



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item 7
4/17/09

DATE: April 3, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor *RW*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the list of prohibited land uses in the Sandy Spring/Ashton Rural Village Overlay Zone.

TEXT AMENDMENT: No. 09-01
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Elrich
INTRODUCED DATE: March 17, 2009

PLANNING BOARD REVIEW: April 16, 2009
PUBLIC HEARING: April 21, 2009; 1:30pm

STAFF RECOMMENDATION: APPROVAL with modifications

Staff recommends approval of the proposed Zoning Text Amendment (ZTA) with modifications to:

- Make plain language clarifications;
- Continue to permit cable communication systems;
- Continue to permit electrical power transmission and distribution lines;
- Continue to permit railroad tracks; and
- Continue to permit roof top mounted antennas and related unmanned equipment building, equipment cabinets, or equipment room
- Add a grandfather provision to permit uses that have received a use and occupancy permit prior to the effective date of the legislation.

Zoning Text Amendment 09-01 (Attachment 1) proposes revisions to Section 59-C-18.18 (Sandy Spring/Ashton Rural Village Overlay Zone) that amend the list of prohibited uses that can be located in the commercially designated areas of the overlay zone. Currently the overlay zone establishes certain development standards and prohibits certain uses from the commercially zoned areas to assist in maintaining and enhancing the rural, small scale character envisioned for the

village centers. The subject text amendment recommends the prohibition of additional uses to further achieve the objectives of the overlay zone.

ANALYSIS

Applicable Master Plan Guidance

The Approved and Adopted Sandy Spring/Ashton Master Plan envisioned the Sandy Spring and Ashton rural villages as remaining in land use patterns that characterize the existing rural settlement. To fulfill this goal for the commercial areas it recommended, amongst other objectives, the following:

Flexibility to create better design with site plan review;

Height limits consistent with the Sandy Spring Historic District and an appropriate FAR limit for the size and scale of the village centers;

Exclusion of new auto-oriented or typically large-scale uses that are inconsistent with traditional rural development patterns; and

Flexibility for on-street parking to count toward the parking requirement.

In addition to the provisions above, the Plan recommends a number of development guidelines that, with design review, will help ensure that new development maintain the small scale envisioned for the village centers. These guidelines include:

Encouraging “active fronts” on buildings (porches and street entrances);

Creating pedestrian “traffic” with uses and designs that invite frequent visits;

Encouraging uses that provide services to local residents at a compatible scale; and

Placing most off-street parking out of view of common space and active fronts, rather than between buildings and the street.

Commercial Uses

As currently adopted, the overlay zone allows all permitted or special exception uses allowed in the underlying zones for the commercial portion of the overlay zone except for the following uses: automobile filling stations; automobile fluid maintenance stations; outdoor automobile, light truck and light trailer rentals except any automobile rental business in existence on October 13, 1998; automobile sales; baseball driving ranges; building materials and supplies;

department stores; drive-in eating and drinking establishments; fairgrounds, circuses and amusement parks; heliports and helistops; ice storage; laboratories; multi-family dwellings, except when included in a structure containing retail or commercial uses; newspaper printing and publishing shops; indoor rifle or pistol ranges; roller and ice skating rinks; stadiums or arenas; and commercial swimming pools. It should be noted that the O-M, C-1 and C-2 zones are the only underlying commercial zones located in the overlay zone.

The sponsor of ZTA 09-01 proposes to exclude the following additional land uses from the rural village overlay zone: adult entertainment businesses; automobile repair and services; automobile, truck, and trailer rentals, outdoor; cable communications systems; car wash; combination retail store ("big box retail"); dry cleaning and laundry establishments, consisting of no more than 3,000 square feet of gross floor area; electrical power transmission and distribution lines; furniture stores, carpet, or related furnishing sales or service; golf driving ranges; parking garages, automobile, for off-site uses; parking lots, automobile, for off-site uses; pawnshops; pipelines, above ground; radio and television broadcasting stations and towers; railroad tracks; racquet ball, squash, indoor tennis and handball courts, commercial; roof top mounted antennas and related unmanned equipment building, equipment cabinets, or equipment room; telecommunications facility; telephone offices and communication centers; warehousing and storage service including:(A) industrial and commercial uses, wholly enclosed; or (B) self-storage facilities.

Overall, the proposed additional uses to be excluded from the overlay zone meet with the original spirit and intent of the rural village overlay recommendations of enhancing and maintaining the rural character of the villages by excluding new auto-oriented uses, storage/warehousing-type uses, and large scale retail, service or commercial recreation uses. **Staff recommends that five of the proposed exclusions--cable communications systems, electrical power transmission and distribution lines, railroad tracks, roof top mounted antennas and related unmanned equipment buildings, equipment cabinets, or equipment rooms and telephone offices and communication centers — be retained as permitted uses.** Staff does not believe that cable communications systems, electrical power lines, railroad tracks or telephone offices and communication centers impact the intent of the overlay zone. In the case of roof top mounted antennas and related unmanned equipment buildings, staff believes that development standards governing the use (Section 59-A-6.14) minimize the impact of this use in the rural village overlay zone. Specifically, Section 59-A-6.14 states that a building must be at least 30 feet in height in any commercial zone in order to permit a roof top mounted antenna and related unmanned equipment building. The Sandy Spring/Ashton Rural Village Overlay Zone limits building height in underlying commercial zones to 24 feet except that at the time of site plan review the Planning Board may allow additional height up to 30 feet if the Board finds that the additional height is compatible with the adjoining uses and is consistent with the intent of the master plan.

RECOMMENDATION

Based on the above analysis, staff recommends that ZTA 09-01 be approved as amended. In addition to the modifications discussed above, staff recommends that a grandfather provision be included that allows those new prohibited uses if they have received a use and occupancy permit prior to the effective date of the legislation. This policy has typically been used for projects that have gone that far in the development process.

GR

Attachments

1. Proposed Text Amendment No. 09-01 as modified by staff
2. Maps from the Sandy Spring/Ashton Master Plan

ATTACHMENT 1

Zoning Text Amendment No: 09-01
Concerning: Sandy Spring/Ashton
Overlay Zone – Prohibited uses
Draft No. & Date: 1 - 3/5/09
Introduced: 03/17/09
Public Hearing:
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the prohibited land uses in the Sandy Spring/Ashton Rural Village Overlay Zone

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-18	“Overlay Zones”
Section 59-C-18.18	“Sandy Spring/Ashton Overlay Zone”
59-C-18.182	“Regulations”

EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 Sec. 1. DIVISION 59 - C-18 is amended as follows:

2
3 Division 59-C-18. Overlay Zones.

4 * * *

5 Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.

6 * * *

7 59-C-18.182. Regulations.

8 * * *

9 (b) Commercial development. Where a lot is zoned either partially or totally in
10 a commercial zone, the following regulations apply:

11 (1) Land uses. All permitted or special exception uses allowed in the
12 underlying zones are allowed in the commercial portion of the overlay
13 zone with the exception of the[[.]] [[The]] following uses [[are
14 prohibited in the overlay zones]]:

15
16 Adult entertainment business²

17 Automobile filling station¹

18 Automobile fluid maintenance station

19 Automobile, light truck, and light trailer rentals, outdoor, except any
20 automobile rental business[,] in existence on October 13, 1998
21 may continue as a conforming use, and may be altered,
22 repaired, or replaced in accordance with provisions of the zone
23 in effect at the time the use was established.

24 Automobile repair and services²

25 Automobile, truck, and trailer rentals, outdoor²

26 Automobile sales, indoor

27 Automobile sales, outdoor

28 Baseball driving range
29 Building materials and supplies
30 [[Cable communications system]]
31 Car wash²
32 Combination retail store²
33 Department stores
34 Dry cleaning and laundry establishments, consisting of no more than
35 3,000 square feet of gross floor area²
36 Eating and drinking establishments, drive-in
37 [[Electrical power transmission and distribution lines]]
38 Fairgrounds, circuses, and amusement parks
39 Furniture stores, carpet, or related furnishing sales or service²
40 Golf driving ranges²
41 Heliports
42 Helistops
43 Ice storage
44 Laboratories
45 Multi-family dwellings, except when included in a structure
46 containing retail or commercial uses
47 Newspaper, printing and publishing shops
48 Parking garages, automobile, for off-site uses²
49 Parking lots, automobile, for off-site uses²
50 Pawnshops²
51 Pipelines, above ground²
52 Radio and television broadcasting stations and towers²
53 [[Railroad tracks]]
54 Racquet ball, squash, indoor tennis and handball courts, commercial²

55 Rifle or pistol ranges, indoor
56 Roller and ice skating rinks
57 [[Roof top mounted antennas and related unmanned equipment
58 building, equipment cabinets, or equipment room]]
59 Stadiums or arenas
60 Swimming pools, commercial
61 Telecommunications facility²
62 [[Telephone offices and communication centers]]
63 Warehousing and storage service including²:
64 (A) Industrial and commercial uses, wholly enclosed; or
65 (B) Self-storage facility

66 * * *

67

68 * * *

69 2 Any use established by use and occupancy permit before (THE EFFECTIVE
70 DATE OF THIS TEXT AMENDMENT) is a conforming use and may be
71 altered, repaired, or replaced in accordance with the provisions of the zone
72 in effect at the time the use was established..

73

74 **Sec.2. Effective Date.** This ordinance takes effect immediately upon the
75 date of Council adoption.

76

77 This is a correct copy of Council action.

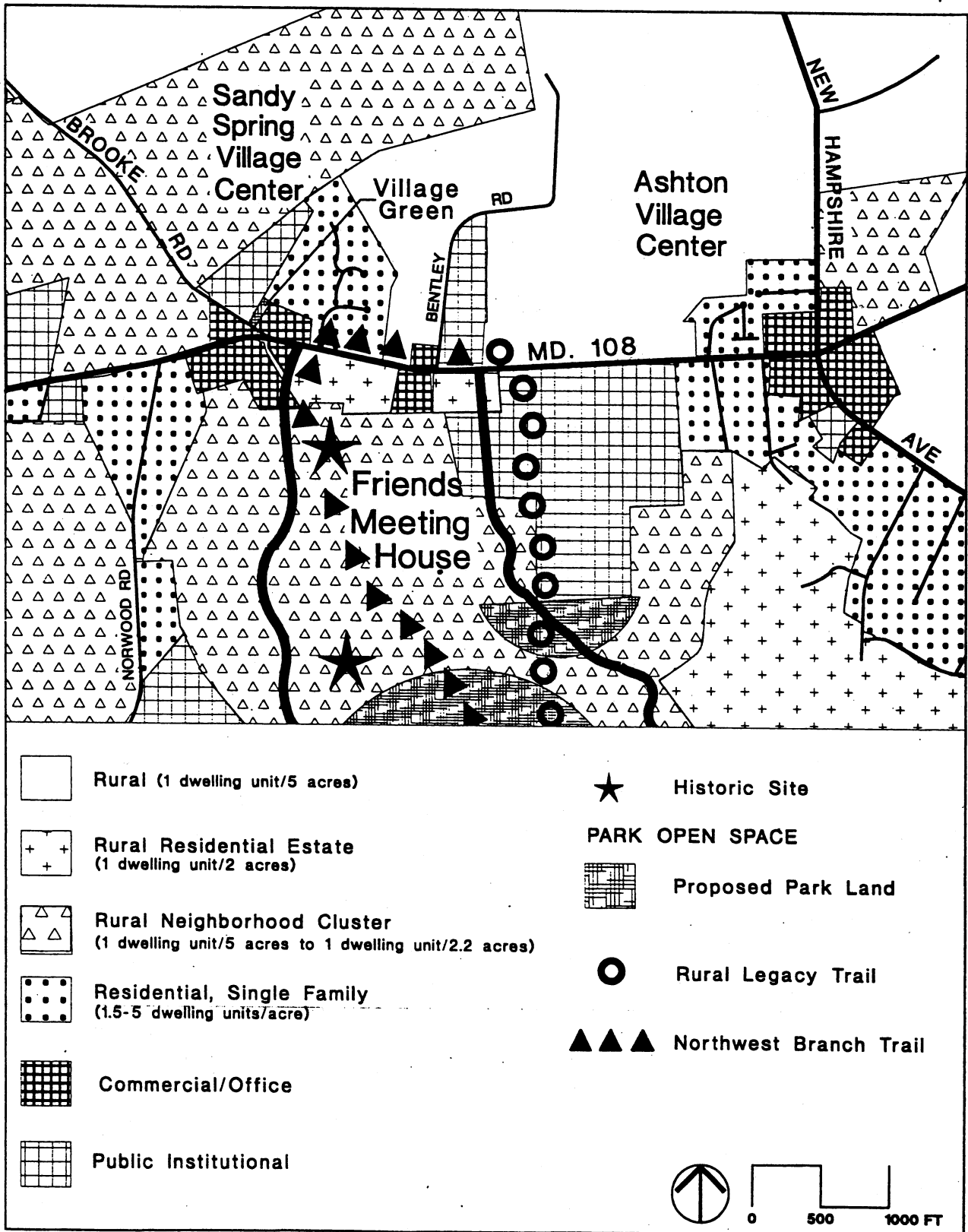
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80 Linda M. Lauer, Clerk of the Council

VILLAGE CENTERS

FIGURE 14



ZONING PLAN FOR THE VILLAGE CENTERS

FIGURE 15

