# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** May 2, 2016

**TO:** Planning Commission Policy and Procedures Committee

**FROM:** Leslie B. Johnson
Zoning Administrator

**SUBJECT:** May 5, 2015 Policy and Procedures Committee Meeting – 7:00 p.m.

**Introduction**

The Policy and Procedures Committee will be meeting on May 5, 2016 at 7:00 p.m. to review and comment on the proposed 2016 Zoning Ordinance Amendment Work Program (2016 Work Program).

Enclosed as Attachments 1 and 2 are reference summary charts of the status of the 2015 Priority 1 Work Program, and the proposed 2016 Priority 1 Work Program, respectively. Attachment 3 is the 2016 Priority 1 list with a description of each item. The 2016 Priority 2 list is enclosed as Attachment 4 and consists of those items that will not be addressed this year, but will be retained for future Priority 1 consideration. Attachment 5 contains a list of new amendment requests that have been identified by the Board of Supervisors (Board), various other boards, committees, staff or citizens, since the adoption of the 2015 Work Program. Attachment 6 contains a discussion paper on Adult Day Services.

**Status of 2015 Priority 1 Work Program**

On July 28, 2015, the Board approved 37 items for the 2015 Priority 1 Work Program. Of the Priority 1 items, eight items have been adopted: Minor Revisions – which included 5 separate amendments, Donation Drop-Off Boxes, Alternative Lending Institutions and the Noise Ordinance. Furthermore, it is anticipated that 11 additional amendments will have been authorized and/or adopted by July, 2016. These include the Planned Development Commercial (PDC) and Planned Residential Mixed Use District (PRM) and Other Associated Provisions which comprise six items from the 2015 Work Program and was authorized by the Board on April 26, 2016. The other five items anticipated to be authorized are Building Height in the R-E, R-C and R-1 Districts, Commercial Vehicles in Residential Districts, Rear Yard Coverage, Special Permit Submission Requirements and 2015 State Code – Variance Provisions.

Over the past year, staff has spent time and effort on the following amendments:

- PDC/PRM District and Other Associated Provisions: There are six items on the 2015 Work Program that comprise this amendment including: 1) Commercial Revitalization Initiatives – more flexible parking reductions and 2) a review of open space and urban design issues for P Districts; 3) Gross Floor Area – Cellar Space in PDC and PRM

Districts; 4) Landscaping and Screening Waiver for Dulles Airport Access and Toll Roads; 5) FAR and other modifications to the PDC and PRM Districts, and 6) P District Sight Distance Triangle Exemption. These items have been on the Work Program for several years as the County has worked toward adoption of amendments to the comprehensive plan for revitalization areas and areas near transit stations. The proposed changes that are packaged as part of this amendment are specifically intended to establish the implementation tools related to the Board's adoption of comprehensive plan changes in theses selective areas. Preparation of the proposed amendment has included extensive public outreach including the development of a website specifically for this proposed amendment; meetings with various citizen groups and individuals that have expressed interest in the proposed changes; and in January 2016, the Planning Commission, at the request of the Board, held a public input session to collect comments on the proposed amendment prior to its formal authorization by the Board. The Planning Commission Land Use Committee met in March 2016 to consider the comments received and requested that staff make a number of changes. These changes have been incorporated into the amendment which was authorized by the Board on April 26, 2016 for public hearings by the Planning Commission on May 25, 2016 and by the Board on June 21, 2016.

- Adult Day Health Care: This amendment was added to the Priority 1 Work Program in 2015 to consider adding adult day care as a new use subject to use limitations and to determine if the use should be permitted by-right or as a special exception. This amendment was initiated from a request by the Health Care Advisory Board (HCAB) to classify Adult Day Health Care Centers (ADCs) as a medical care facility rather than most similar to a child care center as has been the longstanding determination of the current and prior Zoning Administrators. Prior to its placement on the 2015 Work Program, the Board asked staff to research adult day health care facilities to understand their operating characteristics and land use impacts and report back to the Board at a future Development Process Committee meeting. During 2015 staff researched nationally recognized characteristics of Adult Day Services and in December met with staff from the Health Department, Family Services and the County Executive's Office to discuss staff's research and present options for a possible future amendment. A copy of the discussion paper, dated December 2, 2015 is set forth as Attachment 6.
  Medical care facilities require special exception approval in most zoning districts and are required to be reviewed by the HCAB. The HCAB's justification for treating ADHCs as a medical care facility is based on several factors including that ADHCs provide therapeutic services to people who are medically frail and may have disabilities; many ADHCs accept Elderly Disabled Consumer Directed (EDCD) Waivers for Medicaid reimbursement and eligibility for these waivers require that the individual be at imminent risk for nursing home placement; and many ADHC participants have chronic medical conditions which need close monitoring by trained, professional health care staff. (See the HCAB Memo to the Board dated May 16, 2014 included as part of Attachment 6.)
  While staff does not believe reclassifying an adult care center as a medical care facility is appropriate given that the land use impacts associated with adult care are similar in nature to child care centers, staff does support establishing a new use of adult care center to

eliminate the "deemed most similar to" standard and to more appropriately address the additional standards that should apply to the care of adult individuals. In a subsequent conversation with the Chairman of the HCAB, staff agreed to develop draft text for with options for allowing an ADHC by right in certain zoning districts, similar to child care centers, subject to a review by the HCAB or to deem ADHCs as a medical care facility, which would require special exception approval in zoning districts where the use is permitted. (See Attachment 6) Staff plans to have draft text available for discussion with Board members later this summer.

- Agricultural Districts and Uses: During the Fall of 2015, staff began its review of zoning districts which permit agricultural activities in light of State Code regulations which limit local regulation of agricultural activities. Staff has conducted several outreach meetings with representatives of the Clifton and Occoquan Watershed Coalitions, the Agricultural and Forestal Districts Advisory Committee and a farm winery operator in the County. The purpose of these meetings was to identify issues associated with agricultural and agri-tourism uses including Farm Wineries, Farm Breweries and Farm Distilleries to begin to establish a framework for potential regulations which may include establishing minimum lot sizes and building setbacks from adjacent property and possible limitations on the number and extent of activities not directly related to the sale, manufacture or tasting of products produced by the farm winery, brewery or distillery. It is also noted that the General Assembly adopted changes to the Code of Virginia relating to the licensing of Farm Wineries, Farm Breweries and Farm Distilleries by defining "land zoned agriculture" and precluding the future licensing of farm wineries, breweries and distilleries on land zoned residential conservation after July 1, 2016. The two wineries currently operating in Fairfax County are located in the R-C, Residential-Conservation District. The legislation adopted by the General Assembly permits the continued operation and expansion of existing farm wineries, breweries and distilleries in the R-C District subject to special exception approval by the locality. Staff is currently evaluating this new legislation and intends to focus its immediate efforts on preparation of an amendment to establish a special exception use for the existing farm wineries located in the R-C District.

- Comprehensive Review of Article 12 to update and simplify sign regulations: Staff began working on this amendment in January 2016 with the formation of a 10 member staff review committee, which has brought together expertise in the Zoning Administration Division in the Department of Planning and Zoning (DPZ), the Department of Code Compliance (DCC), the County Attorney's Office (CAO) and the Office of Community Revitalization (OCR). Members meet twice monthly and the focus of the committee's work to date, as it relates to the overall amendment process, has been to evaluate the current Article 12 from a content neutral standpoint in light of the United States Supreme Court decision in the case of *Reed v. Town of Gilbert,* and to begin to formulate draft text that seeks to comply with the findings set forth in the Court's decision. This review is only a part of the anticipated overall update to Article 12, but it is a necessary first step towards amending the sign regulations as it will provide the legal framework and practical format to the document upon which the future, more policy oriented amendment will be based. It

is anticipated that the second phase of the amendment will address issues such as movable copy/electronic signs, as well as policies related to the size, location and number of permitted signs for a particular property. Staff plans on scheduling meetings with Board members during June and July 2016 to explain the legal matters propelling this portion of the amendment and to seek broader input on staff's proposed approach for revising Article 12. Staff anticipates bringing a draft text to a Fall meeting of the Board's Development Process Committee in order for the Board to give full consideration as to the content of the proposed revisions, as well as to identify the appropriate next steps in the overall amendment process of Article 12.

In addition to the above, staff has spent significant time researching a number of other issues including 1) issues related to allowing small scale riding lesson operations as a permitted home occupation and revising the definition of riding and boarding stables to allow more than 3 horses to be boarded before requiring special permit approval; 4) changes to the PRC District in conjunction with the Reston Master Plan Special Study – Phase II; 5) issues related to the processing and approval of parking reductions which has been partially addressed in the PDC/PRM Amendment recently authorized by the Board; and 6) updates to the outdoor lighting regulations.

Two items on the 2015 Priority 1 Zoning Ordinance Amendment Work Program, one of which was added after Board adoption on July 28, 2015 did not require an amendment. These two items concern the definitions of Public Use and Congregate Living Facilities. Both requests were prompted by concerns identified with Zoning Administrator determinations which were issued based on a site specific case. With regard to the definition of public use, it was requested that the definition of public use be clarified to clearly state that uses controlled or sponsored by other local governments are not deemed a public use for purposes of zoning. This issue stemmed from a single, unique circumstance where a previous Zoning Administrator deemed a public school owned and operated by another local jurisdiction and located within Fairfax County to be most similar to a public use for purposes of zoning. The current definition of public use includes any area, building or structure used or controlled exclusively for public purposes by the Federal Government, Commonwealth of Virginia or the Fairfax County government under the direct authority of the Board of Supervisors, Fairfax County School Board or Fairfax County Park Authority. Given that the previous determination was issued to address a single, site specific situation, the Zoning Administrator will be preparing a revised determination that will deem public facilities operated by other local jurisdictions which are not under the direct control of the Board of Supervisors, Park Authority or School Board to be deemed most similar to its actual use as set forth in the Zoning Ordinance. While this revised determination will not address the site specific issue which prompted the request, it will address future determinations. Similarly, with regard to congregate living facilities, staff was requested to review the definition and clarify whether solely providing food, transportation and tutoring constitutes "supportive services" in context of the congregate living facility definition. In January 2016, the Zoning Administrator prepared a revised determination which further clarified that a congregate living facility typically provides for housing and related specialized care, training and support services in an organized and licensed group setting to a diverse range of specific groups, which can include persons who are intellectually or developmentally disabled, or who have mental health issues or who are

handicapped and where such facilities are typically licensed by either the Virginia Department of Social Services or the Virginia Department of Behavioral Health and Development Services and would not include a facility providing housing, meals and transportation for up to 8 international students pursuing academic study. This use would be classified under the broader Category 3 special exception use category of "Dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls providing off campus residence for more than 4 unrelated persons who are students, faculty members, or otherwise affiliated with an institution of higher learning. A more detailed Zoning Administrator determination will be issued and forwarded to the Board in the near future for both of these uses. Therefore, staff is not recommending that these two amendment requests be pursued.

**Proposed 2016 Priority 1 Work Program**

The proposed 2016 Priority 1 Work Program contains 33 amendments for consideration and review. Of the 33 amendments, 12 are from the 2015 Priority 1 list, 13 have either been authorized or will be authorized for public hearings by July 2016 and 8 are new. Certain amendments were not carried over from the 2015 Priority 1 list and have been moved to the Priority 2 list, including: Commonly Accepted Pet Definition; State Code - Development in Dam Break Inundation Zones; Gross Floor Area – calculation of cellar space outside of the PDC, PRM and PTC Districts; and Residential Studios. These amendments are either no longer necessary or are based on a one time request. The Residential Studios amendment was authorized in July 2013 with a request for the Planning Commission to form a Residential Studio Committee to evaluate staff's proposal. On October 20, 2014, the Planning Commission recommended that the Board discontinue consideration of the proposed Zoning Ordinance amendment regarding Residential Studios and to recommend that there be a broader community dialogue about affordable housing, including a discussion on how best to provide for a range of housing opportunities, including Residential Studios, that will serve the County's current and future residents at all income levels. Since that time, staff has redirected its resources and has worked on other Priority 1 items. Staff recommends that Residential Studios be moved to the Priority 2 List pending further direction from the Board.

New amendments for 2016 include allowing food and beverage processing and production facilities as a by right use in the I-3 and I-4 Districts, establishing the Laurel Hill Historic Overlay District, evaluation of P-District Recreation Fees, and revising the provisions relating to telecommunication facilities as a result of State Code changes from the 2016 General Assembly. In addition there are a number of initiatives which align with the "Strategic Plan to Facilitate the Economic Success of Fairfax County" specifically Goal 3: Improving the Speed, Consistency, and Predictability of the Land Development Review Process, hereinafter referred to as "Economic Success". These amendments include: 1) Minor Lot Line Adjustments - which would add language to facilitate the minor adjustment of lot lines for corner lots and contiguous lots to allow for a more regular configuration of lot lines; 2) Minor Modification Provisions – review the minor modification provisions for rezonings, special exceptions and special permits to allow for additional flexibility in the administrative approval; 3) Parking Reductions – consider changes that would streamline the parking reduction process; and 4) Retail Initiative – consider revisions that accommodate evolving nature of retail development, update outdated definitions and further evaluate the retail sector with particular attention to food service uses.

A substantial amendment added to the Priority 1 Work Program this year is a Zoning Ordinance Diagnostic which also aligns with "Economic Success." Funds have been allocated to hire a consultant to begin an evaluation of the current structure of the Zoning Ordinance and the process for amendments as compared to other jurisdictions and to offer recommendations for modification including looking at best practices and options for pursuing an update versus a rewrite. There is no timeline associated with this amendment, although staff will be moving forward with pursuing a Request for Proposal (RFP) for this diagnostic and setting up meetings with other localities who have undergone a similar process. It is anticipated that this will be a 12-18 month endeavor.

Lastly, staff has moved Shape Factor in the R-C District from the 2015 Priority 2 List to the 2016 Priority 1 list, in response to a recent Board request. This amendment is being packaged with Building Height in the R-C, R-E and R-1 Districts and Minor Lot Line Adjustments and it is anticipated that these amendments will be brought to the Board for Authorization in June 2016.

**Conclusion**

As you may recall, the Work Program, originally initiated in 1983, contains requests for amendments to the Zoning Ordinance, which originate from the Board, Planning Commission, Board of Zoning Appeals, citizens, industry representatives, and staff. The requested changes vary from major reviews of certain portions of the Zoning Ordinance; to the addition of new provisions to accommodate new concepts and/or uses; to minor clarifying revisions. Staff has included a tentative timeline for Board authorization for the majority of these items. However, certain items are annotated with an asterisk without any projected timeline and/or are shown as TBD on Attachments 1, 2 and 3. These items require either ongoing coordination with the Board and/or other agencies or require additional public outreach and, more than likely, will not be completed within the 2016 Work Program 12 month time frame, due to finite resources and greater demands placed on staff from other Priority 1 items than originally anticipated. Staff will be present at the Committee meeting on May 5, 2016 to discuss the proposed Work Program and to respond to any questions.

**Attachments:**

Attachment 1 - Summary Chart of the Status of 2015 Priority 1 Work Program
Attachment 2 - Summary Chart of the Proposed 2016 Priority 1 Work Program
Attachment 3 - Proposed 2016 Priority 1 Zoning Ordinance Work Program
Attachment 4 - Proposed 2016 Priority 2 Zoning Ordinance Work Program
Attachment 5 - New Requests since July 1, 2015
Attachment 6 - December 2, 2015 Discussion Paper on Adult Day Services and HCAB Memo dated May 16, 2014

cc: Planning Commission
Supervisor Kathy Smith, Chair, Development Process Committee
Robert A. Stalzer, Deputy County Executive
Patricia D. Harrison, Deputy County Executive
Fred Selden, Director, DPZ
Tom Biesiadny, Director, DOT
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Barbara Byron, Director, OCR
James Patteson, Director, DPWES
Kirk Kincannon, Director, Park Authority
Jill Cooper, Executive Director, Planning Commission
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Marianne Gardner, Director, Planning Division, DPZ
Paul Shirey, Director, Code Development & Compliance Division, DPWES
Eta Davis, Economic Initiatives Coordinator
Meghan Kiefer, Regulatory Initiatives Coordinator
Lorrie Kirst, Senior Deputy Zoning Administrator
Andrew Hushour, Deputy Zoning Administrator, Ordinance Administration Branch

## *2015 Priority 1 Zoning Ordinance Amendment Work Program – Status DRAFT*

*May 2, 2016*

| Adopted | Amendment Authorized | No Amendment Necessary | Amendment Being Researched | Target Date |
|---|---|---|---|---|
| Minor Revisions – 10/6/15<br>Farmers' Markets<br>State Code 2014 – Group Residential Facility<br>Child Care – Non Resident Employee Hours<br>Telecommunication – Panel Height Metric to English equivalent | *Commercial Revitalization - More Flexible Parking Reductions (7a), Review open space and urban design issues for P Districts in CRDs and CRAs (7b)<br>Gross Floor Area – Cellar Space Calculations in PDC and PRM Districts (10)<br>Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads (11)<br>PDC and PRM Districts (18)<br>P District Sight Distance Triangle Exemption (19) | Congregate Living Facilities | Accessory Structure Size (1) | Spring 2017 |
| Donation Drop-Off Boxes - 11/17/15 | Building Height (5)* | Public Use Definition | Adult Day Health Care (2) | Fall 2016 |
| Alt. Lending Institutions - 11/17/15 | Commercial Vehicles in Residential Districts (8)* | | Agricultural Districts and Uses (3) | Fall 2016 |
| Noise – 11/17/15 | Rear Yard Coverage (22)* | | Application Fees (4) | Winter 2017 |
| | Residential Studios *[Priority 2 – No. 23]* | | College/University (6) | Spring 2017 |
| | Special Permit Submission Requirements (27)* | | Commercial Revitalization Review Certain SE Uses as By-Right (7c) | Spring 2017 |
| | State Code - 2015 Session – Variance Provisions (28)* | | Commonly Accepted Pet Definition *[Priority 2 – No. 9A]* | TBD |
| | | | Gross Floor Area – Calculation of cellar space outside of the PDC, PRM and PTC Districts *[Priority 2 – No. 17]* | TBD |
| | | | Outdoor Lighting (15) | Fall 2016 |
| | | | Parking Reductions (17) | Winter 2017 |
| | | | PRC District Density (20) | Fall 2016 |
| | | | PTC District Amendments (21) | TBD |
| | | | Riding Lessons as a Home Occupation (24) | Fall 2016 |
| | | | Sign Ordinance (26) | TBD |
| | | | State Code – Development in Dam Break Inundation Zones *[Priority 2 – No. 52]* | TBD |
| **Total Adopted: 8** | **Total Authorized: 12** | **None Required: 2** | **Total Outstanding: 15** | |

( ) Denotes paragraph reference on **DRAFT** 2016 Priority 1 Work Program

*Amendment has been authorized or will be brought to the Board for authorization by July 2016.

**Total Amendments: 37**

Attachment 1

| Carry Over from 2015 | | | New Priority 1 | |
|---|---|---|---|---|
| **Amendment Authorized** | **Amendment Being Researched** | **Target Date** | **New Amendments** | **Target Date** |
| *Commercial Revitalization - More Flexible Parking Reductions (7a), Review open space and urban design issues for P Districts in CRDs and CRAs (7b)<br>Gross Floor Area – Cellar Space Calculations in PDC and PRM Districts (10)<br>Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads (11)<br>PDC and PRM Districts - FAR (18)<br>P District Sight Distance Triangle Exemption (19) | Accessory Structure Size (1) | Spring 2017 | Food and Beverage Processing and Production (9) | Fall 2016 |
| Building Height (5) **<br>Minor Lot Line Adjustments (13) **<br>Shape Factor in the R-C District (25) ** | Adult Day Health Care (2) | Fall 2016 | Laurel Hill Historic Overlay District (12) | TBD |
| Commercial Vehicles in Residential Districts (8)* | Agricultural Districts and Uses (3) | Fall 2016 | Minor Modification Provisions (14) | TBD |
| Rear Yard Coverage (22)*** | Application Fees (4) | Winter 2017 | P District Recreation Fees (16) | Winter 2017 |
| Special Permit Submission Requirements (27)*** | College/University (6) | Spring 2017 | Parking Reduction Process (17b) | Winter 2017 |
| State Code - 2015 Session – Variance Provisions (28)*** | Commercial Revitalization Review Certain SE Uses as By-Right (7c) | Spring 2017 | Retail Initiative (23) | TBD |
| | Outdoor Lighting (15) | Fall 2016 | State Code – 2016 Session (29) | Fall 2016 |
| | Parking Reductions - Parking maximums or reduced requirements outside of Tysons (17a) | Winter 2017 | Zoning Ordinance Diagnostic (30) | TBD |
| | PRC District Density (20) | Fall 2016 | | |
| | PTC District Amendments (21) | TBD | | |
| | Riding Lessons as a Home Occupation (24) | Fall 2016 | | |
| | Sign Ordinance (26) | TBD | | |
| **Total Authorized: 13** | **Total Outstanding: 12** | | **New Amendments: 8** | |

( ) Denotes paragraph reference on Draft 2016 Priority 1 Work Program

**Total Amendments: 33**

- These amendments are included as part of the PDC/PRM Amendment and other Modifications which is scheduled for authorization on 4/26/16

** Amendments anticipated to be brought to the Board for Authorization on 6/7/16

*** Amendment anticipated to be brought to the Board for Authorization in July, 2016

## 2016 PRIORITY 1
## ZONING ORDINANCE AMENDMENT WORK PROGRAM

Below is an alphabetical list and brief description of all Priority 1 Zoning Ordinance Amendments. Any amendment that has been authorized has the scheduled hearing dates listed; otherwise, only projected authorization dates are provided. If annotated with an asterisk (*), the amendment is without a projected timeline. Highlighted items are new amendments on the Priority 1 list. All amendments listed may not be completed within the 12 month time frame covered by this Work Program, as other higher priority items may place greater demands on staff resources than originally anticipated. Finally, several amendments are annotated with the abbreviation (Economic Success), as they are directly aligned with the recommendations set forth in the "Strategic Plan to Facilitate the Economic Success of Fairfax County".

1. Accessory Structure Size (2015 Priority 1)

   Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA.

   ***Spring 2017 Authorization to Advertise***

2. Adult Day Health Care (2015 Priority 1)

   Consider adding adult day care as a new use subject to use limitation and determine if the use should be permitted by-right or subject to a special exception.

   ***Fall 2016 Authorization to Advertise***

3. Agricultural Districts and Uses (2015 Priority 1)

   Review of zoning districts which permit agricultural activities in light of amendments to the State Code limiting local regulation of agricultural activities including farm wineries, farm breweries, farm distilleries and agri-tourism/recreational activities to determine which zoning districts are appropriate for these uses and whether additional standards should be considered to address potential impacts to health, safety and welfare. Consider updating the definition of agriculture and the additional standards for temporary farmers markets to reflect contemporary activities associated with such uses.

   ***Fall 2016 Authorization to Advertise***

4. Application Fees (2015 Priority 1 and On-Going)

   Research on application fees is on-going for the next budget cycle scheduled for 2017.

   ***Winter 2017 Authorization to Advertise***

5. Building Height (2015 Priority 1)
   Consider increasing the building height for single family detached dwellings in the R-C, R-E and R-1 Districts when the impact of the increased height on adjacent properties would be mitigated.

   ***June 7, 2016 Authorization to Advertise***

6. College/University (2015 Priority 1)
   Consider defining college/university to differentiate the use from a private school of special education and revising the current parking rates for both college/university and private school of special education.

   ***Spring 2017 Authorization to Advertise***

7. Commercial Revitalization (2015 Priority 1)
   (a) In conjunction with the PDC and PRM Districts – FAR Amendment [See No. 18 below], allow more flexible parking reductions; (b) Review open space requirements and urban design issues for Planned Development District regulations when located in Commercial Revitalization Districts (CRDs) and Commercial Revitalization Areas (CRAs); (c) Review options for allowing certain special exception uses by right subject to use limitation within CRDs and CRAs including colleges and universities, hotels and Category 6 uses.

   ***(a) (b) Authorized with the PDC and PRM Districts – FAR Amendment (See No. 18 below) April 26, 2016***

   ***(c) Spring 2017 Authorization to Advertise***

8. Commercial Vehicles in Residential Districts (2015 Priority 1)
   Review definition and accessory use provisions for commercial vehicles to determine whether existing provisions are adequate and compliment Chapter 82 of the County Code.

   ***July, 2016 Authorization to Advertise***

9. Food and Beverage Processing and Production (New – Economic Success Goal 1)
   Consider adding food and beverage manufacturing, production and processing establishments as a use permitted by right in the I-3 and I-4 Districts with use limitations to address the ancillary uses often found in association with craft beverage operations such as tasting rooms and on-site retail sales.

   ***Fall 2016 Authorization to Advertise***

10. Gross Floor Area – Cellar Space (2015 Priority 1)
    Review the definition of gross floor area as to how it is calculated for underground space in areas located outside of the PTC District for the PDC and PRM Districts.

    ***Authorized with the PDC and PRM Districts – FAR Amendment (See No. 18 below) April 26, 2016***

11. Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads (2015 Priority 1)
    Consider allowing modifications or waivers for property abutting the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.

    ***Authorized with the PDC and PRM Districts – FAR Amendment (See No. 18 below) April 26, 2016***

12. Laurel Hill Historic Overlay District ( 2015 Priority 2)*
    Establish a Laurel Hill Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax County and the federal government for the former Lorton Correctional Complex.

13. Minor Lot Line Adjustments (New – Economic Success Goal 3)
    Consider adding language to facilitate the minor adjustment of lot lines for corner lots and contiguous lots to allow for a more regular configuration of lot lines, provided the adjustment of lot lines does not create any new or further aggravate any existing noncompliance.

    ***June 7, 2016 Authorization to Advertise***

14. Minor Modification Provisions (New – Economic Success Goal 3)*
    Review the Minor Modification provisions for approved Rezonings, Special Exceptions and Special Permits to identify opportunities to allow for additional flexibility in the administrative approval of minor modifications.

15. Outdoor Lighting (2015 Priority 1)
    Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and automatic teller machines to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs.

    ***Fall 2016 Authorization to Advertise***

16. P District Recreation Fees (New)
    Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts.

    ***Winter 2017 Authorization to Advertise***

17. Parking Reductions (2015 Priority 1 and New – Economic Success Goal 3 )
    (a) Consider applying parking maximums and/or reductions of the minimum parking requirements due to transit oriented areas and/or transportation demand management provisions.
    (b) Consider other changes that would streamline the parking reduction process

    ***Winter 2017 Authorization to Advertise***

18. PDC and PRM Districts – FAR (2015 Priority 1)
    Consider increasing the maximum allowable floor area ratio (FAR) as well as other provisions in the PDC and PRM Districts to facilitate the implementation of the Comprehensive Plan recommendations for Revitalization Districts and Areas, Community Business Centers and Transit Station Areas.

    ***Authorized April 26, 2016***

19. Planned Development District Sight Distance Triangle Exemption (2015 Priority 1)
    Consider modifying Section 2-505 of the Zoning Ordinance to provide for general applicability in the PDH, PDC, PRM and PTC Districts.

    ***Authorized in conjunction with the PDC and PRM Districts – FAR Amendment (See No. 18 above) April 26, 2016***

20. Planned Residential Community (PRC) District Density (2015 Priority 1)
    Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District to facilitate the implementation of the Reston Master Plan.

    ***Fall 2016 Authorization to Advertise***

21. Planned Tysons Corner (PTC) Urban District Amendments (2015 Priority 1)*
    Consider modifications to the PTC District regulations in conjunction with the amendments to the Tysons Comprehensive Plan.

    ***To be processed in conjunction with the Tysons Master Plan update***

22. Rear Yard Coverage (2015 Priority 1)
    (a) Clarify how the 30% coverage limitation within the minimum required rear yard is calculated. (b) Consider allowing modifications of the maximum 30% minimum required rear yard lot coverage requirement to be approved by the BZA as a special permit.

    ***July, 2016 Authorization to Advertise***

23. Retail Initiative (New – Economic Success Goal 3)*
    Consider improvements to the Zoning Ordinance that accommodate the evolving nature of retail development, updates outdated definitions and further evaluates the retail sector (including food service) to ensure that the community's vision for growth, redevelopment and community reinvestment can be realized.

24. Riding Lessons as a Home Occupation (2015 Priority 1)
    Consider permitting small-scale riding lesson operations as home occupations, subject to specific limitations designed to minimize impact on surrounding properties, such as the prohibition of lights, limited hours of operation and numbers of students.

    ***Fall 2016 Authorization to Advertise***

25. Shape Factor in the R-C District (2015 Priority 2)
    Consider adding a Shape Factor requirement in the R-C District

    ***June 7, 2016 Authorization to Advertise***

26. Sign Ordinance (2015 Priority 1)*
    Comprehensive review of Article 12 in light of the recent Supreme Court Decision and to update and simplify all sign regulations, including: moveable copy/electronic signs; real estate directional signs; similar free standing signs in auto parks and office parks; add special permit provisions to allow off-site commercial and residential signs based on topography or other unique circumstances; permit more flexibility for office and industrial park signs to include single tenant buildings; address temporary political campaign signs.

27. Special Permit Submission Requirements (2015 Priority 1)
    In conjunction with a special permit for an accessory dwelling unit or home professional office, require the submission of a certified dimensioned floor plan for the special permit use and principal dwelling unit that shows all ingresses and egresses, including any window egresses required under the Building Code, gross floor area for both the principal dwelling and special permit use, use of each room, and any kitchen sinks, cabinets or appliances.

    ***July, 2016 Authorization to Advertise***

28. State Code – 2015 Session (2015 Priority 1)
    (a) Update the Variance provisions

***July, 2016 Authorization to Advertise***

29. State Code – 2016 Session (Continuing)*
    Possible revisions resulting from the 2016 General Assembly

***Fall 2016 Authorization to Advertise***

30. Zoning Ordinance Diagnostic (Economic Success Goal 3)*
    Consider hiring an outside consultant to review the current structure of the Zoning Ordinance and amendment processes as compared to other jurisdictions and offer recommendations for modification including looking at best practices and options for pursuing an update versus a rewrite.

# PROPOSED PRIORITY 2 ZONING ORDINANCE AMENDMENT 2016 WORK PROGRAM

**May 2, 2016 DRAFT**

**The Following Abbreviations are used:**

Architectural Review Board (ARB)
Board of Zoning Appeals (BZA)
Business Process Redesign (BPR)
Department of Public Works and Environmental Services (DPWES)
Environmental Improvement Program (EIP)
Fairfax County Economic Advisory Commission (EAC)
Fairfax County Health Care Advisory Board (HCAB)
Planning Commission (PC)

| ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS | SOURCE |
|---|---|
| 1. Comprehensive review of accessory uses and structures, to include consideration of issues such as: | Board/PC/BZA/ Staff/Industry |
| (a) The establishment of a maximum height limitation. | |
| (b) Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses. | |
| (c) Establishment of a side yard requirement for accessory structures in the PRC District. | |
| (d) Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same. | |
| (e) Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines. | Board |
| (f) Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts. | Board |
| (g) Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects. | Board |
| (h) Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height. | Citizen |
| (i) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway. | Citizen |

| | | |
|---|---|---|
| | (j) Consider establishing a minimum distance a fence can be located from a pipestem driveway. | Citizen |
| | (k) Consider permitting electric fences on lots less than 2 acres as a deer management tool. | Citizen |
| 2. | Consider revisions to the accessory service use provisions to include: | BZA/PC |
| | (a) A clearer distinction between accessory service uses and accessory uses. | |
| | (b) The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval. | |
| 3. | Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit. | Citizen |

**ADMINISTRATION**

| | | |
|---|---|---|
| 4. | Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property. | Staff/General Assembly |
| 5. | Consider revising the cluster provisions to delete the bonus density option. | General Assembly |

**BOARDS, COMMISSIONS, COMMITTEES**

| | | |
|---|---|---|
| 6. | Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals. | Staff |
| 7. | Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval. | ARB |

**COMMERCIAL ZONING DISTRICTS**

| | | |
|---|---|---|
| 8. | Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use | Staff |

**DEFINITIONS AND USE LIMITATIONS**

| | | |
|---|---|---|
| 9. | Review the following definitions: | Staff/BZA |
| | (a) Commonly Accepted Pets *[2015 Priority 1]* | Board |

(b) Contractors' offices and shops

(c) Junk yard

(d) Riding and boarding stables

(e) Private schools

(f) Storage yard

(g) Streets

10. Add the following definitions — Staff/BPR/BZA

    (a) Establishment for production, processing, etc.

    (b) Place of worship

    (c) Storage

11. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards. — Staff

12. Clarify the meaning of "transient" in the hotel/motel definition. — BZA

13. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff. — Board/DPWES

14. Consider revising the contractors' office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes. — BZA

15. Fast Food Restaurants – Clarify the square footage and percentage use limitations for by right fast food restaurants in the commercial retail districts. *[To be considered as part of 2016 Priority 1 No. 23]* — Staff

16. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met. — Staff

17. Review the definition of gross floor as to how it is calculated outside of the PDC, PRM and PTC Districts *[2015 Priority 1]* — Staff

## GENERAL REGULATIONS

18. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area. — Board

19. Qualifying Lot and Yard Regulations – Consider the following:

| | |
|---|---|
| (a) Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses. | BPR |
| (b) Review pipestem lot and yard requirements, to include possible addition of illustrations. | BPR |
| (c) Revise provisions of lots contiguous to pipestem driveways to remove the language "serving more than one pipestem lot." | Citizen |
| (d) Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards. | Staff |
| (e) Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located | Staff |
| (f) Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding. | Board's Environmental Committee |
| (g) ~~Addition of shape factor limitations to the R-C District.~~ *[Moved to 2016 Priority 1 – No. 25]* | Board |
| (h) Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way. | Infill Study |
| (i) In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums. | Board |

20. Qualifying Use and Structure Regulations - Consider the following:

| | |
|---|---|
| (a) Consider revising the maximum number of horses that may be maintained on a lot. | No. Va. Soil & Water Conservation District |
| (b) Consider allowing chickens to be permitted on lots less than two acres in size in certain situations. | Citizen |

## HOUSING

21. Consider the following revisions to the ADU program:

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|---|---|
| (a) Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent. | Staff |

| | | |
|---|---|---|
| | (b) Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units. | Staff |
| | (c) Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less. | Staff |
| | (d) For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance. | Staff |
| | (d) Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions. | Staff |
| | (e) Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities. *[Place holder until data and resources are available to complete the required survey of independent living facilities in ADUs*] | Staff |
| | (f) Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception. | Staff |
| | (g) Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception. | Staff |
| 22. | Review the Board of Supervisors' accessory dwelling unit policy in Appendix 5 to determine whether updates are necessary. | Staff |
| 23. | Residential Studios – Establish a new use and associated use limitations for an affordable housing product generally designed for one person per unit. *[2015 Priority 1]* | Board |

## ILLUSTRATIONS

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|---|---|---|
| 24. | Add illustrations to clarify certain provisions such as the sight distance triangle and permitted encroachments into minimum required yards. | Staff |

## INDUSTRIAL ZONING DISTRICTS

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| 25. | Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment. | Board |
| 26. | Clarify use limitations in the I-5 and I-6 Districts which allow vehicle light service establishments by right. Also consider allowing this use by right in other C and I Districts. | BPR |

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| 27. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations. | Staff |

## LANDSCAPING & SCREENING

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|---|---|
| 28. Comprehensive review of landscaping and screening provisions to include: | |
| (a) Appropriateness of modification provisions. | BPR/Staff/ Industry |
| (b) Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD and public schools. | Staff/EIP |
| (c) Increase the parking lot landscaping requirements. | Tree Action Plan/EIP |
| (d) Include street tree preservation and planting requirements. | Tree Action Plan |
| (e) Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway. | Board |
| 29. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices. | Tree Action Plan |

## NONCONFORMITIES – ARTICLE 15

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| 30. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies. | Staff/BPR |

## OPEN SPACE

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| 31. Review of the open space provisions to include: | Infill Study/EIP/ Staff |
| (a) Consider the establishment of minimum sizes/dimensions for required open space areas. | |
| (b) Exempt either all or part of stormwater management dry pond facilities from the open space calculations. | |
| (c) Provide open space credit for innovative BMPs but not for non-innovative BMPs | |
| (d) Allow open space credit only for usable open space. | |

(e) Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.

(f) Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.

## OVERLAY DISTRICTS

32. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield — Board

33. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:

    ~~(a) Establish an historic overlay district for the Lorton Correctional Facility (Laurel Hill).~~ *[Moved to 2016 Priority 1 – No. 12]* — ~~Board~~

    (b) Requiring all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit. — History Commission

    (c) Establish an historic overlay district for Mason Neck. — Board

## PARKING REQUIREMENTS

34. Study parking requirements for: — Board/Staff

    (a) Funeral homes

    (b) Places of worship

    (c) Child care centers and nursery schools

35. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit. *[This item is partly included in 2016 Priority 1 – No. 17 and No. 23]* — Industry

36. Consider the following revisions to vehicle parking on lots with single family detached dwellings:

    (a) Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts. — Citizen

    (b) Limit parking for all vehicles or trailers to the front yard and only on a paved surface. — Citizen

| | |
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| 37. Clarify the meaning of "permanent availability" in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot. | Staff |

## PERFORMANCE STANDARDS

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| 38. Review the earthborn vibration performance standards. | Staff |

## PLANNED DEVELOPMENT DISTRICTS

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| 39. Consider the following revisions to the Planned Development Districts: *[Some of these items will be addressed as part of 2016 Priority 1 – No. 18]*<br><br>Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum lot size and open space requirements, the CDP/FDP submission requirements, and density credit for RPAs, streams and floodplains; Review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts and allowing the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals. | Infill Study/EIP/ EAC/PC/Staff |

## RESIDENTIAL ZONING DISTRICTS

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|---|---|
| 40. Establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception and public uses in the Occoquan. | New Millennium Occoquan Task Force/EAC |

## SITE PLANS

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| 41. For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements. | Staff |

## SPECIAL EXCEPTIONS

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|---|---|---|
| 42. | Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right. | BPR |
| 43. | Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses. | Staff |
| 44. | Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment. | Board |

## SPECIAL PERMITS

| | | |
|---|---|---|
| 45. | Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots. | BPR |
| 46. | Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests. | Staff |
| 47. | Allow BZA to modify special permit additional standards. | BPR |
| 48. | Group 1 Extraction and Excavation Uses - Consider expanding the number of property owners requiring notification for the renewal of a special permit for a quarry and revise the blasting vibration maximum resultant peak particle velocity to be consistent with state regulation 4VAC25-40-880. | Board/PC |
| 49. | Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval. | Staff/BPR |
| 50. | Group 5 Commercial Recreation Uses – Consider clarifying types of uses included in "any other similar commercial recreation use." | Staff |
| 51. | Group 9 Uses Requiring Special Regulations – Consider the following: | |
| | (a) Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure. | Board/PC |
| | (b) Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations. | Board |
| | (c) Increase the minimum 55 year age requirement for accessory dwelling units. | BZA |

## STATE CODE CHANGES

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|---|---|
| 52. Incorporate the new requirement for Development in dam break inundation zones. *[2014 Priority 1]* | General Assembly |

## SUBMISSION REQUIREMENTS

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|---|---|
| 53. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts. | Plan/Board |
| 54. Consider adding specificity to the submission requirements for Comprehensive Sign applications. *[This item will be addressed under the Comprehensive Review of Article 12 Signs – 2016 Priority 1 No. 26]* | Staff |
| 55. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications. | General Assembly |
| 56. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees. | Tree Action Plan/EIP |
| 57. Review regulations related to: | Staff/Board |
| (a) Adult video stores | |
| (b) "Doggie" day care | |
| (c) Sports arenas, stadiums | Staff/Board |
| 58. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions. | Staff |
| 59. Consider adding regulations for Farm Wineries *[To be addressed as part of 2016 Priority 1 No. 3 - Agricultural Districts and Uses]* | Board |
| 60. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use. | Staff |
| 61. Consider adding regulations for fast-casual restaurants. *[To be addressed as part of 2016 Priority 1 No. 23 - Retail Initiative]* | PC |

**Attachment 5**

**NEW AMENDMENT REQUESTS SINCE JULY 28, 2015 ENDORSEMENT OF THE 2015 ZONING ORDINANCE WORK PROGRAM**
**DRAFT May 2, 2016**

The following new amendment requests have been received:

1. Congregate Living Facilities - Consider revising the definition of Congregate Living Facilities to clarify the types of supportive services provided. (Board) **[No amendment required – addressed by interpretation]**

2. Food and Beverage Processing and Production – Consider adding food and beverage manufacturing, production and processing establishments as a use permitted by right in the I-3 and I-4 Districts with use limitations to address ancillary uses found in association with craft beverage operations such as tasting rooms and on-site retail sales. (Board) **[Priority 1 – No. 9]**

3. Minor Lot Line Adjustment - Consider adding language to facilitate the minor adjustment of lot lines for corner lots and contiguous lots to allow for a more regular configuration of lot lines, provided the adjustment of lot lines does not create any new or further aggravate any existing noncompliance. (Staff) **[Priority 1 – No. 13]**

4. Minor Modification Provisions - Review the Minor Modification provisions for approved Rezonings, Special Exceptions and Special Permits to identify opportunities to allow for additional flexibility in the administrative approval of minor modifications. (Staff) **[Priority 1 – No. 14]**

5. P-District Recreation Fees - Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts. (Board) **[Priority 1 – No. 16]**

6. Parking Reductions - Consider changes that would streamline the parking reduction process (Staff and Citizen) **[Priority 1 – No. 17b]**

7. Retail Initiative - Consider improvements to the Zoning Ordinance that accommodate the evolving nature of retail development, updates outdated definitions and further evaluates the retail sector (including food service) to ensure that the community's vision for growth, redevelopment and community reinvestment can be realized. (Staff and Citizen) **[Priority 1-No. 23]**

8. Zoning Ordinance Diagnostic – Consider hiring an outside consultant to review the current structure of the Zoning Ordinance and amendment processes as compared to other jurisdictions and offer recommendations for modification including looking at best practices and options for pursuing an update versus a rewrite. (Staff) **[Priority 1 – No. 30]**

**Attachment 6**

# Adult Care Centers Discussion
# December 2, 2015

Health Care Advisory Board (HCAB) Request

In a November 15, 2013 memorandum to the Board of Supervisors (the Board), HCAB expressed disagreement with the Zoning Administrator's determination that an "Adult Day Health Care Center" is not a medical care facility for the purposes of administration of the Zoning Ordinance. Instead, the Zoning Administrator has deemed the use to be most similar to a child care center in terms of land use impacts and use characteristics of such businesses. This has been a longstanding determination of the current and prior Zoning Administrators.

In their May 16, 2014 memorandum to the Board, HCAB requested that the Board take action to classify an adult day health care center as a medical care facility (a Category 3 Special Exception Use) rather than the current practice of deeming the use most similar to a child care center for the purposes of zoning regulation. In June, 2014 the Board's Development Process Committee reviewed the proposed 2015 Zoning Ordinance Amendment Work Program (ZOAWP). At that time, the committee requested staff research adult day health care facilities to understand their operating characteristics and land use impacts and report back at a future meeting with findings with recommendations regarding potential Zoning Ordinance amendments. Subsequently, adult day health care facilities was added to the 2015 Priority 1 list of ZOAWP and staff anticipates updating the committee on its research in the spring of 2015.

Adult Day Services – Nationally Recognized Characteristics of the Use

For the purposes of this discussion, the use being considered is an adult care center, which has been described by the National Adult Day Services Association (NADSA) as a professional care setting in which older adults, adults living with dementia, or adults living with disabilities receive individualized social, therapeutic and health services for some part of the day. Such services include interaction with other participants in planned activities appropriate for the participants; meals and snacks during their stay; personal care including help with toileting, grooming, eating and other activities of daily living; and therapeutic activities involving exercise and mental interaction for participants.

In general, NADSA recognizes three types of adult day centers:

Social – provides meals, recreation and some health-related services.

Medical/Health – provides social activities as well as more intensive health and therapeutic services.

Specialized – provides services only to specific care recipients, such as those with dementia or developmental disabilities.

NADSA recognizes that the provision of adult day care may allow individuals to delay nursing home or other assisted living placement by allowing for in-home care by a primary provider and adult day care during those times when the primary provider is not available.

Current Application of the Zoning Ordinance

Adult care uses have emerged as a land use of increasing interest to providers. Over the past years, staff of the Zoning Administration Division (ZAD) has been asked by prospective business operators about the appropriate zoning regulations for a variety of business models that provides services to adult individuals. One of the responsibilities of the Zoning Administrator is to issue determinations as to how a proposed use/business model is categorized by the Zoning Ordinance (the Ordinance) for the purposes of administration.

In terms of application of the Zoning Ordinance, businesses offering services relative to this discussion for an adult customer base have typically been classified in one of three ways:

Office –defined, in part, as any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as dentists or physicians. Facilities offering services such as medical evaluations, outpatient treatment of medical conditions (such as dialysis, chemotherapy and other treatments) and outpatient We mental health treatment are considered an office for the purposes of administration of the Zoning Ordinance.

Medical Care Facility –defined, in part, as any institution, place, building, or agency, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board, by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical or nursing attention or service as acute, chronic, convalescent, aged, physically disabled, or crippled; including but not limited to general hospitals, sanatorium, sanitarium, assisted living facility, nursing home, intermediate care facility, extended care facility, mental hospital, intellectual disability care facility, medical schools and other related institutions and facilities. For the purposes of administration of the Zoning Ordinance, a medical care facility that includes the potential for overnight stays, may receive patients suffering an immediate health care situation, and includes the potential to receive patients by ambulance or other specialized transport is classified as a medical care facility.

Child Care Center – defined as a structure, other than a dwelling or mobile home, where one (1) or more children receive care, protection and supervision on a regular basis during only part of a twenty-four (24) hour day unattended by parent or legal guardian. For the purposes of administration of the Zoning Ordinance, a business that provides care to an adult during only part of a day when they are unattended by their primary care provider has been deemed a child care center.

The table at the end of this document outlines the method of approval for each of these three uses under the Zoning Ordinance.

Discussion Regarding Zoning Administrator's Determination

As noted, the Zoning Administrator has deemed a business that offers oversight of an adult during part of the day when the adult's primary care provider is unavailable to be most similar to a child care center. HCAB has requested that the Board direct the Zoning Administrator to consider the reclassification of an adult day health care center to deem it to be a medical care facility and not most similar to a child care center. HCAB's request notes that an adult day health care center would generally encompass a business model that delivers social services, facilitates activities and crafts, and/or provides for individualized therapeutic services to adults who may be medically frail, suffer from dementia or otherwise require close monitoring.

The Zoning Administrator's determination to regulate adult care centers in the same manner as child care centers was based on the land use characteristics of the use. Staff believes they are nearly identical from a land use perspective, based on characteristics regarding the service they provide, the peak hours of operation, the physical environment in which such use is conducted, the purpose and intent of the business model, etc. The adult care center use was not determined to be most similar to a medical care facility based on several findings. First, by definition, a medical care facility is for the diagnosis or treatment of human health conditions and for providing medical care to individuals. Secondly, the Zoning Ordinance definition identifies examples of a medical care facility and, in addition to such uses as a general hospital and other facilities, it specifically identifies assisted living facilities, nursing homes, intermediate care facilities, and extended care facilities. In all of these examples, the facility provides for the diagnosis and/or treatment of an individual as the primary function of the facility. One would not go to an adult day care center seeking diagnosis or treatment of a medical nature. Additionally, all of the identified facilities typically accommodate overnight and extended stays and all such facilities typically receive patients experiencing an immediate health condition requiring medical attention, including patients arriving by ambulance or other medical transport.

On the other hand, a child care center is a structure where one or more children receive care, protection and supervision on a regular basis during only part of a twenty-four hour day unattended by a parent or legal guardian. While child care centers can include the proper administration of medications or treatments to children who have been prescribed such medication or treatment by their physician, parent or other authorized person, they do not include the diagnosis or treatment of human health conditions. This limited element of medical-related care is clearly incidental to the primary purpose of the facility, which is to provide safe and appropriate care for individuals for part of a day when they would be otherwise unattended by a parent or guardian. Staff notes that child care facilities can provide care to children who have serious physical and/or mental health conditions, but the supervision and protection of the child while a parent/guardian works or is otherwise unavailable remains the principal purpose for the facility. In light of this analysis, the Zoning Administrator determined that caring for an adult instead of a child does not change the intent and purpose of the child care center use; therefore, the determination was made long ago that an adult care center is deemed to be most similar to a child care center for the purpose of administration of the Zoning Ordinance.

Potential Zoning Ordinance Amendment

Staff does not support reclassifying an adult care center as a medical care facility, but does support establishment of a new use in the Zoning Ordinance specifically for an adult care center. Staff proposes to establish a new use of adult care center to specifically address the nature of the use, to eliminate the application of a "deemed most similar to" standard for classification and to more appropriately address the additional standards that should apply to the care of adult individuals. For purposes of discussion, staff has developed a draft definition of the adult care center use to give an indication of the direction staff proposes for the amendment:

> ADULT CARE CENTER: A structure, other than a dwelling or mobile home, where four (4) or more adults who are aged, infirmed and/or disabled and who are unattended by a family member or legal guardian receive supportive care, protection and supervision on a regular, non-residential basis during only part of a twenty-four (24) hour day. Services shall not include medical diagnosis or primary treatment of any medical condition and the center shall be licensed by the Virginia Department of Social Services, State Board of Health, Department of Behavioral Health and Developmental Services, or other State agency, as appropriate. This term shall not include a MEDICAL CARE FACILITY, ASSISTED LIVING FACILITY or NURSING FACILITY.

Staff notes that the child care center use includes some additional standards to address such factors as a minimum amount of outdoor recreation area, the type of public street on which such use can be accessed and the provision of sufficient pick-up and drop-off space. Staff's goal is to work with the appropriate State and local agencies to develop appropriate use limitations for adult care centers. Such factors may include a limit on the number of persons under care, a ratio of care providers to customers, location based on the type of street that serves the lot, limits on types of medical services provided to customers, etc. Staff proposes that adult care centers would be allowed in the zoning districts and under the same procedural requirements as currently proscribed for a child care center. Further, staff will need to consider any associated changes to the current uses of Child Care Center for Occasional Care and Home Child Care Facility to determine if it is appropriate to include an opportunity to care for adults under these circumstances.

| District | Child Care Center | Medical Care Facility | Office |
|---|---|---|---|
| R-A | Not permitted | Not permitted | Not permitted |
| R-P | Not permitted | Not permitted | By SE |
| R-C | Not permitted | Not permitted | By SE |
| R-E | By SE | By SE | By SE |
| R-1 | By SE | By SE | By SE |
| R-2 | By SE | By SE | By SE |
| R-3 | By SE | By SE | By SE |
| R-4 | By SE | By SE | By SE |
| R-5 | By SE | By SE | By SE |
| R-8 | By SE | By SE | By SE |
| R-12 | By right w/limitations<br>By SE if limitations not met | By SE | Not permitted |
| R-16 | By right w/limitations<br>By SE if limitations not met | By SE | Not permitted |
| R-20 | By right w/limitations<br>By SE if limitations not met | By SE | Not permitted |
| R-30 | By right w/limitations<br>By SE if limitations not met | By SE | By SE |
| R-MHP | By SE | By SE | Not permitted |
| C-1 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| C-2 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| C-3 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| C-4 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| C-5 | By SE | By SE | By SE |
| C-6 | By SE | By SE | By SE |
| C-7 | By SE | By SE | By SE |
| C-8 | By SE | By SE | By SE |
| C-9 | By SE | By SE | By SE |
| I-I | By right w/limitations<br>By SE if limitations not met | Not permitted | By right |
| I-1 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| I-2 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| I-3 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| I-4 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| I-5 | By right w/limitations<br>By SE if limitations not met | By SE | By right |
| I-6 | By right w/limitations<br>By SE if limitations not met | By SE | By right |

| District | Child Care Center | Medical Care Facility | Office |
|---|---|---|---|
| PDH | With FDP or by SE | With FDP or by SE | With FDP or by SE |
| PDC | With FDP or by SE | With FDP or by SE | With FDP or by SE |
| PRC | With PRC Plan or by SE | With PRC Plan or by SE | With PRC Plan or by SE |
| PRM | With FDP or by SE | With FDP or by SE | With FDP or by SE |
| PTC | With FDP or by SE | With FDP or by SE | With FDP or by SE |

# County of Fairfax, Virginia

Health Care Advisory Board

**MEMORANDUM**

**DATE:** May 16, 2014

**TO:** Board of Supervisors

**FROM:** Marlene W. Blum, Chairman
Health Care Advisory Board (HCAB)

**SUBJECT:** Adult Day Health Care Centers in the 2014 Zoning Ordinance Amendment Work Program

It is the HCAB's understanding that the 2014 Zoning Ordinance Amendment Work Program (ZOAWP) will be discussed at the Board's Development Process Committee meeting on June 10, 2014. Department of Planning and Zoning (DPZ) staff has informed the HCAB that a new Priority 2 item has been added to the proposed ZOAWP: "Consider treating adult day health care centers as a medical care center rather than being most similar to a child care center." The HCAB feels that consideration of this change is needed as soon as possible and urges the Board to put it on the Priority 1 list so that it can be worked on this year.

As the Board may remember, the HCAB raised issues concerning DPZ's handling of adult day health care centers (ADHCs) in a November 15, 2013, memo (attached). In this memo, the HCAB reported on a discussion it had with DPZ staff about how definitions are applied, what criteria are used, and how staff are trained to ensure consistency and uniformity in zoning use determinations for medical care facilities. As the Board is aware, a medical care facility is a Category 3, Special Exception Use, which requires review by County staff and the HCAB with ultimate approval by the Board. The definition of a Medical Care Facility included in the Zoning Ordinance is on page 1 of the attached HCAB memo.

The issues regarding the classification of ADHCs are discussed on pages 2 through 5 in the attached memo. The HCAB feels that ADHCs should be considered medical care facilities, not child care centers because:

- ADHCs provide therapeutic services to people who are medically frail and may have disabilities.
- Many ADHCs accept Elderly Disabled Consumer Directed (EDCD) Waivers for Medicaid reimbursement for some or most of their participants. Eligibility for an EDCD Waiver requires that the individual be at imminent risk of nursing home placement.
- Many ADHC participants have chronic medical conditions, such as dementia, Parkinson's Disease, heart disease, history of stroke, and osteoporosis. They need close monitoring by trained, professional health care staff.

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The HCAB feels that the current Zoning Ordinance's definition of medical care facilities is appropriately broad enough to provide flexibility for changes in health care delivery and financing. It is, however, DPZ's *interpretation* (which requires 24-hour permanent beds, licensed physician/medical personnel, and availability for EMS transports), not the *definition*, that excludes ADHCs from correctly being classified as medical care facilities. The definition in the Zoning Ordinance makes no mention of 24-hour residential care or EMS transports in its criteria.

Since the overarching issue of DPZ's interpretation of the Medical Facility Definition has not been resolved, the HCAB feels that the proposed work on classification of ADHCs should take place as soon as possible. Making this consideration a Priority 1 item would give the HCAB and others in the community an opportunity in the near future to make the case for including ADHCs in the Special Exception Process. Timing is important because recent trends have demonstrated an increase in the number of private ADHC providers. This shift reflects the community's growing preference for community-based services that have been typically available in more restrictive (and usually more costly) care settings such as nursing homes.

cc: Edward L. Long, County Executive
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Leslie Johnson, Zoning Administrator, Department of Planning and Zoning
Lorrie Kirst, Senior Deputy Zoning Administrator, Department of Planning and Zoning
Jill Cooper, Executive Director, Planning Commission
Planning Commission
Health Care Advisory Board

Attachment: November 15, 2013 Memorandum on Medical Care Facilities in the Fairfax County Zoning Ordinance

# County of Fairfax, Virginia

Health Care Advisory Board

**MEMORANDUM**

**DATE:** November 15, 2013

**TO:** Board of Supervisors

**FROM:** Marlene W. Blum, Chairman
Health Care Advisory Board (HCAB)

**SUBJECT:** Medical Care Facilities in the Fairfax County Zoning Ordinance.

On October 16, Leslie Johnson, Zoning Administrator, Department of Planning and Zoning (DPZ) and Lorrie Kirst, Senior Deputy Zoning Administrator, DPZ, appeared before the Health Care Advisory Board to discuss how DPZ determines that a proposed facility is a medical care facility subject to the Special Exceptions process. This discussion expanded on a previous conversation that HCAB representatives Marlene Blum and William Finerfrock had with DPZ staff on April 30. The reason for reaching out to DPZ derived from two concerns: (1) Why certain facilities that provide a wide array of medical services are classified as office use rather than medical care facilities and (2) why some adult day health care (ADHC) centers seem to be considered child daycare centers. The HCAB greatly appreciates the willingness of DPZ to take time and effort in addressing these issues, and we look forward to an increasingly productive working relationship.

At the April 30 meeting, the HCAB asked about how definitions are applied, what criteria are used, and how staff are trained to ensure consistency and uniformity in zoning use determinations for medical care facilities. The full HCAB discussed these questions again at its October 16 meeting, along with a new application from an existing ADHC provider that DPZ raised for discussion but for which formal HCAB review had not been requested. The HCAB would like to make the Board of Supervisors aware of this conversation and its outcomes.

Definition of a Medical Care Facility

As the Board of Supervisors is aware, a medical care facility is a Category 3, Special Exception Use; which requires review by County staff and the HCAB with ultimate approval by the Board. The current Zoning Ordinance defines a Medical Care Facility in Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions:

> MEDICAL CARE FACILITY: Any institution, place, building, or agency, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board, by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical or nursing attention or service as acute, chronic, convalescent, aged, physically disabled, or crippled; including but not limited to general hospitals, sanatorium, sanitarium, assisted living facility, nursing home, intermediate care facility, extended care facility, mental hospital, intellectual disability care facility, medical schools and other related institutions and

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> facilities, whether operated for profit or nonprofit, and whether privately owned or operated by a local government unit. This term shall not include a physician's office, first aid station for emergency medical or surgical treatment, medical laboratory, CONGREGATE LIVING FACILITY, GROUP RESIDENTIAL FACILITY, or INDEPENDENT LIVING FACILITY.

In addition to the definition, the zoning ordinance states that "[a]ll applications for medical care facilities shall be filed at the same time as the application for a State Medical Facilities Certificate of Public Need (COPN)." Owners and sponsors of medical care facility projects are required to secure a COPN from the State Health Commissioner prior to initiating projects such as general acute care services, perinatal services, diagnostic imaging services, cardiac services, general surgical services, organ transplantation services, medical rehabilitation services, psychiatric/substance abuse services, mental retardation services, lithotripsy services, miscellaneous capital expenditures and nursing facility services.

Therefore, applicants who are seeking or have secured a COPN raise the distinct possibility that a proposed project may be a medical care facility. In recent years, as the delivery of medical care has evolved, more patients are accessing preventive, diagnostic, and clinical treatments in an outpatient setting. However, in some cases, DPZ planners have classified these facilities as office buildings, when if fact, the services that are provided, and for which COPNs have been approved, are for medical care and treatment. Moving forward, Ms. Johnson said that the question of whether a COPN is required or has been approved will be asked of all applicants. The HCAB appreciates this clarification and believes it will mitigate future inconsistencies, but the larger issue of how the definition is applied still remains.

In discussing DPZ's use determination, Ms. Johnson explained that medical care facilities are defined broadly to provide flexibility for changes in health care delivery and financing. According to Ms. Johnson, the definition applies to those entities that provide 24 hour care with permanent beds, staffed by licensed physicians and/or licensed medical personnel, and receive and treat emergency medical services (EMS) transported patients with life threatening injuries or illness. Applications that do not meet those criteria are considered most similar to a physician's office or clinic providing services on a walk-in basis and are zoned by right, rather than special exception depending on the particular district. However, as the HCAB has pointed out to Ms. Johnson, the definition of a medical care facility makes no mention of 24-hour/7-days-a-week residential care in its list of parameters.

In fact, the definition of medical care facilities is broad enough to encompass a changing health care landscape. As population demographics change and new service demands arise, it is critical that the County have the ability to address these changes and respond to them if needed. The one constant in healthcare is change, and we can expect health care delivery and financing to evolve as providers, technology, funding, and population needs change.

Adult Day Health Care (ADHC) Facilities

For example, because adult day health care centers (ADHCs) do not provide 24-hour/7-days-a-week, resident-based health care, DPZ has generally excluded them from consideration as medical care facilities. Ms. Johnson conceded at the October 16 meeting that DPZ and the HCAB may need to agree to disagree on how best to classify ADHCs. She added that the addition of a specific use for ADHCs within the Zoning Ordinance was not warranted; given the absence of 24-hour residential care, ADHCs, she argued, were most similar to child care centers/day care facilities and may be zoned by right in certain districts rather than special exception. Moreover, given that ADHCs are licensed by the state through the Department of

Social Services (DSS), Ms. Johnson felt it was unnecessary for the County to conduct another layer of review.

The HCAB pointed out that ADHCs are indeed licensed by the state, as are assisted living facilities (ALFs), skilled nursing facilities (SNFs), and hospitals, all of which are subject to the Special Exception process and HCAB review and recommendation. Furthermore, it is the understanding of the HCAB that the Special Exception process exists to ensure there is a public process for assessing community needs, accessibility, affordability, and quality for new and expanded health care services. While we appreciate the state licensure process, the HCAB looks at criteria that the state may not. The County's Special Exception process creates a local mechanism for ensuring facilities are safe in addition to delivering a standard of care commensurate with our community's standards.

HCAB members have years of experience and expertise in health care and health care related policies. Our membership includes physicians, researchers, educators, advocates, as well as laypeople. The HCAB uses this lens when considering applications for health care facilities. The HCAB's perspective on what ADHCs are and how they provide services seems to differ significantly from DPZ's. It is our experience that ADHCs are models of care that provide therapeutic services to the medically frail and disabled. They have been in existence for over thirty years, evolving over time to include different care models and providers.

- The traditional model delivers social services, activities, crafts and some individual attention from workers;
- The medical model delivers traditional model services in addition to skilled services, including nurses, therapists, social workers, psychiatrists, geriatric physicians and others
- The Alzheimer's model delivers services specifically designed to support and care for patients with Alzheimer's and other forms of dementia

Source: http://www.longtermcarelink.net/eldercare/adult_day_care.htm

Recent trends have demonstrated an increase in the number of private ADHC providers. This shift reflects the community's growing preference for community-based services that allow older adults to remain in their homes and neighborhoods, as opposed to residential, long term-care care.

The HCAB disagrees with the DPZ that ADHCs are most similar to child daycare centers or senior centers (which DPZ referenced in their comments). The County's Adult Day Health Care Program, for example, provides community-based services that are typically available in a more restrictive care setting, like a nursing home. Without these services, individuals would be at risk for more costly institutionalized care.

While child daycare centers and senior centers provide an array of activities and services, those provided by ADHCs are of a therapeutic nature and designed by certified staff. It's not uncommon for ADHCs and Alzheimer's Day Centers to accept the Elderly Disabled Consumer Directed (EDCD) Waiver for Medicaid reimbursement for some, or most participants. The EDCD Waiver is to help people who are medically frail or unstable seek care in the community instead of a nursing home.

With a facility's acceptance of Medicaid, additional requirements are placed upon the facility to be able to meet a client's needs. EDCD Waiver eligibility requires that the individual be at

imminent risk of nursing home placement, meaning they have a medical nursing need and dependency in a specified number of Activities of Daily Living (ADLs). Examples of ADLs may include any of the following: bathing, dressing, toileting, transferring, eating/feeding or ambulation and the assistance can range from supervision and verbal cueing to being totally dependent on another person to perform the task. An individual must also have a physical or cognitive impairment requiring nursing or medical assessment, monitoring or intervention. Examples of these interventions could include blood sugar testing for a diabetic, monitoring of possible skin break down for someone with partial paralysis, administration of medications or constant supervision due to a person's wandering or inability to communicate symptoms of illness.

So although staff at a child care center assists young children with performing some ADLs, the difference with ADHCs is the level of intensity and the need for a nurse to closely monitor chronic medical conditions such as dementia, Parkinson's disease, history of stroke, osteoporosis, and heart disease.

Given the practical implications outlined above, the HCAB feels strongly that ADHCs are medical care facilities and require the same level of scrutiny to ensure, per the Zoning Ordinance, "the present and projected utilization of specialized treatment equipment available to persons proposed to be served by the application" as well as "the experience of the applicant, the financial resources available and projected for project support and operation, and the nature and qualification of the proposed staffing of the facility."

The HCAB agrees with DPZ staff that medical care facilities are defined broadly to provide flexibility for changes in health care delivery and financing. However, it is DPZ's *interpretation*, (which requires 24 hour permanent beds, licensed physician/medical personnel, and availability for EMS transports), not the *definition*, that excludes ADHCs from correctly being classified a medical care facility.

With an increase in private providers, ADHCs are just one example of how medical care is changing and how services are evolving. We would expect with the demographic changes projected for older adults that medical care and medical services will be provided in less costly, community based settings rather than institutional/residential ones. The HCAB is concerned about the County's ability, through its zoning ordinance, to respond to these and future changes in the delivery of medical care.

The HCAB stands ready to work with the Department of Planning and Zoning to fulfill its obligation to advise the Board of Supervisors on new/expanded health care services and facilities. If the Board has further questions, please contact the HCAB.

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