



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA- 159

Date Filed: 6-4-15

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 amend Sections 103.0 Definitions, 113.1 R-MH (Residential Mobile Home) District, 117.1 BR (Business: Rural) District, 120.0 SC (Shopping Center) District, 121.1 CR (Commercial Redevelopment) Overlay District, 125.0 NT (New Town) District, 127.0 MXD (Mixed Use) Districts, 131.0 Conditional Uses, and 133.0 Off-Street Parking and Loading Facilities to update the existing regulations pertaining to Gasoline Service Stations.

[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 Howard County Council Chairperson at the Request of the Howard County Fueling Station Task Force

Address 3430 Courthouse Drive, Ellicott City, MD 21043

Phone No. (W) 410-313-2001 (H)

Email Address Councilmail@howardcountymd.gov

3. Counsel for Petitioner Paul Johnson, Esq.

Counsel's Address 3450 Courthouse Drive, Ellicott City, MD 21043

Counsel's Phone No. 410-313-2101

Email Address PJohnson@howardcountymd.gov

2015 JUN -4 P 1:51 HOWARD COUNTY COUNCIL RECEIVED

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed The Fueling Task Force was established by the County Council to study the siting of motor fuel service stations within the County, including New Town due to the changes in retail petroleum marketing, the advent of alternative fuels and the direction established in Plan Howard 2030, and the County's General Plan.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County POLICY 10.4 – Review and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County’s review process. The General Plan goes further to state, “Implementing Action C - Updated Conditional Use Regulations. Review and, as appropriate, amend the County’s conditional use regulations to reflect updated land use policies.... For example, the regulations regarding gasoline service stations need to reflect changes in the gasoline industry in the last decade and the challenges of blight and environmental mitigation required for redevelopment of abandoned gasoline stations.”.

[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. According to the Task Force report, in the section entitled, “Findings”, there is a paragraph on Health and Safety and the opening paragraph states:

“In recent years, there has been growing concerns about the health and safety impacts of gasoline stations on the general community and nearby health-sensitive facilities – daycare centers, senior centers, schools, playgrounds, houses of worship, etc. Pollutants from automobiles, gasoline dispensing facilities and other fuels have been a central focus of Clean Air Act regulation since the establishment of the EPA in 1970. Reducing air pollution associated with transport and fuel services accounts for much of the Clean Air Act and thousands of health and safety regulations have been established since 1970.”.

[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 number 6 above.

[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.

According to the Task Force's recommendations the proposed regulations would apply to the B-2, SC, M-1, M-2, and PEC zoning districts where gasoline service stations are allowed as a conditional use. The proposed changes would also apply to the NT zoning district.

[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. In addition to considering this proposed petition the Task Force would also like the following to be considered:

-Any testimony, minutes, prior fueling actions or other information submitted to the Task Force during their deliberations that information can be found at <http://cc.howardcountymd.gov/About-Us/Task-Forces/Gas-Station-Task-Force>

-Any prior information submitted during the Consideration of ZRA 145

-Other regulations from other local jurisdictions (i.e. – Anne Arundel County, MD, Baltimore County, MD, Charles County, MD, Montgomery County, MD, and Prince George's County, MD).

[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.

Mary Kay Sigaty, Chair
 Petitioner's name (Printed or typed)

Mary Kay Sigaty 6.4.15
 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature Date

Paul T. Johnson 4/30/15
 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

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.

Attachment A

Howard County Zoning Regulations

SECTION 103.0: Definitions

G

Gasoline Service Station: A facility offering retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aids, and minor automobile accessories. A gasoline service station may also provide motor vehicle service, repairs and maintenance, including painting and bodywork.]]

P

Parking Area, Parking Facility or Parking Use: Any area of a lot or structure used for off-street parking and circulation of motor vehicles, including the area occupied by parking spaces, driveways, and vehicle stacking lanes (e.g. for a car wash or drive-through window). The following are not part of a parking area or parking use: loading docks; areas designated to be occupied by a vehicle during loading operations; fuel servicing spaces at a [[gasoline service]] VEHICLE FUELING station; parking lot islands, any area used for outdoor display or storage of merchandise for sale or rent, including motor vehicles; and any area used for storage of inoperative motor vehicles.

V

VEHICLE FUELING STATION: A FACILITY OFFERING RETAIL SALES TO THE PUBLIC OF VEHICLE FUELS, GASOLINE, MOTOR OIL, LUBRICANTS, MOTOR FUELS, TRAVEL AIDS, AND MINOR AUTOMOBILE ACCESSORIES. A VEHICLE FUELING STATION MAY ALSO PROVIDE MOTOR VEHICLE SERVICE, REPAIRS AND MAINTENANCE, INCLUDING PAINTING AND BODYWORK.

SECTION 113.1: R-MH (Residential: Mobile Home) District

C. Accessory Uses

8. Convenience establishments of a commercial nature, not including [[gasoline service]] VEHICLE FUELING stations but including stores, day care centers, coin-operated laundries and dry cleaners, beauty and barber shops, may be permitted in mobile home parks, provided that such establishments and the parking areas primarily related to their operations:

SECTION 117.1: BR (Business: Rural) District

C. Uses Permitted as a Matter of Right

The following uses are permitted as a matter of right, subject to limitations imposed by the preliminary development criteria.

- [[14]]14. Gasoline service station, provided the use is indicated on the Preliminary Development Plan approved by the Zoning Board.]]
- [[15]]14. Government structures, facilities and uses, including public schools and colleges.
- [[16]]15. Horse tack and saddlery shop.
- [[17]]16. Lawn and garden equipment sales, service and repair.
- [[18]]17. Livestock sales and auction markets.
- [[19]]18. Nonprofit clubs, lodges or community halls.
- [[20]]19. One square foot of residential space is permitted for each square foot of commercial space and must be located within the same structure.
- [[21]]20. Processing and storage of agricultural products, including grain, fruit, vegetables, meat or animal products.
- [[22]]21. Religious facilities, structures and land used primarily for religious activities.
- [[23]]22. Restaurant, standard, and beverage establishments including those serving beer, wine, and liquor provided the site has direct access to and frontage on a collector or arterial road designated in the General Plan.
- [[24]]23. Retail greenhouse, garden center or nursery.
- [[25]]24. Sawmills.
- [[26]]25. School bus storage.
- [[27]]26. Seasonal sale of Christmas trees or other decorative plant materials, subject to the requirements of Section 128.0.D.
- [[28]]27. Underground pipelines; electric transmission and distribution lines and transformers; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a Conditional Use.
- 28. VEHICLE FUELING STATION, provided the use is indicated on the Preliminary Development Plan approved by the Zoning Board.
- 29. Volunteer fire departments.
- 30. Welding service.

SECTION 120.0: - SC (Shopping Center) District

F. Conditional Uses

The following are Conditional Uses in the SC District, subject to the detailed requirements for Conditional Uses given in Section 131.0. If there is a conflict between this Section and Section 131.0, Section 131.0 shall prevail.

1. Cemeteries and Mausoleums
2. Communication Towers (Commercial)
- [[3. Gasoline Service Stations]]
- [[4]]3. Small Wind Energy System, freestanding tower
- [[5]]4. Utility Uses, Public
5. Vehicle Fueling Stations

SECTION 121.1: - CR (Commercial Redevelopment) Overlay District

E. Integrated-Design Uses Subject to Authorization

The following uses may be authorized as permitted uses in an Optional Design Project provided that it is found that they are creatively integrated into the project's architectural and site design and are specifically approved in the Optional Design Project.

- [[1. Gasoline service stations.]]
- [[2]]1. Retail and commercial service uses which include drive-through service.
- [[3]]2. Schools, private academic, including colleges and universities.
3. VEHICLE FUELING STATIONS.

H. Procedure for Approval of an Optional Design Project

1. The owner of an interest in a tract of land zoned with the CR Overlay District constituting a minimum of one acre of land or a minimum of three acres of land in the event that a [[gasoline service]] VEHICLE FUELING station is proposed as a use in the Optional Design Project may submit an application for an Optional Design Project. Prior to preparing a specific plan and submitting an application, the Petitioner is encouraged to meet with the Department of Planning and Zoning on an informal basis to discuss the overall concept for the intended Optional Design Project.

SECTION 125.0: NT (New Town) District

A. Definitions, Requirements and Restrictions Applicable to NT Districts.

11. NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SECTION 125, IF THE CRITERIA IN A

RECORDED FINAL DEVELOPMENT PLAN IDENTIFIES A GASOLINE SERVICE STATION OR VEHICLE FUELING STATION AS A SPECIFIC PERMITTED USE, A NEWLY PROPOSED VEHICLE FUELING STATION IS PERMITTED ONLY UPON APPROVAL BY THE PLANNING BOARD AFTER A PUBLIC HEARING WHERE THE PROPERTY OWNER ESTABLISHES THAT THE GENERAL STANDARDS AND SPECIFIC REQUIREMENTS IN SECTION 131 FOR A CONDITIONAL USE FOR A VEHICLE FUELING STATION ARE MET. TO THE EXTENT THERE IS ANY CONFLICT BETWEEN THE CRITERIA IN THE RECORDED FINAL DEVELOPMENT PLAN AND THE GENERAL STANDARDS AND SPECIFIC REQUIREMENTS FOR A CONDITIONAL USE FOR A VEHICLE FUELING STATION IN SECTION 131, THE MORE RESTRICTIVE PROVISION SHALL APPLY.

SECTION 127.0: - MXD (Mixed Use) Districts

C. Requirements for Mixed Use Development

The requirements given below apply to land in the MXD-3 and MXD-6 Districts at the Preliminary Development Plan stage and subsequent stages of plan processing and development.

4. Permitted Uses

b. For Mixed Use Developments larger than 75 acres, the permitted uses shall be drawn from the following list:

[[11] Gasoline service stations, provided the use is indicated on the Preliminary Development Plan approved by the Zoning Board and criteria for the use are specified in the Preliminary Development Criteria approved by the Zoning Board. A Site Development Plan for a gasoline service station shall be subject to Planning Board approval in accordance with Section 127.0.G.]]

[[12]]11) Movie theaters, legitimate theaters, dinner theaters.

[[13]]12) Public utility uses, including substations and commercial communication towers.

[[14]]13) Other uses, similar to those above, approved by the Zoning Board on the Preliminary Development Plan.

(15) VEHICLE FUELING STATIONS, PROVIDED THE USE IS INDICATED ON THE PRELIMINARY DEVELOPMENT PLAN APPROVED BY THE ZONING BOARD AND CRITERIA FOR THE USE ARE SPECIFIED IN THE PRELIMINARY DEVELOPMENT CRITERIA APPROVED

BY THE ZONING BOARD. A SITE DEVELOPMENT PLAN FOR A VEHICLE FUELING STATION SHALL BE SUBJECT TO PLANNING BOARD APPROVAL IN ACCORDANCE WITH SECTION 127.0.G.

7. Requirements for Employment Uses

C. Retail Centers

(1) The general location of retail centers must be established on the Preliminary Development Plan. Uses permitted in retail centers shall be as established in the Preliminary Development Criteria, and may include retail stores, personal service establishments, and similar uses, as well as fast food restaurants and ~~[[gasoline service]]~~ VEHICLE FUELING stations. Retail centers may be integrated with other uses such as residences, offices and open space.

SECTION 131.0: - Conditional Uses

N. Conditional Uses and Permissible Zoning Districts

Instruction needed to change the Use chart for gasoline Service Stations

~~[[24. Gasoline Service Stations]]~~ 57. Vehicle Fueling Station

A Conditional Use may be granted in the B-2, SC, M-1, M-2, or PEC Districts for ~~[[gasoline service stations]]~~ VEHICLE FUELING STATIONS, provided that:

- a. The use will not adversely affect the general welfare or logical development of the neighborhood or area in which the station is proposed, ~~[[and]]~~ will not have a blighting influence as a result of a proliferation of ~~[[gasoline service]]~~ VEHICLE FUELING stations within a particular area~~[[.]]~~, AND WILL SERVE A PUBLIC NEED FOR A VEHICLE FUELING STATION TO SERVE THE POPULATION OF THE GENERAL NEIGHBORHOOD CONSIDERING THE PRESENT AVAILABILITY OF GAS STATIONS IN THAT NEIGHBORHOOD. A NEEDS ASSESSMENT TO DETERMINE WHETHER A FUELING STATION IS NEEDED AS PROVIDED ABOVE SHALL BE CONDUCTED AND SUBMITTED BY THE PETITIONER. THE ASSESSMENT SHALL USE OBJECTIVE CRITERIA TO DETERMINE IF THERE IS ADEQUATE DEMAND IN THE PROPOSED NEIGHBORHOOD.

B. THE PROPOSED USE SHALL NOT BE LOCATED WITHIN 2,500 FEET OF THE BOUNDARIES OF ANY OTHER LOT OR PARCEL CONTAINING A MOTOR VEHICLE FUEL SALE USE, EXCEPT IF IT IS TO BE LOCATED ON A PRINCIPAL ARTERIAL HIGHWAY AS DEFINED IN THE HOWARD COUNTY DESIGN MANUAL.

C. THE PROPOSED USE IS LOCATED AT LEAST 500 FEET FROM ANY SCHOOLS, PARKS, PLAYGROUNDS, DAY CARE OR ASSISTED LIVING FACILITY, OR ANY OUTDOOR USE CATEGORIZED AS CULTURAL, ENTERTAINMENT OR RECREATIONAL. ANY PROPOSED FUELING STATION USE THAT IS LOCATED WITHIN AN AREA BETWEEN 501 AND 1,000 FEET OF THE USES LISTED IN THIS SUBSECTION ABOVE SHALL BE REQUIRED TO SUBMIT AN ENVIRONMENTAL STUDY WHICH ADDRESSES ANY POTENTIAL AIR QUALITY IMPACT THAT MAY BE THE RESULT OF APPROVING THE PROPOSED FUELING STATION.

D. THE PROPOSED USE IS LOCATED AT LEAST 500 FEET FROM ANY WETLANDS, STREAMS, RIVERS, FLOOD PLAINS, OR ENVIRONMENTALLY SENSITIVE AREAS.

[[b]] E. The minimum lot size for a [[gasoline service station]] VEHICLE FUELING STATION is [[20,000]] 40,000 square feet. If a [[gasoline service station]] VEHICLE FUELING STATION is combined with another use on the same lot, the minimum lot size shall be increased in accordance with the provisions of Section 131.0.N. [[24.i]]57.M(2).

[[c]]F. The lot shall have at least [[120]] 180 feet of frontage on a public road. If at the intersection of two public roads, the total of the frontage along both roads may be used if ingress or egress is provided to both roads.

G. VEHICLE FUELING STATIONS WITH THROUGHPUTS OF 3.6 MILLION GALLONS OF FUEL OR GREATER PER YEAR SHALL ONLY BE LOCATED ON APPROPRIATE PARCELS WHICH ADJOIN OR ARE ADJACENT TO THE RIGHT-OF-WAY LINE OF ANY HIGHWAY WHICH IS PART OF THE INTERSTATE HIGHWAY SYSTEM.

[[d]]H. At least 20 percent of the site area shall be landscaped. The landscaping plan shall include plantings which enhance the appearance of the site from public roads and provide appropriate buffering for adjacent uses.

[[e]]i. Solid walls such as masonry or wood and masonry may be required by the Hearing Authority when the site borders a residential district. When solid walls are required, landscape planting is required on the outside of the wall.

[[f]]j. Refuse areas shall be fenced or screened from view. The plan shall indicate the disposal methods to be used for all waste material generated by vehicle repair operations.

[[g]]k. A PROPOSED SITE PLAN SHALL SHOW THAT EFFICIENT TRAFFIC FLOW AND QUEUING AT THE PUMP ISLANDS MAY BE ACCOMMODATED. Access driveways and on-site paved areas shall be designed and located to ensure safe and efficient movement of traffic and pedestrians.

[[h]]l. Operation

- (1) Outside operations shall be limited to the dispensing of gasoline, oil, water, pressurized air, the changing of tires and minor servicing. Storage of all automotive supplies shall be within the main structure.
- (2) Vending machines and the sale of propane are permitted as accessory uses, provided these uses are screened or enclosed if required by the Hearing Authority.
- (3) The premises shall be maintained at all times in a clean and orderly condition, including the care or replacement of plant materials required in the landscaping plan. The responsibility for compliance with this provision shall be with all parties having a lease or ownership interest in the [[gasoline service station]] VEHICLE FUELING STATION.
- (4) Where a [[gasoline service station]] VEHICLE FUELING STATION is adjacent to a residential district, its hours of operation and a detailed lighting plan shall be approved by the Hearing Authority.

[[i]]m. Other Uses

- (1) Other uses may be located on the same lot as a [[gasoline service station]] VEHICLE FUELING STATION, including uses permitted in the zoning district as well as car washes and convenience stores, provided that all uses are approved by the Hearing Authority and the
- (2) Minimum lot area is increased to accommodate the combination of uses. At a minimum, the minimum lot size of [[20,000]] 40,000 square feet must be increased by an area equal to the gross square footage of floor area, parking area and loading or stacking areas required for the additional uses.
- (3) In the PEC, M-1 and M-2 Districts, the gross floor area of convenience stores shall not exceed 3,500 feet.

[[N.]] Abandonment

- (1) The premises (including landscaping) of any [[gasoline service station]] VEHICLE FUELING STATION which is not in continuous operation or is abandoned shall be maintained in the same manner as is required under these Regulations for operating [[gasoline service stations]] VEHICLE FUELING STATIONS.
- (2) A Conditional Use for a [[gasoline service station]] VEHICLE FUELING STATION shall become void upon notice of abandonment by the owner. If notice of abandonment is not received, but it is determined by the Department of Planning and Zoning that a [[gasoline service station]] VEHICLE FUELING STATION has not been in continuous operation for a period of twelve months, a revocation hearing shall be initiated by the Department of Planning and Zoning in accordance with the procedures set forth in Section 131.0.L. For purposes of this subsection, "continuous operation" shall mean operation as a [[gasoline service station]] VEHICLE FUELING STATION at least eight hours per day, five days per week.
- (3) If a [[gasoline service station]] VEHICLE FUELING STATION is abandoned and the Conditional Use becomes void as provided above, all gasoline pumps, pump island canopies and other improvements (not including buildings) shall be removed from the site within six months of the date the Conditional Use becomes void.

SECTION 133.0: - Off-Street Parking and Loading Facilities

Instruction needed to change the D.4 items h & i Commercial Uses chart.