



## COMMUNITY DEVELOPMENT DIVISION FREDERICK COUNTY, MARYLAND

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TO: Frederick County Planning Commission  
FROM: Shawna Lemonds, Project Manager  
DATE: February 28, 2011  
RE: Potential Zoning Ordinance Text Amendments

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### **ISSUE**

The Board of County Commissioners (BOCC) has received requests for review of specific sections of the zoning ordinance for possible revision through the text amendment process. In an attempt to address these concerns as well as other issues that Staff has identified, a list was created for Board review and direction. On February 24, 2011 the BOCC directed Staff to move forward with those issues identified as a priority 1. These potential text amendments have been forwarded to the Planning Commission for review and input.

### **BACKGROUND**

Staff compiled a list of potential text amendments based upon a combination of BOCC discussion, citizen input, and Staff discussion. The list was ranked by priority 1=High (processed within 90-120 days), 2=Medium (processed within 120-180 days), 3=Low (processed beyond 180 days), based upon Staff ability to formulate and present solutions in a rapid manner. The full list of potential text amendments reviewed by the BOCC on February 24<sup>th</sup> has been attached as Exhibit 1-Potential Text Amendments. Also available through the Zoning Ordinance Rewrite webpage, are public process documents (including public hearing and adopted ordinances) for text amendments approved during the zoning ordinance rewrite process. That webpage can be found at the following link: <http://www.frederickcountymd.gov/index.aspx?nid=3342>.

At the February 24<sup>th</sup> meeting the BOCC directed Staff to move forward with those text amendments listed as a number 1 priority. The overview section below provides a summary of the proposed concepts for each text amendment.

## TEXT AMENDMENT OVERVIEW

### Landscape Contractor

In June of 2009 the A/RC Use Table and Definitions (ZT-09-03) text amendment became effective. As part of that text amendment 'Commercial greenhouses and nurseries' was replaced with 'Nursery retail', 'Nursery wholesale', 'Landscape contractor' and 'Hardware/garden center' in an effort to define and separate landscape contracting from nursery uses. In addition, the changes provided a more simplified approval process for purely nursery wholesale and/or nursery retail uses.

As adopted 'Landscape contractor' is currently permitted through site development plan approval (PS) in the GC, LI, and GI zoning districts and as a special exception (E) in the Agricultural zoning district. Although the current processing and criteria were developed in conjunction with several public meetings and input from the landscape contractor community, certain elements of the special exception criteria have proved to be difficult to achieve for a small user. Based on public input and feedback, amendments have been proposed to create a new land use term 'Limited landscape contractor' permitted through site development plan approval (PS) in the Agricultural zone, with specific limitations on the size and intensity of the development. The proposed changes have been summarized below.

#### Potential Changes:

- Add 'Limited landscape contractor' to §1-19-5.310 Use Table within the heading of Commercial Business and Personal Services and permit through the site development plan review process (PS).
- Create §1-19-8.441 Limited Landscape Contractor in the A District with provisions for development of a permitted use operation similar to existing special exception criteria for Landscape Contractor (1-19-8.331) with the following changes:
  - Maximum number of employees shall be 10
  - Paved road width of 16' rather than 20'
  - Distance from an arterial roadway increased to 2 miles rather than 1/2 mile or eliminated altogether
  - Vehicle operation on-site shall be limited to one ton or less with delivery of materials limited to dump trucks only
  - Lighting and signs shall be reviewed by existing zoning ordinance provisions (§1-19-6.500 and §1-19-6.320 item (12), respectively)

### Private and Municipal Parks

As the practice of development has changed to meet the demands of the changing economy, the existing definitions may not provide for the public-private partnerships that are becoming a more common occurrence in constructing public facilities. To respond to these changes in development practices the zoning ordinance must be updated.

The zoning ordinance currently includes two land use terms to provide for processing of park and recreational facilities developed by entities other than County government: 'Indoor sports recreation facility' and 'Outdoor sports recreation facility'. The two land use terms were created as part of the A/RC Use Table and Definitions (ZT-09-03) text amendment to separate primarily indoor uses from those that are primarily outdoor, and to direct the indoor uses to those zoning districts intended for higher intensity development.

In addition, 'Outdoor recreation center' was created to consolidate the processing of various golf activities and bring clarity to how specific golf related uses were previously permitted or prohibited in certain zones.

'Indoor sports recreation facility' is permitted in the GC and LI zoning districts through site development plan approval (PS). 'Indoor sports recreation facility' provides for a building primarily operated for the purpose of providing indoor sports and recreation. The use may also include associated outdoor recreation fields.

'Outdoor sports recreation facility' is permitted solely through the Open Space Recreation floating zoning district, as provided in §1-19-10.1000, on parcels of land with a County Comprehensive Plan land use designation of Agricultural/Rural.

'Outdoor sports recreation facility' provides for outdoor recreational activities where clearing is minimized. By current definition, construction of buildings associated with the 'Outdoor sports recreation facility' is limited.

'Outdoor recreation center' is permitted through site development plan approval in the GC, LI, and GI zoning districts. The land use is also permitted through the Open Space Recreation floating zoning district as provided in §1-19-10.1000, on parcels of land with a County Comprehensive Plan land use designation of Agricultural/Rural.

A floating zone is applied only through specific request by an applicant, as it serves to provide an opportunity for evaluation of compatibility, and to limit development of a specific use to only those parcels with appropriate size, access, and location. However, the floating zone requires an increased processing time and application fee.

Staff reviewed and evaluated the existing regulations to identify opportunities to provide for the processing of parks and recreational facilities by entities other than County government in a straightforward manner without confusing existing provisions.

#### Potential Changes:

- Combine 'Outdoor recreation center' with 'Outdoor sports recreation facility' in §1-19-5.310 Use Table within the heading of Commercial Amusements and permit the combined term 'Outdoor sports recreation facility' through the site development plan review process (PS)
- Remove 'Outdoor sports recreation facility' and 'Outdoor recreation center' from §1-19-10.1000 Open Space Recreation floating zone provisions
- Combine 'Outdoor sports recreation facility' and 'Outdoor recreation center' definitions in §1-19-11.100 and provide that the use may also include buildings as an accessory use to the primary use of 'Outdoor sports recreation facility'

As proposed the new 'Outdoor sports recreation facility' would be a permitted use in the Agricultural zoning district, eliminate confusion between outdoor recreational activities that are golf/entertainment related and those that are sports field related, eliminate the floating zone processing, and maintain the more intensive 'Indoor sports recreation facility' land use as permitted within the GC and LI zoning districts.

## Village Center

Four specific issues have been identified within the Village Center zoning district for potential amendment: 1- Duplex and Two-family dwellings as permitted through site development plan approval, 2- setback calculations, 3- Concept Plan requirements, and 4- footprint limitation for commercial buildings.

The zoning ordinance currently requires 'Duplex' and 'Two-family dwelling' to be processed through site development plan approval. Due to the commercial nature of these land uses, the intent of the requirement was to subject the uses to the overlay standards in §1-19-7.500. However, upon further review of existing provisions it is unnecessary to require site development plan approval for these specific land uses to achieve these results. Therefore, the two land uses could be permitted subject to design regulations similar to single-family detached.

Setbacks within the Village Center zoning district are based upon provisions in §1-19-7.500(B)(3) which require calculation of average setbacks for structures located on all lots facing and adjacent to the proposed development. For the most part, this average calculation ensures new development is compatible with existing historic development patterns. However, in those cases where an existing development includes a very large or small setback that is not reflective of the overall pattern in the zoning district, it may create a hardship when calculating average setbacks. For these reasons proposed changes will provide the opportunity for the zoning administrator to eliminate anomalies when calculating averages.

A concept plan is required for all Village Center zoning district development permitted by site plan review (§1-19-7.500(D)). The intent of the text is to demonstrate the manner in which the Village Center zoning district design standards will be met by the proposed development. However, there has been confusion regarding the minimum necessary to meet this provision. For existing development where minor modifications are proposed, a fully developed "plan" is above and beyond what is necessary to meet the intent of the requirement. Amendments to the existing text will provide flexibility in meeting this section.

The zoning ordinance currently limits commercial buildings within the village center zoning district to no more than 5,000 square feet, except within growth area communities where the Planning Commission may grant an increase up to 8,000 square feet (§1-19-7.500(C)(4)(d)). An increased footprint above 8,000 square feet may be appropriate on specific parcels with Village Center zoning based on review and approval by the Planning Commission.

To address the four identified issues, specific changes and concepts have been formulated.

### Potential Changes:

- Amend §1-19-5.310 Use Table to permit 'Duplex' and 'Two-family dwelling' to be processed subject to design regulations 'P'
- Amend §1-19-7.500(B)(3) to permit the Zoning Administrator to:
  - Approve an increase or decrease in the minimum setback requirements where the increase or decrease is consistent with the purpose and intent of the overlay standards
  - Approve the elimination of an existing setback where the facing or adjacent setback is found to be significantly out of range of other setbacks within that Village Center zoning district
- Delete "Plan" from section §1-19-7.500(D) to permit a concept as sufficient in meeting the requirements, including companion amendments to §1-19-3.300.2 to achieve the desired results

- Amend §1-19-7.500(C) to permit the Planning Commission to increase the maximum footprint above 8,000 square feet within growth area communities where the following concepts have been met:
  - The increase footprint is compatible with the pattern of or relationship to existing development on adjacent or confronting lots
  - The increased footprint does not exceed an established maximum total square footage
  - Integration of historic resources

### Site Plan Review

The zoning ordinance currently provides for Type II - Limited and Type III – Administrative (i.e staff) processing of applications in §1-19-3.300. Both processes permit Staff review and approval of an application that does not require review of adequate public facilities, forest resource ordinance, or stormwater management requirements. However, both review types include limitations to footprint modifications which have proven difficult to implement based on applications received. To provide increased flexibility the existing provisions in §1-19-3.300(A)(2)(c) and §1-19-3.300 (A)(3)(b) should be reviewed for possible creation of alternate criteria. At a minimum the existing criteria should be deleted.

#### Potential Changes:

- Delete existing provisions in §1-19-3.300(A)(2)(c) and (A)(3)(b)

### Commercial and Industrial Zones, Multiple Structures

The zoning ordinance currently includes separate lot requirements (§1-19-4.500) which limit commercial and industrial districts to only 1 principal structure and customary accessory structures on a single lot. The zoning ordinance also contains development provisions within other sections that permit multiple principal structures on an individual lot (shopping center, Village Center mixed uses text, Planned Development Employment, etc.) however, each of these provisions are restricted to limited situations. Although provisions for Planned Industrial/commercial development exist in (§1-19-10.300) the text is also limited and confusing. In an attempt to provide increased flexibility, the Planned Industrial/Commercial development standards could be updated which would provide an additional opportunity for development of commercial and industrial properties with multiple structures on a single lot, or other areas of the code may be reviewed. Although the entire development method would be reviewed, specific concepts to update the text have been proposed.

#### Potential Changes:

- Review and evaluate existing text references to split zoning and overlapping uses for elimination, to achieve a more generalized and flexible method of development
- Review and evaluate design standards to provide for adequate review of multiple structure development

### Variable/Electronic Message Signs

The zoning ordinance does not currently provide for the review and approval of electronic message signs although requests for this type of sign have been made. Text would be created to address several concepts.

#### Potential Concepts:

- Message movement (such as frequency and type) for motor vehicle operation safety
- Sign design (such as brightness and type) to address motor vehicle operation safety
- Square footage allotment

### Farms and Roadside Stand Signs

Signs for 'Limited roadside stands' are currently permitted 16 square feet within the A and RC zoning districts (§1-19-6.320). Requests have been received to increase the maximum size to 32 square feet which is more consistent with surrounding jurisdictions. It has also been noted that sign setbacks for agricultural uses should be similar. Changes have been proposed to address these two issues.

#### Potential Changes:

- Create §1-19-6.320 (6)(a) to increase the maximum permitted sign size for limited roadside stand to 32 square feet
- Evaluate agricultural uses to standardize sign setback requirements

### LI/GI Industrial Standards

The current industrial district performance standards in §1-19-7.610(J)(4)(a) restrict the storage capacity of flammable liquids to 60,000 gallons in the LI district and 120,000 gallons in the GI district. Requests have been received to establish facilities that would exceed these restrictions. To address this request, the existing provisions will be reviewed and evaluated for possible amendment.

#### Potential Concepts:

- On-site versus distribution center
- Flammable versus combustible

### **STAFF RECOMMENDATION**

Staff requests input from the Planning Commission regarding the proposed amendments.

### **EXHIBITS**

Exhibit 1 – Potential Text Amendments