



DIVISION OF PLANNING FREDERICK COUNTY, MARYLAND

Winchester Hall 12 East Church Street Frederick, Maryland 21701 (301) 600-1138

To: Board of County Commissioners

FROM: Eric Soter, Director; Shawna Lemonds, Project Manager

DATE: October 21, 2010

RE: Planned Development Districts Text Amendment (ZT-10-04)

ISSUE

In an on-going effort to rewrite the zoning ordinance Staff is moving forward with the next identified theme which is a rewrite of the Mixed-Use Development District (MXD) and Planned Unit Development District (PUD) floating zone sections within the zoning ordinance.

The primary objectives of this text amendment are to provide consistency between the zoning ordinance and the County Comprehensive Plan, to organize and standardize text within the districts, and to refine and edit existing requirements to address long standing concerns associated with these zoning districts. The text amendment includes several updates to various portions of the Frederick County Code.

BACKGROUND

In May of 2007 Planning Division Staff presented the Board of County Commissioners (BOCC) with a Staff Report outlining a theme based approach to updating the zoning ordinance. The BOCC Strategic Plan FY 2007-FY 2011 Goal #5 Land Use, Objective 1 initiated the examination of the zoning ordinance, determination of priorities for changes, and initiating a phased approach for zoning text amendments. Included in this objective was a directive to evaluate the incorporation of Leading Edge Environmental Design standards into the County's zoning ordinance. In achieving this goal, Staff is moving forward with updates to specific areas within the zoning ordinance. As part of this process Staff has drafted a text amendment to rewrite the MXD and PUD floating zoning districts.

Over time, the BOCC and Planning Commission have discussed reviewing and addressing deficiencies within the MXD and PUD regulations and resulting MXD/PUD projects. Discussions have included concerns regarding:

- The lack of integration between land uses in resulting projects
- Existing regulations do not require a mixture of residential and commercial in MXD
- Existing regulations do not require a mixture of housing types in PUD
- Insufficient information required at Phase I to make the best decisions regarding proffers and conditions
- Existing language provides for two similar types of Planned Developments but utilizes different language for each process

In addition to these general deficiencies, Staff presented several objectives identified as additions to the text, consistent with concepts outlined during initial discussions of the County Comprehensive Plan update process, and the concept of LEED ND. LEED ND (Leadership in Energy and Environmental Design for Neighborhood Development) is a Rating System for Neighborhood Development that integrates the principles of smart growth and green building into a national system for neighborhood design. The program is a collaboration among the US Green Building Council, the Congress for New Urbanism, and the Natural Resources Defense Council.

Based on these discussed deficiencies and desired changes and additions, the PUD and MXD regulations were reorganized and rewritten. The existing regulations have been combined into one section of the zoning ordinance as Planned Development Districts. The Planned Unit Development concept has been replaced with Planned Development Residential (PDR) and the Mixed Use Development concept has been replaced by Planned Development Employment (PDE). Where possible, provisions for both developments have been combined. The Purpose and Intent, Size and Location, Approval Criteria, Review and Approval Procedures, Application, General Development Standards, and Specific Development Standards have been combined for both PDR and PDE development. However, due to the specificity required separate land use, land use mixture, and design requirements are provided for PDR and PDE development.

The layout and terminology utilized within the Planned Development Districts text follows the framework established by the Institutional and Open Space Recreation floating zones. This repetition and consistency will facilitate the location of specific requirements within each floating zone section of the zoning ordinance.

In addition to LEED ND, the updates and changes proposed in the text amendment are consistent with the recently adopted County Comprehensive Plan Chapter 10 Managing Our Growth - Community Development Principles, Community Character and Design, and Community Design Principles.

The Board of County Commissioners held a worksession on May 25, 2010 for their initial review and to provide guidance on the proposed draft text amendment. The text amendment was presented to the Frederick County Planning Commission (FCPC) on June 16th. The BOCC then held a roundtable discussion with the public on August 3rd. Based on these discussions several changes were made to the text amendment.

At a September 21, 2010 meeting the BOCC reviewed the draft and voted unanimously to forward the text amendment to public hearing. The FCPC held a public hearing on October 20, 2010 and voted to recommend approval of the text amendment. Further information regarding the FCPC public hearing has been provided within the attached FCPC Transmittal Memorandum.

The text amendment overview section below provides a summary of the proposed text amendment. The summary includes the zoning ordinance section and heading followed by a description for each proposed change. Within attached Exhibit 1- Planned Development Districts Text Amendment proposed new text is shown in **BOLD CAPS**, with text for removal shown in ~~STRIKETHROUGH~~.

Although Staff supports the text as proposed, it is recognized that through implementation there may be edits and updates identified that improve the adopted text, the approval process, and ultimately the resulting projects. In general, as the zoning ordinance update moves forward it may be necessary to re-visit previously adopted text to identify issues and needed improvements. The Division of Planning and the Division of Permitting and Development Review continue to work together to identify these issues, updates, and edits for future examination.

TEXT AMENDMENT OVERVIEW

PART I. FREDERICK COUNTY CODE

CHAPTER 1-6A: MODERATELY PRICED DWELLING UNITS

§1-6A-5. Requirement to Build MPDU's; Agreements; Alternatives.

§1-6A-10. Exceptions.

The MPDU program is intended to increase the county's supply of moderately priced housing units as a function of the development process. These existing sections of the County Code provide information regarding the achievable density bonus as part of the MPDU program, and the zoning districts within which the regulations apply. Minor edits are proposed to update existing language in these sections for consistency with establishing the terms Planned Development Residential and Planned Development Employment.

The following portions of the County Code have been updated to reflect any necessary changes in terminology from Planned Unit Development (PUD) to Planned Development Residential (PDR) and/or Mixed-Use Development District (MXD) to Planned Development Employment (PDE).

CHAPTER 1-16: SUBDIVISION RULES AND REGULATIONS

ARTICLE V: OTHER DIVISIONS OF PROPERTY

DIVISION 2. PLANNED UNIT DEVELOPMENTS

§1-16-141. When Authorized.

§1-16-142. Modifications.

CHAPTER 1-19: ZONING

ARTICLE II: ADMINISTRATION AND ENFORCEMENT

DIVISION 1. ADMINISTRATION

§1-19-2.130. Fees.

ARTICLE IV: REGULATIONS APPLICABLE TO ALL DISTRICTS

DIVISION 5. GENERAL LOT REQUIREMENTS

§1-19-4.520. Lot frontage requirements.

ARTICLE V: ZONING MAP AND DISTRICTS

DIVISION 3. USE TABLE

§1-19-5.310. Use Table.

ARTICLE VI: DISTRICT REGULATIONS

DIVISION 2. PARKING AND LOADING

§1-19-6.200. Generally.

§1-19-6.220. Parking Space Requirements and Dimensions.

DIVISION 5. LIGHTING

§1-19-6.500. Lighting.

**ARTICLE VII: SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 6. INDUSTRIAL DISTRICTS**

§1-19-7.620. Performance Standards for the Office/Research Industrial District (ORI).

This section contains performance standards for the ORI zoning district. Text has been proposed that is consistent with text that was at some point inadvertently removed from the zoning ordinance. The language as originally contained in the zoning ordinance stated that the Planning Commission may require architectural renderings in conjunction with applications for development within the ORI zoning district.

As requested by the BOCC, the text in this section has been updated from ‘may’ to ‘shall’ which will require architectural renderings or plans as a portion of the application submission requirements within the ORI zoning district.

Updates to the two following portions of the zoning ordinance reflect necessary changes in terminology from Planned Unit Development (PUD) to Planned Development Residential (PDR) and/or Mixed-Use Development District (MXD) to Planned Development Employment (PDE).

**ARTICLE VIII: SPECIFIC USE REGULATIONS
DIVISION 4. PERMITTED USES**

§1-19-8.420. Communication Towers.

§1-19-8.420.2 Criteria.

DIVISION 6. OTHER

§1-19-8.620 Moderately Priced Dwelling Unit (MPDU).

§1-19-8.620.2 Scope and Requirements.

§1-19-8.620.3 Density Bonus.

**ARTICLE X: OPTIONAL METHODS OF DEVELOPMENT
DIVISION 5. MIXED USE DEVELOPMENT DISTRICT (MXD)**

§1-19-10.500 Mixed Use Development.

Section 1-19-10.500 containing the existing MXD regulations within the zoning ordinance, has been deleted and replaced with new text containing the provisions for the proposed Planned Development Districts. The following sections contain the proposed provisions for the Planned Development Districts.

**DIVISION 5. PLANNED DEVELOPMENT DISTRICTS
§1-19-10.500 Planned Development Districts.**

The existing provisions for MXD and PUD development within the zoning ordinance have been proposed for deletion to be replaced with combined provisions for PDR and PDE floating zones.

Where a similar purpose or goal could be achieved, the provisions for the PDR and PDE districts were combined. However, it has been noted below where separate provisions were necessary to facilitate the purpose and intent of the districts.

§1-19-10.500.1 Purpose and Intent.

This section provides an explanation of the purpose of the PDR and PDE districts and the intended development that would result with their application. Although the concepts are similar to the existing PUD and MXD purpose and intent statement, emphasis has been placed within the PDR and PDE language, on a reduction of vehicle dependence through transportation connectivity, integration of land uses, acknowledgment of historic resources, and an evaluation and integration of natural features into site planning.

The purpose and intent statement acts as the framework for the formulation of the requirements that are provided in the following sections.

§1-19-10.500.2 Size and Location.

The size and location criteria provide a minimum threshold for application of the PDR and PDE districts.

Within subsection (A) the PDR district is limited in application to properties reflecting a County Comprehensive Plan land use designation of low density residential, medium density residential, or high density residential. This application is consistent with the current requirements regarding the application of the PUD zone.

As proposed in subsection (B), the PDE district is limited in application to properties with a County Comprehensive Plan land use designation of Mixed Use Development (MXD), Office Research Industrial (ORI), or Limited Industrial (LI). Currently, the MXD floating zone may be applied to the ORI or LI land use designations. Addition of the new MXD land use designation to the application of the PDE zoning district is an expansion of the existing application of the MXD floating zone.

The new MXD land use designation was created and applied to properties within the County during the recent County Comprehensive Plan and rezoning process, adopted in April 2010. As provided in the County Comprehensive Plan Chapter 11 Community and Corridor Plans the MXD land use designation is intended to facilitate redevelopment and transit oriented design (TOD) opportunities in existing developed areas adjoining underutilized malls, industrial or commercial areas or office parks, and vacant or underutilized commercial/employment corridors. In particular this designation would support mixed use developments, which include residential, commercial, office/employment, and institutional uses. This intent is consistent with the intent of the PDE floating zone and has therefore been included as a possible land use designation for PDE zone application.

Currently, the MXD land use designation has been applied to those areas between Grove Road on the north, the Monocacy National Battlefield on the south, I-270 on the west, and the Monocacy River and Genstar Stone Products Company to the east. This area of MXD is bisected by Urbana Pike and the Maryland Area Regional Commuter (MARC) train Brunswick Line serving the Monocacy Station. Further application of the MXD land use designation may occur during upcoming community and corridor plans.

Consistent with category changes included in the 2008 Frederick County Water and Sewerage Plan, the Planned Development District may only be established on tracts of land that reflect at least a planned service category as proposed in subsection (C). The County Water and Sewerage Plan defines the planned service category as “A category assigned during the Comprehensive Planning Process to an area shown on the Comprehensive Plan for growth utilizing community water and/or sewer service, or within the Community Growth boundary of a community to be served by public water and sewer in the adopted County Comprehensive Plan, within 11-20 year time period. Properties within this classification have designations other than Agricultural/Rural or Resource Conservation on the County Comprehensive Plan.” Recent updates to the County Comprehensive Plan and companion changes to the County Water and Sewerage reflect the Planned Service category as applied only within County growth areas.

This criterion would require the development of a PDR or PDE within a County growth area where public facilities are concentrated and public water and sewer is planned for extension. This criterion is consistent with current PUD and MXD size and location provisions which require at least a W-4, S-4 for MXD applications and W-5, S-5 for PUD applications. In addition, text proposed in section 1-19-10.500.9 (C)(2) requires that Planned Developments shall be served by publicly owned community and water and sewer.

Within the size and location criteria, subsection (D) provides that the PDR and PDE floating zones may be applied to the Natural Resource (NR) land use designation as a portion of a PDR or PDE development project. This text is new and has been proposed due to difficulties experienced with past PUD and MXD applications. In the past, as PUD and MXD projects were approved, the areas with a land use designation of NR (formerly Resource Conservation) were required to remain NR on the zoning map due to restrictions that did not permit their application to NR properties. This discrepancy led to portions of a PUD or MXD project unable to reflect the PUD or MXD zoning district even though it was within the boundaries of the project, due to the underlying land use designation of NR or RC. This issue leads to mapping confusion as portions of a contiguous development project reflect differing zoning. To provide for a smooth transition in application of the new zoning district this issue has been addressed with proposed text to permit application of the PDR and PDE zoning districts to the NR land use designation. However, additional language has been added throughout the text amendment to address how the NR portions of the development may or may not be utilized as a portion of the project (section 1-19-10-500.9 (B)(2)).

Subsection (E) provides that there shall be no minimum tract size, lot area, or lot width for the PDR and PDE districts. This is consistent with current PUD regulations but expands the application of the PDE district beyond what is currently permitted in the MXD floating zone. Currently, the MXD may only be applied to parcels of 50 acres or greater. This limitation has been removed to provide greater flexibility in application of the districts to properties within County growth areas, as well as facilitating the use of the floating zone for in-fill and redevelopment opportunities. Upcoming community and corridor plans will also guide development with the intent of reducing or eliminating the possible disjointed and fractured development patterns that could result from smaller PDR or PDE projects.

§1-19-10.500.3 Approval Criteria.

The approval criteria proposed in this section provide for an evaluation of several factors including efficient consumption of land, consistency with County planning documents, compatibility with surrounding land uses (or mitigation of differences), safe and efficient arrangement of land uses, sufficient transportation systems, optimizing use of walking, biking, and public transit facilities, sufficient fire and emergency medical service facilities, consideration of natural features, evaluation of the proposed mixture of land uses, and the long term demand for public facilities.

The approval criteria are utilized in determining whether the BOCC should approve or disapprove a request for the application of either the PDR or PDE district.

The approval criteria are intended to implement the purpose and intent statements. The purpose and intent statements are broad and general descriptions of the type of development intended to result within the PDR and PDE districts, where the approval criteria act as the Phase I standards that must be met to achieve approval.

All applications for floating zone approval are subject to the zoning map amendment process as provided in sections 1-19-3.110 through 1-19-3.110.8 of the zoning ordinance. As noted in the introductory paragraph of section 1-19-10.500.3 Approval Criteria, an application for PDR or PDE approval is subject to not only the approval criteria as proposed in this section, but also to those as provided in section 1-19-3.110.4. The criteria found in section 1-19-3.110.4 are general in nature and are directly related to the requirements for finding of fact related to a change in zoning classification as provided in Article 66B-Land Use of the Annotated Code of Maryland.

The approval criteria as proposed in this section are similar in concept to those within the existing MXD and PUD requirements, however, increased specificity has been added, to implement the purpose and intent for the planned development districts, as well as providing for consistency with the County Comprehensive Plan.

Subsections (B) and (C) reference County Comprehensive, Community and Corridor plans as the benchmark or reference point for project design and building siting. This reference will tie those specific plans developed through in-depth land use analysis conducted during Community and Corridor plans to proposed PDR and PDE development projects.

Subsection (D) provides for safety, efficiency, and connectivity between land uses.

Subsection (E) provides for an evaluation of the transportation system allowing for improved decision making regarding conditions and proffering of transportation related public facility improvements. This subsection includes the use of travel demand modeling which will be accomplished by the Division of Planning and forwarded to the BOCC as a part of the application, to be used as a baseline tool in considering the impact of the proposed development on existing regional transportation facilities.

Where subsection (D) provides for the efficient connectivity between land uses, subsection (F) provides for design and building placement that maximizes that connectivity. For example, while subsection (D) will provide for the paths between the land use bays, subsection (F) will provide that the buildings and site design in general will maximize the use of those paths.

Subsection (G) requires evaluation of the impact the proposed development will have on fire and emergency medical services. The evaluation factors as included in the approval criteria are those that were discussed by the BOCC during consideration of a possible emergency services adequate public facilities ordinance. Although the BOCC did not pursue a separate APFO, this criterion will provide for evaluation of existing fire and emergency medical services.

Natural features of the site are evaluated through subsection (H) which requires that the proposed project reflect consideration of the existing natural features including the use of low impact development and environmental site design techniques. Generally, low impact development and environmental site design are approaches that work with existing natural features and runoff characteristics to reduce the impact of land development. These techniques may include the use of rain barrels, rain gardens, bioretention, permeable pavements, or vegetated rooftops. The zoning ordinance currently includes definitions for both bioretention and environmental site design in section 1-19-11.100 Definitions.

Subsection (I) requires that the proposed mixture of land uses is consistent with the County Comprehensive Plan, Community, and Corridor Plans. This requirement will enable specifics resulting from future Community and Corridor Plans to be implemented through the PDR and PDE process.

Lastly, subsection (J) provides for an evaluation of public facilities and services. As projects are developed it is necessary that an evaluation of existing and planned public facilities and services such as parks and recreation, schools, fire and emergency medical services, libraries and law enforcement is included in the process. Subsection (J) requires consideration of the impact that new development will have on existing public facilities and services and whether they will continue to function within County standards.

§1-19-10.500.4 Review and Approval Procedures.

This section has been organized to provide clear guidance on the submission components and specific steps in the Planned Development District review and approval process.

Within subsections (A) and (B) a preapplication conference and neighborhood meeting have been added as a required step in the review and approval process. Previously optional steps in the PUD and MXD process, the preapplication and neighborhood meetings have been added as a requirement due to the benefit provided from the meetings.

The preapplication conference provides both the applicant and Staff an occasion to discuss opportunities and constraints regarding the subject property and proposed project prior to design. This step in the process will identify environmental and cultural resources that can be integrated into the site design, provide the applicant an opportunity to increase understanding of the approval process, exchange information with Staff and obtain project specific information such as Community or Corridor Plans. The neighborhood meeting is intended to provide for early and effective citizen participation to identify impacts, perceived or real, that the project may have on the surrounding neighborhood.

It should be noted that LEED-ND provides an opportunity for credit within the topic of Neighborhood Pattern and Design for community outreach and involvement “to encourage responsiveness to community needs by involving the people who live or work in the community in project design and planning and in decisions about how it should be improved or how it should change over time.”

The preapplication and neighborhood meetings will offer an opportunity to identify and prepare potential solutions to address issues as early in the process as possible thereby saving both Staff and applicant time and resources.

Subsection (C) and (D) describe the procedure for Phase I and Phase II approval. The Phase I Justification and Floating Zone Reclassification will follow the process as outlined for zoning map amendments in section 1-19-3.110.1 through 1-19-3.110.6. The Phase II Execution will follow the applicable subdivision or site development plan review process. This procedure is consistent with the current MXD review and approval process but will simplify the current text outlining a three step PUD process.

Existing section 1-19-10.700(H) within the zoning ordinance requires a three phase process within the current PUD regulations, Phase I – Justification Phase, Phase II – The Plan Development Phase, and Phase III – the Execution Phase. The proposed Planned Development Districts review and approval reflecting a two-step process will include more detailed information at Phase I including a Concept Plan approval. The Phase II Execution, which will follow the applicable subdivision and site development plan review, provides for the appropriate review and approval during implementation of the Concept Plan.

Subsection (C) as proposed as a portion of the Planned Development Districts text, also requires a water and sewer classification of Planned Service or higher on the Frederick County Water and Sewerage Plan prior to Phase I application. In addition, approval of a concept plan is required as a part of the Phase I application.

§1-19-10.500.5 Application.

A separate section has been created to provide for location of application requirements for both the PDR and PDE districts. This section identifies the different components required in the Phase I and Phase II approval process.

A Phase I application will be required to include four components: Existing Site Conditions, Concept Plan, Justification Statement, and a Phasing Plan. The Existing Site Conditions will provide background information regarding the site including natural features consideration, design constraints, and existing opportunities for transportation and land use connectivity.

The Concept Plan for the most part, will provide information regarding the proposed development including land uses, transportation, analysis of proposed density, and a visualization component. The Existing Site Conditions and Concept Plan are intended to improve the level of detail at Phase I approval to provide for improved decision making regarding existing conditions and anticipated development constraints. Improved information at Phase I will enable Staff, the Planning Commission, and the BOCC to respond to citizen concerns, applicant proffers, and identify potential requirements in a more effective manner.

Existing MXD text within 1-19-10.500(H)(1)(b)(8) of the zoning ordinance permits the Planning Commission or Board to require architectural renderings of buildings, streetscapes or public areas to assure that the appearance, size, and type of building material or other aspects of the design are in keeping with the purpose and intent of the MXD district.

The proposed text in subsection (B) Concept Plan item (7) requires submission of a Building and Spaces Visualization component. The Visualization component builds on the existing language to provide Staff, the Planning Commission, and the Board with a graphical representation of the Planned Development concept plan. Rather than an option at the request of the Planning Commission or the Board, the visualization component would be a requirement as a portion of the concept plan submission. The visualization tool is intended to provide an illustrative representation of how the concept plan implements the Planned Development District requirements.

The remaining requirements within subsections (C) through (F) mirror existing requirements within the PUD and MXD provisions. Minor adjustments and additions have been made to the text to provide consistency with the overall objectives of the PDR/PDE text amendment.

§1-19-10.500.6 Land Use, Mixture, and Design Requirements within the PDR District.

This section as proposed provides direction regarding the permitted land uses, residential and commercial land use mixture requirements, open space requirements, as well as design requirements including density, setbacks, and height. In this portion of the text amendment the PDR and PDE requirements have been separated into different sections.

Subsection (A) outlines permitted land uses within the PDR district. Permitted residential land uses within the PDR district remain consistent with those permitted within the PUD district. Consistency in land use terms has been provided between the proposed uses and those provided and defined within the zoning ordinance. However, the proposed language includes the flexibility permitting an applicant to propose a type of land use not specifically listed.

Currently the PUD regulations permit commercial land uses as approved by the Planning Commission. The proposed PDR text permits commercial land uses as permitted within the Village Center zoning district as well as Funeral Homes. Land uses permitted within the Village Center are reflective of the potential for a mixture of residential and commercial development to occur in close proximity, similar to the type of development that may occur within a PDR district. The increased specificity will provide the BOCC, Planning Commission, and public with a better understanding of the type of land uses that may be included in a PDR development.

Employment land uses are those permitted within the ORI zoning district with specific Planning Commission approval. This text will provide for an evaluation of a proposed land use and the compatibility of that land use with other specific components within the district. Due to the potential for incompatibility between those land uses permitted within the Limited Industrial zoning district (wholesaling and warehouse, limited manufacturing and assembly uses) and the residential nature of a PDR development, the LI zoning district permitted uses (currently permitted with PUD regulations) have been removed from the proposed text.

Institutional land uses are limited to those specifically provided in the proposed text. The text reflects those institutional uses as permitted through the existing “Quasi-public” text and process within the current PUD regulations (§1-19-10.700.2(F)(6)) as well as those uses identified as Institutional within the Use Table in section 1-19-5.310 of the zoning ordinance.

Consistent with the emphasis on integration of residential development with nearby commercial development to reduce the need to travel by auto for daily goods and services, the separate process and evaluation for Quasi-public uses has been eliminated from the proposed text. With these changes, institutional uses will be reviewed and evaluated as a portion of the overall PUD process. In addition, an institutional use proposed subsequent to a Phase I approval will be reviewed and approved as all other permitted uses requiring a new Phase I application.

Those portions of the existing PUD text related to processing of Continuing Care Retirement Communities has been retained and relocated as appropriate throughout the proposed PDR district text.

In addition to the modifications to permitted uses, the proposed PDR text does not include the current threshold requirement that ties commercial and industrial development to a specific number of dwelling units. Rather than a one-size-fits-all approach for the addition of commercial or industrial components, the land use mixture will be evaluated based on the purpose and intent of the PDR district and the need for specific land use components within the area where the project is proposed.

Subsection (B) of the proposed text provides direction regarding the residential land use mixture within a PDR district. This subsection requires that the residential land use mixture is approved by the BOCC at Phase I. The specific land use mixture will be evaluated and approved by the BOCC based on criteria as specified within the proposed text. The criteria will provide for an evaluation of the intended dwelling type for the project area, the need for a specific dwelling type, the effort to include an array of dwelling types within the County and any recommendations made within the County Comprehensive Plan, Community or Corridor Plan. The evaluation will improve implementation of goals, policies, and action items within County guiding documents as well as evaluation of existing development within the area where the PDR is proposed.

A similar evaluation of providing diversity in dwelling types is included under the LEED-ND topic of neighborhood pattern and design where credit may be obtained for mixed-income diverse communities “to promote socially equitable and engaging communities by enabling residents from a wide range of economic levels, household sizes, and age groups to live in a community.”

Although current regulations permit the development of commercial and industrial development within a PUD project, the regulations do not include an evaluation as to whether the existing or proposed development adequately provides the goods and services to reduce automobile dependence for daily activities. When residential development is permitted to proliferate in areas where little to no commercial or employment development is located, residents are forced to travel to obtain those goods and services. Segregated land uses creates an auto dependent lifestyle which contributes to congestion on roadways, increases greenhouse gas emissions, and reduces pedestrian activity by removing the viable options of walking and biking. Subsection (C) requires an evaluation of the relationship between the proposed residential land uses and the surrounding existing and proposed commercial land uses. The requirement of a commercial or employment component within a proposed PDR district will provide the opportunity for a reduction in daily trips associated with commercial and employment activities.

A similar evaluation of housing and jobs proximity is included under the LEED-ND topic of smart location and linkage where credit may be obtained for housing and jobs proximity “To encourage balanced communities with a diversity of uses and employment opportunities”.

Credit may also be obtained under the LEED-ND neighborhood pattern and design topic which provides for mixed-use centers “to cluster diverse land uses in accessible neighborhood and regional centers to encourage daily walking, biking, and transit use, reduce vehicle miles traveled and automobile dependence and support car-free living.”

Consistent with the current PUD regulations open space/green area is required in subsection (D) as a portion of the PDR land use mixture. The amount of required open space/green area has remained unchanged from the existing PUD requirements. The gross density ranges provided for calculating the required open space/green area within a PDR development have been updated for consistency with the recently adopted County Comprehensive Plan.

Open space/green area is intended to provide for light, space, air and on-site green area as a portion of the development. Current PUD regulations utilize the term “green area” which has been expanded in the proposed PDR regulations to “open space/green area” to provide a clearer distinction between the requirements within this section and the intent of the public park and recreation facilities requirements. Where public park and recreation facilities are intended to provide for opportunities for outdoor recreation, the open space green area is intended to facilitate the control of on-site density and to increase the land use intensity. The requirement of on-site open space/green area facilitates the concentration of land uses and discourages low level, sprawl type development resulting in a higher intensity land use on a smaller area of ground.

However, in some instances the provision of open space/green area in addition to passive public parkland may be duplicative. Therefore, an evaluation of on-site constraints including existing natural features, accessibility to existing public parkland, as well as the proposed development design are important factors in evaluating the amount of open space/green area needed as a portion of a specific project.

For these reasons the proposed language permits the BOCC to require both public parks and recreation facilities in addition to open space/green area, but also to reduce the open space/green area requirements (as proposed in §1-19-10.500.6 (D)(3)) based on the use of low impact development techniques, environmental site design techniques, provision of public park facilities, open space/green area located in close proximity to the proposed development, or a combination of those components. In addition, environmental features may be counted toward open space/green area requirements during analysis of on-site public park facilities requirements (as proposed in §1-19-10.500.8 (A)).

Subsections (E), (F), and (G) in the proposed text contain generalized language, consistent with existing requirements, which provide direction on determining percentages within mixed use buildings and BOCC approval of the land use amount, mixture, or location of land uses within a project.

Subsection (H) provides the design requirements including density, setbacks, and height within the PDR district. The permitted density corresponding to the County Comprehensive Plan Land Use Designation has been updated in the proposed text to correspond to the recently updated residential land use ranges within the County Comprehensive Plan.

Minor edits have been made as in (H)(1)(b) to simplify existing PUD text to clarify the density calculation where the tract of land receiving the PDR district has 2 or more residential land use classifications. Text has been added in (H)(1)(c) to permit the portion of the project with a NR land use designation to be included in the overall density calculation, although development of the NR portion of the project will be limited by text proposed in §1-19-10.500.9(B)(2).

As proposed in subsection (H)(1)(d) the draft text includes an evaluation component requiring that the density calculation and approval by the BOCC include consideration of several factors that may influence the development including availability of public facilities, smart growth principles, and physical site constraints. This evaluation will facilitate the development of a density reflective of project specifics rather than the gross numbers as generally identified within the Comprehensive Plan.

Subsection (H)(2) provides the FCPC the authority to establish setbacks and height as part of the Phase II approval process based on several criteria. This flexibility will provide the opportunity to establish setbacks and height based on project specifics and an effort to reflect consideration of the existing surrounding development, initiatives within County Community and Corridor Plans, and the approved Phase I project concept plan.

§1-19-10.500.7 Land Use, Mixture, and Design Requirements within the PDE District.

This section as proposed provides direction regarding the permitted land uses, land use mixture requirements, open space requirements, as well as design requirements including density, setbacks, and height within the PDE district.

Within this section, subsection (A) outlines permitted land uses within the PDE district. Permitted residential land uses are consistent with those permitted within the existing MXD text. However, single family dwellings have been added as a permitted use where currently, within existing MXD text, the use is not permitted except as part of an MPDU project.

A restriction on residential development has been included for those properties reflecting a limited industrial (LI) or office research industrial (ORI) land use designation. As proposed, residential development would only be permitted for those properties with either LI or ORI as identified within the Comprehensive, Community, or Corridor Plans. The addition of this language will provide for an analysis through the County planning process to identify those properties that should be reserved for development of employment uses rather than including a residential component.

Permitted commercial land uses are consistent with current MXD text, however, permitted employment land uses have been updated to permit only those within the ORI zoning district. The land uses permitted within the LI zoning district were deleted due to potential compatibility concerns between proposed LI activities (wholesaling and warehouse, limited manufacturing and assembly uses) and proposed residential development within a PDE project.

The Institutional land use category includes the recreational component previously identified separately within the MXD text. The proposed permitted institutional land uses are consistent with the proposed language with the PDR district and include recreational and community activities, public services and facilities, health care facilities, schools, and institutional uses as identified within the zoning ordinance Use Table (section 1-19-5.310).

Subsection (B) provides direction regarding the required land use mixture within the PDE district. Although there has been much discussion regarding minimum requirements for specific commercial or residential components within a project, the required land use mixture within the proposed text remains unchanged from the current MXD district requirements.

A minimum threshold requirement has not been proposed as a portion of the PDE text due to the difficulty in establishing a minimum mixture appropriate for application across the County. Concerns arise when a specific number or percentage is established as a portion of the zoning district resulting in a project that is not reflective of the needs within a specific area of the County. The area specific planning research undertaken during upcoming Community and Corridor plans will provide specific recommendations on land use mixture. It is through this planning process and the reference to the Community and Corridor Plan recommendations within the proposed text that will guide resulting development.

In addition to the proposed text in subsection (A)(1) providing for the potential of a residential component on LI or ORI properties only identified within the County Community or Corridor plans, proposed text in subsection (B)(2) will require a mixture of residential and commercial/employment where the PDE is applied to properties with a Mixed Use Development (MXD) land use designation.

At this time the MXD land use designation has only been applied to properties along MD 355 as part of the recent comprehensive rezoning. However through upcoming Community and Corridor plans additional areas of the County will be considered for application of this land use designation. The purpose and intent of the MXD land use designation is to support mixed use developments including residential, commercial, office/employment, and institutional uses facilitating redevelopment and transit oriented design opportunities in existing developed areas adjoining underutilized malls, industrial or commercial areas or office parks, and vacant or underutilized commercial/employment corridors. The requirement of a residential and commercial/employment component for projects developed within this land use designation is consistent with the purpose and intent of the designation.

Subsection (B)(3) provides similar language to the requirements within the PDR district that the BOCC may require public parks and recreation facilities in addition to open space/green area requirements. Terminology has been updated from 'open space' to 'open space/green area' to provide consistency between public facilities requirements, and PDR and PDE open space requirements within the proposed text. Subsections (C), (D), and (E), provide generalized language, consistent with PDR text, guiding the process of establishing the mixture of uses as a portion of a proposed project.

Subsection (F) includes the design requirements within the PDE district including density, setbacks, and height. Subsection (F)(1) outlines the criteria for establishing the project density in addition to the overall project approval criteria in proposed section 1-19-10.500.3. The proposed PDE project density criteria are consistent with the density criteria provided within the PDR district standards.

Subsection (F)(2) has been edited to provide the FCPC the authority to establish setbacks and height as part of the Phase II approval process based on several criteria. This flexibility will provide the opportunity to establish setbacks and height based on project specifics and an effort to reflect consideration of existing surrounding development, initiatives within County Community and Corridor Plans, and the approved Phase I project concept plan.

§1-19-10.500.8 Public Facilities and Utilities within the Planned Development Districts

This section of the text amendment includes the requirements related to provision of public facilities and utilities at the time of Phase I approval.

Subsection (A) includes direction regarding the type and amount of public parks and recreation facilities to be provided within a Planned Development District project. The public facility provisions are consistent with the requirements within the current PUD and MXD regulations however updates include increased specificity in providing for both active and passive recreational amenities and the requirement for additional public facilities such as schools, library services, or a fire and emergency medical service site.

§1-19-10.500.9 General Development Standards within the Planned Development Districts.

This section of the text amendment includes the General Development Standards for both Planned Development Districts (PDR and PDE).

The general development standards are intended to provide for the implementation of the approval criteria at the time of site development plan approval. The General Development Standards have been created to guide development in implementation of the Community Design Concepts contained in the County Comprehensive Plan and are consistent with many of the objectives contained in the LEED-ND rating system. It has been noted below, where the specific development standards are consistent with credit provided within the LEED-ND rating system.

General development standards (A)(2), (3), and (4) provide for land use connectivity and pedestrian safety and mobility. These concepts are consistent with the objective of providing for multiple modes of transportation including the option of choosing a mode of transportation other than automobile. Safe and convenient access to and between land uses and structures is essential in providing a viable alternative transportation option for bicyclists, transit users, and pedestrians. These concepts are included in the LEED-ND topic of Neighborhood Pattern and Design credit for Walkable Streets.

Although the LEED-ND credit includes specificity beyond what has been proposed within the text amendment, the objectives are similar. General standards have been proposed within the text amendment to achieve similar results while providing the applicant with the flexibility of proposing a site or project specific solution in meeting the standard.

Several standards ((5) through (13)) specifically address building design and location to facilitate human-scale or pedestrian scale architecture, quality of materials consistent with Frederick County and Central Maryland, and building orientation which encourages pedestrian activity. These factors contribute to a development which functions as a community where pedestrian activity is encouraged both during the day as well as evening hours contributing significantly to the quality of life for residents and citizens utilizing the amenities within the development.

Standards as provided in (14) through (18) address transportation and parking. These standards emphasize connectivity between sites and parking areas which facilitates movement within and between developments.

Location of parking to the side or rear of buildings and reducing the number of access points improves pedestrian safety and pedestrian access via sidewalks and walkways.

The use of shared and joint use parking is encouraged with the intent of reducing the number of required on-site surface parking spaces, which reduces stormwater runoff and treatment, and facilitates the highest and best use of land within our growth areas. Several of these standards are included in the LEED-ND topic of Neighborhood Pattern and Design with credit for Reduced Parking Footprint intended to “increase the pedestrian orientation of projects and minimize the adverse environmental effects of parking facilities. To reduce public health risks by encouraging daily physical activity associated with walking and bicycling.” LEED-ND also includes credit for Street Network intended to “promote projects that have high levels of internal connectivity and are well connected to the community at large...”

Remaining standards are intended to enhance the quality of the development through provision of centralized community facilities and civic spaces, decrease negative impacts associated with arterial/freeway/expressway noise, and to provide for evaluation of existing historic structures and features for preservation and integration into the proposed project. Related to these standards is LEED-ND credit for Access to Civic and Public Space intended to “improve physical and mental health and social capital by providing a variety of open spaces close to work and home and to facilitate social networking, civic engagement, physical activity, and time spent outdoors.” LEED-ND credit may also be achieved through Access to Recreation Facilities with many of the previously mentioned objectives.

Lastly LEED-ND provides credit for both Existing Building Reuse and Historic Resource Preservation and Adaptive Use. These credits are intended to “extend the life of existing building stock to conserve resources, reduce waste, and reduce adverse environmental effects of new buildings related to materials manufacturing and transport.” As well as encouraging “the preservation and adaptive use of historic buildings and cultural landscapes that represent significant embodied energy and cultural value, in a manner that preserves historic materials and character-defining features.”

Inclusion of these standards as a portion of the proposed planned development requirements guides development towards achieving the concepts and discussion points contained within the County Comprehensive Plan Chapter 10 Managing Our Growth - Community Development Principles, Community Character and Design, and Community Design Principles as well as supporting the BOCC initiative of incorporating Leading Edge Environmental Design standards into the County’s zoning ordinance.

As proposed in subsection (B), direction has been provided in addressing natural features as a portion of designing the proposed development. Subsection (C) provides specifics related to public facilities and utilities development at Phase II Site Development Plan Approval.

Subsection (D) permits the Planning Commission to modify the development standards for the planned development districts at Phase II, to address physical site constraints or project specifics that may arise during the execution portion of the project. This text has been edited to include cross references to existing language requiring justification of modifications to parking, loading, landscaping, buffering and screening requirements. Text has also been added to this section to require consideration of several evaluation factors in granting additional modifications.

§1-19-10.500.10 Specific Development Standards within the Planned Development Districts.

This portion of the text amendment maintains those existing provisions related to Continuing Care Retirement Communities and Age Restricted Communities. No edits or changes to this existing text are proposed as part of the text amendment.

§1-19-10.500.11 Transitional Provisions for Mixed-Use Developments (MXD) and Planned Unit Development (PUD).

Provisions have been added to this section of the text amendment to address existing MXD and PUD approvals. The proposed text permits existing approvals to continue however, amendments to existing approvals will require compliance with the new PDE and PDR provisions.

DIVISION 7. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

§1-19-10.700 Planned Unit Development.

§1-19-10.700.1 Purpose.

§1-19-10.700.2 General Provisions.

This existing section of the zoning ordinance has been deleted which is consistent with the creation of the proposed Planned Development Districts in section 1-19-10.500 above.

CHAPTER 1-20: ADEQUATE PUBLIC FACILITIES

ARTICLE I: IN GENERAL

§1-20-5. Definitions

§1-20-7. Exemptions.

§1-20-8. Approval of Subdivisions, Site Plans

§1-20-9. Approval of Planned Developments

§1-20-10. Approval of Mixed Use Developments (MXDs) and Planned Unit Developments (PUDs) Projects

§1-20-11. Conditional Approval

§1-20-12. Developer Option

§1-20-13. Escrow funds for road Improvements

Edits and additions to these sections have been made to duplicate existing Planned Unit Development (PUD) and Mixed-Use Development District (MXD) APFO provisions (which exist as §1-20-9 and have been renumbered §1-20-10). The duplicate text has been slightly modified to specifically apply to Planned Development Residential (PDR) and Planned Development Employment (PDE) development and is proposed as §1-20-9. The existing APFO text has been duplicated and placed in a new section with the intent of reducing confusion and providing clarity in application of the APFO provisions. The remaining sections within this Article have been renumbered for consistency.

The following portions of the County Code have been updated to reflect any necessary changes in terminology from Planned Unit Development (PUD) to Planned Development Residential (PDR) and/or Mixed-Use Development District (MXD) to Planned Development Employment (PDE).

ARTICLE II: ADMINISTRATION
§1-20-20. Administrative Agency Designated.

ARTICLE IV: PUBLIC WATER SUPPLY
§1-20-41. Determination of Adequacy

ARTICLE V: SEWERAGE FACILITIES
§1-20-51. Determination of Adequacy

ARTICLE VI: SCHOOLS
§1-20-61. Determination of Adequacy

CHAPTER 1-21: FOREST RESOURCES
ARTICLE I: IN GENERAL
§1-21-5. Definitions

ARTICLE III: PLAN REQUIREMENTS
§1-21-30. Plans in General.
§1-21-31. Forest Stand Delineation.
§1-21-33. Preliminary Forest Conservation Plan.

ARTICLE IV: DESIGN CRITERIA
§1-21-42. Reforestation and Conservation Threshold.

STAFF RECOMMENDATION

Staff recommends approval of the Planned Development Districts Text Amendment (ZT-10-04) including updates to various portions of the County Code.

EXHIBITS

Exhibit 1 – Planned Development Districts Text Amendment (ZT-10-04)
Exhibit 2 – Draft Ordinance