

Bill No. 20-07  
Concerning: Amending Chapter 1-19 of the County  
Code (Zoning Ordinance) to Update and Clarify  
Transportation, Environmental Resource Protection,  
and Historic Preservation Criteria on Rezoning Requests  
Introduced: June 16, 2020  
Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_  
Enacted: August 4, 2020  
Effective: October 3, 2020  
Expires: September 14, 2020  
Frederick County Code, Chapter \_\_\_\_\_  
Section(s) \_\_\_\_\_

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Members Kai Hagen and Steve McKay on behalf of County Executive Jan Gardner

**AN ACT** to: amend Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to update and clarify transportation, environmental resource protection, and historic preservation criteria on rezoning requests.

Executive: Jan H. Gardner Date Received: August 13, 2020  
Approved: ✓ Date: 8/13/20  
Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, \_\_\_\_\_ Section(s) \_\_\_\_\_

Other: \_\_\_\_\_

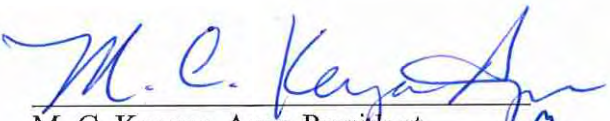
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|----------------------------|---|
| <b>Boldface</b>            | <i>Heading or defined term.</i>         |
| <u>Underlining</u>         | <i>Added to existing law.</i>           |
| [Single boldface brackets] | <i>Deleted from existing law.</i>       |
| ***                        | <i>Existing law unaffected by bill.</i> |

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to update and clarify transportation network analysis, environmental resource protection, and historic preservation criteria on rezoning requests, and to update definitions.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

  
M. C. Keegan-Ayer, President  
County Council of Frederick County,  
Maryland

**DIVISION 1. ZONING AMENDMENTS**

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**§ 1-19-3.110.4. APPROVAL CRITERIA.**

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and County Council review will include, but not be limited to:

- (1) Consistency with the comprehensive plan;
- (2) Availability of current and planned public facilities;
- (3) Adequacy of existing and planned future transportation systems;
- (4) Compatibility with existing and proposed development;
- (5) Population change [; and], including availability and location of land zoned to meet the 10-year need for residential development;
- (6) The timing of development, planned future transportation systems, and planned public facilities.
- (7) Sensitive environmental resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable; and
- (8) Historic resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable.

(B) In addition to the criteria above, approval or disapproval of a request for an individual zoning map amendment shall be granted only where a finding has been made that there was:

- (1) A substantial change in the character of the neighborhood where the property is located;
- or
- (2) A mistake in the existing zoning classification.

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**DIVISION 5. PLANNED DEVELOPMENT DISTRICTS**

**§ 1-19-10.500. PLANNED DEVELOPMENT DISTRICTS.**

**§ 1-19-10.500.1. PURPOSE AND INTENT.**

The Planned Development Districts (Planned Unit Development and Mixed Use Development) are floating zones established to provide for new development and redevelopment within identified growth areas that result in an integrated mixture of commercial, employment, residential, recreational, civic and/or cultural land uses as provided within the appropriate Frederick County

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1 Comprehensive, Community, or Corridor Plan. These uses planned and developed as a unit are  
2 intended to:

3 (A) Result in an efficient use of land and the efficient extension of public facilities;

4 (B) Allow innovative design involving flexibility not permitted within Euclidean zoning  
5 districts;

6 (C) Promote continuity of new development with existing development through building and  
7 site design, including consideration of architectural elements, landscape design, building  
8 placement, and street network;

9 (D) Promote building and site design that reduces dependence on vehicular movement through  
10 the provision of bicycle, pedestrian, and transit friendly elements which include transportation  
11 circulation networks linking internal and external residential, commercial, employment areas, and  
12 recreation, open spaces and public facilities;

13 (E) Result in an integrated mixture of uses within the Mixed Use Development District and a  
14 mixture of housing types within the Planned Unit Development District;

15 (F) Promote the protection, preservation, and integration of historic resources into the planned  
16 development through reuse, adaptive use, and rehabilitation;

17 (G) Promote the evaluation, protection, and integration of natural features and sensitive  
18 environmental resources into building and site design;

19 (H) Provide development flexibility to respond to market demands.

20  
21 **§ 1-19-10.500.2. SIZE AND LOCATION.**

22 (A) The PUD District may only be established where the tract of land receiving the PUD  
23 District has a County Comprehensive Plan Land Use designation of Low Density Residential,  
24 Medium Density Residential, or High Density Residential except as provided in § 1-19-  
25 10.500.2(D) below.

26 (B) The MXD District may only be established where the tract of land receiving the MXD  
27 District has a County Comprehensive Plan land use designation of Mixed Use Development,  
28 Office Research Industrial, or Limited Industrial except as provided in § 1-19-10.500.2(D) below.

29 (C) The Planned Development Districts may only be established where the tract of land  
30 receiving the Planned Development District has a category of Planned Service or higher as shown  
31 on the Frederick County Water and Sewerage Plan.

32 (D) The Planned Development District may be applied to a County Comprehensive Plan land  
33 use designation of Natural Resource where the Natural Resource land use designation is a minor  
34 portion of the overall tract receiving the Planned Development District. Those portions of the  
35 project having a land use designation of Natural Resource may not be included in the density  
36 calculation [but may only be developed as provided in § 1-19-10.500.9(B)(2)].

37 (E) There shall be no minimum tract size, lot area, or lot width for the Planned Development  
38 Districts.

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**§ 1-19-10.500.3. APPROVAL CRITERIA.**

The County Council may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4, the Planning Commission and County Council must find that the project adequately addresses the following criteria:

(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;

(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;

(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing and pipeline uses in the area. Factors to be evaluated include: roadway capacity, [and] level of service and safety, on-street parking impacts, access requirements, neighborhood and natural resource impacts, projected construction schedule of planned improvements, pedestrian and bicycle safety, and results of travel demand modeling assessing the change in future daily travel volumes, with and without the proposed development;

(F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the strcet network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;

(H) Natural features of the site have been adequately considered and [utilized] protected in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features

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1 connectivity, energy efficient site design, use of environmental site design or low impact  
2 development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;

3 (I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying  
4 County Comprehensive Plan land use designation(s), and any applicable community or corridor  
5 plans;

6 (J) Planned developments shall be served adequately by public facilities and  
7 services. Additionally, increased demand for public facilities, services, and utilities created by the  
8 proposed development (including without limitation water, sewer, transportation, parks and  
9 recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated  
10 as adequate or to be made adequate within established county standards[.];

11 (K) Sensitive environmental resources are protected to the maximum extent practicable; and

12 (L) All efforts to have been made to promote the protection, preservation, and integration of  
13 historic resources into the planned development through reuse, adaptive use, and rehabilitation.

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15 **§ 1-19-10.500.4. REVIEW AND APPROVAL PROCEDURES.**

16 Review and approval of the Planned Development District includes a preapplication conference,  
17 neighborhood meeting, Phase I justification and floating zone reclassification, and Phase II  
18 execution. The applicant must obtain all necessary approvals at each phase prior to proceeding to  
19 the next phase.

20 (A) *Preapplication conference.* Prior to a Phase I application submission, a preapplication  
21 conference shall be held with the [Community Development] Division. The conference is  
22 intended to provide information to the applicant regarding application requirements, review and  
23 approval procedures, neighborhood meeting requirements, discussion of development constraints  
24 and opportunities, county policy initiatives, and the County Comprehensive Plan. The applicant  
25 shall submit preapplication information in a format acceptable to the [Community Development]  
26 Division, including: a description of the tract of land for which the Planned Development District  
27 is proposed; existing and proposed land uses; existing historic and natural features; or other  
28 information as required to adequately evaluate the application.

29 (B) *Neighborhood meeting.* Prior to submitting a Phase I application the applicant shall hold a  
30 neighborhood meeting. The meeting will provide an opportunity to identify impacts that the  
31 project may have on the neighborhood surrounding the proposed project.

- 32 1. A Public notice sign shall be erected by the Applicant within 10 feet of each property  
33 line that abuts a public or private street. The sign shall note the time, date, place, and  
34 purpose of the neighborhood meeting and shall be posted at least 30 days prior to the  
35 neighborhood meeting.  
36 2. The Applicant shall notify by mail all adjoining property owners, whether separated by  
37 streets, railroads, or other rights-of-way, and homeowner associations located within 5  
38 miles of the subject property, of the time, date, place, and purpose of the neighborhood  
39 meeting.

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1           3. The Applicant shall provide a formal record of the neighborhood meeting, including  
2 the date and location of the meeting, how it was advertised, attendees, issues raised by  
3 the attendees, and responses by the applicant to address the questions and concerns  
4 raised at the meeting.  
5

6           (C) *Phase I justification and floating zone reclassification.* The procedure for Phase I approval  
7 is the same as for zoning map amendments set forth in §§ 1-19-3.110.1 through 1-19-3.110.6.

8           (1) Prior to Phase I application the tract of land receiving the proposed Planned Development  
9 District shall be classified as Planned Service or higher on the Frederick County Water and  
10 Sewerage Plan.

11           (2) Phase I approval shall include approval of a concept plan graphically illustrating the  
12 project. The concept plan shall be submitted for review as part of the Phase I application.

13           (D) *Phase II execution.* The procedure for Phase II approval shall follow the applicable  
14 subdivision or site development plan review process.

15           (1) Prior to Phase II application the Planned Development District property must be classified  
16 at least W4/S4 on the Frederick County Water and Sewerage Plan.

17           (2) Subsequent to Phase I approval and prior to or concurrent with Phase II approval the  
18 applicant shall obtain Adequate Public Facilities Ordinance (APFO) approval in accordance  
19 with Chapter 1-20 of the Frederick County Code.

20           (3) Subdivision shall occur in accordance with county subdivision regulations. Site  
21 development plan review shall occur in accordance with §§ 1-19-3.300 through 1-19-3.300.4.  
22

### 23 **§ 1-19-10.500.5. APPLICATION.**

24           A Phase I application for Planned Development District reclassification and concept plan  
25 approval must include sufficient information to provide the County Council with a basis to approve  
26 the overall concept of the project, rezone the property, and set a maximum permitted land use  
27 density, or the County Council may in its sole discretion, disapprove the rezoning request. At a  
28 minimum, a Phase I application shall include: information regarding the existing site conditions, a  
29 concept plan providing a graphic illustration of the proposed development, a justification  
30 statement, and a proposed phasing plan in accordance with the following standards:

31           (A) *Existing site conditions.* Existing site conditions information shall include the following:

32           (1) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, depicting the  
33 tract of land proposed for development with respect to surrounding properties and streets. At a  
34 minimum the map will show all streets and highways within 2,000 feet of the property proposed  
35 for development. Where available, the vicinity map shall include state assessment tax map, parcel  
36 number, and tax identification for all properties depicted.

37           (2) A boundary survey prepared and certified by a registered land surveyor within the State  
38 of Maryland. The boundary survey shall identify all easements affecting the tract of land proposed  
39 for development, and other physical encumbrances readily identified by a field inspection.

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1 (3) A transportation map indicating the location of the tract of land proposed for development,  
2 with respect to local, collector, and arterial streets, existing easements and rights-of-way on or  
3 abutting the tract of land proposed for development, all existing bicycle and pedestrian facilities,  
4 and existing and planned transit facilities including routes and stops. The transportation map scale  
5 shall be determined at the preapplication conference based on project specifics.

6 (4) A land use map at a scale of 1 inch = 100 feet, indicating the type, location, acreage, and  
7 density of all existing land uses, the general street layout and circulation pattern, including existing  
8 zoning and County Comprehensive Plan land use designation. Existing land uses shall be included  
9 to a distance of 500 feet surrounding the tract of land proposed for development.

10 (5) An aerial photograph with the tract of land proposed for development and project site  
11 clearly delineated.

12 (6) An environmental and natural features map at a minimum scale of 1 inch = 100  
13 feet. Unless otherwise specified by the [Community Development] Division, the map shall reflect  
14 the tract of land proposed for development and the first 100 feet of adjoining land or width of the  
15 adjacent lot, whichever is less, and include the following:

16 (a) Intermittent and perennial streams, drainage courses, and historic flow-ways on or  
17 within 200 feet of the tract of land proposed for development, including stream setbacks as required  
18 in § 1-19-9.400;

19 (b) Areas of 100 year floodplain as depicted by the Federal Emergency Management  
20 Agency flood insurance rate maps or amendments thereto, including floodplain and stream  
21 setbacks as required in § 1-19-9.110;

22 (c) Topography at a minimum of 5 foot contour intervals unless otherwise required by the  
23 [Community Development] Division;

24 (d) Moderate slopes (15% to <25%) and steep slopes (25% or greater);

25 (e) Wetsoils and flooding soils, including buffers;

26 (f) Tree lines, forested areas, and rock formations including historic, champion, and  
27 specimen trees and green infrastructure hubs and corridors;

28 (g) Location and type of native, exotic, and invasive vegetation;

29 (h) Jurisdictional wetlands and their buffers, including total acreage;

30 (i) Any other relevant information as required by the [Community Development] Division;

31 (7) The location and description of all sites, buildings, structures, or other objects listed on or  
32 eligible for the National Register of Historic Places, Frederick County Register of Historic Places,  
33 or as listed on the Maryland Inventory of Historic Properties.

34 (B) *Concept plan*. The concept plan shall be scaled to fit the sheet size of 24 inch x 36 inch,  
35 and shall also be submitted at 11 inch x 17 inch, and include the following:

36 (1) Generalized location and type of existing and proposed easements;

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1 (2) Generalized location, configuration, and typical dimensions of all proposed subdivision  
2 lots;

3 (3) Generalized location, configuration, and description of proposed land use areas including:  
4 land use, square footage, height, and number of stories of proposed buildings, proposed density,  
5 parking and loading areas, ingress and egress, natural features, historic and cultural features, and  
6 recreation/open space areas;

7 (4) Existing land use surrounding the subject property including zoning and County  
8 Comprehensive Plan land use designation;

9 (5) A transportation map detailing the generalized location and design of the proposed  
10 internal and external vehicular and nonvehicular transportation network, connections to existing  
11 transportation facilities, and general trip generation for the proposed land use(s).

12 (6) A table and comparative analysis providing an explanation of the project gross and net  
13 density as proposed within the PUD or MXD District compared to the gross and net density as  
14 permitted within the existing land use designation. For the purposes of calculating gross and net  
15 density the following formulas shall be used:

16 total number of dwelling units ÷ total project acreage = gross density

17 total number of dwelling units ÷ the total project buildable acreage = net density

18 The calculation of net density excludes: [floodplain, roadways, and other land proposed to be  
19 dedicated for public purposes].

- 20 a. FEMA floodplain boundaries, including 25' floodplain buffer.  
21 b. Priority forest conservation and forestation areas as listed under § 1-21-40.  
22 c. Jurisdictional wetland boundaries and 25' buffers.  
23 d. Hydrography, including perennial and intermittent streams and stream body buffer  
24 setback.  
25 e. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.  
26 f. Nonresidential components (i.e. commercial areas).  
27 g. Roadways and other land proposed to be dedicated for public purpose.

28 (7) Building and spaces visualization. The Phase I application shall include a buildings and  
29 spaces visualization component to serve as a graphical translation of the Planned Development  
30 District concept plan. This application component may utilize any visualization tool necessary to  
31 adequately demonstrate the conceptual layout of streets, buildings, open spaces, and structures in  
32 the Planned Development District. The primary purpose of this component shall be to  
33 communicate the conceptual form of the proposed development for the purpose of evaluating  
34 whether the project meets the Planned Development District provisions.

35 (8) Identification of scenic views onto the tract from surrounding roads and public areas and  
36 how impacts to these view sheds are mitigated.

37 (9) Identification of historic resources and how all efforts have been made to promote the  
38 protection, preservation, and integration of historic resources into the planned development  
39 through reuse, adaptive use, and rehabilitation.

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1 (10) Identification of sensitive environmental resources and how impacts to these resources are  
2 avoided or minimized to the maximum extent practicable. Sensitive environmental resources  
3 include but are not limited to:

- 4 a. FEMA floodplain boundaries, including 25' floodplain buffer.
- 5 b. Priority forest conservation and forestation areas as listed under § 1-21-40.
- 6 c. Jurisdictional wetland boundaries and 25' buffers.
- 7 d. Hydrography, including perennial and intermittent streams and stream body buffer  
8 setbacks; and
- 9 e. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.
- 10 f. Areas identified as green infrastructure network and/or sensitive species areas in  
11 the green infrastructure sector of the Livable Frederick Master Plan

12 (C) The justification statement. The justification statement shall address each of the approval  
13 criteria set forth above and within §§ 1-19-3.110.1 through 1-19-3.110.6 of this chapter.

14 (D) The phasing plan. The proposed phasing plan shall describe the timing and sequence for  
15 dedication of public lands and development of public facilities and utilities.

16 (E) The Phase II application shall be provided in accordance with all applicable subdivision or  
17 site development plan review requirements, in addition to other required submissions and  
18 approvals (including without limitation, Adequate Public Facilities Ordinance studies, Forest  
19 Resource Ordinance plans, sight-distance studies, and stormwater management concepts).

20 (F) A combined application for PUD and MXD Districts may be submitted where the subject  
21 property is to be divided into development areas which correspond to a different planned  
22 development category; and where each development area is identified by a separate legal  
23 description.

24 (G) Traffic analysis. Based on an approved scope of work by the county and the methodologies  
25 set forth in the *Guidelines For The Preparation Of Traffic Impact Analyses For Development*  
26 *Applications*, analyze the adequacy of the road network based on pertinent criteria from 1-  
27 19.10.500.3(e) and detail improvements, timing of improvements, and phasing of development  
28 necessary, if the impact of the development causes inadequacy of the road or a high degree of  
29 reduction of service.

30  
31 **§ 1-19-10.500.6. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE**  
32 **PUD DISTRICT.**

33 (A) *Land use permitted within the PUD District.* General land use type and location shall be  
34 approved by the County Council in concept at Phase I and specifically by the Planning  
35 Commission through site development plan review at Phase II. Land uses permitted within the  
36 PUD district are limited to:

37 (1) Residential. All residential uses including single family, duplex, townhouse, multifamily,  
38 or a continuing care retirement community (CCRC).

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1 (2) Commercial. Those uses permitted within the Village Center zoning district, indoor  
2 sports recreation facilities without racetracks, and funeral homes.

3 (3) Employment. Those uses permitted within the ORI zoning district as approved by the  
4 Planning Commission.

5 (4) Institutional. Institutional uses shall be limited to recreational and community activities,  
6 public services and facilities, health care facilities, schools, and institutional uses as provided  
7 within § 1-19-5.310 Use Table.

8 (5) Uses which are customary, accessory or associated with uses as permitted within this  
9 section or specifically approved by the Zoning Administrator including: private garages, storage  
10 spaces, tool sheds, or other similar uses.

11 (6) A CCRC PUD or a CCRC as a portion of a PUD may include related accessory uses for  
12 the benefit or convenience of the residents and their guests including but not limited to: kitchen  
13 and dining facilities, restaurants, places of worship, indoor and outdoor recreational uses, retail  
14 and banking facilities, beauty salon and barbershops, gift shops, classrooms, medical offices,  
15 medical clinic, laboratory services, exercise and vocational activity areas. A complete listing and  
16 range of square footage for each individual accessory use must be shown on the Phase I plan. The  
17 County Council may deny or reduce the size, type, location, and/or mixture of the various  
18 accessory uses if determined that it is inappropriate for the site or overall area of the CCRC.

19 (B) *Residential land use mixture within the PUD District.* A goal of the PUD district is to  
20 provide an optimal mixture of housing types, including single family dwellings, townhouses, and  
21 multifamily dwellings. It is recognized that each development project is unique and will benefit  
22 from its own mixture of housing types. The specific mixture of housing types for each  
23 development project shall be established by the County Council at Phase I, based on an evaluation  
24 of the following:

25 (1) Existing County Comprehensive Plan land use designation and the intended dwelling type  
26 and density.

27 (2) Need for a particular dwelling type based on existing and proposed residential dwelling  
28 types surrounding the tract of land receiving the PUD district.

29 (3) The County Comprehensive Plan community design policy of including a variety of  
30 dwelling types in all communities in Frederick County.

31 (4) The mixture of dwellings recommended within the County Comprehensive, Community,  
32 and Corridor Plans for the tract of land receiving the PUD district.

33 (5) The amount and type of moderately priced dwelling units provided.

34 (C) *Commercial land use mixture within the PUD District.* In establishing the mixture of land  
35 uses in the PUD District the County Council shall include an evaluation of the relationship between  
36 proposed residential land uses and surrounding existing and proposed commercial land uses. This  
37 evaluation shall establish whether existing and proposed commercial land uses can adequately  
38 provide retail, business, and personal services to the proposed residential land use. Where it is  
39 determined that existing and proposed commercial and employment land uses will not adequately

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1 provide for the proposed residential land use, a minimum amount of commercial and employment  
2 land uses shall be required as part of the proposed development. The requirement of additional  
3 commercial and employment land uses shall be determined based on an evaluation of the following  
4 factors:

5 (1) Whether the number and type of existing or proposed commercial/employment land uses  
6 located within a distance that may be reasonably expected to serve a majority of the proposed  
7 residential dwelling units adequately provide retail, business, and personal services to the proposed  
8 residential land use.

9 (2) Whether the design of the proposed development maximizes use of alternate modes of  
10 transportation (pedestrian, bicycle, and transit) reducing the need for vehicular movement between  
11 residential and commercial/employment land uses.

12 (3) Whether the proposed development reflects a land use mixture consistent with the County  
13 Comprehensive, Community, and Corridor Plans.

14 (D) *Open space/green area within the PUD District.*

15 (1) Open space/green area within the proposed PUD development shall be calculated based  
16 on gross project area, and provided at the following minimum rates:

17

| <i>Gross Density</i> | <i>Required Minimum Percentage of Open Space/Green Area Exclusive of Floodplain</i> |
|----------------------|---|
| 3-6 du/acre          | 30%   |
| 6-12 du/acre         | 35%   |
| 12-20 du/acre        | 40%   |

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19 (2) The County Council may require public parks and recreation facilities in addition to open  
20 space/green area. (See also § 1-19-10.500.8(A).)

21 (3) A reduction of not more than 50% of the open space/green area requirement may be  
22 granted where the County Council finds that open space/green area requirements are met through  
23 the use of low impact development techniques, environmental site design techniques, open space  
24 green area located in close proximity to the proposed development (to include public park  
25 facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).

26 (E) Building square footages will be used to determine the land use percentages within mixed-  
27 use buildings.

28 (F) The County Council may in its sole discretion, deny, reduce, or increase the size, type,  
29 location, and/or mixture of the various land use components if it determines that the change is  
30 appropriate for the site or overall area of the PUD.

31 (G) As part of Phase II execution, the Planning Commission may approve minor modifications  
32 to individual land use location (such as single-family detached, duplex, or townhouse), provided

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1 that the location of the overall land use component (residential) within the site has not been  
2 modified. Any change in the amount or percentage mix of commercial and/or residential  
3 development of a PUD project having Phase I approval, must be approved by the County Council  
4 under the provisions of this division.

5 (H) *Design requirements: density, setbacks, and height within the PUD district.*

6 (1) *Density.*

7 (a) Gross density of a proposed PUD development shall comply with the following  
8 table. The gross density may not exceed the maximum density specified by the County  
9 Comprehensive Plan residential land use designation of the subject property:

| <i>County Comprehensive Plan Land Use Designation</i> | <i>Dwelling Units per Acre</i> |
|---|--------------------------------|
| Low Density Residential                               | 3-6 du/ac                      |
| Medium Density Residential                            | 6-12 du/ac                     |
| High Density Residential                              | 12-20 du/ac                    |

11  
12 (b) Where the tract of land receiving the PUD District has 2 or more residential land use  
13 designations, then the density may be calculated as a weighted average of the density ranges as  
14 specified for the residential land use designations in which the PUD is proposed.

15 (c) Where the tract of land receiving the PUD District has both residential and natural  
16 resource land use designations, the density may be calculated based on the combined area of the  
17 land use designations. (See also § 1-19-10.500.9(B)(2).)

18 (d) The maximum density of the Planned Development District shall be approved at Phase  
19 I by the County Council after review and evaluation of the following factors:

- 20 1. Existing and planned availability of public facilities and utilities.
- 21 2. Access to existing or planned transportation networks with consideration that the  
22 highest density commercial, employment, and residential developments should be located near  
23 access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart  
24 growth principles and compact development.
- 25 3. The physical characteristics of the site proposed for development with particular  
26 emphasis on development constraints which may restrict achievable density and dwelling type,  
27 including natural features such as: [steep slopes and floodplain.]
  - 28 a. FEMA floodplain boundaries, including 25' floodplain buffer.
  - 29 b. Priority forest conservation and forestation areas as listed under § 1-21-40(B).
  - 30 c. Jurisdictional wetland boundaries and 25' buffers.
  - 31 d. Hydrography, including perennial and intermittent streams and stream body buffer  
32 setback.
  - 33 e. Steep slopes (over 25%) associated with hydrological features and/or erodible soils.

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- 1 f. Nonresidential components (i.e. commercial areas).
- 2 g. Roadways and other land proposed to be dedicated for public purpose.

3 4. The shape of the site proposed for development.

4 5. The design of the proposed development.

5 6. Any other relevant information that may have a bearing on the achievable density of  
6 the proposed development.

7 (e) Planned Development Districts are subject to the MPDU requirements set forth in this  
8 chapter. Density bonus will be determined as part of the Phase I review process.

9 (2) *Setbacks and height.* Setbacks and height shall be established by the Planning  
10 Commission at Phase II consistent with the general development standards as provided in § 1-19-  
11 10.500.9, reflecting the proposed development pattern and land use within the Phase I project  
12 concept plan or portion thereof, reflecting the location of the project within the county with  
13 consideration of the existing development pattern surrounding the proposed development, and  
14 consistent with the appropriate community and corridor plans.

15  
16 **§ 1-19-10.500.7. LAND USE, MIXTURE, AND DESIGN REQUIREMENTS WITHIN THE**  
17 **MXD DISTRICT.**

18 (A) *Land use permitted within the MXD District.* General land use type and location shall be  
19 established by the County Council in concept at Phase I and specifically by the Planning  
20 Commission through site development plan review at Phase II. Land uses permitted within the  
21 MXD District are limited to:

22 (1) *Residential.* Medium density and high density residential uses including single family,  
23 townhouse, and multifamily. Residential land uses shall be permitted within the limited industrial  
24 and office research industrial land use designations only as identified within the Comprehensive,  
25 Community, or Corridor Plan.

26 (2) *Commercial.* Those uses permitted within the General Commercial Zoning District  
27 Except for the following: auction house, lumber yard, mobile home sales, boat sales and service,  
28 farm equipment sales and service, carpentry, electric, plumbing, welding, printing and  
29 upholstering establishments, fencing/pool/siding contractors, agricultural products processing,  
30 bottling plant, stone monument processing and sales, bus depot, animal auction sales, and  
31 racetrack.

32 (3) *Employment.* Employment shall be limited to those uses permitted within the Office  
33 Research Industrial Zoning District.

34 (4) *Institutional.* Institutional uses shall be limited to recreational and community activities,  
35 public services and facilities, health care facilities, schools, and institutional uses as provided  
36 within § 1-19-5.310 Use Table.

37 (5) Uses which are customary, accessory or associated with permitted uses as provided within  
38 this chapter, or those accessory uses specifically approved by the Zoning Administrator.

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1 (B) *Land use mixture within the MXD District.*

2 (1) Land use mixture within the MXD District shall be established by the County Council at  
 3 Phase I in accordance with the following:

4

| <i>Land Use</i>  | <i>Minimum Percentage of Total Project</i>                             | <i>*Maximum Percentage of Total Project</i>  |
|--|--|--|
| Residential  | n/a  | 25% gross project acreage [exclusive of floodplain]  |
| Commercial (where project includes residential component)  | n/a  | 25% gross project acreage [exclusive of floodplain]  |
| Commercial (Where project does not include residential component)  | n/a  | 45% gross project acreage [exclusive of floodplain]  |
| Combined commercial and residential portions of the MXD  | n/a  | 40% gross project acreage or 50% of the gross project acreage [exclusive of floodplain], whichever is less |
| Open space/green area  | 20% of total area devoted to commercial and employment/industrial uses | n/a  |
|  | 30% of total area devoted to residential uses                          |  |
| <u><i>*Maximum Percentage of Total Project</i></u> is exclusive of FEMA floodplain boundaries, including 25' floodplain buffer, priority forest conservation and forestation areas as listed under § 1-21-40(b), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with hydrological features and/or erodible soils. |  |  |
| The remainder of the site shall be used for employment, civic/institutional, and cultural uses.  |  |  |

6

7 (2) A mixture of residential and commercial/employment land uses shall be provided within  
 8 the MXD District where applied to areas reflecting a County Comprehensive Plan land use  
 9 designation of Mixed Use Development. The proposed development shall provide a mixture of  
 10 land uses consistent with applicable County Community or Corridor Plans.

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1 (3) The County Council may require public parks and recreation facilities in addition to open  
2 space/green area. (See also § 1-19-10.500.8(A).)

3 (4) A reduction of not more than 50% of the open space/green area requirement may be  
4 granted where the County Council finds that open space/green area requirements are met through  
5 the use of low impact development techniques, environmental site design techniques, open space  
6 green area located in close proximity to the proposed development (to include public park  
7 facilities), or a combination thereof. (See also § 1-19-10.500.8(A)).

8 (C) Building square footages will be used to determine the land use percentages within mixed-  
9 use buildings.

10 (D) The County Council may in its sole discretion, deny, reduce, or increase the size, type,  
11 location, and/or mixture of the various land use components if the County Council determines that  
12 the change is appropriate for the site or overall area of the MXD and necessary to achieve the  
13 purpose and intent of the MXD District.

14 (E) As part of Phase II execution, the Planning Commission may approve minor modifications  
15 to individual land use location (such as single-family detached, duplex, or townhouse), provided  
16 that the location of the overall land use component (residential) within the site has not been  
17 modified. Any change in the amount or percentage mix of commercial and/or residential  
18 development of a MXD project having Phase I approval, must be approved by the County Council  
19 as a new Phase I application.

20 (F) *Design requirements: density, setbacks, and height within the MXD District.*

21 (1) *Density.*

22 (a) Gross density within a MXD District including residential dwelling units shall be  
23 established by the County Council at Phase I.

24 (b) The maximum density of the [Planned Development District] MXD shall be established  
25 at Phase I by the County Council after review and evaluation of the following factors:

26 1. Existing and planned availability of public facilities and utilities.

27 2. Access to existing or planned transportation networks with consideration that the  
28 highest density commercial, employment, and residential developments should be located near  
29 access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart  
30 growth principles and compact development.

31 3. The physical characteristics of the site proposed for development with particular  
32 emphasis on development constraints which may restrict achievable density and dwelling type,  
33 including natural features such as [steep slopes and floodplain] FEMA floodplain boundaries,  
34 including 25' floodplain buffer, priority forest conservation and forestation areas as listed under §  
35 1-21-40(B), jurisdictional wetland boundaries and 25' buffers, hydrography, including perennial  
36 and intermittent streams and stream body buffer setback, steep slopes (over 25%) associated with  
37 hydrological features and/or erodible soils.

38 4. The shape of the site proposed for development.

39 5. The design of the proposed development.

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1 6. Any other relevant information that may have a bearing on the achievable density of  
2 the proposed development.

3 (c) Planned Development Districts are subject to the MPDU requirements set forth in this  
4 chapter. Density bonus will be determined as part of the Phase I review process.

5 (d) Where a portion of the tract of land receiving the MXD District reflects the natural  
6 resource land use designation the density may be calculated based on the combined area of the  
7 land use designations. (See also § 1-19-10.500.9(B)(2).)

8 (2) *Setbacks and height.* Setbacks and height shall be established by the Planning  
9 Commission at Phase II consistent with the general development standards as provided in § 1-19-  
10 10.500.9, reflecting the proposed development pattern and land use within the Phase I project  
11 concept plan or portion thereof, reflecting the location of the project within the county with  
12 consideration of the existing development pattern surrounding the proposed development, and  
13 consistent with the appropriate community and corridor plans.

14 \*\*\*\*\*

15 **ARTICLE XI: DEFINITIONS**

16 \*\*\*\*\*

17 ***DISTRICT.*** A portion of the unincorporated territory of the county within which certain uniform  
18 regulations or requirements apply under this chapter.

19 ***DIVISION.*** The Frederick County Division of Planning and Permitting, and any successor to this  
20 Division.

21 ***DOG RUN, OUTSIDE.*** An enclosed outdoor area intended for the exercising and/or containment  
22 of dogs and similar animals.

23 \*\*\*\*\*

24 ***INTENSIVE SWINE FARM.*** A facility, building, tract of land or operation used for the raising,  
25 feeding or care of 250 or more animals of the porcine species.

26 ***INTERMITTENT STREAM.*** [A stream in which surface water is absent during a portion of the  
27 year as shown on the most recent 7.5 minute topographic quadrangle published by the United  
28 States Geologic Survey as confirmed by field verification.] A stream that has flowing water during  
29 certain times of the year, when groundwater provides water for stream flow. During dry periods,  
30 intermittent streams may not have flowing water. Runoff from precipitation is a supplemental  
31 source of water for stream flow. These streams are identified through field verification and as  
32 approved by the Department. The most recent county hydrography layer may be used as a guide  
33 for the preliminary establishment of possible watercourses.  
34

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1 **JUNKYARD.** Any land or structure which is used for the abandonment, sale, storage, keeping,  
2 collecting or baling of discarded materials, or used for the abandonment, demolition, dismantling,  
3 storage, or salvaging or sale of machinery, including 3 or more vehicles which are not in running  
4 condition.

5 \*\*\*\*\*  
6  
7

8 **PAWN SHOP.** Any business that engages in the retail sales of personal property and that also  
9 loans or advances money on deposit of personal property on condition of selling the same back  
10 again to the depositor.

11 **PERENNIAL STREAM.** [A stream containing surface water throughout an average rainfall year,  
12 as shown on the most recent 7.5 minute topographic quadrangle published by the United States  
13 Geologic Survey, as confirmed by field verification.] A stream that has flowing water year-round  
14 during a typical year. The water table is located above the streambed for most of the year.  
15 Groundwater is the primary source of water for stream flow. Runoff from precipitation is a  
16 supplemental source of water for stream flow. These streams are identified through field  
17 verification and as approved by the department. The most recent county hydrography layer may  
18 be used as a guide for the preliminary establishment of possible watercourses.

19 **PERMANENT CONSTRUCTION.** Any structure occupying a site for more than 180 days per  
20 year.

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