



CRU Task Force AGENDA

Wednesday, May 25, 2022, at 6 PM

Members of the public may participate by telephone conference call via Teams.

Dial 1-872-239-8359 and enter Conference ID 353 122 58#

Please mute your device until the Chair opens the floor for public comments.

The public may view meetings live at <https://www.kentcounty.com/youtube-live>.

Archived videos may be viewed on the [Kent County Government YouTube channel](#).

MISSION STATEMENT: *We value our land, our families, our neighbors, our friends, and our diverse, rural community. Kent County's history, its location, and the land itself enrich our lives and our lifestyles every day. The CRU Task Force's mission is to preserve the best of Kent County, Maryland, including prime farmland, local culture, and its small businesses, while supporting opportunities for expanding into new economies, via innovative and thoughtful changes to the County's zoning regulations that simplify regulatory processes and add new uses.*

I. **Welcome and Roll Call**

Al Nickerson	Buck Nickerson	Joe Hickman	Ray Strong
Bill Norris	Chikki Shajwani	Kim Kohl	Sam Shoge
Bill Sutton	Cindy Genter	Pat Langenfelder	Tom Mason
Bryan Greenwood	Jim Saunders	Paul Ruge	Tyler Brown

II. **Approval of the Summary** for the Task Force Meeting on March 30, 2022

III. **Purpose:** Fair and Open Discussion on Proposed Text Amendments

Outcome: Staff to summarize Task Force positions in Meeting Summary

Ground Rules

- A. Everyone is encouraged to share ideas openly and freely.
- B. There are no right or wrong inputs for discussion purposes.

Norms

- Participants speak ‘through the chair’. This means raising your hand if you want to speak, and waiting for the Chair to call on you.
- Don’t interrupt other people.
- Don’t talk/debate amongst yourselves.
- Respect other's views.
- Keep contributions short and to the point.
- Start and end on time.
- If online or on the phone: have your video ON and mute ON. Wait for the Chair to call your name before you unmute.

IV. Old Business

- A. Presentation of proposed new graphics for individual zoning districts
- B. Discussion to revisit the topic of consolidation of limited zoning districts
- C. Discussion of Task Force Schedule

V. New Business

- A. Review of Request to amend the Forest Conservation provisions of the Land Use Ordinance (Article VI. Special Provisions, Section 8. Forest Conservation, beginning on page 373 of the current Land Use Ordinance under Part 8 [here](#))
- B. Review of Request to revise Marine zoning district provisions (Article V. District Regulations, Section 13. Marine District, beginning on page 219 under Part 4 and Article VII. Special Exceptions, beginning on page 413 under Part 9 [here](#))
- C. Review of Request to the parking regulations for parking maximums instead of parking minimums (Article VI. Special Provisions, Section 1. Parking and Loading Requirements, beginning on page 309 under Part 6 [here](#))

Break – 10 minutes

- D. Review of Request to amend setbacks in the Village District for agricultural uses on Village zoned land (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))
- E. Review of Request to amend setbacks in the Village District for accessory structures in the front yard to be closer to the street than the house and to allow for small farms within Village District (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))
- F. Request to review the concept and permitted use of an enclave in AZD as it relates to the 10% rule (Article V. District Regulations, Section 1. Agriculture Zoning District, beginning on page 18 under Part 1 [here](#))
- G. Review of Request to consider a general noise ordinance in the zoning code

VI. Task Force Comments

VII. Adjournment

*Please note a quorum of the Board of County Commissioners
may be present at any meeting.*

Special Announcement Regarding Meeting Attendance

The following options are provided for the public to participate in the Task Force meeting.

Since seating is limited, members of the public who would like to **attend the meeting in-person** are encouraged to register in advance by either email at compzone@kentgov.org, or by leaving a voice message at 410-778-7423, ext. 9 (voice/relay). The physical location is in the County Commissioners' Hearing Room at 400 High Street in Chestertown, MD.

Members of the public who wish to **participate via video in the Teams meeting** also need to register in advance by texting their name, street address for the record, and email address to 410-708-4063. Although not required, members of the public who wish to participate in the Teams meeting are encouraged to download the free app for Microsoft Teams, in order to improve their experience of the presentation. Prior to the meeting, a link to join Teams will be emailed to those who registered.

Members of the public may **call in with comments by phone** when the Chair opens the floor for comments. To participate via phone only (without video) via Microsoft Teams:

Call **1-872-239-8359** then enter Conference ID: **353 122 58#**

Please mute your phone / computer / or other electronic device until the Chair opens the floor in order to invite the public's comments.

To listen to the meeting only, the meeting will be livestreamed on the County website at: <https://www.kentcounty.com/youtube-live>

To submit written comments in advance of the meeting, please email your comments to compzone@kentgov.org or mail your comments to:

Bill Mackey, AICP, Director, Department of Planning, Housing, and Zoning
400 High Street, Suite 130; Chestertown, MD 21620

To review agendas, adopted summary minutes, and all meeting materials online, please visit <https://www.kentcounty.com/compzone>. To receive printed copies of materials or review the materials on file in person, please contact Bill Mackey at 410-778-7423 ext. 9 (voice/relay), or at the email address above, or in writing at the address above. Please allow time for USPS delivery, if corresponding by post.

If you require communication assistance, please call (410) 778-7423 (voice/relay) or visit Maryland Relay at www.mdrelay.org, or email compzone@kentgov.org.

Thank you for your participation!



Department of Planning, Housing and Zoning

To: Comprehensive Rezoning Update Task Force
From: Carla Gerber, Deputy Director DPHZ
Date: May 25, 2022
Subject: District Consolidation – Uses Discussion

Memorandum

OLD BUSINESS - ITEM B

Following the discussion to consolidate districts, staff used the redline draft of the LUO prepared by ZoneCo that was presented at the December 2021 meeting to insert the uses from the district being eliminated into the district being retained. Those uses are highlighted in yellow, and the Task Force needs to make recommendations on keeping as is, deleting, or altering these uses. The Commercial district has the most uses that need to be reviewed.

No other changes have been made to the Statements of Intent or the Density, Area, Height, Width, and Yard requirements.

The unofficial matrix of uses for the current Land Use Ordinance has also been included in the packet.

c: file

ARTICLE II. DISTRICTS AND STANDARDS

Community Residential
CR

1.1 STATEMENT OF INTENT

The purpose of this district is to provide for single family residential development in areas of existing residential development, together with facilities and accessory uses normally compatible with residential surroundings, and at the same time to permit agricultural uses and to preserve open spaces and rural character. This district is in areas near existing developed areas, villages and incorporated towns.

1.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A building or land shall be used only for the following permitted uses and structures. **Detailed limitations and standards for these uses may be found in Article III, Section 1.**

1. Adaptive reuse of historic *structures* for a permitted principal use.
2. Agriculture
3. Camp, day or boarding, private or commercial, but not recreational vehicle or migrant labor camps.
4. Detached single family dwellings.
5. Erosion and flood control structures.
6. Greenhouses, wholesale or retail, provided structures are 200 feet from any property line and are adequately landscaped.
7. Public and private forests, wildlife reservations and similar conservation projects.
8. Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources,
9. Stable, private
10. **Stable, public**
11. *Mobile homes* existing and in use as of January 16, 1996

1.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Community Residential District, subject to site plan review by the Planning Commission or where applicable the Planning Director. **Detailed limitations and standards for these uses may be found in Article III, Section 2.**

1. Accessory storage *structures* with a *floor area* of more than 1,200 square feet or a height that exceeds 17 feet on parcels less than 5 acres
2. *Accessory structures* in the *front yard* of *through lots*
3. *Airport*, landing field, heliport, or helistop, public or private
4. Assisted living facilities with five to eight beds
5. **Aquaculture, including accessory processing and sales**
6. Cemetery, including crematorium and mausoleum

7. Conference center
8. Cottage industries, tradesmen and artisan shops
9. Country inn
10. Country stores, on primary and secondary roads
11. Day care group
12. Dog kennels, commercial
13. Golf course, public or private
14. Houses of worship
15. More than four horses and mules on land less than 20 acres size
16. Private clubs
17. Private schools
18. Public landings
19. Public utilities and structures
20. Raising of livestock and fowl but not including commercial feedlots, confinement dairies, or poultry houses.
21. Raising of small animals, commercial, including birds, bees, fish, rabbits or other creatures, but not including dog kennels
22. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
23. Resort
24. Retreat
25. Rural Inn
26. Sand and gravel pits, excavation or extraction (not including the removal of sod and excavation for foundations, swimming pools, soil and water conservation practices, and those removals approved in connection with street construction, subdivision, or planned residential development)
27. Wind energy systems, small, with a height that exceeds 80 feet or on parcels less than 20 acres

1.4 ACCESSORY USES AND STRUCTURES

- A. The following *accessory uses and structures* are allowed on all *farms* in the Community Residential District. Detailed limitations and standards for these uses may be found in Article III, Section 3A.
 1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos.
 2. Accessory farm houses, one on all *farms*, two on *farms* with a minimum of 50 tillable acres.
 3. Accessory open or enclosed storage of farm materials, products, equipment, or vehicles.

4. Accessory storage of fertilizer and chemicals used in connection with the farming operation of the owner.
 5. *Guest house* one, not including *mobile homes*,
 6. One hunting trailer, temporary, from September 1 to the following February 15, continually,
 7. Parking of commercial vehicles
 8. The following *accessory uses* must be at least 200 feet from all property lines:
 - a. Assembly in a *totally enclosed building* not to exceed 10,000 square feet in size and repair of all equipment normally used in *agriculture*.
 - b. Petroleum storage, not to exceed 10,000 gallons and subject to applicable safety codes, ordinances, and statutes.
 - c. Grain, flour, and feed blending and packaging, including milling, drying, and storing.
 9. School buses, limited to five, parked around existing *buildings*
 10. Wind energy systems, small,
- B. The following *accessory uses and structures* are allowed on all properties in the Community Residential District. Detailed limitations and standards for these uses may be found in Article III, Section 3B.**
1. Accessory *dwelling unit*, one, in principal or *accessory structures*
 2. Accessory *off-street parking* and loading of non-commercial vehicles that have current licenses and are operable.
 3. Accessory *off-street parking* of one commercial vehicle in the *rear yard*
 4. Appurtenant *signs* in accordance with Article VI, Section 2, of this Ordinance.
 5. Assisted living facilities or *group homes*, with no more than four beds
 6. *Day care home*
 7. *Home occupations* in main or accessory *buildings*
 8. Keeping of backyard chickens
 9. *Private garages, swimming pools, game courts, and other customary residential outbuildings and structures* provided that *accessory structures* on parcels less than 5 acres do not exceed 1,200 square feet or 17 feet in height.
 10. *Roadside stands* offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or *tenant* of the *premises* upon which such stand is located.
 11. Satellite dish, private, with an antenna exceeding 3 feet in diameter
 12. Satellite dish, private, with an antennae of 3 feet or less, and solar panel arrays,
 13. School buses, limited to two, parked in the *rear* or *side yard* of the dwelling
 14. Solar energy systems, small,

15. Storage in the rear or side yard of boats, campers, boat trailers, and camper trailers, which are titled under the name of the property owner, or occupant.
16. Temporary *MET Tower* of any height

1.5 DENSITY, AREA, HEIGHT, WIDTH AND YARD REQUIREMENTS

Gross density (dwelling units/ac)	1 ¹
Minimum lot size	½ acre
Minimum lot width	75 feet
Minimum yard	
- Front	35 feet
- Side	10 feet
- Rear	30 feet
- Waterfront	100 feet
- Accessory structures on farms in the side and rear yard	25 feet
- Accessory residential structures in rear yard	
Side	3 feet
Rear	5 feet
Maximum structure height ²	
- Residential or Agricultural structure	38 feet
- Fence ³	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

¹ Accessory dwelling units are not included in density calculations.

² Height of structures may be further restricted by of the Kent County Airport Safety Requirements as defined in Article V, Section 6.8.B.5 of this Ordinance. Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

Accessory structures on parcels less than 5 acres in size may not exceed 17 feet in height without a special exception.

³ Fences do not need to meet yard requirements.

ARTICLE II. DISTRICTS AND STANDARDS

Commercial District
C

2.1 STATEMENT OF INTENT

The purpose of this district is to accommodate commercial and service activities that are not normally located in central business concentrations. These uses are primarily oriented to highway locations and include services and destination retail. Consequently, the district is located along major arterial highways. It is further intended that this District shall be for the purpose of limiting sprawling development by providing sites with adequate frontage and depth to permit controlled access to public streets. Because these uses are subject to public view, which is of concern to the whole community, they should provide an appropriate appearance, controlled traffic movement, ample landscaping, and protect adjacent properties from the traffic and visual impacts associated with the commercial activity. It is the intent that a Commercial District shall have a minimum frontage of 150 feet on a single primary road. Whenever possible, frontage of the district shall not exceed depth.

2.2 PERMITTED PRINCIPAL USES AND STRUCTURES

A building or land shall be used only for the following principal uses and structures, in all cases subject to site plan review by the Planning Commission or where applicable the Planning Director. *Detailed limitations and standards for these uses may be found in Article III, Section 1*

1. *Agriculture*
2. *Automobile repair*
3. *Automobile service stations*
4. Building material sales
5. *Car wash provided the waste water is recycled*
6. Circus or carnival, midways and amusement parks, temporary, for a period of time not to exceed one week per year
7. *Cottage industries, tradesmen and artisan shops*
Country Inn
8. Financial Institutions
9. *Fire and rescue squad stations*
10. *Home and business services such as grounds care, cleaning, exterminators, landscaping, and other repair and maintenance services*
11. *Hotels and motels*
12. Mini storage facilities
13. Machinery and equipment sales, service, and rental
14. *Modular building sales not including the storage of modular buildings*
15. Motor vehicle sales, service, and rental
16. Offices - administrative, business, sales, and professional, subject to *site plan* review
17. *Personal wireless facilities* collocated
18. Public uses, *buildings* and utilities.

19. *Restaurants* without drive through facilities
20. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores
21. Retail nurseries and greenhouses
22. Veterinary hospitals and offices
23. Wayside stands for vegetable and agricultural produce
24. In the US Route 301 Corridor, the manufacture, processing, fabrication, and assembly of products.
25. Distribution centers and warehousing.
26. *Microbrewery* as defined by the State of Maryland
27. Class D Alcohol Retail Business, as defined by the State of Maryland
28. Data processing centers, subject to the alternate design provisions of Section 11.8.C

2.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Commercial District, subject to site plan review by the Planning Commission, or where applicable the Planning Director. Detailed limitations and standards for these uses may be found in Article III, Section 2..

1. Attached retail businesses
2. Boat building and sales
3. The manufacture, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature, excluding animal and seafood processing
4. Townhouses, subject to site plan review
5. Multi-family dwellings, subject to site plan review
6. *Personal wireless facility tower*
7. Radio and television tower, commercial
8. Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities
9. Retail businesses, supplying on the *premises*, household goods, new automotive parts, agricultural supplies and commodities, sporting goods, and the like, including department, outlet and discount stores with a gross *floor area* that exceeds 60,000 square feet.
10. School bus parking lot
11. Single family dwellings
12. Any mix of permitted principal uses and structures shall be reviewed as a special exception
13. *Shopping centers*

14. Solar energy systems, utility scale
15. Truck parking lot
16. *Truck terminals*
17. *Truck stops*
18. *Wind energy systems, small*, with a height that exceeds 80 feet

2.4 ACCESSORY USES AND STRUCTURES

Detailed limitations and standards for these uses may be found in Article III, Section 3B

1. .Storage of office supplies or merchandise normally carried in stock in connection with a permitted office, business, or commercial use, subject to the applicable district regulations.
2. *Accessory apartments*
3. Accessory truck parking
4. *Accessory uses and structures* normally associated with a permitted use
5. Appurtenant *signs* in accordance with Article VI, Section 2 of this Ordinance
- 5.5 School buses, limited to three, parked in the *rear* or *side yard* provided the buses are owned or operated by the property owner, have current licenses, and are operable
6. *Solar energy systems, small*,
7. Temporary *MET Tower* of any height
8. *Wind energy systems, small*, limited to one tower

2.5 DENSITY, AREA, HEIGHT, WIDTH, AND YARD REQUIREMENTS

Minimum lot size	NA
Minimum frontage	
- Public road	100 feet
Minimum yard	
- Front	50 feet
- Side & Rear yard	50 feet with buffering from adjoining AZD, RCD, RC, RR, CAR, CR, V, IV, & IVCA 30 feet from CC, C, CCA, M, EC, I, ICA-LDA, & ICA which may be reduced to 0 if emergency and maintenance vehicle access are acceptably addressed and if the adjoining property is a compatible use
- Waterfront	100 feet
Height ⁴	
- Commercial structure	45 feet
- Residential structure	38 feet
- Fence ⁵	
- Security	8 feet
- Ornamental	
Front and side yard	4 feet
Rear yard	8 feet

⁴ Except in an area defined as the Kent County Airport Safety Area, the height limitations do not apply to: belfries; ornamental towers and spires; church spires; public monuments; commercial radio, personal wireless facility, and television towers less than 200 feet in height; stage towers or scenery lofts; tanks; conveyors; silos and corn dryers; elevator bulkheads; fire towers; water towers; stand pipes; and flag poles.

⁵ Fences do not need to meet yard requirements.

ARTICLE II. DISTRICTS AND STANDARDS

Employment Center District
EC

SECTION 3 EMPLOYMENT CENTER DISTRICT

3.1 STATEMENT OF INTENT

Employment Center Districts are defined as planned developments primarily for light industrial uses which are environmentally sound, sustainable and compatible with adjacent uses. They are further defined as areas devoted to industrial uses which present an attractive appearance and complement surrounding land use character by means of appropriate setting of buildings and service areas and landscape treatment.

It is intended that Employment Center Districts be located in areas having one or more major highways, and clearly demonstrated suitable for the intended uses in so far as physical characteristics and relationship to surrounding development.

3.2 PERMITTED PRINCIPAL USES AND STRUCTURES

For every commercial and industrial structure and use erected, reconstructed, altered, or enlarged after the effective date of this Ordinance, a site plan shall be filed. No building permit shall be issued until said site plan is approved by the Planning Commission or where applicable the Planning Director. **Detailed limitations and standards for these uses may be found in Article III, Section 1.**

1. Manufacture, processing, fabrication, and assembly of products.
2. Businesses and industries, including research and development companies, of a similar nature to those listed in Article V Section 18.2.1 may also be permitted by the Zoning Administrator.
3. Distribution centers and warehousing provided that a single building footprint does not exceed 75,000 square feet in size. The restriction on building footprint does not apply to the Employment Center District in the Route 301 corridor.
4. **Animal shelters, as defined by the County Code of Public Laws**
5. Manufacture of concrete and ceramics products, **commercial sawmills, lumberyards** and sewage treatment plants
6. **Manufacture, processing, and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete) including the storage of raw materials on site**
7. *Personal wireless facilities* collocated
8. Public utility *buildings, structures*, water treatment plants, and transmission lines.
9. Blacksmith, welding and machine shops.
10. **Contractors yard**
11. **Cottage industries, tradesmen and artisan shops**
12. Vocational and trade schools including training facilities
13. *Airports*, landing fields, helistops, and heliports.
14. Governmental public works and utility *buildings* or *structures*.
15. Boat building and boat repair.
16. *Truck terminals*, limited to 20 trucks

17. Storage and office trailers, temporary during construction.
18. Offices provided that a single building footprint is 10,000 square feet or greater.
19. *Agriculture,*
20. *Solar energy systems, utility scale,*
21. Data processing centers, subject to the alternate design provisions of Section 14.9.C

3.3 SPECIAL EXCEPTIONS

The following principal uses and structures may be permitted as special exceptions in the Employment Center District, subject to site plan review. **Detailed limitations and standards for these uses may be found in Article III, Section 2.**

1. Personal wireless facility tower
2. **Production of biofuels**
3. *Single family dwelling,* one per existing property, subject to the *yard* requirements found in the Agricultural Zoning District,
4. Radio and television tower, commercial
5. Wind energy systems, small, with a height that exceeds 80 feet

3.4 PERMITTED ACCESSORY USES AND STRUCTURES

The following accessory uses and structures are permitted in the Employment Center District. A site plan shall be required. **Detailed limitations and standards for these uses may be found in Article III, Section 3B.**

1. Day care group
2. Dwellings, limited to two (2) for persons permanently employed on the premises
3. Offices
4. Out of water boat storage
5. Restaurants without drive through facilities
6. Retail sales of products produced on-site
- 6.25 Solar energy systems, small,.
- 6.5 Temporary *MET Tower* of any height.
7. Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided they are clearly subordinate to the principal use
8. *Wind energy systems, small,* limited to one tower

3.5 DENSITY, HEIGHT, WIDTH, BULK, AND FENCE REQUIREMENTS

	STANDARD	INDUSTRIAL SUBDIVISION
Gross density(dwelling units/ acre)	0.05 (1/20) ⁶	⁷
Minimum lot size	20 acres	NA
Maximum residential lot size	2 acres	2 acres
Minimum lot frontage	75 feet	²
Minimum yard		
- Front		
- Existing Primary road	100 feet ³	100 feet ³
- Other roads	²	²
- Side and Rear		
- Adjacent to I, ICA, EC	15 feet	²
- Adjacent to CC, CCCA, M, AZD, RCD	40 feet ³	²
- Adjacent to V, RR, CAR	100 feet ³	²
- Adjacent to public road	100 feet ⁴	100 feet ⁴
Height		
- Industrial structure	45 feet	45 feet
- Residential structure	35 feet	35 feet
- Towers, silos, etc.	150 feet ⁵	150 feet ⁵
- Fence ⁶		
- Security	8 feet	8 feet
- Ornamental		
Front and Side	4 feet	4 feet
Rear	8 feet	8 feet
Maximum building footprint		
- Distribution Center		
- Route 301 Corridor	NA	NA
- Other locations	75,000 sq. ft.	75,000 sq. ft.
- Other industrial buildings		
- Route 301 Corridor	NA	NA
- Other locations	250,000 sq. ft.	250,000 sq. ft.
- Office buildings	10,000 sq. ft.	10,000 sq. ft.

⁶ Intrafamily transfers only

⁷ As approved during subdivision review

³ When a side or rear lot line coincides with a side or rear lot line of a property in a non-industrial zone, the required yard shall be landscaped and screened and shall be unoccupied by buildings, structures, or parking area.

⁴ May be reduced or increased during site plan review

⁵ Except in the Airport Safety Zone

⁶ Fences do not need to meet the yard requirements.

Red text indicates uses added after adoption.

Uses	AZD	RCD	RC	RR	CAR	CR	V	IV	CC	C	CCA	M	EC	I	I-CA LDA
Accessory apartments.								A	A	A	A				
Accessory dwelling unit, one, in principal or accessory structures provided: Also see RCD for different conditions	A	A	A	A	A	A									
Accessory farm buildings, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks and silos. All structures for the keeping of animals shall be a minimum of 100 feet from any property line. In RCD, RC, and RR, no buildings are permitted in the buffer.	AF	AF	AF	AF		AF									
Accessory farm dwellings, one on all farms, two on farms with a minimum of 50 tillable acres. A farm employee house may not be a mobile home. Houses must share a common entrance and shall be occupied by permanent employees of the farm or immediate member of the family owning or operating the farm. The total number of dwellings shall not exceed one dwelling per 20 acres, located within the RCD.		AF	AF	AF		AF									
Accessory farm dwellings, one on all farms, two on farms with a minimum of 50 tillable acres. Accessory farm dwellings may be mobile homes. These dwellings shall share a common entrance and shall be occupied by permanent employees of the farm or immediate members of the family owning or operating the farm. All accessory farm dwellings shall be landscaped and screened from adjacent properties.	AF														
Accessory off-street parking and loading of non-commercial vehicles that have current licenses and are operable.	A	A	A	A	A	A									
Accessory off-street parking of one commercial vehicle in the rear yard provided:	A	A	A	A	A	A									
Accessory open or enclosed storage of farm materials, products, equipment or vehicles.	AF	AF	AF	AF		AF									
Accessory roadside stand for the sale of farm products.	AF	AF													
Accessory storage of fertilizer and chemicals used in connection with the operation of the owner.	AF	AF	AF	AF		AF									
Accessory storage structures with a square footage of more 1,200 sq ft or a height that exceeds 17 feet on parcels less than 5 acres.	SE	SE	SE	SE	SE	SE									
Accessory structures and uses customarily associated with permitted uses									A	A	A				
Accessory structures in the front yard of through lots	SE	SE	SE	SE	SE	SE	SE	SE							
Accessory structures in the front yard of waterfront parcels		SE			SE										
Accessory truck parking									A	A	A				
Accessory vehicle parking limited to those vehicles used as a part of principal permitted uses or approved conditional uses provided the vehicle has a current licence and is operable. Parking areas will be approved during site plan review.							A	A							
Adaptive reuse of historic structures	SE	SE	SE	SE		SE	SE	SE				SE			
Agriculture, excluding the raising of livestock and fowl, including horticulture, hydroponic, and truck farming, general farming, cultivation of field crops and raising of orchards, groves and nurseries.							P		P	P	P		P	P	P
Agriculture, including horticultural, hydroponic, general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs.	P	P	P	P	P	P									
Airports, landing fields, heliport, or helistop, public or private.	SE		SE	SE	SE	SE						SE	P	P	P
Animal shelters as defined by the County Code of Public Laws														P	
Appurtenant signs in accordance with Article VI, Section 2 of this Ordinance.	A	A	A	A	A	A	A	A	A	A	A	A			
Aquaculture, including accessory processing and sales.	P	P	P	SE	SE										
Assisted living facilities or group homes, with no more than four beds provided:	A		A	A	A	A	A	A							
Assisted living facilities with five to eight beds	SE		SE	SE	SE	SE									
Attached retail businesses									SE						
Automobile repair								SE	P						
Automobile service stations									P						
Automobile service stations, but not including repair							SE								
Automobile service stations, but not including repair, subject to site plan review								P							
Bathhouses, pump out structures and other uses normally associated with marinas.												A			
Blacksmith, welding and machine shops. In the Employment Center District, outdoor storage of materials is prohibited unless otherwise approved by the Planning Commission and subject to such conditions as may be determined by the Planning Commission.													P	P	P
Boat building and repair														P	P
Boat building and repair. Outdoor storage of materials and boats under construction is prohibited unless otherwise permitted by the Planning Commission and subject to such conditions as may be determined by the Planning Commission.													P		
Boat building and sales									SE	SE	SE				
Boat building located at least 100 ft from any residential district.												P			
Boat docks, piers(open or covered) and wharves, commercial provided they do not exceed 25% of the waterway, or the channel, whichever is less.												P			
Boat rental, sales, supplies, instructions and other services customarily associated with a full service marina.												P			
Boat repair, in and out of water, located at least 100 feet from any residential district												P			
Building material sales										P	P				

Manufacture, processing and distribution of hot mix asphalt (a.k.a. bituminous concrete or asphalt concrete) including the storage of raw materials on site, provided asphalt cement shall not be refined on the site, and further provided that such facilities shall be located within two miles or U.S. 301.														P		
Manufacture, processing, fabrication and assembly of products. These uses include but are not limited to scientific and precision instruments, photographic equipment, computation equipment, drugs, medicines, pharmaceutical, household appliances, toys, sporting and athletic goods, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, prefabricated and modular housing and components, dairy product feed and grain, baked and confectioners' goods, farm machinery, frozen food processing, packing plants, animal and seafood processing, fruit and vegetable processing, canning and storage.													P	P	P	
Marinas, existing permitted in the RCD district. It is the intent of this section to provide for the continued existence and operation as well as the reasonable expansion of marinas in the RCD zoned areas of the County, provided that such uses do not constitute a nuisance or a source of significant environmental pollution. It is not the intent to allow the creation of new marinas, but rather to protect those enterprises which existed in the RCD on April 12, 1988. An expansion shall require site plan review by the Planning Commission or where applicable the Planning Director. After development there is a net improvement in water quality at or leaving the site. All marinas in the RCD shall comply with all regulations in Article V, Section 9 (Marine District) of this Ordinance.		P														
Marinas, subject to site plan review												P				
Marine supply store including indoor outboard motor repairs and boat storage, subject to the following:							P									
Microbrewery, as defined by the State of Maryland									P	P						
Migrant labor camps	SE															
Mini storage facilities										P	P					
Mobile home parks							SE									
Mobile homes existing and in use as of January 16, 1996 may be continued in use and may be replaced with another mobile home, provided the replacement mobile home complies with the Kent County Codes and all Health Department regulations. It is not the intent of this provision to allow additional mobile homes in the County, but rather to allow the continued use and improvement (including replacement) of mobile homes existing as of January 16, 1996. A mobile home which remains idle or unused for a continuous period of two years shall not be used again except in conformity with these regulations.	P	P	P	P	P	P	P									
Modular building sales, not including the storage of modular buildings										P						
More than four horses or mules on land less than 20 acres in size	SE	SE	SE	SE	SE											
Motor vehicle sales, service and rental										P	P	P				
Multi-family and two-family dwellings provided:	P															
Multi-level boat storage building or structure, excluding dinghy storage													SE			
Neighborhood retail businesses which supply household commodities on the premises such as groceries, meats, dairy products, baked goods or other foods, drugs, notions, flowers or hardware. All retail sales shall be conducted entirely with a building. Other uses and structures which meet the criteria specified above may be approved by the Zoning Administrator. Neighborhood retail businesses shall require a site plan.							P									
New and used boat sales, boat and outboard motor repairs and boat storage, subject to the following:							p									
Offices														A	A	A
Offices, administrative, business, sales and professional, subject to site plan review							P	P								
Offices, provided that a single building footprint is 10,000 sq ft or greater													P			
Off-street parking and loading, including the parking of commercial vehicles related to the operation of an on-site business.													A			
Out of water boat storage														A	A	A
Out of water boat storage, not multilevel boat storage												P				
Outdoor entertainment								SE								
Outdoor recreation, miniature golf but not golf courses							SE	SE								
Parking of commercial vehicles provided:	AF		AF	AF		AF										
Parking of one commercial vehicle in the side or rear yard of dwellings provided:							A	A								
Personal service establishments which perform services on the premises for persons residing in adjacent residential areas, such as shoe repair, dry cleaners, tailors, Laundromat, beauty parlors, barber shops, and the like. All personal service uses shall be conducted entirely within a building. Other uses and structures which meet the criteria specified above may be approved by the Zoning Administrator. Personal service activities require site plan review.							P	P								

Personal wireless facilities collocated on existing towers, water towers, electrical transmission towers, fire towers, silos, grain dryers, or other structures provided the height of the existing structure above that permitted by this Ordinance.	P	P	P				P	P	P	P	P		P	P	P
Personal Wireless Facility Tower	SE	SE	SE						SE	SE	SE		SE	SE	
Poultry houses on parcels where the owner cannot handle the waste generated by the poultry houses	SE														
Poultry houses provided:	P	P													
Printing and publishing							SE	SE							
Private clubs		SE	SE	SE	SE	SE	SE	SE					SE		
Private destination/residence clubs provided:													P		
Private garages, swimming pools, game courts and other customary residential outbuildings and structures provided on parcels less than five acres, the accessory storage structures do not exceed 1200 sq. ft. and a height of 17 feet.	A	A	A	A	A	A									
Private piers, community piers, and private shared piers, not to exceed 25% of the width of the waterway, the edge of the channel, or 150 feet in length, whichever is less and subject to the stipulations of Article VI, Section 3.7 of this Ordinance. Regulations governing community piers may be found in Article VI, Section 3.7		A			A										
Private Schools	SE		SE	SE	SE	SE	SE	SE							SE
Production of biofuels															
Public and private forests, wildlife reservations and similar conservation projects	P	P	P	P	P	P									
Public and private parks and playgrounds for the purpose of conserving and enjoying the natural resources, including both active and passive parks owned and operated by Kent County, the State of Maryland, or federal government but not including commercial play fields for football, baseball, and other major sports activities such as motorcycles or drag racing fields.	P	P	P	P	P	P									
Public landings	SE	SE	SE	SE	SE	SE							P		
Public uses, buildings and utilities. Public buildings include, but are not limited to, schools, offices, parks, playgrounds, and roads funded, owned and operated by local, state or federal agencies. Public utilities are water, sewer, electric, gas, oil and communication facilities owned and operated by the Kent County Department of Water and Wastewater Services or other public utility. Public utilities include substations, poles, lines, transformers, pipes, meters, treatment facilities, pumping stations and appurtenances but not transmission towers. Power plants and the like are not permitted. The following items require site plan review: schools, offices, playgrounds, treatment facilities, water towers, substations, and transformers.							P	P	P	P	P				
Public utilities and structures	SE	SE	SE	SE	SE	SE									
Public utility buildings, structures, water treatment plants, and transmission lines.													P	P	P
Public utility lines and accessory structures provided:													P		
Pubs, taverns, and bars								SE							
Pubs, taverns, and bars including open air facilities													SE		
Radio and commercial television tower										SE			SE	SE	
Railroad rights-of-way including a strip of land with tracks and auxiliary facilities for track operations; but not including passenger stations, freight terminals, switching and classification yards, repair shops, round houses, interlocking towers, and fueling, sanding and watering stations. In RCD, the rights-of-way must be existing as of April 12, 1988.	P	P													
Raising of livestock and fowl but not including commercial feedlots, confinement dairies, or poultry houses on land less than 20 acres.			SE	SE											
Raising of small animals, commercial, including birds, bees, fish, or other creatures, but not including dog kennels on land less than 20 acres.			SE	SE	SE	SE									
Recreational facilities, commercial, but not including major sports arenas for football, baseball, drag racing, motocross or other major sports activities,					SE	SE									
Recreational facilities, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities.			SE	SE						SE	SE				
Recreational facility, privately or commercially owned, but not including major sports arenas for football, baseball, drag racing, motocross, or other major sports activities.									SE						
Recreational uses such as swimming pools, game courts, and other like recreational facilities located a minimum of 25 feet from all property lines.							A	A					A		
Recreational uses, indoor, commercial, ie game courts, swimming pools, and other like private recreational facilities, subject to site plan review							P	P							
Resort		SE	SE	SE	SE	SE		SE							
Restaurant, without drive through facilities, subject to site plan review.								P	P	P	P	P	A	A	A
Restaurants without drive through facilities limited to 75 seats, subject to site plan review							P								



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Forest Conservation Act in the Land Use Ordinance

Memorandum

NEW BUSINESS - ITEM A

Background

In September 2021, a proposal for changes to the Forest Conservation provisions of the Land Use Ordinance were submitted for consideration by a member of the public. The proposal is attached for your reference.

Request

The proposed specific text amendment would increase Kent County standards above those required by the State of Maryland. Specifically, the proposal requests that the County

- increase the amount of new forest required with development in certain zoning districts (AZD, Commercial, Employment Center, and Industrial);
- increase the forest area replacement ratio from $\frac{1}{4}$ acre to $\frac{1}{2}$ acre per acre removed above certain thresholds;
- increase said thresholds in certain districts (Village, Intense Village, Commercial, Employment Center, and Industrial), so the existing higher requirements of twice the area removed is applied below the increased thresholds;
- increase the two-year State-required term for maintenance agreements to five years;
- increase the required contribution for fee-in-lieu from 30.5 cents per square foot to 40 cents per square foot in areas outside the Critical Area and inside the Priority Funding Area and from 36.6 cents per square foot to 50 cents per square foot for projects outside both the Critical Area and Priority Funding Area; and,
- to double the length of time that bonds will be held from one growing season to two growing seasons related to interim requests for changes to bonding and from two growing seasons to four growing seasons for final requests to release bonding.

The goal of the changes is to support no net loss of forests.

Review

Kent County has long maintained the current State standards for forest conservation, in order to be consistent with neighboring jurisdictions, especially considering those design professionals who work across jurisdictions on the Eastern Shore. Having reached out to Cecil County and Queen Anne's County, staff learned that Cecil County has adopted more stringent standards than the State regarding afforestation. Cecil County requires a 3:1 ratio for afforestation using forest retention banks; however, forest retention banks will be phased out by 2024 per State law. Cecil County also requires bonding at 200% of total project cost (plant materials and labor), which exceeds State requirements. In Queen Anne's County, it is anticipated that a higher fee structure for contributions to the County's forest conservation funds will be proposed exceeding the State requirements of 30.5 cents per square foot inside Priority Funding Areas and 36.6 cents per square foot outside Priority Funding Areas.

The 2018 Comprehensive Plan includes a specific Strategy that: “This Comprehensive Plan outlines a no net forest loss strategy (p.76).” It is recognized that the State requirements related to forest conservation would not result in a no net loss outcome. The proposal could move the County closer to a no net loss outcome. That being said, the proposal concentrates its increased forest requirements on certain commercial and village districts, although it does require increased afforestation on AZD land as well. Because forest conservation measures are only applied to properties that develop over certain thresholds and are located outside of the Critical Area, it is not known by staff, nor can it be calculated, if future development with these regulations would result in no net loss overall. It is clear that increasing standards could decrease forest loss due to development in the specified zones.

Recommendation

Staff requests that the Task Force review and comment on the proposed zoning text amendment.

Note

Regarding references to the Maryland State Forest Conservation Technical Manual, a digital copy may be found online here: <https://mdstatedocs.slrc.info/digital/collection/mdgov/id/11130/>.

c: file

Request for changes to Kent County's FCA Land Use Ordinance

Kent County is blessed with a rich natural resource base. The County seeks to maintain and improve these natural resources through the practice of sustainability in its development regulations and policies and its own facilities and operations. Kent County's Comprehensive Plan 2018, Environment P.51

Kent County along with Queen Anne's share the title for the least tree cover in the State, at about 24%. Maryland Department of Planning, Land Use Change Analysis 2016 shows that Kent County is predicted to lose over 800 acres of tree and brush cover by 2040. Changes to the current FCA are needed to ensure Kent County protects the natural resources that enrich the lives and lifestyles of the residents.

The State of Maryland General Assembly recently enacted The Tree Solutions Now Act 2021 promoting tree cover: COMAR Environment § 2-1212(c). in part reads that *The Governor shall formally pledge the State's commitment to achieving the goals established under subsection (a) of this section through the U.S. Chapter of the World Economic Forum's One Trillion Trees Initiative.* Therefore, it is imperative going forward that Kent County take steps to actively enact measures to increase tree cover while also ensuring no net future losses of this vital resource.

This is a proposed request for the following changes to Afforestation Minimums and Thresholds as well as the rate of reforestation in order to promote the overall goal of no net loss plus afforestation of Kent County.

District	Afforestation Minimum	Proposed Minimum	Current Threshold	Proposed Threshold
Agricultural	20%	25%	50%	50%
Rural Character	20%	20%	50%	50%
Rural Residential	20%	20%	50%	50%
Community Residential	20%	20%	50%	50%

Village	15%	15%	15%	20%
Intense Village	15%	15%	15%	20%
Crossroads Commercial	20%	20%	50%	50%
Commercial	15%	20%	15%	20%
Employment	15%	20%	15%	20%
Industrial	15%	20%	15%	20%

1. Threshold is the percentage of net tract forest area at which the reforestation requirement changes. The current reforestation rate is one-quarter (1/4) acre for every acre removed up to the threshold. The proposal requests that a higher reforestation rate be established of one-half (1/2) acre for every acre removed up to the threshold. Forest removed below the thresholds for a given district will be replaced at the current afforestation level of two (2) times the total surface area cleared.
2. Forest may be cut or cleared below afforestation minimums for due cause, with the requirement that the afforestation area consists of two (2) times the total surface area cleared plus (+) the area needed to achieve the afforestation minimum. This is unchanged from the current afforestation requirement.

The following amendments are being proposed for Forest Conservation:

Section 8 FOREST CONSERVATION

D. Final Forest Conservation Plan

~~7. A 2-year maintenance agreement which includes:~~

~~a. Watering plans~~

~~b. Fertilizing plans~~

~~c. Control of competing vegetation~~

~~d. Protection from disease, pest, and mechanical injury~~

~~e. Replanting provisions when survival goal falls below acceptable levels~~

~~f. Name of company or individual responsible for tree care~~

7. Incorporate a binding 5-year maintenance agreement as specified in COMAR 08.19.05.01 which includes:

- a. Watering and
- b. A reinforcement planting provision if survival rates fall below required standards, as provided in the Forest Conservation Technical Manual
- c. Name and contact information for company or individual responsible for tree care.

E. Forest Conservation Fund

1. When the Kent County Department of Planning and Zoning determines that the requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished and credits generated by a forest mitigation bank in the same county or watershed are not available, the applicant shall contribute money into the forest conservation fund.

- a. For a project outside the critical area and inside a Priority Funding Area at a rate the greater of ~~30.5~~ 40.0 cents per square foot or the amount provided in COMAR 08.19.4.09.D(1)
- b. For a project outside the critical area and outside a priority funding area at a rate the greater of ~~36.6~~ 50.0 cents per square foot or the amount provided in COMAR 08.19.4.09.D(2)
- c. For a project inside a critical area 75.0 cents per square foot

G. Bonds

1. A person required to conduct afforestation or reforestation shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the County Commissioners of Kent County. The surety shall:

- a. Assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved Forest Conservation Plan.
- b. Be in an amount that is 125% of the estimated cost of reforestation or afforestation as determined by the Department of Planning and Zoning.

- c. Be in a form and content approved by the Department of Planning and Zoning.
2. After ~~one~~ two growing seasons, an applicant may request reduction of the amount of the bond or other financial security by submitting a written request to the Department of Planning and Zoning with a justification for reducing the bond or other financial surety amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.
3. The Department of Planning and Zoning shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account such factors as the number of acres, proposed method of afforestation or reforestation, cost of planting materials, and maintenance costs.
4. If after ~~two~~ four growing seasons the plantings associated with the afforestation or reforestation meet or exceed the standards of the Kent County Forest Conservation Technical Manual, the amount of the bond, letter of credit, surety bond, or other security shall be returned or released.



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Marine Zoning

Memorandum

NEW BUSINESS - ITEM B

Background

On August 25, 2021, a proposal for text changes to the Marine zoning district was submitted for consideration by a member of the public who owns land in the Marine zoning district. The proposal is attached for your reference.

Request

The proposed specific text amendment would change the multi-level storage of boats from a special exception to a permitted use, while preserving most of the conditions found under the special exception provisions. Two of the conditions are suggested for deletion – “b. The open end of the building does not face the road” – and e. “Trailers are not stored on the premises.” The request also includes the suggestion to either eliminate or revise the Country Inn provisions; permitted dwelling units; the conference centers, resorts, retreats, hotels, and motels provisions; and the height restrictions for residential uses to allow for expanded residential uses, such as condominiums and hotel buildings. The proposal concludes with a request to allow utility-scale solar in the Marine District and amend regulations to allow structures in modified buffers and on piers such as fuel dock offices and recreational facilities.

Review

Regarding the request for multi-level storage of boats as a permitted use with certain conditions, the requirements for creating an enclosed building may be for more than just the impact to views as suggested by the proposal. The storage of boats indoors may be preferred due to issues with weather as well as visibility to neighbors. The issue of allowing the open end of the building to face a roadway may allow for easier transfer of boats into storage. The issue of whether or not to require enclosed storage with orientation away from the street as a permitted use is a policy matter. Preferences would be a topic of discussion for the Task Force during its deliberations on this matter.

Regarding expanding allowable residential uses, there is already a flexible residential component allowed in the Marine District under the permitted principal uses and structures section – private destination/residence clubs, as reproduced below. In the past, there was concern about Marine zoned land being converted into non-boating-related residential uses, if increased demand for waterfront properties were to occur. The private destination/residence club was the County’s approach to creating a residential component for marinas with some safeguards.

8.5 *Private destination/residence clubs* [beginning on page 219 of the current Land Use Ordinance [here](#)]

- a. The aggregate Marine zoned property shall consist of 4 or more acres.
- b. The facilities for such overnight accommodations shall pay the appropriate county taxes, including taxes payable under Article III or Chapter 152 of the Code of Public Local Laws if Kent County.
- c. The facilities for overnight accommodations shall use a reservation system.
- d. Permitted accessory uses may include clubhouse, restaurants, cafés, or other dining facilities; bars, pubs, or taverns; recreational facilities, such as tennis courts, swimming pools, and spas and other

accessory uses that are customarily associated with a lodging facility. The permitted accessory uses shall not include trap, skeet, clay birds, paint ball, or other similar firearm activities. The applicant shall describe all proposed accessory uses in the application for site plan. Recreational facilities shall be at least twenty-five (25) feet from the nearest property line.

- e. Where they exist, listed *historic structures* shall be incorporated into the overall project.
- f. Significant view corridors, both from the site and onto the site, shall be preserved as far as possible.
- g. The height of all *structures* shall not exceed thirty-eight (38) feet.
- h. Parking lots shall be landscaped as required for commercial developments in Article V, Section 11 of this Ordinance.
- i. The approval of a facility for overnight accommodations shall not impose restrictions that will preclude the use of the marina and property for commercial marine uses permitted in the Marine Zoning District, including boat building, storage, and repair; however, the continuation of these uses shall not be required. The maintenance and continuation of boat slips will be required.
- j. The County may require connection to a public sewer system, if and when such system is available.
- k. Campgrounds, mobile homes, *recreational vehicle*, and manufactured home parks shall not be considered private destination or residence clubs.

Please note that a suggestion to create height restrictions that are more conducive to larger lodging facilities was also included in the proposal. The current height restriction of 38 feet reflects the allowable height in residential districts throughout the County. The intent as understood by staff is for building in the Marine District to be limited to the same height as the surrounding residential districts, since Marine zoning districts are adjacent to residential.

Regarding allowing new conference centers, resorts, retreats, hotels, and motels, the 2018 Comprehensive Plan includes a Strategy on page 16 to “Promote Kent County as a boating center.” Under this strategy the Plan states:

Kent County will promote use of its many assets to assure that a full range of boating related industries and businesses continue to be developed. Boating plays an important role in the local tourism efforts. The County will work with the Chamber of Commerce, existing businesses, and boating professionals to identify ways to expand boating related tourism in the County (p. 16).

Currently, County regulatory systems including adopted policies such as the Growth Allocation Policy envision the protection of existing businesses and would not allow new uses in this category. This is a policy decision that would need to be reviewed and approved by the Critical Area Commission if a new approach were to be taken. Please note that even if the County were to allow new uses in the Land Use Ordinance and the Critical Area Commission were to approve the addition of the uses in the LUO, if additional land were needed to accommodate these uses, then there would need to be growth allocation approved by the State in order to accommodate such expansions. This process is lengthy and complex, and the provisions of both the Natural Resources Article and COMAR will be subject to interpretation by Critical Area Commission as well as the County for any growth allocation application. How the Task Force would prefer to proceed would be a topic of discussion during its deliberations. The County’s current policy approach of allowing only existing facilities to expand could certainly be examined and changed.

Regarding the request for utility-scale solar arrays, the Land Use Ordinance allows for small solar energy systems to provide electricity to a power grid to offset energy costs on the site and for use with aggregate metering. This allows for sale of excess energy generated; however, this is generally at less than the retail value. A utility-scale solar array would allow for other options, and the proposal requests utility-scale solar larger than five acres. The Land Use Ordinance treats Marine Districts differently than other commercial districts, and this is assumed by staff to be due to their location next to residential zones. Other commercial districts (Employment Center, Industrial,

Commercial, Commercial Critical Area, and Crossroads Commercial) allow for much more intensive uses including utility-scale solar arrays. Expanding solar arrays to Marine is another policy matter for the Task Force to consider.

Regarding requested changes to water-dependent uses, these are regulated by the Critical Area Commission and the County cannot create less stringent rules. The County's current regulatory regime is based on the Critical Area Commission's model ordinance. As part of the final review of the Comprehensive Rezoning, staff plan to compare the existing regulations with the latest model to be sure that all required elements are included. Stricter rules are not envisioned, and less stringent rules are not permitted. This review would then be submitted to Critical Area Commission staff for review and comment. These changes are considered technical and mandatory in nature.

Regarding the request for a more concrete definition of "water-dependent," the County's definition is provided below and the State definition from COMAR 27-01-03-01 is provided below the County's definition (LUO, p. 480).

Kent County Land Use Ordinance

350. Water-Dependent Facilities - Those *structures* or works associated with industrial, maritime, recreational, educational, or *fisheries activities* that require location at or near the shoreline within the *buffer*. An activity is water dependent if it cannot exist outside the buffer and is dependent on the water by reason on the intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall *structures* of power plants, water use industries, marinas and other boat docking *structures*, public beaches and other *public water-oriented recreation* areas, and fisheries activities.

COMAR 27.01.03.01 Definitions

A. "Water-dependent facilities" means those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer specified in COMAR 27.01.09.

B. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation. These activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

C. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision which provides community piers (see Regulation .07 of this chapter).

Any changes would require review by the Critical Area Commission for compliance with the State program.

Recommendation

Staff requests that the Task Force review and comment on the proposed zoning text amendment.

c: file

Kent County, MD Zoning Text Changes

Marine Zone Suggestions

Prepared by Aaron Bramble

- In reference to Article V Section 13.2.7 and 13.3.6, with additional reference to Article VII Section 7.32:
 - Given the fact that multi-level storage (dry stack) is a standard operation in many marina facilities, I suggest that this should be a permitted use in the Marine District.
 - Many facilities build dry stack without enclosures, so this could be permitted with restrictions based on nearby zones and viewshed requirements.
 - The operational side of the structure not being able to face the road could be very restrictive to smaller facilities.
 - Forbidding the storage of trailers is restrictive both for the attraction of customers and the additional income that can be provided by trailer storage.
 - My initial suggestion would be the following:
 - Delete Article VII Section 7.32
 - Delete Article V Section 13.3.6
 - Amend Article V Section 13.2.7:
 - Out-of-water boat storage including multi-level boat storage provided:
 - a. The building be enclosed on three sides when [certain zones are nearby, viewshed is impacted, etc.]
 - b. The building is 100 feet from all property lines.
 - c. The building does not exceed 55 feet in height, 100 feet in length, and 6,000 square feet in size.
 - d. Appropriate sanitary and pump out facilities are available on site.
 - e. Boat ramps, lifts, railways, or other facilities for access to the water are available on site. In no case shall a boat cross a public road to access the water.
- In reference to Article V Section 13.2.11 and 13.3.3, with additional reference to Article VII Section 7.16:
 - Many marinas around the state and country feature conference centers, hotels, condominiums, and other ancillary facilities that enrich the operations of the marina and make it more of a destination for customers. Marinas becoming resort facilities is a growing trend in the industry, and

demand for on-shore lodging and other facilities is increasing. It would be prudent, both for market competition and for promotion of tourism to the county, to remove existing restrictions on lodging in the Marine zone and allow for more permitted uses in the lodging and recreational space.

- The Country Inn designation is too restrictive. Fifteen rooms is a small limit, and many marinas in other jurisdictions around the state have larger facilities.
- Some suggestions:
 - Delete Article V Section 13.3.3 or replace it with something more appropriate.
 - Rework Article V Section 13.4.3 to allow for condominiums and/or other long-term dwellings.
 - Rework Article V Section 13.2.11 to allow for the creation of new facilities.
 - I understand concerns that development could shift away from the true intent of the Marine zone, and so I would suggest using similar language to that in Article V Section 13.2.8.5.i: *the maintenance and continuation of boat slips will be required*. I believe including language like this would keep the intent of the zone intact while allowing for much more varied operational options in the county's marine facilities.
 - Amend Article V Section 13.5 to create height restrictions that are more conducive to larger lodging facilities, with restrictions based on nearby zones, viewshed, etc.
- In reference to Article V Section 13.4.8.5:
 - What is the definition of *Solar energy systems, small*?
 - I believe utility scale solar systems should be allowed in Marine, both for internal use and sale to the grid, with an acreage limit great than the 5-acre limit set out for other zones, provided that the presence of the solar system does not interfere with the intended marine usage of the zone.
- In reference to Article V Section 13.6.B.4.a.i and 13.5 footnote 1:
 - Marina facilities often have needs for structures that are within 25' of the water, or even on top of dock structures, that in the past have not met the definition of "water-dependent." Some examples include fuel dock offices and recreational facilities. These structures are often permitted in other jurisdictions.
 - A concrete definition of "water-dependent" would be helpful.
 - Allowing development and expansion in the modified buffer, sustainably, would be beneficial, such as allowing them above bulkheads and on dock structures.



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Parking Requirements in the Land Use Ordinance

Memorandum

NEW BUSINESS - ITEM C

Background

In September 2021, a proposal for changes to the parking requirements in the Land Use Ordinance was submitted for consideration by a member of the public. The proposal is presented below for your reference.

Request

This proposal was submitted via a digital form online, and the specific text change requested is as follows:

Article VI - Section 1. Parking and Loading. Rather than having parking minimums we should have parking maximums. Parking Minimums and other car focused infrastructure create induced demand, meaning we are building car dependence which requires people to drive instead of building alternative transportation for biking and walking. With parking maximums, we can require parking for bikes, motorcycles, and routes to connect to either existing or future pedestrian and bike infrastructure.

Review

In 2005, the American Planning Association published *The High Cost of Free Parking* by Donald Shoup, FAICP. This is considered by many to be the seminal work that spurred a long discussion of parking requirements in Planning. The attached issue of *Zoning Practice* from February 2020 is an update and overview by the author on this matter. In many jurisdictions, re-examining parking requirements, reducing parking requirements, eliminating parking requirements, or changing from minimum requirements to maximum requirements are hot topics. Shared parking strategies are one tool that can be utilized to reduce the actual need for parking. The County's Land Use Ordinance provides for the reduction of parking by the Planning Commission under Section 1.2 on page 309. This provision also allows the Planning Commission to limit the maximum number of parking spaces above the number required.

Furthermore, in Kent County, as a rural county, there are less opportunities outside Towns for shared parking and related remedies that can reduce the amount of parking needed. Many sites are single-use and spread out across the countryside. In some of the smaller Village settings, there could be opportunities for shared parking solutions; however, these are often also historical settings where parking may already be severely limited. Solutions to allow for the reduction or elimination of parking requirements may rely on transit and densely settled, walkable areas. These options are not available at the scale and frequency that may be available in more urban jurisdictions.

Recommendation

Staff requests that the Task Force review and comment on the proposed zoning text amendment.

c: file

ZONING PRACTICE

FEBRUARY 2020



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 2

PRACTICE PARKING REFORM



The Pseudoscience of Parking Requirements

Donald Shoup, FAICP

At the dawn of the automobile age, suppose Henry Ford and John D. Rockefeller had asked how city planners could increase the demand for cars and gasoline. Consider three options. First, divide the city into separate zones (housing here, jobs there, shopping somewhere else) to create travel between the zones. Second, limit density to spread everything apart and further increase travel. Third, require ample off-street parking everywhere so cars will be the easiest and cheapest way to travel.

American cities have unwisely adopted these three car-friendly policies. Separated land uses, low density, and ample free parking create drivable cities but prevent walkable neighborhoods. Although city planners did not intend to enrich the automobile and oil industries, their plans have shaped our cities to suit our cars.

Parking requirements are particularly ill-advised because they directly subsidize cars. We drive to one place to do one thing and then to another place to do another thing and then drive a long way back home, parking free everywhere. In *The High Cost of Free Parking*, published by the American Planning Association in 2005, I argued that parking requirements increase traffic congestion, pollute the air, encourage sprawl, raise housing costs, degrade urban design, prevent walkability, damage the economy, and penalize everyone who cannot afford a car. Since then, to my knowledge, no member of the planning profession has argued that parking requirements do not cause these harmful effects. Instead, a flood of recent research has shown that parking requirements are poisoning our cities with too much parking.

Despite all the harm off-street parking requirements cause, they are almost an established religion in zoning practice. One should not criticize anyone else's religion, but I'm a protestant when it comes to parking requirements. And I believe zoning needs a reformation.

THREE PARKING REFORMS

Reform is difficult because parking requirements do not exist without a reason. If

on-street parking is free, removing off-street parking requirements will overcrowd the on-street parking and everyone will complain. Therefore, to distill 800 pages of *The High Cost of Free Parking* into three bullet points, I recommended three parking reforms that can improve cities, the economy, and the environment:

- **Remove off-street parking requirements.** Developers and businesses can then decide how many parking spaces to provide for their customers.
- **Charge the right prices for on-street parking.** The right prices are the lowest prices that will leave one or two open spaces on each block, so there will be no parking shortages. Prices will balance the demand and supply for on-street space.
- **Spend the parking revenue to improve public services on the metered streets.** If everybody sees their meter money at work, the new public services can make demand-based prices for on-street parking politically popular.

Each of these three policies supports the other two. Spending the meter revenue to improve neighborhood public services can create political support to charge the right prices for curb parking. If cities charge the right prices to produce one or two open spaces on every block, no one can say there is a shortage of curb parking. If there is no shortage of curb parking, cities can then remove their off-street parking requirements. Finally, removing off-street parking requirements will increase the demand for curb parking, which will increase the revenue to pay for public services.

THE MOST EMOTIONAL TOPIC IN TRANSPORTATION

Everyone wants to park free, and most people consider parking a personal issue, not a policy problem. Rational people quickly become emotional about parking, and staunch conservatives turn into ardent communists. Thinking about parking seems to take place in the reptilian cortex, the most

primitive part of the brain responsible for snap judgments about urgent fight-or-flight issues, such as how to avoid being eaten. The reptilian cortex is said to govern instinctive behavior like aggression, territoriality, and ritual display, which all play a role in parking.

Parking clouds people's minds, shifting analytic faculties to a lower level. Some strongly support market prices—except for parking. Some strongly oppose subsidies—except for parking. Some abhor planning regulations—except for parking. Some insist on rigorous data collection and statistical tests—except for parking. This parking exceptionalism has impoverished thinking about parking policies, and ample free parking is seen as a goal that planning should produce. If drivers paid the full cost of their parking, it would seem too expensive, so we expect someone else to pay for it. But a city where everyone happily pays for everyone else's free parking is a fool's paradise.

Few people are interested in parking itself, but parking strongly affects issues people do care strongly about, such as affordable housing, climate change, economic development, public transportation, traffic congestion, and urban design. For example, parking requirements reduce the supply and increase the price of housing. Parking subsidies lure people into cars from public transportation, bicycles, or their own two feet. Cruising for free curb parking congests roads, pollutes the air, and adds greenhouse gases. Do people really want a drive-in dystopia more than they want affordable housing, clean air, walkable neighborhoods, good urban design, and a sustainable planet?

Reforms in planning for parking may be the cheapest, quickest, and most politically feasible way to achieve many social, economic, and environmental goals.

THE EFFECTS OF PARKING REQUIREMENTS

Cities have parking requirements for every art gallery, bowling alley, dance hall, fitness club, hardware store, movie theater, night club, pet store, tavern, and zoo without knowing the demand for parking at any of

them. Despite a lack of theory and data, planners set parking requirements for hundreds of land uses in hundreds of cities—the 10,000 commandments of planning for parking. Planners have adopted a veneer of professional language to justify the practice, but planning for parking is learned only on the job and it is more a political activity than a professional skill.

Consider what planners do not know when they set parking requirements:

- How much the required parking spaces cost
- How much drivers are willing to pay for parking
- How parking requirements increase the price of everything except parking
- How parking requirements affect architecture and urban design
- How parking requirements affect travel choices and traffic congestion
- How parking requirements affect air pollution, fuel consumption, and CO₂ emissions

The High Cost of Parking Requirements

Cost is an especially important unknown. A recent study found that the parking spaces required for shopping centers in Los Angeles increase the cost of building a shopping center by 67 percent if the parking is in an aboveground structure and by 93 percent if the parking is underground (Shoup 2014). Retailers pass this high cost on to all shoppers, regardless of how they travel. People who cannot afford a car pay more for their groceries so richer people can park free when they drive to the store.

Without knowing how much the required parking spaces cost to build, planners cannot know how parking requirements increase the cost of housing. Small, spartan apartments cost less to build than large, luxury apartments, but their parking spaces cost the same. Because many cities require the same number of spaces for every apartment regardless of its size or quality, the required parking disproportionately increases the cost of low-income housing. One study found that minimum parking requirements raise housing costs by 13 percent for families without cars (Gabbe and Pierce 2017).

Drivers pay for their cars, fuel, tires, maintenance, repairs, insurance, and



Stuart Cohen, Transform

Figure 1. An office park on the border of Milpitas and San Jose, California.

registration fees, but they usually don't pay for parking. Who does pay for the parking? Everyone, including people who cannot afford a car. All of life's necessities cost more in order to provide free parking.

America is a free country, and many people seem to think that means parking should be free. Parking requirements enable everyone to park free at everyone else's expense, and no one knows that anyone is paying anything. Parking is free, however, only because everything else is more expensive. Parking requirements are well-intentioned, but good intentions do not guarantee good results or mitigate unintended harm.

The required parking takes up a lot of space. Parking lots typically have about 330 square feet per space. Because there are at least three off-street parking spaces per car in the United States, there are at least 990 square feet of off-street parking space per car. In comparison, there are about 800 square feet of housing space per person in the United States. The area of off-street parking per car is thus larger than the area of housing per human.

In astronomy, dark energy is a force that permeates space and causes the universe to expand. Similarly, in urban planning, parking requirements are a force

that causes cities to expand. The higher the parking requirements, the stronger the dark energy that spreads cities out and rips them apart. Typically, the process of setting the parking requirements is closer to astrology than astronomy.

Parking Requirements in Practice

When I am invited to speak in a city, I start with an aerial view of a site in the city with too much parking, such as this photo of an office park in San Jose, California (Figure 1). It looks like a giant parking lot with a few buildings.

I then show a page from the city's parking requirements, which are so precise and so specific for so many land uses that most people probably assume planners carefully study parking (Table 1). Instead, planners are winging it. Planners are not oracles who can divine the demand for parking. I have never met a city planner who could explain why any parking requirement should not be higher or lower. To set parking requirements, planners usually take instructions from elected officials, copy other cities' parking requirements, or rely on unreliable surveys. Parking requirements are closer to sorcery than to science.

Next, I show the size of the parking lots resulting from the city's parking

TABLE 1. SELECT PARKING REQUIREMENTS FOR “ENTERTAINMENT AND RECREATION” USES IN SAN JOSE, CALIFORNIA

Use	Vehicle Parking Required
Arcade, amusement game	1 per 200 sq. ft. of floor area
Batting cages	1 per station, plus 1 per employee
Bowling establishment	7 per lane
Driving range	1 per tee, plus 1 per employee
Golf course	8 per golf hole, plus 1 per employee
Health club, gymnasium	1 per 80 sq. ft. recreational space
Miniature golf	1.25 per tee, plus 1 per employee
Performing arts rehearsal space	1 per 250 sq. ft. of floor area
Poolroom/billiards establishment	1 per 200 sq. ft. of floor area
Private club or lodge	1 per 4 fixed seats on the premises, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes
Recreation, commercial (indoor)	1 per 80 sq. ft. of recreational area
Recreation, commercial (outdoor)	20 per acre of site
Skating rink	1 per 50 sq. ft. of floor area
Swim and tennis club	1 per 500 sq. ft. of recreation area

requirements. For many land uses, the parking lots are bigger than the buildings they serve (Figure 2). There is more space for parking than for people. For example, San Jose, California, requires a restaurant to provide a parking lot that is more than eight times the size of the restaurant itself. The requirements provide parking everywhere anyone wants to go, but they also create places where few people want to be.

Most people think parking behaves like a liquid. If the parking supply is squeezed in one place, cars will park somewhere else. But parking behaves more like a gas. The number of cars expands to fill the available space, and more parking leads to more cars. Nevertheless, planners usually assume that cars and people come in fixed proportions, and they often require parking in proportion to people: per beautician, dentist, mechanic, nun, student, teacher, or tennis player. If parking were priced to cover its cost, people would own fewer cars and drive less.

Parking requirements are not only ridiculous but also dangerous. They make cities friendly to cars but not to people—drivable but not walkable. As Jane Jacobs wrote, “The more downtown is broken up and interspersed with parking lots and garages, the

duller and deader it becomes, and there is nothing more repellent than a dead downtown.” We want more out of our streets than traffic and free parking. We also want safety, health, walkability, prosperity, and pleasure.

The Unequal Burden of Parking Requirements

Cities require parking for every building without considering how the required spaces place a heavy burden on poor people. A single parking space, however, can cost more than the net worth of many U.S. households. One study found that in 2015 the average construction cost (excluding land cost) for parking structures was about \$24,000 per space for aboveground parking and \$34,000 per space for underground parking.

By comparison, the U.S. Census of Wealth and Asset Ownership in 2015 found that the median net worth (the value of assets minus debts) was \$110,500 for white households, \$19,990 for Hispanic households and \$12,780 for black households. One space in a parking structure, therefore, costs more than the entire net worth of more than half of all Hispanic and black households in the country.

Free curbside parking and off-street parking requirements have spread the city out so

that most people need a car to get a job, go to school, and shop. In a misguided attempt to provide free parking for everyone, cities encourage poor people to buy cars they can ill afford, often financing them by subprime loans at high interest rates. Free parking has the veneer of equality, but it increases inequality. It is enormously wasteful and grossly unfair.

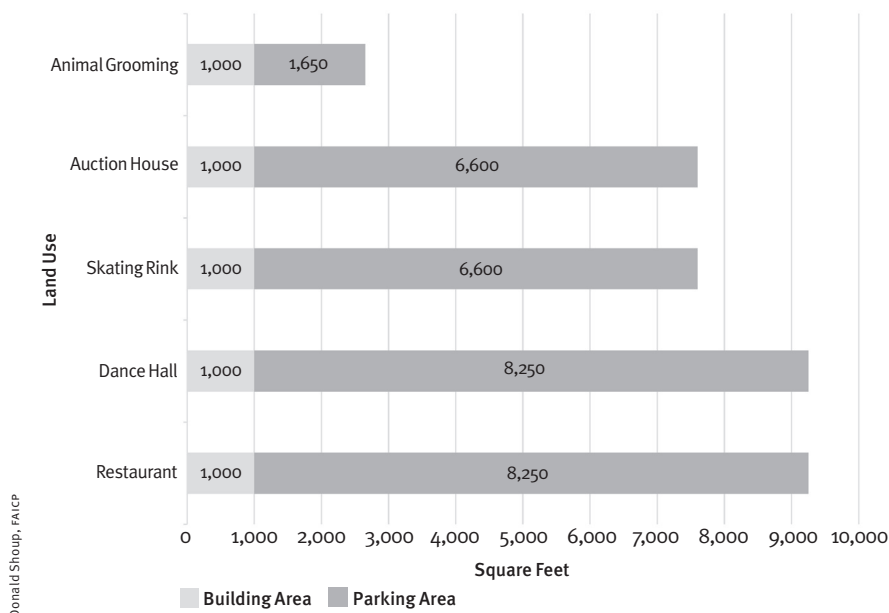
Assumptions and Parking Requirements

Parking requirements resemble what engineers call a “kludge”—an awkward but temporarily effective solution to a problem, with many moving parts that are clumsy, inefficient, hard to understand, and expensive to maintain. Off-street parking requirements are a kludge designed to prevent a shortage of free on-street parking. Parking requirements are superficially plausible but fundamentally wrong.

Parking requirements are like barnacles on a ship, accumulating one at a time and slowing the ship’s progress. They have severed the link between the cost of providing parking and the price that drivers pay for it. They increase the demand for cars, and when citizens object to the resulting traffic congestion, cities respond by restricting development to reduce traffic. That is, cities require parking and then limit the density of people to limit the density of cars. Free parking has become the arbiter of urban form, and cars have replaced people as zoning’s real density concern.

Parking requirements create many disputes about how many parking spaces a building “needs,” with each side making solemn claims backed by dubious evidence. Consider the opposite approaches in the Los Angeles and San Francisco central business districts. For a concert hall downtown, Los Angeles requires, as a minimum, 50 times more parking spaces than San Francisco allows as its maximum. This difference helps to explain why downtown San Francisco is much more exciting than downtown Los Angeles.

If physicians in one city prescribed bloodletting and physicians in another city prescribed blood transfusion to treat the same disease, everybody would demand to know what is going on. Nobody notices when Los Angeles requires parking and San Francisco restricts it. Ultimately, minimum parking requirements increase traffic



Donald Shoup, FAICP

Figure 2. Required ratios of building-to-parking area for select uses in San Jose, California.

because all the cars drawn to the required parking spaces clog the roads. Los Angeles has more parking spaces per square mile and worse traffic congestion than any other city in the United States. Minimum parking requirements began as a solution but have become the problem, a disease masquerading as a cure.

If planners assume that every new resident will come with a car, they require developers to provide enough off-street parking to house all the cars. Ample free parking then ensures that most residents do want a car. Parking requirements thus result from a self-fulfilling prophecy. Parking requirements increase the number of cars, and planners then use the large number of cars to justify the need for higher parking requirements.

Planners often use “motivated reasoning” to justify the parking requirements required by elected officials who want enough parking to ensure that citizens won’t yell about a shortage of free parking. Planners must then fashion arguments for conclusions already reached. Assumptions are the starting point of most parking requirements, and the person who makes the assumptions determines the outcome. Instead of reasoning about parking

requirements, planners rationalize them and feign expertise they do not have.

When it comes to parking requirements, planners have used Pandora’s box as their toolkit. These requirements result from complex political and economic forces, and planners are not in full control. But they do enable the pseudoscience, and the public bears the cost.

Every Sin Is Forgiven if It Is Done With Our Permission

When a city requires off-street parking, city officials have something to offer developers—a planning variance that reduces the parking requirement. The city can then allow a business to provide fewer than the required number of parking spaces because of special circumstances. Some planners may believe that minimum parking requirements are needed as a bargaining chip because they enable cities to reduce the parking requirements in exchange for community benefits, such as affordable housing. For example, California requires cities to reduce the parking requirements for residential developments that include a specific share of affordable housing units. Reducing parking requirements as an inducement to provide affordable housing shows how unnecessary

the parking requirements are in the first place. Cities would never reduce the code requirements for safe electrical wiring or fire escapes in exchange for affordable housing units, but they can easily bargain away parking because it is obviously not necessary.

Just as the medieval Catholic Church sold indulgences for the remission of sins, cities can sell planning variances for the remission of parking requirements. In Dostoyevsky’s *The Brothers Karamazov*, the Grand Inquisitor of Seville explained why the Church was popular even though it threatened Hell as the punishment for minor sins: “Every sin will be forgiven if it is done with our permission.” Removing minimum parking requirements will remove the temptation to sell variances that allow sinfully few parking spaces.

How can cities remove their minimum parking requirements and still have the bargaining power the requirements provide? They can establish maximum parking limits and allow developers to provide more spaces if they pay a fee for every space they provide above the limit. I do not recommend establishing parking maximums to use as a bargaining tool with developers. Nevertheless, if cities want to use parking as a bargaining tool, it is much better to bargain from the starting point of maximum limits than of minimum requirements.

THE UPSIDE OF MINIMUM PARKING REQUIREMENTS

The upside of parking requirements is that removing them can do so much good. Figure 1 showed the asphalt desert created by excessive parking in Silicon Valley. What would happen if San Jose removed off-street parking requirements, charged demand-based prices for on-street parking, and used the resulting revenue to improve neighborhood public services? Property owners might decide their land is more valuable for housing than for parking. If a city wants more housing and less traffic, removing off-street parking requirements will help.

Everyone in Silicon Valley complains about expensive housing, long commutes, congested traffic, and polluted air. Building housing on the periphery of parking lots would help to solve all these problems. Figure 3 suggests what could happen if San Jose removed parking requirements and allowed housing on the periphery of



➔ Figure 3. The same office park from Figure 1, digitally altered to illustrate how removing parking requirements could result in liner apartment buildings on previously developed sites.

parking lots. A parking lot can easily be redeveloped because it has a single owner, has no demolition costs, does not require new infrastructure, and is near both jobs and shopping. If apartment buildings fronted the sidewalks, anyone walking, biking, or driving by would see a real city. The smartest way to travel is to be near your destination already, and this job-adjacent housing would allow commuters to walk to work—a rare out-of-car experience.

The housing can be built without new parking because the existing spaces can be shared between office buildings and apartments. To avoid a parking shortage, the cost of parking will have to be separated from the rent for apartments and offices, so only drivers pay for parking. Residents who work in a nearby office building may find they can live with only one or even no car. They will have the option to rent an apartment without paying for two parking spaces, an option that parking requirements now forbid. The new housing cannot cause gentrification or displacement because no one lives on the parking lots now. Converting parking spaces into housing sites will also reduce traffic congestion because more people will walk, bike, carpool, or ride transit to their destinations. Oversized parking lots offer the possibility of something much better, but parking

requirements prevent anything else. The asphalt landscape in too much of America is not walkable, beautiful, or sustainable, but it can be reformed and transformed.

Removing parking requirements can produce a cascade of benefits: shorter commutes, less traffic, a healthier economy, a cleaner environment, and more affordable housing. If we reform our misguided planning, vast parking lots can evolve into real communities. Economic objectives often conflict with environmental objectives, but parking reforms can serve both.

The money we now spend on cars and fuel can be spent on other things. Cars and fuel are often imported, but we cannot import apartment buildings. Spending less for cars, fuel, and parking and spending more for housing will increase the demand for labor in a host of professions, such as architects, carpenters, electricians, plumbers, and roofers. Importing fewer cars and hiring more people to build infill development will boost the whole economy.

Some critics argue that removing an off-street parking requirement amounts to “social engineering” and a “war on cars.” Instead, off-street parking requirements are a war for cars. All the required parking spreads buildings apart so more people need cars to get around. Removing

a requirement that restaurants provide 10 parking spaces per 1,000 square feet of floor area is no more a war on cars than removing a requirement that everyone must eat in restaurants 10 times a month would be a war on restaurants.

When it comes to off-street parking, I’m pro-choice. Cities should not require developers to provide unwanted parking spaces. Parking requirements were a bad idea, poorly executed, and they prevent many good results. Figure 3 shows that an upside of the mess we have made is an accidental land reserve available for job-adjacent housing. If cities remove their unwise parking requirements, we can reclaim land on a scale that will rival the Netherlands.

Cities have three good reasons to remove minimum parking requirements: We can’t afford them, we don’t need them, and they do immense harm. Wishing that parking requirements did not exist, however, is not a strategy for removing them. Parking requirements respond to a real problem, but they are the wrong solution. And cities cannot remove their parking requirements without also better managing on-street parking. If cities manage on-street parking properly, they won’t need to require off-street parking. Information wants to be free, but parking wants to be paid for.

PROOF IT CAN BE DONE

When *The High Cost of Free Parking* was published, half the city planning profession thought I was crazy and the other half thought I was daydreaming. Since then, several cities—including Buffalo, New York; Hartford, Connecticut; Minneapolis, and San Francisco—have removed all parking requirements, and many others have removed their downtown requirements. Mexico City has converted its minimum parking requirements into maximum parking limits while leaving the numbers almost unchanged. What once seemed politically impossible may slowly become the new normal.

For example, in July 2019, Houston nearly doubled the size of its downtown off-street parking exemption area, redefining it as a “market-based parking area” (§26-471(b)(6) & §26-472). In this area, developers decide how much parking to provide, and at least one shopping center developer has already decided to provide a public plaza instead of more parking (DiMiceli 2019).

CONCLUSION

Assembling support for parking reform is like opening a combination lock: each small turn of the dial seems to achieve nothing, but when everything is in place the lock opens. Three reforms can open the parking combination lock: (1) remove off-street parking requirements, (2) charge market prices for on-street parking, and (3) spend the revenue for neighborhood public services.

Repealing off-street parking requirements and replacing them with market prices for on-street parking may at first glance seem a Herculean task, almost like Prohibition or the Reformation, too big an upheaval for society to accept. Nevertheless, this strategy should attract voters across a wide political spectrum. Conservatives will see that it reduces government regulations. Liberals will see that it increases public spending. Environmentalists will see that it reduces

energy consumption, air pollution, and carbon emissions. Urban designers will see that it enables people to live at higher density without being overrun by cars. Developers will see that it reduces building costs. Residents will see that it improves their neighborhood public services. Drivers of all political stripes will see that it guarantees convenient curb parking. Elected officials will see that it depoliticizes parking, reduces traffic congestion, allows infill development, and provides public services without raising taxes. Finally, planners can devote less time to parking and more time to improving cities.

Repealing off-street parking requirements, charging the right prices for on-street parking, and using revenue to provide public services will improve cities, the economy, and the planet, one parking space at a time. Cities will look and work much better when prices, not planners and politicians, govern

decisions about the number of parking spaces. Like the automobile itself, parking is a good servant but a bad master.

Note: This piece is adapted from the Introduction to *Parking and the City*, published by Routledge in 2018.

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Donald Shoup, FAICP, is Distinguished Research Professor in the Department of Urban Planning at UCLA. His research has focused on how parking policies affect cities, the economy, and the environment. Shoup is a Fellow of the American Institute of Certified Planners and an Honorary Professor at the Beijing Transportation Research Center. In 2015, he received APA's National Excellence Award for a Planning Pioneer.

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DOES YOUR ZONING FOLLOW
THE PSEUDOSCIENCE OF
PARKING MINIMUMS?

2



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Village to Amend Setbacks for Farm Stands

Memorandum

NEW BUSINESS - ITEM D

Background

In March 2021, a proposal was submitted by a member of the public requesting to amend setbacks in the Village District. In April 2022, in advance of this meeting, staff met with the member of the public to clarify the request. The member of the public is interested in selling produce raised on property zoned Village from a small farm stand located directly next to the road; currently such a farm stand would need to be setback 20 feet. The proposer is also interested in allowing a rooster under backyard chickens. The proposal is presented below for your reference.

Request

This proposal was submitted via email, and the specific text change requested is as follows:

Please minimize the setbacks requirements for multi agricultural use for this lot.

Review

Regarding the request to allow for a farm stand, the addition of the use "roadside stand" to the Village district, which is an accessory use already allowed in AZD, RCD, RC, RR, CAR, and CR would address the issue.

Roadside stands offering for sale locally grown fresh agricultural products in season, operated by the owner, lessee or tenant of the property on which such stand is located. Adequate off-street parking shall be provided. Such stands shall be completely removed at the end of the local fresh produce season (Land Use Ordinance, p. 15, 33, 50, 66, 81, 100).

Regarding including a rooster within the provisions to permit backyard chickens, the current regulations do not allow roosters.

Keeping of backyard chickens

- a. Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. **The keeping of males of the species is not permitted.**
- b. The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size:
 - i. No chickens are permitted on a lot of less than $\frac{1}{4}$ acre;
 - ii. No more than 5 chickens are permitted on a lot of $\frac{1}{4}$ acre to 1 acre;
 - iii. No more than 8 chickens are permitted on lots of more than 1 acre.
- c. The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-

proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.

- d. Structures (coops) for the housing of backyard chickens must meet the permitting requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.
- e. Coops must be setback a minimum of 15 feet from any property line.
- f. Coops may be placed in rear yards only.
- g. Each coop must be kept clean and free of odors and materials that can attract vermin. Feed must be kept in secure containers so as not to attract vermin.
- h. Waste must be composted or removed from the property.
- i. The outdoor slaughtering of chickens is not permitted.

The American Planning Association (APA) provides resources regarding urban livestock [here](#). One of the publications referenced by APA, *Welcoming Animals Back to the City: Navigating the Tensions of Urban Livestock through Municipal Ordinances*, includes the following summary that addresses roosters among other issues. From the communities surveyed, roosters are often precluded due to noise considerations, and in some cases are only allowed on certain size lots with setbacks.

Municipalities wishing to avoid public health concerns and social conflict associated with urban livestock altogether can choose to simply prohibit certain animal types from city limits. However, based on the ordinances in this study, animal type prohibitions were used as much or more for reducing social conflict from other types of nuisances, such as those associated with noise or odors, as they were for public health concerns. A frequently prohibited animal, the rooster, poses no more public health threat than chickens, which are widely allowed. Zoning and site-level restrictions may have been developed with an eye toward public health concerns as well as nuisance. However, code language most directly addresses public health in outlining technical specifications for animal keeping practices in the public health or animal control sections of the code.

Source: <https://diginole.lib.fsu.edu/islandora/object/fsu:207230/datastream/PDF/view> (see page 35)

Based on the historical discussions during the adoption process for backyard chickens in Kent County, staff recalls that the issue of chickens was contentious and that it is likely that allowing roosters would also be contentious.

Recommendation

Staff requests that the Task Force review and comment on the proposed zoning text amendment.

c: file



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Village Accessory Structures

Memorandum

NEW BUSINESS - ITEM E

Background

In September 2021, a proposal was submitted requesting to amend setbacks in the Village District so accessory structures in the front yard could be closer to the street than primary structures and to allow for the redefinition of the size of farms within the Village zoning district. The proposal is presented below for your reference.

Request

This proposal was submitted via email, and the specific text change requested is as follows:

The Kent County prohibition against adding a structure closer to the road than the home or other existing building is unnecessarily restrictive and limited our options when adding an incidental building like a greenhouse or garage. Also, there should be flexibility in the limitation on septic reserve; it should be possible to relocate the reserve to accommodate an additional building. This issue limited our options when adding an incidental building. Finally there should be more support for small farms like ours (6 acres). We were denied the agricultural rate for a farm building permit because we had less than 20 acres. The county should encourage the creation of small farms that would remain in agricultural use.

Review

Regarding the setbacks for accessory structures, as noted with the prior item reviewed on June 23, 2021, for accessory structures, such structures are already allowed in the area between the primary structure and the required front yard setback. An accessory structure is currently not permitted in the front yard setback itself. The request would modify existing regulations so that a building could be located in the front yard area within the Village district. The front yard setback in the Village district is 20 feet. Buildings in this area could affect the Village district's character.

Regarding the request for modification of septic reserve areas, this item would be a Health Department matter.

Regarding agricultural taxes and the request to allow farms to be defined at six acres, as noted with the prior item reviewed on August 11, 2021, for the definition of farms related to accessory structures, the Task Force did not support changing the definition of a farm so that it would be reduced from the current 20 acres to five acres.

116. Farm - A parcel of land not less than 20 acres in size used for *agriculture* as defined in Article XI of this Ordinance.

9. Agriculture - Farming activities including plowing, tillage, cropping, installation of *best management practices*, seeding, cultivating, and harvesting for production of food and fiber

products (except *commercial logging* and *timber harvesting operations*), the grazing and raising of livestock and fowl, *aquaculture*, sod production, orchards, nurseries, land in government set aside programs, and other products cultivated as part of a recognized commercial enterprise.

Currently, provisions in the Land Use Ordinance allow for additional uses on properties defined as farms (i.e., that are at least 20 acres in area and are used for agriculture). For example, tenant houses and accessory farm buildings are not permitted on properties that are not farms. Such uses are presumed to require sufficient area to operate. Additionally, redefining farms to be under 20 acres in the Land Use Ordinance will not affect how the appraiser's office determines the tax status of a property. Small properties may be taxed as farms, if they meet income limits.

Recommendation

Staff requests that the Task Force review and comment on the proposed zoning text amendment.

c: file



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Enclaves in AZD

Memorandum

NEW BUSINESS - ITEM F

Background

In September 2021, a proposal for review only was submitted requesting a review of enclaves in AZD. The proposal is presented below for your reference.

Request

This proposal was submitted via a digital form, and a review was requested as follows: "Request a review of the concept and permitted use of an enclave in AZD as it relates to the 10% rule."

Review

Enclaves are an allowed development option only in the Agricultural Zoning District (AZD) [see pp. 18-19, current LUO]. Enclaves are incentivized by allowing a density of one unit per 10 acres over the more restrictive density of one unit per 30 acres in Standard Development in AZD; however, there are certain requirements that may pose a conflict with other goals, such as forest conservation. For example, Article V. Section 1.5 B. 2. b. states: "All plans should minimize the use of tillable soils for development and maximize the use of sloped and forested areas, which are otherwise less productive for agricultural uses." There are also other regulations unique to enclave provisions, and these do not potentially conflict with the general provisions but may act as disincentives for enclave use.

Enclaves must be located at least 600 feet from external access roads and 600 feet from protected lands, defined as "A Maryland Agricultural Land Preservation District or any other agricultural or conservation easement (p. 470)." Agricultural lands on the subject parcel not utilized by the enclave must also be "suitable for a commercially viable agricultural enterprise," per Article V., Section 1.5 B. 2. d. There are limitations on the maximum (ten) and minimum (three) number of lots to be created as well. Most pertinent to the request for review, enclaves are subject to the 10% rule, the same as any other proposed subdivision in AZD. Enclaves and all other lots created from any parent parcel in the AZD must not exceed 10% of the parent parcel, so that 90% of the parent parcel must remain intact.

Enclaves represent an infrequently utilized option historically, and staff have concluded that this may be the result of the additional limitations related to development location (600-foot setbacks), required smaller lots (maximum lot area of $\frac{3}{4}$ acre as opposed to the minimum lot area of $\frac{3}{4}$ acre for Standard Development), required smaller front yards (40-foot maximum front setback), and the maximum number of total lots permitted (ten), which may make the option less attractive despite the additional density allowed.

Recommendation

No action is needed, unless the Task Force desires to discuss changes to enclaves under Article V., Section 1.5 B.

c: file



To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, Director DPHZ
Date: May 25, 2022
Subject: Specific Text Change re Revised Noise Ordinance

Memorandum

NEW BUSINESS - ITEM G

Background

In September 2021, a proposal for a revised noise ordinance was submitted for consideration by a member of the public. The proposal is attached for your reference.

Request

The proposed specific text amendment requests that more stringent standards be adopted beyond the Statewide noise regulations already in place.

Review

Currently, the Land Use Ordinance does contain specific noise standards under the Employment Center District Performance Standards, beginning on page 240; under the Industrial zoning district, beginning on page 258; under the Industrial Critical Area – LDA, beginning on page 274; and under the Industrial Critical Area, beginning on page 294. The Land Use Ordinance can be found online at [here](#). A sample excerpt is also attached for your reference.

By virtue of the State noise standards, the County effectively already has Countywide noise standards in place. In order to go beyond these regulations, MD. Environment Code Ann. § 3-401 ([here](#)) sets forth requirements for use of scientific data and consideration, among other things, of the degree of noise reduction attainable using best available technology and the costs of compliance. These make adopting more restrictive standards a high hurdle.

In some jurisdictions, general noise regulations may be included in public law as opposed to the zoning code. Also, at this time and in the foreseeable future, the Department of Planning, Housing, and Zoning does not have either the staffing or the expertise to monitor general noise complaints as part of the zoning function. Those regulations in the zoning code pertaining to Employment Center and Industrial zoning districts would be handled via site plan or other approvals, where an engineer's report would be required to certify that noise levels would be acceptable.

Additional resources

MDE webpage <https://mde.maryland.gov/programs/marylander/publichealth/pages/noise.aspx>

COMAR standards http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=26.02.03.*

Recommendation

Staff does not recommend inclusion of additional noise standards in the proposed Land Use Ordinance.

c: file

15.6 INDUSTRIAL PERFORMANCE STANDARDS

Any industrial use established after August 1, 1989 shall be operated so as to meet the performance standards established hereinafter. Any use already established on August 1, 1989 shall be permitted to continue provided that no *alteration*, expansion, enlargement, or modification shall be permitted which effectively increases the degree of nonconformity that existed prior to any *alteration*, expansion, enlargement, or modification. An application to alter, expand, enlarge, or modify an existing use which does not meet the performance standards shall include a statement identifying measures proposed to bring the use into conformity with the performance standards.

Points of measurement to determine compliance with the performance standards shall be the property *lot line* or zoning line nearest the source that is the subject of measurement.

1. NOISE - All sources of noise (except those not under direct control of occupant of use, such as vehicles), must not create sound or impact noise levels in excess of the values specified below when measured at the points indicated. In addition, between 7:00 P.M. and 7:00 A.M., the permissible sound levels at a residential district boundary where adjoining Industrial Districts, shall be reduced by five decibels in each octave band and in the overall band for impact noises.

Method of Measurement and Meaning of Terms:

Noise shall be measured by means of a sound level meter and octave band analyzer, calibrated in decibels (re 0.0002 microbar) and shall be measured at the nearest *lot line* from which the noise level radiates. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values fluctuate more than six decibels from the steady values indicated on the sound level meter set at fast response.

Decibel - A measurement of the intensity (volume) of a sound.

Octave band - A prescribed interval of sound frequencies which classifies sound according to its pitch.

Preferred frequency octave bands - A stigmatized series of octave bands prescribed by the American Standards Association in Sel. 6-1970 Preferred Frequencies for Acoustical Measurements.

Sound level meter - An electronic instrument which includes a microphone, an amplifier, and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

MAXIMUM PERMITTED SOUND LEVELS (Decibels)

Octave band, cycles/second	At residential boundaries	At other <i>lot</i> <i>lines</i>
31.5	64	72
63	64	74
125	60	70
250	54	65
500	48	59
1,000	42	55
2,000	38	51
4,000	34	47
8,000	30	44
Overall	80	90

- VIBRATION - The product of displacement in inches times the frequency in cycles per second of earthborn vibrations from any activity shall not exceed the values specified below when measured at the points indicated.

Method of Measurement and Meaning of Terms:

Earthborn vibrations shall be measured by means of a three component recording system, capable of measuring vibration in three mutually perpendicular directions. The displacement shall be the maximum instantaneous vector sum of the amplitude in the three directions.

Vibrations - The periodic displacement of oscillation of the earth.

MAXIMUM PERMITTED VIBRATIONS (INCHES PER SECOND)
AREA OF MEASUREMENT

Type of Vibrations	At Residential Boundaries	At other <i>Lot lines</i>
Continuous	0.003	0.015
Impulsive - 100/min or less	0.006	0.030
Less than 8 pulses per 24 hours	0.015	0.075

- GLARE - No direct or sky reflected glare, whether from flood lights or from high temperature processes such as combustion, welding or otherwise, is to be visible beyond the *lot line*, except for *signs*, parking lot lighting and other lighting permitted by this Ordinance or required by any other applicable regulation, ordinance or law.
- AIR POLLUTION - The rules and *regulations* of the State of Maryland shall apply.
- WATER POLLUTION - The rules and *regulations* of the State of Maryland shall apply.
- RADIOACTIVITY - There shall be no radioactive emission which would be dangerous to the health and safety of persons on or beyond the *premises* where such radioactive material is used. Determination of existence of such danger and the handling of radioactive materials, the discharge of such materials into the atmosphere and streams or other water, and the disposal of radioactive

wastes shall be by reference to and in accordance with applicable current *regulations* of the governments of the United States and Maryland.

7. ELECTRICAL INTERFERENCE - There shall be no electrical disturbance emanating from any *lot* which would adversely affect the operation of any equipment on any other *lot* or *premises*.
8. SMOKE AND PARTICULATE MATTER LIMITATIONS -
 - a. General Limitations - In addition to the performance standard specified hereinafter, the emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.

Particulate matter emission caused by the wind from open storage areas, *yards*, *roads*, etc., within *lot lines* shall be kept to a minimum by appropriate landscaping, paving, wetting, or other means.

For the purposes of determining the density or equivalent opacity of smoke, the Ringelmann Chart as adopted and published by the United States Bureau of Mines in Circular No. 8333 (7718) shall be employed.
 - b. Permitted Smoke Emission - Within 1,000 feet of a residence or commercial zoning district boundary line, the emission of visible smoke from any vent, stack, chimney, or combustion process, darker than Ringelmann No.2 for a period or periods aggregating more than 4 minutes in any 60 minute period shall not be permitted.
9. TOXIC MATTER LIMITATIONS - In any Industrial District, toxic materials which are released shall not exceed 10% of the maximum permissible airborne concentration allowed an industrial worker when measured at any point beyond the *lot line*, either at ground level or habitable elevation, whichever is more restrictive. When maximum permissible airborne concentrations of toxic materials allowed an industrial worker are not contained in the most recent list of Threshold Limit Values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the County *Health Officer* that proposed levels will be safe to the general population.
10. ODOROUS MATTER LIMITATIONS - The release of odorous matter from any Industrial District across residential or commercial district boundary lines shall be so controlled that at ground level or at habitable elevations the concentration shall not exceed the odor threshold lines. Further, the release of odorous matter across *lot lines* shall not become a nuisance or source of discomfort to neighboring uses. As a guide in determining qualities of offensive odors, Table III (Odor Thresholds), Chapter 5, "Air Pollution Abatement Manual", by Manufacturing Chemists Association, Inc. (as amended) may be used.
11. CERTIFIED *ENGINEER'S* REPORT SUBMITTAL - The applicant for a *grading* permit, *sediment control permit*, or building permit for uses in an Industrial District, or applicants for *variances* to the district shall be required to submit proof that the uses proposed will not cause violations of Federal, State or County laws or *regulations*. For industrial uses which will produce emissions of pollutants to the waters or air of the County, this proof shall include measurements of the ambient water and air quality as well as documentation in the form of figures that the additional planned and proposed industrial use will not cause the violation of either ambient or source standards outlined by the laws and *regulations* of the Federal, State, or County governments.

Each future occupant of an industrial character shall submit to the County as a part of final *site development* plan approval, a certified *engineer's* report describing: the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels of emission

or discharge to land, air, water or liquid, solid, or gaseous effluent and electrical impulses, vibrations and noise under normal operations and the specifications or treatment methods and mechanisms to be used to control such emission or discharge.

Existing industrial uses shall be permitted to continue and to expand, enlarge or modify provided that the industry continues to comply with the performance standards. Existing industrial uses that do not conform to the performance standards shall be permitted to expand, modify, or enlarge provided the expansion, modification, or enlargement does not increase the degree of nonconformance and that the applicant submits a statement that identifies measures to bring the industry into compliance. When the *Planning Commission* finds that an existing industry is not making a good faith effort to comply with the performance standards, the *Planning Commission* may deny an application for expansion, modification, or enlargement and may initiate an enforcement action.

15.7 INDUSTRIAL GENERAL STANDARDS

1. As a part of the *site plan* review, the applicant shall submit a statement that includes an explanation of the following:
 - a. The type of raw materials, waste products, and other by-products associated with the process.
 - b. The identity of all chemicals and solids to be discharged into the sewage system.
 - c. The type and amount of traffic expected to be generated by the operation.
 - d. The proposed hours of operation.
 - e. The proposed architectural design (graphic or narrative) of all *structures*.
2. The *Planning Commission*, or where applicable the Planning Director may require additional standards and requirements to those stated in this Article as are necessary for the protection of the environment and the health and safety of the citizens of the County.
3. The use established shall not create or be a continuation of highway “strip” *development* with multiple access points creating highway hazards and visual clutter in so far as practical. A highway strip is two or more access points or “curb cuts” off of an existing State or County road within 3,000 feet of each other. Any use in an Industrial District shall have access at least 3,000 feet from any highway strip, in so far as possible. The *Planning Commission* may waive this requirement when the Commission finds all of the following:
 - a. The proposal complies with the spirit and intent of the Land Use Ordinance and the Comprehensive Plan.
 - b. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
 - c. That the waiver will not create a safety hazard or increase traffic congestion.
 - d. The waiver is the minimum necessary to relieve a practical difficulty and not sought for reasons of convenience, profit, or caprice.
4. Central water and sewer systems may be required by the *Planning Commission* in an Industrial District. If a public system is available, use of such system shall be mandatory.
5. *Signs* in industrial areas shall be permitted in accordance with the regulations contained in Article VI, Section 2 of this Ordinance.
6. Minimum *off-street parking* and *loading spaces* shall be required of each use in an Industrial District in accordance with the *regulations* contained in Article VI, Section 1 of this Ordinance.

REQUEST TO CONSIDER NOISE ORDINANCE FOR KENT COUNTY

This is a request for inclusion of a noise ordinance to be included under the current Comprehensive Kent County Rezoning process.

Maryland Department of the Environment had a noise control program, established in the mid 70's. In 2012 House Bill 190 was passed by the General Assembly. The bill amended and replaced previous language leaving, noise pollution enforcement and governance with local county's and municipalities.

Md. Code, Envir. § 3-105 (“**(a)(1)** Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.**(2)** A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.”

*(Md. Code, Envir. § 3-101 (“**(d)** "Political subdivision" means a county or municipal corporation of this State.”)*

State Environment Law Article, Title 3 and COMAR Title 26.02.03 address basic considerations for noise control rules and regulations:

Daytime (7:00 a.m. to 10:00 p.m.) 65 dBA - for residential receiving properties

Nighttime (10 p.m. to 7:00 a.m.) 55 dBA - for residential receiving properties

On July 14th in a meeting of the Comprehensive Rezoning Task Force Mr. Mackey, Director of Planning and Zoning, made the suggestion that a noise ordinance might afford residents the opportunity to address noise pollution associated with home rentals. The issue again was revived with the introduction of including weddings as an allowed use in the Agricultural District. Sound and vibration that is received by residential properties interferes with the rights of neighboring property owners to enjoy their property without unreasonable interference by others. There are many reasons and situations why Kent County needs to protect residents from excessive sound and vibrations which are a serious

hazard to public health, welfare and the quality of life. This includes but is not limited to amplified music at public or private venues and the music that blasts from boats.

The people of Kent County have a right to an environment free of receiving excessive sound and vibration on their property and deserve a defined and enforceable standard to help reduce conflict and disturbances caused by noise.

The noise ordinance should take into consideration ambient noise levels day and night in consideration of the standards. Difference in the receptor premises should also be a consideration, such as residential vs commercial and industrial.

A few examples of where noise is considered in our current ordinance, but left undefined, as a starting point for agreed upon amendments.

SUBDIVISION Section 6.2.4.1a

These procedures are to protect the health, safety, convenience, and general welfare of the inhabitants of the County. Subdivision review regulates the development of sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

a. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);

SITE PLAN REVIEW Section 5.2.5 g, 5.3.A.6.g.

Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.

A more restrictive standard, with dBA levels less than the State and COMAR basic standard, should be considered for residential receiving properties. Adoption of county standards in all districts will give certainty to acceptable and allowed noise limits.