



CRU Task Force AGENDA

Wednesday, November 10, 2021, at 6 PM

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

Dial 1-872-239-8359 and enter Conference ID 163 456 025#

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	Sam Shoge
Bill Norris	Chikki Shajwani	Kim Kohl	Tom Mason
Bill Sutton	Cindy Genter	Pat Langenfelder	Tyler Brown
Bryan Greenwood	Jim Saunders	Paul Ruge	

II. **Approval of the Summary** for the Task Force Meeting on October 27, 2021

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. PUBLIC FORUM to receive comments on the Task Force’s recommendations
- B. Proposed Task Force Recommendations

V. New Business

- A. Discussion of Condensed Code format (copy of document is available [here](#))

Break – 10 minutes

- B. Discussion of Task Force Recommendation related to the 10% rule in AZD

VI. Task Force Comments

VII. Adjournment

Please note the next meeting is on December 8, 2021, at 6 PM.

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: **163 456 025#**

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!



Kent County Department of Planning, Housing, and Zoning

To: Comprehensive Rezoning Update Task Force

From: Carla Gerber, AICP, Deputy Director

Subject: Condensed and Reformatted Land Use Ordinance

STAFF REPORT

The following document is a condensed and reformatted version of the Land Use Ordinance that will be used as the starting point for inserting new text and revising existing text. All existing text is included in this reformatted document, but we've tried to eliminate most of the repetition. For example, each zoning district has shortened/simplified versions of permitted and accessory uses, but the full text is included in a new Article III titled "Uses" with a separate section for permitted uses, special exceptions, and accessory uses. Red text has been inserted in each district directing readers to the new Uses article.

In the new Article III, yellow highlighting is used to highlight the specific districts that have the same or similar use or to highlight minor differences between districts within a use. For example, there are three different versions of "agriculture" in the current LUO.

1. *Agriculture*, including horticultural, hydroponics, general farming, orchards, groves, or nurseries for growing or propagation of plants, trees, and shrubs in AZD, RCD, RC, RR, CAR, and CR.
2. *Agriculture*, excluding the raising of livestock and fowl, including horticultural, hydroponics, and truck farming, general farming, cultivation of field crops, and raising of orchards, groves, and nurseries in V, CC, C, CCA, EC, I, and ICA-LDA.
3. *Agriculture*, excluding *feedlots* and poultry houses in ICA

Another change is the relocation of Critical Area standards to a new section. The first indication of this change is in Article I, Section 4, Establishment of Districts. In the current LUO, the Critical Area districts aren't included in the list of districts because they are listed separately with the criteria for Critical Area designations. In this version, red text indicates the insertion of the Critical Area district names into the overall list of districts and a note directing readers to the new Critical Area section which has the criteria for Critical Area designations.

c: file



Kent County Department of Planning, Housing, and Zoning

To: Comprehensive Rezoning Update Task Force

From: Carla Gerber, AICP, Deputy Director

Meeting: November 10, 2021

Subject: TF 2. Review elimination of the 10% rule (related to new agricultural subdivisions)

STAFF REPORT

Background

The Task Force discussed this topic on August 25th, and the following recommendation was presented at the Public Forum:

The Task Force did not come to an agreement on this matter. Of the six members who spoke, three supported retaining the 10% rule with the purpose of preserving agriculture in its current context, and three members supported elimination of the rule with the purpose of allowing more diverse farming outcomes. Two members supported the staff recommendation to create an exception process.

Based on public comments and the discussion by the Task Force, staff drafted the attached text for creating a waiver process. The attachment includes the existing text for waivers of subdivision/private roads/road front lots/designated design standards. The proposed text is underlined.

Review

Since August 19, 2003 (effective date of current Land Use Ordinance), subdivisions in the AZD require that a maximum of 10% of a parcel may be subdivided into new lots and 90% of the farm be left intact. There is an exception for subdivisions where all parcels remain over 100 acres, and those parcels do not count toward the maximum developed percentage of the property. In addition, the 10% rule has only been applied to the creation of new lots in AZD or to the adjustment of lots created after August 19, 2003. Adjustments of lot lines for parcels that were legal lots of record prior to August 19, 2003, are exempt from the 10% rule, per a long-standing DPHZ policy implemented since August 19, 2003.

Establishing a maximum percentage of a property in lots has resulted in subdivisions with smaller average lot sizes in AZD 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.

Recommendation

Staff is of the opinion that the 10% rule has been successful in protecting large, contiguous tracts of farmland but also supports the need to provide additional flexibility to address individual projects on a case-by-case basis. Staff recommends that a new sub-section be added to the Variances and Waivers section. (Draft Condensed Code: Article VIII, Administration and Procedures, Section 2, Variances and Waivers, Subsection 2.2, Waivers, (B) Maximum Percentage of Property in Lots (“10% Rule” in AZD))

The proposed text includes an administrative review process for simple requests such as farms bisected by roads or other natural features and a Planning Commission review process for more complex requests such as estates or specialized agricultural operations. The Planning Director, or Planning Director’s designee, would have the authority to approve administrative waiver applications following review by the Technical Advisory Committee. Letters would be sent to adjacent property owners and the decision would not be finalized until at least 10 days after the notice is sent. For waivers reviewed by the Planning Commission, letters would be sent at least 20 days prior to the meeting and the property would be posted. Approval would only require a simple majority of Planning Commission members.

The proposed text includes a list of findings that are required for approval and the ability to include conditions. There are also provisions for lapses if the subdivision or adjustment of lot lines is not completed, amendments and appeals.

The proposed text also includes an amendment to the footnote with the bulk standards table that clarifies the interpretation of the 10% rule with respect to adjustment of lot lines for parcels created before August 2003 and indicates that there is a waiver process.

c: file

Article II, Section 1: Agricultural Zoning District

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

A. Standard Development

Gross density (dwelling units/acre)	0.033 (1/30) ^{1, 6}
Minimum lot size	
- On-site individual septic system	¾ acre
- Community system	½ acres
Minimum lot width	75 feet
Maximum percentage of property in lots	10% ²
Maximum lots fronting on existing public road	2 ³
Minimum yard	
- Front (primary road)	100 feet
- Front (all other roads)	75 feet
- Side	15 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 ⁴	
- Residential or Agricultural structure	38 feet
- Fence ⁵	
- Security	8 feet
- Agricultural	5 feet
- Ornamental	
Side and Rear	8 feet
Front	4 feet

¹ Accessory dwelling units do not count toward the density calculation.

² Parcels 100 acres or larger do not count toward the maximum developed percentage of the property. Adjustments to lots approved prior to August 19, 2003, are not subject to the 10% Rule. The Planning Commission, or where applicable the Planning Director, may waive this requirement if the proposal meets the waiver requirements in Article VIII, Section 2 of this Ordinance.

³ Parcels created before the date of adoption of this Ordinance do not count toward the two permitted road front parcels. The Planning Commission may waive this requirement if the proposal meets the waiver requirements in Article IX, Section 3 of this Ordinance.

⁴ Height of structures may be further restricted by the Kent County Airport Safety Requirements as defined in Article V, Section 1.8B.4 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.

⁵ Fences do not need to meet the yard requirements.

⁶ Agricultural Easement Program – Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with an easement to his or her child provided the easement was recorded with the Kent County Clerk of Circuit Court prior to October 1, 2003.

Article VIII. Administration and Procedures

Section 2. Variances and Waivers

2.2 WAIVERS

A. *Subdivision/Private roads/Road Front Lots/ Designated Design Standards*

1. The Kent County Planning Commission may authorize waivers of the *subdivision, private road, road front lots, protected lands* lot line setback, and certain designated design standard provisions of this Ordinance so as to relieve extraordinary hardship or other injustices arising out of the strict application of these provisions.

Such granting of a waiver shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable extraordinary hardship as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

Such granting of a waiver shall not have the effect of nullifying the intent and purpose of these provisions or be contrary to the goals and objectives of the Kent County Comprehensive Plan and, where applicable, the Village Master Plans. In no case shall any waiver be more than a minimum easing of the requirements and shall not result in a conflict with the proposals of the adopted Major Thoroughfare Map for the County or other provisions of this Ordinance.

2. Upon receiving a substantially complete application for a waiver, the Department of Planning and Zoning shall schedule the waiver for review by the Planning Commission. At least 20 days before the meeting, the Department of Planning and Zoning shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Treasurer's Office and shall post the property.
3. In order to grant a waiver, the Planning Commission must find all of the following:
 - a. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the waiver is consistent with the *Comprehensive Plan*, the Village Master Plan, and the general intent of this Ordinance.
 - c. That the extraordinary hardship or other injustice was caused by the following:
 - i. Unusual *topography*.
 - ii. The strict application of these provisions would result in inhibiting the achievement of the goals and objectives of the *Comprehensive Plan*, the Village Master Plan, and this Ordinance.
 - d. That the extraordinary hardship or other injustice was not caused by the applicants own actions.
4. Conditions

In granting waivers, the *Planning Commission* may require such conditions as will, in its judgement, substantially secure the objectives of the provisions so waived.

5. Decision

Waivers from the *subdivision* provision of this Ordinance shall be granted only by the affirmative vote of two-thirds of the members of the *Planning Commission*. Each case shall be decided and a decision issued no later than 30 days after the meeting is concluded. The decision granting or denying the waiver shall be in writing and shall be signed by the Chairman of the *Planning Commission*. The Department of Planning and Zoning shall mail a copy of the decision to the applicant. The decision shall be made a part of the public record of the proceedings on file in the

Department of Planning and Zoning.

6. Lapse of Waiver

After the *Planning Commission* has granted a waiver, the waiver so granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the approved *subdivision* for which such waiver was granted or if the decision does not specify a period longer than one year for good cause shown.

7. Amendment of Waiver

The procedure for amendment of a waiver already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

8. Appeals

Appeals to courts from a decision of the *Planning Commission* may be filed in the manner prescribed by law.

B. Maximum Percentage of Property in Lots (“10% Rule” in AZD)

1. Administrative Waivers

- a. The Planning Director, or Planning Director’s designee, may grant a waiver of the maximum percentage of property in lots for individual developments based on a case-by-case review for the following: farms bisected by roads, farms divided by natural boundaries, or farms where land is being added to another farm. A written waiver request shall be submitted by the applicant containing a narrative, survey, and any other information that is necessary to evaluate the application. At the Director’s discretion, an application may be submitted to the Planning Commission for approval. In the absence of a Planning Director, the Planning Commission shall approve, approve with conditions, or disapprove waiver applications.
- b. Upon receiving a substantially complete application for a waiver, the Department of Planning, Housing, and Zoning shall schedule the application for review by the Technical Advisory Committee (TAC).
- c. The Department of Planning, Housing, and Zoning shall send notice of the proposed project to adjacent property owners using the last known address as found in the Kent County Assessment Records. Adjacent property owners shall have ten days from the date of the notice to comment on the project.

2. Planning Commission Waivers

- a. The Planning Commission may grant a waiver of the maximum percentage of property in lots for individual developments based on a case-by-case review for the following: subdivisions for estate planning/settlement or specialized agricultural operations. A written waiver request shall be submitted by the applicant containing a narrative, survey, and any other information that is necessary to evaluate the application.
- b. Upon receiving a substantially complete application for a waiver, the Department of Planning, Housing, and Zoning shall schedule the application for review by the Technical Advisory Committee (TAC) and Planning Commission.
- c. At least 20 days before the Planning Commission meeting, the Department of Planning, Housing, and Zoning shall send a notice to adjacent property owners using the most recent address as found in the records of the Kent County Assessment Records. The Department shall post the property.

3. Findings

In order to grant a waiver, the Planning Director or Planning Commission must find all of the following:

- a. That the waiver will not cause a substantial detriment to adjacent or neighboring property.
- b. That the waiver shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance.
- c. That the waiver is consistent with the *Comprehensive Plan*, the Village Master Plan, and the general intent of this Ordinance.
- d. That the waiver shall not result in a conflict with other provisions of this Ordinance.

4. Conditions

In granting waivers, the *Planning Director or Planning Commission* may require such conditions as will, in their judgement, substantially secure the objectives of the provisions so waived.

5. Lapse of Waiver

After the *Planning Director or Planning Commission* has granted a waiver, the waiver so granted shall lapse after the expiration of one year if the approved *subdivision* for which such waiver was granted has not been recorded or if the decision does not specify a period longer than one year for good cause shown.

6. Amendment of Waiver

The procedure for amendment of a waiver already approved or a request for a change of conditions attached to an approval shall be the same as for a new application.

7. Appeals

Appeals to courts from a decision of the *Planning Director or Planning Commission* may be filed in the manner prescribed by law.