

APP. EXHIBIT# 1  
CASE: 2021-0152-V  
DATE: 4/2/24

**FINDINGS AND RECOMMENDATION**  
**OFFICE OF PLANNING AND ZONING**  
**ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Microsoft Corporation

**ASSESSMENT DISTRICT:** 4<sup>th</sup>

**CASE NUMBER:** 2021-0152-V

**COUNCILMANIC DISTRICT:** 1<sup>st</sup>

**HEARING DATE:** April 2, 2024

**PREPARED BY:** Sara Anzelmo  
Planner

SLA

**REQUEST**

The applicant is requesting variances to allow a commercial structure with greater height than allowed and to allow accessory structures in the front yard of a nonwaterfront<sup>1</sup> lot on property located on the south side of Dorsey Run Road in Annapolis Junction.

**LOCATION AND DESCRIPTION OF SITE**

The subject site comprises three tax accounts totaling 93.754 acres with frontage on the south side of Dorsey Run Road. It is currently identified as Lots 9RR, 13RR, and 14R of Parcel 195 in Block 20 on Tax Map 13 in the Annapolis Junction Business Park. The lots are proposed to be consolidated into one development site, Lot 9RRR.

The property is zoned W2 – Light Industrial District, as adopted by the comprehensive zoning for Council District 1, effective July 10, 2011. It is primarily unimproved, with the exception of an existing vehicle control point with canopy and a small pedestrian canopy (both located in the northwestern corner of Lot 9RR) and some paving throughout.

**PROPOSAL**

The applicant proposes to construct a slightly-irregular, three-story, commercial data center building, measuring 190.45 feet by 399.73 feet at its widest and longest points, with a maximum height of 80 feet; a one-story “VCC” [Visitor Control Center] building, measuring 30’-2” by 48’, with a height of 12’-2”; a 126,000 gallon fire water storage tank, measuring 30’ in diameter, with a height of 27’; and the associated pump house, measuring 35’ by 13’-6”, with a height of 11’.

**REQUESTED VARIANCES**

§ 18-6-301 of the Anne Arundel County Zoning Ordinance provides that a principal structure in a W2 District shall not exceed 75 feet for projects in which less than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer. The applicant proposes a maximum height of 80 feet to accommodate several rooftop features on the proposed data center building, necessitating a variance of five feet.

<sup>1</sup> This case was initially advertised for a height variance only. However, it was later discovered that an additional variance to allow accessory structures in the front yard of a nonwaterfront lot is also required.

§ 18-2-204(b) provides that an accessory structure may not be located in the front yard of a nonwaterfront lot. The proposed “VCC” [Visitor Control Center] building, the proposed fire water storage tank and associated pump house, the existing vehicle control point with canopy, and the existing small pedestrian canopy would all be located in the front yard relative to the proposed data center building, necessitating a variance to this provision.

## **FINDINGS**

A review of the County 2023 aerial photograph shows that the subject property is irregular in shape and far exceeds the minimum 8,000 square foot area required for a lot in the W2 District. The properties to the south and east are zoned OS - Open Space District and are unimproved. The properties to the north and west are zoned W2 - Light Industrial District, several of which have already been developed with commercial or industrial uses.

The applicant’s letter explains that the proposed elevator bulkhead and stair towers cannot be accommodated within the maximum 75-foot height because of the building’s 22’-6” floor to floor height, which is the minimum required for a data center, and because of the overhead clearance requirements of the elevator shafts and overhead machine rooms. The applicant contends that, while ladder and hatch door accesses could be constructed in compliance with the maximum height limitation, full-height egress stair towers would be safer for employees and emergency personnel when roof access is necessary. The letter notes “unique conditions at this location” as a primary factor, but it provides no description of any unique conditions of the subject property.

The **Health Department** reviewed the proposal and has no objection.

The **Fire Marshal’s Office**, the **Office of Planning and Zoning’s Development Division (Regional Team)** and the **Office of Inspections and Permits (Engineering Division)** took no position on the proposed variance and deferred to the Zoning Administration Section.

For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or inherent in the particular lot or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. A clear case can be made to allow the visitor control center, the fire water storage tank and associated pump house, the vehicle control point with canopy, and the small pedestrian canopy in the front yard, as the location of these structures near the road at the entry of the facility is the only practical place for these security and safety features to serve their intended purposes. However, there is nothing unique about the subject property; rather, it is the applicant’s proposed use and associated design specifications that are causing the need for the height variance.

The Code anticipated the need for exceptions to the maximum height limitations for certain rooftop features and provided for specific exceptions in § 18-2-302. The proposed stair towers are not included in the list of exceptions; and, while an elevator bulkhead is included in the list, the proposed bulkhead exceeds the maximum 15% of the cross sectional area of the section of the roof on which it is located. As such, both features are expected to be constructed within the maximum height limitation provided by Code. If the applicant’s specific use requires taller stories than is typical for most commercial buildings, then they should consider designing a building with a larger footprint and only two stories high in order to accommodate their desired use within

2021-0152-V

a structure that complies with the height limitations of the Code. Furthermore, § 18-6-301 allows for additional building height up to 87 feet as long as more than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer. The applicant could work with the Office of Planning and Zoning on a proposal that would satisfy this requirement in order to take advantage of the greater height allowance provided by Code.

With regard to the requirements for all variances, approval would not necessarily alter the essential character of the neighborhood, impair the appropriate use or development of adjacent properties, or be detrimental to the public welfare. However, there is nothing unique about the subject property nor do exceptional circumstances exist that would cause hardship or prevent reasonable development of the lot if the height variance were to be denied. As noted above, alternative development options exist that would eliminate the need for a height variance. Given that this is the first of many similar buildings that will ultimately be constructed at this data center facility, this Office is concerned over the precedent that a height variance could set for the future proposed buildings within the development.

While the proposed variance to allow the accessory structures to be located in the front yard are justified, the proposed height variance is not warranted and cannot be considered the minimum necessary to afford relief.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***approval*** of a zoning variance to § 18-2-204(b) to allow accessory structures in the front yard of a nonwaterfront lot as shown on the site plan provided by the applicant. However, this Office recommends ***denial*** of the proposed zoning variance to § 18-6-301 to allow a proposed commercial structure with greater height than allowed.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.





400 Industry Drive  
Suite 100  
Pittsburgh, PA 15275  
United States  
T +1.412.249.6495

AUGUST 16, 2021

Anne Arundel County Office of Planning and Zoning  
2664 Riva Road  
Annapolis, MD 21401

Re: **Letter of Justification  
Request for a Variance to the Anne Arundel County Zoning Code Section 18-2-302 for a Project at 8241 and 8251 Dorsey Run Road, Annapolis Junction, MD**

To whom it may concern:

Jacobs is the Lead Architect for a project at 8241 and 8251 Dorsey Run Road.

On behalf of our client, Jacobs is seeking relief from the maximum allowable height limitations set forth in the County Code, only for the limited building elements identified below;

- two stair towers and
- one elevator machine room bulkhead.

There are exemptions in the Zoning Code; Section 18-2-302 (b) (2), which allow certain building elements to exceed the Code maximum allowable height These exemptions read as follows:

- *Generally. Height limitations specified in this article do not apply to steeples on a religious facility, flagpoles, or public utility essential services.*
- *Roof features. Height limitations specified in this article do not apply to the following when they are created only to the height necessary to accomplish the intended purpose, are no more than 15 feet above the lowest point of contact with the roof, and the total area is not more than 15% of the cross-sectional area of the section of the roof on which located:*
  - *belfries;*
  - *chimneys, ventilators, sky lights, water tanks, cooling towers, air conditioning units, bulkheads, or similar roof features, including the necessary associated mechanical equipment carried above roof level; or (3) cupolas or domes consisting only of non-habitable space. (c) Parapet walls. A parapet wall may extend no more than five feet above the height limitations specified in this article. (Bill No. 4-05; Bill No. 78-05)*



In prior correspondence with Donna Aulds at Anne Arundel County and Rob Konowal in the Anne Arundel County Office of Planning and Zoning, Jacobs inquired if stair towers were included in the language "other roof structures." Jacobs also inquired about the elevator machine room and asked if it would be included as a "bulkhead," or "other roof structure" as well. The county representative's interpretation of the Code is that stair towers are not included in the exemption as "other roof structures", and that since our elevator machine room bulkhead exceeds 15% of the cross-sectional area, it is also excluded from being exempt.

**Request 1: Allow Elevator Bulkhead height to exceed the 75' limit by 5'-0", to a maximum of 80'-0".**

There are three planned elevators serving the building, this quantity is necessary to meet operational resiliency requirements. The size of the elevator bank cannot be reduced enough to comply with the 15% north-south cross-sectional ratio to avoid a variance. Further, although it is roughly 6% in the east-west direction, the program and floor plan does not allow for the rotation of the elevator bank.

The building's floor to floor height is 22'-6", the minimum required for data center equipment move in and overhead mechanical and electrical infrastructure that serves the equipment. The elevator shafts, and overhead machine rooms have overhead clearance requirements. The minimum clearance from various elevator vendors would require a roof that exceeds the 75' height limit by anywhere from 7-inches to 5-feet. Incidentally, there are constructability concerns with the lower 7-inch value, in terms of steel framing connections and roofing details. This request is to approve a variance to accommodate 5-feet in height, so that multiple elevator vendors can be accommodated and to allow for the safe constructability of the roof steel and roofing material.

The design team has thoroughly considered the conditions and options and requests that the Office of Administrative Hearings review the findings and approve the request based on the unique conditions at this location.

**Request 2: Allow stair towers that provide access to the roof to exceed the 75' limit by 5'-0", to a maximum of 80'-0".**

The project has five egress stair towers in total, only two of which provide access to the roof. As mentioned above, the building's floor to floor height is 22'-6", the minimum required for the design. Although the facility can comply with the 75-foot limit by making use of a roof hatch this type of roof access is less safe for operations and maintenance personnel, it is less weather resistant, and less physically secure than a stair with a normal 3'-0" x 7'-0" access door.

AUGUST 16, 2021

Additionally, roof hatches are limited in size. Due to the size limitation, a ladder or an alternating tread device is needed to climb from the last regular egress stair landing through the hatch and onto the roof. Alternatively, a full height egress stair tower can make use of standard stair dimensions and rise/run.

The ability to access the roof is important to operations and maintenance personnel. The access required is quarterly at a minimum and often personnel are carrying various tools/material with them. It is also anticipated that first responders who need to access the roof in case of an emergency would also be much better served by a full height stair and standard door access in lieu of a ladder and hatch.

A regular, code-compliant stair and man door are much more weatherproof during operations than a hatch; a hatch must remain open for the duration personnel are on the roof, as opposed to regular man doors, which can be closed.

The percentage of roof elements over the height limit is very small: the stairs make up less than 1-percent of the overall roof area. Adding the elevator machine room bulkhead increases the total area exceeding the typical height limitation to approximately 2.5-percent.

The applicant considers it important to emphasize that this request is entirely in regard to safety of employees and first responders, as well as operational resiliency, and is not related to maximizing rentable or commercial space.

The design team has thoroughly considered the conditions and options and requests that the Office of Administrative Hearings review the findings and approve the request based on the unique conditions at this location.

Very Respectfully,



**Jacob J. Raketich, AIA, NCARB**

**JACOBS** | Lead Architect | d. 412.249.6634 | m. 412.818.1925 | [jacob.raketich@jacobs.com](mailto:jacob.raketich@jacobs.com) | [www.jacobs.com](http://www.jacobs.com)

Copies to: Inna Tasmaly

**YEL03-04**

# **Annapolis Junction Business Park**

Submitted as part of

Preliminary Plan C2021-0012 00 PP

Variance Application

June 15, 2021



# Location

SCALE 1"=500'  
0 500' 1000'



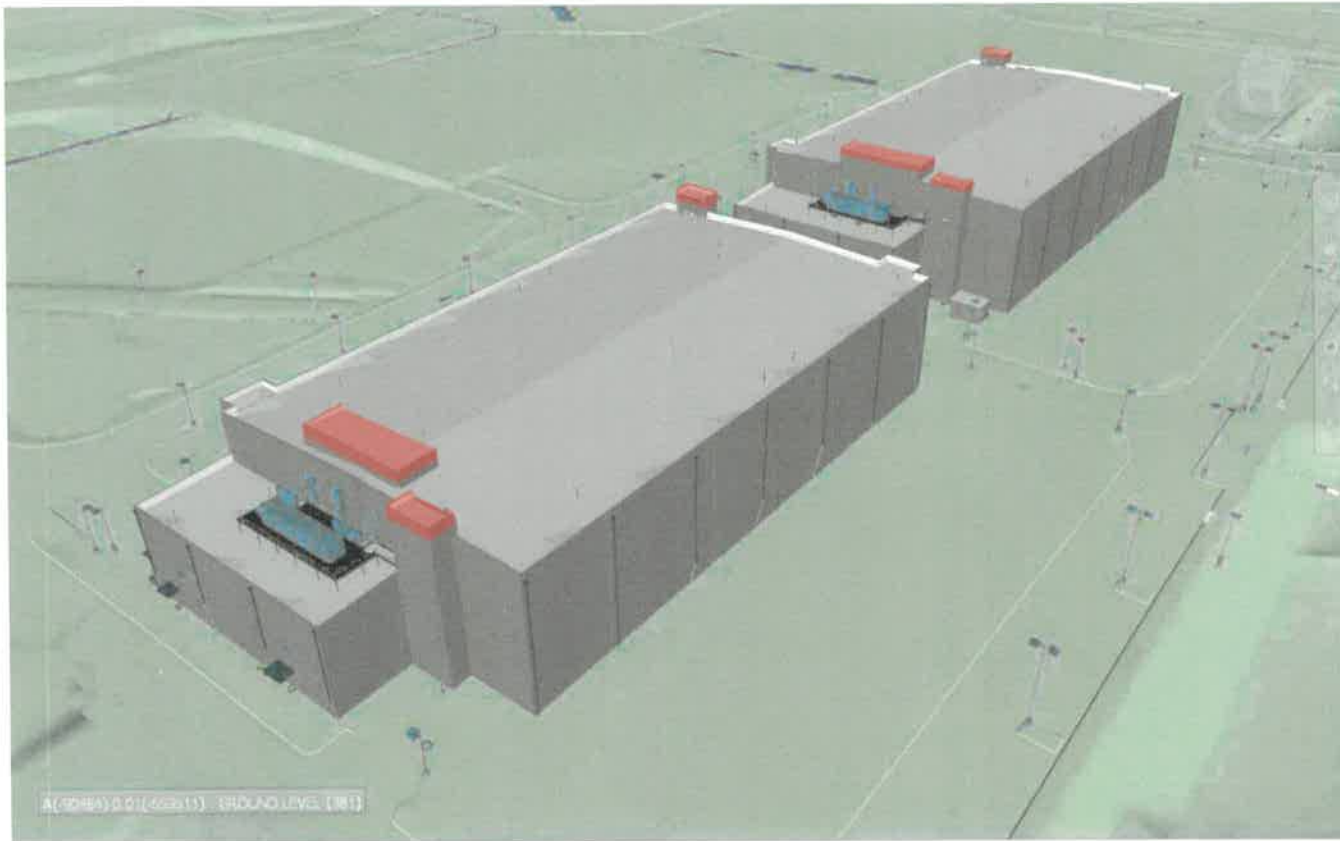
Denotes Client-Owned Property



Denotes BGE Overhead Utility Right-of-Way

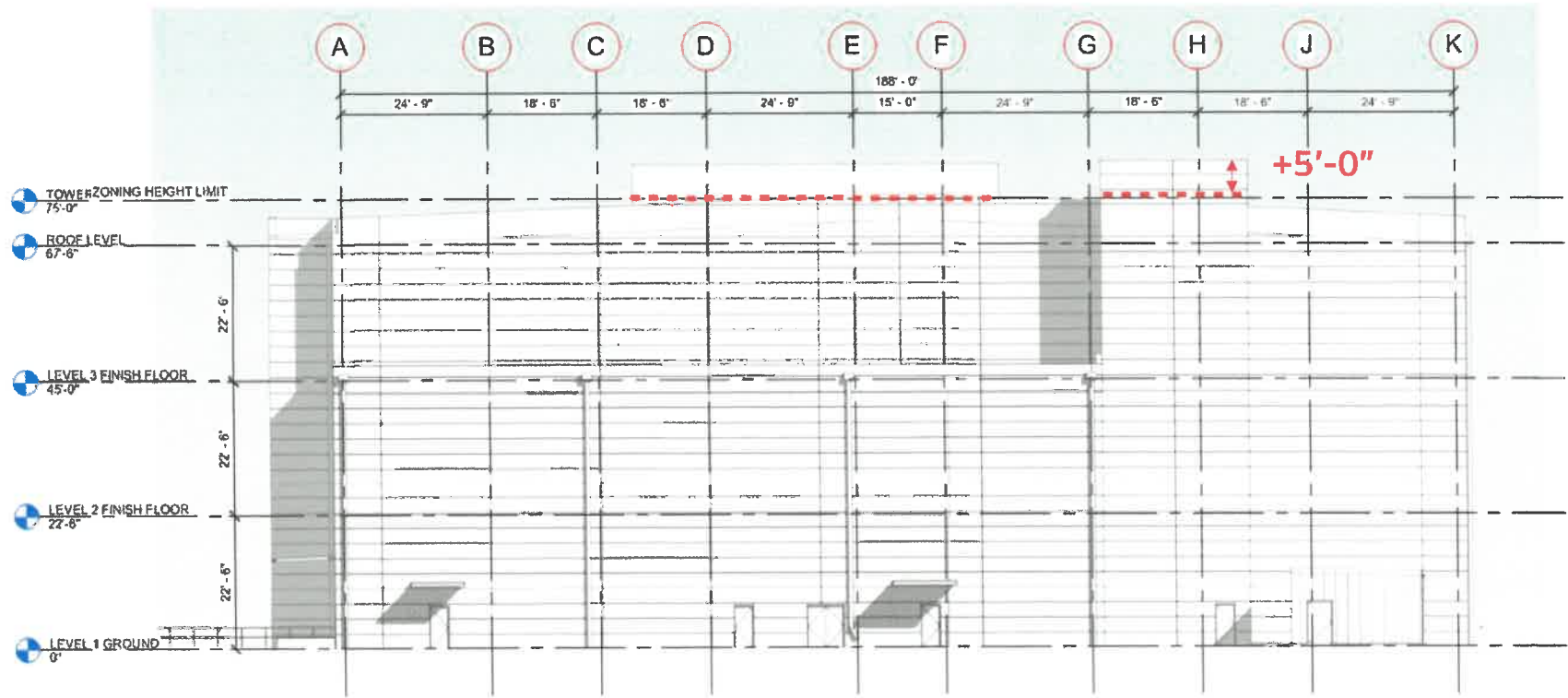


## Roof Access Stairs and Elevator Bulkhead

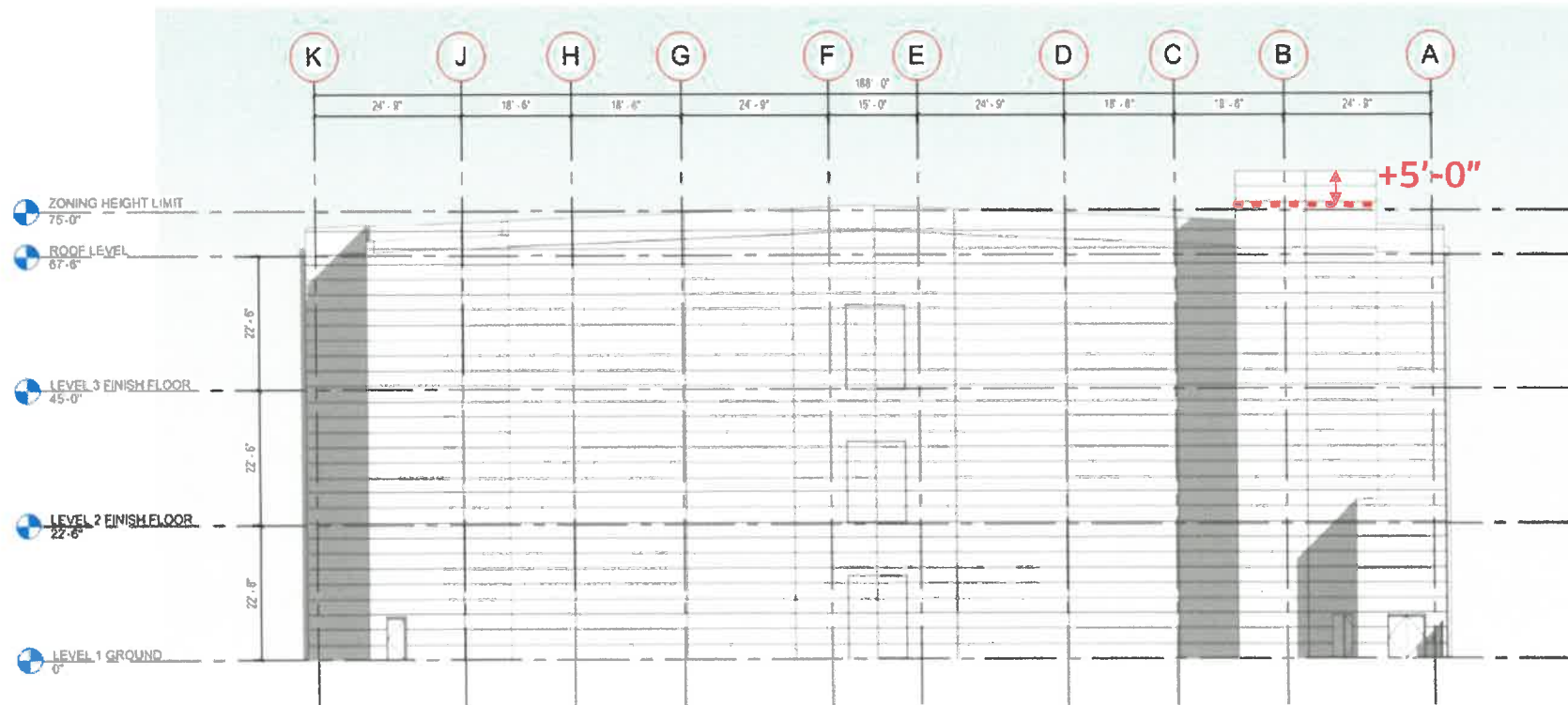


Two Roof Access Stairs, and the Elevator Machine Room Bulkhead comprise 2 ½ % of the overall building footprint. The upper 5'-0" of each are highlighted in red, as that portion of each exceeds the allowable building height defined in the Zoning Code.

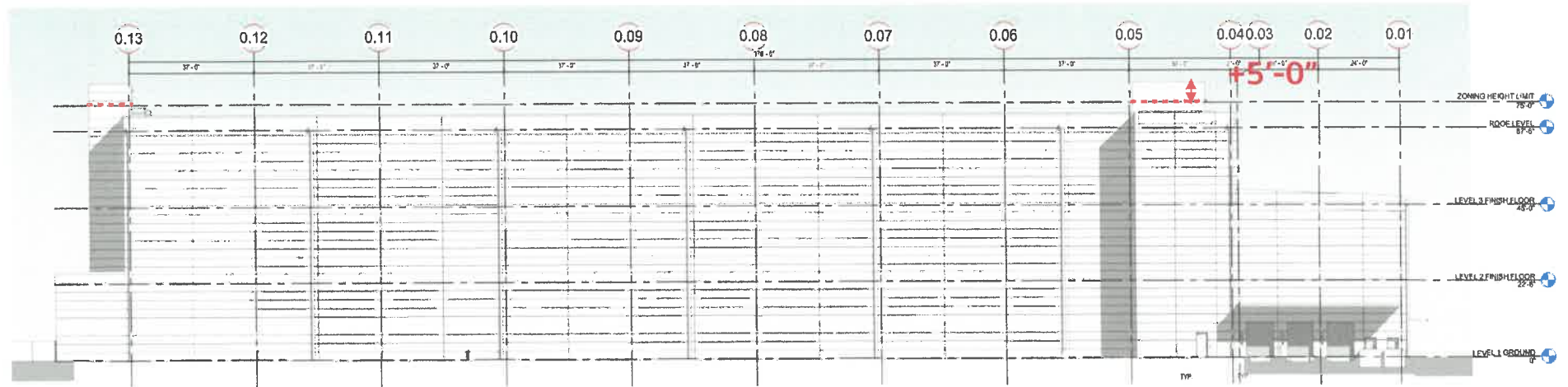
# Roof Access Stairs and Elevator Bulkhead Exceed Zoning Allowable Height



# Roof Access Stairs and Elevator Bulkhead Exceed Zoning Allowable Height

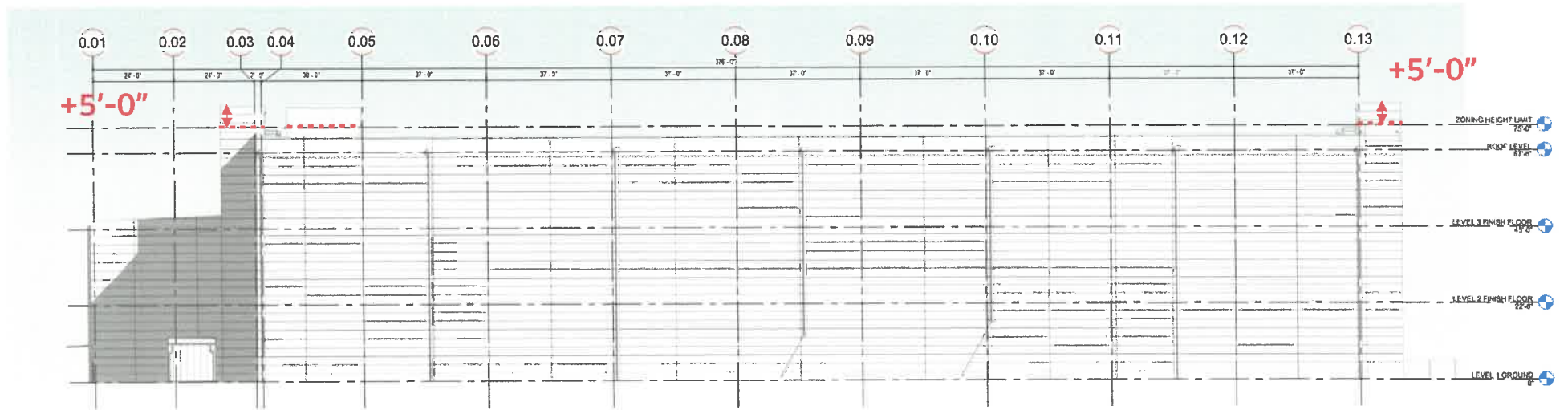


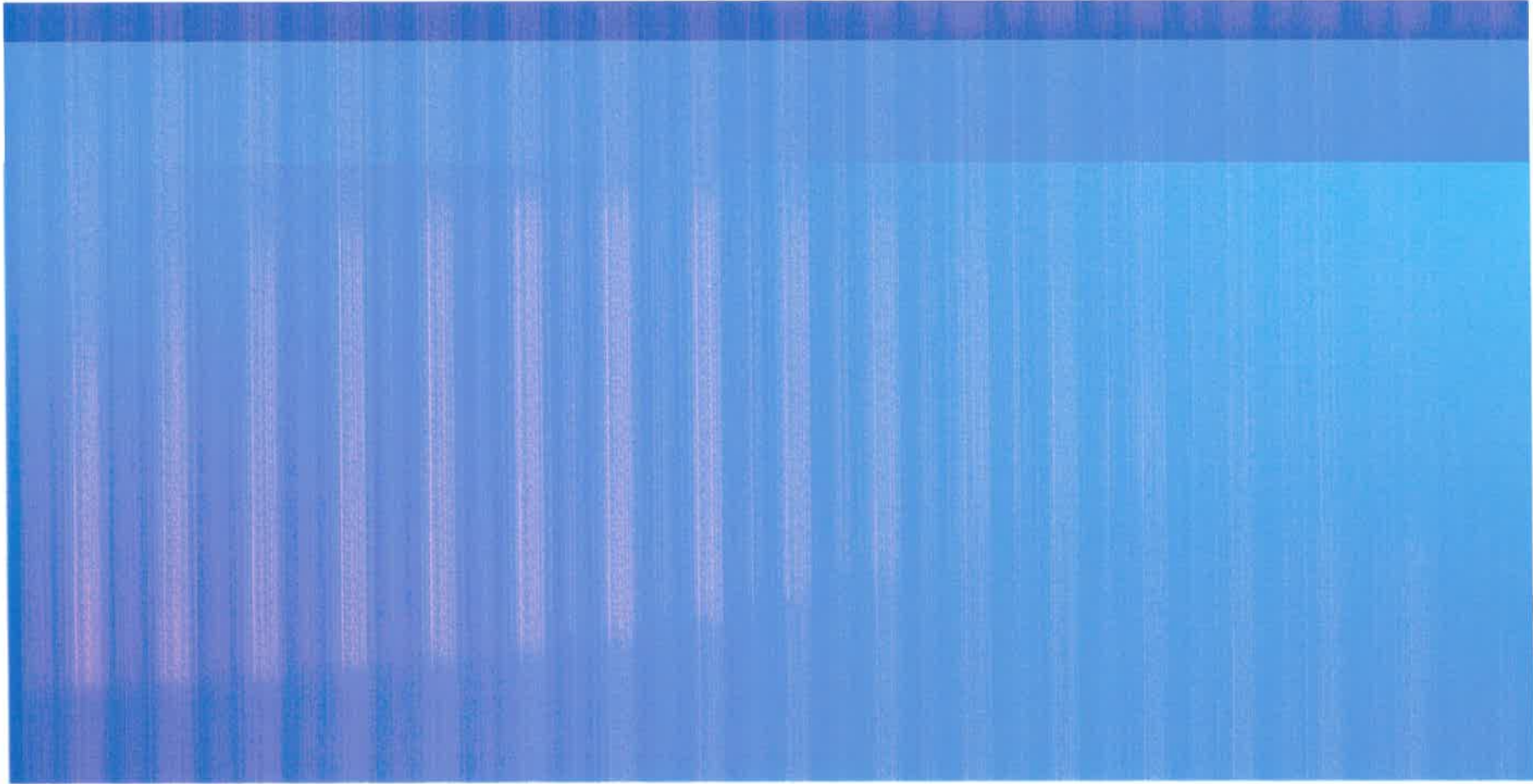
# Roof Access Stairs and Elevator Bulkhead Exceed Zoning Allowable Height





# Roof Access Stairs and Elevator Bulkhead Exceed Zoning Allowable Height





**Jacobs**

Challenging today.  
Reinventing tomorrow.



**For Office Use Only**

CASE # \_\_\_\_\_

FEE PAID \_\_\_\_\_

DATE \_\_\_\_\_



**For Office Use Only**

ZONE \_\_\_\_\_

CRITICAL AREA: IDA \_\_\_ LDA \_\_\_ RCA \_\_\_

BMA: Yes \_\_\_ No \_\_\_

NO. OF SIGNS \_\_\_\_\_

**VARIANCE APPLICATION**

NOTE: This form can be downloaded to your computer and filled out utilizing Adobe Reader (or similar product). It can also be printed and filled out by hand.

Applicant(s): Jacob Raketich  
(Applicant must have a financial, contractual, or proprietary interest in the property)

Property Address: 8241, 8251 Dorsey Run Road

Property Location: \_\_\_\_\_ feet of frontage on the ( S ) side of Dorsey Run Road ;  
(Enter Street Name )  
1600 feet ( E ) of (Nearest intersecting street) Dorsey Run Loop .  
(Enter Street Name )

12-digit Tax Account Number 400090221379 Tax District ( 4 ) **Council District** ( 1 )

Waterfront Lot: Y  N  Corner Lot: Y  N  Deed Title Reference \_\_\_\_\_

Zoning District \_\_\_\_\_ Lot # \_\_\_\_\_ Tax Map 13 Block/Grid 20 Parcel 195

Area 93.75 ( Acres ) Subdivision Name \_\_\_\_\_

Description of Proposed Project and Variance Requested (Brief, detail fully in letter of explanation)

We request relief from the maximum allowable height of buildings only for the two stair towers that provid  
access to the roof and the elevator machine. 75' is the current limit ; the top of roof of stair is 80'

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest in the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature \_\_\_\_\_ Owner's Signature \_\_\_\_\_

Print Name Jacob Raketich Print Name Inna Tasmaly

Mailing Address 400 Industry Drive, Ste 100 Mailing Address \_\_\_\_\_

City, State, Zip Pittsburgh, PA 15275 City, State, Zip \_\_\_\_\_

Work Phone 412-818-1925 Work Phone 425.705.7775

Home Phone 412-818-1925 Home Phone \_\_\_\_\_

Cell Phone 412-818-1925 Cell Phone 253.350.4655

Email Address jacob.raketich@jacobs.com Email Address Inna.Tasmaly@microsoft.com

**\*\*\* Below For Office Use Only \*\*\***

Application accepted by Anne Arundel County Office of Planning and Zoning: \_\_\_\_\_  
Initials Date

Variance to \_\_\_\_\_



## OFFICE OF PLANNING AND ZONING

### CONFIRMATION OF PRE-FILE MEETING

DATE OF MEETING 6.17.2021

P&Z STAFF Sumner Handy & Courtney Wilson

APPLICANT/REPRESENTATIVE Jacob Raketich EMAIL Jacob.raketich@jacobs.com

SITE LOCATION 8211, 8241, & 8251 Dorsey Run Road, Annapolis Junction LOT SIZE 93.75 acres ZONING W2

CA DESIGNATION \_\_\_\_\_ BMA \_\_\_ or BUFFER \_\_\_\_\_ APPLICATION TYPE variance

The applicant proposes to construct two three-story data centers (approximately 171,172 square feet per building), administration office space (approximately 34,320 square feet), site circulation, and related infrastructure in the W2 district. The use is permitted in the W2 district, however height variances are required for roof access stairways and elevator machine room bulkheads.

#### COMMENTS

The Development Division, Regional Team, defers to the Zoning Division regarding the requested variance.

The Zoning Division notes that a variance to Section 18-6-301 of the Anne Arundel County Code would be required to construct the access stairways and elevator bulkheads to the heights requested. The site plan included in the variance application must label all activities that will occur on the site. The dimensions of all facilities, including height and distance from lot lines, must be labeled on the site plan. The Zoning Division acknowledges the arguments made in the applicants' pre-file letter regarding the necessity of roof access and elevator machine room bulkheads, as well as the safety concerns and functionality preferences (e.g., stairways to man doors rather than roof hatches) noted. However, the applicant should also address in the letter of explanation included in the variance application the need for the underlying buildings to be built to a height such that height variances for stairway access and elevator machine room bulkheads are required. The letter of explanation should address the variance requirements as outlined in Section 18-16-305(a) and (c) of the Anne Arundel County Code.

The Zoning Division finally notes that a site plan similar in extent to sheet 9 of 43 (YEL00-C-C10-01-1), showing all buildings, uses, dimensions, lot lines and structures' distance from, and other required information will be sufficient for the variance application. The location of the stairways and elevator machine room bulkheads requiring the height variances should be clearly demarcated on the site plan.

#### INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

\*\*\* A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.



After Recording Return To:  
Ericka Micciche  
c/o First American Title Insurance Company  
401 E. Pratt Street Suite 323  
Baltimore, MD 21202  
NCS File No.990905

15/15

Tax IDs: 04-600-9022-1366;  
9022-1374; 9022-1375;  
9022-1377; 9022-1378;  
9022-1379; 9022-1380;  
9022-1381

After Recording Return To:  
K&L Gates LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104  
Attn: Shannon Skinner

08/25/20 09:39 AM C 0002 R 0002  
Val #: 0002-235796 \$525,000.00  
Deed - Recordation Tax - Mail  
Instrument Type: Deed

SPECIAL WARRANTY DEED

THIS DEED is made this 25 day of June, 2020, by and between ANAPOLIS with Taxes) JUNCTION HOLDINGS, LP, a Maryland limited partnership, as grantor ("Grantor") and MICROSOFT CORPORATION, a Washington corporation, as grantee ("Grantee") having tax address of One Microsoft Way, Redmond, WA 98052.

LR - Deed (w Taxes) Recording only ST 20.00  
Name: ANNAPOLIS JUNCTION HOLDINGS LP  
Ref:  
ANAPOLIS with Taxes) 40.00  
Deed State 375,000.00  
LR - NR Tax - 1kd 0.00  
SubTotal: 375,060.00  
Annotated 611,265.00  
10:31  
CC02-SG  
#14016363 CC0501 - Anne Arundel  
County/CC05.01.12 - Register 12

By executing this Deed, Grantor certifies under penalties of perjury that "Resident Entity" as defined by Section 10-912(a) of the Tax-General Article of the Code of Maryland, and is exempt from the "total payment" in accordance with Section 10-912(b) of the Tax-General Article of the Annotated Code of Maryland.

WITNESSETH:

Grantor does grant and convey for consideration valued at SEVENTY-FIVE MILLION AND 00/100 DOLLARS (\$75,000,000.00), receipt of which is hereby acknowledged by Grantor, and which the Grantee certifies under the penalties of perjury as the actual consideration to be paid, unto Grantor, in fee simple, with special warranty of title, all the land and improvements situate in Anne Arundel County, State of Maryland, described as:

SEE ATTACHED EXHIBIT A

TOGETHER WITH all right, title, and interest of Grantor, if any, in and to the bed of any street, road, avenue, or alley, open or closed, in front of or adjoining the land on the attached EXHIBIT A, to the center line thereof and all easements and other rights appurtenant to the land,

Subject to covenants, easements, and restrictions set forth on the attached EXHIBIT B,

TO HAVE AND TO HOLD said land and premises above described and hereby intended to be conveyed, and all and every title, right, privilege, appurtenance, and advantage thereunto belonging, or in anywise appertaining, unto and for the benefit and behoof forever of said Grantee in fee simple.

AND said Grantor does hereby covenant to warrant specially the property hereby conveyed and to execute such further assurances of said land as may be requisite.

ACCT. 400-9022-1375  
400-9022-1374  
400-9022-1366  
400-9022-1377  
400-9022-1379  
400-9022-1378  
400-9022-1381  
400-9022-1380  
ALL LIENS ARE PAID AS OF 8/20/20 A.A. COUNTY BY: [Signature]

#990905 10 1ST AM

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 35120, p. 0647, MSA\_CE59\_35562. Date available 09/08/2020. Printed 08/20/2021

08/25/20 09:39 AM C 0002 R 0002  
Val #: 0002-235797 \$750,000.00  
T E R N S F E R T A X



**GRANTEE'S ADDRESS:** One Microsoft Way, Redmond, WA 98052

**CONSIDERATION:** \$75,000,000.00

**TAX ID #:** 04-000-90221366; 04-000-90221377; 04-000-90221380;  
04-000-90221381; 04-000-90221379; 04-000-90221378;  
04-000-90221374; 04-000-90221375

**TITLE INSURER:** First American Title Insurance Company

**EXHIBIT A TO DEED**

**Legal Description**

The Land referred to herein below is situated in the County of Anne Arundel, State of Maryland, and is described as follows:

AS TO LOT 1:

BEING KNOWN AND DESIGNATED AS LOT 1 AS SHOWN ON THAT CERTAIN PLAT ENTITLED "RESUBDIVISION PLAT ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS IN ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 266 FOLIOS 4-24, PLAT NO. 13832.

Anne Arundel County Tax Parcel No. 04-000-90221366

AS TO LOT 12R:

BEING KNOWN AND DESIGNATED AS LOT 12R AS SHOWN ON THAT CERTAIN PLAT ENTITLED "FINAL PLAT ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 286 FOLIO 44, et. seq., PLAT NO. 14879.

Anne Arundel County Tax Parcel No. 04-000-90221377

AS TO LOT 15:

BEING KNOWN AND DESIGNATED AS LOT 15 AS SHOWN ON THAT CERTAIN PLAT ENTITLED "FINAL PLAT ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 286 FOLIO 44, et. seq., PLAT NO. 14882.

Anne Arundel County Tax Parcel No. 04-000-90221380

AS TO LOT 16:

BEING KNOWN AND DESIGNATED AS LOT 16 AS SHOWN ON THAT CERTAIN PLAT ENTITLED "FINAL PLAT ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 286 FOLIO 44, et. seq., PLAT NO. 14883.

Anne Arundel County Tax Parcel No. 04-000-90221381

AS TO LOT 14R:

BEING KNOWN AND DESIGNATED AS LOT 14R AS SHOWN ON THAT CERTAIN PLAT ENTITLED "AMENDED PLAT OF ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 329 FOLIOS 40-44, PLAT NO. 17019.

Anne Arundel County Tax Parcel No. 04-000-90221379

AS TO LOT 13R:

BEING KNOWN AND DESIGNATED AS LOT 13R AS SHOWN ON THAT CERTAIN PLAT ENTITLED "AMENDED PLAT OF ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 329 FOLIOS 40-44, PLAT NO. 17020.

Anne Arundel County Tax Parcel No. 04-000-90221378

AS TO LOT 9R:

BEING KNOWN AND DESIGNATED AS LOT 9R AS SHOWN ON THAT CERTAIN PLAT ENTITLED "AMENDED PLAT OF ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 329 FOLIOS 40-44, PLAT NO. 17017.

Anne Arundel County Tax Parcel No. 04-000-90221374

AS TO LOT 10R:

BEING KNOWN AND DESIGNATED AS LOT 10R AS SHOWN ON THAT CERTAIN PLAT ENTITLED "AMENDED PLAT OF ANNAPOLIS JUNCTION BUSINESS PARK", RECORDED AMONG THE LAND RECORDS OF ANNE ARUNDEL COUNTY, MARYLAND IN PLAT BOOK 329 FOLIOS 40-44, PLAT NO. 17018.

Anne Arundel County Tax Parcel No. 04-000-90221375

**STATE OF MARYLAND HWY ADMIN**

C/O DIST CHIEF SHA  
138 DEFENSE HWY  
ANNAPOLIS MD 21401

**MICROSOFT CORPORATION**

ONE MICROSOFT WAY  
REDMOND VA 98052

**MICROSOFT CORPORATION**

PO BOX 25910  
SCOTTSDALE AZ 85255

**MICROSOFT CORPORATION**

ONE MICROSOFT WAY  
REDMOND VA 98052

**MICROSOFT CORPORATION**

ONE MICROSOFT WAY  
REDMOND VA 98052

**MICROSOFT CORPORATION**

ONE MICROSOFT WAY  
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## TITLE 6. INDUSTRIAL DISTRICTS

Section

### Subtitle 1. In General

- 18-6-101. Scope.
- 18-6-102. Setbacks from existing dwellings in a residential district.
- 18-6-103. Permitted, conditional, and special exception uses.

### Subtitle 2. W1 – Industrial Park Districts

- 18-6-201. Bulk regulations.

### Subtitle 3. W2 – Light Industrial Districts

- 18-6-301. Bulk regulations.

### Subtitle 4. W3 – Heavy Industrial Districts

- 18-6-401. Bulk regulations.

## SUBTITLE 1. IN GENERAL

### § 18-6-101. Scope.

This title applies to all industrial districts.

(Bill No. 4-05)

### § 18-6-102. Setbacks from existing dwellings in a residential district.

Notwithstanding any provision to the contrary, each new structure, parking lot, and driveway constructed after March 31, 2000, on a lot of more than 10 acres in an industrial zoning district shall be located at least 100 feet from an existing dwelling in a residential district.

(Bill No. 4-05)

### § 18-6-103. Permitted, conditional, and special exception uses.

The permitted, conditional, and special exception uses allowed in each of the industrial districts are listed in the chart in this section using the following key: P = permitted use; C = conditional use; SE = special exception use; and A= auxiliary use to a business complex use. A blank means that the use is not allowed in the district. Except as provided otherwise in this article, uses and structures customarily accessory to permitted, conditional, and special exception uses also are allowed, except that outside storage as an accessory use in W1 is limited to 15% of the allowed lot coverage.

Permitted, Conditional, and Special Exception Uses	W1	W2	W3
Permitted, Conditional, and Special Exception Uses	W1	W2	W3
Adult bookstores			C
Adult day care centers	P	P	
Adult movie theaters			C
Airports and airfields	SE	SE	SE
Alcoholic beverage uses as accessory to other uses	C	C	C
Amusement parks		SE	SE
Artisans and craft work	P	P	P
Automobile and truck detailing shops	P	P	P
Automobile and truck dismantling and recycling facilities		SE	SE
Automobile and truck rental establishments	P	P	P
Automobile and truck repair and painting facilities		P	P
Automobile and truck towing storage yards, temporary storage not to exceed 90 days		P	P
Automobile gasoline stations	C	C	C
Automobile and truck parts, supply stores, and tire stores	P	P	P
Automobile service facilities providing oil change, lubrication, and related services	P	P	P
Bakery or donut shops	A	A	
Bakeries, wholesale	P	P	P
Banks	P	P	

Barbershops	A	A	
Boat manufacturing, repair, and service		P	P
Bookbinding		P	P
Bottling works		P	P
Bone distillation			P
BRAC Mixed Use Development	C		
Brewery		P	P
Brewery, craft	P	P	P
Building material storage, including sales and yards		P	P
Bus terminals		P	P
Business complexes	P	P	P
Business complexes with auxiliary uses	C	C	
Cabinetry and woodworking and sales without outside storage	P		
Carnivals, circuses, and fairs, temporary	C	C	
Catering establishments	P	P	
Cement manufacturing			SE
Chemical and allied products, nonmanufacturing			P
Child care centers	P	P	
Clay and borrow pits or sand and gravel operations		SE	SE
Clubs, private, and service, nonprofit, and charitable organizations	P	P	P
Coke or coke products manufacturing			SE
Commercial recreational facilities, including miniature golf; driving ranges; tennis, racquet, and handball barns or courts; artificial ski slopes; indoor soccer; bowling alleys; BMX bike, skateboard or roller blade parks; and skating rinks	P	P	
Commercial telecommunication facilities permanently located on the ground	C	C	C
Commercial telecommunication facilities that are antennas attached to a structure if the antenna does not exceed 15 feet in height above the structure, does not project more than two feet beyond the facade, does not support lights or signs unless required for safety reasons, and accessory structures meet the requirements of § 18-10-117(7) of this Code	P	P	P
Commercial telecommunication facilities for testing purposes or emergency services for a period not exceeding 30 days if the facility is a monopole not exceeding 100 feet in height and is located at least 300 feet from any dwelling	P	P	P
Communications systems sales and service, manufacturing and wholesale	P	P	P
Computer goods, sales and services	P	P	P
Conference centers	P		
Construction or sales trailers, temporary, in an approved development actively under construction	P	P	P
Contractor and construction shops and yards		P	P
Convenience stores, gift shops, and newsstands	A	A	
Data storage center	P	P	P
Delicatessens and snack bars	A	A	
Die casting		P	P
Distillery		P	P
Distillery, limited	P	P	P
Dog day care facilities		P	
Dog grooming parlors	P	P	
Drive-in theaters	SE	SE	
Dry cleaning and laundry establishments		P	
Dry cleaning and laundry establishments, including pick-up stations, package plants, and coin-operated facilities, limited to establishments with less than 4,000 square feet of floor area	A	A	
Dyeing establishments		P	P
Equipment, sales, repair and storage, commercial		P	P
Entertainment complexes, including a multi-screen complex	A		
Fabrication and assembly uses	P	P	P

Farming	P	P	P
Fertilizer manufacturing			SE
Food product manufacturing		P	P
Furniture, appliance, and carpet stores and showrooms	P	P	
Generating plants			P
Grocery stores with a maximum of 25,000 square feet	A	A	
Hair, cosmetic facial hair, and nail salons	A	A	
Hardware stores	A	A	
Health clubs, spas, and gymnasiums	P	P	P
Heliports	SE	SE	SE
Home occupations	C	C	C
Hotels and motels	P	A	
Industrial piers, wharves, and mooring pilings if located in the Chesapeake Bay, Patapsco River, Parish Creek, or Tenthouse Creek		P	P
Kennels, commercial	C	P	
Laboratories, research and development or testing	P	P	P
Latex fabrication, not including paint		P	P
Licensed dispensary of cannabis, as defined in State law and regulation	C	C	C
Licensed grower of cannabis, as defined in State law and regulation, indoor cultivation only	C	C	C
Licensed processor of cannabis, as defined in State law and regulation	C	C	C
Lumber yards		P	P
Mailing and shipping services	P		
Manufacturing and processing, general, including the assembling of component parts, the creation of products, and the blending of materials	P	P	P
Manufacturing and processing, heavy, including adhesives; aircraft parts; asphalt; atmospheric gas; bricks; concrete products; paper; metal foundries and forges; insulating materials; metal machinery that includes autos, rail, farm, construction, mining, and industrial machinery; metal refining, stamping, extrusion; paint and allied products; paper and paper products from pulp; plastic; porcelain and porcelain enamel; processing of grain, clay, sand, gravel, stone, synthetic fibers, filaments, and tiles			P
Marine freight terminals, excluding bulk freight, if located in the Chesapeake Bay or Patapsco River		P	P
Maritime suppliers and servicing, including piers and wharves for pile driving and marine construction operations		P	P
Metal products and machinery, manufacturing, fabrication, finishing, tool and die, machine shops, galvanizing, electroplating, die casting, welding		P	P
Milk and dairy products, processing and distribution		P	P
Monument works and statuary production		P	P
Motorcycle manufacturing and fabrication		P	P
Moving and storage establishments		P	P
Natural wood waste recycling facilities		SE	SE
Natural wood waste recycling facilities, relocation or expansion of existing facility		C	
Offices, professional and general	P	P	P
Office supply stores and business service establishments	P		
Ore storage			SE
Outside storage as a principal use		P	P
Package goods stores	A	A	
Parking garages or lots	P	P	P
Parks, private	P		
Personal fitness studios	P	P	P
Petroleum products, storage for retail sale		SE	SE
Petroleum products, storage on lot in excess of 1,000,000 gallons for use by W3 district uses or public utilities			SE
Pets, livestock, or fowl as permitted by § 18-4-104	P	P	P
Pharmacies	A	A	

Photoengraving		P	P
Photography studios	P	P	
Piers, commercial	P	P	P
Printing and publishing establishments	P	P	P
Processing sites for clay, sand, gravel, and similar materials			C
Public utility essential services	P	P	P
Public utility uses	SE	P	P
Race tracks for horses	C	SE	
Race tracks for other than horses		SE	
Radio and television studios and broadcasting establishments	P	P	
Radio, television, or industrial testing towers		SE	SE
Recyclables recovery facilities		SE	SE
Religious facilities	P	P	P
Rendering plants			SE
Rental establishments	P	P	P
Restaurants	P	P	P
Rubble processing facilities			SE
School bus facilities		P	P
Schools, public charter, and schools, private: academic, arts, business, technical, or trade	P	P	P
Self-service storage facilities	C	C	C
Showrooms and sales of specialty building products	P	P	P
Sign shops, including painting and fabrication	P	P	P
Small cell system	C	C	C
Small wind energy systems or meteorological towers on a lot of at least three acres	C	C	C
One small wind energy system or meteorological tower on a lot less than three acres	SE	SE	SE
Solar energy generating facility – accessory	P	P	P
Solar energy generating facility – community	C	C	C
Solar energy generating facility – utility scale	C	C	C
Solid waste transfer stations			SE
Stadiums, commercial	SE	SE	SE
Staging areas for County capital projects	P	P	P
State-licensed medical clinics	C	C	C
Storage of atmospheric gas, coal, grain			P
Tattoo parlors and body piercing salons	P		
Taverns	P	P	P
Taxicab stands and services	P	P	
Taxidermists	P	P	P
Telephone exchanges	P	P	P
Trade expositions	P	P	P
Travel agencies	A		
Truck stops		P	P
Veterinary clinics if overnight stays are limited to those necessary for medical treatment without outside runs or pens	P	C	
Video lottery facilities	C		
Video sales and rental establishments with less than 1,500 square feet of floor area	A	A	
Volunteer fire stations	P	P	P
Water-dependent facilities	P	P	P
Wholesale trade, warehousing, and storage establishments	P	P	P
Wineries		P	P
Workforce housing	C		

(Bill No. 4-05; Bill No. 54-05; Bill No. 78-05; Bill No. 64-07; Bill No. 69-07; Bill No. 82-09; Bill No. 39-10; Bill No. 60-10; Bill No. 73-12; Bill No. 12-13; Bill No. 68-13; Bill No. 21-14; Bill No. 58-14; Bill No. 8-15; Bill No. 14-15; Bill No. 21-15; Bill No. 96-15; Bill No. 26-17; Bill No. 67-17; Bill No. 75-17; Bill No. 101-17; Bill No. 3-18; Bill No. 25-18; Bill No. 89-18; Bill No. 54-19; Bill No. 76-19; Bill No. 90-20; Bill No. 104-20; Bill No. 47-21; Bill No. 104-21; Bill No. 56-23; Bill No. 77-23)

## SUBTITLE 2. W1 – INDUSTRIAL PARK DISTRICTS

### § 18-6-201. Bulk regulations.

Except as provided otherwise in this article, the following bulk regulations are applicable in a W1 District:

Lot size:	
Average lot size	1 acre
Minimum lot size	40,000 square feet
For an industrial park	20 acres
Minimum setbacks for principal structures:	
Front lot line	50 feet
Side lot line	30 feet
Rear lot line	30 feet
Freeway	100 feet
Divided principal arterial road	60 feet
Any other public road or right-of-way	50 feet
Minimum setbacks for accessory structures from rear and side lot lines	25 feet
Maximum coverage by structures and parking	75% of gross area
Minimum width at front building restriction line	150 feet
Maximum height limitations:	
Principal structures	None if all setbacks are increased by one foot for each two feet of height in excess of 90 feet
Accessory structures	None if all setbacks are increased by one foot for each two feet of height in excess of 25 feet
Maximum single front elevation	300 feet in length unless special architectural, landscaping, or topographic treatment, such as a change of material, texture, depression, berm, or other similar change, is employed.

(Bill No. 4-05)

## SUBTITLE 3. W2 – LIGHT INDUSTRIAL DISTRICTS

### § 18-6-301. Bulk regulations.

Except as provided otherwise in this article, the following bulk regulations are applicable in a W2 District:

Minimum lot size	8,000 square feet
Maximum coverage by structures and parking	80% of gross area
Minimum setbacks for principal structures:	
Front lot line	20 feet
Side lot line	15 feet
Rear lot line	30 feet
Rear lot line that abuts a residentially zoned district	100 feet
Side or rear lot line that abuts a commercially zoned district	20 feet
Freeway	100 feet
Divided principal arterial road	60 feet
Minimum setbacks for accessory structures in a rear yard:	
Side lot line	10 feet
Rear lot line	10 feet
Minimum lot depth	100 feet
Minimum width at front building restriction line	75 feet

Maximum height limitations for principal structures where less than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer	75 feet if all setback requirements are increased by one foot for each two feet of height in excess of 60 feet
Maximum height limitations for principal structures where more than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer	87 feet if all setback requirements are increased by one foot for each two feet of height in excess of 75 feet

(Bill No. 4-05; Bill No. 60-10)

## SUBTITLE 4. W3 – HEAVY INDUSTRIAL DISTRICTS

### § 18-6-401. Bulk regulations.

Except as provided otherwise in this article, the following bulk regulations are applicable in a W3 District:

Minimum lot size	6,000 square feet
Maximum coverage by structures and parking	80% of gross area
Minimum setbacks for principal structures:	
Front lot line	10 feet
Front lot line abuts a residential area	10 feet
Side lot line	10 feet
Rear lot line	20 feet
Side or rear lot line abuts a residentially zoned district	200 feet
Side or rear lot line abuts a commercially zoned district	50 feet
Freeway	100 feet
Divided principal arterial road	60 feet
Minimum setbacks for accessory structures in a rear yard:	
Side lot line	5 feet
Rear lot line	5 feet
Minimum lot depth	100 feet
Minimum width at front building restriction line	75 feet
Maximum height limitations for principal structures, excluding towers, columns, or a series of columns, towers, or stacks, where less than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer	75 feet if all setback requirements are increased by one foot for each two feet of height in excess of 60 feet
Maximum height limitations for principal structures, excluding towers, columns, or a series of columns, towers, or stacks, where more than 50% of allowable lot coverage consists of environmental site design features approved by the Planning and Zoning Officer	87 feet if all setback requirements are increased by one foot for each two feet of height in excess of 75 feet

(Bill No. 4-05)

## TITLE 16. ADMINISTRATIVE HEARINGS

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### Section

#### Subtitle 1. In General

- 18-16-101. General provisions.
- 18-16-102. Temporary Hearing Officer.
- 18-16-103. Ex parte communications prohibited.

#### Subtitle 2. Application Process and Pre-hearing Procedures

- 18-16-201. Applications.
- 18-16-202. Scheduling of hearing.
- 18-16-203. Notices and signs.

#### Subtitle 3. Hearing and Decision

- 18-16-301. Hearing.



- 18-16-302. Critical area reclassifications.
- 18-16-303. Rezoning.
- 18-16-304. Special exceptions.
- 18-16-305. Variances.
- 18-16-306. Decision on application.

**Subtitle 4. Post-Decision Procedures and Events**

- 18-16-401. Revision by Administrative Hearing Officer to correct errors of form.
- 18-16-402. Appeal to the Board of Appeals.
- 18-16-403. Limitation on subsequent applications.
- 18-16-404. Rescission, suspension, or modification of a variance or special exception.
- 18-16-405. Time period after which variances and special exceptions are void.
- 18-16-406. Abandonment of special exception.

**SUBTITLE 1. IN GENERAL**

**§ 18-16-101. General provisions.**

- (a) **Definition.** In this title, "application" means a request to change or remove a critical area classification, to change a zoning district, for a special exception or variance, or for a modification of a special exception.
- (b) **Time.** The computation of time under this title is governed by § 1-1-103 of this Code.
- (c) **Discovery.** Depositions and other discovery in connection with proceedings under this title are prohibited.
- (d) **Effect of approval.** The granting of an application under this title does not operate as a waiver of any law or regulation relating to the development of the property or constitute a commitment on the part of the County to provide fire suppression facilities, roads, schools, sewers, storm drainage systems, or water service.

(Bill No. 4-05)

**§ 18-16-102. Temporary Hearing Officer.**

If the Administrative Hearing Officer has a conflict of interest, the Administrative Hearing Officer shall withdraw and the County Executive shall appoint a temporary Administrative Hearing Officer to hear the case. The temporary Administrative Hearing Officer is entitled to the per diem compensation provided for in the budget of the Office of Administrative Hearings. A temporary Administrative Hearing Officer shall also hear cases if the Administrative Hearing Officer is absent, sick, or unable to act for any other reason.

(Bill No. 4-05)

**§ 18-16-103. Ex parte communications prohibited.**

A person may not communicate ex parte or confer privately with the Administrative Hearing Officer concerning a pending or proposed application. Information sought by a member of the public or a party to a hearing before the Administrative Hearing Officer shall be directed to the Office of Planning and Zoning.

(Bill No. 4-05)

**SUBTITLE 2. APPLICATION PROCESS AND PRE-HEARING PROCEDURES**

**§ 18-16-201. Applications.**

- (a) **Generally.** A person having a financial, contractual, or proprietary interest in property to be affected may file an application, accompanied by an administrative site plan, with the Office of Planning and Zoning on a form supplied by the Office. A separate application is required for each request. Each application shall contain a list of the names and addresses of all property owners who own land:
  - (1) located within 300 feet of the affected property;
  - (2) that confronts or adjoins the affected property; and
  - (3) except for property owned by government entities or public service companies, that confronts or adjoins land identified in subsection (a)(2).
- (b) **Failure to conform.** The Office of Planning and Zoning may not accept an application for filing if it fails to conform with the requirements of this title.
- (c) **Pre-filing meeting required.** Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or a bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties the owner

shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

(d) **Contents of a pre-file plan.** A pre-file plan shall include:

(1) the outline of the property and topography with steep slopes and buffers delineated with scale and north arrow which requirement may be satisfied by a County GIS with tax map boundary overlay;

(2) zoning boundaries;

(3) critical area and bog protection areas;

(4) existing and proposed structures and uses;

(5) setbacks and parking;

(6) access and interior road circulation;

(7) conceptual utilities and drainage structures;

(8) forested areas and mean high water lines;

(9) all natural features and required buffers; and

(10) a vicinity map.

(e) **Contents of administrative site plan.** An administrative site plan shall include:

(1) the outline of the property with scale and north arrow;

(2) zoning boundaries and, where the boundary abuts a public right-of-way, the boundary shall be shown to the center line of the right-of-way;

(3) critical area and bog protection areas;

(4) existing and proposed structures and uses;

(5) setbacks, parking, and landscaping in accordance with requirements of the Landscape Manual;

(6) access and interior road circulation;

(7) utilities and drainage structures;

(8) easements of record;

(9) forested areas and mean high water lines;

(10) natural features;

(11) for sites in the critical area, field run topography at two-foot intervals if the site has slopes of 15% or more;

(12) for sites not in the critical area, field run topography at two-foot intervals if the site has slopes of 25% or more;

(13) a vicinity map;

(14) for any development impacting environmentally sensitive areas, and all new single-family dwellings, all information contained in the current County preliminary plan checklist or other relevant information specified by the Planning and Zoning Officer; and

(15) for any development impacting environmentally sensitive areas or disturbing 5,000 square feet or more, and all new single-family dwellings, a stormwater management plan that satisfies requirements of the County Procedures Manual.

(f) **Modification of application.** After the Office of Planning and Zoning accepts an application for filing, the application may be modified or amended until 10 days before the date of the hearing for a more restrictive use only.

(g) **Withdrawal of application.** An application that is withdrawn after the hearing is advertised shall be considered as having been denied on the date of the withdrawal.

(Bill No. 4-05; Bill No. 78-05; Bill No. 60-10; Bill No. 75-10; Bill No. 93-12; Bill No. 19-18)

#### **§ 18-16-202. Scheduling of hearing.**

(a) **In general.** The Office of Planning and Zoning shall submit a list of applications to the Administrative Hearing Officer weekly for the scheduling of hearings. Not less than 20 days before the date for each hearing, the Office shall transmit to the Administrative Hearing Officer its entire file for each application. Not less than seven days before the date of each hearing, the Office shall transmit to the Administrative Hearing Officer the written position of the Office of Planning and Zoning on each application. The Administrative Hearing Officer shall maintain a docket of each case to be heard, and the docket shall include each case or file number, the name of the case, and the date of the hearing.

(b) **Hearing date.** Not more than 30 days after receipt of the list of applications, the Administrative Hearing Officer shall schedule a hearing and notify the applicant. The time, date, and place of the hearing shall be fixed with due regard for the interest and convenience

of the public and the parties, except that hearings for rezonings shall begin no earlier than 6:00 p.m.

(c) **Postponements.** After a hearing has been scheduled, the hearing may not be postponed unless a written motion is filed that demonstrates compelling circumstances for a postponement. If the Administrative Hearing Officer grants a postponement, the sign provisions of § 18-16-203 shall be complied with anew and the Administrative Hearing Officer shall require the person who requested the postponement to pay all costs caused by the postponement.

(Bill No. 4-05; Bill No. 93-12; Bill No. 53-17)

#### § 18-16-203. Notices and signs.

(a) **To certain property owners.** The Administrative Hearing Officer shall send, by first class mail postage prepaid, to each property owner identified in the application pursuant to § 18-16-201(a), a notice containing information about the case and the date, time, and location of the hearing. The notice shall state that further information may be obtained from the Office of Planning and Zoning. The Administrative Hearing Officer shall also send the notice to any person who has served a written notice on the Administrative Hearing Officer of an intention to appear at the hearing. At least two weeks before the scheduled hearing date, the Administrative Hearing Officer shall post the hearing notice on the County's website.

(b) **To Critical Area Commission.** For an application for a reclassification of property in the critical area, the applicant shall send copies of the application and of the Administrative Hearing Officer's notice to the Critical Area Commission at least 30 days before the hearing.

(c) **To community associations and others.** The Office of the County Executive shall maintain a list of all community associations in the County and of all other persons and organizations who request to receive the mailing described in this subtitle. At least two weeks before the scheduled hearing date, the Office of the County Executive shall provide a copy of the Administrative Hearing Officer's notice of hearing to each community association, person, and organization on the list that is located in the Councilmanic District of the property to be affected and any abutting Councilmanic District if the property abuts another Councilmanic District. This notice may be given by e-mail. The Office of the County Executive shall certify, in writing, to the Administrative Hearing Officer that the notice has been provided, and the certification constitutes prima facie evidence that the information has been provided. The Administrative Hearing Officer may not conduct the hearing without the certification.

#### (d) Signs.

(1) For a period of not less than 30 days before the date of a hearing on an application for a rezoning or critical area reclassification or for a period of not less than 14 days before the date of a hearing on an application for a special exception or variance, one or more signs shall be posted on the subject property to give notice of the application. The Office of Planning and Zoning shall furnish the signs to the applicant, and the applicant is responsible for posting and maintaining the signs.

(2) Signs shall be located not more than 10 feet from each boundary of the property that abuts a public road or navigable water, except that, if required by flora covering the property or topographic conditions of the land, a sign may be posted farther than 10 feet from the boundary to enhance its visibility. If the property does not abut a public road, one or more signs shall be posted in locations that can be readily seen by the public. The bottom of each sign shall be erected three feet above the ground.

(Bill No. 4-05; Bill No. 67-08; Bill No. 65-13; Bill No. 19-18)

### SUBTITLE 3. HEARING AND DECISION

#### § 18-16-301. Hearing.

(a) **Conducted in public.** The Administrative Hearing Officer shall conduct a public hearing on an application, which shall be recorded. The hearing may be continued from time to time, with the time and place of the next hearing date announced publicly.

(b) **Rulings and witnesses.** The hearing shall be conducted in an impartial and orderly manner. The applicant, the County, and any other person deemed qualified by the Administrative Hearing Officer may introduce evidence and testify. The Administrative Hearing Officer shall rule on procedural matters and objections made during the course of a hearing. Each witness shall testify under oath.

(c) **Burden of proof.** The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

(Bill No. 4-05)

#### § 18-16-302. Critical area reclassifications.

(a) **Nature of application.** An application for a critical area reclassification may be for a more or less restrictive classification and may cover more than one lot if portions of each lot are proposed to be designated in the same classification or one or more classifications.

(b) **Requirements for approval.** Critical area reclassifications shall be granted or denied in accordance with compatibility with the underlying zoning district, but may not be granted unless the Administrative Hearing Officer makes the following affirmative findings:

(1) There was a mistake in the approved critical area map based on land uses or natural features in existence on December 1, 1985, provided that a property located within 2,000 feet of public water or sewer may not be considered to have public water or sewer for purposes of reclassification and may not be considered to be a mapping mistake;

(2) The proposed critical area classification conforms to the State and County critical area mapping criteria;

- (3) The proposed critical area classification conforms to the environmental goals and standards of the General Development Plan;
- (4) There is compatibility between the uses of the property as reclassified and surrounding land uses, so as to promote the health, safety, and welfare of present and future residents of the County and effective environmental land use management; and
- (5) The applicant provided to the Critical Area Commission a copy of the Administrative Hearing Officer's notice and a copy of the application at least 30 days before the date of the hearing.

(Bill No. 4-05; Bill No. 67-08)

#### § 18-16-303. Rezoning.

- (a) **Generally.** An application for a rezoning may be for a more or less restrictive classification and may cover more than one lot if portions of the lots are proposed to be classified in the same district or in one or more districts.
- (b) **Requirements for approval.** A rezoning may not be granted unless the Administrative Hearing Officer makes the following affirmative findings:
  - (1) There was a mistake in the zoning map or the character of the neighborhood has changed to such an extent that the zoning map should be changed;
  - (2) The new zoning classification conforms to the General Development Plan in relation to land use, number of dwelling units or type and intensity of nonresidential buildings, and location;
  - (3) There is compatibility between the uses of the property as reclassified and the surrounding land uses, so as to promote the health, safety, and welfare of present and future residents of the County; and
  - (4) For a property located in the critical area:
    - (i) the uses allowed in the proposed zoning classification are compatible with the critical area land use designation and development standards for the property; and
    - (ii) the Critical Area Commission staff has recommended approval of the rezoning if the basis for the rezoning is that the character of the neighborhood has changed to such an extent that the zoning map should be changed.
- (c) **Restrictions.** A lot located in an Odenton Growth Management Area District may be rezoned only to another Odenton Growth Management Area District, and a lot that is not located in a sub-area may not be administratively rezoned to an Odenton Growth Management Area District. A lot not designated as a mixed use development area in the General Development Plan or a small area plan may not be administratively rezoned to a mixed use district.
- (d) **Governmental use.** The use of property by or on behalf of a unit of government not subject to zoning laws in a manner that otherwise would be contrary to zoning laws is not evidence of a mistake in zoning or a change in the character of a neighborhood.
- (e) **Road construction or closing.** The construction or closing of a road may constitute evidence of a change in the character of a neighborhood.
- (f) **Suburban community center.** Neither the approval of a special exception for a suburban community center nor the development of a center may be evidence of or constitute a mistake in the zoning map or a change in the character of the neighborhood.

(Bill No. 4-05; Bill No. 60-10)

#### § 18-16-304. Special exceptions.

- (a) **Requirements.** A special exception use may be granted only if the Administrative Hearing Officer makes each of the following affirmative findings:
  - (1) The use will not be detrimental to the public health, safety, or welfare;
  - (2) The location, nature, and height of each building, wall, and fence, the nature and extent of landscaping on the site, and the location, size, nature, and intensity of each phase of the use and its access roads will be compatible with the appropriate and orderly development of the district in which it is located;
  - (3) Operations related to the use will be no more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article;
  - (4) The use at the location proposed will not have any adverse effects above and beyond those inherently associated with the use irrespective of its location within the zoning district;
  - (5) The proposed use will not conflict with an existing or programmed public facility, public service, school, or road;
  - (6) The proposed use has the written recommendations and comments of the Health Department and the Office of Planning and Zoning;
  - (7) The proposed use is consistent with the County General Development Plan;
  - (8) The applicant has presented sufficient evidence of public need for the use;
  - (9) The applicant has presented sufficient evidence that the use will meet and be able to maintain adherence to the criteria for the specific use;



(10) The application will conform to the critical area criteria for sites located in the critical area; and

(11) The administrative site plan demonstrates the applicant's ability to comply with the requirements of the Landscape Manual.

(b) **Phasing of development.** If phasing of development is proposed for a use allowed by special exception and the Planning and Zoning Officer has approved a plan for phasing of development, the Administrative Hearing Officer may allow phasing pursuant to the approved plan as a condition of special exception approval.

(Bill No. 4-05; Bill No. 60-10; Bill No. 18-18)

#### § 18-16-305. Variances.

(a) **Requirements for zoning variances.** The Administrative Hearing Officer may vary or modify the provisions of this article when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

(1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or

(2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

(b) **Requirements for critical or bog protection area variances.** For a property located in the critical area or a bog protection area, a variance to the requirements of the County's critical area program or the bog protection program may be granted if the Administrative Hearing Officer makes the following affirmative findings:

(1) Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;

(2) (i) A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County; or

(ii) The County's bog protection program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the bog protection area of the County;

(3) The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area, or the County's bog protection program to other lands or structures within a bog protection area;

(4) The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;

(5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;

(6) The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code;

(7) The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and

(8) The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).

(c) **Requirements for all variances.** A variance may not be granted unless it is found that:

(1) the variance is the minimum variance necessary to afford relief; and

(2) the granting of the variance will not:

(i) alter the essential character of the neighborhood or district in which the lot is located;

(ii) substantially impair the appropriate use or development of adjacent property;

(iii) reduce forest cover in the limited development and resource conservation areas of the critical area;

(iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor

(v) be detrimental to the public welfare.

**(d) Conditions for granting a variance in the critical area.**

(1) For a property with an outstanding violation, the granting of a variance under this subsection shall be conditioned on the applicant completing the following within 90 days of the date of decision, as applicable:

- (i) obtaining an approved mitigation or restoration plan;
- (ii) completing the abatement measures in accordance with the County critical area program; and
- (iii) paying any civil fines assessed and finally adjudicated.

(2) Notwithstanding the provisions of subsection (d)(1), the Office of Planning and Zoning may extend the time for abatement to the next planting season because of adverse planting conditions. An applicant may also be granted a 180 day extension to satisfy the conditions of a variance upon timely application to the Planning and Zoning Officer and good cause shown.

(e) **Lapse.** Any critical area variance granted shall lapse by operation of law if the conditions are not satisfied within 90 days or as extended.

(f) **Prohibition.** A variance may not be granted to density within the resource conservation area (RCA).

(g) **Odenton Growth Management Area Districts.** A variance may not be granted to the provisions of the Odenton Town Center Master Plan.

(Bill No. 4-05; Bill No. 69-07; Bill No. 90-09; Bill No. 93-12; Bill No. 76-13; Bill No. 20-16; Bill No. 5-20; Bill No. 64-23)

**§ 18-16-306. Decision on application.**

(a) **Generally.** The Administrative Hearing Officer shall grant or deny an application in accordance with law. The Administrative Hearing Officer's decision shall be based solely on the evidence presented at the hearing and observations made during any site visit.

(b) **Restrictions, conditions, and limitations.** The Administrative Hearing Officer may impose additional restrictions, conditions, or limitations on an application other than an application to change a zoning district as may be considered appropriate to preserve, improve, or protect the general character and design of the land or improvements or of the surrounding or adjacent land and improvements. The Administrative Hearing Officer may approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, or changes to ensure conformity with the intent and purpose of this article.

(c) **Timing, contents, and copies of decision.** Within 30 days after the termination of the proceedings, the Administrative Hearing Officer shall prepare and file a written memorandum setting forth findings of fact and the basis for the decision on the application. The Administrative Hearing Officer shall provide a copy to the applicant, counsel of record, and, on request, each interested person.

(Bill No. 4-05)

## **SUBTITLE 4. POST-DECISION PROCEDURES AND EVENTS**

**§ 18-16-401. Revision by Administrative Hearing Officer to correct errors of form.**

Within 30 days after the filing of the written memorandum, the Administrative Hearing Officer may revise the memorandum to correct clerical or other errors of form that do not change the substance of the memorandum. The revised memorandum shall be provided to those persons who were provided with copies of the original memorandum. The revision does not extend the time for appeal.

(Bill No. 4-05)

**§ 18-16-402. Appeal to the Board of Appeals.**

A person aggrieved by a decision of the Administrative Hearing Officer who was a party to the proceedings may appeal to the Board of Appeals within 30 days after the date upon which the memorandum was filed, except that a person who meets the threshold standing requirements under federal law has standing to appeal a decision of the Administrative Hearing Officer granting or denying a critical area variance for development in the buffer to the Board of Appeals. On the filing of an appeal, the Administrative Hearing Officer shall promptly transmit the application, sign-in sheet, exhibits, and the memorandum to the office of the Board of Appeals and notify those persons who were provided with copies of the memorandum of the date of transmittal.

(Bill No. 4-05; Bill No. 93-12; Bill No. 76-13)

**§ 18-16-403. Limitation on subsequent applications.**

The same property may not be considered for substantially the same application or for a less restrictive use until 18 months after the date of denial by the Administrative Hearing Officer, the Board of Appeals, or a court, whichever is latest. An application for a variance to perfect a violation of critical area criteria that has been denied may not be the subject of a subsequent application.

(Bill No. 4-05; Bill No. 93-12)

**§ 18-16-404. Rescission, suspension, or modification of a variance or special exception.**

(a) **Grounds.** On motion of the County or an aggrieved party, or on the Administrative Hearing Officer's own initiative, approval of an application for a rezoning, variance or special exception shall be rescinded, suspended, or modified if the Administrative Hearing Officer determines, after a hearing, that:

- (1) the approval or grant was based on a fraudulent misrepresentation of material information in the application, testimony,

administrative site plan, or other supporting documents; or

(2) the use of the property deviates from the approved administrative site plan, an allowed use under the rezoning, or any conditions imposed.

(b) **Effect of rescission.** If a rezoning, variance or special exception is rescinded, the use of the property shall comply with the zoning uses and regulations permitted for the property prior to the grant of rezoning, variance or special exception.

(Bill No. 4-05; Bill No. 16-08; Bill No. 60-10)

**§ 18-16-405. Time period after which variances and special exceptions are void.**

(a) **Expiration by operation of law.** A variance or special exception that is not extended or tolled expires by operation of law unless the applicant within 18 months of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

(b) **Extension for phasing or other good cause.** In deciding an application for a special exception use, the Administrative Hearing Officer may extend the time periods set forth in subsection (a) for the use and any variance granted in connection with it when the application includes a phasing plan or sets forth facts that demonstrate other good cause why the time periods set forth in subsection (a) reasonably cannot be met.

(c) **Extension by variance.** An applicant may file an application for a variance to extend the time periods set forth in subsection (a).

(d) **Tolling.** The pendency of litigation may toll the time periods set forth in subsection (a) to the extent provided by law.

(Bill No. 4-05; Bill No. 78-05)

**§ 18-16-406. Abandonment of special exception.**

Except for uses that are seasonal and continue each year, the cessation of a special exception use for 12 months constitutes an abandonment and, upon abandonment, the special exception terminates.

(Bill No. 4-05)

**APPENDIX A. RULES OF PROCEDURE OF THE COUNTY COUNCIL**

**Title**

- 1. GENERAL PROVISIONS**
- 2. OFFICERS AND EMPLOYEES**
- 3. MEETINGS IN GENERAL**
- 4. CONDUCT OF MEETINGS**
- 5. BILLS AND RESOLUTIONS**
- 6. MOTIONS**
- 7. INDUSTRIAL REVENUE BOND HEARINGS**

**REFERENCE TABLE**

**Section**

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- 1-102. Robert's Rules of Order.
- 1-103. Amendment of Rules.
- 1-104. Suspension of Rules.
- 1-105. Oath of office.
- 1-106. Filling of a vacancy in the office of a member of the County Council or in the office of the County Executive.

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- 2-101. Supervision by Chair.
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Resolution No. 16-86

Introduced by the Entire Council

By the County Council, February 18, 1986

RESOLUTION TO ADOPT THE RULES OF PROCEDURE OF THE COUNTY COUNCIL

WHEREAS, pursuant to Section 208(g) of the Charter, the County Council is required to adopt Rules of Procedure; and

WHEREAS, pursuant to the recodification of the Anne Arundel County Code, 1985, the County Council desires to reorganize, renumber, and make stylistic changes to its Rules of Procedure as previously adopted to conform to the format of the Anne Arundel County Code, 1985; now, therefore, be it

RESOLVED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND,

That the Rules of Procedure of the County Council as set forth in Appendix A of the Anne Arundel County Code, 1985, are adopted as the Rules of Procedure of the County Council, and supersede the Rules of Procedure of the County Council as set forth in Appendix G of the Anne Arundel County Code, 1967.

READ AND PASSED this 18th day of February, 1986.

By Order:

Judy C. Holmes

Administrative Officer

I HEREBY CERTIFY THAT RESOLUTION NO. 16-86 IS TRUE AND CORRECT AND DULY ADOPTED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY.

Virginia P. Clagett

Chair

## TITLE 1. GENERAL PROVISIONS

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### § 1-101. Definitions.

(a) **Legislative session.** A legislative session is the convening of a quorum of the members of the County Council for the purpose of taking legislative action.

(b) **Meeting.** A meeting is a convening of members of the County Council for the purpose of considering matters and taking action other than legislative action.

(Res. No. 8-03)

### § 1-102. Robert's Rules Of Order.

In all matters not provided for in these Rules, the latest published edition of Robert's Rules of Order shall govern.

(Res. No. 8-03)

### § 1-103. Amendment of Rules.

(a) **Amendment by resolution.** These Rules may be amended by resolution.

(b) **Submission of amendment.** The County Council may not act on any resolution to amend these Rules unless the resolution, together with the text of the proposed amendment, is submitted to the County Council, in writing, at least seven days before the action.

(Res. No. 8-03)

### § 1-104. Suspension of Rules.

(a) **Generally.** Except as otherwise provided in the Charter, other law, and subsection (b), these Rules may be suspended by a vote of five members of the County Council. A separate suspension of the Rules is necessary for each proposition.

(b) **Limitation.** These Rules may not be suspended for the purpose of amending them.

(Res. No. 8-03)

### § 1-105. Oath of office.

(a) **Generally.** The following oath or affirmation shall be taken by each Councilmember before entering on the duties of office:

"I, \_\_\_\_\_, do swear (or affirm) that I will support the Constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the Office of Councilmember of Anne Arundel

County according to the Constitution and laws of this State."

(b) **Administration of oath.** The oath or affirmation shall be taken in the County Council chambers and shall be administered by the Clerk of the Circuit Court for Anne Arundel County.

(Res. No. 8-03)

#### **§ 1-106. Filling of a vacancy in the office of a member of the County Council or in the office of the County Executive.**

The following procedure shall be used in filling a vacancy in the office of a member of the County Council or the Office of the County Executive, whether temporary or permanent:

- (1) solicitation for applications to fill the vacancy shall be advertised in one or more newspapers with general circulation in the County;
- (2) the central committee of the political party, if any, with which the former member had been affiliated may submit the name of an applicant to be interviewed;
- (3) applications shall be accepted by the Administrative Officer to the County Council up to a date agreed upon by at least four Councilmembers;
- (4) the County Council shall schedule a public hearing and interviews with the applicants on a date agreed upon by at least four Councilmembers; and
- (5)
  - (i) following the interviews, a roll call vote to fill the vacancy shall be taken, with each Councilmember recommending an applicant;
  - (ii) if no applicant receives a majority vote on the first ballot roll call, successive ballots roll calls, consisting of those applicants who received at least one vote on the previous ballot roll call, shall be taken until one applicant receives a majority; and
  - (iii) if no applicant for a vacancy on the County Council receives a majority vote within thirty days of the vacancy, the Administrative Officer of the County Council shall forward the names of the applicants receiving at least one vote on the last ballot roll call to the State central committee of the political party of the former member or, if no central committee exists for the party of the former member, to the County Executive.

(Res. No. 9-00; Res. No. 8-03; Res. No. 42-13)

## **TITLE 2. OFFICERS AND EMPLOYEES**

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#### **§ 2-101. Supervision by Chair.**

Although it is anticipated that the officers and employees of the County Council will function largely independent of day-to-day supervision, responsibility for overall coordination, direction, and supervision of the officers and employees of the County Council is vested in the Chair or, in the Chair's absence, the Vice Chair.

#### **§ 2-102. Administrative Officer; Assistant Administrative Officer.**

(a) **Generally.** There are an Administrative Officer to the County Council and an Assistant Administrative Officer to the County Council.

(b) **Duties.** The duties of the Administrative Officer and the Assistant Administrative Officer are to:

- (1) keep minutes of legislative sessions and public hearings of the County Council;
- (2) maintain the journal of the County Council; and
- (3) provide any administrative service required to assist the legislative process.

(Res. No. 8-03)

#### **§ 2-103. Other clerical assistance.**

Subject to the budget, additional clerical assistance shall be provided to the County Council as needed.

(Res. 42-13)

#### **§ 2-104. Legislative Counsel.**

(a) **Generally.** There is a Legislative Counsel to the County Council.

(b) **Duties.** The duties of the Legislative Counsel are to:

- (1) assist members of the County Council with research and drafting legislation;
- (2) attend all legislative sessions and meetings of the County Council;
- (3) assist the Chair of the County Council and act as Parliamentarian at legislative sessions and public hearings of the County Council; and

(4) provide legal services required to assist the legislative process that are not inconsistent with the responsibilities of the County Attorney.

(Res. No. 8-03; Res. 42-13)

## TITLE 3. MEETINGS IN GENERAL

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### § 3-101. Types.

(a) **Regular meetings.** The County Council shall hold regular legislative sessions and public hearings as may be required by law for the orderly conduct of business.

(b) **Other meetings.** The County Council shall meet for non-legislative purposes, such as conducting additional public hearings, legislative work sessions, and other meetings on such matters as may properly come before the County Council on any date agreed upon by at least four members.

(Res. No. 8-03)

### § 3-102. Times.

(a) **Pursuant to Charter.** Legislative sessions of the County Council shall be convened in accordance with § 208 of the Charter.

(b) **Regular meetings.**

(1) The first legislative session day of the County Council shall normally convene at 7:00 p.m. on the first Monday of the month.

(2) The second monthly legislative session day shall normally convene at 7:00 p.m. on the third Monday of the month.

(3) The County Council may convene a legislative session in August in conformance with § 208 of the Charter by taking a roll call vote at a legislative session and by placing the meeting on the County Council schedule.

(c) **Other meetings.** Additional meetings and special hearings of the County Council may be called in accordance with the provisions of the Charter.

(d) **Cancellation and rescheduling.** If in advance of any scheduled meeting the Chair determines that a quorum will not be present, the Chair may cancel and reschedule the meeting as soon as practicable.

(Res. No. 105-86; Res. No. 38-89; Res. No. 78-96; Res. 42-13)

### § 3-103. Location.

Each meeting of the County Council shall be held at the County seat. However, the Chair or three members of the County Council may decide that duplicate or additional public hearings on important legislative matters and the budget be held at other appropriate locations in the County.

(Res. No. 38-89)

### § 3-104. Notice.

(a) **Legal notice required.** The Administrative Officer to the County Council shall give the legal notice required by law for a legislative session or public hearing and shall provide information to the news media and the public as to the known items of agenda, purpose, and matters pending before the County Council.

(b) **Other meetings.** When a meeting has been called that does not require legal notice, such as a work session on pending matters, the Administrative Officer shall provide information to the news media and the public as to the known items of agenda and purpose of the meeting.

(c) **Notice to Councilmembers.** The Administrative Officer shall keep each County Councilmember informed as to County Council agendas, meetings, and other legislative matters.

(Res. No. 8-03)

### § 3-105. Participation by public.

(a) **Generally.** Reasonable seating facilities shall be provided for the public at each legislative session or meeting of the County Council, and the public is encouraged and invited to attend. At each legislative session and public hearing a reasonable amount of time shall be provided for members of the public to address the County Council on pertinent matters of public business not otherwise provided for. Special hearings on pending legislation or the budget are convened for the express purpose of obtaining public participation and comment. The public shall maintain order and decorum in keeping with the dignity of the governmental process, and shall refrain from interfering with the process. Discussions of the County Council may be recorded, provided the recording device does not generate excessive noise, use excessive artificial light, interfere with County recording devices or disturb County Council members or individuals in attendance.

(b) **Addressing the Council.** Each member of the public who wishes to speak at invitation to the audience or on agenda items may testify before the County Council provided they sign up to speak before the meeting at the designated area for speaker registration and, after being recognized by the presiding officer, shall come forth and state the following information:

- (1) name;
- (2) home address;
- (3) person or organization represented, or that the individual is speaking as a private citizen; and
- (4) subject matter and the remarks.

(c) **Relevance.** The presiding officer may temporarily suspend any testimony that is not relevant to the subject of the hearing and advise the speaker to that effect. The presiding officer may stop taking further testimony from and vacate any remaining time allocated to a speaker who, after being so advised, continues to offer irrelevant testimony.

(d) **Time limitation.** Each member of the public who speaks to the County Council shall be limited to the amount of time specified by the Chair.

(e) **Copy of Rules available.** A copy of these Rules and a copy of the County Code shall be accessible to the public in the County Council office.

(Res. No. 6-86; Res. No. 38-89; Res. No. 28-93; Res. No. 8-03; Res. No. 42-13)

#### § 3-106. Participation by news media.

Reasonable seating facilities shall be provided for representatives of the news media at each meeting of the County Council, and the representatives are encouraged and invited to attend. Radio and television coverage may be provided at meetings of the County Council. At the discretion of the Chair or on request of a majority of the members of the County Council present, a meeting may be briefly recessed for the purpose of taking photographs or discussions with representatives of the news media. Representatives of the news media shall maintain order and decorum in keeping with the dignity of the governmental process and shall refrain from interfering with the process.

(Res. No. 38-89; Res. No. 58-99)

## TITLE 4. CONDUCT OF MEETINGS

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#### § 4-101. Agenda.

(a) **Preparation of agenda.** The Administrative Officer shall prepare a written agenda for each legislative session of the County Council. The agenda shall include the following:

- (1) the number and title of each bill to be introduced;
- (2) the name of the County Councilmember introducing each bill;
- (3) the number and title of each bill eligible to be called for final reading and vote;
- (4) the number and title of each resolution to be introduced;
- (5) the name of the County Councilmember introducing each resolution;
- (6) the number and title of each resolution eligible to be called for final reading and vote;
- (7) such other business as may come before the County Council; and
- (8) an invitation to members of the audience to speak briefly on any matter not on the agenda.

(b) **Opening and closing of agenda.** The agenda shall remain open until the meeting is called to order. At the call of "Announcement of Items not Appearing on Agenda", each County Councilmember shall have the right to place on the agenda any bill or resolution to be introduced or any item of business. Once the meeting has been called to order, the agenda is closed and may not be reopened for additions, except by suspension of these Rules.

(Res. No. 28-93; Res. No. 59-98; Res. No. 8-03)

#### § 4-102. Scheduling.

Normally, each hearing will be held in conjunction with regularly scheduled meetings and legislative sessions of the County Council, but they may be scheduled at other times by the Chair in accordance with the Charter and these Rules.

#### § 4-103. Quorum.

A quorum is required for a legislative session, a public hearing, and where required by law or these rules. A quorum is not required for a legislative work session or other meeting.

(Res. No. 8-03)

#### § 4-104. Order of business.

(a) **Generally.** Except as provided in subsection (b), the order of business at each legislative session of the County Council shall be as follows:



- (1) invocation;
  - (2) Pledge of Allegiance;
  - (3) ethics statement;
  - (4) invitation to audience;
  - (5) announcement of each item not appearing on the written agenda;
  - (6) preliminary motion in accordance with Rule 6-104;
  - (7) approval of minutes;
  - (8) introduction of bills;
  - (9) introduction of resolutions;
  - (10) public hearing on scheduled bills and resolutions, the public hearing on each bill or resolution being followed by the final reading and vote on that bill or resolution;
  - (11) (i) introduction of amendments to bills or resolutions;
  - (ii) discussion of amendments by Councilmembers; and
  - (iii) roll call vote on amendments; and
  - (12) other business.
- (b) **Exception.** A message from the Executive Branch may be received at any time except when a question is being put or the roll is being called.

(Res. No. 6-86; Res. No. 38-89; Res. No. 78-96; Res. No. 59-98; Res. No. 13-00; Res. No. 17-00; Res. No. 8-03; Res. No. 32-16)

#### § 4-105. Presiding officer.

- (a) **Generally.** The Chair of the County Council is the presiding officer of the County Council.
- (b) **Alternates.** In the absence of the Chair of the County Council, the Vice Chair shall preside. In the absence of both the Chair and the Vice Chair, the Administrative Officer shall call the County Council to order and shall receive nominations and conduct an election for Chair Pro Tempore, who shall act as the presiding officer.
- (c) **Duties.** The presiding officer may speak on points of order in preference to other members. The presiding officer shall decide each point of order, and the decision shall be final unless on an appeal it is reversed on a ye and nay vote by a majority of the members present. The presiding officer shall be called last whenever the roll of the County Council is called. The presiding officer shall vote on each question except on an appeal from a decision on a question of order by the presiding officer.

(Res. No. 2-94; Res. No. 8-03)

#### § 4-106. Order and decorum.

The presiding officer of the County Council shall preserve order and decorum during each meeting or session of the County Council. The presiding officer shall have general supervision of the County Council chambers and over each corridor adjacent to the County Council chambers. Visual demonstrations such as waving of placards, signs, balloons or banners are prohibited in the chamber. Any person making personal, defamatory or profane remarks or who willfully utters loud, threatening or abusive language which disturbs the orderly conduct of a session of the County Council shall be called to order by the Chair. The Chair may seek removal of any individual who refuses to abide by the provisions of this section. In case of a disturbance or disorderly conduct in the County Council chambers the presiding officer may order any such place to be cleared.

(Res. No. 8-03; Res. No. 42-13)

#### § 4-107. Preliminary action.

On convening the hearing, the presiding officer shall give a brief explanation of the purpose of the hearing and shall cause to be presented information that is required before public discussion and comments begin.

(Res. No. 8-03)

#### § 4-108. Recognition.

Each member of the County Council desiring to introduce a bill or resolution, to present a petition or other matter, to make a report or a motion, or to speak on a matter shall address the presiding officer. The member may not proceed until recognized by the presiding officer. If two or more members seek recognition at the same time, the presiding officer shall determine who is entitled to the floor.

(Res. No. 8-03)

#### § 4-109. Order during debate.

Only members of the County Council may participate in debate on a bill, resolution, or motion or other matter pending before the County Council unless, on request by a Councilmember, another individual is recognized to speak by the presiding officer for the

purpose of clarification or information. A person in the hearing room may not interrupt the County Councilmember who has been recognized by the presiding officer.

(Res. No. 8-03)

#### § 4-110. Questions to speakers.

At any time during a legislative session or a meeting, a member of the County Council, on recognition by the presiding officer, may briefly question a speaker or reserve the right to question a speaker at a later time. The County Auditor or the County Council's Legislative Counsel, or a member of their respective staffs, may be recognized by the presiding officer and permitted to ask concise questions of the Administration for the purpose of clarification or information. Members, speakers, and those recognized to speak shall not engage in debate over these questions.

(Res. No. 26-97; Res. No. 8-03)

#### § 4-111. Voting.

(a) **Roll call vote generally.** All voting except for preliminary matters or procedural motions shall be by a roll call vote.

(b) **Procedure for roll call vote.** In a roll call, the Administrative Officer shall call the roll of the County Councilmembers by councilmanic district in numerical order, beginning with a different district at each Council meeting, with the presiding officer being called last.

(c) **Voting on bills.** A bill or an amendment to a bill may be voted upon only at a legislative session.

(d) **Explanation of vote.** A member of the County Council shall have the right to briefly explain that member's vote just prior to the time that member votes on a bill or resolution.

(Res. No. 2-94; Res. No. 59-98; Res. No. 8-03)

## TITLE 5. BILLS AND RESOLUTIONS

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#### § 5-101. Introduction.

(a) **Bills.** A bill may be introduced by a member of the County Council only at a legislative session of the County Council by filing a copy with the Administrative Officer.

(b) **Resolutions.** A resolution may be introduced by a member at any meeting of the County Council.

(c) **Form.** The bill or resolution as introduced shall be printed, typewritten, or photocopied, and shall be in the form set forth in Rule 5-102 or Rule 5-104.

(d) **Recording.** On introduction, the Administrative Officer shall record the filed copy and maintain a file of each recorded copy.

(e) **Copies.** The Administrative Officer shall cause copies to be reproduced and made available to the members of the County Council, the public, and the news media, and shall post one copy on the official bulletin board and on the County website.

(Res. No. 38-89; Res. No. 43-89; Res. No. 28-93; Res. No. 8-03; Res. No. 42-13)

#### § 5-102. Bills – Form.

(a) **Heading.** The heading of a bill shall be as follows:

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session (year), Legislative Day No.

Bill No. (No. assigned by Administrative Officer)

Introduced by (member's last name)

By the County Council, (date)

The record of transactions and status of the bill

The expiration date of bill

A bill entitled

A BILL ENTITLED

(b) **Title.** The title of a bill shall be a succinct reference to the general subject of the bill.

(c) **Enacting clause.** The enacting clause of a bill shall read as follows: "*Be it enacted by the County Council of Anne Arundel County, Maryland.*" The enacting clause shall appear following the title.

(d) **Section numbering.** Each section of a bill shall be numbered in arabic numerals (For example, "SECTION 1.").

(e) **Line numbering.** Each line of a bill shall be consecutively numbered commencing with "1" beginning with the title on page 1 and at the top line of each succeeding page.

(Res. No. 38-89; Res. No. 8-03)

### § 5-103. Bills – Publication.

(a) **Notice to public.** It is the policy of the County Council that every effort be made to give timely notice to the public of any action pending before the Council.

(b) **Generally.**

(1) In accordance with the provisions of Article XI-A, § 3 of the State Constitution, the title or a summary of all proposed bills enacting local laws of the County shall be published once a week for two successive weeks prior to enactment in at least one newspaper of general circulation in the County.

(2) The first publication shall appear at least 14 days prior to enactment.

(c) **Substantive amendment.** If amended as to substance, a bill, except an emergency bill or a bill that levies a tax or assessment to fund the annual budget and appropriation ordinance, may not be passed until:

(1) the bill is printed or reproduced as amended;

(2) a hearing is set on the amended bill; and

(3) the title or a summary of the proposed bill, as amended, is advertised the week preceding the legislative session that the proposed bill, as amended, will be considered.

(d) **Republication.** The title or a summary of a bill shall be republished under the provisions of subsection (b)(1), giving notice of the newly scheduled date, if:

(1) the public hearing on the bill is held open; or

(2) an amendment to the bill is reconsidered and the vote returns the bill to the form that was first published.

(Res. No. 59-98; Res. No. 8-03; Res. No. 42-13)

### § 5-104. Bills – Consideration.

(a) **Readings.** There shall be a first reading and a final reading of each bill.

(b) **First reading.** On the first reading, a bill shall be read by number and title only when introduced.

(c) **Final reading.** On final reading a bill shall, at the request of a member of the County Council, be read once section by section for amendment before vote on final passage.

(d) **Amended bills.** If amended, a bill shall, at the request of a member, be read as amended before vote on final passage.

(e) **Form of amended bills.** Amendments to a bill shall be offered in printed, photocopied, or typewritten form.

(f) **Withdrawal.** A sponsor may withdraw a bill at any time before a final vote is taken unless the bill has been amended or another member objects.

(g) **Vote on final passage.** Vote on final passage shall be by roll call by yeas and nays.

(h) **Enrolling.** After passage of a bill, the Administrative Officer shall promptly prepare an enrolled copy in printed or typewritten form. On enrolling, the Administrative Officer may correct obvious errors in section references and numbers, references to existing law, capitalization, spelling, grammar, headings, and similar matters.

(i) **Certification.** The Administrative Officer shall certify the enrolled copy or a corrected copy as being the text as finally passed, and the certified copy shall be conclusive evidence of the bill as enacted.

(j) **Retention of certified copies.** Certified copies shall be maintained by the Administrative Officer in an official file of acts of the County Council.

(Res. No. 28-93; Res. No. 59-98; Res. No. 13-00; Res. No. 8-03; Res. No. 42-13)

### § 5-105. Resolutions – Form.

(a) **Heading.** The heading of a resolution shall be as follows:

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session (year), Legislative Day No.

Resolution No. (No. assigned by Administrative Officer)

Introduced by (member's last name)

By the County Council, (date)

## SHORT DESCRIPTIVE TITLE

(b) **Line numbering.** Each line of a resolution shall be consecutively numbered commencing with "1" beginning with the title on page 1 and at the top line of each succeeding page.

(Res. No. 38-89)

### § 5-106. Resolutions – Consideration.

(a) **Final adoption.** On call of resolutions for final adoption, each resolution eligible for adoption shall be called in numerical order. The resolution shall be read by number and short descriptive title only, provided that, at the request of a member of the County Council, it shall be read only once for amendment before vote on final adoption.

(b) **Amended resolutions.** Amendments to a resolution shall be offered in printed, photocopied, or typewritten form. A resolution may be amended and adopted at the same meeting.

(c) **Withdrawal.** A sponsor may withdraw a resolution at any time before a final vote is taken unless the resolution has been amended or another member objects.

(d) **Vote; enrolled copies.** Vote on final adoption shall be on roll call by yeas and nays. An enrolled copy shall be prepared after final adoption in a manner similar to that provided for bills under Rule 5-104.

(e) **Time limit for consideration.** A resolution other than one of appointment, sympathy, congratulations, or a similar subject may not be considered or acted on less than seven days after its date of introduction, except by suspension of these Rules.

(f) **Time limit for resolutions not adopted.** A resolution that has not been adopted within 95 days after its introduction shall have failed.

(Res. No. 38-89; Res. No. 2-94; Res. No. 59-98; Res. No. 8-03; Res. No. 42-13)

### § 5-107. Amendments to bills and resolutions.

(a) **Reading of amendment.** Upon introduction of an amendment to a bill or resolution, the text of the amendment or a brief summary of the amendment that has been prepared by a sponsor shall be read in its entirety.

(b) **Explanation for amendment.** Each sponsor may briefly explain the substance of the amendment and the reasons for its introduction immediately after the text or summary of the amendment is read.

(c) **Adoption.** An amendment may be adopted if there is a motion to adopt and a second. Any discussion of or a vote on the amendment shall take place only after there has been a motion to adopt and a second to the motion.

(Res. No. 8-03)

## TITLE 6. MOTIONS

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### § 6-101. Statement.

After a motion has been made and seconded the presiding officer shall state it.

### § 6-102. Withdrawal.

The maker of a motion may withdraw the motion at any time before a vote is taken unless the member that seconded the motion objects.

(Res. No. 8-03)

### § 6-103. While question under debate.

(a) **Limitations.** When a question is under debate, a motion may not be received other than a motion:

- (1) to adjourn or to adjourn to a certain time;
- (2) to lay on the table;
- (3) to close debate;
- (4) to postpone to a certain time (to hold a bill or resolution); and
- (5) to amend.

(b) **Debate on motions.** The motions specified in subsection (a) are not debatable except for a motion to amend.

(c) **Adoption.** A majority of members present is required for adoption of the motion, except that the affirmative vote of five members is required for adoption of a motion to close debate.

(d) **Motion to close debate.** After adoption of a motion to close debate, each incidental question of order shall be decided without debate.

(e) **Motions not in order.** A motion to strike the enacting clause of a bill, to amend a proposed amendment to a bill or resolution, or to postpone indefinitely is not in order.

(f) **Tabling bill or resolution.** When a bill or resolution has been laid on the table, the item may not again be taken up for consideration during the remainder of that legislative session.

(Res. No. 38-89; Res. No. 8-03)

#### § 6-104. Preliminary motions.

(a) **Generally.** A motion may be entertained on the conclusion of the announcement of items not appearing on the written agenda that the reading of a short description of approximately five lines of a bill, resolution, amendment to a bill or resolution, or minutes shall constitute the reading of the whole of the bill, resolution, amendment to a bill or resolution, or minutes appearing on the agenda of that day.

(b) **Adoption.** Four affirmative votes are necessary to adopt the motion.

(c) **Amendments.** Adoption of the motion does not prevent amendments being entertained.

(Res. No. 8-03)

#### § 6-105. Motion for reconsideration.

(a) **Generally.** When a question has once been decided, a motion for reconsideration is in order if the bill, resolution, motion, or matter upon which the vote was taken is still in the possession of the County Council or is a reconsideration of a Charter amendment vote pursuant to subsection (b).

(b) **Limitations.** A motion for reconsideration is not in order unless made on the same day on which the original vote was taken, or at the next legislative session of the County Council, except that a motion to reconsider a vote on a resolution to amend the Charter may be made at any time before the certification date for the question required in § 7-103 of the Election Law Article in the State Code.

(c) **Person to make the motion.** The motion for reconsideration shall be made by a member who voted with the prevailing side on the original question. In the case of a tie vote, either side of the question may make a motion for reconsideration and it shall be reconsidered on the majority vote of all members present and voting.

(d) **Second motion prohibited.** A second motion to reconsider may not be entertained.

(Res. No. 41-16)

#### § 6-106. Dilatory motions.

The presiding officer of the County Council may not entertain a motion for a dilatory purpose.

## TITLE 7. INDUSTRIAL REVENUE BOND HEARINGS

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#### § 7-101. Industrial revenue bond hearings.

(a) **Definition.** In this section, "enabling legislation" means the Maryland Economic Development Bond Act.

(b) **Applicability.** This section applies to each resolution relating to the authorization of the issuance by the County of bonds, notes, or other obligations under the enabling legislation.

(c) **Public hearing.** A public hearing shall be held for each resolution, and members of the public shall be afforded an opportunity, subject to the discretion of the presiding officer, to testify with respect to the resolution.

(d) **Notice of hearing.** Except as provided in subsection (e), an advertisement containing the title of each resolution and the date of a proposed public hearing to be held on the resolution shall be inserted in a newspaper of general circulation in the County once at least 14 days before a public hearing on the resolution. The date of the public hearing may be postponed from the date specified in the advertisement without the need of further advertisement of the resolution.

(e) **Exception to notice provisions.** An advertisement is not required if the resolution relates to a project or transaction that has been the subject of a previous resolution or an ordinance of the County Council relating to the issuance of bonds, notes, or other obligations under the enabling legislation, and the ordinance or resolution was advertised before the date of the public hearing, unless the new resolution involves a change in the location or scope of the facility or industrial project to be financed under the enabling legislation.

(f) **Required information.** Each resolution shall contain a provision providing that the approval of the resolution by the County Executive shall constitute the agreement by the County Executive to provide the County Council with a report to be delivered to the County Council after the issuance of any bonds, notes, or other obligations under the enabling legislation summarizing the following information:

(1) the name of the project;

(2) the name of the person contracting with the County under a loan agreement, lease agreement, or other agreement relating to the bonds, notes, or other obligations;

(3) the principal amount of bonds, notes, or other obligations issued by the County;



- (4) the name of each tenant of the facility or industrial project known to exist as of the date of issuance of the bonds, notes, or other obligations;
  - (5) the purchaser of the bonds, notes, or other obligations, if available, and the underwriter or agent who arranged for the sale of the bonds, notes, or other obligations;
  - (6) the date of issuance of the bonds, notes, or other obligations;
  - (7) a description of the facility or industrial project financed by the bonds, notes or other obligations;
  - (8) the interest rate provisions for the bonds, notes, or other obligations; and
  - (9) the payment provisions and the maturity of the bonds, notes, or other obligations.
- (g) **Failure to file report.** The failure to file the report required by subsection (f) does not affect:
- (1) the validity of the bonds, notes, or other obligations issued under the enabling legislation;
  - (2) the contracts or agreements or certificates executed on behalf of the County with respect to the bonds, notes, or other obligations; or
  - (3) the validity of the authorization for the County to participate in a transaction under the enabling legislation.
- (h) **Disclosure of interested parties.** A resolution providing for the authorization and issuance by the County of a series of revenue bonds shall include a disclosure of interested parties.
- (i) **Disclosure form.** On introduction of a resolution for an industrial revenue bond, the following disclosure form shall be submitted to each member of the County Council:

DISCLOSURE OF INTERESTED PARTIES

I, \_\_\_\_\_, the President of \_\_\_\_\_, certify that the following entity or entities are known to be involved in the \_\_\_\_\_ Project in the capacities indicated below:

Borrower:

Shareholders of Borrower:

Principal Underwriters:

Trustee:

Alternate Paying Agent:

Contractor:

Architect:

Title Insurance:

Feasibility Consultant:

Project Consultant:

Lender:

Builder, if any:

Partners, General and Limited, if any:

Seller:

Realtor:

Officers and Directors, if any:

Personal Guarantors, if any:

Existing Mortgage and Holder, if any:

Tenants:

\_\_\_\_\_

(Project)

By: \_\_\_\_\_

(Signature)

(j) **Unavailable information.** If an item of information is not available or not applicable at the introduction of the resolution, this shall be stated on the disclosure form and made a part of the public record.

(Res. No. 38-89; Res. No. 78-96; Res. No. 8-03)

## REFERENCE TABLE

This table shows the location of State Law references and Resolutions contained in the Rules of Procedure of the County Council.

<i>State Law Cite</i>	<i>Location</i>
Const. Art. XI-A	5-103
Election Law Art. 7-103	6-105

<i>Resolution Number</i>	<i>Disposition</i>
<i>Resolution Number</i>	<i>Disposition</i>
6-86	3-105, 4-104
16-86	Enacting Resolution
105-86	3-102
38-89	3-102, 3-103, 3-106, 3-105, 4-104, 5-101, 5-102, 5-105, 5-106, 6-103, 7-101
43-89	5-101
28-93	3-105, 4-101, 5-101, 5-104
2-94	4-105, 4-111, 5-106
78-96	3-102, 4-104, 7-101
26-97	4-110
59-98	4-101, 4-104, 4-111, 5-103, 5-104, 5-106
58-99	3-106
9-00	1-106
13-00	4-104, 5-104
17-00	4-104
8-03	1-101 to 1-106, 2-102, 2-104, 3-101, 3-104, 3-105, 4-101, 4-103 to 4-111, 5-101 to 5-104, 5-106, 5-107, 6-102 to 6-104, 7-101
42-13	1-106, 2-103, 2-104, 3-102, 3-105, 4-106, 5-101, 5-103, 5-104, 5-106
32-16	4-106
41-16	6-105

## APPENDIX B. RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF APPEALS

### Title

1. IN GENERAL
2. COMMENCEMENT OF ACTION
3. PREHEARING PROCEDURE
4. HEARINGS
5. APPEALS

### REFERENCE TABLE

Editor's note – Bill No. 150-80, § 7 approved the Rules of Practice and Procedure of the Board of Appeals adopted by the Board June 12,

1980. Pursuant to instructions of the County, the text of the rules has been set out as Appendix B. Any amendments to the rules will be identified by a history note following the amended rule. The absence of a history note indicates that the rule is derived from Bill No. 150-80. The appendix was subsequently amended by Bill No. 188-81, repealed and reenacted by Bill No. 53-86, § 1, and further amended by Bill No. 12-88, Bill No. 22-90, Bill No. 43-92, Bill No. 99-93, Bill No. 32-97, Bill No. 14-01, Bill No. 5-10, Bill No. 19-13, Bill No. 80-17, and Bill No. 13-21.

Rule

### **Title 1. In General**

- 1-101. Scope.
- 1-102. Officers.
- 1-103. Meetings.
- 1-104. Administrative matters.
- 1-105. Computation of time.

### **Title 2. Commencement of Action**

- 2-101. Appeals.
- 2-102. Docket and calendar.
- 2-103. Fees.
- 2-104. Notice of hearing.
- 2-105. Appearance and practice.

### **Title 3. Prehearing Procedure**

- 3-101. Other pleadings.
- 3-102. Withdrawal.
- 3-103. Request for postponement.
- 3-104. Prehearing procedure.
- 3-105. Depositions and discovery.

### **Title 4. Hearings**

- 4-101. Conduct of hearings.
- 4-102. Disqualification and discipline of Board members.
- 4-103. Subpoenas.
- 4-104. Evidence.
- 4-105. Findings and conclusions.
- 4-106. Virtual or remote hearings; meetings; calculation of time.

### **Title 5. Appeals**

- 5-101. Appeals from decisions of the Board.

## **TITLE 1. IN GENERAL**

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### **Rule 1-101. Scope.**

The rules of practice and procedure set forth in this appendix are generally applicable to proceedings before the County Board of Appeals.

(Bill No. 53-86)

### **Rule 1-102. Officers.**

(a) **Generally.** The County Board of Appeals shall elect one of its members as Chair and one as Vice Chair at the pleasure of the Board. The Chair shall preside at all meetings of the Board, and in the Chair's absence the Vice Chair shall preside. In the absence of the Chair and the Vice Chair, a member designated by the remaining members of the Board shall act as Chair and shall preside with all the powers of the Chair.

(b) **Staff members.** All staff members shall report directly to the Chair of the Board. The Chair shall assign to various staff members their functions and duties.

(Bill No. 53-86)

#### Rule 1-103. Meetings.

(a) **Frequency.** Meetings of the County Board of Appeals shall be held at the call of the Chair and at such other times as the Board may determine, but in no event shall it be less than once a month.

(b) **Quorum.** Four members of the Board shall constitute a quorum for the conduct of business; except that three members shall constitute a quorum for hearings on special exceptions, variances, and administrative appeals. Site visits pursuant to Rule 4-101(g) are not governed by this rule.

(c) **Minutes.** The Board shall keep minutes of its proceedings, showing the vote, failure to vote, or absence of each member on each question, all of which shall be filed promptly in the office of the Board as a public record after approval by all Board members.

(d) **Participation in decision.** Only those members who have actually heard all the evidence and testimony in an appeal shall participate in the decision unless all parties to the appeal shall agree otherwise, except that the Chair of the hearing shall have the ability to permit a member to listen to the official stenographer's recording for any missed hearing or any missed portion of a hearing, as applicable, and participate in the decision. In no event shall a member be permitted to participate in a decision if that member misses the first hearing on any appeal.

(Bill No. 53-86; Bill No. 22-90; Bill No. 99-93; Bill No. 32-97; Bill No. 5-10; Bill No. 80-17; Bill No. 13-21)

#### Rule 1-104. Administrative matters.

(a) **Duties of the Clerk.** The Clerk shall handle all correspondence of the Board, send out all notices required by these rules, keep the dockets and minutes of the Board's proceedings, compile all required records, maintain the necessary files and indexes, and perform such other duties as directed.

(b) **Docket and minute book.** The Clerk shall keep a docket and minute book which shall be kept posted to date. The Clerk shall docket the case in the name of the original applicant, note the name of the appellant, and include a short description of the subject matter of the appeal and the number assigned to the appeal. In cases involving real property, a brief description of the property shall also be included.

(Bill No. 53-86)

#### Rule 1-105. Computation of time.

(a) **Generally.** Time must be computed as follows:

(1) Do not count the day of the event that begins a time period (e.g. the day of a decision).

(2) Include the last day of a time period unless it falls on a Saturday, Sunday, or County holiday, or day on which the County is not open during its regular hours. In that case the time period ends on the next business day.

(3) If the required time period is more than seven days, count Saturdays, Sundays, and County holidays as days and days on which the County is not open during its regular hours. If the time period is seven days or less, do not count Saturdays, Sundays, or County holidays, or days on which the County is not open during its regular hours.

(b) **Computation of latest day.** In determining the latest day for performance of an act which is required by these rules, by order of the County Board of Appeals, or otherwise, to be performed a prescribed number of days before a certain day, act, or event, all days prior thereto, including intervening Saturdays, Sundays, and legal holidays, are counted in the number of days so prescribed. The latest day is included in the determination unless it is a Saturday, Sunday, or legal holiday, in which event the latest day is the next day which is not a Saturday, Sunday, or legal holiday.

(Bill No. 53-86; Bill No. 99-93; Bill No. 5-10)

## TITLE 2. COMMENCEMENT OF ACTION

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#### Rule 2-101. Appeals.

(a) **Time limit.** All appeals from orders or decisions from which an appeal is authorized by law shall be taken within 30 days of the date of such order or decision, except where a different period is prescribed by law or rule, by the filing of a notice of appeal with the County Board of Appeals.

(b) **Notice of appeal from Administrative Hearing Officer decision.** In appeals from the decisions of the Administrative Hearing Officer, the notice of appeal shall include the following information:

- (1) the title of the proceedings;
- (2) the name of the applicant;
- (3) the application or case number;
- (4) the date of the public hearing before the Administrative Hearing Officer;
- (5) the date of the decision;

- (6) a copy of the decision; and
- (7) a general statement of the basis for the appeal.

(c) **Notice of appeal from decisions involving real property.** In appeals from administrative decisions of County offices involving real property, the notice of appeal shall include the following information:

- (1) location of the subject property;
- (2) number of the councilmanic district in which the subject property is located;
- (3) names and mailing addresses of owners of real property within 175 feet of the subject property;
- (4) the name of the applicant;
- (5) a copy of the decision from which the appeal is taken; and
- (6) a general statement of the basis for the appeal.

(d) **Notice for all other appeals.** In all other appeals, the notice shall include the following information:

- (1) the name of the applicant;
- (2) a copy of the order or decision from which the appeal is taken;
- (3) the name of the officer making that order or decision and the date thereof; and
- (4) a general statement of the basis for the appeal.

(e) **Information to be provided to Board.** The information shall be provided in writing to the Board's office within 30 days of the date an appeal is filed. In cases where the information is not so submitted, the Board may dismiss the appeal.

(Bill No. 53-86; Bill No. 12-88; Bill No. 22-90; Bill No. 99-93; Bill No. 32-97; Bill No. 14-01; Bill No. 5-10)

#### **Rule 2-102. Docket and calendar.**

(a) **Generally.** Each appeal, when filed in proper form, shall be numbered serially, docketed and placed upon the calendar of the Board by the Clerk.

(b) **Order of hearing appeals.** Appeals shall be heard in the order in which they are filed with the Board, except that cases to be heard on any given day maybe arranged in any convenient sequence for that day by the Clerk. The Board may advance a given case on the docket and hear the case out of order:

- (1) on its own motion;
- (2) upon showing of good cause and after notice to all parties or attorneys of record; or
- (3) pursuant to County law.

(Bill No. 53-86; Bill No. 12-88)

#### **Rule 2-103. Fees.**

(a) **Generally.** A notice of appeal may be accepted by the County Board of Appeals only when accompanied by the relevant fee listed below:

(1) Appeals from decisions of the Administrative Hearing Officer relating to reclassifications and special exceptions and appeals from decisions of the Department of Inspections and Permits relating to grading permits, \$400.

(2) All other appeals, \$250.

(b) **Limitation.** Notwithstanding the provisions of subsection (a), the total of fees for consolidated, multiple appeals from decisions of the Administrative Hearing Officer shall not exceed \$1,000.

(c) **Refund of fees.** No fees paid as required by this rule shall be returned to the appealing party, except by order of the Board upon good cause shown.

(Bill No. 53-86; Bill No. 12-88; Bill No. 22-90; Bill No. 43-92; Bill No. 99-93; Bill No. 14-01)

#### **Rule 2-104. Notice of hearing.**

(a) **Generally.** Notice of the hearing of an appeal, excluding an appeal relating to a grading permit, shall be given by mailing a notice, at least 30 days before the date of the hearing. Notice of the hearing of an appeal relating to a grading permit shall be given in as timely a manner as practicable, either orally or in writing. Notice shall be given to:

- (1) the appellant or the appellant's attorney if the appellant is represented by an attorney, at the address stated in the notice of appeal;
- (2) the Administrative Hearing Officer or other official whose order or decision is being appealed;
- (3) the County Attorney;



- (4) the original applicant or the original applicant's attorney; and
- (5) other interested parties as the Board may deem appropriate.

(b) **Publication.** Notice of the hearing of any appeal shall be published once a week for not less than two consecutive weeks, in two newspapers of general circulation published in the County. Such notice shall specify the time, date, place, and subject of the hearing. The hearing shall be not less than six days following the final newspaper publication. The Clerk shall post the notice on the County's website when the hearing date is set.

(Bill No. 53-86; Bill No. 12-88; Bill No. 22-90; Bill No. 99-93; Bill No. 5-10)

#### **Rule 2-105. Appearance and practice.**

(a) **Persons who may appear.** An individual may appear in the individual's own behalf; a member of a partnership may represent the partnership; a bona fide officer or representative of a corporation, trust or association may represent same; and an officer or employee of a political subdivision or body or department may represent same in any proceeding.

(b) **Attorneys.** A person, firm, or corporation may be represented in any proceeding by an attorney admitted to practice before the Court of Appeals of Maryland.

(c) **Limitation on who may appear.** A person, firm, or corporation shall not be represented in any hearing except as provided above.

(d) **Formal notice of appearance.** An attorney who wishes to appear in any proceeding in a representative capacity which involves a hearing or an opportunity for a hearing shall file with the County Board of Appeals a written notice of appearance which includes the attorney's name, business address, telephone number, and the names and addresses of the persons represented by the attorney. No formal notice of appearance is necessary if the notice of appeal contains the required information.

(Bill No. 53-86)

## **TITLE 3. PREHEARING PROCEDURE**

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#### **Rule 3-101. Other pleadings.**

No other pleadings shall be required from the appellant or other parties; but if filed, copies thereof shall be served on the parties or their attorney of record before the Board, and a certificate of service shall be affixed thereto.

(Bill No. 53-86)

#### **Rule 3-102. Withdrawal.**

An appellant may withdraw an appeal. A request for withdrawal shall be in writing and the Board shall serve a copy on:

- (1) the official whose decision is being appealed;
- (2) the County Attorney; and
- (3) all parties of record to the proceedings and their attorneys.

(Bill No. 53-86; Bill No. 12-88; Bill No. 22-90; Bill No. 99-93; Bill No. 19-13; Bill No. 13-21)

#### **Rule 3-103. Request for postponement.**

(a) **Generally.** Any party to an appeal may, in writing, request a postponement of a scheduled hearing. A request for postponement may not be granted except for good cause shown.

(b) **Form of request; decision.** A request for postponement shall be in writing, stating in detail the reasons the postponement is desired. The request shall include a statement by the party making the request, agreeing to pay any additional expenses incurred if the postponement is granted, including readvertising, costs of the official stenographer, and other reasonable administrative costs as assessed by the Board. Copies of all requests shall be mailed to all parties and attorneys of record and to the County Attorney. The request for postponement shall be decided by a majority vote of a quorum of the Board.

(c) **Six month limit.** The Board shall hear an appeal within six months from the date of the filing thereof, unless the Board waives this requirement upon good cause shown.

(Bill No. 53-86; Bill No. 12-88; Bill No. 99-93; Bill No. 14-01; Bill No. 13-21)

#### **Rule 3-104. Prehearing procedure.**

(a) **Generally.** There shall be no prehearing procedure before the County Board of Appeals except as follows:

- (1) motion to determine standing;
- (2) motion to dismiss for lack of jurisdiction;
- (3) request for postponement pursuant to Rule 3-103 or for advancement pursuant to Rule 2-102;
- (4) request for waiver of six-month hearing requirement pursuant to Rule 3-103; or

(5) request for withdrawal of an appeal pursuant to Rule 3-102.

(b) **Ex parte communications.** In accordance with § 3-1-106 of the Anne Arundel County Code, a party, attorney, spokesperson, or representative of any party or any other person may not communicate ex parte or confer privately with any member of the County Board of Appeals concerning any appeal. Any information sought by an interested party shall be directed to the Clerk of the Board or to the Attorney to the Board. A member of the Board may not communicate with any party, attorney, spokesperson or representative of any party, or other person outside of the hearing room concerning any appeal until after the Board is divested of jurisdiction in the case.

(c) **Penalties.** Any person who violates a provision of subsection (b) shall be subject to the penalties set forth in § 9-1-101 of the Anne Arundel County Code.

(Bill No. 53-86; Bill No. 99-93; Bill No. 14-01)

#### **Rule 3-105. Depositions and discovery.**

There shall be no depositions or discovery.

(Bill No. 53-86)

## **TITLE 4. HEARINGS**

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#### **Rule 4-101. Conduct of hearings.**

(a) **Generally.** All hearings before the County Board of Appeals shall be public. No hearing shall be private even though all parties agree. All witnesses shall testify under oath, administered by the Chair, the Clerk or the Assistant Clerk. All persons attending the meeting who decline to testify may sign the witness list and thereby be provided with notice of all future proceedings involving the appeal.

(b) **Stenographer and transcripts.** The Board shall furnish an official stenographer for taking testimony of the hearing in all appeals. Anyone desiring a transcript of the testimony may obtain a copy from the official stenographer and shall bear the full cost. The Board is not required to furnish a stenographer during an on-site inspection conducted pursuant to subsection (g).

(c) **Continuance.** A continuance, if requested by any party, may be granted by majority vote of the Board for good cause shown. If a case is continued for more than 30 days, the case shall be readvertised at the sole expense of the party requesting the continuance.

(d) **Presentation of evidence.** Evidence at the public hearing shall be presented first by the applicants, then by persons in opposition, and lastly by the County agency involved, unless otherwise designated by the Board.

(e) **Hearing procedures.** The Chair shall regulate the course of the hearing and shall rule upon procedural matters and objections made during the course of the hearing. Counsel to the Board shall be present at all hearings to advise the Board on legal and procedural issues.

(f) **Recess.** A hearing may be recessed from time to time for good cause shown and if the time and place of the recessed hearing is announced publicly. No further notice of the recessed hearing shall be required.

(g) **Site visits.** Upon request of any party or upon its own motion, Board members may visit the site which is the subject of the appeal. Parties and their representatives may be present to observe, but no testimony may be taken. The parties or their representatives are prohibited from engaging in any discussion with Board members at the site visit. Board members are prohibited from engaging in any discussion with the parties or their representatives at the site visit. A member who has not participated in the site visit prior to the Board's vote on the appeal may not participate in the decision.

(h) **Appeals from decisions where applicant did not appear.** If a case is appealed to the Board from a decision of the Administrative Hearing Officer, and the Board determines that the Administrative Hearing Officer's decision was based on the failure of the applicant to appear either in person or by representation, the Board first shall determine if the decision of the Administrative Hearing Officer to dismiss the application was proper. If the Board determines that the decision of the Administrative Hearing Officer to dismiss the application was not proper, the Board shall proceed to hear the appeal on its merits.

(Bill No. 53-86; Bill No. 22-90; Bill No. 99-93; Bill No. 32-97; Bill No. 14-01; Bill No. 5-10)

#### **Rule 4-102. Disqualification and discipline of Board members.**

(a) **Disqualification.** A member of the Board may not participate in any matter or proceeding before the Board, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to the member's knowledge, the member or the member's spouse, or any relative of the member or the member's spouse within the third degree of consanguinity, or the spouse of any such relative, has an interest therein as that term is defined in § 7-1-101 of the Anne Arundel County Code or if any of the following is a party thereto:

(1) any business entity in which the member has a direct financial interest as that term is defined in § 7-1-101 of the Anne Arundel County Code of which the member may reasonably be expected to know;

(2) any business entity of which the member is an officer, director, trustee, partner, or employee, or in which the member knows any of the above-listed relatives has such interest;

(3) any business entity with which the member or, to the member's knowledge, any of the above-listed relatives is negotiating or has any arrangement concerning prospective employment;

(4) any business entity which is a party to an existing contract with the member or which the member knows is a party to a contract with any of the above-named relatives, if the contract could reasonably be expected to result in a conflict between the private interests of the member and the member's official County duties;

(5) any entity, either engaged in a transaction with the County or doing business with the County, in which a direct financial interest is owned by another entity in which the member has a direct financial interest if the member may reasonably be expected to know of both financial interests;

(6) any business entity which the member knows is the member's creditor or obligee, or that any of the above-named relatives, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the member or any of the above-named relatives.

(b) **Disclosure of ex parte communications or special knowledge.** A member of the Board shall reveal on the record any ex parte communications or special knowledge concerning a matter before the Board.

(c) **Disqualification.** A member of the Board may choose to determine his or her disqualification for bias, conflict of interest, or for other good cause. Upon doing so, that member shall be prohibited from participating in any further proceedings relating to the case. If a Board member's participation in the case is challenged by a party to the appeal for alleged bias, conflict of interest, or other good cause, and if the member declines to disqualify himself or herself, the remaining Board members participating in the appeal shall decide by majority vote whether or not the member shall be disqualified.

(d) **Complaints.** Whenever a complaint against a member of the Board is filed pursuant to § 3-1-103 of the Anne Arundel County Code, the following procedures shall apply:

(1) The Clerk shall notify all members of the Board that an affidavit has been filed charging a member of the Board with a violation of the Anne Arundel County Code or of these rules. No information about the allegations, the contents of the affidavit, or the fact that it has been filed may be released to any person other than the individual filing the affidavit, the Board members, and the attorney to the Board. After a hearing has been scheduled before the County Council, the Clerk may release the contents of the affidavit and the fact that it has been filed. No other information may be released.

(2) During the confidential meeting of the Board to discuss the allegation, only the complainant, Board members, Clerk to the Board, and attorney to the Board may be present. The Board shall hear from the complainant and from the member or members against whom the allegation was made. The meeting may be conducted in an informal manner, in the discretion of the Board member chairing the meeting.

(3) If at least four Board members determine that there is a reasonable belief that there has been a violation as alleged, the Board shall transmit the affidavit, any pertinent documents relating to the allegation, and the minutes of the confidential meeting to the County Council for a public hearing on the merits of the complaint. If the Board does not determine that there is a reasonable belief that there has been a violation, the matter shall be considered closed and no information regarding the allegation may be released to the public.

(Bill No. 53-86; Bill No. 99-93)

#### **Rule 4-103. Subpoenas.**

(a) **Powers of the Board.** The County Board of Appeals shall have the power to issue subpoenas to compel the appearance of witnesses, and to require the production of documentary or other tangible evidence.

(b) **Issuance.** The Board may cause subpoenas and subpoenas duces tecum to be issued upon its own motion, or upon the application of any party to any hearing; but any such application shall be in writing and shall set forth the persons, books, papers or other documents to be produced and a general statement as to the purpose of the subpoena.

(c) **Procedures.** Subpoena procedures shall be in accordance with § 1-2-101 of the Anne Arundel County Code. If a party requesting a subpoena elects to have the subpoena served by the Sheriff, the party requesting the subpoena shall be responsible for paying any fee for service imposed by the Sheriff. Affidavits of service shall be filed with the Clerk to the Board prior to the commencement of the hearing.

(Bill No. 53-86; Bill No. 99-93; Bill No. 19-13)

#### **Rule 4-104. Evidence.**

(a) **Generally.** The Chair may admit evidence which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The Chair shall give effect to the rules of privilege recognized by law. The Chair may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(b) **Documentary evidence.** Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. Exhibits and plats admitted into evidence may not be mounted and shall be folded to a maximum size of nine inches by 14 inches. An exact duplicate of the exhibit may be mounted and used for presentation.

(c) **Cross-examination.** The parties shall have the opportunity to cross-examine witnesses. The Chair shall permit a representative or representatives of persons in opposition the opportunity to conduct cross-examination.

(d) **Authority to testify.** The Chair may question witnesses testifying as representatives of associations as to their authorization to testify on behalf of the association, and may permit cross-examination as to the authorization by those representing parties to the appeal.

(e) **Expert witnesses.** The Chairman may qualify expert witnesses on the basis that their testimony, in the form of an opinion or otherwise, will assist the Board in understanding evidence or determining a fact at issue. In making the qualification, the Chairman shall



consider (1) whether the witness is qualified as an expert by knowledge, skill, experience, training or education; (2) the appropriateness of the testimony for the particular case; and (3) whether sufficient facts exist to support the testimony.

(Bill No. 53-86; Bill No. 22-90; Bill No. 99-93; Bill No. 5-10)

#### **Rule 4-105. Findings and conclusions.**

(a) **Generally.** Within 60 days after the termination of the hearing, the County Board of Appeals shall prepare and file in the proceedings a written succinct memorandum of opinion, including its findings and conclusions. If the Board determines that more than 60 days are required, the Clerk shall so notify the parties. For purposes of this subsection, a hearing shall be considered terminated upon the closing of testimony, the conducting of an on-site inspection, or the submission of any final items of evidence or written arguments pursuant to an order of the Board, whichever shall occur last. The Board's decision shall rest entirely upon the pleadings and the evidence.

(b) **Revisions and corrections.** At any time within 30 days after the filing of the memorandum and in the absence of an appeal to the Circuit Court for Anne Arundel County, the Board may revise and submit a written memorandum to correct clerical or other errors of form, providing such corrections make no change of substance in the memorandum. The revised memorandum shall be furnished to all parties and attorneys of record.

(c) **Copies of decisions.** The Board shall furnish copies of all orders and opinions to all parties to the proceedings or their attorneys of record. Any opinions rendered by the Board shall include a summary of pleadings, a summary of the evidence, findings of fact, and the basis for the conclusion reached by the Board. Any orders rendered by the Board shall be approved as to form by the attorney to the Board.

(Bill No. 53-86; Bill No. 22-90; Bill No. 99-93)

#### **Rule 4-106. Virtual or remote hearings; meetings; calculation of time.**

(a) **Generally.** When the Chair of the Board determines that emergency or extenuating circumstances exist, the Board shall be permitted to conduct hearings in a virtual or remote format.

(b) **Notice.** The notice of the hearing or the Board's website, or both, shall state that the hearing will be held virtually and shall state the time, date, virtual location, and registration information.

(c) **Public access.** The Board shall ensure that the public has the ability to listen to the proceeding through remote electronic means.

(d) **Hearing participants.** All interested participants, parties, and proposed witnesses shall register with the Board prior to the hearing using the options for registration set forth in the notice of the hearing or on the Board's website. All persons must be shown using their full name or name on record while in the virtual or remote hearing. Each witness shall enable and use both video and audio at all times during their testimony. All viewable participants in the hearing shall wear appropriate attire and present themselves as they would if they were appearing in a physical hearing room. All participants shall ensure that there will be no interruptions or distractions for the duration of their appearance at the hearing.

(e) **Right to object to virtual or remote hearings.**

(1) **Generally.** Any party to an appeal may object in writing to a hearing being conducted in a virtual or remote format. An objection to a virtual or remote hearing may not be granted except for good cause shown.

(2) **Form of request; decision.** An objection to a virtual or remote hearing format shall be in writing, stating in detail the reasons for the objection. The objection shall include a statement by the party objecting that the party agrees to pay any additional expenses incurred if the objection is granted, including readvertising, costs of the official stenographer, and other reasonable administrative costs as assessed by the Board. Copies of the objection shall be mailed or emailed by the Clerk to all parties and attorneys of record and to the County Attorney. The objection to a virtual or remote hearing format shall be decided by a majority vote of a quorum of the Board.

(f) **Exhibits.** All participants shall pre-file proposed exhibits at least seven (7) calendar days in advance of the virtual or remote hearing through the options for filing set forth in the notice of the hearing or on the Board's website. The Chair may allow exhibits not submitted prior to the hearing to be used at the hearing, such as documents used to impeach a witness or for rebuttal. At the Chair's discretion, the Chair may permit a party to transmit an exhibit to the Board during the hearing by email or other method approved by the Chair. Upon the conclusion of the hearing, the Clerk of the Board may not be obligated to maintain any proposed exhibits that were not made part of the record and may delete them from an e-mail inbox, virtual drop box, or other virtual storage folder at the Clerk's convenience.

(g) **Calculation of dates during state of emergency.** If the office of the Board is closed to the public due to a state of emergency, appeals and evidence shall be delivered through the options for filing set forth on the Board's website. If the delivery date of any items received by the Board cannot be immediately determined, the delivery date shall be presumed to be the next business day after the Clerk last received deliveries.

(Bill No. 13-21)

## **TITLE 5. APPEALS**

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#### **Rule 5-101. Appeals from decisions of the Board.**

(a) **Generally.** All appeals from decisions of the County Board of Appeals shall be in accordance with the provisions of § 604 of the

Charter of Anne Arundel County and the Maryland Rules of Procedure.

(b) **Notice.** Upon receipt of the copy of the first petition for judicial review filed with the Court and unless otherwise ordered by the Court, the Clerk to the Board shall give written notice promptly by ordinary mail to all parties to the Board's proceedings that a petition for judicial review has been filed, the date of the filing, the name of the Court, and the civil action number and that a party wishing to oppose the petition must file a response within 30 days after the date the notice was mailed unless the Court shortens or extends the time. The Clerk shall file with the Court a certificate of compliance with this requirement, pursuant to Maryland Rule 7-202(e).

(c) **Transmittal of Record to the Court.** Within 60 days after the agency receives the first petition for judicial review, unless the time is extended or shortened by the Court, the Clerk shall file with the Circuit Court the record as required by Maryland Rule 7-206.

(Bill No. 53-86; Bill No. 14-01; Bill No. 19-13)

## REFERENCE TABLE

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This table shows the location of State Law references and Bills contained in the Rules of Practice and Procedure of the County Board of Appeals.

<i>State Law Cite</i>	<i>Location</i>
Maryland Rule 7-202(e)	Rule 5-101

<i>Bill Number</i>	<i>Disposition</i>
<i>Bill Number</i>	<i>Disposition</i>
53-86	1-101 to 1-105, 2-101 to 2-105, 3-101 to 3-105, 4-101 to 4-105, 5-101
12-88	2-101 to 2-104, 3-102, 3-103
22-90	1-103, 2-101, 2-103, 2-104, 3-102, 4-101, 4-104, 4-105
43-92	2-103
99-93	1-103, 1-105, 2-101, 2-103, 2-104, 3-102 to 3-104, 4-101 to 4-105
32-97	1-103, 2-101, 4-101
14-01	2-101, 2-103, 3-103, 3-104, 4-101, 5-101
5-10	1-103, 1-105, 2-101, 2-104, 4-101, 4-104
19-13	3-102, 4-103, 5-101
80-17	1-103, 3-102, 3-103, 4-106