



CRU Task Force AGENDA

Wednesday, August 11, 2021, at 6 PM

Members of the public may participate by telephone conference call via Teams.

Dial 1-872-239-8359 and enter Conference ID 532 081 625#

Please mute your device until the Chair opens the floor for public comments.

The public may view meetings live at <https://www.kentcounty.com/youtube-live>.

Archived videos may be viewed on the [Kent County Government YouTube channel](#).

MISSION STATEMENT: *We value our land, our families, our neighbors, our friends, and our diverse, rural community. Kent County's history, its location, and the land itself enrich our lives and our lifestyles every day. The CRU Task Force's mission is to preserve the best of Kent County, Maryland, including prime farmland, local culture, and its small businesses, while supporting opportunities for expanding into new economies, via innovative and thoughtful changes to the County's zoning regulations that simplify regulatory processes and add new uses.*

I. **Welcome and Roll Call**

Al Nickerson	Buck Nickerson	Joe Hickman	Sam Shoge
Bill Norris	Chikki Shajwani	Kim Kohl	Tom Mason
Bill Sutton	Cindy Genter	Pat Langenfelder	Tyler Brown
Bryan Greenwood	Jim Saunders	Paul Ruge	

II. **Approval of the Summary** for the Task Force Meeting on July 14, 2021.

III. **Purpose:** Fair and Open Discussion on Proposed Text Amendments

Outcome: Staff to summarize Task Force positions in Meeting Summary

Ground Rules

- A. Everyone is encouraged to share ideas openly and freely.
- B. There are no right or wrong inputs for discussion purposes.

Norms

- Participants speak ‘through the chair’. This means raising your hand if you want to speak, and waiting for the Chair to call on you.
- Don’t interrupt other people.
- Don’t talk/debate amongst yourselves.
- Respect other's views.
- Keep contributions short and to the point.
- Start and end on time.
- If online or on the phone: have your video ON and mute ON. Wait for the Chair to call your name before you unmute.

IV. Old Business

- A. Review of P7 (review of Critical Area Standards and other items)
- B. Review of P10 (request for modified buffer in RCD for campgrounds)
 - Discussion of consensus report out regarding this item was suggested
- C. Review of TF9 (review of eliminating maximum pier length of 150 feet)
- D. Review of S14 (request for additional freeboard related to floodplain)

V. New Business

- A. Review of P1. Request to change farm definition so a shed could be built without a dwelling ([alter definition 116. Farm to less than 20 acres on p. 458; address sheds under definition 2. Accessory Structure on page 447](#))

Public Comment

- B. Review of P2. Request to allow utility-scale energy systems in the Agricultural Zoning District ([this would transfer AZD from the regulations for solar energy systems, utility scale, under §57.25 on p. 428 to §57.5 on page 428.1 for solar energy only; wind energy at the utility scale is not permitted anywhere in Kent County](#))

Public Comment

Break – 10 minutes

- C. Review of TF1. Review the concept of reducing setbacks for agricultural structures to 200 feet except near current housing developments, incorporated towns, and villages. ([Article V, Section 1.4.A.10.5 – waste management structures](#); [Article V, Section 1.2.12 – poultry houses](#); [Article V, Section 1.2.17 – stable, private](#); [Article V, Section 1.2.18 – stable, commercial](#); [Article V, Section 1.3.13 – feedlot or confinement dairy](#); [Article V, Section 1.3.16 – more than 4 horses and mules](#); [Article V, Section 1.3.18 – poultry houses on parcels where owner cannot handle the waste generated](#); [Article V, Section 1.4.A.1 – accessory farm buildings – animals](#); [Article V, Section 1.4.A.8 – short list of accessory uses that must be 200 feet](#))

Public Comment

- D. Review of TF17. Review setbacks for buildings containing animals. Currently, this is 600 feet. Review for more flexibility. Maybe 600 feet from residential zoning districts or provide for an administrative variance process to reduce the required setback. ([See list of references under TF1. above](#))

Public Comment

VI. Task Force Comments

VII. Adjournment



*Please note a quorum of the Board of County Commissioners
may be present at any meeting.*

Special Announcement Regarding Meeting Attendance

The following options are provided for the public to participate in the Task Force meeting.

Members of the public who would like to **attend the meeting in-person** are encouraged to register in advance by contacting Bill Mackey at 410-778-7423, ext. 9 (voice/relay), or by email at compzone@kentgov.org. The location is in the County Commissioners' Hearing Room at 400 High Street in Chestertown, MD.

Members of the public who wish to **participate via video in the Teams meeting** also need to register in advance by texting their name, street address for the record, and email address to 410-708-4063. Although not required, members of the public who wish to participate in the Teams meeting are encouraged to download the free app for Microsoft Teams, in order to improve their experience of the presentation. Prior to the meeting, a link to join Teams will be emailed to those who registered.

Members of the public may **call in with comments by phone** when the Chair opens the floor for comments. To participate via phone only (without video) via Microsoft Teams:

Call **1-872-239-8359** then enter Conference ID: **532 081 625#**

Please mute your phone / computer / or other electronic device until the Chair opens the floor in order to invite the public's comments.

To listen to the meeting only, the meeting will be livestreamed on the County website at: <https://www.kentcounty.com/youtube-live>

To submit written comments in advance of the meeting, please email your comments to compzone@kentgov.org or mail your comments to:

Bill Mackey, AICP, Director, Department of Planning, Housing, and Zoning
400 High Street, Suite 130; Chestertown, MD 21620

To review agendas, adopted summary minutes, and all meeting materials online, please visit <https://www.kentcounty.com/compzone>. To receive printed copies of materials or review the materials on file in person, please contact Bill Mackey at 410-778-7423 ext. 9 (voice/relay), or at the email address above, or in writing at the address above. Please allow time for USPS delivery, if corresponding by post.

If you require communication assistance, please call (410) 778-7423 (voice/relay) or visit Maryland Relay at www.mdrelay.org, or email compzone@kentgov.org.

Thank you for your participation!



Kent County Department of Planning, Housing, and Zoning

To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, AICP, Director DPHZ
Meeting: August 11, 2021: AZD
Subject: P1. Request to change farm definition so a shed could be built without a dwelling

STAFF REPORT

Background

Currently, the Land Use Ordinance does not contain any provisions that would allow the construction of a shed on a property without a dwelling; sheds may be constructed six months prior, in anticipation of a primary dwelling. For properties where a primary structure is not anticipated, there are no provisions.

Request

For this specific text change, the request is related to property zoned Agricultural Zoning District (AZD), which is also less than 20 acres (the property is 13.38 acres) and thus cannot meet the definition of a farm.

DEFINITION 116. Farm - A parcel of land not less than 20 acres in size used for *agriculture* as defined in Article XI of this Ordinance (Land Use Ordinance, p. 458).

For non-farm properties, a principal structure must be provided on the land before an accessory structure.

DEFINITION 2. Accessory Structure - A detached *structure* on the same parcel as the principal *structure* or use and which is incidental and subordinate to the principal *structure* or use in area, extent and purpose, i.e. shed, or detached garage (Land Use Ordinance, p. 447).

The farm itself is the principal use that would allow an accessory shed on properties of 20 acres or more. The Land Use Ordinance spells out the accessory uses that are allowed only on farms located in AZD.

1.4 ACCESSORY USES AND STRUCTURES

A. The following *accessory uses* are permitted on all *farms* in the Agricultural Zoning District.

1. Accessory farm *buildings*, including barns, cribs, stables, sheds, tool rooms, shops, bins, tanks, and silos. All *structures* for the keeping of animals shall be a minimum of 100 feet from any property line.

In order for the requestor to erect an accessory building on a property less than 20 acres, the definition of a farm must be altered, or the definition of an accessory structure must be altered, or potentially both.

Review

The 2018 Comprehensive Plan includes the following on the difference between farms and non-farms.

Under the County's Land Use Ordinance, a parcel over 20 acres is considered a farm, and for the purposes of the PPA [Priority Preservation Area (i.e., all land zoned AZD and RCD)], parcels under 20 acres are considered developed. Approximately 6,630 acres within the PPA are subdivided into parcels under 20 acres and 142,925 acres are considered undeveloped (p. 41).

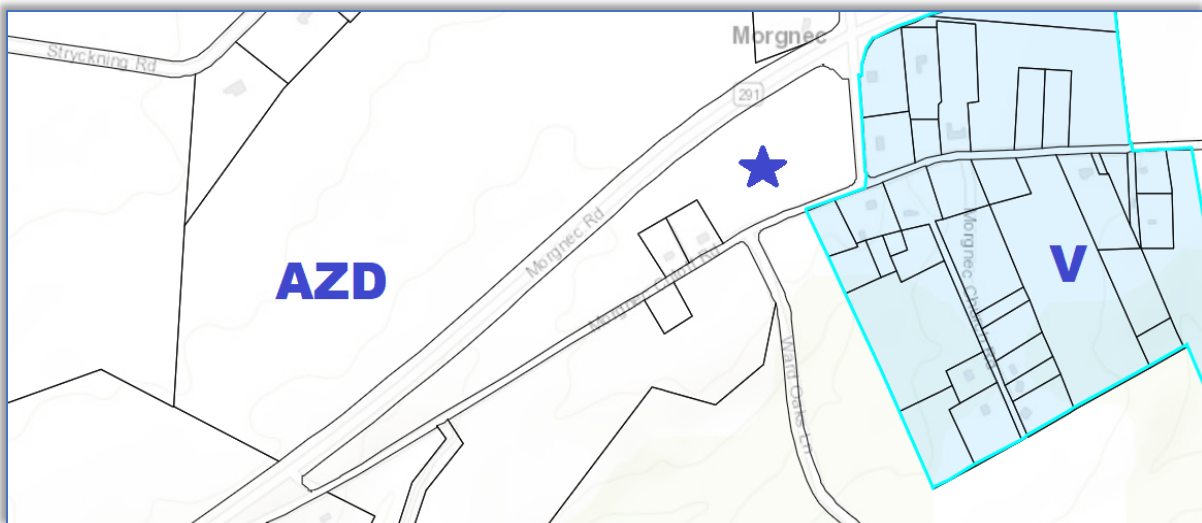
With an aggressive approach to preservation, the Comprehensive Plan suggests requesting that property owners voluntarily merge their smaller parcels with larger farms in order to eliminate small parcels in AZD.

Strategy: Reduce the number of undeveloped lots in the Priority Preservation Area.

Currently, there are over 3,700 undeveloped parcels in Kent County, though only 932 of those parcels are located in the Agricultural Zoning District or the Resource Conservation District. Of those, 388 are parcels that are 20-acres or greater in size that meet the County's threshold for being considered a farm. This means that 544 parcels are undeveloped lots of less than 20-acres.

In order to achieve the goal of maintaining the rural and agricultural character of the County, the number of existing, scattered, undeveloped lots located in the agricultural and resource conservation areas must be reduced. The County will pursue lot consolidation methods for landowners to voluntarily incorporate these parcels into the main farm parcels (p. 48).

The requestor owns one of the parcels for which the Comp Plan suggests a merger as a solution; however, in this case, the requestor's property is surrounded by roads and bordered by Village zoning.



Recommendation

Staff recommends that the Task Force consider adding a new special exception, whereby non-farms with unique circumstances such as perimeter conditions, topography, or access issues may apply for accessory farm buildings in the Agricultural Zoning District (AZD).

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Kent County Department of Planning, Housing, and Zoning

To: Comprehensive Rezoning Update Task Force
From: Bill Mackey, AICP, Director DPHZ
Meeting: August 11, 2021: AZD
Subject: P2. Request to allow utility-scale energy systems in the Agricultural Zoning District

STAFF REPORT

Background

Currently, the Land Use Ordinance permits small wind energy systems and small solar energy systems as accessory uses on land in the Agricultural Zoning District (AZD). Additionally, utility-scale solar energy systems up to five acres may be permitted on farms located in AZD by special exception.

Request

Allowing for utility scale solar energy systems larger than are currently allowed is being requested. Utility scale wind energy systems are not allowed anywhere in the County, and they are not treated in this report. The subject of utility scale wind energy was studied and reported on by the Renewable Energy Task Force (RETF). "There does not appear to be sufficient wind in this area to justify utility scale wind farms, and for this and other reasons, the task force determined that utility scale wind energy is neither a feasible nor desirable use for Kent County. (Renewable Energy Task Force [White Paper](#), p. 7)"

Review

The 2018 Comprehensive Plan includes the following strategy and policy regarding nonfarm uses in AZD.

Strategy: Retain the Agricultural Zoning District. ...

[Policy] 4. Large contiguous areas of prime agricultural land are critical to an expanding and prosperous agricultural industry. The preservation of such areas reduces the potential for conflicts between farmers and their non-farm neighbors, allows the diversification of agricultural operations and reduces the need for regulations governing nuisances sometimes associated with agribusiness. It is therefore essential to minimize land consumption by non-farm related development and to target the Agricultural Zoning District for easement programs and farm retention policies (pp. 44-45).

Per the special exception conditions in the Land Use Ordinance, utility scale solar energy systems on farms are limited to **five acres** in AZD, and solar energy systems are considered to be a form of **development**.

Article VII, Section 7, § 57.25 Solar energy systems, utility scale, on farms in AZD and RCD provided:

- a. A solar collection device or combination of devices are designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- b. Screening, capable of providing year-round screening, is provided along all sides that do not collect energy.
- c. Roof mounted solar collection devices shall not extend more than 10 feet from the top of the roof. The total height of the building, including the solar collection devices, shall comply with the height regulations established for each zoning district.
- d. Solar collection devices shall not exceed 38 feet in height.
- e. The solar collection system shall be incidental to the use of the farm.
- f. Installation of the solar collection system shall not adversely impact adjacent properties.
- g. All structures associated with the solar collection system shall be neither visually intrusive nor inappropriate to their setting.
- h. All solar collection devices shall register with the Department of Emergency Services and shall submit a map noting the location of the solar collection devices and the panel disconnect.
- i. Other than wire size, there shall be no alteration of utility infrastructure to accommodate the system.
- j. The area of use may not exceed 5 acres onsite. Adjacent properties shall not aggregate solar collection panels to achieve an area exceeding 5 acres.
- k. In AZD, the area developed by a utility scale solar energy system is considered development and counted toward the maximum percentage of the property in lots.
- l. Tree removal shall be minimized and any removal shall be mitigated in accordance with the Critical Area Program requirements.
- m. The applicant shall demonstrate that a utility scale solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as public parks, a national or state designated scenic byway, a structure listed in the Kent County Historic Site Survey, an historic district, or the Chesapeake Bay and its tributaries. (LUO, p. 428)

In this case, the language in the Land Use Ordinance appears to be in keeping with the approach and goals of the 2018 Comprehensive Plan and includes a compromise to allow five acres of utility scale solar arrays.

Additionally, the Priority Preservation Area, as established in Kent County, includes all land zoned AZD and RCD (Resource Conservation District), as well as all land in any district already protected by easements (Comp Plan, p. 41). The integrity of the Priority Preservation Area is an important issue in the Comp Plan.

Through the Agricultural Stewardship Act of 2006 (HB 2), and as modified during the 2007 Legislative Session by HB 1354, the State required counties to incorporate a Priority Preservation Area Element into its comprehensive land-use plan in order to be certified under its Certification Program. [¶] A Priority Preservation Area (PPA) is an explicitly delineated area within the county. As a certified county, Kent County maintains a designated agricultural Priority Preservation Area. As part of the recertification evaluation, the County is required to maintain policies, ordinances, regulations, and rules that, at minimum, do not interfere with normal agricultural and forestry activities and, preferably, support the ability of working farms to engage in normal agricultural and forestry activities (Comp Plan, p. 44).

Recommendation

Staff recommends that the Task Force consider maintaining the current regulations that allow up to five acres of utility scale solar energy systems on farms in the AZD.

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Kent County Department of Planning, Housing, and Zoning

To: Comprehensive Rezoning Update Task Force

From: Carla Gerber, AICP, Deputy Director

Meeting: August 11: AZD

Subject: TF1: Review the concept of reducing setbacks for agricultural structures to 200 feet except near current housing developments, incorporated towns, and villages.

TF17: Review setbacks for buildings containing animals. Currently, this is 600 feet. Review for more flexibility. Maybe 600 feet from residential zoning districts or provide for an administrative variance process to reduce the required setback.

STAFF REPORT

Background

The Land Use Ordinance has multiple provisions for setbacks from property lines related to agricultural structures and uses. These setbacks range from 100 to 600 feet. Many are related to animal housing or feeding or waste management structures. The table below provides a summary of the various requirements.

P = permitted

AF = accessory farm

SE = special exception

A = accessory

Setback	Type	Use	Districts
600	P	Poultry houses	AZD, RCD
600	AF	Waste management structures	AZD, RCD
600	SE	Aquaculture (Permitted w/o setbacks AZD, RCD, RC)	CAR, RR
600	SE	Feedlot or confinement dairy	AZD
600	SE	Poultry houses where can't handle own waste	AZD
600	SE	Raising livestock and fowl, but not commercial feedlots, confinement dairies, or poultry houses (waste management structures)	RC, RR
600	SE	Structures for buying, processing, sale of animal products, commercial,	AZD
400	P	Stable, commercial or public – minimum property size is 20 acres (structures for housing, feeding, and waste management)	AZD, RCD, RC, RR, CAR
200	P	Veterinary hospital (open kennels)	AZD
200	AF	List of non-animal uses (commercial assembly, petroleum, grain blending and packaging)	AZD, RCD, RC, RR, CR

200	A	Dog kennels, commercial (Also keeping of 5 or more dogs, six months or older)	AZD
200	P	Greenhouses, wholesale or retail (Permitted w/o setbacks in AZD)	RC, RR, CAR, CR
200	SE	Dog kennels, commercial (Also keeping of 5 or more dogs, six months or older)	RC, RR, CAR
200	SE	Raising livestock and fowl, but not commercial feedlots, confinement dairies, or poultry houses (structures for housing animals)	RC, RR
100	P	Stable, private (up to 4 horses) – minimum property size is 2 acres (structures for housing and feeding)	AZD, RCD, RC, RR, CAR, CR
100	AF	Accessory farm buildings – structures for keeping of animals	AZD, RCD, RC, RR, CR

Request

There were two Task Force requests to review setbacks for agricultural structures. One suggested reducing setbacks to 200 feet except near current housing developments, incorporated towns, and villages. The other suggested adding more flexibility by specifying which districts require a greater setback or providing an administrative variance process to reduce the setback.

Review

More intense uses, such as poultry houses or confinement dairies, have the strictest requirements. The 600-foot setback for poultry houses, feedlots, and confinement dairies has been in place since at least 1989. Commercial stables have a 400-foot setback for structures for housing and feeding horses and waste management. Many other uses have a 200-foot setback; while private stables (up to four horses or mules) have a 100-foot setback. Except backyard chickens, the minimum setback in any district for structures related to housing animals is 100.

In the initial discussions of these items, Task Force members expressed a desire to simplify the regulations to make the standards more consistent and less confusing. Several members opined that the current setbacks, at least for intense operations, should not change.

Recommendation

Staff recommends that setbacks for commercial poultry houses, feedlots, and confinement dairies remain at 600 feet. However, the Task Force could consider reduced setbacks for structures located adjacent to other farms. In addition, staff recommends that waste management structures located on farms other than the one where the waste was generated be reduced to 150 feet.

Staff also recommends that for animal husbandry-related uses, standards be developed to base setbacks on the number of animal units on the property. One animal unit is generally defined as 1,000 pounds of live animal weight (approximately 1 cow or 1 horse). In Maryland, certain nutrient management regulations are triggered when you have eight or more animal units. For example, with a 50-foot setback, a property owner could have 0.1 animal units which is equivalent to a single goat or sheep. As the number of animal units increases, the setback would increase up to the 600-foot maximum. See attached tables for more information on animal units.

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ANIMAL UNIT EQUIVALENCIES

Source: Maryland Department of Agriculture, 2000.

Regulatory citation: COMAR 15.20.07.03 and 15.20.08.03

The nutrient management law defines an agricultural operation or farm to be a business that produces and agricultural product, and that has a gross annual of income of \$2,500 or more, or has eight or more animal units. One animal unit is generally defined as 1,000 pounds of live animal weight. The numbers given below represent averages for different types of livestock. It may serve as a guideline for the number of animals of a certain type that would constitute eight animal units for purposes of nutrient management regulations. If actual weights are available from a certified scale, use them. For animals not listed here, contact MDA for guidance on weight calculations.

Animal Type	Animal weight (average in pounds)	Number of animals that would equal 8 animal units
Horses (any animals 3 months or older)	1,000	8
Feed Cattle	1,000	8
Dairy cattle	1,000	8
Sheep	200	40
Goat	89	90
Alpaca	107	75
Llama	320	25
Emu	133	60
Ostrich	267	30
Broilers/fryers	4	2,000
Ducks	7	1,200
Geese	12	650
Turkeys	19	425



Animals to Animal Units Conversion

Animal Units are calculated using a factor which converts animals of different species or sizes into equivalent units. Animal units for each species can then be added together to determine the capacity of a facility. The animal unit capacity and type of operation determine which state or federal regulations apply to that operation.

To calculate **Animal Units**, use the table to multiply the number of animals of each species (column A) by the appropriate equivalency factor (column B) to determine the number of animal units (column C). **Note:** Use average weight during the production cycle to choose the appropriate animal species. Your number of head (column A) should be the maximum number of animals in each category that you would confine at any one time.

To calculate Total Animal Unit Capacity, add the animal units (column C) for each animal species.

Animals to Animal Units Conversion

Animal Species	A. Number of Head	X	B. Equivalency Factor	=	C. Animal Units
Slaughter or feeder cattle		X	1.0	=	
Immature dairy cattle		X	1.0	=	
Mature dairy cattle		X	1.4	=	
Swine over 55 lbs.		X	0.4	=	
Swine 15 to 55 lbs.		X	0.1	=	
Sheep or lambs		X	0.1	=	
Goats		X	0.1	=	
Horses		X	2.0	=	
Turkeys 7 lbs. or more		X	0.018	=	
Turkeys less than 7 lbs.		X	0.0085	=	
Broiler/layer chickens 3 lbs. or more		X	0.010	=	
Broiler/layer chickens less than 3 lbs.		X	0.0025	=	
Ducks		X	0.040	=	
Fish 25 grams or more		X	0.001	=	
Fish less than 25 grams		X	0.00006	=	
Add all Animal Units in Column C to determine Total Animal Unit Capacity					

Definitions:

Animal Capacity: the maximum number of animals which the owner or operator will confine in an animal feeding operation at any one time. In a confinement feeding operation, the animal capacity of all confinement buildings will be included in the determination of the animal capacity of the operation, unless the building has been abandoned in accordance with the definition of “abandoned confinement feeding operation structure.”

Animal Unit Capacity: a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in Iowa Code sections 459.201 and 459.301. For dry bedded confinement feeding operations, “animal unit capacity” means the maximum number of animal units which the owner or operator confines in a dry bedded confinement feeding operation at any one time, including the animal unit capacity of all dry bedded confinement feeding operation buildings that are used to house cattle or swine in the dry bedded confinement feeding operation.

CAUTION: This document is only a summary of administrative rules contained in 567 IAC chapter 65; it is a guidance document and should not be used as replacement for the administrative rules. While every effort has been made to assure the accuracy of this information, the administrative rules will prevail in the event of a conflict between this document and the administrative rules.