building sites;
- (7) Survey boundaries of the subject property and proposed operation based on the Maryland State Plane Coordinate System;
- (11) A road condition study to determine the adequacy of the structural elements serving the site for truck traffic to be generated by the landfill;
- (12) A noise, litter and dust control plan;
- (13) Storm water management facilities for quantity and quality control;
- (14) The length of time the facility is expected to be in operation.

m. Rehabilitation Plan

A rehabilitation plan at a scale of 1" = 200' shall be submitted with the conditional use application for all areas to be filled with land clearing debris or rubble or used for processing and recycling operations. A rehabilitation

contour plan showing contour intervals of two feet shall be included, indicating the general grades and slopes to which excavated or filled areas are to be graded. A description of the methods and materials proposed for rehabilitation to top cover shall be specified. No rehabilitation plan shall be approved unless it provides for the following minimum rehabilitation program:

(1) **Regrading** - All disturbed land shall be regraded so that no slope exceeds a maximum of 50 percent grade.

(2) **Landscaping, Erosion, Backfilling** - All piles of disturbed earth or material resulting from the excavating or filling operation shall be graded to a smooth contour to control erosion and to prevent ponding and undrained water pockets. The disturbed area shall be graded, covered with suitable soil to sustain growth, and then vegetatively stabilized using a perennial cover species as recommended by the County Soil Conservation District.

(3) **Removal of Machinery and Structures** - All machinery and structures shall be completely removed and underlying excavations filled to grade, except structures or machinery that are to be continued in operation for a use permitted under the zoning classification.

(4) **Access Roads** - Upon the abandonment of filling operations on any site or portion thereof in the area covered by a conditional use approved under this section, all access roads shall be suitably barricaded to prevent the passage of vehicles either into or out of the abandoned area, except such access as needed for vehicles engaged in rehabilitation work, until the plan for rehabilitation has been completed and other use necessitating access has been commenced on the property.

43. **Sawmills and Mulch Manufacture**

A conditional use may be granted in the RC or RR Districts for sawmills, including the cutting of firewood in bulk, or mulch manufacture, provided that:

- a. The minimum lot size shall be 20 acres.
- b. All structures and uses shall be at least 500 feet from existing residences on different lots and at least 300 feet from property lines.
- c. Parking, storage areas and equipment shall be screened from adjoining properties and public roads by landscaping or other appropriate means.

Page 3

- d. Hours of operation shall ~~be established by the Hearing Authority.~~ not exceed 7:30 a.m. to 5:30 p.m. Monday through Saturday. Sunday operation shall be permitted 10 a.m. to 4 p.m.
- e. The operation produces sound level not to exceed 60 Db at the property lines.
- f. Retail sales of materials produced on-site may be permitted if specifically approved by the Hearing Authority.

44. School Buses (Parking and Storage)

A conditional use may be granted in the RC, RR, R-20 or R-12 Districts for the parking and storage of more school buses than allowed by these regulations, provided that:

- a. All such vehicles parked or stored outside of a structure shall be screened from adjoining properties by a minimum of level c landscaping
- b. No such vehicles shall be parked or stored within the structure setback requirements of the district in which they are located;
- c. Any parking spaces occupied by such vehicles shall be provided in addition to all other required parking spaces;
- d. Only minor repairs to such vehicles shall be permitted. In no case shall body work, engine rebuilding, engine reconditioning or collision services be permitted;
- e. The storage or parking of the number of vehicles registered as school buses on lots or parcels in the RC, RR, R-20 and R-12 Districts on the effective date of this amendment (Zoning Board Case 715, effective July 25, 1978) shall be deemed valid nonconforming uses in those districts.
- f. The hours of operation shall be limited to no more than 6 a.m. to 11 pm. 7 days a week

JWG: approved 1/15/12

45. School Buses, Boats or Recreational Vehicles (Parking and Storage)

A conditional use may be granted in the B-2 Districts for the parking and storage of school buses, boats or recreational vehicles provided that:

- a. The minimum lot size shall be 5 acres;
- b. The parcel is located within the No Planned Service Area of the Howard County Water and Sewerage Master Plan;
- c. All such vehicles parked or stored outside of a structure shall be screened from adjoining properties by a minimum of level c landscaping
- d. No such vehicles shall be parked or stored within the structure setback requirements of the district in which they are located; and
- e. Any parking spaces occupied by such vehicles shall be provided in addition to all other required parking spaces.
- f. The hours of operation shall be limited to no more than 6 a.m. to 11 pm. 7 days a week

JWG: approved 1/15/12

Prepared By T.F. Mariani

#47 Shooting Ranges (commercial)

- a. Additional distance behind the most distant target line shall be 500 feet for pistol and rifle and 300 feet for skeet and trap.
- b. Add to this section- An acceptable method for shielding is an earth berm not less than 5 feet thick throughout its height and a minimum of 5 feet higher than the top of the target. For pistols only an approved steel bullet trap may be used.
- d. Hours of operation shall be limited to 9 AM until 6PM or dusk whichever is earlier on Monday thru Saturday. Sunday hours shall be limited to 12 noon to 6 PM or dusk. Noise levels shall be monitored to stay within county guidelines and in no event exceed 60 Db at the property line

Schools, Colleges, Universities – Private (Academic)

A conditional use may be granted in the RC, RR, R-20, R-ED, R-12, R-SC, R-SA-8, R-A-15, RMH, or R-VH Districts for private academic schools, colleges and universities, (not including nursery schools) provided that:

- a. The minimum size lot in the RC District shall be 5 acres; in the RR District 3 acres; and 40,000 square feet otherwise. The maximum density permitted is 60 pupils per acre. ~~for lots less than three acres, and 100 pupils per acre for lots three acres or greater.~~
- b. In addition to meeting the area requirements of Section 131.N.54.a, schools with residence accommodations shall provide an additional ~~500~~ 1000 square feet of lot area per site resident. Residents shall include students, staff members, caretakers and their families who reside on the site. The number of staff living on site shall be limited to one per 20 students.
- c. A private school may be erected to a greater height than permitted in the respective district, provided that no structure is more than three stories in height and the front, side and rear setbacks shall be increased two feet for each foot by which such structure exceeds the height limitation.
- d. Sufficient off-street school bus loading areas shall be provided if bus service is provided for students.
- e. Outdoor uses will be located and designed to shield residential property from noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from residential properties by fencing, landscaping, adequate distance or other appropriate means.
- f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than a public road right-of-way. The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater if:
 - (1) The adjoining land is committed to a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; ~~or~~
 - ~~(2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring properties.~~
- g. At least ~~20~~ 50 percent of the area within the building envelope will be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.
- h. The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a conditional use that was approved prior to the effective date of Council Bill No. 11-2001 are permitted.

50. Small Wind Energy Systems, Building Mounted

[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]

A conditional use may be granted in the R-ED, R-12, R-SC, R-SA-8, and R-A-15 Zoning Districts for building mounted small wind energy systems as defined in these regulations, provided:

- a. The systems shall be primarily intended to reduce the on-site consumption of utility power.
- b. The systems are permitted only on the principal structure.
- c. The systems shall be located on the roof or sides of a structure that are at least 25 feet in height.
- d. The systems shall comply with the principal building setbacks.
- e. The height of the system shall not extend more than 15 feet above the ridge of the highest roof section.
- f. In the R-ED and R-SC Districts, systems are only permitted on single-family attached dwellings.
- g. In the R-12 Districts, systems are only permitted on semi-detached dwellings.
- h. Only one system per lot is permitted on properties less than 3 acres in area.
- i. Only one system is permitted per building side on properties 3 acres or greater in area.
- j. The systems shall not exceed 60 DBA, as measured at all lot lines. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- k. All systems shall be gray or a similar color that minimizes visibility.
- l. No exterior lighting is permitted.
- m. The systems shall comply with all applicable local, state, and federal laws and provisions.
- n. Meteorological towers, solely for the measurement of wind, temporary or otherwise, are not permitted.
- o. A system that is no longer used shall be removed from the site within one year of the date that the use ceases.

JWG: no changes 2/12/12

51. Small Wind Energy Systems, Freestanding Tower

[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]

A conditional use may be granted in the RC, RR, R-ED, I, POR, PEC, CCT, SC, M-1, M-2, PGCC, CE, TOD, TNC, and CAC Zoning Districts for small wind energy systems, freestanding tower as defined in these regulations, provided:

- a. The systems shall be primarily intended to reduce the on-site consumption of utility power.
- b. Maximum height for tower mounted systems, including blades, shall not exceed 60 feet from grade. However, on farms greater than 25 acres the maximum height for tower mounted systems, including blades, shall not exceed 120 feet from grade.
- c. The minimum lot size shall be at least 2 acres, except in the RR, RC and R-ED District where the minimum lot size shall be 5 acres.
- d. The system shall not be located within the front yard between the principal structure and the front property line.
- e. The minimum setback for a system shall equal its total height, plus +0 50 percent from any property line.
- f. The systems shall not exceed 60 DBA, as measured at all lot lines. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- g. Temporary meteorological towers, solely for the measurement of wind, are permitted for a period not to exceed 90 days, provided they meet the height and setback requirements of this section and achieve a Temporary Use permit in accordance with Section 132. No extensions of the Temporary Use permit shall be granted.
- h. The blade of any wind turbine shall, at its lowest point, have a ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades.
- i. No other equipment unrelated to the operation of the system shall be attached to the structure.
- j. No exterior lighting is permitted unless required by the Federal Aviation Administration.
- k. The system shall comply with all applicable local, state, and federal laws and provisions.
- l. A system that is no longer used shall be removed from the site within one year of the date that the use ceases.

Solar Arrays

Current zoning code has no reference to "solar" of any type. Therefore, it seems reasonable to split the use into two types:

1. **On-ground arrays:** some restrictions and considerations should apply.
 - a. Arrays reduce green space and rural vistas when so many commercial building roofs and parking lots in the commercial and industrial zones could be utilized to produce perhaps all the solar required at this point in the technology for at least the next ten years. The issue could be revisited in the next round.
 - b. The appearance from roadways, scenic as well as rural is a factor.
 - c. They should not project more than 20 feet above grade at their highest point.
 - d. They should be prohibited in front yards, unless they are so screened as to make them invisible from the public right of way or neighbors' view.
 - e. In side yards they shall not be closer than 50 feet to lot line.
 - f. In rear yards the setback shall be 30 feet from the rear lot line.
 - g. The solar array field shall not cover more than 20 % of the allowed building envelope.
 - h. A minimum of 20% green space within the building envelope shall be preserved.
 - i. No panel shall be oriented so as to reflect sun glare onto a public street or onto a neighbors' residence.
 - j. On commercial, industrial, or institutional sites the arrays shall not exceed 30 feet in height. If mounted above parking lots, this height could be increased to accommodate the parking.
 - k. Arrays shall not be oriented to reflect sun glare onto a public road or onto adjacent buildings.

2. **Building-Mounted Arrays:** some restrictions and considerations should apply.
 - a. The appearance from roadways, scenic as well as rural is a factor.
 - b. On a residence they should not project more than 5 feet above the highest point of the roof, nor exceed 40 feet above grade whichever is less.
 - c. On commercial, industrial, or institutional sites the arrays shall not project more than 10 feet above the highest point of the main roof structure.
 - d. Arrays shall not be oriented to reflect sun glare onto a public road or onto adjacent buildings.

52. Two-family Dwellings, Accessory Apartments and Age-Restricted Multi-plex Dwellings

A conditional use may be granted for two-family dwellings, accessory apartments or age-restricted multi-plex dwellings in the following districts, provided that any new structures or additions will be designed to be compatible in scale and character with the surrounding residential neighborhood. Compatibility of character may be in architectural style, materials or details. Compatibility shall be demonstrated by architectural elevations or renderings submitted with the petition.

a. Two-family dwellings: in the RC, RR, R-ED, R-20 or R-12 Districts, provided that the two-family dwelling is on an individual lot, with only one two-family dwelling permitted on one lot, and the lot is an existing recorded lot at the time of the conditional use application. The minimum lot size shall be at least 16,000 square-feet for two-family dwelling structures in the R-ED and R-12 Zoning Districts. [Council Bill 38-2007 (ZRA-81) Effective 9/6/07]

b. Accessory apartments: on lots of less than 12,000 square feet in the R-ED, R-20, R-12 and R-SC Districts. (On lots of 12,000 square feet or larger, this is a permitted use in these districts).

c. Age-restricted multi-plex dwellings: in the R-ED, R-20 and R-12 Districts, provided that:

(1) The development has frontage on and direct access to a public road.

(2) The minimum lot size is one gross acre in R-ED and R-20 and 20,000 square feet in R-12.

(3) The net floor area of the multi-plex building is limited to 5,000 square feet.

(4) The dwellings are limited to age-restricted adult housing. The petition must include copies of proposed deed restrictions or covenants that establish how the age-restricted adult housing will be implemented and maintained.

(5) The dwellings incorporate universal design features from the Department of Planning and Zoning guidelines that identify required, recommended and optional features. The petition shall include descriptions of the design features of proposed dwellings to demonstrate their appropriateness for the age-restricted populations. The material submitted shall indicate how universal design features will be used to make individual dwellings adaptable to persons with mobility or functional limitations and how the design will provide accessible routes between driveways, sidewalks and dwelling units.

Council modified in 2007 with reference to RR and RC. OK as is? Yes, approved as is 2/12/12

54. **Utility Uses, Public**

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, RMH, R-SI, R-VH, HO, HC, POR, CCT, B-1, B-2, SC, BR, PEC, PGCC, CE, TOD, CAC and TNC Districts for the following public utility uses, subject to certain conditions:

a. Permitted Uses:

- (1) Utility substations.
- (2) Above ground pipelines.
- (3) Pumping stations and compression stations.
- (4) Telecommunication equipment facilities.

b. Special Conditions:

- (1) The proposed location, design and method of operation will not have a detrimental effect on the privacy and quiet of the neighborhood and the safety of its inhabitants.
- (2) The design of proposed buildings and the landscaping treatment of the site will be in harmony with the area.
- (3) The Hearing Authority may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for soundproofing, for the construction of fences, barriers or other safety devices, for surfacing of access driveways, for shielding of lighting, and/or for landscaping or screening.
- (4) When approving a public utility use, in its discretion, the Hearing Authority may authorize future changes not requiring further Hearing Authority approval. Such changes shall be limited to the addition, relocation, or modification of foundations or equipment, or additions to existing buildings, within a fence line approved by the Hearing Authority. Such potential changes shall be shown on the site plan submitted with the application.
- (5) When approving a public utility use, the Hearing Authority may approve an accessory commercial communications tower solely to serve that use and no other. This accessory use does not extend to the erection of commercial cell antenna towers and would be subject to the provisions of section 14: **Communication Towers or Antennas (Commercial)**. If there is any conflict between the two sections, Section 14 governs.

Wrecked Vehicle Storage (Temporary)

A conditional use may be granted in the [[B-2, BR,]] M-1 or M-2 Districts for the temporary storage of wrecked vehicles, provided that:

- a. Title to the vehicle does not transfer to the operators and owners of the site;
- b. All such vehicles shall be screened from off-site view by walls (including building walls) or fences [[six to eight]] feet high, of a design approved by the Hearing Authority.
- c. At the Hearing Authority's discretion, landscape planting may be required between the wall and the property line.
- d. The storage area shall be treated as needed to control dust. [[and minimize the runoff of oils and greases;]]
- e. Dismantling of wrecked vehicles shall not be permitted.

SUGGESTED NEW PARAGRAPH:

F. ALL TOXIC MATERIALS SHALL BE PROPERLY DISPOSED OF IN ACCORDANCE WITH ESTABLISHED FEDERAL, STATE AND COUNTY REGULATIONS AND SHALL NOT BE DISPOSED OF OR STORED, EVEN TEMPORARILY ON SITE.

JUSTIFICATION: New Para F. attempts to update important, recent prescribed environmental requirements. It is important to strongly regulate and mitigate the risk plus avoid potential environmental impacts caused by inadvertent spillage of toxic liquid materials.