



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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**Technical Staff Report
for ZRA-135 (Viram Patel)**

To: Theodore Wimberly - Legislative Assistant
Howard County Council

From: Hannah L. Gardiner *MG*
Division of Public Service and Zoning Administration

Date: October 20, 2011

Attached is the Technical Staff Report for ZRA-135. Should you have any questions, please contact me.

:hg

Attachment

cc: Robin Regner, Administrative Assistant to Zoning Board ✓



October 20, 2011

TECHNICAL STAFF REPORT

*Petition Accepted on October 17, 2011
Planning Board Meeting of November 3, 2011
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA - 135 – Viram Patel

Request: Zoning Regulation Amendment to Section 131.N.43 of the Conditional Use category for Riding Academies and Stables to amend the required setback provisions to permit riding academies/horse stables to be located within 100 feet of existing dwellings on different lots (for uses involving 20 or fewer horses) and 200 feet of existing dwellings on different lots (for uses involving more than 20 horses) on sites in the RC (Rural Conservation) and RR (Rural Residential) zoning districts over 20 acres in size.

Department of Planning and Zoning Recommendation: APPROVAL WITH MODIFICATIONS

I. DESCRIPTION OF PROPOSAL

- **The Petitioner's proposed amendment is generally described as follows:**

Currently, Section 131.N.43 sets forth the requirement that setbacks for riding academy and stable uses are measured as the distance from a property line. The setback distance varies based only on the number of horses kept on a property.
- **The proposal would add a further categorization by lot size to the existing criteria so that setbacks for lots greater than 20 acres would now differ from lots of 20 acres or less. In addition a setback would now be measured as the distance from an existing dwelling on a different lot for lots greater than 20 acres. The provision that setbacks are measured as the distance from a property line would be retained for properties less than 20 acres.**
- **The proposal (for properties greater than 20 acres) is more specifically described as follows:**

On properties where 20 or fewer horses are kept, a 100 foot setback from any existing dwelling on a different lot would be required.

On properties where more than 20 horses are kept, a 200 foot setback from any existing dwelling on a different lot would be required.
- **As justification for this request, the Petitioner states that the amendment would maintain current setback restrictions for the Conditional Use to be located on parcels with the greatest likelihood for adjacent non-rural residential development, i.e., parcels between five and 20 acres in size. The proposal would further the General Plan goals of promoting the equestrian community as a vital commercial**

component to the County's rich agricultural industry and the proposal would grant owners of larger parcels over 20 acres in size the flexibility to locate the potential Conditional Use in a manner most compatible with the agricultural uses likely occurring on their lots as well as neighboring lots.

The Department of Planning and Zoning would support the proposal for reduced setbacks for the reasons noted in Section IV.B. and with the modifications in Attachment B of this Technical Staff Report.

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (Petitioner's Proposed Text) and Attachment B (DPZ's Proposed Text).**

II. EXISTING REGULATIONS

As context for the existing regulations, a brief history of the Zoning Regulations governing the Conditional Use is provided.

According to the petition, the zoning history is that until 1985 the Conditional Use required a minimum of 15 acres and there was no required setback in the (then) R District.

This is incorrect. A 15 acre minimum lot size was required prior to and including the 1971 Comprehensive Zoning Plan (CZP) and the lot size was reduced to five acres effective with the 1977 CZP, not the 1985 CZP. The 200 foot setback from property lines was required in all districts since as early as 1971.

In the 1977 CZP, the Conditional Use was permitted in the R and R-20 Districts. A five acre minimum lot size and a 200 foot setback from a street or property line were required. These same criteria were retained in the 1985 CZP.

Effective with the 1993 CZP, the R District no longer existed and the RC and RR Districts were created. The Conditional Use was permitted in the RC, RR and R-20 Districts. The five acre minimum lot size and 200 foot setback from a street or property line requirements were retained.

Effective with the 2004 CZP, the Conditional Use was no longer permitted in the R-20 District. The five acre minimum lot size requirement remained for the RC and RR Districts. Also in 2004, a new setback requirement based on the number of horses kept on a property was introduced. A 100 foot setback became required for 20 or fewer horses and a 200 foot setback became required for more than 20 horses. These setbacks are measured from a street or property line. These same criteria were retained in the 2005 Continuation of the CZP also known as "Comp Lite".

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **The Conditional Use may only be granted in the RC and RR Districts, so only these districts would be affected. The Conditional Use may only be granted on sites which are a minimum of five acres.**

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

The amendment would be generally harmonious with General Plan Policy 3.9, “Foster business uses ancillary to farm operations”.

This Policy specifically recommends the adoption of appropriate modifications to the Zoning Regulations to support principal and accessory agricultural activities, the review of (then) Special Exception standards for business uses related to agriculture and the recognition of the equine industry as a component of agricultural industry. The proposed amendment is consistent with these General Plan guideline recommendations.

B. Relation to the Zoning Regulations

- **The Petitioner reasons that the required lot size minimum was decreased from 15 acres to five acres in the R and R-20 Districts yet the stringent 200 foot setback previously reserved for non-rural residential lots (R-20) was extended to those parcels in the RC and RR Districts (formerly the R District) with the elimination of the R-20 District as a permitted zoning district for the Conditional Use.**

As previously noted, it is an incorrect statement that the 200 foot setback did not apply in the R District. Although the Petitioner’s argument is somewhat flawed because there was in fact a 200 foot setback required for the R and R-20 Districts (and later RC, RR and R-20), the Petitioner’s point that the regulations have evolved in a manner that imposes inequitably stringent setback standards for the RC and RR Districts in comparison to the R-20 District is a valid one to warrant some reduction in setbacks.

With the reduction of the minimum lot size requirement from 15 acres to five acres in 1977, the 200 foot setback previously required for 15 acre lots was retained for both the R and R-20 Districts and was effectively applied to lots having only the newly established five acre minimum.

The effect was that the minimum lot size was reduced while the setback remained disproportionately large for R-20 zoned properties compared to R zoned properties, when it is likely that R zoned lots would have a greater potential to be significantly larger than five acres compared to R-20 lots where they would likely only be minimally larger than five acres.

Some reduced setbacks are warranted and would be generally consistent with regulatory changes as they have evolved; however, the Petitioner's proposal introduces an inconsistent measurement of setbacks based on additional criteria of lot size that is inconsistent with the straightforward standard for determining setback distances currently in place. This could be simplified by using a standard method of measuring setbacks regardless of lot size or the number of horses kept.

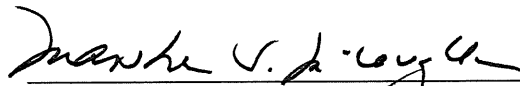
The objective in establishing setbacks is to separate impacts of the Conditional Use from nearby residential uses. This objective would be more simply and consistently addressed by using the same criteria for measuring setbacks and language consistent with that in Section 128.A.4. which stipulates that animal shelters that provide protection for animals other than household pets are not permitted within 200 feet of an existing dwelling on a different lot.

The riding arena component of the Conditional Use is one customarily associated with agricultural districts and would not likely be in continuous use; this setback could be reduced to 100 feet. However, the requirement that a stable be set back 200 feet from adjacent residential uses is long standing in the Zoning Regulations and because it is based on intensity of use, it is recommended that this criterion be retained. The Department of Planning and Zoning recommends approval with the modifications in Attachment B to this Technical Staff Report.

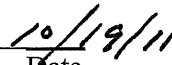
V. RECOMMENDATION

APPROVAL WITH MODIFICATIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA 135 be **APPROVED WITH MODIFICATIONS**.



Marsha S. McLaughlin, Director



Date

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

MM:ZLK/zlk

ZRA 135 - Attachment A

Petitioner's Proposed Text

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]].)

SECTION 131: Conditional Uses

43. 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 RIDING ACADEMIES AND STABLES LOCATED ON SITES TWENTY ACRES OR LESS:

- (A)[[(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
- (B)[[(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

(2) FOR RIDING ACADEMIES AND STABLES LOCATED ON SITES GREATER THAN TWENTY ACRES:

- (A) FOR A USE WHERE 20 OR FEWER HORSES ARE KEPT ON THE PROPERTY, FROM ANY EXISTING DWELLING ON A DIFFERENT LOT.....100 FEET
- (B) FOR A USE WHERE MORE THAN 20 HORSES ARE KEPT ON THE PROPERTY, FROM ANY EXISTING DWELLING ON A DIFFERENT LOT.....200 FEET

c. The site has a minimum of five acres.

d. Parking areas, driveways and outdoor riding areas will be located and designed to shield neighboring properties from noise, dust and odors.

ZRA 135 - Attachment B

DPZ's Proposed Text

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]].)

SECTION 131: Conditional Uses

43. 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 INDOOR OR OUTDOOR RIDING ARENA FROM AN EXISTING DWELLING ON A DIFFERENT LOT [[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 STABLE FROM AN EXISTING DWELLING ON A DIFFERENT LOT [[For a use where more than 20 horses are kept on the property, from any property line other than a public property line other than a public street]].....200 feet
- c. The site has a minimum of five acres.
- d. Parking areas, driveways and outdoor riding areas will be located and designed to shield neighboring properties from noise, dust and odors.