

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2010, Legislative Day No. 28

Bill No. 60-10

Introduced by Mr. Middlebrooks, Chairman  
(by request of the County Executive)

By the County Council, July 6, 2010

---

Introduced and first read on July 6, 2010  
Public Hearing set for and held on August 2, 2010  
Bill AMENDED September 7, 2010  
Public Hearing on AMENDED BILL set for and held on September 20, 2010  
Bill Expires October 9, 2010

By Order: Judy C. Holmes, Administrative Officer

---

A BILL ENTITLED

1 AN ORDINANCE concerning: Zoning  
2  
3 FOR the purpose of defining “lot coverage” ~~and “BRAC Mixed Use Development”~~ and  
4 clarifying definitions of “road” and “local road,” providing for changes to the scope and  
5 applicability of Article 18; encouraging the preservation of historic and archeological  
6 resources by permitting density of development in accordance with the gross area of certain  
7 lots under certain circumstances; providing for an easement and agreement under certain  
8 circumstances; providing that merger of a certain lot is not authorized under certain  
9 circumstances; eliminating minimum lot sizes in certain cluster development; clarifying the  
10 locations of certain boundary lines in cluster developments in certain residential districts;  
11 allowing reduction of a setback to accommodate preservation of environmental features;  
12 making a certain stylistic change; ~~adding BRAC Mixed Use Development as a conditional~~  
13 ~~use in C4 and W1 Districts and all MXD Districts~~; allowing increased height under certain  
14 circumstances in Commercial, Industrial and Mixed Use Development zoning districts;  
15 ~~adding the provisions for BRAC Mixed Use Development as a conditional use~~; requiring  
16 administrative site plans to include landscaping that complies with the Anne Arundel County  
17 Landscape Manual; providing for phasing as a condition of special exception approval under  
18 certain circumstances; clarifying that if the use of the subject property deviates from uses

---

EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Asterisks\*\*\*indicate existing Code provisions in a chart or list that remain unchanged.  
Underlining indicates amendments to bill.  
~~Strikeover~~ indicates matter stricken from bill by amendment.  
~~Double-strikeover~~ indicates matter vetoed

1 allowed under a rezoning the rezoning, variance or special exception shall be rescinded,  
2 suspended, or modified; making a certain technical change; and generally relating to  
3 zoning. **VETOED – Items as affected by Amendment No. 2 only.**

JL  
9.24.10

4 **\*\*VETO OVERRIDDEN\*\* 10/4/10**

5 BY repealing: § 18-1-101(65)

6 Anne Arundel County Code (2005, as amended)

8 BY renumbering: § 18-1-101(52) through (64) to be 18-1-101(53) through (65)

9 Anne Arundel County Code (2005, as amended)

11 BY repealing and reenacting, with amendments: §§ 18-1-101(80); 18-2-101(b); 18-4-301;  
12 18-4-401(a)(1); 18-4-501; 18-4-601; 18-4-701; 18-5-102; 18-5-201; 18-5-301; 18-5-401;  
13 18-5-501; 18-6-103; 18-6-301; 18-6-401; 18-8-301; 18-8-303; 18-10-106(a); 18-16-  
14 201(b); 18-16-303(c); 18-16-304; and 18-16-404(a) **VETOED – Items as affected by**

15 Anne Arundel County Code (2005, as amended) **Amendment No. 2 only.**

JL  
9.24.10

16 **\*\*VETO OVERRIDDEN\*\* 10/4/10**

17 BY adding: §§ ~~18-1-101(52)~~ 18-1-101(14A) and (52); 18-2-109; and 18-4-206

18 Anne Arundel County Code (2005, as amended)

**VETOED – Items as affected by  
Amendment No. 2 only**

JL  
9.24.10

20 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,***\*\*VETO**

21 That § 18-1-101(65) of the Anne Arundel County Code (2005, as amended) is hereby **OVERRIDDEN\*\***  
22 repealed. **10/4/10**

24 SECTION 2. *And be it further enacted,* That § 18-1-101(52) through (64) of the Anne  
25 Arundel County Code (2005, as amended) is hereby renumbered to be § 18-1-101(53)  
26 through (65).

28 SECTION 3. *And be it further enacted,* That Section(s) of the Anne Arundel County  
29 Code (2005, as amended) read as follows:

31 **ARTICLE 18 ZONING**

33 **TITLE 1. DEFINITIONS**

35 **18-1-101. Definitions.**

37 ~~(14A) "BRAC MIXED USE DEVELOPMENT" MEANS PARCELS LOCATED IN A C4, W1  
38 AND/OR MXD ZONING DISTRICT WHICH WERE CHANGED TO A MIXED USE CLASSIFICATION  
39 IN THE 2009 LAND USE PLAN ADOPTED AS A PART OF THE 2009 GENERAL DEVELOPMENT  
40 PLAN ADOPTED BY BILL NO. 64-09 AND WHICH COMPRISE NOT LESS THAN 25 ACRES IN THE  
41 AGGREGATE. THE USES PERMITTED IN A BRAC MIXED USE DEVELOPMENT AND THE  
42 RESTRICTIONS THEREON ARE SET FORTH IN SECTION 18-10-106A OF THIS ARTICLE.~~

**VETOED**

JL  
9.24.10

**\*\* VETO  
OVERRIDDEN\*\*  
10/4/10**

44 (52) "LOT COVERAGE" HAS THE MEANING STATED IN THE NATURAL RESOURCES  
45 ARTICLE, § 8-1802, OF THE STATE CODE.

47 (80) "Road" means an open way THAT IS DEDICATED AS A PUBLIC OR PRIVATE  
48 RIGHT-OF-WAY OR EASEMENT for the passage of vehicles and persons [that has a functional

1 classification as stated in the General Development Plan]. The following types of roads are  
2 defined from the lowest to the highest classification:

3  
4 (i) "Local road" means a road designed to provide vehicular access to abutting  
5 properties and to discourage through traffic, BUT THE TERM DOES NOT INCLUDE A PARKING  
6 LOT, A DRIVE AISLE, OR AN ALLEY.

7  
8 (ii) "Collector road" means a road that provides primary access to an arterial road  
9 from one or more neighborhoods; allows for traffic circulation within residential,  
10 commercial, and industrial areas and for the internal distribution of trips within a  
11 neighborhood; and may provide access to local roads, other collector roads, and abutting  
12 properties.

13  
14 (iii) "Minor arterial road" means a road that serves trips of moderate length;  
15 interconnects and augments the principal arterial system; provides primary access to or  
16 through communities of high density residential, commercial, retail, or industrial land uses  
17 and distributes traffic to smaller geographic areas; and partially controls access to abutting  
18 commercial, industrial, and residential properties at predetermined locations to discourage  
19 direct access to individual properties at other locations.

20  
21 (iv) "Principal arterial road" means a road that serves the needs of through traffic  
22 for moderately long trips and serves major activity centers and major portions of the trips  
23 entering or leaving urban areas; is a primary travel route for commercial, commuter, and  
24 recreational travel in rural areas; provides secondary linkages between large urban centers,  
25 suburban population, and employment centers; and permits direct access to individual  
26 properties only under unusual circumstances.

27  
28 (v) "Freeway" means a road that provides for efficient and uninterrupted travel  
29 over long distances; serves interstate and commuter needs; does not allow direct access to  
30 abutting properties; and has access only by interchange facilities.

## 31 32 TITLE 2. GENERAL PROVISIONS

### 33 34 18-2-101. Scope; applicability.

35  
36 (b) Applicability to pending and future proceedings. This article applies to all  
37 pending and future proceedings and actions of any board, department, or agency empowered  
38 to decide applications under this Code, except that:

39  
40 (1) an application for a special exception or variance filed on or before April 4, 2005  
41 shall be governed by the law as it existed prior to May 12, 2005 for the special exception or  
42 variance as approved; [and]

43  
44 (2) AN APPLICATION FOR A SPECIAL EXCEPTION OR VARIANCE FILED BEFORE JULY 6,  
45 2010 SHALL BE GOVERNED BY THE LAW AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF  
46 BILL 60-10 FOR THE SPECIAL EXCEPTION OR VARIANCE AS APPROVED IF THE COUNTY  
47 APPROVES AN ADMINISTRATIVE WAIVER AS STIPULATED IN COMAR 26.17.02.01-2 OR THE

PROJECT IS EXEMPT FROM THE ADMINISTRATIVE WAIVER PROCESS;

[(2)] (3) development that falls within one of the exceptions set forth in § 17-2-101(b)(1) through (b)(5) of this Code shall be governed by the law relating to parking, lot size, width at the front building restriction line, coverage, setbacks, height limitations, and density that existed prior to May 12, 2005[.]; AND

(4) DEVELOPMENT THAT FALLS WITHIN ONE OF THE EXCEPTIONS SET FORTH IN § 17-2-101(B)(6) OR (B)(7) OF THIS CODE SHALL BE GOVERNED BY THE LAW AS IT EXISTED PRIOR TO JULY 6, 2010 IF THE COUNTY APPROVES AN ADMINISTRATIVE WAIVER AS STIPULATED IN COMAR 26.17.02.01-2 OR THE PROJECT IS EXEMPT FROM THE ADMINISTRATIVE WAIVER PROCESS.

**18-2-109. Preservation of historic and archeological resources.**

TO ENCOURAGE PRESERVATION OF HISTORIC AND ARCHEOLOGICAL RESOURCES ON A LOT CONTAINING HISTORIC OR ARCHEOLOGICAL RESOURCES, THE OFFICE OF PLANNING AND ZONING MAY ALLOW DENSITY OF DEVELOPMENT FOR THAT LOT IN ACCORDANCE WITH THE GROSS AREA. IN RETURN, THE DEVELOPER SHALL ENTER INTO AN EASEMENT AND AGREEMENT IN A FORM ACCEPTABLE TO THE COUNTY THAT PROVIDES FOR THE PRESERVATION OF THE HISTORIC OR ARCHEOLOGICAL RESOURCES ON THE SITE.

**TITLE 4. RESIDENTIAL DISTRICTS**

**18-4-206. Consolidation without subdivision.**

NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO AUTHORIZE MERGER OF A LOT ANY PART OF WHICH IS WITHIN A PLATTED AND RECORDED ROAD OR RIGHT-OF-WAY.

**18-4-301. Bulk regulations.**

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

***	
Cluster development:	
***	
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	15 feet
Side lot lines	10 feet

1

Boundary line of the cluster development site	50 feet FROM ADJACENT RESIDENTIALLY ZONED AND DEVELOPED PROPERTY, except that THE SETBACK MAY BE REDUCED BY THE PLANNING AND ZONING OFFICER TO PRESERVE ENVIRONMENTAL FEATURES AND the setback may be REDUCED TO 25 feet if the adjoining lot is an open space lot created under § 17-3-506 of this Code
***	

2

3

**18-4-401. Bulk regulations.**

4

5

**(a) Generally.**

6

7

(1) Except as provided otherwise in this article, the following bulk regulations are applicable in an RLD District.

8

9

***	
Cluster development:	
[Minimum lot size	20,000 square feet
Maximum lot size	120,000 square feet
Minimum width at front building restriction line	80 feet]
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	15 feet
Side lot lines	10 feet
Boundary line of the cluster development site	50 feet FROM ADJACENT RESIDENTIALLY ZONED AND DEVELOPED PROPERTY, except that THE SETBACK MAY BE REDUCED BY THE PLANNING AND ZONING OFFICER TO PRESERVE ENVIRONMENTAL FEATURES AND the setback may be REDUCED TO 25 feet if the adjoining lot is an open space lot created under § 17-3-506 of this Code
***	

10

**18-4-501. Bulk regulations.**

1 Except as provided otherwise in this article, the following bulk regulations are applicable  
 2 in an R1 District:  
 3

***	
Cluster development:	
Minimum lot size	[20,000 square feet or,] NONE, EXCEPT for adult independent dwelling unit developments served by public sewer with a minimum net area of 50 acres, EACH OF WHICH UNITS SHALL BE ON A LOT NOT LESS THAN 10,000 square feet
MAXIMUM INDIVIDUAL LOT COVERAGE BY STRUCTURES	DETERMINED BY SETBACKS AND CONSTRAINTS IMPOSED BY CHARACTERISTICS OF LOT, COVERAGE NOT TO EXCEED 50%
Minimum width at front building restriction line	80 feet or, for adult independent dwelling unit developments served by public sewer with a minimum net area of 50 acres, 60 feet
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	10 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet FROM ADJACENT RESIDENTIALLY ZONED AND DEVELOPED PROPERTY, except that THE SETBACK MAY BE REDUCED BY THE PLANNING AND ZONING OFFICER TO PRESERVE ENVIRONMENTAL FEATURES AND the setback may be REDUCED TO 25 feet if the adjoining lot is an open space lot created under § 17-3-506 of this Code
***	

4  
 5 **18-4-601. Bulk regulations.**

6  
 7 Except as provided otherwise in this article, the following bulk regulations are applicable  
 8 in an R2 District:

1

***	
Cluster development:	
[Minimum lot size:	
Single-family detached and duplex dwellings	10,000 square feet
Semi-detached dwellings (per unit)	6,000 square feet]
MAXIMUM INDIVIDUAL LOT COVERAGE BY STRUCTURES	DETERMINED BY SETBACKS AND CONSTRAINTS IMPOSED BY CHARACTERISTICS OF LOT, COVERAGE NOT TO EXCEED 60%
Minimum width at front building restriction line	50 feet
Minimum setbacks for principal structures:	
Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	10 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet FROM ADJACENT RESIDENTIALLY ZONED AND DEVELOPED PROPERTY, except that THE SETBACK MAY BE REDUCED BY THE PLANNING AND ZONING OFFICER TO PRESERVE ENVIRONMENTAL FEATURES AND the setback may be REDUCED TO 25 feet if the adjoining lot is an open space lot created under § 17-3-506 of this Code
***	

2

3

**18-4-701. Bulk regulations.**

4

5

Except as provided otherwise in this article, the following bulk regulations are applicable in an R5 District:

6

7

***	
Cluster development:	
[Minimum lot size:	
Single-family detached and duplex dwellings	3,500 square feet
Semi-detached dwellings (per unit)	2,000 square feet]
MAXIMUM INDIVIDUAL LOT COVERAGE BY STRUCTURES	DETERMINED BY SETBACKS AND CONSTRAINTS IMPOSED BY CHARACTERISTICS OF LOT, COVERAGE NOT TO EXCEED 75%
Minimum width at front building restriction line	40 feet
Minimum setbacks for principal structures:	

1

Front lot line	5 feet, but if parking is located in the front yard, 18 feet
Rear lot line	10 feet
Side lot lines	7 feet
Boundary line of the cluster development site	50 feet FROM ADJACENT RESIDENTIALLY ZONED AND DEVELOPED PROPERTY, except that THE SETBACK MAY BE REDUCED BY THE PLANNING AND ZONING OFFICER TO PRESERVE ENVIRONMENTAL FEATURES AND the setback may be REDUCED TO 25 feet if the adjoining lot is an open space lot created under § 17-3-506 of this Code
***	

2

3

**TITLE 5. COMMERCIAL DISTRICTS**

4

5

~~**18-5-102. Permitted, conditional, special exception, and business complex auxiliary uses.**~~

JL  
9.24.10

6

7

**VETOED**

8

9

10

~~The permitted, conditional, and special exception uses allowed in each of the commercial districts, and uses auxiliary to a business complex, 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 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.~~

\*\*VETO  
OVERRIDDEN\*\*  
10/4/10

11

12

13

14

<del><b>Permitted, Conditional, Special Exception, and Business Complex Auxiliary Uses</b></del>	<del>C1</del>	<del>C2</del>	<del>C3</del>	<del>C4</del>
<del>***</del>				
<del>Boat Showroom or sales facilities</del>		€	€	
<del>BRAC MIXED USE DEVELOPMENT</del>				€
<del>***</del>				

15

16

**18-5-201. Bulk regulations.**

17

18

Except as provided otherwise in this article, the following bulk regulations are applicable in a C1 District:

19

1

***	
Maximum height limitations FOR DEVELOPMENT IN WHICH LESS THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	45 feet or to a maximum of 60 feet if all setback requirements are increased by one foot for each foot OF HEIGHT in excess of 45 feet
MAXIMUM HEIGHT LIMITATIONS FOR DEVELOPMENT IN WHICH MORE THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	45 FEET OR TO A MAXIMUM OF 72 FEET IF ALL SETBACK REQUIREMENTS ARE INCREASED BY ONE FOOT FOR EACH FOOT OF HEIGHT IN EXCESS OF 45 FEET
***	

2

3

**18-5-301. Bulk regulations.**

4

5

Except as provided otherwise in this article, the following bulk regulations are applicable in a C2 District:

6

7

***	
Maximum height limitations:	
If two or more lot lines abut a residential district	60 feet OR TO A MAXIMUM OF 72 FEET FOR DEVELOPMENT IN WHICH MORE THAN 50% OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER AND ALL SETBACKS ARE INCREASED BY ONE FOOT FOR EACH FOOT OF HEIGHT IN EXCESS OF 60 FEET
If one lot line abuts a residential district	[None if] 60 FEET EXCEPT THAT THERE SHALL BE NO MAXIMUM FOR DEVELOPMENT IN WHICH MORE THAN 50% OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER AND all setbacks are increased by one foot for each three feet of height in excess of 60 feet
***	

8

9

**18-5-401. Bulk regulations.**

1 Except as provided otherwise in this article, the following bulk regulations are applicable  
2 in a C3 District:  
3

***	
Maximum height limitations FOR DEVELOPMENT IN WHICH LESS THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	60 feet except that all setbacks are increased by one foot for each foot of height in excess of 45 feet
MAXIMUM HEIGHT LIMITATIONS FOR DEVELOPMENT IN WHICH MORE THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	72 FEET IF ALL SETBACK REQUIREMENTS ARE INCREASED BY ONE FOOT FOR EACH FOOT OF HEIGHT IN EXCESS OF 45 FEET
***	

4  
5 **18-5-501. Bulk regulations.**  
6

7 Except as provided otherwise in this article, the following bulk regulations are applicable  
8 in a C4 District:  
9

***	
Maximum height limitations FOR DEVELOPMENT IN WHICH LESS THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	60 feet
MAXIMUM HEIGHT LIMITATIONS FOR DEVELOPMENT IN WHICH MORE THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER	72 FEET IF ALL SETBACK REQUIREMENTS ARE INCREASED BY ONE FOOT FOR EACH FOOT OF HEIGHT IN EXCESS OF 60 FEET
***	

10  
11 **TITLE 6. INDUSTRIAL DISTRICTS**  
12

13 **18-6-103. Permitted, conditional, and special exception uses.**  
14

15 ~~The permitted, conditional, and special exception uses allowed in each of the industrial~~  
16 ~~districts are listed in the chart in this section using the following key: P = permitted use; C =~~  
17 ~~conditional use; SE = special exception use; and A = auxiliary use to a business complex use.~~  
18 ~~A blank means that the use is not allowed in the district. Except as provided otherwise in this~~  
19 ~~article, uses and structures customarily accessory to permitted, conditional, and special~~  
20 ~~exception uses also are allowed, except that outside storage as an accessory use in W1 is~~  
21 ~~limited to 15% of the allowed lot coverage.~~  
22

7L  
9.27.10

VETOED

\*\*VETO  
OVERRIDDEN\*\*  
10/4/10

<b><u>Permitted, Conditional, and Special Exception Uses</u></b>	<u>W1</u>	<u>W2</u>	<u>W3</u>
--	-----------	-----------	-----------

1

<u>***</u>			
<u>Bone Distillation</u>	<u>A</u>	<u>A</u>	
<u>BRAC MIXED USE DEVELOPMENT</u>	<u>E</u>		
<u>***??</u>			

2  
3  
4  
5  
6  
7  
8

**18-6-301. Bulk regulations.**

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

<u>***</u>	
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

9  
10  
11  
12  
13  
14

**18-6-401. Bulk regulations.**

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

<u>***</u>	
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

15  
16  
17

**TITLE 8. MIXED USE DISTRICTS**

~~18-8-301. Permitted uses; conditional uses.~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

~~(a) Uses allowed. The permitted and conditional uses under the optional method of development are listed in the chart in this section using the following key: P = permitted use; C = conditional use. A blank space means that the use is not allowed in the district. Uses and structures customarily accessory to the listed uses also are allowed, except that outside storage as an accessory use is not allowed.~~

VETOED

~~(b) Categories in chart. The chart in this section divides the permitted and conditional uses allowed under the optional method of development into the categories of residential, retail and service, office, and industrial, and the uses are subject to the percentage limitations on those categories described in 18-8-302.~~

\*\*VETO  
OVERRIDDEN\*\*  
10/4/10

	<u>MXD-R</u>	<u>MXD-C</u>	<u>MXD-E</u>	<u>MXD-T</u>
<u>Residential</u>				
<u>BRAC MIXED USE DEVELOPMENT</u>	€	€	€	€
<u>***</u>				

13  
14  
15  
16  
17  
18

**18-8-303. Densities; floor area ratios; building heights.**

The maximum residential densities, maximum floor area ratios, and maximum building heights are described in the following chart.

	<b>MXD-R</b>	<b>MXD-C</b>	<b>MXD-E</b>	<b>MXD-T</b>
***				
Maximum building height	90 feet. Height may exceed 90 feet if all setback requirements are increased by one foot for each two feet in excess of 90 feet AND IF MORE THAN 50 % OF ALLOWABLE LOT COVERAGE CONSISTS OF ENVIRONMENTAL SITE DESIGN FEATURES APPROVED BY THE PLANNING AND ZONING OFFICER.	150 feet	150 feet	150 feet

19  
20  
21

JK  
9.24.10

1 ~~18-10-106A. BRAC Mixed Use Development.~~

VETOED

2  
3 ~~THE FOLLOWING USES ARE ALLOWED IN A BRAC MIXED USE DEVELOPMENT, IN~~  
4 ~~ADDITION TO THE USES ALLOWED IN THE UNDERLYING ZONING DISTRICT:~~

\*\*VETO  
OVERRIDDEN\*\*  
10/4/10

5  
6 ~~(1) ALL R-15 USES, INCLUDING ALL VARIATIONS OF DWELLINGS DEFINED IN SECTION~~  
7 ~~18-1-101(29), SUBJECT TO THE BULK REGULATIONS SET FORTH IN SECTION 18-4-901;~~

8  
9 ~~(2) GROCERY STORES GREATER THAN 25,000 SQUARE FEET IN SIZE, SUBJECT TO THE~~  
10 ~~BULK REGULATIONS SET FORTH IN SECTION 18-5-401; AND~~

11  
12 ~~(3) RETAIL SPECIALTY STORES OR SHOPS FOR RETAIL SALES, AS DEFINED IN SECTION~~  
13 ~~18-5-102, SUBJECT TO THE BULK REGULATIONS SET FORTH IN SECTION 18-5-401.~~

14  
15 **TITLE 16. ADMINISTRATIVE HEARINGS**

16  
17 **18-16-201. Applications.**

18  
19 (b) **Contents of administrative site plan.** An administrative site plan shall include:

- 20
- 21 (1) the outline of the property with scale and north arrow;
- 22
- 23 (2) zoning boundaries;
- 24
- 25 (3) critical area and bog protection areas;
- 26
- 27 (4) existing and proposed structures and uses;
- 28
- 29 (5) setbacks, parking, and landscaping IN ACCORDANCE WITH REQUIREMENTS OF
- 30 THE LANDSCAPE MANUAL;
- 31
- 32 (6) access and interior road circulation;
- 33
- 34 (7) utilities and drainage structures;
- 35
- 36 (8) easements of record;
- 37
- 38 (9) forested areas and mean high water lines;
- 39
- 40 (10) natural features;
- 41
- 42 (11) for sites in the critical area, field run topography at two-foot intervals if the site
- 43 has slopes of 15% or more;
- 44
- 45 (12) for sites not in the critical area, field run topography at two-foot intervals if the
- 46 site has slopes of 25% or more; [and]
- 47
- 48 (13) a vicinity map;
- 49

1 (14) FOR DEVELOPMENT IMPACTING ENVIRONMENTALLY SENSITIVE AREAS, ALL  
2 INFORMATION CONTAINED IN THE CURRENT COUNTY PRELIMINARY PLAN CHECKLIST OR  
3 OTHER RELEVANT INFORMATION SPECIFIED BY THE PLANNING AND ZONING OFFICER; AND

4  
5 (15) FOR DEVELOPMENT IMPACTING ENVIRONMENTALLY SENSITIVE AREAS OR  
6 DISTURBING 5,000 SQUARE FEET OR MORE, A STORMWATER MANAGEMENT PLAN THAT  
7 SATISFIES REQUIREMENTS OF THE COUNTY PROCEDURES MANUAL.

8  
9 **18-16-303. Rezonings.**

10  
11 (c) **Restrictions.** A lot located in an Odenton Growth Management Area District may be  
12 rezoned only to another Odenton Growth Management Area District, and a lot that is not  
13 located in a sub-area may not be administratively rezoned to an Odenton Growth  
14 Management Area District. A lot not designated as a mixed use development area [on] IN  
15 THE GENERAL DEVELOPMENT PLAN OR a small area plan may not be administratively  
16 rezoned to a mixed use district.

17  
18 **18-16-304. Special exceptions.**

19  
20 (A) **Requirements.** A special exception use may be granted only if the Administrative  
21 Hearing Officer makes the following affirmative findings:

22  
23 (1) The use will not be detrimental to the public health, safety, and welfare;

24  
25 (2) The location, nature, and height of each building, wall, and fence, the nature and  
26 extent of landscaping on the site, and the location, size, nature, and intensity of each phase of  
27 the use and its access roads will be compatible with the appropriate and orderly development  
28 of the district in which it is located;

29  
30 (3) Operations related to the use will be no more objectionable with regard to noise,  
31 fumes, vibration, or light to nearby properties than operations in other uses allowed under  
32 this article;

33 (4) The proposed use will not conflict with an existing or programmed public facility,  
34 public service, school, or road;

35  
36 (5) The proposed use has the written recommendations and comments of the Health  
37 Department and the Office of Planning and Zoning;

38  
39 (6) The applicant has presented sufficient evidence of public need for the use;

40  
41 (7) The applicant has presented sufficient evidence that the use will meet and be able  
42 to maintain adherence to the criteria for the specific use;

43  
44 (8) The application will conform to the critical area criteria for sites located in the  
45 critical area; and

46  
47 (9) The administrative site plan demonstrates the applicant's ability to comply with

1 the requirements of the Landscape Manual.

2

3 (B) **Phasing of development.** IF PHASING OF DEVELOPMENT IS PROPOSED FOR A USE  
4 ALLOWED BY SPECIAL EXCEPTION AND THE PLANNING AND ZONING OFFICER HAS  
5 APPROVED A PLAN FOR PHASING OF DEVELOPMENT, THE ADMINISTRATIVE HEARING  
6 OFFICER MAY ALLOW PHASING PURSUANT TO THE APPROVED PLAN AS A CONDITION OF  
7 SPECIAL EXCEPTION APPROVAL.

8

9 **18-16-404. Rescission, suspension, or modification of a rezoning, variance, or special**  
10 **exception.**

11

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

16

17 (1) the approval or grant was based on a fraudulent misrepresentation of material  
18 information in the application, testimony, administrative site plan, or other supporting  
19 documents; or

20

21 (2) the use of the property deviates from the approved administrative site plan, an  
22 [approved] ALLOWED use under the rezoning, or any conditions imposed.

23

24 SECTION 4. And be it further enacted That all references in this Ordinance to "the  
25 effective date of Bill No. 60-10", or words to that effect, shall, upon codification, be replaced  
26 with the actual date on which this Ordinance takes effect under Section 307 of the County  
27 Charter as certified by the Administrative Officer to the County Council.

28

29 SECTION 4. *And be it further enacted,* That this Ordinance shall take effect 45 days  
30 from the date it becomes law.


AMENDMENTS ADOPTED: September 7, 2010

READ AND PASSED this 20<sup>th</sup> day of September, 2010

By Order:

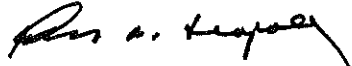
  
Judy C. Holmes  
Administrative Officer

PRESENTED to the County Executive for his approval this 21<sup>st</sup> day of September, 2010

  
Judy C. Holmes  
Administrative Officer

APPROVED AND ENACTED this 27<sup>th</sup> day of September, 2010

*except as to Amendment No. 2*



JOHN R. LEOPOLD  
County Executive

EFFECTIVE DATE: November 8, 2010, except for parts of the Ordinance affected by Amendment No. 2.

I HEREBY CERTIFY THAT THE COUNTY EXECUTIVE'S VETO OF AMENDMENT NO. 2, ATTACHED HERETO AND APPENDED TO THIS ORDINANCE, WAS CONSIDERED BY THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND ON OCTOBER 4, 2010, AND THAT THE VETO WAS OVERRIDDEN BY THE REQUIRED AFFIRMATIVE VOTES OF THE COUNTY COUNCIL.



Judy C. Holmes  
Administrative Officer

EFFECTIVE DATE: November 18, 2010 for the parts of the Ordinance affected by Amendment No. 2.

AMENDMENT TO BILL 60-10  
(Zoning)

September 7, 2010

Introduced by Mr. Middlebrooks

~~VETOED~~  
*John R. Leopold*  
JOHN R. LEOPOLD  
COUNTY EXECUTIVE  
9.24.10

Amendment No. 2

On page 1 of the proposed bill, in line 3, after "lot coverage" insert "and BRAC Mixed Use Development"; in line 11, after "change;" insert "adding BRAC Mixed Use Development as a conditional use in C4 and W1 Districts and all MXD Districts;" and in line 12, after "districts;" insert "adding the provisions for BRAC Mixed Use Development as a conditional use;"

On page 2, in line 6, after "18-4-701;" insert "18-5-102;" and after "18-5-501;" insert "18-6-103;"; in line 7, after "401;" insert "18-8-301;"; after "18-3-303;" insert "18-10-106A;"; in line 10, strike "18-1-101(52)" and substitute "18-1-101(14A) and (52)";

and after line 28, insert:

"(14A) "BRAC MIXED USE DEVELOPMENT" MEANS PARCELS LOCATED IN A C4, W1 AND/OR MXD ZONING DISTRICT WHICH WERE CHANGED TO A MIXED USE CLASSIFICATION IN THE 2009 LAND USE PLAN ADOPTED AS A PART OF THE 2009 GENERAL DEVELOPMENT PLAN ADOPTED BY BILL NO. 64-09 AND WHICH COMPRISE NOT LESS THAN 25 ACRES IN THE AGGREGATE. THE USES PERMITTED IN A BRAC MIXED USE DEVELOPMENT AND THE RESTRICTIONS THEREON ARE SET FORTH IN SECTION 18-10-106A OF THIS ARTICLE."

On page 7, after line 3, insert:

"18-5-102. Permitted, conditional, special exception, and business complex auxiliary uses.

The permitted, conditional, and special exception uses allowed in each of the commercial districts, and uses auxiliary to a business complex, 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 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.

<u>Permitted, Conditional, Special Exception, and Business Complex Auxiliary Uses</u>	<u>C1</u>	<u>C2</u>	<u>C3</u>	<u>C4</u>
<u>***</u>				
<u>Boat Showroom or sales facilities</u>		<u>C</u>	<u>C</u>	
<u>BRAC MIXED USE DEVELOPMENT</u>				<u>C</u>
<u>***</u>				

On page 9, after line 3, insert:

**“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.

<u>Permitted, Conditional, and Special Exception Uses</u>	<u>W1</u>	<u>W2</u>	<u>W3</u>
<u>***</u>			
<u>Bone Distillation</u>	<u>A</u>	<u>A</u>	
<u>BRAC MIXED USE DEVELOPMENT</u>	<u>C</u>		
<u>***”</u>			

On page 10, after line 1, insert

**“18-8-301. Permitted uses; conditional uses.**

(a) Uses allowed. The permitted and conditional uses under the optional method of development are listed in the chart in this section using the following key: P = permitted use; C = conditional use. A blank space means that the use is not allowed in the district. Uses and structures customarily accessory to the listed uses also are allowed, except that outside storage as an accessory use is not allowed.

(b) Categories in chart. The chart in this section divides the permitted and conditional uses allowed under the optional method of development into the categories of residential, retail and service, office, and industrial, and the uses are subject to the percentage limitations on those categories described in 18-8-302.

	<u>MXD-R</u>	<u>MXD-C</u>	<u>MXD-E</u>	<u>MXD-T</u>
<u>Residential</u>				
<u>BRAC MIXED USE DEVELOPMENT</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>***”</u>				

and after line 8 insert

**"TITLE 10. REQUIREMENTS FOR CONDITIONAL USES**

**18-10-106A. BRAC Mixed Use Development.**

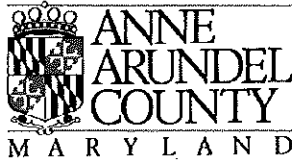
THE FOLLOWING USES ARE ALLOWED IN A BRAC MIXED USE DEVELOPMENT, IN ADDITION TO THE USES ALLOWED IN THE UNDERLYING ZONING DISTRICT:

(1) ALL R-15 USES, INCLUDING ALL VARIATIONS OF DWELLINGS DEFINED IN SECTION 18-1-101(29), SUBJECT TO THE BULK REGULATIONS SET FORTH IN SECTION 18-4-901;

(2) GROCERY STORES GREATER THAN 25,000 SQUARE FEET IN SIZE, SUBJECT TO THE BULK REGULATIONS SET FORTH IN SECTION 18-5-401; AND

(3) RETAIL SPECIALTY STORES OR SHOPS FOR RETAIL SALES, AS DEFINED IN SECTION 18-5-102, SUBJECT TO THE BULK REGULATIONS SET FORTH IN SECTION 18-5-401."

*(This amendment adds a conditional use of BRAC Mixed Use Development and defines conditions for the use).*



County Executive John R. Leopold  
P.O. Box 2700, Annapolis, MD 21404  
410-222-1821

September 23, 2010

The Anne Arundel County Council  
Arundel Center, 1st Floor  
44 Calvert Street  
Annapolis, Maryland 21401

Subject: **Executive Veto and Veto Statement**  
**Bill No. 60-10, Amendment No. 2**

Dear Members of the County Council:

In accordance with authority vested in me by Section 307(j) of the Anne Arundel County Charter, I hereby veto Amendment No. 2 to Bill No. 60-10, and this Veto and Veto Statement are incorporated by reference to the bill as returned to you. Amendment No. 2, a copy of which is attached, would create a new conditional use known as a "BRAC Mixed Use Development."

I have vetoed Amendment No. 2 because, as explained in advice to the County Council from the Anne Arundel County Office of Law, the amendment may be found to have effectively rezoned specific parcels of land in a manner that violates well-established principles of law intended to preserve the integrity of the zoning process, and the rights of citizens as protected by that process.

By my signature to the bill as presented and as explained herein, I signify my veto of Amendment No. 2, while approving the remainder of Bill No. 60-10.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Leopold", written over a horizontal line.

JOHN R. LEOPOLD  
County Executive