




Howard County

Internal Memorandum

Subject: *Planning Board Recommendation on the 2013 Comprehensive Zoning Plan*

To: *Jen Terassa, Chair
Howard County Council*

From: *David Grabowski, Chair* 
Howard County Planning Board

Date: *May 16, 2013*

The Planning Board held public hearings on March 27, April 8 and April 11, 2013 and work sessions on April 15, April 22, May 2, and May 16, 2013 to consider the 2013 proposed Preliminary Comprehensive Zoning Plan for Howard County which includes amendments to both the Zoning Maps and the Zoning Regulations. Please note that Planning Board Vice-Chair, Paul Yelder, was not present at the work session on May 2, 2013.

The Department of Planning and Zoning Technical Staff Report, revised Zoning Regulations and Map Amendment Recommendations were presented to the Board for its consideration. Based on oral and written testimony and a complete review of all DPZ materials, the Board generally concurred with the majority of Department of Planning and Zoning recommended changes, but makes the following comments and recommendations:

PROPOSED ZONING REGULATION TEXT AMENDMENTS BY SECTION:

SECTION 102.0: Violations, Enforcement, and Penalties

- The Board expressed understanding of DPZ's need for clear, detailed information to efficiently investigate zoning complaints and supports DPZ's proposed addition to the Enforcement subsection regarding the need for the submission of adequate information to identify the subject property.

SECTION 103.0: Definitions

- The Board commented that the restyled alphabetical format makes individual definitions easier to find and removing the numbers from the list will make it easier to add new definitions in the future without having to check cross references elsewhere in the Regulations.
- Age-restricted Adult Housing: Board members discussed potential guardianship situations where someone under the age of 18 may need to temporarily reside in an Age-restricted

Adult Housing development for a period exceeding the current 90 day annual limit. The Board recommended that allowing exceptions for such situations at least on a temporary basis, be considered in the Zoning Regulations.

- ALPP: The Board recommended that this term be expanded to include a reference to County Code Title 15, Subtitle 5.
- Animal Units: DPZ staff commented that this definition was added to address the regulation of animals allowed on residential lots as opposed to properties used principally for farming. The Board recommended that mini-cows be added to this definition and that pot-bellied pigs be listed as excluded.
- Athletic Facility, Commercial: The Board concurred with DPZ's clarification and consolidation of various terminologies which appear throughout the Zoning Regulations. The Board recommended that it be confirmed that this definition does not conflict with terminology governing Health Department licensing requirements.
- Chicken Keeping, Residential: The Board was supportive of DPZ's proposal but discussed whether keeping eight chickens is an appropriate number. The Board also considered whether the use, which is currently proposed to be allowed in conjunction with detached dwellings only, should be expanded to include attached dwellings. Board members concurred that eight chickens is a reasonable number to start with, that 12 seemed too high, and recommended the Council study the issue in greater detail.
- Composting Facility: The Board recommended that "specifically limited" be changed to "primarily including".
- Communication Towers: The Board recommended that "principally" be deleted.
- Dwelling, Accessory Family: The Board expressed concerns about the potential for guardianship situations which may arise and recommended that a provision be added to allow for a legal guardian or caregiver of the resident of the principal dwelling to reside on the lot. The Board recommended allowing family members not just "immediate" family
- Funeral Home: The Board recommended that a definition for Crematorium be added.
- Mixed Use: The Board noted there is confusion between the definitions of Mixed Use Development in the MXD District as opposed to mixed use development (i.e., a mix of permitted uses) in other districts. The Board recommended these definitions be refined.
- Motor Vehicle Fueling Facility: The Board recommended that "retail" be deleted in order to allow for wholesale sales.

SECTION 104.0 RC (Rural Conservation) District

SECTION 105.0 RR (Rural Residential) District

- The Board questioned the appropriateness of the 10% MIHU proposal in the RC and RR Districts based on high development costs and the limited availability of transit and services. The Board discussed requiring a MIHU fee-in-lieu or alternatively increasing of Moderate Income Housing Units required for residential development inside the Planned Service Area, possibly a fee-in-lieu in the B-1 and B-2 Districts.

SECTION 107.0: R-ED (Residential: Environmental Development) District

- In response to a question about the best use of the Board's time in light of new responsibilities for Downtown, Village Centers, CEF and CR, the Board recommended that it continue to review all R-ED developments in order to retain citizen opportunity for testimony.
- The Board recommended that the proposed language of Section G.1.E. be deleted as it is unnecessary.

SECTION 112.1: R-A-25 (Residential: Apartments) District (NEW)

- The Board recommended allowing building height to exceed 65 feet with a provision for corresponding increased setbacks for buildings which exceed that maximum permitted by right.
- The Board also recommended that the purpose statement be expanded to clarify appropriate locations for the district.

SECTION 113.3: I (Institutional) Overlay

- The Board commented that if the Council decides to retain the I District and allow it outside of the Planned Service Area submission requirements and approval criteria need to be included.

SECTION 117.0: BRX (Business Rural Crossroads) District (NEW)

- The Board noted that the proposed language which stipulates the districts which must adjoin a proposed BRX District is too limiting. The Board recommended adding BRX to the permitted districts such that a proposed BRX District would be permitted to adjoin another BRX District.

SECTION 117.1: BR (Business: Rural) District

- DPZ staff commented that several uses which were intended to be deleted to ensure compatibility with rural areas were inadvertently omitted from the Preliminary Draft of the Zoning Regulations (e.g., commercial communication antennas and tower and business offices). The Board concurred with DPZ's proposed deletions.

SECTION 121.1: CR (Commercial Redevelopment) Overlay District (NEW)

- The Board was supportive of the concept of the proposed CR District.

SECTION 125: NT (New Town)

- The Board recommended further review be conducted of whether amendments to POR or other districts would impact what uses are permitted in New Town via Final Development Plans.

SECTIONS 128.0.C AND 131.0.N.28: Home Occupations

- The Board supports DPZ's proposal to categorize Home Occupations as either accessory uses (Section 128.0.C) or Conditional Uses (Section 131.0.N.28). The Board acknowledged that it is difficult to devise standard processes and criteria by which all Home Occupations may be evaluated. The intensity of the use, frequency of occurrence and the number of customers visiting the site should be given consideration, as should factors like noise, traffic, lighting and the type of property (single-family attached versus single-family detached). In addition, when determining the appropriate process for approval, the nature of the use should be considered. For instance, tutoring of one student should be regarded differently than group lessons.
- The Board had strong concerns about requiring a permit for accessory use Home Occupations as proposed in Section 128.0.C. Rather than requiring a permit, which the Board regarded as onerous, they recommended that DPZ update their existing home occupation application for anyone seeking DPZ's zoning confirmation for a trader's license or other State or Federal permit or any other purpose. The form should both require information needed for zoning confirmation and clearly indicate to applicants what is permitted and what steps/processes are involved to obtain Home Occupation approvals. DPZ should facilitate, rather than overly regulate, these entrepreneurial enterprises. The Board commented that from a policy standpoint, people conducting small non-obtrusive businesses (such as those involving only work on a computer) should be allowed to operate without a permit. The Board considered whether the threshold for requiring an accessory Home Occupation Permit should be the requirement for a Howard County Trader's License or other state or federal permit.
- The Board speculated that the solution to many complaints associated with Home Occupations may lie in adjusting the parking requirements. Alternatively, they suggested that the scope of this issue exceeds the focus of the Zoning Regulations and should be addressed by the Council in a larger context.

SECTION 128.0.I: Value-added Agricultural Processing

- The Board was supportive of DPZ's proposed new agriculturally-related uses to be allowed by permit such as Community Supported Agriculture, Food Hubs, and Riding Academies and Stables.

SECTION 131.0.N: Conditional Uses

1. Age-restricted Adult Housing

The Board generally concurred with DPZ's recommendation to remove this use as permitted in the RC and RR Districts based on issues related to adequacy of septic systems, growth tiers and the need for and availability of services such as transit and medical as the population ages.

13. Child Day Care Centers

The Board concurred with DPZ's proposal to replace the requirement for a minimum lot size based on the number of children with a minimum lot size requirement based on the zoning district as the number of children permitted will be set by the State at the permit stage.

- 18. Dwelling, Temporary Accessory Family

The Board commented that DPZ's approach in creating this new use is a cautious one and is appropriate for an initial approach. The Board supported the concept that these structures be excluded from the cumulative accessory structure total allowed on a lot since their nature is temporary. The Board suggested that this issue should be further studied and addressed by the Council.

- 21. Funeral Homes

The Board was not supportive of DPZ's proposal to amend the Conditional Use for Funeral Homes because there is a pending case in process.

- 43. Residential/Commercial Buildings

The Board was supportive of the proposal to allow the use in the rural west as the Rural West Committee is in favor of allowing limited opportunities for apartments. The Board suggested allowing the use in the BRX District.

SECTION 133.0: Off-Street Parking and Loading Facilities

- The Board acknowledged that there are some problems with required parking amounts, particularly in townhouses but also for detached residential and apartment developments with regard to the adequate visitor parking spaces. Board members concurred with staff that it may be difficult to determine the correct number of spaces based on the number of bedrooms because this configuration is not always known until the building permit stage. In addition, the Board noted that the number of parking spaces required for apartments seems too high which results in underutilized spaces and could act as a disincentive for using public transportation. The Board discussed considering a cap to the maximum number of spaces allowed.

PROPOSED ZONING MAP AMENDMENTS:

The Planning Board's recommendations on Map Amendments are attached in the form of two charts. One chart is for Map Amendments supported by the Department of Planning and Zoning and the other for Map Amendments not supported by the Department of Planning and Zoning.

The Planning Board's recommendations have been guided by testimony received, County planning policies articulated in PlanHoward 2030, Route 1 and Route 40 Corridor Studies and other planning documents, as well as inspection of parcels in the context of surrounding properties. The Board acknowledges that any zoning change is of concern to neighbors absent a clear understanding of what the property owner would do if the zoning is granted. For this reason, the Board has encouraged dialogue between property owners and neighbors in advance of County Council hearings so that key concerns are identified and hopefully addressed.

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