1**§267-30. Buffer Yards.**

FOH: The lack of adequate and effective buffer yards has been one of the criticisms of our code. This is a design standard that is highly visual, pleasing and inexpensive to create. We offer the following modifications to the Draft Zoning Code.

A. General Requirements

(1) Buffers are required between districts pursuant to Table 30-1 below. The buffer yard is intended to be landscaped in a manner that provides an effective visual AND AURAL buffering on a year–round basis. IT SHOULD PROVIDE SOUND ATTENUATION (FROM GROUND SOURCES) SUFFICIENT TO REDUCE AMBIENT NOISE IN THE IMMEDIATE VICINITY OF ANY RESIDENTIAL STRUCTURE TO NO MORE THAN 57 DB(A).

FOH: *To include the word aural is to acknowledge that adjoining property uses may cause noise pollution as well as light-and-sight pollution disturbances upon each other. All the buffers listed will aid in ameliorating both problems.*

(2) Buffer yards shall consist of existing vegetation, nursery stock, or both as well as fences, walls, earthberms, or grade changes.

(3) Structures, pavement, utility construction, signage and similar hardscape improvements shall not be permitted to encroach on any buffer yard. Public water and sewer facilities shall be allowed to cross a buffer yard subject to the approval of the Director of Planning and Zoning and the Director of Public Works.

(4) Buffer yards shall be established on agriculturally zoned land when the subject property is converted to residential use, consisting of more than 5 lots, and is adjacent to another agriculturally zoned property that hasn't been converted to residential use.

(5) Buffer yards required between property zoned for business, commercial, industrial or mixed office uses and property zoned agricultural or residential shall not be located on the agriculturally or residentially zoned lands.

(6) Buffer yard requirements may be reduced if a buffer yard exists on an adjoining property, provided the buffer yard is permanently protected in perpetuity under easement or other sufficient legal instrument, and meets the minimum buffer yard requirement for this Section.

B. Applicability. Buffer yards are required for:

(1) The construction or erection of any new nonresidential building or structure for which a building permit is required.

(2) Any enlargement exceeding 1,000 square feet or 10% of the total floor area, whichever is greater, of the exterior dimensions of an existing nonresidential building for which a building permit is required.

(3) ANY RESIDENTIAL DEVELOPMENT LARGER THAN 5 UNITS WHERE DENSITY IS DOUBLE THE DU/GA OF THE ADJOINING PROPERTY. [NOTE: ADJOINING WOULD INCLUDE ACROSS ROADS, STREAMS, ETC.]

FOH: Residential density can vary greatly from one parcel to another. Protection for those owning a lesser intensity from newly rezoned greater intensity should be required. We should protect those who live here now - first.

C. Exemptions. This Section does not apply to the following situations:

(1) The reconstruction of an existing building of which 50% or less of the floor area was destroyed or ruined by flooding, fire, windstorm or act of God. This exemption shall apply only where reconstruction of that building will not result in an increase in building size or paving area of the parking facilities to be provided.

(2) Interior finish work or remodeling within a portion of a building, unless the work results in an increase in land use intensity.

(3) Any use, building or structure for which only a change of use is requested, and which use does not increase the existing intensity or building square footage, nor requires structural modifications which would increase its volume or scale.

(4) Contiguous commercial parcels ~~or land areas~~ ~~under common ownership~~.

FOH: *Common ownership does not require identical land use. One owner may own a split parcel or two adjacent parcels with separate distinct zoning. The ownership should not excuse the need for buffering between the uses.*

D. Buffer Yard Landscape and Improvement Standards.

Table 30-1 Required Buffers Between Districts

FOH: Replace this table with:

(1) Buffer yards must use the minimum width of the lowest density and/or intensity of use of its adjoining neighbor. Ex., R1 zone next to LI zone will require the R1 zone width.

(2) Any property adjoining AG zoned land must have a 100' buffer on its developing property. *We note the safety of private wells, use of pesticides and herbicides on AG land and feel safety is paramount for both the AG owner and adjoining neighbor.*

(3) A 50' buffer yard will be used on any residentially zoned property, community facility, park or historic site which adjoins a business, commercial, residential or Mixed Office property.

(4) A 25' buffer yard will be required for any two adjoining residentially zoned properties where the density per du/ga is greater than doubled.

(5) Where no residential adjoins any business property, a buffer yard of 15' will be required.

* Buffer yard required per §267-53C(2)

E. Types of Buffer Yards. There are 5 types of buffer yards. Table 30-2 shows the minimum width and minimum number of plantings trees and/or shrubs required for each 100 linear feet for each buffer yard.

Table 30-2 Types of Buffer Yards

F. Plant Materials and Uses. Plant materials shall be selected from the species listed in the Harford County Plant List on file with the Department of Planning and Zoning. The Director of Planning and Zoning may permit substitutions if a listed species is being invaded, or infested by fungi, disease or pests. Plant materials shall show a variety of texture, color, shape and other characteristics.

(1) Shrubs.

(a) The mixture of evergreen and deciduous shrubs shall be such that no more than 40% of the shrubs are deciduous, no less than 60% of the shrubs are evergreens, and there is 1 shrub for every 40 square feet of required buffer yard.

(b) Shrubs shall be at least 4 feet in height at the time of planting, and all shrubs shall be of a species that will attain a mature height of at least 6 feet, and width of at least 4 feet, within 5 years of the time of planting.

(c) Shrubs shall be planted between 3 feet and 5 feet apart, in straight or staggered rows, such that a dense visual buffer will be established by the mature shrubs.

(2) If there is a increase in grade of at least 4 feet above existing grade on the adjacent edge district or lot boundary, and the change in grade shall occur within the width of the buffer, than shrubs shall be provided in accordance with the requirements of this Section, except that the required height of the shrubs may be reduced so that the height of the berm plus the height of the shrubs is equal to 6 feet, provided that no shrub may be less than 1 ½ feet in height. For change in grade that is at least 6 feet above grade, no shrubs are required.
FOH: Note: No mention of trees is made and should be included

G. The Director of Planning and Zoning may grant a waiver for an alternative buffer yard arrangement when certain specific requirements of this Section cannot be met, as follows:

(1) When the location of existing buildings precludes compliance with the buffer yard width and yard setback standards, the Planning Director may allow a buffer yard that provides the maximum separation and buffering possible, given the location of such buildings. In granting an alternative buffer yard, the Planning Director may require the buffer yard to be wider, when not obstructed by buildings, additional fencing or walls, or require additional or larger landscape materials; and

(2) When the land for a required buffer yard is currently encumbered, or will be required to be encumbered, by an easement, covenant, or other recorded legal instrument that prohibits or disallows the planting and maintaining of trees and shrubs, or limits tree growth to less than 20 feet in height, such land shall not be deemed to fulfill the requirements of this Section. The Director of Planning and Zoning may grant a wavier that will allow an alternate buffer yard location which will provide the maximum buffering possible taking into consideration any use of the easement that is incompatible with the intent of this Section. In granting a wavier, the Director of Planning and Zoning may require additional fencing or walls, or require additional or larger landscape materials.
FOH: We feel that granting the Director of Planning & Zoning sole discretion on waiving requirements of the Zoning Code to be troubling. This has been seen in the past as an internal interpretation of the Zoning laws of the County with no oversight, no input and no knowledge of by the citizens or the legislators who enact the laws. We would ask that a committee oversee and be able to affirm or disallow waivers. Perhaps the Environmental Advisory Board would be a good choice.

H. Buffering of Service or Storage Areas.

(1) This Section applies to refuse storage areas, storage areas, service entrances, service yards, stockpiled materials, garbage receptacles, fuel tanks, electric and gas meters utility or service equipment, and other materials

and objects used for service, utilities or storage and situated on any non-residential or multi-family residential site. These items shall be located:

(a) So as not to be visible from abutting properties; and

(b) So as not to be visible from public streets (except alleys), or placed in a location abutting an alley. When such positioning is not possible, those items shall be buffered from view at the right-of-way line or the property line of any abutting residential zoning district. Buffering may include landscape plantings, fencing or enclosures of a height at least as tall as the item or items to be buffered.

(2) All appurtenant mechanical equipment including heating, ventilating, and air conditioning equipment, as well as exhaust fans and vents, shall be visually buffered from adjacent residential lots and the public right-of-way. Noise and odors emanating from the equipment, fans, and vents shall be directed away from residential district boundaries, by means of location of the equipment on the building, or through the installation of baffles or deflectors.

I. Additional Buffering Requirements.

(1) Additional buffering requirements for industrial and business uses abutting residential land uses, community facilities or along public streets.

(2) The Director of Planning and Zoning may require additional buffering in the following situations:

(a) When an industrial or business use is proposed to an adjoining property with an existing nonconforming residential structure, which is unlikely to be converted to industrial or business use in the immediate future. In such cases, the Planning Director may require a fence of an appropriate height;

(b) When an industrial or business use adjoins a community facility such as a school, playground or park or a historic site.

(3) Protection of Scenic Byways

(a) Development along a State designated Scenic Byway shall be landscaped to preserve the scenic character of the view from the road and the features of the road right-of-way that contribute to the roads scenic character.

(b) The removal of existing vegetation shall be minimized to protect mature trees and hedgerows visible from the road.

FOH: *Additional buffering is always welcome for residential areas, especially those areas where children would be impacted. However, we believe that we should have more than adequate buffer yards in all areas and uses. We should do it right the first time.*

FOH: Additional comments to Landscaping and Bufferyards

The question of whether to relax landscaping and bufferyard requirements in revitalization or redevelopment areas is a knotty problem. While we understand that economic incentives are needed, we feel the County and State do provide enough incentives to offset rebuilding in blighted areas.

Old lot size may also cause problems in meeting the bufferyard and landscaping requirements. Again we feel there are enough economic incentives given to overcome these problems. Different footprints, merging of lots and a general rethinking of ordinary solutions to development constraints should be used.

Friends of Harford believes strongly that redevelopment or revitalization areas are those MOST in need of bufferyards and landscaping. Simply, if we want people to live and work in an area, it must look good enough to invite them to come and make them stay. The areas were blighted in part because they did not have the buffers and landscaping requirements