



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

MCPB
Item #12
1/13/11

DATE: January 4, 2011
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Area 1 *HR*
FROM: Greg Russ, Zoning Coordinator, Functional Planning & Policy *HR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To clarify that airstrips allowed in agricultural zones must be associated with farming operations; and provide an amortization period for certain approved airstrip special exceptions

TEXT AMENDMENT: No. 10-15
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Elrich and Rice
INTRODUCED DATE: December 14, 2010

PLANNING BOARD REVIEW: January 13, 2011
PUBLIC HEARING: January 18, 2011; 1:30 PM

STAFF RECOMMENDATION: APPROVAL with modifications to clarify that airstrips allowed in agricultural zones must be associated with farming operations. Staff recommends that language be included that requires any airstrip associated with a farming operation be unpaved, consistent with efforts to preserve farmland.

Although ZTA 10-15 is consistent with the preservation goals for the rural areas of the County, staff also believes that through the general and specific special exception conditions and requirements applied on a case by case basis for this type of use, the preservation goals of the County could still be maintained while also providing opportunities for housing small aircraft where appropriately allowed by the Federal Aviation Administration and the Maryland Aviation Administration.

Staff has concerns with the proposed footnote language that would rescind, within six months of the effective date of this text amendment, any approved special exception for an airstrip associated with a farm but not associated with farming operations. Typically, our recommendation would be to grandfather

existing legally operating uses or to allow the use to become nonconforming pursuant to the limits of Section 59-G-4.1. **Staff recommends that the proposed footnote be eliminated.**

BACKGROUND/ANALYSIS

Recently, there has been some confusion regarding the meaning of the special exception heading of Section 59-G-2.00.4, "Airstrip associated with farm". The existing special exception language in this section states that "**a special exception may be granted for an airstrip on a farm, as defined in Section 59-A-2.1, subject to the following requirements....**" The specific requirements associated with the use also do not differentiate as to the specific purpose of the airplane using the airstrip located on a farm. As such, there have been two viewpoints in interpreting the intent of the airstrip special exception use. One view places emphasis on the heading of Section 59-G-2.00.4 and interprets an airstrip "associated with farm" to mean the airplane must be used in conjunction with farming operations (i.e. crop dusting, etc.). The second view does not associate the use of the airplane with the farming operation but only requires that the airstrip be located on a farm.

Councilmembers Elrich and Rice sponsored ZTA 10-15 to clarify this issue by establishing that any aircraft using such an airstrip must aid farming operations. The ZTA also includes a footnote that would require any approved special exception for an airstrip not associated with farming operations to be terminated within six months after the effective date of this ZTA. To date there are no approved special exceptions for airstrips *of any kind* in Montgomery County. As depicted in the Master Plan Impacts section below, there is currently one airport in the RC zone (one of the three zones where this special exception use could be located) and one in the R-200 zone (not impacted by this legislation), but neither went through the special exception process. Also, there is one pending special exception application with the Hearing Examiner/Board of Appeals for an "airstrip associated with farm". This airstrip is located on a farm, but the aircraft would not be used to aid in farming operations. If the special exception is approved prior to the adoption of ZTA 10-15, then it would be subject to the amortization language of this legislation. Further, staff is unclear how the existing airport located in the RC zone (presumably a legal nonconforming use) would be impacted by the amortization language. **Staff does not recommend including the amortization language in the ZTA.**

MASTER PLAN IMPACTS

This ZTA would impact airstrips in the RC, LDRC and RDT zones. The majority of properties in these zones are covered by the Functional Master Plan for the Preservation of Agriculture and Rural Open Space (AROS, 1981), Clarksburg Master Plan and Hyattstown Special Study Area (1994), the Cloverly Master Plan

(1997), the Fairland Master Plan (1997), the Sandy Spring/Ashton Master Plan (1998), the Potomac Subregion Master Plan (2002), the Olney Master Plan (2005), and the Damascus Master Plan (2006). Of these plans, only the Damascus Master Plan provides explicit guidance on airports:

The Davis Airport is located in the southwest quadrant of the intersection of Laytonsville Road (MD 108) and Hawkins Creamery Road. This regional airport includes a single runway 2,000 feet in length and is one of Montgomery County's two public-use airports as established by the Maryland Aviation Administration. This Plan recognizes the airport as one element of the County's multi-modal transportation system (Transportation, p. 58).

Davis Airport is one of only two public use airports in the County; the other is Montgomery County Airpark near the intersection of Woodfield and Airpark Roads. Davis Airport was operational prior to the application of the RDT zone, and has never gone through the special exception process. According to DPS staff, there are no approved special exceptions for private airports or airstrips in the County, though a special exception application for one in the RDT zone is pending. The zoning ordinance does not differentiate between public and private airports or airstrips.

The other master plans have more general language that may be applicable to this ZTA as follows:

Functional Master Plan for the Preservation of Agriculture and Rural Open Space (1980)

This Plan focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County (Foreword, p. 1, emphasis original).

ZTA 10-15 narrows the allowed use to airstrips which are specifically associated with farming operations, which is consistent with the Master Plan. **In order to also be consistent with the preservation of farmland, it may be appropriate to specify that such airstrips should be unpaved.**

Clarksburg Master Plan and Hyattstown Special Study Area (1994)

This Plan is silent on airports or airstrips. Where the RC zone was applied, the Plan "recommend[s] large lot zoning as transition to neighboring rural and agricultural areas (5-acre and 2-acre lots)... [t]o create a suitable transition from other communities (Damascus/Germantown) to Clarksburg," and where the RDT zone was applied, it was to "encourage the preservation of agricultural (sic) and open space" (Zoning Plan, p. 105). The Plan did not recommend any LDRC zoning.

The proposed ZTA is consistent with the purpose of the RDT-zoned properties in this Plan area. However, for the RC-zoned properties, an airstrip would not be a suitable transition use under either the existing or proposed language.

Cloverly Master Plan (1997)

The Cloverly Master Plan slightly increased the acreage of the RC zone in the Plan area from 1,811 acres to 1,831 acres; no RDT or LDRC zoning is recommended.

The Implementation and Staging chapter of the Plan makes two specific recommendations that may be pertinent to the proposed ZTA:

“2. Allow only those uses in the rural zones that are consistent with rural character by their very nature, such as riding stables. Remove from consideration in Sandy Spring/Ashton and Cloverly any special exception uses that are not consistent with the preservation of rural character by evaluating the types of uses currently permitted in rural zones by special exception....

“3. Allow only agricultural uses in the open space created through rural cluster development. Non-agricultural uses should not be counted as part of the required percentage of preserved open space. An evaluation of uses currently permitted in the Rural Cluster zone, particularly by special exception, should be undertaken” (Zoning Text Ordinance Amendments, p. 103).

This language does not indicate support for allowing airstrips in Cloverly's rural zones or in the preserved open space portion of rural cluster developments.

Fairland Master Plan (1997)

The Fairland Master Plan confirmed 704 acres of land in the RC zone, but did not recommend any properties for RDT or LDRC zoning. The RC zone was applied in the Patuxent Watershed community. The Plan recommended against uses that would result in more than ten percent imperviousness (Patuxent Watershed, p. 61). The Plan does not include recommendations for farming or farms.

Sandy Spring/Ashton Master Plan (1998)

The Sandy Spring/Ashton Master Plan is silent on airstrips. Some properties are in the RC zone, but there is no RDT- or LDRC-zoned property in the Plan area. Of the RC properties, the Plan says, *“Current clustering provisions would allow homes to be built on 40 percent of the property with the remaining 60 percent for farming, private recreation, or other uses allowed in the Rural Cluster Zone”*

(Rural/Open Space Area, p. 40). The proposed ZTA is consistent with this recommendation.

Potomac Subregion Master Plan (2002)

The Potomac Subregion Master Plan contains no airstrips or guidance for them. The Plan confirmed most of the existing RC zone in the Plan area, but made no new RC recommendations. The area contains no RDT- or LDRC-zoned properties, and does not address farming.

The Plan includes guidance on special exceptions, noise and imperviousness as follows:

- *“This Plan endorses guidelines for locating special exception uses in residential areas...”*
 - *“Limit the impacts of existing special exceptions in established neighborhoods. Increase the scrutiny in reviewing special exception applications for highly visible sites and properties adjacent to the Chesapeake & Ohio National Historical Park.*
 - *“Avoid an excessive concentration of special exceptions along major transportation corridors” (Special Exception Policy, p. 35).*
- *“Effective noise control helps maintain the community as a desirable place to live, work and conduct business. It is the public sector’s responsibility to design roads, streetscapes, and public areas to minimize noise nuisances. As a minimum guideline, the private sector should plan and design development using the receiving property standards of the 1997 County Noise Control Ordinance” (Noise, p. 29).*
- *“To create environmentally sustainable development:*
 - *“Design and locate parking lots and structures to minimize impervious surfaces” (Design Principles, p. 33).*

The proposed ZTA does not seek to address the compatibility and sustainability issues outlined in this Plan.

Olney Master Plan (2005)

One of the goals of the Olney Master Plan is to *“Protect the Patuxent Watershed including the drinking water reservoir, and agricultural and rural open space” (Land Use Plan, p. 15).* *“Agriculture and rural open space in the area west of Georgia Avenue and rural open space in the area east of Georgia Avenue are the recommended primary land uses (p. 18); the existing RDT and RC zones were confirmed in these areas to “maintain the character and existing scale of development in the rural communities of Northern Olney” (p. 20).* In addition, the existing LDRC-zoned properties were recommended for rezoning to the RNC zone followed by the removal of the LDRC zone from the Zoning Ordinance (Zoning, pp. 137-140). The Plan supports the Patuxent River Watershed

Functional Master Plan which limits impervious to ten percent in much of this area.

The proposed ZTA supports farming operations, which is consistent with the Plan. The impervious limit might place constraints on an airstrip if paving were proposed.

SUMMARY

There is no indication that airstrips are likely to proliferate in the three agricultural zones where they are allowed by special exception, given that no such special exceptions currently exist. Nevertheless, since the general and specific master plan guidance for the agriculturally zoned areas predictably supports preservation of farming operations. ZTA 10-15 is consistent and perhaps even enhances this goal. It should be noted, however, that staff believes that given the general and specific special exception conditions and requirements that are applied on a case by case basis through the special exception process, the preservation goals of the County could still be maintained while also providing opportunities for housing small aircraft where allowed by the Federal Aviation Administration and the Maryland Aviation Administration.

The unclear part of the ZTA stems from how the existing Davis Airport (nonconforming use) and any pending applicable special exception application would be impacted by the proposed amortization language. As drafted the amortization language appears to address only approved special exceptions for airstrips not associated with farming operations. As stated above, none are currently approved, although there is one pending special exception application that, if approved, would fit the criteria of the amortization language. Staff recommends that the amortization language be eliminated.

GR

Attachments

1. Proposed Text Amendment 10-15 as modified by staff

ATTACHMENT 1

Zoning Text Amendment No.: 10-15
Concerning: Agricultural Zones - Airstrips
Draft No. & Date: 1 – 12/02/10
Introduced: December 14, 2010
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: Councilmembers Elrich and Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- clarify that airstrips allowed in agricultural zones must be associated with farming operations[[]; and
- provide an amortization period for certain approved airstrip special exceptions]]

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

Section 59-C-9.3. Land uses.
DIVISION 59-G-2 SPECIAL EXCEPTIONS–STANDARDS AND REQUIREMENTS
Section 59-G-2.00.4 Airstrip Associated with farm

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:

Sec. 1. Division 59-C-9 Agricultural Zones is amended as follows:

59-C-9.3. Land uses.

No use is allowed except as indicated in the following table:

- **Permitted uses.** Uses designated by the letter “P” are permitted on any lot in the zones indicated, subject to all applicable regulations.
- **Special exception uses.** Uses designated by the letters “SE” may be authorized as special exceptions under Article 59-G.

	Rural	RC	LDRC	RDT	RS	RNC	RNC/ TDR
* * *							
(f) Transportation, Communication and Utilities:							
Airstrip, associated with [farm] farming operations*.		SE ²	SE	SE			
* * *							

[[* Any approved special exception for an “airstrip associated with farm” but not associated with farming operations must cease operation before {6 months after the effective date}.]]

Sec. 2. Division 59-G-2 Agricultural Zones is amended as follows:

DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS.

The uses listed in this Division, as shown on the index table below, may be allowed as special exceptions in any zone where they are so indicated, as provided in this Article, subject to the standards and requirements in this Division and the general conditions specified in Section 59-G-1.21.

<u>USE</u>	<u>SECTION</u>
Abattoir.....	G-2.00.2
Accessory apartment.....	G-2.00
Accessory dwelling.....	G-2.00.1

25 Airstrip associated with [a farm] farming operations..... G-2.00.4

26 * * *

27 Sec. 59-G-2.00.4. Airstrip associated with [farm] farming operations.

28 A special exception may be granted for an airstrip on a farm, as defined in section
29 59-A-2.1, subject to the following requirements:

30 (a) Only one airplane is permitted to be permanently housed at the
31 airstrip.

32 (b) The applicant must obtain a favorable air space determination from
33 the Federal Aviation Agency (FAA) in response to an application filed
34 on Form FAA 7480.1, [title] titled "Notice of Proposed Landing Area
35 Established," or whatever form number and title the FAA may
36 require.

37 (c) The aircraft using the airstrip must aid farming operations.

38 (d) The airstrip must not be paved.

39

40 * * *

41 **Sec. 3. Effective date. This ordinance becomes effective 20 days**
42 **after the date of Council adoption.**

43

44 This is a correct copy of Council action.

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47 _____
Linda M. Lauer, Clerk of the Council