



**COMMUNITY DEVELOPMENT DIVISION  
FREDERICK COUNTY, MARYLAND**

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To: Board of County Commissioners  
FROM: Eric Soter, Director *ES*  
DATE: July 12, 2011  
SUBJECT: Priority 2 Draft 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. Staff has initiated a phased approach in updating the ordinance in an attempt to address these concerns. The second phase of this update process is the presentation of the Priority 2 Draft Zoning Ordinance Text Amendments for BOCC review and guidance. Staff requests direction whether further research, initiation of a text amendment, or no action should be taken on the items contained in the Priority 2 Draft Text Amendment list?

**BACKGROUND**

Several initiatives have been identified over the last several months to provide an avenue for citizen input regarding development regulations and processes. As part of this effort, Staff began a phased update to the zoning ordinance. The first phase, Priority 1 Text Amendments are complete and were adopted by the BOCC on May 17, 2011. This second phase, the drafting of Priority 2 amendments, is a result of a compiled list of potential amendments based upon a review of the previously presented Potential Text Amendment List and the Business Friendly Improvement Areas (BFIA).

It should be noted that the potential amendments have been compiled through public input, BOCC and Staff discussion over the last several months. Many amendments were identified through the BFIA process and are not specific action recommendations from Staff. For clarity, each amendment item overview identifies those action items initiated by Staff. The items are presented as a summary of potential topics and solutions for BOCC review and direction. In addition, the Zoning Ordinance Rewrite webpage includes links to text amendment public process documents (including public hearing and adopted ordinances) for amendments active over the last few years. These documents can be accessed through the following link: <http://www.frederickcountymd.gov/index.aspx?nid=3342>.

**RECOMMENDATION**

Staff requests direction whether further research, initiation of a text amendment, or no action should be taken on the items proposed as Priority 2 Draft Text Amendments.

**ATTACHMENTS**

Attachment 1 – Business Friendly Improvement Areas go to: [www.frederickcountymd.gov/planning](http://www.frederickcountymd.gov/planning)

**FUNDING INFORMATION**

Financial Implication: NO

## **OVERVIEW**

The overview section below provides a summary of each issue identified as a potential Priority 2 Draft Text Amendment including background information and possible amendments to address the issue.

### **LI/GI Industrial Standards**

The current industrial district performance standards in §1-19-7.610(J)(4)(a) of the zoning ordinance restrict the storage capacity of flammable liquids and gases to the following:

Liquids	
LI District	60,000 gal.
GI District	120,000 gal.

Gases		
	Above Ground	Below Ground
LI District	150,000 SCF*	300,000 SCF
GI District	300,000 SCF*	600,000 SCF

\*SCF - Standard cubic feet at 60°F and 29.92 inches Mercury.

As noted in BFIA ZON-39, requests have been received to establish two different types of facilities that would exceed the currently permitted storage capacity. The first would permit the storage of Liquefied Petroleum Gas (LP-Gas) up to 1,000,000 gallons for wholesale distribution to local propane suppliers. The second would permit the storage of Flammable/Combustible Liquids up to 300,000 gallons for primarily farm and residential uses.

For the purposes of these regulations Liquefied Petroleum Gas (LP-Gas) is any material having a vapor pressure not exceeding that allowed for commercial propane composed predominately of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane (normal butane or isobutane) and butylenes. Flammable/Combustible Liquids are: unleaded gasoline, regular and high octane gasoline, ultra low sulfur diesel (on-road diesel), low sulfur diesel (off-road/farm diesel), fuel-oil, bio-diesel and kerosene.

The current flammable liquid and gas storage capacity maximums were developed in the 1970's when the common types of products stored were leaded and unleaded gasoline, diesel, kerosene and propane and the volume of product used was much less than current demands. Since that time there has been an increase in the types of flammable liquids stored, the volume of products sold and the demand for the variety of products. In addition, fuel oil and propane have a much higher demand in the winter months and current restrictions do not permit sufficient on-site storage to meet this demand.

Amendments to the zoning ordinance could be made to provide for processing of two different types of bulk storage facilities that are currently limited or prohibited due to the restrictions on the storage capacity of flammable liquids and gases within the LI and GI zoning districts. The amended regulations would permit bulk storage facilities intended to serve both residential and farm needs, utilizing above ground storage tanks of approximately 30,000 gallons each.

A wholesale LP-Gas bulk plant (distribution center), would provide storage of LP-Gas for local propane suppliers, addressing the peak winter month shortage noted above. The request is to permit storage of up to 1,000,000 gallons of LP-Gas to accommodate this type of facility.

A typical supplier of farm and residential uses would develop a combination flammable/combustible and LP-Gas distribution center, with storage of 30,000 gallons of each of the eight flammable/combustible liquids (totaling 240,000 gallons), and a minimum of two 30,000 gallon tanks of LP-Gas. The request is to permit storage of up to 300,000 gallons of flammable/combustible liquids to accommodate this type of facility.

### **Return PDR/PDE terminology back to MXD/PUD**

In November of 2010 the Planned Development Districts Text Amendment (ZT-10-04) became effective. The text amendment created the Planned Development Residential (PDR) and the Planned Development Employment (PDE) floating zones. The PDR zone is a rewrite of the Planned Unit Development (PUD) provisions and the PDE zone is a rewrite of the Mixed Use Development (MXD) provisions. The intent of the floating zone rewrite was to combine and standardize the floating zone requirements and processes to provide consistency throughout the zoning ordinance. The amendment revised and adopted a combined two-step planned development floating zone in section 1-19-10.500 Planned Development Districts. Many of the original provisions remain after adoption of the rewrite.

The intent of the terminology change from PUD to PDR and MXD to PDE within the text amendment was to simply provide a more updated nomenclature.

However, Staff recognizes that the transition to the new terminology has resulted in confusion for users and has been difficult for many to accept and apply. Therefore, Staff recommends returning to the previous terminology without change to the existing regulations, including maintaining the transitional provisions (section 1-19-10.500.11) which apply to PUD and MXD developments approved prior to approval of ZT-10-04. Returning to previous terminology would include modifications to section 1-6A Moderately Priced Dwelling Units, 1-16 Subdivision Rules and Regulations, 1-20 Adequate Public Facilities and 1-21 Forest Resources of the Frederick County Code.

### **Land Use Restrictions within the Priority Preservation Areas**

An item within the Business Friendly Improvement Areas list (BFIA ZON-24), requests a discussion of differential Ag and RC land use restrictions within the Priority Preservation Areas (PPA). This item was included as a zoning item and therefore will be discussed as it relates to the zoning ordinance.

Within the zoning ordinance the only provision related to the PPA is contained within the Open Space Recreation (OSR) floating zone in section 1-19-10.1000. The OSR floating zone was created to provide for the development of large-scale recreational uses in areas with an Agricultural/Rural County Comprehensive Plan land use designation.

The floating zone provides for location and siting of these types of facilities to areas contiguous to a community growth boundary to provide a transition between growth areas and existing agricultural uses, to mitigate or minimize impact to surrounding properties, mitigate or avoid traffic congestion which improves pedestrian and roadway safety, and to maintain the purpose of the Agricultural/Rural areas identified in the County Comprehensive Plan.

It should be noted that the intent of the floating zone is to restrict development of large recreational facilities, on parcels with a Agricultural/Rural Comprehensive Plan land use designation, to those that meet the specific size and location requirements (minimum parcel size, roadway standards, within or contiguous to a community growth boundary).

The size and location requirements within section 1-19-10.1000 (B)(1)(e) state that "the tract of land receiving the Open Space Recreation District shall not be located within a Frederick County priority preservation area." This requirement was added by the prior BOCC during adoption of this zoning district with the intent of protecting a PPA from development of large scale recreational uses.

The purpose of the PPA's (as provided for in House Bill 2 adopted by MD General Assembly in 2006) are to target and prioritize land preservation easement purchases and other incentives to preserve agricultural land. The PPA's act to target land preservation efforts and build critical masses of protected lands on the highest priority properties.

Consideration of the PPA during the development review process is consistent with the purpose and intent of the Agricultural zoning district and the intent of the agricultural preservation program. However, during review and approval of the OSR floating zone there was much discussion regarding where the requirement should be located within the overall provisions. Currently, the requirement is contained within the size and location criteria. To that end, an applicant could not even apply for such a use if it were in a designated PPA.

It was also discussed whether the PPA component should be located within the approval criteria (section 1-19-10.1000(C)). If the PPA component were moved from the size and location criteria and into the approval criteria, it would permit a tract of land within a PPA to apply for the floating zone. During the evaluation of the approval criteria, the PPA component would be considered as a part of the overall application based on a specific review criterion that could include evaluation factors such as location, soil classification, and development potential among others.

#### **Zoning Ordinance Text Amendments**

In April of 2007 an ordinance was approved that amended section 1-19-3.100.1 of the zoning ordinance to limit initiation of zoning ordinance text amendments to the Board of County Commissioners (BOCC). Prior to the 2007 ordinance, initiation of a text amendment was permitted by the BOCC, Planning Commission, or county staff. Several items within the Business Friendly Improvements Areas list (BFIA ZON-8, ZON-9, and ZON-10), request increased flexibility in initiation of a text amendment including Planning Commission initiation and private sector submission for initiation.

The changes to the text amendment process approved in 2007 were made with staff support due to the volume of requests being received. A phased approach to updating the zoning ordinance was underway, however staff was unable to make significant progress due to the necessary time required to research and respond to each and every request for a text amendment that was being received. Many of the text amendments were not consistent with the goals and objectives outlined within the guiding documents utilized by staff in updating the zoning ordinance (CZRC report, BOCC Strategic Plan) or with the objectives of the phased update approach. In addition, many text amendments were simply poorly written and needed some level of re-writing just to fit into the county code. For these reasons, the request was approved by the BOCC and the current process was adopted.

At this time section 1-19-3.100.1(B) of the zoning ordinance states that "a zoning text amendment shall be initiated only at the direction of the Board of County Commissioners." The current process requires that a text amendment be presented to the BOCC where a majority would initiate the amendment. This filtering of amendments through the BOCC (whether from an individual Commissioner, Planning Commission member, staff, or citizen), enables staff time to be dedicated to accomplishing those objectives identified as a priority by the BOCC. It still allows the 'average citizen' or any stakeholder to request the BOCC to consider an amendment, noting they can do so without the need of an attorney to prepare an amendment, nor are they subject to any fees.

## **Accessory Apartments**

Several permitted uses within the zoning ordinance have been identified by Staff for amendments related to current processing. Item ZON-47 within the Business Friendly Improvement Areas notes that there are several special exception uses that could be processed administratively (accessory apartments and temporary mobile homes) or through site plan review (animal hospital or veterinary clinic in GC and automobile repair or service shop in the LI).

Currently accessory apartments are permitted solely by special exception with specific criteria in section 1-19-8.321 of the zoning ordinance. These existing criteria provide guidance on the location and intensity of the apartment, including a restriction that: accessory apartments to be located within an accessory structure shall be no larger than 600 square feet (1-19-8.321(E)).

Accessory structures are restricted in size by section 1-19-4.300 through 1-19-4.300.2 which states that the total square footage of all floors of accessory structures located on residentially zoned properties shall not exceed that of the dwelling, and shall not exceed the greater of one-half the footprint of the principal dwelling or six hundred square feet.

Accessory apartments provide opportunities for affordable housing and a mixture of dwelling types throughout the County. The 'Accessory apartment' land use was originally added to the Use Table in 1990 by the BOCC at that time, in response to calls for more affordable housing units for low and moderate income residents and more flexibility for accommodating family members wishing to live closer together such as an in-law suite.

Over 100 of these applications have been prepared and presented to the Board of Appeals since adoption of the provisions, with only 2 denials. The 2 denials were based on information that the applicants had legal residences elsewhere and would not be living on-site, a requirement based on current special exception criteria.

Although the processing of accessory apartments has been successful, several obstacles have been identified within the existing special exception criteria as well as the time required for review and processing. In addition to expense and necessary time for review, it has been noted that the small square footage permitted for a detached accessory apartment (600 square feet), precludes provision of an adequate size living space.

The Citizen's Zoning Review Committee discussed Accessory Apartments and noted that relaxing the regulations to permit additional accessory apartments would help achieve the goals of affordable housing as well as in-law housing. It was also stated that a special exception process may not be necessary in all residential districts with clearly defined regulations and approval process.

For these reasons, accessory apartment regulations within the zoning ordinance could be amended from approval by special exception, to a two-tier review where a majority of applicants would be processed as an accessory use through staff level administrative approval.

### ***Accessory Apartments as Accessory Use***

The first-tier would permit accessory apartments within a single family dwelling and accessory apartments of no greater than 800 square feet to be located within an accessory structure, as an accessory use.

By definition in section 1-19-11.100 of the zoning ordinance, Accessory Apartment is "an independent, self-contained dwelling unit within a single-family dwelling, or within an accessory structure located on the same lot as a single-family dwelling." Therefore, the accessory apartment would be permitted as an accessory use to the single family dwelling and would not appear in the Use Table consistent with the processing of other accessory uses within the zoning ordinance.

The zoning ordinance currently provides for processing of accessory uses with additional criteria in Article VIII: Specific Use Regulations; Division 2. Accessory Uses, approved by the Zoning Administrator as part of an application for a principal permitted use, or subsequent to the initial approval.

A new section in Article VIII: Specific Use Regulations; Division 2. Accessory Uses: 1-19-8.212 Accessory Apartments in the RC, A, R1, R3, R5, R8, R12, R16, and VC zoning districts would be created to include criteria similar to those required as a special exception. The proposed criteria in section 1-19-8.212 would include an expansion of permitted square footage from 600 to 800 when located in an accessory structure, a requirement for notification of adjacent property owners, and possible revocation of approval due to noncompliance. Existing special exception criteria (1-19-8.321) subsections (H) (regarding addressing) and (K) (regarding Zoning Administrator approval rather than Planning Commission) would not be included in the new section, as they are not relevant to the accessory approval process.

Although an increase is proposed from 600 to 800 square feet for accessory apartments to be located within an accessory structure, there may be specific situations where the 800 square feet is unnecessarily limiting and restrictive such as on a large parcel. Larger parcels may include a larger residence which would permit a larger accessory structure, and most likely contain sufficient lot size to address compatibility issues regarding the increase in activity. For these reasons, a second-tier special exception process is proposed.

#### ***Accessory Apartments as a Special Exception***

The second-tier would permit accessory apartments over 800 square feet to be located in an accessory structure, to apply for a special exception (maintaining special exception criteria in section 1-19-8.321). This process will provide flexibility where an existing residence is large enough to permit a larger accessory structure (based on provisions in section 1-19-4.300 through 1-19-4.300.2 as noted above). The use would continue to be permitted in the same zoning districts as currently permitted.

Through the special exception process, the Board of Appeals will have an opportunity to address the nature and intensity of the proposed operation, parking, and the road system among other general criteria in existing section 1-19-3.210, as well as the specific special exception criteria remaining in section 1-19-8.321.

The changes as discussed would permit accessory apartments as an accessory use in all zoning districts where they are currently permitted based on applicable criteria. Accessory apartments larger than 800 square feet to be located in an accessory structure would be permitted by special exception. The existing definition in section 1-19-11.100 would remain unchanged.

#### **Temporary Mobile Homes**

As noted under the heading of Accessory Apartments above, the processing of temporary mobile homes has been identified by Staff for review (ZON-47).

The zoning ordinance currently permits Temporary Mobile Homes by special exception within the Resource Conservation (RC), Agricultural (A), and R1 (residential) zoning districts.

Temporary structures and uses requiring special exception approval are processed based on the specific criteria in section 1-19-8.300 of the zoning ordinance (in addition to the general special exception criteria contained in section 1-19-3.210). The Temporary Mobile Home as a special exception is permitted based on several criteria including a minimum lot size, restriction permitting only single-wide mobile homes, setback and location requirements, site plan approval by Planning Commission, a requirement that the resident of the mobile home be an immediate family member of the family owning and residing on the subject lot, and that the occupant of the mobile home or of the principal dwelling must have a physical or mental condition or excessive age which requires constant care and attention. Most of the criteria outlined in this section are straightforward and could be addressed through Staff level review. Most importantly, the requirement of a physical or mental condition is met through a medical evaluation and certification by a physician.

Based on this evaluation, the zoning ordinance could be amended to permit a Temporary Mobile Home as an accessory use where specific provisions have been met. As noted above, accessory uses are currently approved by the Zoning Administrator as part of an application for a principal permitted use, or subsequent to the initial approval. The provisions in existing section 1-19-8.300 (B) would be moved into a new section of the zoning ordinance to provide for the use as an accessory to a principal dwelling.

However, it should be noted that processing the application as an accessory use rather than a special exception would remove the requirement of a public hearing and notification of all adjoining property owners. This issue could be addressed through the addition of a new criterion, similar to what has been proposed for accessory apartments in section 1-19-8.212 above, which would require notification of surrounding property owners.

#### Animal hospital or Veterinary clinic in GC

The zoning ordinance currently permits Animal Hospital or Veterinary Clinic as a special exception in the Agricultural (A), Village Center (VC), and General Commercial (GC) zoning districts. As noted in BFIA ZON-47, this land use has been identified by Staff as one that should be evaluated for possible changes to current processing.

Staff has evaluated the processing of this land use within all three districts. Many of the existing special exception criteria in section 1-19-8.338 specifically apply to development within the A zoning district. The criteria provide parameters for development of this type of land use to ensure compatibility with agricultural activities, residential uses, and the rural character of the environment.

The Village Center zoning districts across the County contain historic villages with a mixture of residential and commercial land uses in a compact development pattern. This compact pattern creates a compatibility concern between certain types of commercial development and its proximity to residential uses.

After evaluation of these factors, it is recommended that the special exception process remain in both the A and VC zoning districts. However, the GC zoning district is generally intended for higher intensity land use than the A or VC districts. Residential land uses are not permitted within the GC zoning district therefore it does not contain compatibility issues between residential and commercial land uses and does not contain the inherent issues related to those historic development patterns.

Processing of animal hospital or veterinary clinic through site development plan review (PS) in the GC zoning district should be considered. The relevant portions of the existing special exception criteria could be edited and duplicated for placement in a new section, 1-19-8.405 Animal Hospital or Veterinary Clinic in the GC district. The criteria would permit the use to be established under relatively the same criteria but through the site development plan review process rather than as a special exception.

#### Automobile Repair or Service Shop in LI

The zoning ordinance currently permits automobile repair or service shop in the Highway Service (HS), General Commercial (GC), and General Industrial (GI) zoning districts through site development plan approval (PS), and by special exception (E) in the Village Center (VC) and Limited Industrial (LI) zoning district. As previously noted by Staff, this land use could be evaluated for changes to current processing (ZON-47).

The existing special exception criteria in section 1-19-8.325 address the compatibility of the land use with surrounding and adjacent parcels, as well as the overall aesthetic of the development. However, the criteria do not address issues specific to the LI zoning district.

Therefore, the processing of automobile repair or service shop through site development plan approval (PS) in the LI zoning district should be considered. The relevant portions of the existing special exception criteria could be edited and placed in a new section, 1-19-8.406 Automobile Repair or Service Shop in the LI district. The criteria would permit the use to be established under relatively the same criteria but through the site development plan review process rather than as a special exception. The current criteria contained in section 1-19-8.406 relate only to the use within the LI district (separate criteria in section 1-19-8.324 address the use within the VC district) and would therefore be deleted if section 1-19-8.406 is created.

#### Sign Calculations Use vs. Zoning District

The zoning ordinance contains sign regulations in sections 1-19-6.300 through 1-19-6.340. Generally, signage is calculated based on the proposed use however, discrepancies have been identified by Staff based on the permitted signage for a proposed use and the zoning district where the development will occur (as noted in BFIA ZON-45).

Specifically, places of worship are grouped with other institutional uses in item (4) of section 1-19-6.320 Signs Permitted and Regulated in the Zoning District and limited to a total of 32 square feet. This issue has been identified as a concern particularly where a place of worship is located within a commercial or industrial zoning district. Land uses located within commercial or industrial zoning districts are generally regulated by provisions in item (7). However, a place of worship locating within a commercial or industrial district would be limited to 32 square feet due to the specifics provided in item (4). Generally within the zoning ordinance the more specific provisions shall apply.

Over the years places of worship have expanded into commercial and industrial zoning districts, which should be reflected within the sign regulations. To address this issue, the places of worship land use term would be added to item (7) within section 1-19-6.320. This change would create consistency between sign requirements for places of worship and other land uses within commercial and industrial zoning districts. Existing regulations in item (4) would remain in order to provide for those institutional uses (including places of worship) permitted in other zoning districts.



### **Sign Calculation for Multiple Lot Frontage**

Within the zoning ordinance, Section 1-19-6.320 footnote "F" provides the maximum sign size permitted for those parcels where the entrance to the building faces a direction other than a public street. However, the text does not address those situations where the parcel contains a building facing multiple public streets. Without further direction provided within the ordinance, it has been the policy and practice to calculate sign allotments for each public street frontage. As noted by Staff in ZON-46 this section should be evaluated for a potential increase in signage for buildings facing multiple public streets.

Therefore, the text in this footnote should be amended to align the existing provisions with past policy and practice. The text in footnote "F" would be amended to state "Where the building faces multiple public streets, F shall equal the total of measurement A and measurement S."

### **Outdoor Storage in the GC and LI**

The zoning ordinance currently requires outdoor storage in the commercial and industrial zoning districts to be screened by a wall, opaque fence, or planting so that the materials will not be visible from a public way or adjoining property (section 1-19-7.510, 1-19-7.600(D), and 1-19-7.610(A)). However, this existing language does not account for development where adjoining properties are similar in use and therefore full screening between adjoining properties may not be necessary. As noted in ZON-48, these requirements could be reviewed to provide needed flexibility.

Existing regulations could be amended to permit the Planning Commission to waive or modify the requirement of full screening where it has been determined that adjoining properties are similar in use. It appears that this issue is related to those uses within the industrial districts therefore, Staff recommends that changes to the existing requirements focus on the industrial districts rather than the General Commercial (GC) district. Land uses permitted within the General Commercial district are varied and with opportunity for higher turnover, may create compatibility issues where screening between uses has not been provided.

In addition to amend the text within the zoning ordinance, Staff would develop companion policies and procedures (outside of the zoning ordinance) to standardize process and requirements, ease implementation, and provide consistency in application of the proposed text.

### **Non-governmental Utilities**

During the Potomac/Appalachian Trail Highline Project it was noted that the project would have a substantial impact to nearby residential uses, both during and subsequent to construction. A request has been made within ZON-51 to amend the zoning ordinance and possibly the comprehensive plan to address the issue of placing PATH, other utilities, or a pumping station into the middle of a residential area.

The zoning ordinance currently requires all non-governmental utilities to receive special exception approval in the RC, A, Residential, and VC zoning districts. To address the issue noted above, the special exception criteria in section 1-19-8.339 could be amended to require an increased setback when adjacent to a residential use or zoning district. Currently, section 1-19-8.339(A) requires a minimum setback of 50 feet from all property lines.

### **Restricted Funeral Establishments**

A request has been received for consideration of allowing Restricted Funeral Establishments in the Resource Conservation (RC) zoning district as a home occupation as outlined in ZON 52. In part, the request would allow embalming as a home occupation in the RC zoning district.

Based on information submitted with the request, the Restricted Funeral Establishment would be added to the existing Home Occupation standards in section 1-19-8.240 (A)(5). Section 1-19-8.240 provides general standards applying to all home occupations, and further provides limitations on home occupations with “no impact”, and home occupations with “minor impact”. The home occupation standards with minor impact permit a slightly more intensive operation, including employment of nonresident employees.

The request asserts that the use is licensed by the Maryland Board of Morticians and Funeral Directors as outlined in the Code of Maryland Regulations (COMAR) Title 10 Department of Health and Mental Hygiene, and will only provide transportation, embalming/restorative, storage, dressing, casketing, cosmetology and related services for bodies in preparation for burial usually on behalf of funeral homes.

Further, these types of establishments are not licensed, authorized or permitted to provide funeral services to the general public, such as religious ceremonies, viewings, processions, or retail sales of caskets or other funeral accessories but can provide a valuable service on a sub-contracting basis to established funeral homes.

In addition, the request notes that there are no commercial activities associated with the proposed use other than the services provided to and for the bodies and there are no hazardous or toxic wastes or chemicals that pose a particular risk to the environment. The request provides that the Resource Conservation zoning district is appropriate for the proposed use due to the typical large lot size and very low density residential character.

### **Limited Roadside Stand**

The zoning ordinance currently provides for Limited Roadside Stand operations subject to design regulations (P) in the Resource Conservation and Agricultural zoning districts, and through the site development plan approval process in the R1 and R3 residential districts, Village Center, Highway Service, and General Commercial zoning districts.

A Limited Roadside Stand is defined in the zoning ordinance in section 1-19-11.100 as “The use of no more than 300 square feet devoted to product sales, which may incorporate a structure, for the sale of agricultural products the majority of which are produced by the owner on site. This use does not include seasonal pumpkin patches, “pick your own” or “cut your own” produce or other agritourism enterprise activities conducted on a farm related to agriculture and accessory to the primary agriculture operation on the farm.”

The Limited Roadside Stand provisions were adopted in June of 2009 as part of the A/RC Use Table and Definitions text amendment (ZT-09-03). Previous to the 2009 amendments, all roadside stands were processed within the land use term of Roadside Stands Retail and Wholesale permitted solely through site development plan approval. It was the intent of the text amendment to create a limited operation for the small mom and pop stand (within the A and RC) where the traffic and building impact would be minimal and therefore a full site development plan process would not be required.

However, it has been noted in ZON-54 that a request has been received to increase the square footage permitted within the definition of Limited Roadside Stand in section 1-19-11.100. The 300 square feet has proven inadequate in providing sufficient space to conduct an operation, even on a limited scale. It has been suggested that the 300 square feet be increased to 1,500 square feet.

#### **Highway Service Zoning District**

This portion of the text amendment is Staff initiated and involves the removal of the references to the Highway Service zoning district from the zoning ordinance. The Highway Service zoning district is no longer applied to any parcels within the County. During previous Region Plan updates, the Highway Service zoning district, as applied to specific properties, was replaced by General Commercial or another appropriate zoning district. The few remaining parcels with Highway Service zoning were rezoned during the last County Comprehensive Plan update and rezoning process.

The need for commercial uses that are solely highway oriented continues to decline as commercial uses serving both highway travelers and the local community have developed in the Community Growth Areas.

The location of commercial services primarily within growth areas is consistent with the goals, policies, and objectives of the Comprehensive Plan. Based on the fact that this zoning district is no longer applied within the County and that the purpose of the district is no longer consistent with the goals, policies, and objectives of the Comprehensive Plan, the district is being removed from the zoning ordinance.

For these reasons, the following references to the HS zoning district within the zoning ordinance are proposed for deletion:

- The purpose statement in §1-19-5.240 Commercial Zoning Districts
- Listing of permitted uses in §1-19-5.310 Use Table
- Design Requirements in §1-19-6.100
- Sign regulations in §1-19-6.320
- Supplementary district regulations in §1-19-7.510
- Accessory use regulations in §1-19-8.211
- Special exception for 'Recreational vehicle campground' in §1-19-8.356
- Special exception for 'Truck stops' in §1-19-8.357
- Within the Design Criteria for 'Communication towers' in §1-19-8.420.2
- Increased setback requirements within the Mineral Mining floating zoning district in §1-19-10.400.2
- Within the Home Occupation definition in §1-19-11.100

#### **STAFF RECOMMENDATION**

Staff requests direction whether further research, initiation of a text amendment, or no action should be taken on the items proposed as Priority 2 Draft Text Amendments.