



**MEMORANDUM**

**TO:** Frederick County Board of Supervisors

**FROM:** M. Tyler Klein, AICP, Senior Planner

**SUBJECT:** Ordinance Amendment – Protection of Environmental Features; Off-Street Parking; & Conditional Uses in the R4 and R5 Zoning Districts

**DATE:** April 7, 2022

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**Proposal (Summary):**

This is a request to amend Chapter 165 – Zoning Ordinance to clarify and amend requirements contained in the supplementary use regulations, parking, planned development districts, and business and industrial district sections. A summary of changes to each section is outlined below.

**1. Protection of Environmental Features**

**Proposal:**

This is a proposed amendment to expand the allowance for additional disturbance of steep slopes beyond the Zoning Ordinance standard (25%).

**Current Zoning Ordinance Standards:**

The Zoning Ordinance (§165-201.09) allows the Zoning Administrator to allow the disturbance of additional small areas where the disturbance will alleviate potential health and safety problems and will not significantly impact the overall environmental quality of the site.

**2. Off-Street Parking**

**Proposal:**

This is a proposed amendment to modify the requirement for off-street parking spaces for single-family attached/townhome (SFA/TH) dwelling units from two (2) off-street spaces per unit to 2.5 off-street spaces per unit.

**Current Zoning Ordinance Standards:**

The Zoning Ordinance requires two (2) off-street parking spaces are required for all single-family dwellings and mobile homes regardless of housing type (§165-202.01 & §165-402.09). This standard has been *insufficient* for townhome communities where the off-street parking requirement is met with one (1) garage space and one (1) driveway space. Typically, in townhome communities there is limited or no on-street parking (due to driveway spacing and private road widths) and limited (if any) off-street visitor parking spaces as off-street visitor parking is not presently required by the ordinance.

### **3. Conditional Uses in the R4 & R5 Zoning Districts**

Proposal:

This is a proposed amendment to clarify the uses permissible with a conditional use permit in the Residential Planned Community (R4) and Residential Recreational Community (R5) Zoning Districts.

Current Zoning Ordinance Standards:

Per §165-501.04 of the Zoning Ordinance, the R4 District as currently worded does not require a conditional use permit be applied for to operate any use listed as a conditional use in the Zoning Ordinance. Additionally, the R5 District does not currently indicate any allowance for conditional uses. It should be noted that conditional use permits for the R5 has been interpreted to follow the conditional uses specified in the Residential Performance (RP) District, which is consistent with how the permitted uses in the R5 District are indicated.

**DRRC & Planning Commission Meetings Summary:**

The Development Review and Regulations Committee (DRRC) discussed these proposed ordinance amendments for protection of environmental features, off-street parking, conditional uses in the planned development districts at their February 24, 2022 meeting. The DRRC were supportive of the proposed changes to the above sections. These items were sent forward to the Planning Commission for further discussion.

The Planning Commission discussed these proposed ordinance amendments on April 6, 2022 and offered no comments. The items were sent forward to the Board of Supervisors for further discussion.

**Conclusion and Requested Action:**

The attached document shows the existing ordinance with the proposed changes as drafted by staff (with bold italic for text added). **Staff is seeking direction from the Board of Supervisors on whether to forward these Zoning Ordinance text amendments for public hearings.**

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MTK/pd

**Attachments:      1. Revised ordinance with additions shown in bold underlined italics.**

## **Chapter 165 – Zoning Ordinance**

### **ARTICLE II**

#### **Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses**

##### **Part 201**

##### **Supplementary Use Regulations**

§165-201.08 Protection of environmental features.

In order to protect those areas of a parcel which have environmental characteristics that make them unsuitable for development, certain portions of a development shall remain undisturbed or be protected. It is the intention of this section that the disturbance of such areas by the development process be limited. It is also the intention of this section that the large portions of the areas with such environmental characteristics be placed in open space, environmental easements, the portion of the parcel left undivided or other areas where they will remain undisturbed. It is intended that the environmental conditions on a property be reviewed as the first step in the planning process before lots or dwellings are located.

- A. The requirements of this section shall apply to land in the following zoning districts:
  - RP Residential Performance District
  - R4 Residential Planned Community District
  - R5 Residential Recreational Community District
  - MH1 Mobile Home Community District
  - B1 Neighborhood Business District
  - B2 Business General District
  - B3 Industrial Transition District
  - OM Office-Manufacturing Park District
  - M1 Light Industrial District
  - M2 Industrial General District
  - HE Higher Education District
  - RA Rural Areas District
  - MS Medical Support District
- B. All developments which require a rezoning, master development plan, subdivision design plan, site plan, or preliminary sketch plan shall preserve the following environmental features as described:
  - (1) Floodplains. Disturbance of floodplains is only permitted in accordance with the requirements of Article VII, Part 702, FP Floodplain Districts.
  - (2) Lakes and ponds. Lakes, ponds and impoundments shall remain undisturbed. The Administrator may allow the removal of a lake, pond or impoundment if it serves no useful retention, environmental, or recreational purposes.
  - (3) Wetlands, natural waterways, and riparian buffers. Disturbance of wetlands is only permitted in accordance with the requirements of the United States Army Corps of Engineers or other qualified state or federal agency. The disturbance of natural waterways and riparian buffers is prohibited, except when necessary for, and only in conformance with Part 702, the following:
    - a) Public or private utilities;

- b) Public facilities, access to a property or roads (only perpendicular riparian buffer crossings shall be permitted);
  - c) Riparian buffer restoration or enhancement projects;
  - d) Creation of wetlands;
  - e) Pedestrian, recreational and/or bicycle trails; and
  - f) The Zoning Administrator may allow for the disturbance of riparian buffers for the creation of park areas or for stormwater management purposes.
- (4) Sinkholes. No disturbance of sinkholes is allowed other than filling with nonpolluting natural materials that will not contribute to groundwater pollution.
- (5) Natural stormwater retention areas. No more than 10% of natural stormwater retention areas on a site shall be disturbed. Natural stormwater retention areas may be replaced with the approval of the Administrator by artificial stormwater facilities if the total storage capacity of the site, as well as within each drainageway, is maintained. Natural stormwater retention areas which are floodplains, wetlands, lakes or ponds shall not be disturbed or replaced.
- (6) Steep slopes. No more than 25% of steep slopes, as defined shall be disturbed or regraded. The Zoning Administrator, through a written request made at time of site plan or subdivision design plan, may allow the disturbance of additional small areas where that disturbance will ~~alleviate potential health or safety problems and will not~~ significantly denigrate the overall environmental quality of the site. ~~The Planning Commission may allow the disturbance of larger areas of steep slopes.~~
- C. In residential developments, the areas of undisturbed environmental features described in § 165-201.08B shall be located in areas of open space. However, the Zoning Administrator may allow undisturbed areas to be included in the required setback and yard areas on residential lots when the extent, location, and disturbance of environmental areas make it impractical to place the undisturbed areas in common open space. In such circumstances, environmental easements, deeds of dedication, final subdivision plats, or other legal instruments approved by the Zoning Administrator shall be required to specify the restrictions to be placed on the environmental areas.
- D. In rural preservation subdivisions, the environmental features described in § 165-201.08B, along with agricultural or locally significant soils, shall be placed within the forth-percent parcel, without undue detriment to other principles of quality subdivision design or significant loss of density, as determined by the Zoning Administrator.
- E. In commercial and industrial developments, the areas of undisturbed environmental features described in § 165-201.08B, shall be located in areas of open space, environmental easements, deeds of dedication, final subdivision plats or other legal instruments approved by the Zoning Administrator which specify the restrictions to be placed on the environmental areas.

## Chapter 165 – Zoning Ordinance

### ARTICLE II

#### Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses

##### Part 202

#### Off-Street Parking, Loading and Access

§165-202.01 Off-street parking; parking lots.

Off-street parking shall be provided on every lot or parcel on which any use is established according to the requirements of this section. This section is intended to ensure that parking is provided on the lots to be developed and to ensure that excess parking in public street rights-of-way does not interfere with traffic.

A. Required parking spaces.

1. For certain residential uses, parking requirements are contained in the zoning district regulations. In all other cases, parking spaces shall be provided with each allowed use, on the lot or within the development containing the use, according to the following table:

Use	Required Spaces
Single-family <i><u>detached</u></i> dwellings and mobile homes	<i><u>2 per unit</u></i>
<i><u>Single-family attached (townhouse) dwellings</u></i>	<i><u>2.5 per unit</u></i>

### ARTICLE IV

#### Agricultural and Residential Districts

##### Part 402

#### RP Residential Performance District

§165-402.09 Dimensional requirements.

The following dimensional requirements shall be met by uses in the RP Residential Performance District. The Zoning Administrator shall make the final determination as to the classification of housing types. Unless otherwise specified, all housing types shall be served by public sewer and water.

- H. Townhouse; back-to-back townhouse. This dwelling type consists of a single-family attached dwelling unit from ground to roof, with individual outside access. Rows of townhouses shall contain no more than eight dwelling units in a group. Back-to-back townhouses shall contain no more than 16 dwelling units in a group. Dimensional requirements shall be as follows:

Proposed Changes – Off-Street Parking Requirements  
 DRRC reviewed 2/24/2022

A. Lot Dimensions		
A1 Minimum lot area	1,500 square feet	
A2 Minimum lot width	End Unit: 22 feet	Interior Unit: 18 feet
B. Building Setbacks		
B1 From public or private road right-of-way	With garage: 25 feet	Without garage: 15 feet
B2 From off-street parking	15 feet	
B3 Side	10 feet	
B4 Rear	20 feet	Back-to-back option: N/A
C. Setbacks for unroofed decks, stoops, landings and similar features		
C1 Front from off-street parking lot	10 feet	
C2 Front from private/public road	15 feet	
C3 Side (end unit)	5 feet	
C4 Rear	5 feet	
D. Minimum Parking		
D1 Required off-street parking	<del>2</del> <u>2.5</u> per unit	
E. Height		
E1 Principal building (max)	40 feet	
E2 Accessory building (max)	20 feet	

## **Chapter 165 – Zoning Ordinance**

### **ARTICLE V**

#### **Planned Development Districts**

##### **Part 501**

#### **R4 Residential Planned Community District**

§ 165-501.04 Conditional uses.

~~Uses listed as conditional uses shall not require a conditional use permit, but all uses shall meet the specific requirements set forth in this chapter for such uses.~~

**Uses permitted through a conditional use permit in the R4 Residential Planned Community District shall include those uses allowed as conditional uses in the following zoning districts with an approved conditional use permit, provided that a conditional use permit is approved for the use:**

<b><u>RP</u></b>	<b><u>Residential Performance District</u></b>
<b><u>B1</u></b>	<b><u>Neighborhood Business District</u></b>
<b><u>B2</u></b>	<b><u>General Business District</u></b>
<b><u>B3</u></b>	<b><u>Industrial Transition District</u></b>
<b><u>OM</u></b>	<b><u>Office-Manufacturing Park District</u></b>
<b><u>M1</u></b>	<b><u>Light Industrial District</u></b>

**When a rezoning includes proffers that specifically identify allowance for designated conditional uses on the property that is subject to the rezoning, subsequent approval of a conditional use permit for any such designated conditional use(s) shall not be required as long as the use(s) takes place consistent with the terms of the proffers and any master development plan required for the property.**

**Chapter 165 – Zoning Ordinance**

**ARTICLE V**

**Planned Development Districts**

**Part 502**

**R5 Residential Recreational Community District**

**§ 165-502.05 Conditional uses**

**Uses permitted through a conditional use permit in the R5 Residential Recreational Community District shall include those uses allowed as conditional uses in the following zoning districts with an approved conditional use permit, provided that a conditional use permit is approved for the use:**

<b><u>RP</u></b>	<b><u>Residential Performance District</u></b>
<b><u>B1</u></b>	<b><u>Neighborhood Business District</u></b>
<b><u>B2</u></b>	<b><u>General Business District</u></b>

**When a rezoning includes proffers that specifically identify allowance for designated conditional uses on the property that is subject to the rezoning, subsequent approval of a conditional use permit for any such designated conditional use(s) shall not be required as long as the use(s) takes place consistent with the terms of the proffers and any master development plan required for the property.**

§165-502.05~~6~~ Design Requirements

No changes to proposed text in this section, only the section number.





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**Action:**

BOARD OF SUPERVISORS: April 13, 2022

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**RESOLUTION**

**DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING  
REGARDING CHAPTER 165, ZONING ORDINANCE**

**PROTECTION OF ENVIRONMENTAL FEATURES**

**CHAPTER 165 - ZONING**

**ARTICLE II**

**Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific  
Uses**

**PART 201 – Supplementary Use Regulations**

**§165-201.08. Protection of Environmental Features**

**OFF-STREET PARKING**

**CHAPTER 165 – ZONING**

**ARTICLE II**

**Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific  
Uses**

**PART 201-Off Street Parking, Loading and Access**

**§165-202.01 Off-Street Parking; Parking Lots**

**CONDITIONAL USES IN PLANNED DEVELOPMENT DISTRICTS**

**CHAPTER 165 – ZONING**

**ARTICLE V**

**Planning Development Districts**

**Part 501 R4 Residential Planned Community District**

**§165-501.04 Conditional Uses**

**Part 502 R5 Residential Recreational Community District**

## **§165-502.05 Conditional Uses**

**WHEREAS**, a request to amend Chapter 165 – Zoning Ordinance to Ordinance to clarify and amend requirements contained in the supplementary use regulations, parking, planned development districts, and business and industrial district sections; and

**WHEREAS**, the Development Review and Regulations Committee (DRRC) reviewed the proposed changes at their February 24, 2022 regular meeting, 2021 regular meeting; and

**WHEREAS**, the Planning Commission discussed the proposed changes at their regularly scheduled meeting on April 6, 2022 and agreed with the proposed changes; and

**WHEREAS**, the Board of Supervisors discussed the proposed changes at their regularly scheduled meeting on April 13, 2022; and

**WHEREAS**, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick County Planning Commission hold a public hearing regarding an amendment to Chapter 165 – Zoning Ordinance; and

**NOW, THEREFORE, BE IT REQUESTED** by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to consider changes to address Chapter 165 – Zoning Ordinance to clarify and amend requirements contained in the supplementary use regulations, parking, planned development districts, and business and industrial district sections. Passed this 13<sup>th</sup> day of April 2022 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Blaine P. Dunn

Shawn L. Graber

Judith McCann-Slaughter

Josh Ludwig

Robert W. Wells

J. Douglas McCarthy

### **A COPY ATTEST**

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Michael L. Bollhoefer  
Frederick County Administrator