



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA- 155 Date Filed: _____

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To allow certain properties (2 acres or larger) located in the R-20 District to be eligible to apply for a conditional use approval of a home-based contractor business.

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

2. Petitioner's Name Jonathan L. Miller and Sonya A. Miller

Address 10430 Shady Acres Lane, Laurel, Maryland 20723
Phone No. (W) 301-490-3404 (H) 301-637-4904
Email Address jon@millercci.com

3. Counsel for Petitioner William E. Erskine, Esq.

Counsel's Address 8171 Maple Lawn Boulevard, Suite 200, Fulton, Maryland 20759
Counsel's Phone No. Office: 301-575-0363; Mobile 443-864-8844
Email Address WErskine@offitkurman.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed to permit resident owners of certain properties within the R-20 District to be eligible to apply for conditional use approval for a home-based contractor business; currently this is only available in the RR and RC zoning districts of the county.

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HOWARD COUNTY COUNCIL

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

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

6. The Legislative Intent of the Zoning Regulations in Section 100.0.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.0.A. See attached narrative in response to Section 6.

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

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

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more

than one property, yes or no? Yes

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

See attached narrative in response to Section 8.

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

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. None.

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

10. You must provide the full proposed text of the amendment(s) as a separate document entitled

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

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

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

Jonathan L. Miller
Petitioner's name (Printed or typed)

Jonathan L. Miller 2-25-15
Petitioner's Signature Date

Sonya A. Miller
Petitioner's name (Printed or typed)

Sonya Miller 2-25-15
Petitioner's Signature Date

Petitioner's name (Printed or typed)

Petitioner's Signature Date

William G. Erickson

Counsel for Petitioner's Signature

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

FEE

The Petitioner agrees to pay all fees as follows:

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

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

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

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

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

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

County Website: www.howardcountymd.gov

Revised: 07/12
T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

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

PETITIONER: Jonathan L. Miller

DISCLOSURE OF CONTRIBUTION

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

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

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

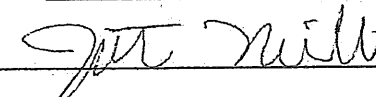
APPLICANT OR
PARTY OF RECORD: Jonathan Miller

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>none</u>	<u>none</u>	<u>none</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

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

Printed Name: Jonathan L. Miller

Signature: 

Date: 2-25-15

PETITIONER: Sonya A. Miller

DISCLOSURE OF CONTRIBUTION

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

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

APPLICANT OR PARTY OF RECORD: SONYA MILLER

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>NONE</u>	<u>NONE</u>	<u>NONE</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

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

Printed Name: Sonya A. Miller

Signature: Sonya Miller

Date: 2-25-15

EXHIBIT A

Response to Section 5

The proposed zoning regulation amendment (ZRA) will permit certain properties (two (2) acres or larger) within the R-20 district to be eligible to make application for approval of a Home Based Contractor conditional use. The proposed ZRA does not alter the permitted or accessory uses within the R-20 district; therefore, eligible R-20 zoned properties must first satisfy the criteria under Howard County Zoning Regulation (HCZR) Section 131.0 and also receive approval from the Howard County Hearing Authority before receiving approval for a Home Based Contractor conditional use.

Approval of this proposed ZRA will be in harmony with the current General Plan for Howard County (PlanHoward 2030). Specifically, the proposed ZRA will promote the general plan policy of creating sustainable communities by permitting Home Based Contractor businesses to be located on appropriate properties within the Planned Service Area (PSA); whereas under current law such Home Based Contractor conditional uses are only permitted in the RR and RC districts - which are generally located outside of the PSA. The current regulatory scheme unnecessarily creates significant *location inefficiencies* because without justification it mandates a significant geographical separation between Home Based Contractor Businesses and the vast majority of the residences and businesses that they serve which are by design located within the PSA.

The geographic separation mandated by the current regulatory scheme is in fact contrary to the general plan goal of reducing automobile dependence and traffic congestion on our highways. General Plan Policy 3.9 calls for the reduction of employee travel miles; yet the current

regulatory scheme mandates that Home Based Contractors drive significant distances on crowded and congested highways as they travel from the rural west areas of our county to work sites within the PSA. (Think southbound Route 32 in the morning!)

Adoption of the proposed ZRA will also encourage *diverse* economic development within Howard County. According to General Plan Figure 5-2, construction jobs within Howard County actually decreased by 1,465 jobs (an 11% decrease) between 2001 and 2009. At the same time, the total number of jobs in Howard County actually increased by 22,112 positions (a 13% increase). These statistics provide stark testimony to the fact that Howard County economic development policies, while very effective at creating high skilled positions often requiring an advanced degree, have not been very effective in creating job opportunities for non-degree holding workers in the essential trade industries including but not limited to general contracting; home improvement; plumbing; electrical contracting; masonry; HVAC and the like. The absence of skilled essential tradesmen in Howard County undermines the quality of life in Howard County because our citizens and businesses find it increasingly difficult to obtain the essential services they need at reasonably affordable prices. Illustrative of this point is the extreme difficulty that many Howard County citizens and businesses experienced in obtaining plumbing services during the month of February, 2015 – a month characterized by extremely cold temperatures that resulted in an unprecedented number of frozen and burst pipes. Equally, frustrating is the difficulty of obtaining HVAC mechanical services during the now all too common summer heatwaves experienced by Howard County residents and businesses.

Finally, adoption of the requested ZRA will promote the General Plan goal of maintaining an adequate supply of affordable housing opportunities. The requested ZRA will take advantage of “location efficiencies” having the effect of reducing the total cost of housing (see, PlanHoward

2030 page 125). Presently, a Home Based Contractor residing on R-20 zoned property within the PSA must lease or purchase separate industrial or commercially zoned property to operate his or her contracting business. While this is certainly appropriate for larger contracting businesses; it is both unnecessary and overly burdensome for smaller lower intensity contracting businesses. Requiring these smaller lower intensity contractors to lease or purchase separate industrial or commercial property dramatically increases their overall cost of living in Howard County, contrary to the stated goals of the General Plan.

Response to Section 6

The proposed ZRA will further the purpose of the Zoning Regulations and zoning maps by preserving and promoting the health, safety and welfare of the community. As discussed in Section 5 above, the proposed ZRA does not alter the permitted or accessory uses within the R-20 district; therefore, eligible R-20 zoned properties must first satisfy the criteria under Howard County Zoning Regulation (HCZR) Section 131.0 and also receive approval from the Howard County Hearing Authority before receiving approval for a Home Based Contractor conditional use. Because the Hearing Authority may only approve a Home Based Contractor conditional use if it is satisfied that a specific conditional use plan satisfies both the general criteria for approval under HCZR Sec. 131.0.B as well as the specific criteria for approval as provided in HCZR Sec. 131.0.N.28, the health, safety and welfare of the community will be preserved and promoted by virtue of the oversight of the Hearing Authority.

The purpose of the Zoning Regulations will be further preserved and promoted by adoption of the proposed ZRA. Significantly, the proposed ZRA will

1. Prevent and help to alleviate the over-crowding of the land and the undue congestion of population on the highways;
2. Promote the most beneficial relationship between the uses of land and structures, and the road system which serves these uses, while having particular regard for the potential amount and intensity of such land and structure uses in relationship to the traffic capacity of the road system, so as to avoid congestion in the streets and roadways;
3. Create substantial location efficiencies and will help to provide for adequate housing choices in a suitable living environment within the economic reach of all citizens including citizens employed in the essential trade industries.

Response to Section 7

In addition to the public benefits described in Section 5 and Section 6 above, the proposed ZRA will benefit the general public by helping to ensure that essential trade services will be available to the citizens and businesses of Howard County located within the PSA. Adoption of the proposed ZRA will also help to mitigate the cost of these essential trade services by reducing or eliminating the significant location inefficiencies mandated under the current regulatory scheme.

Response to Section 8

The proposed ZRA would potentially impact any property two (2) acres or larger located within the R-20 zoning district. The number of properties impacted by this proposed ZRA is in excess of 12. Notwithstanding, and as previously stated above, the proposed ZRA does not alter the permitted or accessory uses within the R-20 district; therefore, eligible R-20 zoned properties must first satisfy the criteria under Howard County Zoning Regulation (HCZR) Section 131.0 and also receive approval from the Howard County Hearing Authority before receiving approval

for a Home Based Contractor conditional use. Because the Hearing Authority may only approve a Home Based Contractor conditional use if it is satisfied that a specific conditional use plan satisfies both the general criteria for approval under HCZR Sec. 131.0.B as well as the specific criteria for approval as provided in HCZR Sec. 131.0.N.28 the health, safety and welfare of the community will be preserved and promoted by virtue of the oversight of the Hearing Authority. In the event that other properties within the R-20 zoning district should apply and qualify for a Home Based Contractor conditional use, the public benefits resulting from such applications and approvals would be of the same general character as described in Sections 5 – 7 above.

4831-6030-5442, v. 1

PETITIONERS' PROPOSED TEXT

28. Home-Based Contractors

A Conditional Use may be granted in the RC ~~[[and]]~~, RR AND R-20 Districts for home-based contractors, subject to the following requirements, except that landscape contractors have separate requirements elsewhere in Section 131.0.N., and home-based contractors meeting the requirements of Section 128.0.C.2 are permitted accessory uses:

- a. The minimum lot size is three acres **IN THE RC AND RR DISTRICTS; AND TWO ACRES IN THE R-20 DISTRICT.**
- b. The number of commercial vehicles parked on the site shall be limited to three commercial vehicles for lots up to six acres, and five commercial vehicles for lots larger than six acres and not more than 20 acres.

On lots larger than 20 acres, the Hearing Authority may approve additional commercial vehicles, as is determined to be appropriate based upon the character of the property and its relation to the surrounding area.

- c. On lots six acres or fewer, the area used for parking and storage of commercial vehicles, equipment and supplies, whether exterior or interior, shall be limited to no more than 50% of the area of the lot or 10,000 square feet, whichever is less. On lots larger than six acres, the area used for these purposes shall be limited to no more than 5% of the lot or one acre, whichever is less.
- d. **IN THE RR AND RC DISTRICTS, ~~[[S]]~~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. IN THE R-20 DISTRICT, STRUCTURES USED FOR THE CONDITIONAL USE SHALL BE AT LEAST 30 FEET FROM LOT LINES AND ALL OUTDOOR PARKING OR STORAGE AREAS SHALL BE AT LEAST 50 FEET FROM LOT LINES.**
- e. 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.
- f. 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.
- g. Parking and storage areas shall be restricted as follows:
 - (1) 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 accordance with the County Landscape Manual.
 - (2) Equipment shall be either stored within a building or screened from surrounding properties and roads by vegetation, fencing or other appropriate means in accordance with the Howard County Landscape Manual.
- h. The Hearing Authority shall establish the maximum number of employees permitted on the lot and the maximum allowable number of employee trips per day.
- i. The Hearing Authority shall establish the days and hours of operation.
- j. New structures or additions to existing structures shall be designed to be compatible in appearance and scale with other residential or agricultural structures in the vicinity, as demonstrated by architectural elevations or renderings that shall be submitted with the petition.

PETITIONERS' PROPOSED TEXT

- k. 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.
- l. 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 Hearing Authority determines that this will provide a more compatible location in relation to vicinal properties that effective screening will be provided by using existing site features, or that it will result in decreased impacts on neighboring lots.
- m. On an ALPP purchased or dedicated easement property, the following additional criteria are required:
 - (1) The use shall not interfere with the farming operations or limit future farming production.
 - (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

EXAMPLE OF HOW TEXT WOULD APPEAR IF PROPOSED TEXT IS ADOPTED

HCZR Section 131.0.N – Conditional Uses

N. Conditional Uses and Permissible Zoning Districts

Conditional Use	Zoning Districts																															
	RC	RR	R-ED	R-20	R-12	R-SC	R-SAB	R-HED	R-A15	R-APT	R-MH	R-SI	R-VH	CCT	TD	CAC	TNC	PGC	HO	HC	PO	PEC	BR	OT	B-1	B-2	SC	M-1	M-2	CE	I	
Age-Restricted Adult Housing			✓	✓	✓	✓	✓	✓	✓	✓																✓	✓					
Agribusiness	✓	✓																														
Aircraft Landing and Storage Areas (Private Ownership)	✓																															
Animal Hospitals	✓	✓																														
Antique Shops, Art Galleries and Craft Shops	✓	✓																														
Athletic Facilities, Outdoor	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓																					
Barber Shop, Hair Salon, and Similar Personal Service Facilities	✓	✓	✓																													
Bed and Breakfast Inns	✓	✓	✓	✓	✓	✓							✓																			
Bottling of Spring or Well Water	✓	✓																														
Buses, Boats, or Recreational Vehicles																											✓					

EXAMPLE OF HOW TEXT WOULD APPEAR IF PROPOSED TEXT IS ADOPTED

separate requirements elsewhere in Section 131.0.N., and home-based contractors meeting the requirements of Section 128.0.C.2 are permitted accessory uses:

- a. The minimum lot size is three acres in the RC and RR districts; and two acres in the R-20 district.
- b. The number of commercial vehicles parked on the site shall be limited to three commercial vehicles for lots up to six acres, and five commercial vehicles for lots larger than six acres and not more than 20 acres.

On lots larger than 20 acres, the Hearing Authority may approve additional commercial vehicles, as is determined to be appropriate based upon the character of the property and its relation to the surrounding area.

- c. On lots six acres or fewer, the area used for parking and storage of commercial vehicles, equipment and supplies, whether exterior or interior, shall be limited to no more than 50% of the area of the lot or 10,000 square feet, whichever is less. On lots larger than six acres, the area used for these purposes shall be limited to no more than 5% of the lot or one acre, whichever is less.
- d. In the RR and RC districts, 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. In the R-20 district, structures used for the Conditional Use shall be at least 30 feet from lot lines and all outdoor parking or storage areas shall be at least 50 feet from lot lines.
- e. 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.
- f. 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.
- g. Parking and storage areas shall be restricted as follows:
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 - (2) Equipment shall be either stored within a building or screened from surrounding properties and roads by vegetation, fencing or other appropriate means in accordance with the Howard County Landscape Manual.
- h. The Hearing Authority shall establish the maximum number of employees permitted on the lot and the maximum allowable number of employee trips per day.
- i. The Hearing Authority shall establish the days and hours of operation.
- j. New structures or additions to existing structures shall be designed to be compatible in appearance and scale with other residential or agricultural structures in the vicinity, as demonstrated by architectural elevations or renderings that shall be submitted with the petition.
- k. 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.

EXAMPLE OF HOW TEXT WOULD APPEAR IF PROPOSED TEXT IS ADOPTED

- I. 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 Hearing Authority determines that this will provide a more compatible location in relation to vicinal properties that effective screening will be provided by using existing site features, or that it will result in decreased impacts on neighboring lots.
- m. On an ALPP purchased or dedicated easement property, the following additional criteria are required:
 - (1) The use shall not interfere with the farming operations or limit future farming production.
 - (2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.