

Proposed FBC Amendments/Interpretations

Form Based Code

Neighborhoods Form Based Code

Map Amendment _____

Text Amendment

Topic: Ground Story Uses

Issues:

1. Special exception use permit requirements were identified as a barrier for business attraction. The study evaluates the impact of this barrier and recommends that more uses be permitted by-right in the FBC Ground Story Use Table.
2. Retail has continually evolved since the FBC Ground Story Use Table (Table 3.1) was last reviewed in 2015. Additionally, the Covid-19 global health pandemic has given rise to new consumer behavior and preferences. The study identifies opportunities to modernize Table 3.1 and define additional uses that meet the FBC's Purpose and Intent while addressing the unique market needs for Columbia Pike as identified in the 2019 Commercial Market Study and the study's community engagement.

Purpose of this study:

1. To evaluate the list of allowable ground story uses for FBC and N-FBC and consider amendments to increase the regulatory flexibility in the Form Based Code Districts.
2. Support more active use of the commercial nodes by a variety of consumers at different times of day and week.
3. Continue to embrace the unique culture and diversity of the Columbia Pike commercial corridor and its nodes.
4. Carry out the County Board and County Manager direction from the December 2019 Work Session to evaluate how to incorporate new uses, and where possible, amend the Zoning Ordinance to reduce barriers to retail.

FBC References:

Commercial Centers Form Based Code

[III. Regulating Plan 5. Ground Story Uses \(pgs 3.6-3.7\)](#)

C. Ground Story Use Table

1. Use Categories and Specific Use Types

All of the use categories listed in the first column of the table below are described in ACZO §12.2. The second column lists the specific use types included within the respective use categories.

2. Permitted or Use Permit

- a. A "P" indicates that a use is permitted by-right and may be approved administratively, provided that redevelopment conforms to the Form Based Code as adopted by the County Board (see ACZO §11.1.3).
- b. A "U" indicates a special exception use that may be established subject to obtaining a use permit as provided in ACZO §15.4, use permits, for each such use,

and provided that the property has been redeveloped pursuant to the Form Based Code. The Zoning Administrator may require a use permit for such use, whether the use is located in a building approved administratively or whether located in a building controlled by a use permit.

- c. A blank cell (one without a “P” or “U”) in the use table indicates that a use is not allowed in the respective district. Uses not specifically listed may be allowed pursuant to the similar use determination procedure of ACZO §12.2.2.
3. Restricted on Principal Arterials per III.B.5.D
 - a. A “Yes” indicates that a use is subject to additional limitations when located on a Principal Arterial, as provided in III.B.5.D below.
 - b. A blank cell indicates that no additional limitations apply regardless of where the use is located.
4. ACZO Use Standards
Where applicable, the “ACZO Use Standards” column references specific use standards listed in ACZO §12, which always apply to the listed use.

Neighborhoods Form Based Code

[Section 901. Building Use Table \(pgs. 9.1-9.5\)](#)

- A. Use Categories and Specific Use Types
All of the use categories listed in the first column of the table below are described in ACZO §12.2. The second column lists the specific use types included within the respective use categories.
- B. Permitted or Use Permit
 1. A “P” indicates that a use is permitted by-right and may be approved administratively, provided that redevelopment conforms to the Neighborhoods Form Based Code as adopted by the County Board (see ACZO §11.2).
 2. A “U” indicates a special except on use that may be established subject to obtaining a use permit as provided in ACZO §15.4, use permits, for each such use, and provided that the property has been redeveloped pursuant to the Neighborhoods Form Based Code. The Zoning Administrator may require a use permit for such use, whether the use is located in a building approved administratively or whether located in a building controlled by a use permit.
 3. A blank cell (one without a “P” or “U”) in the use table indicates that a use is not allowed in the respective location. Uses not specifically listed may be allowed pursuant to the similar use determination procedure of ACZO §12.2.2.
- C. ACZO and N-FBC Use Standards
Where applicable, the “ACZO and N-FBC Use Standards” column references specific use standards listed in either ACZO §12 or in the specified section of this Neighborhoods Form Based Code, which always apply to the listed use.

Arlington County Zoning Ordinance

[Section 11.1.5. Columbia Pike Form Based Code district principal use table \(pgs. 11.2 – 11.5\)](#)

[Section 11.1.6. Columbia Pike Form Based Code district accessory use table \(pgs. 11.5 – 11.6\)](#)

Staff Analysis:

The following uses were discussed in community engagement sessions and in prior feedback from Columbia Pike commercial and residential stakeholders. Staff has evaluated each use for its relevance to existing planning documents and market studies, the ACZO, and the FBC’s Purpose and Intent of achieving a high level of pedestrian activity adjacent to the public sidewalk, interesting design, and transparency into the building.

To accommodate late-spring community engagement sessions, staff is presenting recommendations in two parts. The following table includes updated recommendations based on the June FBC AWG feedback, two additional uses, and a recommendation for Legacy Sites.

Use	Staff Analysis	Staff Recommendation
Animal Boarding	<p>Animal care facilities, veterinary clinics, and animal hospitals are a permitted use via a use permit along Principal Arterials in the Commercial Centers of the Columbia Pike Form Based Code. However, in this zoning district, as well as all commercial zoning districts in Arlington, animal boarding is not permitted. The Zoning Ordinance (ZO) currently defines a kennel as “any lot or premises on which four or more dogs, more than four months of age, are kept.” In practice, pet daycare uses, provided that no overnight boarding occurs, are permitted in the county’s commercial districts. Today, most business models for pet daycare includes an overnight boarding component which, unless located in an industrial district, cannot operate in Arlington County.</p> <p>Best practices for the build-out of these uses include mitigation strategies for noise, sound and odor thus permitting operations in the ground floor of most mixed-use buildings. Staff’s recommendations ensure that all associated activities for this use take place wholly inside the premise, which lessens the impact on the neighborhood. Both daycare and overnight boarding operators in the region confirm that the pets are screened or “interviewed” prior to being accepted. This practice allows operators to group compatible animals who receive exercise through group play and general training drills. The operators also confirmed that</p>	<ol style="list-style-type: none"> 1. Amend Form Based Code Use Tables and Zoning Ordinance’s Columbia Pike Form Based Code district principal use tables to permit Animal care facilities, veterinary clinics, animal hospitals and animal boarding as a by-right use on all frontage types. 2. Amend ACZO Use Standard §12.5.2. to stipulate that in CP-FBC districts, all activities associated with Animal hospitals, veterinary clinics, and animal boarding shall be conducted wholly within a completely enclosed building <u>and animal boarding must also employ 24-hour pet boarding supervision.</u> 3. To modernize the ZO’s language, staff recommends amending §18 to replace the defined term “Kennel” with “Animal Boarding” and further define the term as “Any lot or premises on which four or more <u>dogs common household pets</u>, more than four months of age, <u>are boarded overnight for a fee.</u>”

	<p>staff’s preliminary recommendations (shown in column to the right) are achievable and responsive to standard operating procedures.</p> <p>Additionally, as the level of care associated with the term “Kennel” has changed over time, staff has worked with community members, stakeholders, and business owners to identify “Animal Boarding” as a more appropriate term.</p> <p><i>Alignment with Form Based Code Purpose and Intent</i></p> <ul style="list-style-type: none"> • Allowing Animal Boarding as a new use would provide a community service that is scarce around the County and would increase sidewalk activity from visiting clients. • Storefronts for intake can accommodate window transparency. 	
<p>Museums, Art Galleries, and Studios</p>	<p>Like office uses, galleries were also identified in the Retail Plan as a retail equivalent. “Other ground floor uses, such as educational uses, cultural uses (e.g. theaters, museums, galleries and art studios), and additional third spaces, a place outside of home or work where people gather and socialize and learn from each other, can draw potential customers to an area and provide additional amenities and services to residents and employees.”</p> <p>In practice, museums, art galleries, and art studios often operate as a hybrid of traditional office and traditional retail. Each use includes workspaces for employees who often greet members of the public who enter to view current exhibitions, which generally rotate on a six to ten-week schedule. In between exhibitions, employees and contractors de-install, pack, and store artworks in temperature-controlled storage before installing the next exhibit. Patrons may purchase artworks while the exhibition</p>	<ol style="list-style-type: none"> 1. Amend Table 3.1 and §11.1.5 Columbia Pike Form Based Code district principal use table, within the “Community Service” category of the “Public, Civic and Institutional Categories” section to include Museums and art galleries or studios as a use permitted by-right on all frontage types.

	<p>is on view, however, purchased artworks remain on view until the exhibition closes.</p> <p>Museums and galleries often do not have a traditional retail revenue model. In addition to onsite sales, artworks are often purchased offsite at art fairs, an artist’s personal studio, silent auctions, and online platforms, among other methods. Additionally, these uses may operate as a non-profit and receive a significant portion of their budget from grants or fundraisers, or they may operate as a for-profit business. The complexity of the sales component requires caution when considering a minimum sales requirement, and staff recommends allowing these uses by-right without such a requirement.</p> <p>While the recommendation to permit this use by-right diverges from the principal use regulations of other Arlington commercial districts, which require a special exception use permit, it allows for the greater flexibility desired within the Commercial Centers of the Columbia Pike FBC. While most other uses in Table 3.1’s Public, Civic and Institutional Use Categories are often operated by a local jurisdiction, national models of museums, art galleries and art studios are typically operated by other non-government entities. Regardless, the uses were identified in the Arlington County Retail Plan as retail equivalent and while they may or may not offer sales, they do provide a “third space” for neighbors and the general public. Staff is recommending this use type be permitted by-right in the CP-FBC districts.</p> <p><i>Alignment with Form Based Code Purpose and Intent</i></p> <ul style="list-style-type: none"> • Museums, art galleries, and art studios often maintain an annual exhibition schedule that showcases new artwork every six to ten weeks. The display and creation of art will contribute to the FBC’s intent of interesting design to the ground story of buildings. 	
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	<ul style="list-style-type: none"> • Window transparency is not a barrier and is often preferred for community museums and art galleries. • Maintaining the window transparency requirement will contribute to a vibrant public space and pedestrian experience. 	
<p>Shared Commercial Kitchens</p>	<p>While mobile food delivery applications (“apps”) have created alternatives to dial-in food orders since the early 2010’s, the Covid-19 global health pandemic resulted in many restaurants pivoting to serve customers primarily through delivery apps. Starting in March 2020, and continuing for over a year, many cities and counties implemented limitations on – or entirely shut down – restaurant capacity for in-person dining. One of the primary contributing factors for restaurants’ economic sustainability during this past year has been the ability to utilize mobile apps to transition from in-person service to a pickup/delivery service model. Alongside many established brick and mortar restaurant locations, independent chefs began utilizing shared commercial kitchens to create delivery-only restaurants. These shared commercial kitchens, which were often called “ghost kitchens,” “dark kitchens,” or “shadow kitchens” interchangeably since the mid-2010’s, remove many of the financial barriers of starting a standalone brick and mortar restaurant. The financial benefits include limited staffing requirements compared to that of a full-service, sole proprietorship’s kitchen facility, sharing operating costs among the owners/users, and maximized floor space by limited dine-in furniture.</p> <p>There are also regional examples of shared commercial kitchens operating as incubators for aspiring food brands. On Columbia Pike, La Cocina is a café and nonprofit organization that provides bilingual job training and entrepreneurship development services in addition to a shared commercial</p>	<ol style="list-style-type: none"> 1. Amend Form Based Code Use Tables and Zoning Ordinance’s Columbia Pike Form Based Code district use tables to permit <u>Shared Commercial Kitchens by-right on all frontage types</u> as a new Specific Use Type in the Retail, Service and Commercial Use Category. 2. Amend §18 of the ACZO to add and define the term “Shared Commercial Kitchen” as “An establishment for preparing, processing, canning, or packaging food and beverage products for on-site consumption, delivery, or small scale distribution, and whose principal method of operation includes one or both of the following characteristics: <ul style="list-style-type: none"> • Two or more operators utilizing the same facility for a fee. • One or more operator utilizing the same facility for food and beverage related workshops.”

	<p>kitchen that “offers subsidized affordable services to low-income and minority entrepreneurs to start and to grow food-related business.” While this use is operating on Columbia Pike, La Cocina did not have a clear path to obtain a Certificate of Occupancy and were eventually determined by the Zoning Administrator to be classified as a Community Service Use. Staff’s preliminary recommendation is to allow the shared commercial kitchen under a food-related use category.</p>	
<p>Legacy Sites</p>	<p>The 2019 Columbia Pike Commercial Market Study identified legacy sites as properties constructed prior to the implementation of the FBC and that have not redeveloped using that development tool. At the onset of this study – and throughout the community engagement – Legacy Sites were also identified as properties that would benefit from utilizing the proposed expanded use table. The 2019 market study also found that vacancy rates in Legacy Sites were very low, at just a three percent at the time of publication.</p> <p>These sites are a part of Columbia Pike’s distinctiveness and also represent most commercial spaces along the corridor. While they often provide neighborhood-serving uses such as hair salons, dry cleaners, and locally owned restaurants, their highly visible presence on the corridor also presents a unique opportunity to bring new uses to the corridor while maintaining the existing and familiar aesthetic. As the ground story use table is currently accessible only to properties that have redeveloped under the Form Based Codes, staff is recommending amendments to C-1, C-O-1.0, C-O, C-O-2.5, C-2, and C-3 to permit the new proposed uses for any commercially zoned site within the Columbia Pike Special Revitalization District.</p>	<ol style="list-style-type: none"> 1. Permit legacy sites to utilize the FBC Ground Story Use Table. 2. Amend C-1, C-O-1.0, C-O, C-O-2.5, C-2, and C-3 to include the following <p><u>Properties in the area designated as Columbia Pike Special Revitalization District on the General Land Use Plan which have not developed in accordance with the Form Based Code as specified in Appendix A of the Zoning Ordinance can have uses established as permitted in the Form Based Code Ground Story Use Table as specified in Section 3, Table 3.1 of the Form Based Code. Commercial zoning standards, including parking standards, will supersede the Form Based Code standards when uses in Table 3.1 are established.</u></p>