

A Zoning Rewrite Team Green Paper

**Initial ideas for discussion and testing
to create a simpler ordinance based
on sustainability and quality of place.**



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V. Development Standards

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Introduction

One of the first tasks of the zoning rewrite team was to determine what regulatory standards applied to what zones. This, in concert with the allowed land uses, set the framework for understanding the parameters of development. The tables created to research these standards have been reproduced in the *Discovery* document. We found:

- 20 standards for commercial zones
- 10 standards for the mixed use zones
- 40 standards for the agricultural and residential zones
- 12 standards for the central business district and transit station zones

These standards regulate everything from open space, lot coverage, lot size, tract size, building height, setbacks, density by floor area ratio, density by units per acre, density by population, to lot widths and other factors.

This paper briefly outlines suggestions to create a set of development standards that focus on the patterns created by development and the appropriate built forms for each set of zones. The guiding principles of further procedural analysis are:

1. Context-sensitive development standards for infill,
2. Effective restrictions, requirements, and allowances for sustainable development, and
3. Ease of understanding and use by the public, staff, and developers.

Problem Statement

The Montgomery County Zoning Ordinance can provide a set of understandable, effective, and environmentally proactive regulating standards for development. Most development in the future will be targeted at infill situations and redevelopment of grey-fields. Greenfield development, when it does occur, should have the most stringent requirements because of its high infrastructure, environmental, and aesthetic costs. A consistent and effective set of development standards will ensure that the following objectives are met:

1. Citizens and developers are able to readily understand what land patterns and built forms are allowed.
2. Standards are easily interpreted, applied, and enforced.
3. Standards protect and enhance existing neighborhood contexts.

Background

In 1928 there were basically two sets of standards: height and area regulations. The area regulations set standards for yards and lot sizes. Even then, the Code contained some complicated formulas. For example, in the “C” Residence Zone”, the minimum lot size for a multi-unit building was 625 square feet per family and the side yard minimum was seven feet plus 2 inches for every foot of building height above forty feet.

The proliferation of zones has led to a proliferation of standards. When it was decided that the “green area” (which includes all manner of paved areas and structures) did not meet the needs of the CBDs, “public use space” was created. In many cases, these standards are not similar from one set of zones to another – open space may be called “green area”, “public use space”, “common open space”, or “outside amenity area”.

Other problems have been exacerbated by the lack of standard formatting and ordering. Why, for example, is a minimum side yard of 12 feet accompanied by a requirement that the sum of the side yards be 25 feet? Only the agricultural and residential zones have a “sum of sides” requirement.

There are now more than 60 development standards that may apply to any given application and many are ineffective and unsustainable. For example, limiting residential buildings by coverage and height rather than bulk or requiring large front setbacks (sometimes leading to useless front yards and long driveways). In other cases, developments are regulated by floor area ratio or units per acre, discouraging a mix of uses.

Development standards are currently presented in the Ordinance in tables, in paragraph form, within definitions, in footnotes, and sometimes within Article 59-A. This makes applications and the review of applications overly complicated and many times results in frustrated citizens.

Rewrite Team Solution

After a thorough review and analysis of the Ordinance, a review of literature on development standards, and research into the regulations of several other jurisdictions, the zoning rewrite team has come to several conclusions:

1. Development standards should be formatted, illustrated, and presented in the same way for all of the zones.
2. Development standards should focus on the resulting land patterns and built forms.
3. Context-sensitive standards should be required for small infill projects and existing, stable neighborhoods should be protected.
4. Redundant and ineffectual standards should be removed.
5. Environmentally sustainable building and site elements should be encouraged by the standards and, at a minimum, should not be prohibited.
6. Design and operational standards should be consolidated and based on use.

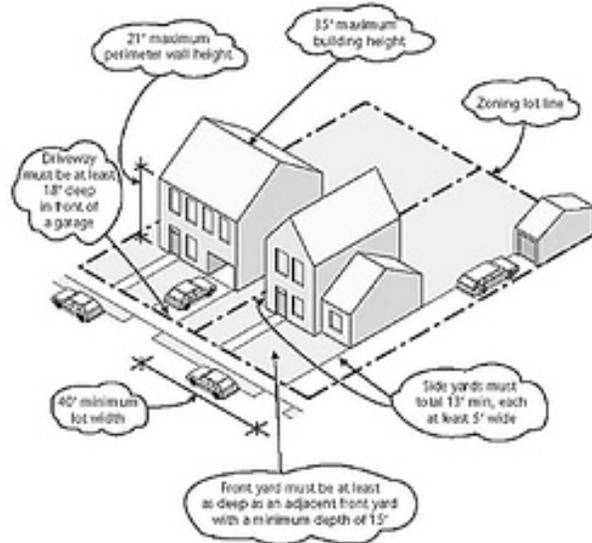
Each of these conclusions is discussed briefly below.

Formatting

When an applicant or citizen opens the code to a set of zones, the development standards required by those zones should be in the same

place and the same format. Illustrations and explanatory text, hyperlinks (in the online version), and even examples of built projects should demonstrate the intent.

Zoning District	Minimum Lot Area (1)	Minimum Lot Width (2)	Minimum Front Yard Setback (3)	Minimum Side Yard Setback (4)	Minimum Rear Yard Setback (5)	Maximum Building Height	Max. Percent Lot Coverage (6)
A-1 PRIME AGRICULTURE	80 acres**	300**	75**	50**	60**	35'	N/A
A-2 AGRICULTURE	20 acres**	200**	75**	50**	60**	35'	N/A
A-R AGRICULTURE RES.	1 acre	150'	50'	30'	30'	35'	30%
R-1 LOW-DENSITY RESIDENTIAL	20,000 sq. ft. single-family 1 acre other	100'	40'	15'	40' principal 15' accessory	35' principal 18' accessory	25%
R-2 MEDIUM-DENSITY RESIDENTIAL	10,000 sq. ft. single-family 7,000 sq. ft. per unit 2.5 fam. 1 acre other	80' single-family 140' two-family 150 feet other	30' residential 40' other	10' residential 15' other 10' accessory	30' residential 40' other 10' accessory	35' principal 18' accessory	30%
R-3 HIGH-DENSITY RESIDENTIAL	6,000 sq. ft. single-family 5,500 sq. ft. per unit two-family 4,000 s.f. per unit multi-family 20,000 s.f. other	60' single-family 110' two-family 150' other	25' residential 40' other	8' single-family 10' other 15' other 8' accessory	25' residential 40' other 10' accessory	35' principal 18' accessory	35%



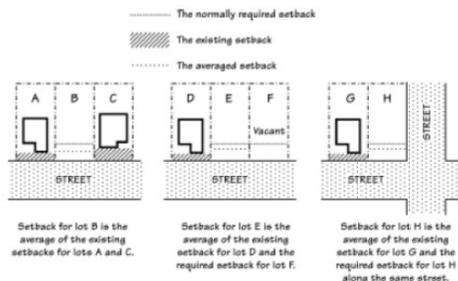
Land Patterns & Built Forms

The units-per-acre standard is redundant when units must be placed on minimum lot sizes; lot sizes have a larger impact on the visual pattern of development. Setbacks,

open space, and the bulk of buildings also determine the visual pattern of development and should remain regulated. Height should be dictated by a maximum number of feet from grade and illustrated for interpretation on sloped lots, etc. Stories do not determine the built form of a building: 40 feet may be 2 retail floors, 3 office floors, or 4 residential floors (although floor to floor dimensions do have a place in creating sustainable developments). Our analysis of the “mansionization” matter and other issues of predictability suggest that floor area ratio (FAR) is a better way to enforce bulk dimensions of any built form. FAR, in combination with minimum lots size, should result in more context-sensitive development.

Context Standards

Standards based on established surrounding buildings, rather than strict rules, should govern in certain cases. Established building lines, for example, provide a better visual solution for street edges and rear yards. Setbacks can similarly be “equal to adjacent” in these cases.



In other cases, where the context is being established, such as greyfield

development, build-to lines may be incorporated.

Redundant and Ineffectual Standards

As previously mentioned, there are many examples of redundant and ineffectual standards: stories/heights, units per acre/lot sizes (unit sizes are already regulated) and side setbacks/sum of side setbacks. Other standards can be generalized: setbacks from a national historic park, location of an accessory structure, and solar access for residential zones, among others.

Open space, as previously discussed, is another term that has numerous permutations. One strategy is simply to have one standard with different parameters/objectives in the each zone. For example, a standard of 10% open space in a commercial zone may require plaza space, tree canopy, seating, etc. In a residential zone, open space may simply require permeable area.

Environmental Sustainability

Standards must take into account technologies that make sites and buildings more sustainable. An exemption from height control for solar panels is one example; a greenhouse within a side setback is another. Allowing overhangs for shade structures to limit summer sunlight and incorporating stormwater best management practices are questions that may require more research. A special team will explore these standards in more detail and will follow up with a specific green paper on incorporating sustainability measures into the Code.

Design and Operational Standards

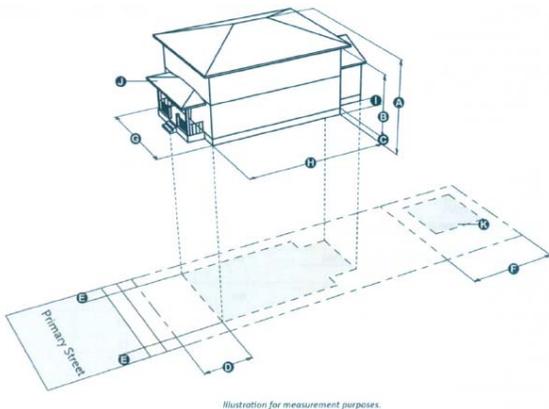
Uses that require surface parking, structured parking, drive through service or those that can create street walls should have standards

for compatibility and to encourage walking and bicycling. Many jurisdictions use standards for articulation, entry features, fenestration, landscaping, signs, parking location, lighting, podium setbacks, and outdoor storage. These types of regulations should be explored to ensure sensitive, vibrant, and sustainable development.

Summary & Example

Development standards, both dimensional and design, should be easily understandable and should effectively create the qualities of place a community envisions.

An example of a format that provides many of the solutions we have been researching is from Denver’s draft ordinance:



This diagram is paired with a table of standards and provides all of the dimensional information necessary for a set of eight zones.

HEIGHT	All Districts									
	1-Story	2/2.5 Story								
A Stories (max)	1	2.5								
A Feet, pitched roof (max)	21'	30'								
Feet, flat roof (max)	16'	25'								
B Wall Plate Height (max)	11'	20'								
C Finished Ground Floor Height (min/max)	1'2"-6"	1'2"-6"								
Front Facing Roof Gable End Width (max)	30'	30'								
Side Facing Roof Gable End Width (max)	50'	30'								

ZONE LOT	All Districts							
	E-SU-A	E-SU-B	E-SU-C	E-SU-D	E-SU-E	E-TU-A	E-TU-B	E-TH-2
Zone Lot Size (min)	3,000 ft ²	4,500 ft ²	6,000 ft ²	6,000 ft ²	9,000 ft ²	4,500 ft ²	5,500 ft ²	4,500 ft ²
Zone Lot Width (min)	10'	10'	10'	10'	10'	10'	10'	10'
Primary Structures per Zone Lot (min/max)	1/1	1/1	1/1	1/1	1/1	1/1	1/1	1/1
USE								
Dwelling Units per Primary Structure (min/max)	1/1	1/1	1/1	1/1	1/1	1/1	1/1	1/1
SETBACKS								
Primary Street, block sensitive setback required (see Sec. 13.1.1.3)	yes	yes	yes	yes	yes	yes	yes	no
Primary Street, where block sensitive Setback does not apply (min)	15'	15'	15'	15'	20'	15'	15'	15'
Side Street (min)	10'	10'	10'	10'	15'	10'	10'	10'
Side, interior (min)	5'	5'	5'	5'	5'	5'	5'	5'
Rear, as a % of lot depth (min)	35%	35%	45%	45%	55%	30%	35%	30%
CONFIGURATION								
Front Wall Width Without Offset (max)	30'	30'	30'	30'	60'	30'	30'	30'
Front Wall Offset Depth (min)	10'	10'	10'	10'	10'	10'	10'	10'
Side Wall Length Without Offset (max)	50'	50'	50'	50'	70'	50'	50'	50'
Side Wall Offset Depth (min)	5'	5'	5'	5'	5'	5'	5'	5'
Front Facing Attached Garage Door Width (max)	30% of width of front wall							
ENTRY FEATURES								
Optional Entry Features (see Sec. 4.3.3)	(1) Front Porch; or (2) Stoop							
PARKING								
Parking and Drive Lot Coverage in Primary Street Setback/Overall (max)	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%
With Alley Access	25%/25%	25%/25%	25%/25%	25%/25%	25%/25%	25%/25%	25%/25%	25%/25%
Without Alley Access, 60' lot width and less	25%	25%	25%	25%	25%	25%	25%	25%
Without Alley Access, greater than 60' lot width	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%	15%/25%
Parking Access (see Sec. 10.1.1.3 for exemptions)	(1) From alley; or (2) Street access allowed when no alley present							
Parking Location	(1) Enclosed in an attached garage; (2) Enclosed in a detached garage; (3) In a carport; or (4) Unenclosed on a parking pad							
ACCESSORY STRUCTURES								
Attached Garage Allowed	May not project closer to primary street setback than any other part of facade							
Detached Accessory Structures Allowed (see Sec. 4.3.3)	(1) Detached garage; and (2) Detached utility building							
Detached Accessory Dwelling Unit Allowed (see Sec. 4.3.4)	E-SU-C1; E-SU-D1; E-SU-E1; E-TU-A; E-TU-B; E-TH-2							

Our goal is to create an ordinance that:

1. Provides appropriate, effective, and predictive development standards and
2. Maintains and enhances existing established neighborhoods, while promoting more sustainable infill and mixed-use development.

We think these initial suggestions should spark a dialogue to help us achieve the above objectives.

Selected Resources

Texts:

- Anderson, Robert, *Anderson’s American Law of Zoning*, 4th ed, New York, Clark Boardman, Callaghan, 1996.
- Elliott, Donald, *A Better Way to Zone*, Washington DC, Island Press, 2008.

Freilich, Robert, et.al, *21st Century Land Development Code*, Chicago, APA, 2008.

Kushner, James, *Comparative Urban Planning Law*, Carolina Academic Press, 2003.

Rohan, Patrick, *Zoning and Land Use Controls*, Matthew Bender/Lexis Nexis, 2001.

81 Spooner Road, LLC v Town of Brookline (case heard by the Massachusetts Supreme Judicial Court upholding FAR restrictions on residential buildings)

Campoli, Julie and MacLean, Alex S., *Visualizing Density*, Lincoln Institute of Land Policy, Concord, 2008.

Residential Density: Guidelines for Planning Authorities, Department of Environment, Heritage and Local Government, Government of Ireland, 2007

Jurisdictions Researched:

Stafford County, VA

City of Port Orange, FL

Franklin, TN

Ocean City, MD

Northbrook, IL

Chicago, IL

Hanover, PA

County of Chesterfield, VA

Town of Carrboro, NC

Denver, CO

Chevy Chase, MD

Annapolis, MD

Burlington, VT