



April 17, 2015

TECHNICAL STAFF REPORT

*Petition Accepted on March 17, 2015
Planning Board Meeting of May 7, 2015
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA - 155 – Jonathan L. Miller and Sonya A. Miller

Request: To amend Section 131.0.N. of the Zoning Regulations to allow certain properties, located in the R-20 zoning district to be eligible to apply for Conditional Use approval of a home-based contractor business.

Department of Planning and Zoning Recommendation:

DENIAL

I. DESCRIPTION OF PROPOSAL

- The Petitioner proposes one amendment to the Zoning Regulations. The proposal would amend Section 131.0.N. of the Zoning Regulations, which outlines Conditional Uses and Permissible Zoning Districts.
- The amendment would modify Section 131.0.N.28 of the zoning regulations to allow properties that are two acres or greater in size and located in the R-20 zoning district to apply for a Conditional Use for a home-based contractor.
- The amendment would also modify Section 131.0.N.28 of the zoning regulations to add specific structure and parking setback requirements for home-based contractor uses in the R-20 zoning district, and modify the chart outlining Conditional Uses and permissible zoning districts in Section 131.0.N. of the Zoning Regulations to add home-based contractors (Attachment A).
- The Petitioner's complete proposed amendment text is attached to this Technical Staff Report as Attachment B (Petitioner's Proposed Text).

II. EXISTING REGULATIONS

- Home-Based Contractors was added as a Special Exception to the Howard County Zoning Regulations under ZB 928 R&M on September 18, 1992.
- Section 131.0.N.28 of the Howard County Zoning Regulations does not currently permit Home-Based Contractors as a Conditional Use in the R-20 (Residential: Single) zoning district.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

The proposed amendment could apply to any property within the County which is zoned R-20 (Residential: Single), and at least 2 acres in size.

B. Agency Comments

Comments from all applicable agencies have not yet been received. Any substantive comments received from these agencies before the Planning Board Public Hearing will be forwarded to the Planning Board members before the hearing date.

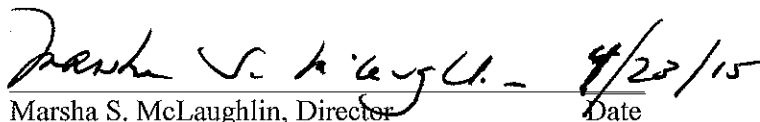
IV. EVALUATIONS AND CONCLUSIONS

- The Petitioner claims that “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 residences and businesses that they serve which are by design located within the PSA.” However, Section 128.0.C.2. of the Howard County Zoning Regulations (Attachment C) already allows Home-Based Contractors on lots 2 acres or larger in the R-20 zoning district provided that they meet certain criteria. Therefore, even without the proposed amendment, home based contractors may be located in the R-20 zoning district, and in close proximity to businesses and residences in which they serve.
- Contractor’s offices are also currently permitted as a matter of right in the BR (Business Rural), M-1 (Manufacturing: Light), and M-2 (Manufacturing: Heavy) zoning districts. These are zoning districts that may, in some cases, be close in proximity to residential zoning districts, but are more amenable to a contractor’s office which is typically associated with large equipment, construction vehicles, and a high volume of traffic.
- Contractor’s offices are also currently permitted as a Conditional Use in the RC (Rural: Conservation) and RR (Rural: Residential) zoning districts, which in some cases are in very close proximity to other residential zoning districts.
- The proposed amendment would conflict with Plan HOWARD 2030 (General Plan) Policy 6.4, which states that we should “Establish policies to protect and promote commercially and industrially zoned land for future job and business growth opportunities.” The proposed amendment would encourage contractors to conduct business in residentially zoned R-20 districts, and discourage the establishment of new contractor’s offices in industrial and commercial zoned areas where the use is intended and much more appropriate.

V. RECOMMENDATION

DENIAL

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-155 be **DENIED**.


Marsha S. McLaughlin, Director 9/22/15
Date

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

ZRA 155 – Attachment A
(Red check mark indicates addition)

Conditional Use	Zoning Districts																															
	RC	RR	R-ED	R-20	R-12	R-SC	R-SA-8	R-H-ED	R-A-15	R-APT	R-MH	R-SI	R-VH	CCT	TOD	CAC	TNC	PGCC	HO	HC	POR	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 (Commercial Storage Lots)																											✓					
Cemeteries and Mausoleums	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓						✓	✓	✓				✓	✓	✓	✓	✓	✓	
Charitable or Philanthropic Institutions: Offices and Educational Programs	✓	✓	✓	✓	✓																											
Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓							✓	✓											
Communication Towers	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓							✓			✓	✓	✓			✓	✓	✓			✓	
Composting Facility	✓																															
Contractor Storage Facility																											✓					
Country Inn	✓	✓	✓	✓	✓	✓																										
Dwelling, Accessory Family	✓	✓	✓	✓	✓																											
Farm Tenant House	✓	✓																														
Fast Food Restaurant																																
Funeral Homes and Mortuaries	✓	✓	✓	✓																						✓			✓	✓		
Gases, Non-Toxic Industrial (Manufacture, Sale, Storage, and Distribution)																															✓	
Gasoline, Fuel Oil, Liquefied Petroleum, and Compressed Natural Gas, Bulk Storage of																											✓		✓	✓		
Gasoline Service Stations																											✓	✓	✓	✓		
Golf Courses	✓	✓	✓	✓	✓	✓	✓																									
Guest House					✓																											
Historic Building Uses	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓										✓					✓	✓		✓	✓		
Home Based Contractors	✓	✓	✓																													
Home Occupations	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓														
Junk Yard																																
Kennels and Pet Grooming Establishments	✓	✓		✓																						✓						
Landscape Contractors	✓	✓																														
Limited Outdoor Social Assemblies	✓																															

Conditional Use	Zoning Districts																																					
	RC	RR	R-ED	R-20	R-12	R-SC	R-SA-8	R-H-ED	R-A-15	R-APT	R-MH	R-SI	R-VH	CCT	TOD	CAC	TNC	PGCC	HO	HC	POR	PEC	BR	OT	B-1	B-2	SC	M-1	M-2	CE	I							
Mobile Homes for Security Purposes																																		✓	✓			
Movie Theaters, Legitimate Theaters, Dinner Theaters																																			✓	✓	✓	
Museums and Libraries	✓	✓	✓	✓																																		
Nonprofit Clubs, Lodges, Community Halls and Camps	✓	✓	✓	✓	✓	✓	✓	✓																														
Nursing Homes and Residential Care Facilities			✓	✓	✓	✓	✓	✓	✓	✓	✓		✓																									
Pet Day Care Facilities	✓	✓		✓																																		
Produce Stands				✓																																		
Quarries -- or Rock, Stone, Sand Excavations	✓																																			✓	✓	
Religious Facilities, Structures and Land Used Primarily for Religious Activities	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓																									
Residential/Commercial Buildings																						✓				✓	✓											
Retreat Center	✓	✓	✓	✓																																		
Rubble Landfill and Land Clearing Debris Landfill Facilities																																					✓	
Sawmills, Bulk Firewood Processing, Mulch Manufacture, or Soil Processing	✓	✓																																				
School Buses, Commercial Service	✓	✓		✓	✓																																	
Schools, Colleges, Universities – Private (Academic)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓																									
Shooting Ranges - Outdoor Rifle, Pistol, Skeet and Trap	✓																																					
Small Wind Energy Systems, Building Mounted			✓		✓	✓	✓	✓	✓	✓																												
Small Wind Energy Systems, Freestanding Tower	✓	✓	✓											✓	✓	✓	✓	✓				✓	✓					✓	✓	✓	✓	✓	✓	✓	✓	✓		
Solar Facility, Commercial	✓	✓																																				
Spa, Country	✓	✓																																				
Two-family Dwellings, Accessory Apartments	✓	✓	✓	✓	✓	✓																																
Used Merchandise, Retail Sale by Non-Profit Organizations																																				✓	✓	
Utility Uses, Public	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
Winery, Farm – Class 1B		✓																																			✓	✓
Winery, Farm – Class 2	✓	✓																																				
Wrecked Vehicle Storage (Temporary)																																				✓	✓	

ZRA 155 – Attachment B

Petitioner's Proposed Text

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

Section 131.0: - Conditional Uses

N. Conditional Uses and Permissible Zoning Districts

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.
- 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 home site, 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.

155 – Attachment C

SECTION 128.0: - Supplementary Zoning District Regulations

C. Home Businesses

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.
- 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. Nonresident employees 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 Districts, no more than four trips per day for lots two acres or less, eight trips for lots larger than two and less than three acres, and twelve trips for lots of three or more acres.
 - (2) In the R-ED, R-20, and R-12 Districts, no more than eight trips per day
- d. In addition to the employee visits allowed by Paragraph 2.c, one nonresident, 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 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, and R-12 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 screened from surrounding properties and roads by vegetation, fencing or other appropriate means in accordance with the Howard County Landscape Manual.
 - (2) In the RC and RR Districts, equipment shall be either stored within a building or 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 home site, 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 131.0.N.28, Section 131.0.N.32 and other applicable regulations