



Kent County Planning Commission
Department of Planning, Housing, and Zoning
400 High Street, Suite 130
Chestertown, MD 21620
410-778-7423 (voice/relay)

County Commissioners Hearing Room
400 High Street
Chestertown, Maryland

AGENDA
March 3, 2022
1:30 p.m.

Members of the public are welcome to attend meetings in person or via conference call. Please note that the County’s live stream video is temporarily unavailable.

Public participation and audio-only call-in number:

- 1. Dial **1-872-239-8359**
- 2. Enter Conference ID: **572 374 237#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

MINUTES

February 3, 2022

PUBLIC HEARING

- #22-04 Zebulon Blyman – Zoning Text Amendment
Adding home and business services as a permitted use in the Village district.....Rec to CCs

- #22-05 Kenah One Health Care Services – Zoning Text Amendment
Adding hospital, rehabilitation facility, or other similar institution as a
special exception in the Village district.....Rec to CCs

CONTINUED DISCUSSION FROM FEBRUARY 3, 2022, MEETING

- Resolution 2021-18, Resolution to Introduce a Text Amendment to Revise Chapter 222,
Zoning, To Remove the Requirement Related to the Maximum Percentage of Property in
Lots (10% rule) from the Agricultural Zoning District (AZD)Rec to CCs

- Resolution 2021-19, Resolution to Introduce a Text Amendment to Revise Chapter 222,
Zoning, to Amend Setbacks for Certain Animal-Related Uses from 600 Feet and 400 Feet to
200 Feet in AZD.....Rec to CCs

GENERAL DISCUSSION

STAFF REPORTS

ADJOURN

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Planning Commission meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations.

MINUTES

The Kent County Planning Commission met in regular session on Thursday, February 3, 2022, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, County Commissioner P. Thomas Mason; James Saunders; William Sutton; Ray Strong; Tyler Brown (remote) and Cynthia L. McCann, Esq., Planning Commission Attorney. Staff in attendance were William Mackey, Director; Carla Gerber, Deputy Director; Mark Carper, Associate Planner; and Michael Pelletier, Clerk.

Chair Hickman called the meeting to order at 1:30 p.m.

MINUTES

Vice Chair Ruge made a motion to accept the minutes for the January 6, 2021, meeting, as distributed.

Mr. Sutton seconded the motion; the motion passed with all in favor.

PLANNING DIRECTOR UPDATE

Mr. Mackey notified the Commission that due to staff shortages, the reports and agenda they have been provided have been simplified and streamlined.

APPLICATIONS FOR REVIEW:

21-69 Rell's Auto/Durrell Jackson (Murray Partnership, LLC, property owner) – Major Site Plan

The applicant is proposing to construct a 6-foot fence in the rear yard to create a secure location to store towed vehicles in order to expand his business. The property is located at 10829 Worton Road and is zoned Village (V). The surrounding area is a mix of commercial, industrial and residential uses. The property is currently improved with a garage used to repair vehicles. A business of this nature has existed in this location since at least August 1, 1989.

Ms. Gerber cited the applicable laws as well as staff and TAC comments as outlined in the staff report.

No correspondence has been received on this application and staff recommends approval.

Owner of Rell's Auto, Durrell Jackson, 10829 Worton Road, Worton, Maryland, was sworn in to testify. Mr. Jackson responded to questions from Mr. Sutton regarding the submitted map and use of the establishment. Mr. Jackson confirmed the business provides general automotive care and the proposed expansion allows for ingress and egress of towing of both inoperable as well as operable vehicles.

Mr. Ruge asked if this application is something that the State is requiring Mr. Jackson to undertake, and Mr. Jackson responded affirmatively. He further clarified that the number of vehicles to be stored in the fenced area would be 5 to 20 vehicles at any given time and the average length of time on the property is 15 to 20 days.

Mr. Saunders expressed his support for the application because it will better enable Mr. Jackson to perform his business, and it would make the front of the business more aesthetically appealing. Chair Hickman noted that MDOT is requiring this application and granting of the application is necessary to allow this business to thrive.

Vice-Chair Ruge made a motion for approving the site plan application based on the following:

- The proposal is consistent with the strategies and goals of the Comprehensive Plan.
- The property is served by public water and sewer. The Health Department has approved this application.
- Formal stormwater management and sediment control plans are not required.
- Sufficient parking is available.
- No new lighting is proposed.
- The Department of Public Works has reviewed the fence next to the Worton Water Treatment Plant and see no issues with the application.
- No vegetation is proposed to be removed. No new landscaping is proposed.
- No additional signage is proposed at this time.
- A Citizen's Participation Plan was not necessary.

Ray Strong seconded the motion; all members were in favor and the site plan application was approved.

PUBLIC HEARING

Ms. McCann gave a synopsis of both resolutions for zoning text amendments forwarded to the Planning Commissioners by the Kent County Commissioners. Ms. McCann read into the record the Public Notices of January 20, 2022, that were issued for both proposed resolutions.

Resolution 2021-18, Resolution to Introduce a Text Amendment to Revise Chapter 222, Zoning, to Remove the Requirement Related to the Maximum Percentage of Property in Lots (10% rule) from the Agricultural Zoning District (AZD)

Ms. Gerber notified the Commission that the current Land Use Ordinance contains a requirement related to the maximum percentage of a property that can be subdivided into lots, also known as the "10% Rule." Subdivisions in the AZD require that 90% of the farm be left intact. There is a provision that subdivisions where all parcels remain over 100 acres are exempt from the 10% Rule, and those parcels do not count toward the maximum developed percentage of the property. There are no other exceptions.

Establishing a maximum percentage of a property in lots has resulted in subdivisions in AZD with smaller average lot sizes which has left large, contiguous tracts of land undeveloped. However, the 10% Rule has also limited the ability of some landowners to sell portions of their farms.

In at least one of the exempted 100-acre subdivisions, the landowner had to sell more land than desired in order to be exempt. In other instances, farms could not be divided among heirs because the desired parcels were more than 10% and less than 100 acres. The 10% rule has also prevented at least one partial sale of a farm that was split by a road. The tract on one side of the road was more than 10% of the property but less than 100 acres, and subdivision was not permitted.

Allowing greater flexibility in lot sizes will make it easier for farms to diversify and try new approaches or for new farmers to establish new enterprises. Limiting farm size is not the only approach to preserving agriculture and can be detrimental to encouraging diversity within the industry.

The Agriculture Advisory Commission met on January 25 to review this text amendment and voted against supporting the amendment as proposed. The AAC supports continuation of the 10% rule with the addition of an exemption or waiver process to provide flexibility. The letter of recommendation was attached to the Planning Commission Meeting Packet.

DRAFT

Mr. Mackey discussed the public need as required by the Land Use Ordinance by reciting excerpts of Resolution No. 2021-18 which states that passage of the Resolution:

- Provides flexibility in farm sizes;
- The 2018 Comp Plan makes it clear that diversification and new approaches are important elements to the Comp Plan;
- Promotes the ability of existing and future farms to diversify.

Staff recommends approval of the Resolution.

Correspondence was received by Buck Nickerson opposing the elimination of the 10% rule. Mr. Nickerson was in attendance, and the Commission indicated that correspondence would be considered and deemed part of the Record.

The Chair then opened the meeting to public comments.

John H. Myers of Worton, Maryland, opposed the Resolution stating it would be detrimental to the economy of Kent County, as a loss in agriculture would result in a loss of the hunting and seafood industry which drives a lot of revenue for the County and its citizens. Changing this rule may help on a small case basis but to eliminate this rule, the County could never go back. There is also no clear plan in this resolution to deal with population growth. Mr. Myers also indicated that he has seen the demise of agriculture throughout several Maryland Counties and towns citing Middletown, Delaware, as a prime example.

Bill Crowding of Worton, Maryland, was opposed to the Resolution but was in favor of the Planning Staff's proposed alternate plan reviewed by the Task Force to address unique situations through an administrative variance. He recommends tabling these matters back to the County Commissioners. He contended the County is in violation of a 2019 final site plan approval and felt the County Commissioners should not be able to proceed with any Resolutions insofar as a private citizen would be held to the same standard and not have their application heard.

Pat Langenfelder of Kennedyville, Maryland, was opposed to the Resolution but was in favor of expanding the Rural Character District for subdivision so as not to have to subdivide the AZD. She was also in support of the use of waivers for various exceptions that might apply as certain inequities arise.

Janet Christensen-Lewis of Millington, Maryland, opposed the Resolution as it was her position that retention of the 10% rule was necessary. She noted that USDA data demonstrated that elimination of the 10% rule would be detrimental and that small farms would not make a profit and fail. She stated the Planning Department has not demonstrated a public need and the elimination of the 10% rule will lead to residential development in the AZD as opposed to promoting diversification. She requested that the Commission adopt the recommendation made by the Agricultural Advisory Commission.

Ed Fry of Chestertown, Maryland, opposed the Resolution, and he supports the Agricultural Advisory Commission recommendation. He reported having seen many positive attributes, including but not limited to, tourism and property values, that have resulted from the imposition of this rule. He agreed with previous speakers that cite the decline of agriculture in other jurisdictions.

July Gifford of Kennedyville, Maryland, opposed the Resolution stating it would not result in diversifying the County farming community. She raised concerns that subdivisions will have a negative effect on the food industry

and the County needs to preserve its farmland or may face urbanization, citing Middletown, Delaware, as a prime example. Ms. Gifford further noted that Maryland's Eastern Shore has been designated as nationally significant land that must be preserved. She further disagreed with the concept that elimination of the 10% rule would necessarily help small farmers.

Sean Jones of Massey, Maryland, opposed the Resolution, in part, due to his family's history as dairy farmers in New Jersey. He reported having witnessed the detrimental effects of land fragmentation and discussed several challenges of small farmers who rented multiple tracks of land. He expressed deep concern of the impact that elimination of the 10% rule would have on the County and supports the Agricultural Advisory Commission recommendation.

Frank Lewis of Millington, Maryland, opposed the Resolution but was in favor of a waiver process. Mr. Lewis stated that Kent County has the highest percentage of agricultural land (75%) in the State of Maryland while the majority of other Counties are under 50% agricultural lands. He stated his belief that this is a reflection of the past efforts in Kent County to protect the AZD and the 10% rule needs to be continued. He also believes there is no demonstrated public need for the change.

Gary Miller of Kennedyville, Maryland, was opposed to the Resolution and supports changes suggested by the Planning Staff.

Jennifer Debnam, Chestertown, Maryland, opposed the Resolution but was in favor of a waiver process.

John Lysinger (remote) of Chesterville, Maryland, was opposed to the resolution but also supports a waiver process for the 10% rule.

Mr. Sutton moved to close the public hearing. The motion was seconded by Mr. Strong and all members were in favor.

Mr. Saunders pointed out that there was no favorable input from the public for the elimination of the 10 percent rule, and Mr. Sutton did not see a reason to eliminate the rule if there is nothing currently wrong with it. Mr. Brown also relayed these sentiments.

Ray Strong agreed with the Agricultural Commission's unfavorable recommendation for elimination of the 10% rule, requesting the County Commissioners explore waiver procedures for a case-by-case basis of the application of the rule.

Vice-Chair Ruge informed Staff that he would like to see a more comprehensive explanation of the 10% rule as it was difficult to understand and also raised concerns regarding the amount of land in the AZD that is already subject to preservation.

County Commissioner Mason was in favor of the elimination of the 10% rule and gave examples, including experiences of some of the challenges pertaining to young farmers and noted that the public need also consists of promoting entrepreneurship, allowing landowners to know what they have a right to do on their land, and elimination may actually decrease development. Commissioner Mason discussed an example in which a property divided amongst siblings equally would not be allowable.

He also noted, by means of example, that farmers may need to sell a portion of land to afford to retire. The elimination of the 10% rule would better provide them with this income.

Commissioner Mason opined that the text amendment promotes farming. He further stated that it is up to the farmers who want to purchase smaller parcels to decide on whether their business is profitable, not the County.

Commissioner Mason added that many of the concerns raised can be addressed by a revision of the text amendment that all the effected parcels must remain in Agriculture.

Chair Hickman raised a question to Staff on the number of requests staff has received in which the 10% rule was discussed. Ms. Gerber indicated that these types of inquiries are not tracked but she could recall about 3 or 4 inquiries.

Ms. McCann noted that one option at this junction was to table the Commission's recommendation on this matter to gain additional information raised by members to Staff. Vice-Chair Ruge raised the motion which was seconded by Ray Strong. The Motion passed with all in favor and the matter was tabled for the next Planning Commission meeting.

Resolution 2021-19, Resolution to Introduce a Text Amendment to Revise Chapter 222, Zoning, to Amend Setbacks for Certain Animal-Related Uses from 600 Feet and 400 Feet to 200 Feet in AZD

Ms. Gerber informed the Commission that the Land Use Ordinance has multiple provisions for setbacks from property lines related to animal agricultural structures and uses. These setbacks range from 100 to 600 feet. Many are related to animal housing or feeding or waste management structures.

More intense uses, such as poultry houses or confinement dairies, have the strictest requirements. The 600-foot setback for poultry houses, feedlots, and confinement dairies has been in place since at least 1989. Commercial stables have a 400-foot setback for structures for housing and feeding horses and waste management. Many other uses have a 200-foot setback, while private stables (up to four horses or mules) have a 100-foot setback. Except backyard chickens, the minimum setback for structures related to housing animals is 100 feet.

The County Commissioners would like to simplify and standardize the regulations in the Agricultural Zoning District, where animal husbandry uses should be expected. The proposed text amendment would amend the setbacks for most animal-related uses in AZD to no more than 200 feet. However, for farms adjacent to residentially zoned properties, enclaves and existing housing developments, and town boundaries the setback would remain unchanged, 600 or 400 feet as applicable. Residentially zoned properties are those properties zoned Rural Character (RC), Rural Residential (RR), Critical Area Residential (CAR), Community Residential (CR), Village (V), Intense Village (IV), and Intense Village Critical Area (IVCA). The specific animal-related uses being amended are poultry houses, commercial stables, waste management structures, feedlot or confinement dairies, and structures for the buying, processing, and sale of animal products. The proposed changes only affect farms within the Agricultural Zoning District (AZD).

The Agriculture Advisory Commission met on January 25 to review this text amendment and voted to recommend supporting the legislation as proposed. The letter of recommendation was attached to the Commission's meeting packet.

Mr. Mackey informed the Commission of the public need and comprehensive plan. Mr. Mackey noted the purpose and public need of the text amendment is to standardize setbacks. The hearing was opened for public comment.

Janet Christensen-Lewis, of Millington, Maryland, was opposed to the proposed text amendment as a matter of equity between single residential lots adjacent to farms versus multiple residential lots that would constitute a

cluster/enclave of three or more adjacent homes. In addition, she stated this amendment creates a protected class of citizens in the AZD as opposed to those citizens in other districts who are subjected to more restrictive setbacks.

Bill Crowding, of Worton, Maryland, was opposed to the proposed text amendment. He noted that if this is approved there could be an administrative variance of up to 100 feet. He gave an example of the impact allowing these types of structures within the proposed ranges and spoke of how these structures dramatically affected property values when in similar proximity to other properties. He quoted text that the Maryland Planning Commission Association establishes a duty upon Planning Commissions to also protect property values in addition to the several other enumerated duties.

Judy Gifford, of Kennedyville, Maryland, was opposed to the proposed text amendment as she could not understand the justification or purpose for it and wasn't sure if a study was performed to determine the impact reducing these setbacks would have on property values. Ms. Gifford also raised concern that the public would not be able to comment further regarding the Commission revisiting the 10% rule Resolution at the next meeting.

John Lysinger (remote) of Chesterville, Maryland, was opposed to the proposed text amendment. He informed the Commission that approximately 30 years ago one of his neighbors had built a new home and another neighbor received a variance to build a chicken house 200 feet from the road. Eventually, the new house became worthless and needed to be destroyed.

Chair Hickman closed the public hearing and opened the floor to the members for discussion. Vice-Chair Ruge raised concerns about if a home can be built within two hundred feet of the property line adjacent to a farm with an animal use. Chair Hickman clarified that the homeowner is not subjected to this setback, as it pertains only to the use of the structure on the farm.

Chair Hickman inquired to Mr. Mackey to explain the administrative variance process in reducing setbacks. Mr. Mackey indicated that the administrative waiver is for applicants seeking a 50% reduction of the setback and anything greater must come before the Planning Commission and Board of Appeals. Vice-Chair Ruge inquired as to how often does the Planning Office receive these requests. Mr. Mackey indicated that the office does receive this request, but they are infrequent. Mr. Mackey also indicated that for administrative variances, he utilizes the same standards for a variance as the Planning Commission and Board of Appeals.

Ms. Gerber added that the attached Chart shows current setbacks and clarified that these setbacks only apply to the specified types of structures laid out in the proposed text amendment.

Chair Hickman raised concerns for a need to protect residential homes and the impact on property values, low-income communities, and the general population, insofar as these constituents are not familiar with the system or how to protect their properties in the AZD from any adverse impact these structures may cause. Mr. Mackey indicated the text could be revised to add "or any residential use".

Jim Saunders moved to table the resolution for the next Planning Commission Meeting. Ray Strong seconded the motion; all members were in favor.

Chair Hickman raised a question as to whether there will be another public hearing after the Planning Commission deliberated on the resolutions. Mr. Mackey noted that the resolutions have had a public hearing and the Commission is in the deliberating stage. Ms. McCann agreed.

Janet Christensen-Lewis was opposed to not allowing the public additional time to comment. Chair Hickman indicated the public will have an opportunity to comment.

GENERAL DISCUSSION

Mr. Mackey provided a proposed draft Kent County Transportation Priority Letter that would be sent to the Secretary of the Maryland Department of Transportation by April 1, 2022. He wanted the Commission to be aware of the letter and inquired as to whether they had any comments or concerns. Mr. Mackey noted the letter contained the following list of priorities:

- Kent County's continued opposition to a Bay Bridge crossing in Kent County;
- Chester River Bridge Crossing;
- U.S. 301 Toll Diversion Coordination Actions;
- Streetscape Priorities in Betterton, Galena, Millington and Rock Hall;
- Trail and Pedestrian Priorities

Chair Hickman added it might be a good idea to specify Galena when discussing the MD 213 diversion actions due to the direct impact traffic has had in Galena.

STAFF REPORTS

Mss. Gerber notified the Commission that the variance applications for The Bungalow LLC and Beachwood Glen heard in January by the Board of Appeals were both approved. Ms. Gerber did note that there were two additional text amendment applications by citizens that would be forthcoming to the Commission.

Mr. Mackey informed the Commission that they have a new staff member for Code Enforcement but are still short staffed predominately regarding the processing of applications. Mr. Pelletier is with the County to assist in clerking at the meetings. He indicated that Task Force matters are on hold until at least March, pending additional staff hires. Staff is currently focused on daily operations and customer service.

Mr. Carper indicated that on February 23, 2022, from 12:30 am to 4:00 pm there will be staff training for Flood Plain Management and Hazard Mitigation with the State of Maryland in the County Commissioners' Hearing Room and all members of the Commission are welcome to attend.

Ms. McCann added that she will forward the Forest Conservation Easement form to the County Commissioners.

ADJOURN

Mr. Ruge made a Motion to Adjourn which was seconded by Mr. Sutton. The meeting adjourned at 4:08 pm.

Joe Hickman, Chair

/s/ Michael Pelletier

Michael Pelletier, Clerk

DRAFT



TO: Kent County Planning Commission
FROM: Carla Gerber, Deputy Director
MEETING: March 3, 2022
SUBJECT: Zebulon Blyman
Zoning Text Amendment – To include within Article V, Section 7.2 of the Village district, “Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to site plan review” as a permitted use.

Memorandum

EXECUTIVE SUMMARY

Request by Applicant

The applicant, Zebulon Blyman, proposes to amend Article V, Section 7.2 of the Village District, Permitted Uses, to include Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to site plan review.”

Public Process

Per Article XII, Section 6 of the Kent County *Land Use Ordinance* the Planning Commission shall review a proposed amendment, supplement, or change to the *Land Use Ordinance* and make recommendations to the County Commissioners.

Summary of Staff Report

The proposed amendment would extend to the Village District a use that is already permitted within the Intense Village and Intense Village Critical Area Districts. The Kent County Comprehensive Plan recognizes the importance of supporting existing businesses and providing for more diversity in the size, number of types of businesses by promoting the development of small, locally owned businesses.

Recommendation

Staff recommends sending a favorable recommendation to the Kent County Commissioners.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: Zebulon Blyman
Zoning Text Amendment – To include within Article V, Section 7.2 of the Village district, “Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to site plan review” as a permitted use.
DATE: February 25, 2022

DESCRIPTION OF PROPOSAL

Zebulon Blyman has submitted an application to amend Article V, Section 7.3 of the Village district, Permitted Uses, to include “Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to site plan review.” This amendment would extend to the Village district a permitted use that is currently permitted within the Intense Village and Intense Village Critical Area districts.

APPLICABLE LAW

Article XII, Section 6 of the *Kent County Land Use Ordinance* establishes the standards for the review and approval of a zoning text amendment as follows.

1. The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by a resolution of the County Commissioners, the motion of the Planning Commission, or petition of any property owner using forms specified by the Planning Commission.

2. The application for an amendment to the text of the Ordinance shall, at a minimum, state in particular the article section, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for the proposed change in text.

...

4. Before taking any action on any proposed amendment, supplement, or change, the County Commissioners shall submit the proposal to the Planning Commission for review and recommendation. The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the County Commissioners. The Planning Commission may request any pertinent data and information as it deems necessary. In its recommendation, the Planning Commission shall address:

- a) The public need for the proposed amendment; and
- b) The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the Critical Area Law.
- c) When reviewing an amendment to the zoning map, the Planning Commission shall address the suitability of the property in question for the uses permitted under the proposed zoning. The Planning Commission shall not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest and not solely for the interest of the applicant. Failure of the Planning Commission to report to the County Commissioners within 60 days after its first meeting after the proposal was referred to them, shall be deemed approval.

COMPREHENSIVE PLAN

The proposed text amendment is consistent with multiple goals and strategies within the Kent County Comprehensive Plan.

- Support existing business – retain and promote existing businesses and assist in their growth
- Expand and provide more diversity in the size, number, and type of businesses – promote development of small locally owned businesses

STAFF COMMENTS

The Planning Commission will consider the public need for the amendment and consistency with the Comprehensive Plan and Land Use Ordinance.

The public need for the amendment is to allow for development of neighborhood service businesses within the Village district. The Village district allows small retail businesses and personal service establishments but does not currently include service-based businesses that support uses found within neighborhoods and villages. Allowing “home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, within the Village district will expand opportunities for small businesses to open or expand, and the requirement for site plan review will ensure that the proposed business is of an appropriate scale for the Village district.

Staff recommends sending a favorable recommendation to the Kent County Commissioners.

**APPLICATION FOR TEXT AMENDMENT TO THE
KENT COUNTY LAND USE ORDINANCE
KENT COUNTY, MARYLAND**

Kent County Department of Planning, Housing and Zoning
Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

Pursuant to Article XII, "Administrative Procedures" Section 6, "Amendments", of the Kent County Land Use Ordinance, I/We Zebulon E. Blyman

Applicant's Name

of 10672 Worton Road, Worton, MD 21678

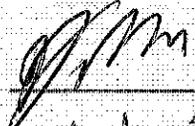
410-708-1836

Address

Telephone Number

hereby petition the Kent County Commissioners to amend the Land Use Ordinance of Kent County, Maryland, as follows: Amend Article 5, Section 7.2 of the Village to include Article 5, Section 8.2, 10 from the Intense Village District that includes "Home and business services such as grounds care, janitorial, exterminators, landscaping, and other repair and maintenance services, but not septic tank maintenance, subject to site plan review" as permitted principle uses and structures

The purpose of the proposed amendment is to permit: Zeb's Lawn and Land Service to improve and expand the existing maintenance shop. We feel that since this is a permitted use in the Intense Village Zone that it should be permitted in the Village Zone as well.


1/31/22

Applicant's Signature

Date

Please Note: The application for an amendment to the text of this Ordinance shall, at a minimum state in particular, the Article, Section, and paragraph sought to be amended. The application shall contain the language of the proposed amendment.

Instructions: The Land Use Ordinance requires that five (5) copies for Zoning Text Amendment be submitted to the Executive Assistant to the County Commissioners accompanied by \$500.00 filing fee, payable to the County Commissioners of Kent County.

For Office Use Only:

File Number	_____
Date Filed	_____
Date Referred to Planning Commission	_____
Date Recommend. Rec'd from Plan. Comm.	_____
County Comm. Public Hearing Date	_____
County Commissioners Action	_____
Date of Action	_____
Property Posted	_____



TO: Kent County Planning Commission
FROM: Mark Carper, Associate Planner
MEETING: March 3, 2022
SUBJECT: Kenah One Health Care Services
Zoning Text Amendment – To include within Article V, Section 7.3 of the Village district, “Hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals” as a special exception.

Memorandum

EXECUTIVE SUMMARY

Request by Applicant

The applicant, Kenah One Health Care Services, proposes to amend Article V, Section 7.3 of the Village District, Special Exceptions, to include “Hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals.”

Public Process

Per Article XII, Section 6 of the Kent County *Land Use Ordinance* the Planning Commission shall review a proposed amendment, supplement, or change to the *Land Use Ordinance* and make recommendations to the County Commissioners.

Summary of Staff Report

The proposed amendment would extend to the Village District by Special Exception a health-related service use that is currently permitted by Special Exception within the Intense Village and Intense Village Critical Area Districts. The Kent County Comprehensive Plan recognizes that the County’s increasingly diversified economy includes health care and supports that industry by encouraging, “... the development of new health-related businesses, thereby reinforcing a strong economic base while meeting community needs.”

Recommendation

Staff recommends sending a favorable recommendation to the Kent County Commissioners.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: Kenah One Health Care Services
Zoning Text Amendment – To include within Article V, Section 7.3 of the Village district, “Hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals” as a special exception.
DATE: February 23, 2022

DESCRIPTION OF PROPOSAL

The applicant, Kenah One Health Care Services, proposes to amend Article V, Section 7.3 of the Village district, Special Exceptions, to include “Hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals.” This amendment would extend to the Village district a special exception use that is currently permitted as a special exception within the Intense Village and Intense Village Critical Area districts.

APPLICABLE LAW

Article XII, Section 6 of the *Kent County Land Use Ordinance* establishes the standards for the review and approval of a zoning text amendment as follows.

1. The County Commissioners may amend, supplement, or change the boundaries of the districts or the regulations of this Ordinance. Any amendment may be initiated by a resolution of the County Commissioners, the motion of the Planning Commission, or petition of any property owner using forms specified by the Planning Commission.

2. The application for an amendment to the text of the Ordinance shall, at a minimum, state in particular the article section, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for the proposed change in text.

...

4. Before taking any action on any proposed amendment, supplement, or change, the County Commissioners shall submit the proposal to the Planning Commission for review and recommendation. The Planning Commission may hold a hearing on any proposed amendment, supplement, or change before submitting its recommendation to the County Commissioners. The Planning Commission may request any pertinent data and information as it deems necessary. In its recommendation, the Planning Commission shall address:

- a) The public need for the proposed amendment; and
- b) The extent to which the proposed amendment complies with or deviates from the Comprehensive Plan and the Critical Area Law.
- c) When reviewing an amendment to the zoning map, the Planning Commission shall address the suitability of the property in question for the uses permitted under the proposed zoning. The Planning Commission shall not recommend the adoption of the amendment unless it finds that the adoption of the amendment is in the public interest and not solely for the interest of the applicant. Failure of the Planning Commission to report to the County Commissioners within 60 days after its first meeting after the proposal was referred to them, shall be deemed approval.

COMPREHENSIVE PLAN

The proposed text amendment is consistent with the Kent County Comprehensive Plan's recognition that the County's increasingly diversified economy includes health care, a growing field with competitive salaries. A strategy of the County is to "Support the County's Health Care Industry" through encouraging, "... the development of new health-related businesses, thereby reinforcing a strong economic base while meeting community needs." (page 10)

STAFF COMMENTS

The Planning Commission will consider the public need for the amendment and consistency with the Comprehensive Plan and Land Use Ordinance.

The public need for the amendment is to allow for development of health-related services within a populated district. The Intense Village and Intense village Critical Area Districts allow by special exception the following health-related services: 1) "Convalescent, nursing, or group homes for the aged with five or more beds" and 2) "Hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals". Currently, within the Village District, the first health-related service is allowable by special exception; the second is not.

Staff recommends sending a favorable recommendation to the Kent County Commissioners.

APPLICATION FOR TEXT AMENDMENT TO THE
KENT COUNTY LAND USE ORDINANCE
KENT COUNTY, MARYLAND

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

Pursuant to Article XII, "Administrative Procedures" Section 6, "Amendments", of the Kent
County Land Use Ordinance, I/We Kenah One Health Care Services

Applicant's Name

of 308 N. Crain Highway, Glen Burnie, MD 21061

Address

410-708-9597

Telephone Number

hereby petition the Kent County Commissioners to amend the Land Use Ordinance of Kent County,
Maryland, as follows: Kenah One Health Care Services hereby petitions the Kent County
Commissioners to amend the Land Use Ordinance of Kent County, Maryland, as follows: Amend Article
5, Section 7.3 of the Village to include Article 5, Section 8.3, 9 from the Intense Village District that
includes "Hospital, rehabilitation facility, or other similar institution for human care, but not including
animal hospitals" as special exception.

The purpose of the proposed amendment is to permit: Kenah One Health Care Services to use the
current facility at 25000 Lambs Meadow Road, Worton, MD, as a rehabilitation facility for behavioral
health treatment services.



Applicant's Signature

02/07/2022

Date

Please Note: The application for an amendment to the text of this Ordinance shall, at a minimum state in particular, the Article,
Section, and paragraph sought to be amended. The application shall contain the language of the proposed amendment.



To: Planning Commission
From: Bill Mackey, Director, and Carla Gerber, Deputy Director
Date: February 25, 2022
Subject:

Memorandum

On February 3, 2022, the Planning Commission requested additional information related to the proposed changes to the 10% rule and also the animal-related setbacks for its meeting on March 3. On February 22, 2022, the Board of County Commissioners requested additional information on the 10% rule for discussion on Tuesday, March 1. Materials regarding the 10% rule were prepared and copies of two memoranda are attached for your reference.

Additionally, for the animal-related setbacks proposed text amendment, a map indicating the areas that would be affected by including the term “or any residential use” in the proposed text amendment is attached. As part of the discussion of the animal-related setbacks, there was concern expressed that individual residences not included in an enclave or in a residential zoning district or in a Town could be unfairly impacted. It was suggested that additional language that stated “or any residential use” be added as a safeguard. As requested by the Planning Commission, the final attached map shows how a 600-foot setback of properties less than 20 acres affects land in AZD. Properties less than 20 acres are defined as non-farms. Properties over 20 acres used for ag are defined as farms. The map indicates that there is ample room in AZD that is not affected by the 600-foot setback, if it were applied to all properties considered to be non-farms in AZD.



To: Board of County Commissioners
From: Bill Mackey, Director, and Carla Gerber, Deputy Director
Date: February 25, 2022
Subject: 10% rule discussion

Memorandum

Per request, staff have compiled a summary description of the subdivision process that occurs in AZD including the 10% rule. The information below is an overview with two hypothetical farms of 100 acres and 200 acres, which illustrates the subdivision potential in detail. There is also a separate set of rules for enclave development, and these have not been addressed for simplicity sake. This option has not been utilized since 2002. A further example of three hypothetical farms showing how lots can be laid out with and without the 10% rule is included.

Agricultural Subdivision Rules

- 1) Base density of 1 dwelling unit per 30 acres, originally adopted August 1, 1989
- 2) Minimum lot size is 0.75 acres if on-site individual septic (0.5 acres if on community septic), adopted December 3, 2002
- 3) Maximum percentage of property in lots is 10%, adopted December 3, 2002

There are three main “rules” for subdividing within the Agricultural Zoning District (AZD), and they are independent regulations. Subdivisions must comply with each one. The first rule is density which determines how many lots may be subdivided from a parent parcel. The base density in AZD is 1 “dwelling unit” per 30 acres.¹ Essentially, there is the right to build a dwelling on each new lot. Density is also sometimes defined as the number of development rights on a parcel. Density is determined by the number of divisions recorded after August 1, 1989.²

The second rule is minimum lot size. The minimum lot size is 0.75 acres for lots with onsite, individual septic systems. The minimum lot size rule is meant to ensure that someone has enough land for a house, septic system, well, and customary accessory structures such as a shed or detached garage.

The third rule is the maximum percentage of a property in lots. This rule limits the development of new lots to 10 percent of the parent parcel. There is an exception to this rule for subdivisions where the new parcel and the parent parcel are each at least 100 acres. This rule was adopted as part of the current Land Use Ordinance. The reason for including the 10% rule was concerns about the AZD becoming a 30-acre large lot zone. The previous Land Use Ordinance Work Group was interested in reducing the acreage associated with development, and they believed a maximum of percentage of the property in lots was more desirable than a maximum lot size.

The following are examples of a 100-acre farm and a 200-acre farm.

¹ LUO, Article V, Section 1.5

² LUO, Article IV, Section 8

100-acre Farm

- 1) Farm with no subdivisions since August 1, 1989
 - a. Density: $100/30 = 3$ development rights – 1 right is assigned to the parent parcel and 2 rights may be used to subdivide as new lots.
 - b. Minimum Lot Size: the 2 new lots must be at least 0.75 acres.
 - c. 10% Rule: Only 10 acres may be utilized for the new lots. The owner may create a 1-acre lot and a 9-acre lot, two 5-acre lots, or any other combination so long as no more than 10 acres is used.
 - d. The development rights do not have to be used at the same time.

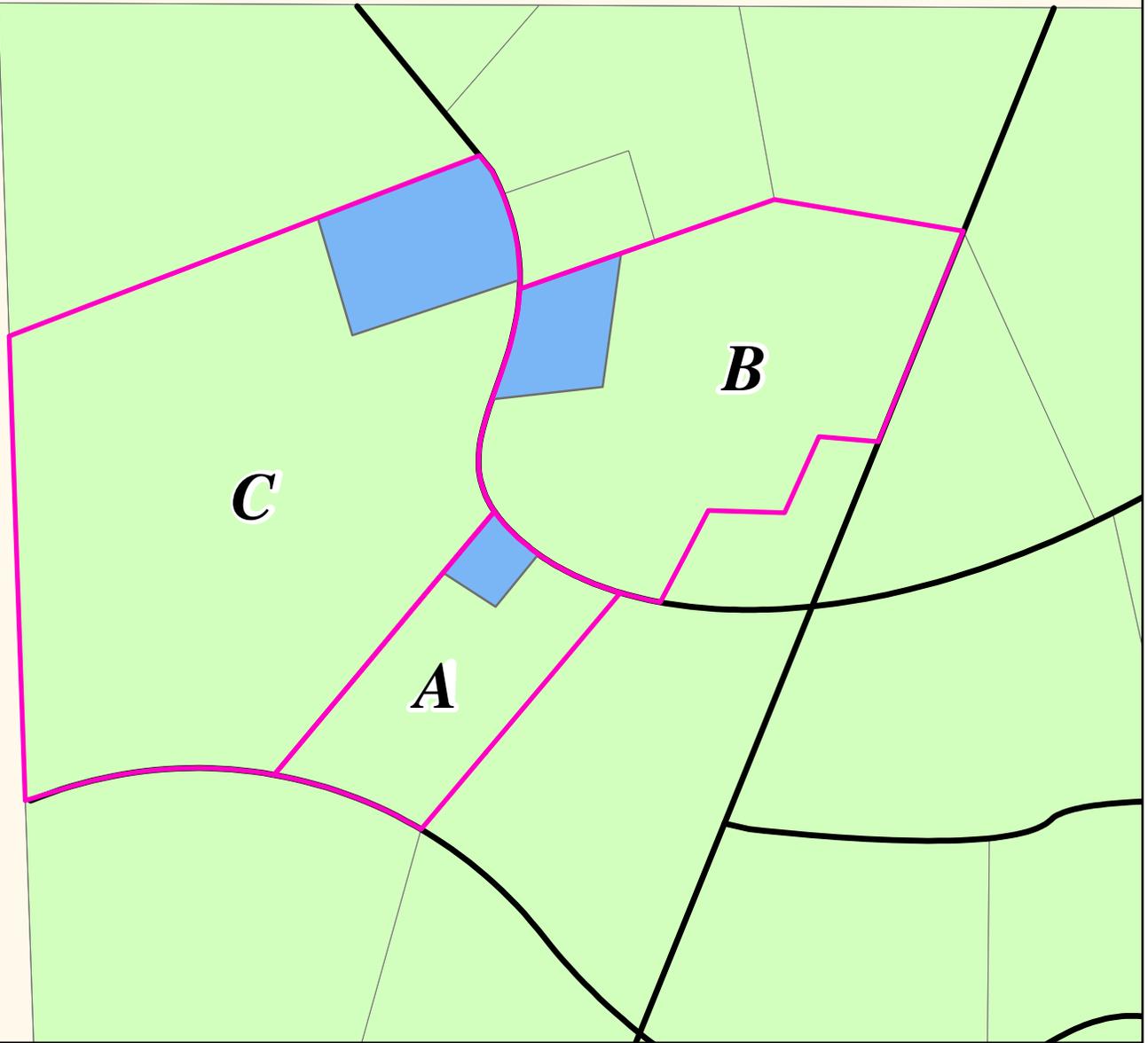
- 2) Farm with 1 subdivision of a 15-acre lot in 1995, 85-acre remainder
 - a. Density: The 1995 subdivision utilized “30 acres” of density leaving 70 acres.
 $70/30 = 2$ development rights. 1 right is assigned to the parent parcel and 1 right remains.
 - b. Minimum Lot Size: The new lot must be at least 0.75 acres.
 - c. 10% Rule: Only 8.5 acres may be utilized for the new lot. The owner may create a lot of any size between 0.75 acres and 8.5 acres.
 - d. The lot subdivided in 1995 was created before the 10% Rule was adopted and is not considered in calculating the maximum percentage of the property in lots for the second lot being created.

200-acre Farm

- 1) Farm with no subdivisions since August 1, 1989
 - a. Density: $200/30 = 6$ development rights – 1 right is assigned to the parent parcel and 5 rights may be used to subdivide as new lots.
 - b. Minimum Lot Size: the 5 new lots must be at least 0.75 acres.
 - c. 10% Rule: Only 20 acres may be utilized for the new lots.* The owner may create any combination of lot sizes so long as no more than 20 acres is used.
*The owner may also split the farm in half before subdividing smaller lots. One development right is used, but so long as both tracts remain at least 100 acres, they are exempt from the 10% Rule. In addition, the owner may keep all of the development rights on the remainder, or they may be assigned to either half.
 - d. The development rights do not have to be used at the same time.

- 2) Farm with 1 subdivision of a 15-acre lot in 1995, 185-acre remainder
 - a. Density: The 1995 subdivision utilized “30 acres” of density leaving 170 acres.
 $170/30 = 5$ development rights. 1 right is assigned to the parent parcel and 4 rights remain.
 - b. Minimum Lot Size: The 4 new lots must be at least 0.75 acres.
 - c. 10% Rule: Only 18.5 acres may be utilized for the new lot. The owner may create any combination of lots sizes so long as not more than 18.5 acres is used.
 - d. The lot subdivided in 1995 was created before the 10% Rule was adopted and is not considered in calculating the maximum percentage of the property in lots for the remaining lots being created.

Hypothetical Scenario Showing 10% of Selected Farms



Farm A - 103 acres

Density: $103/30 = 3$ development rights

10% 10.3 acres

Farm B - 268 acres

Density: $268/30 = 8$ development rights

10% 26.8 acres

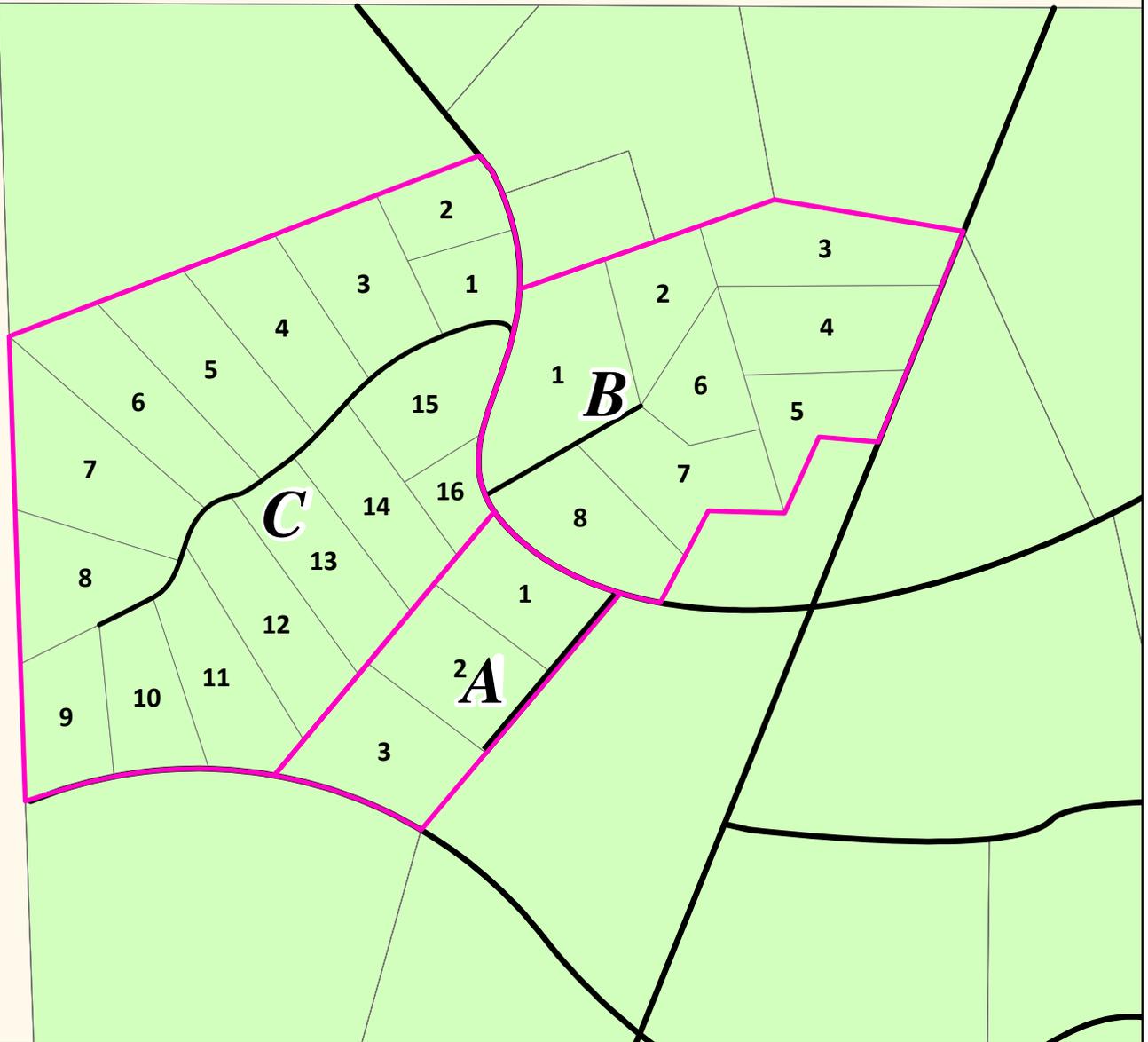
Farm C - 507 acres

Density: $507/30 = 16$ development rights

10% 50.7 acres

The pink outline shows the parent parcel.

Hypothetical Subdivision Scenario if 10% Rule is Eliminated



Farm A - 103 acres

Density: $103/30 = 3$ development rights

Avg Lot Size: 34.4 acres

Range: 30 - 39 acres

Farm B - 268 acres

Density: $268/30 = 8$ development rights

Avg Lot Size: 33.6 acres

Range: 21 - 50 acres

Farm C - 507 acres

Density: $507/30 = 16$ development rights

Avg Lot Size: 31.7 acres

Range: 12 - 47 acres

The pink outline shows the parent parcel.



To: Board of County Commissioners
From: Bill Mackey, Director, and Carla Gerber, Deputy Director
Date: February 25, 2022
Subject: Preserved land discussion

Memorandum

Per request, a large print map will be available at the meeting of preserved land. Staff have prepared an analysis from GIS of the preserved land and the percentages of land in AZD, RCD, preservation, and public ownership.

Based on the Zoning GIS layer, the total acreage of the unincorporated area of the County is 174,308 acres. There are 117,592 acres zoned AZD and 37,093 acres zoned RCD.

67.46% is zoned AZD

21.28% is zoned RCD

Based on the Protected Lands GIS layer, 44,393 acres of the unincorporated area is under some type of protective easement.

25.47% is under easement

Based on the Public Lands GIS layer, 7,711 acres of the unincorporated area is owned publicly

4.42% is public (County, State, Federal)

Based on GIS data, 34,154 acres of the land under easement is zoned AZD and 9,563 acres is zoned RCD.

29.04% of AZD is protected by easement.

25.78% of RCD is protected by easement

FYI - There are approximately 4,100 acres in the Towns.

Kent County, Maryland AZD and Preserved Lands



Rock Hall

Betterton

Galena

Millington

Chestertown

-  Major Thoroughfare
-  Kent Ag Preservation Districts
-  Agricultural Zoning District (AZD)
-  Permanently Protected Lands
-  Public Lands and Parks
-  Incorporated Towns

Source: Kent County Department of Planning, Housing, and Zoning.
Map prepared February 2022.



Kent County Department of Planning, Housing, and Zoning

To: Planning Commission

From: Carla Gerber, AICP, Deputy Director

Meeting: February 3, 2022

Subject: Resolution 2021-18, Resolution to Introduce a Text Amendment to Revise Chapter 222, Zoning, To Remove the Requirement Related to the Maximum Percentage of Property in Lots (10% rule) from the Agricultural Zoning District (AZD).

STAFF REPORT

Background

The current Land Use Ordinance contains a requirement related to the maximum percentage of a property that can be subdivided into lots, also known as the “10% Rule.” Subdivisions in the AZD require that 90% of the farm be left intact. There is a provision that subdivisions where all parcels remain over 100 acres are exempt from the 10% Rule, and those parcels do not count toward the maximum developed percentage of the property. There are no other exceptions.

Establishing a maximum percentage of a property in lots has resulted in subdivisions in AZD with smaller average lot sizes which has left large, contiguous tracts of land undeveloped. However, the 10% Rule has also limited the ability of some landowners to sell portions of their farms.

In at least one of the exempted 100-acre subdivisions, the landowner had to sell more land than desired in order to be exempt. In other instances, farms could not be divided among heirs because the desired parcels were more than 10% and less than 100 acres. The 10% rule has also prevented at least one partial sale of a farm that was split by a road. The tract on one side of the road was more than 10% of the property but less than 100 acres, and subdivision was not permitted.

Allowing greater flexibility in lot sizes will make it easier for farms to diversify and try new approaches or for new farmers to establish new enterprises. Limiting farm size is not the only approach to preserving agriculture and can be detrimental to encouraging diversity within the industry.

The Agriculture Advisory Commission met on January 25 to review this text amendment and voted against supporting the amendment as proposed. The AAC supports continuation of the 10% rule with the addition of an exemption or waiver process to provide flexibility. The letter of recommendation is attached.



Kent County Department of Planning, Housing, and Zoning

To: Planning Commission

From: Carla Gerber, AICP, Deputy Director

Meeting: February 3, 2022

Subject: Resolution 2021-19, Resolution to Introduce a Text Amendment to Revise Chapter 222, to Amend Setbacks for Certain Animal-Related Uses from 600 Feet and 400 Feet to 200 Feet in AZD

STAFF REPORT

Background

The Land Use Ordinance has multiple provisions for setbacks from property lines related to agricultural structures and uses. These setbacks range from 100 to 600 feet. Many are related to animal housing or feeding or waste management structures.

More intense uses, such as poultry houses or confinement dairies, have the strictest requirements. The 600-foot setback for poultry houses, feedlots, and confinement dairies has been in place since at least 1989. Commercial stables have a 400-foot setback for structures for housing and feeding horses and waste management. Many other uses have a 200-foot setback, while private stables (up to four horses or mules) have a 100-foot setback. Except backyard chickens, the minimum setback for structures related to housing animals is 100 feet.

The County Commissioners would like to simplify and standardize the regulations in the Agricultural Zoning District, where animal husbandry uses should be expected. The proposed text amendment would amend the setbacks for most animal-related uses in AZD to no more than 200 feet. However, for farms adjacent to residentially zoned properties, enclaves and existing housing developments, and town boundaries the setback would remain unchanged, 600 or 400 feet as applicable. Residentially zoned properties are those properties zoned Rural Character (RC), Rural Residential (RR), Critical Area Residential (CAR), Community Residential (CR), Village (V), Intense Village (IV), and Intense Village Critical Area (IVCA). The specific animal-related uses being amended are poultry houses, commercial stables, waste management structures, feedlot or confinement dairies, and structures for the buying, processing, and sale of animal products. The proposed changes only affect farms within the Agricultural Zoning District (AZD). The table on the following page lists all of the animal-related uses in AZD and the current setbacks.

The Agriculture Advisory Commission met on January 25 to review this text amendment and voted to recommend supporting the legislation as proposed. The letter of recommendation is attached.

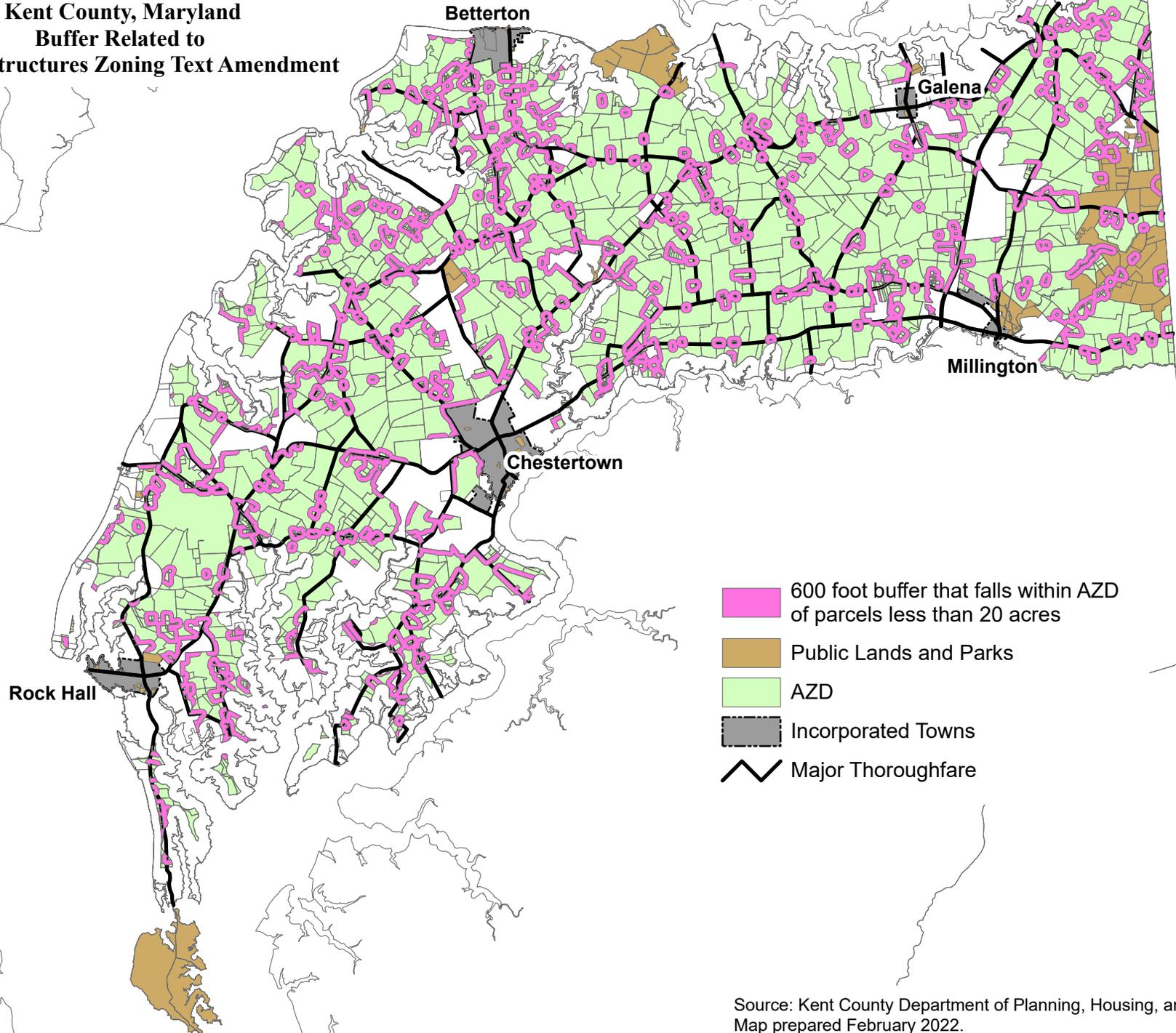
The following table lists all animal-related uses in AZD and the current setbacks.

P = permitted
 AF = accessory farm

SE = special exception
 A = accessory

Setback	Type	Use
600	P	Poultry houses
600	AF	Waste management structures
600	SE	Feedlot or confinement dairy
600	SE	Poultry houses where can't handle own waste
600	SE	Structures for buying, processing, sale of animal products, commercial,
400	P	Stable, commercial or public – minimum property size is 20 acres (structures for housing, feeding, and waste management)
200	P	Veterinary hospital (open kennels)
200	AF	List of non-animal uses (commercial assembly, petroleum, grain blending and packaging)
200	A	Dog kennels, commercial (Also keeping of 5 or more dogs, six months or older)
100	P	Stable, private (up to 4 horses) – minimum property size is 2 acres (structures for housing and feeding)
100	AF	Accessory farm buildings – structures for keeping of animals

Kent County, Maryland Buffer Related to Animal Structures Zoning Text Amendment



- 600 foot buffer that falls within AZD of parcels less than 20 acres
- Public Lands and Parks
- AZD
- Incorporated Towns
- Major Thoroughfare

Source: Kent County Department of Planning, Housing, and Zoning.
Map prepared February 2022.