

*Amendments to be reviewed by Planning Commission
January 7, 2009*

1.) §190-14 – New language restricts original parcel size as of Aug. 1989 in RC – prohibits transfer of land to increase density.

A. Density calculations for the RC District

(1) Density

The density in the RC District is one dwelling unit per 20 acres.

(2) Original Parcel

In the RC District the number of lots allowed to be subdivided from a parcel, lot or tract shall be based on the size of the original parcel, lot or tract as of August 13, 1989.

(3) Density calculations for subdivision of lots created after August 13, 1989.

(a) Any lot or parcel that has been, or is, subdivided from an original parcel may be further subdivided only if the lot has additional enumerated development rights specifically granted to it by subdivision plat notation.

(b) The total number or development rights permitted for the original parcel, using current density standards and the original parcel size as of August 13, 1989, shall not be exceeded through further subdivision, except as necessary to allocate at least one development right to each lot or parcel currently having development rights.

(4) Any revision approved after August 13, 1989 to the acreage of any parcel, lot or tract may not be used to calculate or result in an increase in density.

2.) §190-14 – This section states waiver by PC, waiver section states by approving authority. Who grants waiver for minor subdivisions?

G. Lot size requirements

(1) Rural Conservation District - RC (Critical Area only)

(a) Subdivisions in the RC District shall consist of lots that are either:

(i) Five acres or smaller, or,

(ii) 20 acres or larger.

(b) The required lot sizes noted above may be decreased or increased through a waiver petition approved by the Planning Commission, if the Planning Commission finds that a lot size between 5 and 20 acres will result in a better design for the particular subdivision or is necessary due to the physical constraints of the tract of land.

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190-186. Waivers

- (5) The Planning Commission shall make decisions on all waiver applications for major site plans and major subdivision plans unless otherwise defined herein.
- (6) The Planning Director shall make decisions on waiver applications for minor site plans, minor subdivision plans and certificates of use unless otherwise defined herein. The Planning Director may request a recommendation from the Planning Commission on any waiver application.

3.) Decision and procedures for piers – Subdivision process requires submittal and recordation of covenants. Is a developer agreement appropriate for a Community Pier vs. covenants? Should subdivision or pier section contain specific language that SE is to be obtained prior to final plat approval for individual piers?

190-75 Piers and Related Boat Facilities (Community and Private)

- A. Number of Piers, Community Piers, Private Piers, Compensation
 - (1) Parcels and lots shall be limited to one pier.
 - (2) The owner(s) of a pier shall not be permitted to receive compensation for the use of their pier.
 - (3) Community piers are permitted as an accessory use, subject to the following:
 - (a) A community pier shall serve at least two lots.
 - (b) The right of access to a community pier for at least two dwellings shall be adequately provided for in a properly *recorded set of covenants* that incorporate maintenance agreements.

§ 190-185 Developer agreements

A. Purpose

Developer agreements shall be used when a developer is required to install public or private improvements or plantings as a condition of approval of a site plan, subdivision plan or other development approval. A developer agreement is not required if a public works agreement administered by the Department of Public Works is required for the improvement.

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4.) §190-100 - Temporary use certificates – Amendment per discussion with Co. Council

- B. Temporary anemometers and wind vane for purposes of gathering data for wind energy development.
 - (1) Minimum lot size 5 acres.
 - (2) Structure may not exceed 120 feet at top of blade.
 - (3) Must meet setback of height of structure plus 10 feet from all property lines.
 - (4) Upon expiration of use certificate the temporary structure and foundation must be removed unless a building permit is issued for a permanent facility.

5.) §190-116 Location of sewage disposal areas – Sometimes impacts may not be determined until time of development or permit application for improvements. Suggested language would allow the Planning Director to grant waiver provided the same standards as reviewed by the Planning Commission are met.

- A. For lots recorded after the effective date of this chapter, a sewage disposal area shall be located on the same lot as, and no further than 200 feet from, the use that it serves.
- B. A waiver may be granted by the approving authority for the subdivision plan *or by the Planning Director during development review* to allow a distance greater than 200 feet, provided that:

6.) §190-118 – Per County Council comments:

- C. Size limits for accessory structures
 - (1) On lots less than five acres in size, accessory residential storage buildings are limited to a cumulative total of 1,200 square feet of gross floor area or 2 ½ percent of the lot size, whichever is greater;
 - (2) On all lots, accessory residential storage buildings totaling 3,000 square feet or more, either individually or cumulatively, are required to be screened if they are located within 200 feet of a property line.

7.) §190-133 – Per County Council comments:

B. Agricultural Uses

- (1) Vegetated filter strip
 - (a) Landowners shall establish and maintain a vegetated filter strip of not less than 25 feet along the tidal shoreline ~~and tributary streams~~ of agricultural fields utilizing no-till farming practices. The filter strip shall be increased to 60 feet along tidal shorelines on those fields utilizing conventional tillage methods. All agricultural fields shall maintain a 25 foot vegetated filter strip along tributary streams.

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- (e) The ~~25-foot~~ vegetated filter strips shall be maintained until such time as the landowner is implementing, under an approved Soil Conservation and Water Quality Plan, a program of best management practices for the specific purposes of improving water quality and protecting plant and wildlife habitat; and provided that the portion of the Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the ~~25-foot~~ vegetated filter strip.

8.) 190-168 Nonconforming lots

- A.
- B. Consolidation or reconfiguration of lots
 - (1) The proposed consolidation or reconfiguration of existing lots of record within the Critical Area shall not:
 - (a) Result in a greater number or development rights, lots or dwelling units in the Critical Area than the existing configuration of all legally created lots; or
 - (b) Create any additional riparian lots; or
 - (c) Increase or Intensify impacts associated with riparian access.
 - (2) Proposed consolidation or reconfiguration of lots shall identify Habitat Protection Areas and result in no greater impacts to any Habitat Protection Area than as compared to the extent of impacts that could have resulted from the existing lot configuration. Protective measures shall be provided to minimize impacts and restoration measures to mitigate for impacts.
- C. Improvement or Development activity on nonconforming lots
 - (a) A legally existing lot that does not meet current lot size or width requirements shall not be treated as a separate lot if it is combined for zoning purposes with another lot or parcel as provided in §190-117.
 - (b) If it is not combined for zoning purposes with another lot or parcel, it may be developed, improved or reconfigured provided that the proposed improvement will comply with all other requirements of this Chapter and applicable environmental regulations, including required setbacks, lot coverage limits, preservation of habitat protection areas to include streams, wetlands and forest.
 - (c) If located within the Critical Area, a nonconforming lot may be improved if the proposed development activity is in full compliance with Critical Area purposes and requirements. The extent of development on the site shall be limited as necessary to allow compliance with Critical Area standards within the constraints of the nonconforming lot.

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- (d) If the proposed development activity does not comply with all Critical Area standards:
 - (i) If possible, the lot shall be consolidated with adjacent lots under common ownership to reduce or eliminate nonconformity and allow compliance with Critical Area standards;
 - (ii) If lot consolidation is not possible, variances may be considered in accordance with the standards for evaluating variances given in §190-182.

9.) Text amendments – Language for text amendment is already in code. Title amendment will clarify location when searching table of contents.

190-173–General Procedures for text amendments and County Council applications

D. Types of applications

This chapter section and other applicable sections of this chapter authorize the following applications to the County Council:

10.) Growth Allocation – HB1253 amendment

190-176 Applications for use of growth allocation in the Critical Area

D. Submission and review procedures

- (1) An application for a zoning map amendment requiring growth allocation shall include:
 - (a) A concept plan;
 - (b) Appropriate environmental reports, maps and studies to provide sufficient information to permit the Planning Commission to review the application for consistency with the County’s Critical Area regulations;
 - (c) Preliminary comments from Maryland Department of the Environment, Department of Natural Resources and the Army Corps of Engineers, for the resources listed within the Growth Allocation application; and
 - (d) Critical area map confirming the classification of the land area equals the requested number of acres proposed for change.
- (2) The concept plan shall consist of all application items to include show:

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- (a) Property boundaries;
- (b) Field run ~~Generalized~~ topography and natural features;
- (c) For a proposed subdivision, the general location of proposed lots, structures, and roads;
- (d) For a proposed commercial or industrial use, the general location of proposed structures, stormwater management, paved areas and open space;
- (e) ~~The plan may show a building envelope in lieu of the precise location of a building; may show the minimum and maximum lot coverage in lieu of an exact area, and may otherwise allow for flexibility, provided that appropriate precise limits are established.~~

11.) There is no provision within the revision plat section to allow the approving authority to grant a waiver. The language specifically states that a conforming lot may not be revised in a manner to make it nonconforming and a nonconforming situation may not be worsened. Mike Pullen has stated that the subdivision waiver section for lot sizes may not be applied to this section. If the language remains as is, an RC lot may not be increased beyond its current size or 5 acres unless going over 20 acres in size.

190-196 Revision plats.

C. Nonconforming situations

A revision plat shall not result in creation of a nonconforming situation or the worsening of an existing, legal nonconforming situation.

12.) Bulk requirements – The variance section (190-182) notes that a variance can not be granted for conditions of a special exception. Per the definition of bulk requirements all conditions listed in the “Regulations for Specific Land Uses” may not be varied. Should we add the words “requiring a special exception” or amend section 190-182 to prohibit a variance of all specific land use regulations?

190-208 Definitions –

BULK REQUIREMENTS – Numerical regulations that govern the size or dimension of lots and the location or dimensions of uses or structures within a certain zoning district or for a certain land use. Bulk requirements include setback, height, area, lot size, lot coverage, and width requirements. Density requirements and “Regulations for Specific Land Uses” *requiring a special exception* are not bulk requirements.

13.) Amendments to other sections of the Code.