



# Urban Research & Development Corporation

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TO: Borough of Richland Officials  
FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)  
SUBJECT: **Summary of the Draft Zoning Ordinance**

This memo summarizes the major policy issues regarding the draft new Zoning Ordinance Text. The intent is that the current Zoning Map will be retained, and only the text is proposed to be updated.

This discussion is not intended to provide legal advice, which is the jurisdiction of the Borough Solicitor.

The Zoning Ordinance is being coordinated with the County Subdivision and Land Development Ordinance (SALDO). The Zoning Ordinance is much more policy oriented than the SALDO, which is more a technical document used by engineers and surveyors on larger developments to design streets and other improvements.

## **Overview of Zoning**

The zoning ordinance primarily regulates: a) the uses of land and buildings, and b) the densities of development. Different types of land uses and different densities are allowed in various zoning districts. A zoning ordinance also regulates: the distance buildings can be placed from streets and lot lines, the heights and sizes of signs, and the amount of parking that must be provided by new development.

Zoning is primarily intended to protect existing residential neighborhoods from incompatible development. However, it also can be used to avoid traffic problems, improve the appearance of new development, preserve historic buildings, and protect important natural features.

The Pennsylvania Municipalities Planning Code (the “MPC”) provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning can be used and requires that certain procedures be followed.

## **Ways to Address Different Uses**

In each zoning district, different uses are allowed or prohibited. In the draft, there are two different ways that a use can be allowed:

- as a permitted by right use, with the zoning approved by the Zoning Officer, or
- as a special exception use, with the zoning approved by the Zoning Hearing Board.

Intense and potentially controversial uses should only be permitted as special exception uses. This results in a public meeting that allows public comment. Under these processes, the Zoning Hearing Board can carefully review the application to make sure that it meets Borough ordinances. Also, conditions can be placed upon these types of approvals, such as to protect public safety.

- However, a special exception is still an “allowed” use. Therefore, under the law, it is difficult to reject a special exception use if the applicant proves they meet all of the specific requirements of the zoning ordinance. Generally, in such case, the application could only be rejected if an opponent or the Borough was able to prove that the application violated a “general” requirement of the Ordinance. For example, it might be possible to prove that a certain type of industrial use would generate a major public safety hazard.
- The Borough of Richland currently uses the special exception process for complex or controversial uses. (Note - With a special exception, the Council can provide testimony before the Zoning Hearing Board, and Council can appeal the Board’s decisions.)
- Also, the number of special exception uses should be held to a reasonable minimum. If the process is overused, it becomes a burden in time and expense to both the Borough and applicants. Moreover, if an applicant fears that the process may be time-consuming, it can make it harder to attract desirable types of businesses.

### **Nonconformities**

Zoning primarily regulates **new** development, expansions of uses and changes in uses. Under State law, an existing use that was legal when it was first established can continue to operate, regardless of zoning regulations that are later enacted. An existing legal use that would not be permitted to be newly established under current zoning regulations is known as a “nonconforming use.” Generally, nonconforming uses can: a) be sold to a new operator, b) be expanded within certain limits, and c) be changed to a different nonconforming use, as long as the new use is not more intense than the old use.

For example, an auto repair garage may have existed before the Borough adopted zoning. It is located in a residential district. It may be changed to a store, which would be less intense. However, it could not be changed to an asphalt plant, which would be more intense.

Likewise, in most cases, existing vacant lots that were legally established may be built upon – even if they do not meet the minimum size requirements of a zoning ordinance. However, any building would still need to meet setback, wetland and floodplain regulations.

However, if a use was not legal when it first started, it has no right to continue. For example, if a house was illegally converted into apartments twenty years ago, it is still illegal, and can be required to be de-converted.

### **Lot Sizes**

Please keep the following lot sizes in mind:

One acre = 43,560 square feet (such as 150 by 290 feet)

One-half acre = approximately 22,000 square feet (such as 125 by 175 feet)

One-quarter acre = approximately 11,000 square feet (such as 80 by 135 feet)

### **Major Goals and Objectives**

The following major goals provide direction for the draft zoning:

- Provide for compatible land uses, including mixes of uses where appropriate, while protecting the livability of residential neighborhoods.
- Work to preserve and enhance the historic small town character of the Borough.
- Promote the appropriate reuse and rehabilitation of older buildings.

- Promote a pedestrian-friendly and bicycle-friendly environment.
- Provide for a variety of housing opportunities, while seeking to attract additional owner-occupied housing.
- Promote additional business activity, to provide increased tax revenues and expanded employment opportunities.
- Carefully control uses that threaten significant nuisances or hazards.

### **Avoiding Over-Regulation of Routine Changes**

To avoid over-regulation of routine changes, it is be desirable to make some adjustments. For example, some of the setback and coverage requirements are proposed to be relaxed to make it easier to expand a one family house, add a deck or shed or a porch, or make a modest addition onto a church or business.

Excessive regulations upon routine changes can create great aggravation to residents and a large workload for the Borough staff and the Zoning Hearing Board.

### **User-Friendliness of the Zoning Ordinance**

The proposed new Zoning Ordinance is intended to make greater use of tables and graphics to make it easier to use. Use of tables that list the land uses allowed in each district minimize the wordiness of an ordinance, and make it easier to compare provisions while reviewing the ordinance in draft form. The draft is posted on the Borough's website, which allows word searches. There also is an index. The goal is also to have a zoning ordinance that is very clear and predictable for developers and builders, and that does not result in unnecessary delays for desirable types of development in appropriate locations.

### **Apartment Conversions**

Most cities and boroughs are becoming more restrictive in apartment conversions of one family homes. The goal is to maintain some owner-occupied units, reduce transiency, avoid maintenance problems from absentee landlords and avoid parking shortages.

The draft states that an existing one family dwelling (including a rowhouse or townhouse) in a residential district cannot be converted into two or more apartments. An exception could apply to unusually large existing houses (such as over 3,000 square feet of pre-existing heated building floor area) in the RHD High Density District.

Currently, in the RHD district, which includes most homes in the older parts of the town, we interpret the ordinance to mean that a single family can be converted into two units if there is a 3,000 square foot minimum lot, or 3 units if there is a 4,500 square foot lot.

### **Summary of the Proposed Zoning Districts**

The following summarizes the existing zoning districts in the Borough.

#### RLD Low Density Residential District

The RLD District is the lowest density residential district and includes the largest land areas. The district would continue to include neighborhoods: a) in the northern part of the Borough generally north of Elm and New Streets, and b) most of the southern part of the Borough, including most of the residential areas along the Linden Street and S. Poplar Street corridors. The RLD district would continue to mainly allow single family detached dwellings, with a minimum lot area of 7,000 square feet (such as a lot that is 70 feet wide and 100 feet long).

In addition, to promote wider mid-priced housing opportunities, the RLD district is also proposed to allow medium density side-by-side twins and townhouses in this district, at an average density of 6 homes per acre. Each townhouse would have to be a minimum of 24 feet wide, which is on the wider side for a townhouse. Those types of housing are most likely to be owner-occupied. It has become increasingly difficult for the average middle income household to afford a new single family detached house.

Schools and places of worship would be allowed with Zoning Hearing Board approval. A larger lot size would be required for these uses, to prevent a home on a 7,500 square foot from being converted into a school or church. Day care would be limited to a maximum of 3 children, in addition to close relatives of the resident of the home.

Large areas of the RLD district are currently used for agricultural activities. Currently, all livestock and poultry operations are permitted by right. Concentrated animal feeding operations (as defined by State regulations) would need Zoning Hearing Board approval under the draft, with larger setbacks required from existing homes. State law limits the extent of municipal regulations of many types of agricultural operations.

Homes currently must be at least 30 feet from the street-of-way, which would be reduced to 20 feet to allow more usable rear yard area. That reduction would be particularly important for a corner lot, which needs two front yards. Side yard setbacks would be reduced to make it easier to expand them without needing a variance. The total of the two side yards could be reduced from 25 to 16 feet (8 feet each). The draft would also make it easier to add an unenclosed rear deck onto a home.

Hospitals and nursing homes would no longer be allowed in the RLD district.

#### RHD High Density Residential District

The RHD district would continue to include areas that are: a) north of the railroad, south of Elm and New Streets, and b) in the center of town, southeast of Apple Street past Poplar Street, including a couple blocks of Main Street.

This district would continue to allow all types of housing, including singles, townhouses, two family homes and apartments. Buildings would be allowed to be built up against the sidewalk.

The prohibition on individual manufactured (mobile) homes would be deleted. That provision is a violation of U.S. HUD regulations and a State Supreme Court decision. Individual manufactured homes must be allowed anywhere a site built home is allowed. Some basic standards are proposed to make a new manufactured home fit within a residential neighborhood, such as requiring an enclosure around the base of the home that looks like a standard perimeter foundation, instead of metal skirting.

Every municipality is required to allow for manufactured home parks. With proper standards, a manufactured home park can be a very desirable addition to a community. The current ordinance allows manufactured home parks in the RHD district at 10 homes per acre, which would be changed to 5. At 5 homes per acre, it provides areas for green lawns and a perimeter landscaped area.

The district would continue to allow single family detached houses on 5,000 sq.ft. lots. Side-by-side twin homes and townhouses would be allowed at an average of 8 homes per acre and apartments would be allowed at an average of 12 homes per acre, which are less dense standards than the current ordinance. higher density would be allowed if the housing was age-restricted to persons 55 or older or persons 62 and older.

A new set of standards would be added for townhouses. The goal is to encourage rear access from an alley wherever it is practical. The alley could connect to a parking pad, a rear parking court, a garage door at the back of the home (possibly with a deck above it) or a detached garage. If a townhouse has driveways or garage doors in the front yard, a wider unit width should be required. The intent is to avoid townhouses

with the entire front yards covered with vehicle parking and the entire facades covered with garage doors. That type of pattern is not only unattractive, but also leaves no room for on-street parking. In fact, front driveways can actually cause a net reduction of the amount of parking available in a neighborhood.

Places of worship, personal care homes and schools would be allowed with Zoning Hearing Board approval.

### CD Business District (Downtown)

This district would continue to apply to the Downtown, mainly along Main Street from the railroad to Cherry Alley near the Library, which is the “Town Center.” A variety of commercial uses would continue to be allowed, including retail stores, personal service uses, banks, offices, day care centers, restaurants and hotels. Drive-through restaurants, gas stations, vehicle sales and vehicle repair would continue to not be allowed in this district, which is a common policy within older downtowns. An agricultural mill would be newly added as an allowed use, to recognize the existing mill along the railroad.

The goal of this district is to only allow types of commercial uses that would be good neighbors for nearby residents. Because this district includes a mix of homes and businesses, it is appropriate to limit late night hours of operation for uses that are not already open during late night hours. The draft provides that a business or club cannot be open after 2 AM, unless the applicant can prove to the Zoning Hearing Board that the use will not create nuisances for neighbors.

The maximum height would be increased from 2.5 to 3 stories. On lots along Main Street, new apartments would continue to only be allowed if they are combined with a first floor commercial use.

New buildings would be required to be placed close to the street, with parking located to the side or rear of the building.

### C-A Auto-Related Commercial District

The C-A district would continue to allow a wide range of commercial areas along E. Linden Street, including retail stores, day care centers, personal services, vehicle sales, vehicle repair and gas stations. This district would also allow single family detached houses, places of worship and personal care homes.

The maximum height would be increased to 4 stories, which would be particularly beneficial to attract a medical building.

Additional landscaping provisions would be added in business districts.

### LI Limited Industrial District

It is logical to continue to have two industrial districts– one that is more limited in the allowed uses than the other. The Limited Industrial district should continue to allow for common types of light industrial uses and many complementary commercial uses, such as offices, lumber yards and personal services. In comparison, the Industrial district should allow all of the uses of the Limited Industrial district, plus allow uses that need special controls because of potential nuisances or hazards. Under State court decisions, each municipality is supposed to have buildable locations that allow for every legitimate land use. Therefore, there needs to be at least one district that allows uses such as a trash transfer station, a scrap yard or a chemical plant, which should be the regular industrial district.

The LI district would continue to include existing businesses on the east side of S. Poplar Street, including the Poplar Street Industrial Park.

The current LI district only allows a few types of industrial uses by right, and then requires all other proposed industrial uses to prove to the Zoning Hearing Board that the proposed use is similar to the

allowed uses. We believe some additional uses could be permitted by right, such as manufacture of wood products and food products.

## I Industrial District

This district includes most lands north of E. Linden Street in the northeastern part of the Borough. It also includes lands along Curtis Street west of Apple Street.

There is a divide of some lots between the CA and the I districts along the north side of E. Linden Street. The draft ordinance would allow many of the same uses and similar standards in both districts, so that the zoning district would not be a barrier to unified development of those large business lots.

The uses that are less likely to cause nuisances and hazards would be permitted by right, while the more intensive and potentially hazardous uses should need Zoning Hearing Board approval.

Under Federal law, every municipality must allow locations for strip clubs and other adult uses. The least worse location is the Industrial district, because it is possible to require very large setbacks from churches, parks and residential districts, which is the standard way to address these uses. An additional set of requirements is proposed for these uses, such as wider buffers and limits on hours of operation.

### **Home Day Care and Home-Based Businesses**

The Zoning Ordinance would include updated standards for home-based day care, which is becoming increasingly common. Up to 3 children could be cared for in the RLD district and up to 6 children could be cared for in the RHD district, in addition to close relatives of the operator. A larger day care center could also operate within a church.

Currently, all home occupations (home-based businesses) are permitted by right. Under the draft, the more intensive and unusual types would go to the Zoning Hearing Board for approval.

### **Group Homes**

Group homes typically provide housing and supervision for persons with “disabilities”, such as persons with developmental disabilities.

Provisions have been updated regarding group homes, to meet requirements under Federal law while also protecting residential neighborhoods. The draft would allow common types of group homes with up to 4 residents and supervisor) in all residential areas, in order to meet Federal law. A group home with 6 residents and a supervisor would be allowed with Zoning Hearing Board approval. Larger and more controversial types of group homes would need special exception approval and be limited to business districts. The Zoning Hearing Board would also be given the authority to grant special exceptions if the applicant proves an accommodation is required for persons with disabilities under Federal law.

### **Controversial Uses**

The revised Zoning Ordinance would very carefully regulate uses that are most likely to cause nuisances and hazards. These include chemical plants, asphalt plants, trash transfer facilities, salvage/scrap yards, after hours clubs, BYOB clubs, large nightclubs, and drug and alcohol treatment centers. The general rule under State law is that it is more legally defensible to allow a use in one district with very strict regulations than to try to completely prohibit it.

### **Lighting Control**

Additional controls are proposed to limit excessive lighting and to make sure that lighting is properly directed so that it does not cause glare for neighbors and motorists.

## **Buffering and Landscaping**

The draft would place a greater emphasis on buffering and landscaping. Even a high impervious coverage can still be attractive with the proper landscaping. This is the best way to improve the appearance of business development – particularly because a municipality cannot control architecture outside of a historic district. Shade trees would be required within and around parking lots and along streets, wherever existing trees will not be preserved. Any overnight outdoor storage of multiple trucks would be screened by plants from view from streets. Temporary fencing would be required to be placed around the roots of trees intended to be preserved - to prevent damage to trunks and compaction of soil during construction.

Buffering along a street would be designed with low level shrubs and higher canopy trees, so that there is visibility into a site for security purposes.

Evergreen buffer plantings are particularly important between new businesses and residential neighborhoods.

## **Signs**

The Zoning Ordinance regulates the allowed height, sizes, types and locations of signs. The sign provisions have been updated to make sure that they balance the need for visibility by businesses with the goal of maintaining an attractive character throughout the Borough. The sizes of signs would vary based upon the number of businesses on the property.

The draft would continue to allow older styles of projecting signs (that project vertically from the building) in the downtown. Those signs increase visibility for motorists and pedestrians, particularly when there is not room for a freestanding sign. The draft would also allow temporary sidewalk signs, such as restaurant menu boards, as long as they do not obstruct wheelchairs and pedestrian traffic.

In addition to prohibiting flashing and animated signs, the ordinance would prohibit electronic signs that change too frequently or that are excessively bright.

Every municipality has a legal obligation to allow for billboards. They can be required to be limited in size, and lighting can be required to be turned off at night. Digital billboards do not need to be allowed, and they can be required to be setback from homes. The draft would allow new billboards in the C-A and I zoning districts, which is mainly along E. Linden St. The maximum size of a billboard would continue to be 300 square feet in sign area, which is less than half the size of a typical billboard along a highway. A new billboard would have to be 1,000 feet from a residential district.

## **Parking**

The Zoning Ordinance requires certain amounts of off-street parking to be provided for new, expanding or intensified uses. The draft includes updated standards, which are based upon national research regarding the need for parking by various uses.

Please contact us if there are any questions or comments.