



January 19, 2017

**TECHNICAL STAFF REPORT**

*Planning Board Meeting on February 2, 2017*

**Case No./Petitioner: ZRA-175 - Valdis Lazdins, Director, Department of Planning and Zoning**

Request: Amend Section 128.0.A.4. and Section 128.0.I.8. of the Howard County Zoning Regulations (HCZR) to exempt farms in the Rural Conservation (RC) District and farms 20 acres or larger in the Rural Residential (RR) District from Animal Shelter and Riding Academy and Stable setback requirements from dwellings on future new residential lots.

**I. BACKGROUND AND REGULATION HISTORY**

In accordance with Senate Bill 236, Howard County adopted Council Bill 1-2013 (CB-1-13) which established a Growth Tiers Map and applied Growth Tier designations to land in the rural west. CB-1-13 resulted in many properties in the RC zoning district losing residential development rights. To restore those rights the County Executive is proposing a General Plan Amendment (GPA) to revise the Growth Tiers Map.

Although the proposed GPA would not significantly increase the amount of residential development in the RC zoning district, farming operations could nevertheless be impacted as new homes develop next to agricultural land. Certain existing zoning requirements can constrain farming since adjacent residential development triggers setback requirements for accessory farm structures and uses on agricultural land, as measured from dwellings on adjacent lots. As new homes are built, neighboring farming operations could be compelled to move structures and activities farther from shared property lines, leaving less land for farming.

To mitigate such impacts two measures are being proposed; amendments to Howard County Code Section 12.111-Nuisance suits against agricultural operations (Right to Farm Law) and HCZR Sections 128.0.A.4. and 128.0.I.8. (ZRA-175). These County Code and Zoning Regulation amendments aim to encourage clear communication and mutual respect between farmers and adjacent residential property owners, while protecting farming operations.

ZRA-175 proposes to eliminate setback requirements from new residential development for farms that may wish to have an accessory farm structure or agricultural use in the future. However, the proposed amendments would not affect current agricultural setbacks in cases of existing dwellings on lots different than that of a farm, or a future dwelling on a currently recorded lot.

### Animal Shelter Setback Requirements

The 1961 HCZR contained an animal shelter setback requirement of 100 feet from any dwellings in the R-90, R-40, and R-20 districts. The R-20 district required a minimum lot area of 40,000 square feet to have livestock. This animal shelter setback requirement remained the same in the 1977 and 1985 HCZR and was extended to other residential districts, along with the 40,000 square feet minimum lot area requirement in the denser residential districts.

The 1992 Comprehensive Zoning Plan for western Howard County established the RC and RR districts. The animal shelter setback requirement was changed to 200 feet in these new districts, however; this requirement only applied from an existing dwelling on a different lot. In the 1993 Comprehensive Zoning Plan, the animal shelter setback requirements were placed in the Supplementary Zoning District Regulations and remained largely the same.

The only subsequent change was ZRA-117 in 2011, which exempted apiaries. The current regulations were established with the 2013 Comprehensive Zoning Plan.

### Riding Academies and Stables

In the 1961 Zoning Regulations, riding academies were required to obtain a special permit in the R-90, R-40, and R-20 districts. The permit required a minimum lot area of 15 acres and a 200 foot setback from property lines to a Stable use. In the 1977 HCZR, Riding Academies and Stables became a Special Exception use category allowed in the R and R-20 Districts, with a minimum lot size of five acres for three or more horses and a stable setback requirement of 200 feet from property lines. This Special Exception use category remained the same in the 1985 Zoning Regulations, and was expanded to the RC, RR, R-ED and R-20 Districts in the 1993 Zoning Regulations.

In 2011, ZRA-30 changed the Special Exception section of the Zoning Regulations to the Conditional Use section. Riding Academies and Stables were only permitted in the RC and RR Districts, and the setback requirements were 100 feet from any property line other than a public street for 20 or fewer horses, and 200 feet from any property line other than a public street for more than 20 horses.

The 2013 Comprehensive Zoning Plan established the current regulations and changed the use category from Conditional Use to a Zoning Permit.

## **II. DESCRIPTION AND EVALUATION OF PROPOSAL**

The following evaluation of ZRA-175 provides technical recommendations for each proposed text amendment. The Petitioner's complete proposed amendment text is attached to this Technical Staff Report as Exhibit A - Petitioner's Proposed Text.

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## **Section 128.0: Supplementary Zoning District Regulations**

### **1. Section 128.0.A.4: - Add setback exemptions and correct and reformat section.**

#### DPZ recommends approval of the amendment

This section contains setback requirements for structures used for the housing, boarding or sheltering of animals, and for areas used for the storage of animal excrement which typically adjoin or are adjacent to animal shelters. Animal shelters that are 500 square feet or smaller must be at least 100 feet from any existing dwelling on a different lot, while those larger than 500 square feet are required to be at least 200 feet away.

Three types of shelters are exempt from the setback requirements; those used for household pets, residential chicken keeping and apiaries. Additionally, Structures as defined in Section 103.0 are also exempt from setback requirements. However, a plain reading of the structure exemption is illogical. Therefore, DPZ has historically interpreted Section 128.0.A.4.d. to apply to the exemptions from the structure definition listed in Section 103.0.

The proposed amendment adds a fifth exemption from the setback requirements for farms in the RC District and farms 20 acres or larger in the RR District. However, the exemption would only be from dwellings on lots that are recorded after the effective date of ZRA-175. Such farms would still be subject to the animal shelter setback requirements from existing dwellings and from dwellings that are constructed on existing unimproved recorded lots.

The purpose of the RC district is “to conserve farmland and to encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the County.” ZRA-175 supports the purpose of RC zoning by allowing maximum use of farmland for agricultural purposes. However, the purpose of the RR district is “to allow low density residential development within a rural environment.” Therefore, ZRA-175 only proposes to exempt farms that exceed 20 acres in the RR district, which is the minimum parcel size required to enter the County’s Agricultural Land Preservation Program. The RR district contains many lots that are 3 acres or larger and part of a subdivision. DPZ does not recommend exempting setback requirements for such residential lots that may also want to house animals.

### **2. Section 128.0.I.8.: - Add setback exemptions.**

#### DPZ recommends approval of the amendment

Section 128.0.I contains uses related to farming and agriculture that require a special farm permit. One such use category, Riding Academies and Stables, is allowed in the RC and RR zoning districts subject to certain criteria. The criteria include minimum special setback requirements for indoor or outdoor riding arenas and for stables. Indoor or outdoor riding arenas are required to be

a minimum of 100 feet from an existing dwelling on a different lot, while stables are required to be a minimum of 200 feet from an existing dwelling on a different lot.

The proposed amendment exempts these special setback requirements for farms in the RC District and farms 20 acres or larger in the RR District. Consistent with the 128.0.A.4 amendment, this exemption would only be from dwellings on lots that are recorded after the effective date of ZRA-175.

### **III. GENERAL PLAN**

ZRA-175 is in harmony with the following PlanHoward 2030 (General Plan) policies:

#### **Policy 4.1**

“Promote additional agricultural preservation opportunities.”

ZRA-175 promotes keeping as much agricultural land as possible available for farming by removing setback requirement from farm structures to future dwellings on neighboring lots. Agriculture has historically been a valued economic activity in Howard County and the General Plan specifically seeks to protect and sustain it. This General Plan goal has been implemented through the RC zoning district. While the RC District does allow low density residential development, agriculture is identified as the preferred land use in the purpose clause. Accordingly, the proposed amendments will benefit not only farming in Howard County, but also the general public by preserving and sustaining the agricultural industry. By including farms in the RR District that are over 20 acres in the amendment, the benefits to farming and the general public significantly expand.

#### **Policy 4.4**

“Require more robust separation between cluster lots and adjoining agricultural properties.”

#### **Implementation Action A – Better Buffers**

The implementing action calls for better buffers through “fencing, landscaping or nonbuildable preservation parcels between cluster lots and adjoining agricultural properties.” Such buffers would be applied to future residential development rather than agricultural land.

### **IV. AGENCY COMMENTS**

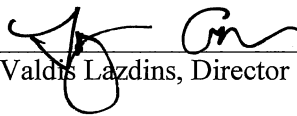
Comments from all other applicable agencies have not yet been received. Any substantive comments received from these agencies before the Planning Board Public Hearing will be forwarded to the Planning Board members before the hearing date.

**V. RECOMMENDATION**

**APPROVAL**

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-175 be **APPROVED**.

Approved by:

  
Valdis Lazdins, Director

1-19-17

Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

Exhibit A – Petitioner’s Proposed Text

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]].)

Section 128.0.A.4:

4. Animal Shelter Setback Requirements

- A. Structures used for the housing, boarding, or sheltering of animals, including but not limited to barns, buildings, hutches, sheds, roofed structures, and prefabricated moveable animal houses, and any areas used for the storage of animal excrement, shall comply with the accessory structure setback requirement for the applicable zoning district.
- B. In addition animal shelters measuring larger than 500 square feet in size shall be located a minimum of 200 feet from any existing dwelling on a different lot and animal shelters 500 square feet or smaller shall be located a minimum 100 feet from any existing dwelling on a different lot. [[The following are exempted from this requirement:]]

EXEMPTIONS:

- 1. Shelters used for household pets.
- 2. Shelters used for residential chicken keeping which comply with the requirements for such structures as provided in Section 128.0.D.
- 3. Apiaries which comply with the requirements as provided in Section 128.0.N.
- 4. Structures as defined in Section 103.0.
- 5. ANIMAL SHELTERS ON FARMS IN THE RC DISTRICT OR ON FARMS 20 ACRES OR LARGER IN THE RR DISTRICT SHALL NOT BE REQUIRED A SETBACK FROM A DWELLING ON A LOT RECORDED AFTER (Insert effective date of ZRA-175).

Section 128.0.I.8:

8. Riding Academies and Stables

Riding Academies and Stables are permitted as an accessory use to farming in the RC and RR Districts, provided that:

- a. Adequate areas for horseback riding shall be available on the site. If the operation will include off-site horseback riding, the petition must indicate the location of off-site trails and include written permission from the property owners.
- b. Minimum required setbacks:
  - (1) For an indoor or outdoor riding arena from an existing dwelling on a different lot ..... 100 feet
  - (2) For a stable from an existing dwelling on a different lot ..... 200 feet

PROVIDED, HOWEVER, RIDING ACADEMIES AND STABLES ON FARMS IN THE RC DISTRICT OR ON FARMS 20 ACRES OR LARGER IN THE RR DISTRICT SHALL NOT BE REQUIRED A SETBACK FROM A DWELLING ON A LOT RECORDED AFTER (Insert effective date of ZRA-175).

The Department of Planning and Zoning may reduce the 200 foot setback from an existing dwelling on a different lot to a distance no less than 100 feet upon a finding that the setback reduction will not adversely affect neighboring properties due to visual impact, noise, dust, odors or other causes.

- c. The site has a minimum area of five acres.
- d. Parking areas, driveways and outdoor riding areas will be located and designed to shield neighboring properties from noise, dust and odors.

Exhibit B –Text If Approved

Section 128.0.A.4:

4. Animal Shelter Setback Requirements

- A. Structures used for the housing, boarding, or sheltering of animals, including but not limited to barns, buildings, hutches, sheds, roofed structures, and prefabricated moveable animal houses, and any areas used for the storage of animal excrement, shall comply with the accessory structure setback requirement for the applicable zoning district.
- B. In addition animal shelters measuring larger than 500 square feet in size shall be located a minimum of 200 feet from any existing dwelling on a different lot and animal shelters 500 square feet or smaller shall be located a minimum 100 feet from any existing dwelling on a different lot.

Exemptions:

- 1. Shelters used for household pets.
- 2. Shelters used for residential chicken keeping which comply with the requirements for such structures as provided in Section 128.0.D.
- 3. Apiaries which comply with the requirements as provided in Section 128.0.N.
- 4. Structures as defined in Section 103.0.
- 5. Animal shelters on farms in the RC District or on farms 20 acres or larger in the RR District shall not be required to set back from a dwelling on a lot recorded after (Insert effective date of ZRA-175).

Section 128.0.I.8:

8. Riding Academies and Stables

Riding Academies and Stables are permitted as an accessory use to farming in the RC and RR Districts, provided that:

- a. Adequate areas for horseback riding shall be available on the site. If the operation will include off-site horseback riding, the petition must indicate the location of off-site trails and include written permission from the property owners.
- b. Minimum required setbacks:
  - (1) For an indoor or outdoor riding arena from an existing dwelling on a different lot ..... 100 feet
  - (2) For a stable from an existing dwelling on a different lot ..... 200 feet
 Provided, however, Riding Academies and Stables on farms in the RC District or on farms 20 acres or larger in the RR District shall not be required to set back from a dwelling on a lot recorded after (Insert effective date of ZRA-175).

The Department of Planning and Zoning may reduce the 200 foot setback from an existing dwelling on a different lot to a distance no less than 100 feet upon a finding that the setback reduction will not adversely



affect neighboring properties due to visual impact, noise, dust, odors or other causes.

- c. The site has a minimum area of five acres.
- d. Parking areas, driveways and outdoor riding areas will be located and designed to shield neighboring properties from noise, dust and odors.