

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

MCPB
Item #15
7/15/10

DATE: July 6, 2010
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the RNC and RNC/TDR zones to allow large off-street parking areas only under certain circumstances.

TEXT AMENDMENT: No. 10-07
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Navarro and Elrich
INTRODUCED DATE: May 27, 2010

PLANNING BOARD REVIEW: July 15, 2010
PUBLIC HEARING: July 13, 2010; 1:30pm (PHED Committee worksession not scheduled)

STAFF COMMENTS: ZTA 10-07 would modify the provisions for off-street parking of motor vehicles in the RNC and RNC/TDR zones by not allowing parking facilities for more than 50 vehicles unless the entrance to such parking is located within 500 feet of an arterial road or a road at least 4 lanes wide. Staff provides the following comments

- Staff agrees that ZTA 10-07 provides one means to assist in maintaining the rural community character of the RNC and RNC/TDR zones. However, staff questions a limited scope that could potentially push uses with greater than 50 parking spaces into less-dense areas. We believe that a more comprehensive approach should be examined to address the sponsors' intent.
- Staff is also concerned that the ZTA could possibly restrict otherwise appropriate parking areas that are located away from arterials and four lane highways.
- Staff is not clear how the limit on parking proposed in the subject ZTA would be addressed in the context of reviewing the inherent characteristic of providing adequate parking for special exception uses. In many cases such uses require more than 50 parking spaces.

ANALYSIS

I. Intent of the RNC Zone

The intent of the Rural Neighborhood Cluster zone is to preserve open land, environmentally sensitive natural resources and rural community character that would be lost under conventional, large-lot development. This would be accomplished by requiring clusters of residential development in the form of small neighborhoods that provide neighborhood identity in an open space setting.

It is further the intent of this zone to implement the recommendations of the relevant master plan, such as maintaining broad vistas of open space, preserving agrarian character or preserving environmentally sensitive natural resources to the maximum extent possible, and to ensure that new development is in harmony with the policies and guidelines of the relevant master plan and is compatible with existing development in adjoining communities.....

As mentioned earlier, if the intent of ZTA 10-07 is to assist in maintaining the rural community character of the RNC and RNC/TDR zones the legislation provides one means of reaching this goal because uses that require more than fifty spaces could not be approved unless the entrance to the parking is located in close proximity to a major road. Staff questions the limited scope of the ZTA.. Since the ZTA restricts only two zones, it could potentially push fairly large uses that need more than 50 parking spaces into less-dense areas, such as the agricultural reserve/rural open space zones.

An argument could also be made that the approach recommended by the ZTA could be applied as well throughout the small lot residential zones, where residents are frequently concerned about the impacts of uses allowed by right or special exception that require large areas of associated parking and are located away from an arterial road or four-lane highway.

Staff is also concerned that the ZTA could possibly restrict otherwise appropriate uses that are located away from arterials and four lane highways but require parking areas for more than fifty vehicles. For instance, parking for an historic property or parking to access a significant natural resource or trailhead could be considered appropriate by staff but be prohibited as a result of this ZTA.

II. Affected Land Uses

Some uses permitted in the RNC zone that usually require 50+ parking spaces include: housing and related facilities for senior adults or persons with disabilities, horticultural nurseries, life care facilities, child day care centers, places of worship, nursing homes, some publicly owned or publicly operated uses, libraries

and museums, private clubs and service organizations, and private educational institutions. Of this list, only places of worship, libraries and museums and publicly owned or operated uses are permitted by-right. The balance of these uses requires special exception approval by the Board of Appeals. The County Council, in designating some of these uses as special exception uses in the RNC zone, established that these uses are compatible with other uses in the zone, absent unacceptable adverse effects on the surrounding properties.

When analyzing a special exception application, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. *Inherent adverse effects alone are not a sufficient basis for denial of a special exception.*

One inherent characteristic of the aforementioned special exception uses is traffic associated with trips to the site for various reasons and *adequacy of parking areas*. *Staff is not clear how the limit on parking proposed in the subject ZTA would be addressed in the context of analyzing the inherent characteristic of providing adequate parking for special exception uses that in many cases require more than 50 parking spaces.*

III. GIS Information

Attachment 2 provides GIS analysis depicting the RNC and RNC/TDR zoned parcels located in the County and the specific parcels that could meet the criteria proposed by the ZTA. RNC-zoned and/or RNC/TDR-zoned properties are located in the Damascus, Olney, Upper Rock Creek, Sandy Spring-Ashton and Potomac Subregion Master Plans. In summary, in the County there are 796 parcels (totaling 3,149 acres) zoned RNC and RNC/TDR (771 zoned RNC, 25 zoned RNC/TDR). Of this number, only 44 (40 zoned RNC and 4 zoned RNC/TDR) are within 500 feet of a road 4-lanes wide or greater. The total land area that could meet the ZTA criteria amounts to approximately 533 acres (approximately 17% of the total RNC-RNC/TDR acreage), with the largest shares owned by the Maryland State Highway Administration (20%), Pulte Homes (21%) and Winchester Homes (36%). The ZTA could make development of by-right or special exception uses difficult in the remaining 2616 acres.

IV. Citizen Concerns

Staff has received correspondence from a number of concerned parties (31 letters received as of the publication of the staff report), all of whom are congregants of the Wheaton Baptist Church. Because the concerns raised by

the congregants mirror those of the church's pastor, staff is only including the letter received from the pastor as an attachment to the staff report. The remaining letters will be kept in the official file for ZTA 10-07 located at the Planning Department Headquarters at 8787 Georgia Avenue. The concerns expressed by the congregation and pastor are as follows:

- Wheaton Baptist Church and its congregants request that the County Council deny the ZTA. Wheaton Baptist Church, which is currently located near the intersection of Veirs Mill Road and Georgia Avenue in Wheaton, purchased property in Olney that is zoned RNC for the purpose of relocating the church there. Not only will the ZTA prevent the church from relocating to Olney but it will reduce the opportunity for redevelopment of the church's current site, adjacent to the Metro rail station and Westfield Shopping Mall.
- The Church has already appeared before the County Council and received conditional approval for public water and sewer to be extended to their site on Emory Church Road In Olney. They have also modified their plans to reduce both the size of the new church and its associated parking by some 40% as they have worked diligently to satisfy concerns voiced by neighbors and the County. As currently proposed, some 11 acres of the 14 acre property will remain undeveloped.
- For over 60 years this church has served the people of Montgomery County (at no expense to the County), both independently and in cooperation with other local groups. Among many other efforts over the years, the church has worked with businesses through the Wheaton Chamber of Commerce; with other houses of worship in Mid-County United Ministries to meet needs for food, shelter, and medicine among the county's most vulnerable populations; with Montgomery County to help provide children with backpacks and resources needed for education; with other nonprofits to provide free tax preparation assistance to seniors; with the Wheaton and Kensington Fire and Rescue departments, essentially from the time of their founding; and many other community initiatives..
- The Church is disappointed that legislation designed to harm a single organization would be proposed. The Church believes that this ZTA is targeted at their particular faith community. The Church states that they have followed the law and have worked diligently to develop a plan for their new property on Emory Church Road that is in conformity with all applicable regulations. The protection of all members of the community, including nonprofits such as houses of worship, hospitals, and schools is an incredibly important function of the Council. The Church believes that the ZTA is an attempt to halt the Church's relocation by means of an ill-advised, last minute, discriminatory piece of legislation.

This ZTA applies only to the Zoning District for the church's property (RNC) and does not apply to any other Rural/Agricultural Zone where similar or other allowed uses may require parking for 50 or more vehicles.

GR

Attachments

1. Proposed Text Amendment No. 10-07
2. GIS Analysis of RNC/RNC-TDR Zones
3. Letter from Rev. D. Edward Williams, Senior Pastor, Wheaton Baptist Church

ATTACHMENT 1

Zoning Text Amendment No.: 10-07
Concerning: RNC Zones – Off-
Street Parking
Draft No. & Date: 1 – 5/13/10
Introduced: 5/27/10
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: Councilmembers Navarro and Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the RNC and RNC/TDR zones to allow large off-street parking areas only under certain circumstances.

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

DIVISION 59-C-9 “AGRICULTURAL ZONES”

Section 59-C-9.3 “Land Uses”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate that text is deleted from existing law by 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-9 is amended as follows:

2 Division 59-C-9. Agricultural Zones.

3 * * *

4 **Sec. 59-C-9.3 Land Uses**

	Rural	RC	LDRC	RDT	RS	RNC	RNC/ TDR
* * *							
(f)Transportation, Communication and Utilities:							
* * *							
Parking of motor vehicles, off-street, in connection with any use permitted.	P	P	P	P	P	P*	P*

5

6 * * *

7 *-Parking for more than 50 vehicles is allowed only if the entrance to the parking is located
 8 within 500 feet of:

- 9 1) an arterial road; or
 10 2) a road at least 4 lanes wide.

11

12 **Sec. 2. Effective Date.** This ordinance takes effect 20 days after the date of
 13 Council adoption.

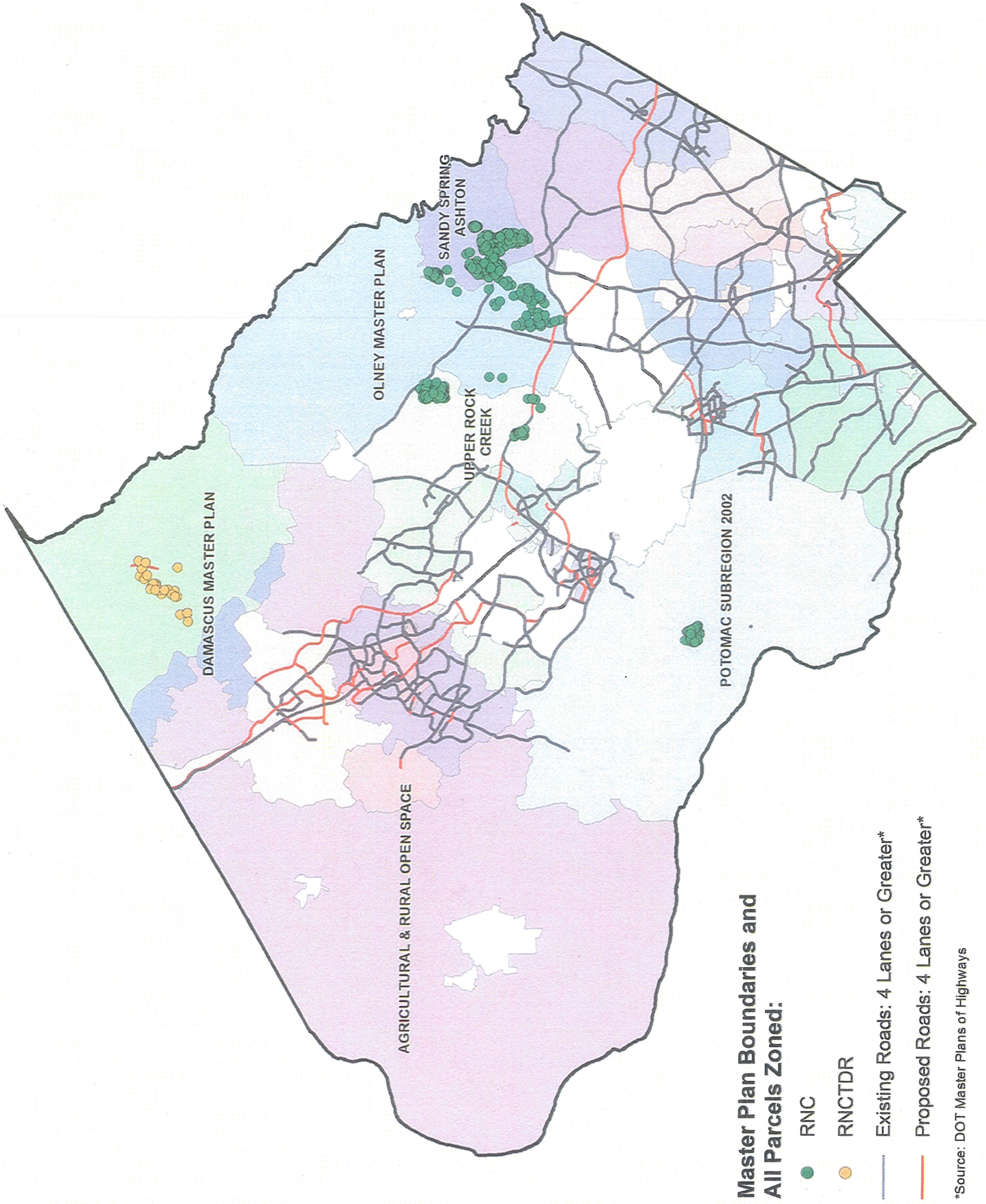
14 This is a correct copy of Council action.

15

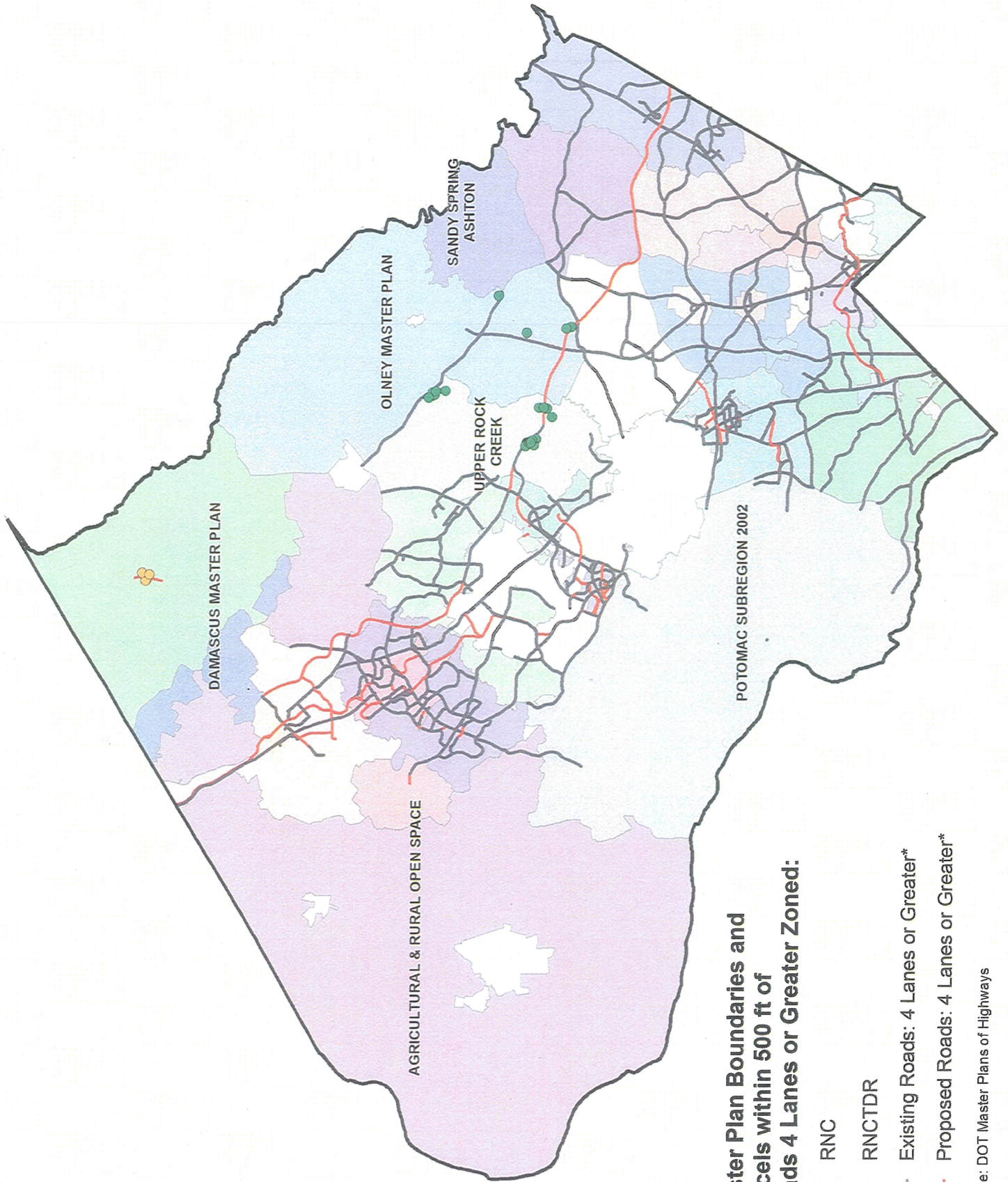
16 _____

17 Linda M. Lauer, Clerk of the Council

18



*Source: DOT Master Plans of Highways



**Master Plan Boundaries and
Parcels within 500 ft of
Roads 4 Lanes or Greater Zoned:**

- RNC
- RNCTDR
- Existing Roads: 4 Lanes or Greater*
- Proposed Roads: 4 Lanes or Greater*

*Source: DOT Master Plans of Highways

NUMBER AND SIZE OF PARCELS ZONED RNC AND RNCTDR
BY LAND USE TYPE

LANDUSE_C ODE	RNC ZONE				RNCTDR ZONE				
	Number of Parcels	Total Size of Parcels (sqft)	Average Parcel Size (sqft)	Number of Parcels	Total Size of Parcels (sqft)	Average Parcel Size (sqft)	Number of Parcels	Total Size of Parcels (sqft)	Average Parcel Size
111	412	24,576,599	59,652	7	1,859,554	265,651			
116	2	14,248	7,124	0	0	0			
126	1	724,838	724,838	0	0	0			
672		0	0	2	153,331	76,666			
681	1	862,052	862,052	0	0	0			
721	1	8,606,585	8,606,585	0	0	0			
740	141	15,630,452	110,854	0	0	0			
741	4	6,206,864	1,551,716	0	0	0			
812	9	8,688,042	965,338	5	4,604,728	920,946			
815		0	0	1	32,670	32,670			
816	2	966,596	483,298	1	3,179,880	3,179,880			
818	4	11,272,021	2,818,005	2	4,058,921	2,029,460			
839	3	2,029,460	676,487	0	0	0			
910	186	48,710,331	261,884	5	1,847,859	369,572			
990	5	680,254	136,051	2	204,501	102,250			
Grand Total	771	128,968,344	167,274.117	25	15,941,443	637,658			

OWNERSHIP AND SIZE OF PARCELS ZONED RNC AND RNCTDR
 WITHIN 500 FT OF A PROPOSED 4-LANE ROAD

Owner of Parcels	RNC Zone		RNCTDR Zone	
	Number of Parcels	Size of Parcel (sqft)	Number of Parcels	Size of Parcel (sqft)
ARNETT, RISPBA B ET AL	0	0	1	76,665
BURDETTE, DOROTHY P ET AL	0	0	1	43,560
DANSHES, SONIA TR	1	1,641,341	0	0
MEHALIC, SHERRY A &	1	20,580	0	0
MULLINIX, DINAH BURDETTE	0	0	1	1,274,566
OLNEY THEATRE CENTER	1	186,001	0	0
PULTE HOMES CORPORATION	5	4,959,742	0	0
RESERVE AT FAIR HILL HOA INC	1	30,313	0	0
STATE HIGHWAY ADMINISTRATION	28	4,621,487	0	0
WALKER, PATRICIA B ET AL	0	0	1	1,996,355
WINCHESTER HOMES INC	3	8,391,834	0	0
Grand Total	40	19,851,298	4	3,391,145

ZONE	OWNERS_NAME	STREET_NAME	STREET_TYPE	CITY	ACRE	MASTER_PLAN
RNCTDR	BURDETTE, DOROTHY P ET AL	HIGHVIEW	AVE	DAMASCUS	0.96	DAMASCMP
RNC	PULTE HOMES CORPORATION	WICKHAM	RD	OLNEY	2.31	UPRKCRPK
RNCTDR	ARNETT, RISPBA B ET AL	HIGHVIEW	AVE	DAMASCUS	1.76	DAMASCMP
RNC	PULTE HOMES CORPORATION	WICKHAM	RD	OLNEY	11.01	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	NORBECK	RD	OLNEY	44.99	OLNEY
RNCTDR	WALKER, PATRICIA B ET AL	HIGHVIEW	AVE	DAMASCUS	47.84	DAMASCMP
RNCTDR	MULLINIX, DINAH BURDETTE	HIGHVIEW	AVE	DAMASCUS	25.45	DAMASCMP
RNC	STATE HIGHWAY ADMINISTRATION	WOODHALL	CT	ROCKVILLE	0.24	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.55	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	WOODHALL	CT	ROCKVILLE	0.25	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.39	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.22	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	WELTON	CT	ROCKVILLE	0.19	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	4.87	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.25	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.23	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.32	UPRKCRPK
RNC	WINCHESTER HOMES INC	MUNCASTER MILL	RD	ROCKVILLE	36.55	UPRKCRPK
RNC	PULTE HOMES CORPORATION	WICKHAM	RD	OLNEY	9.76	UPRKCRPK
RNC	RESERVE AT FAIR HILL HOA INC	WICKHAM	RD	OLNEY	0.68	UPRKCRPK
RNC	OLNEY THEATRE CENTER	OLNEY SANDY SPRING	RD	OLNEY	4.23	OLNEY
RNC	PULTE HOMES CORPORATION	OLNEY LAYTONSVILLE	RD	OLNEY	19.38	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	BATCHELLORS FOREST	RD	OLNEY	23.99	OLNEY
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	2.55	UPRKCRPK
RNC	MEHALIC, SHERRY A &	NEEDWOOD	RD	ROCKVILLE	39.01	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	WELTON	CT	ROCKVILLE	0.44	UPRKCRPK
RNC	DANSHES, SONIA TR	GEORGIA	AVE	ROCKVILLE	38.67	OLNEY
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	POTOMAC	0.50	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	13.01	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.31	UPRKCRPK
RNC	STATE HIGHWAY ADMINISTRATION	WOODHALL	CT	ROCKVILLE	0.52	UPRKCRPK

RNC	WINCHESTER HOMES INC	MUNCASTER MILL	RD	ROCKVILLE	40.41	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.25	UPRKC
RNC	WINCHESTER HOMES INC	MUNCASTER MILL	RD	ROCKVILLE	44.91	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.21	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	WELTON	CT	ROCKVILLE	0.15	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	ROCK RIDGE	LA	ROCKVILLE	0.65	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	WELTON	CT	ROCKVILLE	0.26	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	WOODHALL	CT	ROCKVILLE	0.23	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	MUNCASTER MILL	RD	ROCKVILLE	11.15	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	NEEDWOOD	RD	ROCKVILLE	0.59	UPRKC
RNC	PULTE HOMES CORPORATION	WICKHAM	RD	OLNEY	71.11	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	WELTON	CT	ROCKVILLE	0.43	UPRKC
RNC	STATE HIGHWAY ADMINISTRATION	WOODHALL	CT	ROCKVILLE	0.29	UPRKC

First Baptist Church of Wheaton
Streams of Hope Church, Olney

Hon. Nancy Floreen, President
Montgomery County Council
County Council Office Building, 6th Floor
100 Maryland Avenue
Rockville, MD 20850

Re: Zoning Text Amendment 10-07

Dear President Floreen:

On behalf of our hundreds of members, I am writing as pastor of First Baptist Church of Wheaton (FBC) to register our dismay and bafflement over the proposed zoning text amendment 10-07, currently scheduled for public hearing on July 13. We strongly urge the rejection and defeat of this ZTA.

We are not sure of the motivation behind this proposed amendment, but an as-thorough-as-possible review of known plans in the County indicates that NO other plans/properties are being affected like we would be affected. One has to ask what motivation is driving a ZTA that affects only one petitioner/property owner, when that petitioner is a church who is nearing the final steps of Planning Board approval. As you are aware, we have already appeared before the Council in regards to water and sewer, received conditional approval, and the Church plans for both its building and its parking on Emory Church Road in Olney have been reduced some 40% since that time as we have tried to bend over backwards to satisfy concerns from neighbors and the County. Some 11 acres of our 14 acre property will go undeveloped—at no cost to the County! What is the real issue? No one even hinted at a need for this kind of ZTA approach in ANY of our numerous meetings with the County or Planning Board staff.

We want to emphasize the Church's conformity to MC guidelines and regulations. We did not create any zoning laws, or the PIF regulations, or anything else; we have simply conformed to them at every point. It appears as if those who oppose the Church's relocation have decided that since we continue to move forward by obeying the law/rules, that the best way to stop us is to change the rules just as the process is nearing its conclusion. Fairness is stating the laws and obeying them; attempting to change zoning regulations, or deny the intent and application of PIF guidelines, is a manipulation that is patently *unfair*, and should not be permitted by the Council. The protection of all members of the community, including nonprofits such as houses of worship, hospitals, and schools, is an incredibly important function of the Council. We need the protection of a just and legal development process at this very moment.

The potential adverse affects for Montgomery County and the redevelopment of Wheaton, as well as for FBC Wheaton, can hardly be overstated. The desire for smart growth in Wheaton, with high density housing and shopping centered around public transportation such as the Metro station makes the redevelopment of our current property on Georgia Avenue a "win" for everyone concerned: the County, the developer (Washington Properties), and the Church (in facilitating our relocation). IF we are prevented from relocating, the County's goal for the redevelopment of Wheaton is severely harmed, to say nothing of the chilling and crushing effect upon the developer and the Church.

This ZTA applies only to the Zoning District for our property (RNC) and does not apply to any other Rural/Agricultural Zone where a similar or other allowed uses may require parking for 50 or more vehicles. While maintaining the rule of law to protect businesses, homeowners, nonprofits, and the environment, the Council should reject late-in-the-process modifications of zoning or other regulations put forth in order to target or discriminate against a specific individual or group, which is what is happening with this amendment whose sole purpose/application is to prevent a church from the reasonable use of its properly zoned and regulated property.

Sincere regards,

Rev. D. Edward Williams, Ph.D., Senior Pastor