



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #7,8,9
9/25/03

DATE: September 10, 2003
TO: Montgomery County Planning Board
VIA: John A. Carter, Chief *JAC*
Community-Based Planning Division
and
Joe Davis, Chief *JRD*
Development Review Division
FROM: Judy Daniel, AICP, Team Leader-Rural Area Team *JD*
Community-Based Planning Division (301-495-4559)
REVIEW TYPE: Zoning Text Amendment: ZTA 03-21
Subdivision Regulations Amendment: SRA 03-01
Forest Conservation Regulations Amendment: FCRA 29-03
REVIEW BASIS: Advisory to the County Council sitting as the District Council,
Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Silverman
DATE INTRODUCED: July 29, 2003
PLANNING BOARD REVIEW: September 18, 2003
PUBLIC HEARING: September 23, 2003

STAFF RECOMMENDATION

DEFERRAL/DENIAL of the Text Amendment, the Subdivision Regulations Amendment and the Forest Conservation Law Amendment

ISSUES TO BE RESOLVED BY TEXT AMENDMENT

On July 29, 2003 Councilmember Steve Silverman introduced amendments to the zoning ordinance, the subdivision regulations, and the forest conservation regulations addressing riding stables and equestrian facilities, particularly in the agricultural zones. These proposals are, cumulatively, very complex and extensive changes to these regulations. They are proposed as a solution to a very complex situation surrounding the riding stable use. The situation needs to be resolved as it is causing uncertainty for the equestrian community in the County. However, the staff believes that the changes proposed in these three introduced amendments will not resolve this situation in the best interests of all concerned parties. This report reviews the background issues that resulted in the proposed amendments, evaluates the provisions of the amendments, and recommends an alternative approach.

BACKGROUND:

Summer 2002: In July of 2002 the Planning Board reviewed a special exception case for a proposed riding stable on Partnership Road. This was a very complicated case for a very large proposed facility. The Board recommended approval of the use with a number of limiting conditions.

Fall 2002: When this case was heard before the Board of Appeals, the Board received testimony from the People's Counsel and the attorney representing opposition to this case that revolved around an interpretation of the footnote (#17) for this use category in agricultural zones. On consideration of this memorandum regarding the footnote, the Board of Appeals dismissed the petition. This decision had the effect of throwing the entire issue of allowable size for riding stables in the Agricultural Zones into confusion.

Acknowledging the hardship and uncertainty this decision placed upon the equestrian industry in Montgomery County, the M-NCPPC staff worked with the People's Counsel, the Agricultural Services Division of the County, and a "focus group" of stable owners, to draft a proposal for a text amendment to clear up the longstanding concerns with this footnote, and better address the issues that are of concern when large equestrian facilities are proposed. The Riding Stable Focus Group work had begun before this immediate situation, because of problems they believed already existed with the Riding Stable regulatory framework, and this decision by the Board of Appeals speeded up their deliberations.

Winter 2003: The staff believed that swift action was warranted to address the uncertainty created by the Board of Appeal's decision. Following the work with the Riding Stable Focus Group, the staff drafted a proposal for a zoning text amendment for presentation to the Planning Board in January. That proposal was withdrawn from the Planning Board agenda at the request of members of the County Council and concerned residents of the rural community who wished to evaluate the situation further. That staff proposal took a more conservative approach to the situation than what has now been introduced, and had a broader range of criteria that would trigger special exception review.

Summer 2003: In late July Councilmember Silverman introduced these alternate proposals for amendments to the zoning ordinance, subdivision regulations, and the forest conservation law regulations. The staff sees merit in the proposed general approach, and in elements of the proposals, but overall the staff believes these modifications to be too subjective, too open to interpretation, and too permissive in what is allowed by right. The staff believes that these proposals need refinement and modifications that would be the product of negotiations not viable to resolve in a month, particularly during August.

A primary goal of any text amendment ultimately adopted should be to allow the large majority of small riding stables with little potential to have negative impact on their surrounding community to be approved by right. But an equally important goal should be to regulate large operations, with considerable potential for extensive impact on their surrounding neighborhood. The introduced text amendment achieves the first goal, but

not the second goal. The staff believes more time is required to resolve these problems with the text amendment and modifications to the subdivision regulations. The major areas of agreement and problems we see with the introduced text amendment are outlined below:

ANALYSIS

TEXT AMENDMENT

Summary Changes 59-A-2.1 Definitions

The proposal to add equestrian activities to Agriculture definition, changes the name of the use to Equestrian Facility from Riding Stable, and proposes to add definitions for three types equestrian events: Informal (26-75), Minor (76-150), and Major (151-300).

Recommendation: The staff supports this element of the proposal. While there is a need to control larger, more active equestrian facilities, there is also a need to acknowledge that equine uses are agricultural in nature. This is similar to “pick your own” operations that seasonally bring traffic and activity to their farms.

Also, the staff agrees that it is very useful to define differing sizes of events and to govern them differently based on their size and frequency of activity.

Summary Changes 59-C-1.31. Land Uses (in residential zones)

The proposal changes the term “riding stable” to “equestrian facility” and makes it an agricultural use instead of an entertainment or recreational use.

Recommendation: The staff supports this element of the proposal for the previously noted reasons.

Summary Changes 59-C-9.3. Land uses (in agricultural zones)

The proposal makes an “equestrian facility” an agricultural use instead of a recreational or entertainment use, and makes it a P/SE use.

Recommendation: The staff supports the name change, but a footnote is needed to refer to the new section 59-C-9.31 that is to contain the guidelines for the use in agricultural zones.

Summary Changes 59-C-9.31 Criteria for Equestrian Facility As A Permitted Use in the Agricultural Zones.

The ZTA proposes seven areas of requirements for this use in the agricultural zones related to events, number of horses kept/boarded, soil/water conservation and nutrient management plans, setbacks, noise, lighting, hours of operation, and criteria for requiring special exception review. The special exception requirement is triggered by any events on smaller properties, number of events, and frequency of events. A summary of these criteria is given below:

EVENTS	P	SE
Any event	1-25 riders & spectators 25+ acres	1-25 riders/spectators < 25 acres
Informal event (25-75 r&s)	25+ acres Saturday, Sunday, Holiday	< 25 acres
Minor event (76-150 r&s)	Any 2 weekdays Up to 8 per year 50+ acres	3+ weekdays 9+ per year < 50 acres
Major events (150-300 r&s)	Up to 4 per year 75+ acres	5+ per year <75 acres

Recommendation: The staff sees two problems with this approach. First, the requirements for approval are only when the stable is a permitted use – not established as baseline requirements for all riding stables. Second, the staff believes that the number and timing of events should not be the primary criteria for requiring special exception review. Concerns with the specific elements of this section are given below:

Event Limits as a Permitted Use - The proposal does not limit events on properties of more than 25 acres if they bring no more than 25 riders and spectators; and limits Informal Events to no more than two weekdays each week as these events may have less traffic impact on weekdays.

Recommendation: The staff believes that allowing “Informal Events” (26-75 r/s) on any weekend without special exception review would have the potential to be too disruptive to the surrounding neighborhood regardless of the size of the property. The impact relates to the traffic, not the acres. There is a need to study appropriate frequency, and check with riding stable owners; but perhaps allowing up to 12 weekends (1 per month on average) as a permitted use, and special exception if more frequent should be considered.

Similarly, the staff believes that allowing up to 8 Minor Events (76 – 150 p/s) each year on properties of at least 50 acres without special exception review could be too disruptive. The concept needs more evaluation, but perhaps permitting these for up to 6 on weekends only, and no more than 1 per month unless permitted via special exception can be considered.

Also, the staff believes that allowing up to 4 Major Events (150-300) by right, regardless of the size of the property could be very disruptive to the surrounding area, especially if there is no cumulative curb on total events held without a special exception requirement. This also needs more evaluation, but perhaps up to 2 Major Events might be held by right if a cumulative total of Major and Minor Events is set. Otherwise, the surrounding community might be overwhelmed with external traffic on many weekends. A cumulative total allowed by right should be set, with a provision for allowing more through special exception approval.

Number Of Horses That May Be Kept - The proposal does not change the existing language in the zoning ordinance (requiring a minimum of 2 acres for 1-2 horses, 5 acres for 3-10 horses, and ½ acre more per additional horse) to specify whether this is total acres or “open pasture” acres.

Recommendation: The staff believes the standard should clarify that this should be for pasture acres, not gross acres. If the intent of the “horses per acre” is to protect the quality of the pasture and to provide adequate nutrition for the horse, then pasture acres should be required. This is the intent in establishing these minimums for farm animals in general.

However, the proposal should establish that these requirements can be exceeded via special exception, as there are some stabling methods for show horses that require pasture acres only for exercise, not nutritional needs.

Plan Approval Requirements - The proposal requires equestrian facilities to meet all nutrient management, water quality and soil conservation standards of County and State, and to submit a nutrient management plan, and a soil conservation and water quality plan to DPS within one year of operations. These must be re-approved and resubmitted to DPS every 5 years.

Recommendation: The staff believes this proposal should require all equestrian facilities to submit a plan to meet all animal waste disposal standards, via state nutrient management requirements – whether a permitted or special exception use.

Setbacks - The proposal establishes setbacks for buildings and outdoor arenas.

Recommendation: The staff believes this proposal should indicate whether or not smaller setbacks may be proposed via special exception. Also, further discussion is needed to evaluate the proposed setback distances.

Noise - The text amendment proposes that a equestrian facility must not exceed 65 dBA during daytime or 55 dBA at receiving area immediately adjacent to property line of record lot during night after 9pm Sunday – Thursday and after 11pm Friday and Saturday. And it proposes that noise regulations not apply to agricultural field machinery or noise, not electronically amplified, between 7am and 11pm by usual activities of equestrian facility including shows, events, or “other gatherings”.

Recommendation: The staff believes this proposal needs to indicate if or how the proposed dBA standards differ from county noise standards. Also, the proposal must establish whether this is a base standard for all facilities, or can be exceeded via a special exception.

Also, the staff believes the proposal is unclear as “shows” and “other gatherings” are noted but not defined or regulated – only “events”. Also, the text amendment indicates that sound should be regulated “in accord with DPS standards”; but that statement seems to make the rest of this section redundant.

Lighting - The criteria govern outdoor lighting, lighting fixture types, and lighting intensity. It requires outdoor lighting to be “appropriate” for the activity, include glare and spill control devices, and designed to be aimed downward toward the activity area, and not cause “nuisance glare” beyond the property line.

The criteria require the use of full cutoff type fixtures unless a waiver to use a different fixture is approved by the Department of Permitting Services.

Finally, the text amendment states that any lighting “must not obscure astronomical observation from off-site locations.”

Recommendation: This language does not define whether these are base standards for all facilities, or minimum standards that may be exceeded by special exception approval. This is subjective language that would be very difficult to define or enforce, as neither “appropriate” or “nuisance glare” are defined. Further, the staff is concerned that there is no basis is given to guide DPS on when and why alternative lighting fixtures might be permitted. Finally, the staff considers the “astronomical observation” criteria to be overly subjective as there are no guidelines for determining “obscureness”.

Hours of Operation - The text amendment proposes to allow riding instruction and Informal Events from 6am to 10 pm Sunday-TH, and 6am to 11pm Friday and Saturday; Minor Events and Major Events 6am to 11 pm Friday and Saturday, and 6am to 10 pm on Sunday and Holidays.

Recommendation: The staff is concerned that the text amendment does not clarify whether these are absolute times for any equestrian facility, or hours that can be proposed for modification through a special exception approval.

When Special Exception Required - The text amendment requires special exception only when the defined “events” are proposed on properties of less than 25 acres, or when other types of “events” are proposed beyond those defined and authorized, or when the number of events proposed exceed those authorized and defined.

Recommendation: The staff believes the criteria for requiring special exception are too limited. Other issues that should trigger special exception include a proposed facility that wishes to exceed the other elements of this sections and number of horses on the property – especially in relation to the size of the property. And if any of those elements are to be absolute standards with no modification allowed via a special exception, the text should clearly state that.

Summary Modifications to 59-G-2.49. Special Exception Criteria

The name of the use is changed to “equestrian facility. The standards are separated for equestrian facilities in residential vs. agricultural zones.

Equestrian Facility Special Exception in Residential Zones.

The residential criteria differ little from the current G-2.49 standards. The specific ability to govern hours of operation and outdoor lighting are added, and additional criteria for pasture maintenance, animal waste disposal, and nutrient management, water quality, and soil conservation standards are added. However, these criteria are not in the special exception standards for the use in agricultural zones.

The regulation of outdoor lighting is limited to lighting that “results in *demonstrated adverse impact* on adjoining residentially developed property that is not considered agricultural land for state property tax assessment purposes.”

Recommendation: The staff believes that the language limiting lighting is inadequate because no test or guideline for demonstrating adverse impact is given. And there is no similar language for the Agricultural Zone special exceptions. Also, there is no language related to the impact on the surrounding road network, as is required in the agricultural zones.

Further, the language exempts equestrian facilities on more than 5 acres from pasture maintenance planning. The staff believes that the need for a pasture maintenance plan should relate to the number of horses stables per acre residing on the property, not the size of the property. And again, this requirement is only for special exceptions in residential zones, although the issue is pertinent in Agricultural and Residential zones.

Finally, the ZTA adds a requirement for animal waste to be handled in accordance with state requirements for nutrient management – but the staff believes this should be a requirement for all equestrian facilities, not just the special exceptions in residential zones.

New 59-G-2.49.1. Equestrian Facility Special Exception in Agricultural Zones

The text amendment proposes two criteria for special exception review in agricultural zones. First, language to prevent “*adverse impact*” on adjoining uses, by “*limiting or regulating*” the number of “*equestrian events*” that “*exceed the number permitted for the property based on its acreage, and upon a finding that the additional shows will adversely affect the surrounding road network*”. The applicant has the burden of producing “*substantial evidence that the property has adequate access to accommodate the additional traffic and the road from which the property has access and the nearest intersections operation at an acceptable level of service utilizing the Local Area Transportation Review Guidelines adopted by the Planning Board.*”

Second, language that asserts that the required evaluation of the surrounding road network is not as stringent for agriculturally related uses in agricultural zones.

Recommendation: The staff believes this text amendment language is insufficient and inadequate:

First, as previously stated, the staff believes that the number of “shows” or “events”, or their absolute “size” or frequency are not the only criteria that should govern whether an equestrian facility should face special exception review; or that should be governed under special exception criteria.

Second, there are no guidelines or criteria given to determine what would constitute an “adverse impact” upon the surrounding road network or “adequate access” to the site.

Third, there are no standards given for nutrient management, pasture management, water quality, and soil conservation standards – as are in the requirements in residential zones.

Finally, neither of the special exception review criteria address setbacks, lighting, noise, number of horses “living” on the property, or environmental regulations – all of which have be central to the review of previous riding stables.

Transportation Issues

The Transportation Planning staff reviewed two recent Special Exception cases, (S-2482, Montgomery County Career Fire Fighters Association, and S-2486, Green Acres LLC. The two cases cited above are similar to the type of facilities described in the proposed zoning text and subdivision regulation amendments, in that all are concerned with large events to be held on property in the Agricultural Reserve area. Public testimony in both these cases focused on the following issues:

1. Use intensity and the impact that it has on adjoining properties,
2. The concern over the maximum number of people who would be on the site at one time during the largest event,
3. How numbers of participants translated into the number of vehicles on the road network at the beginning and end of the largest events,
4. The relationship of the volume of traffic generated by the largest event and its relation ship to characteristics of the roads used by event patrons, and
5. Noise and headlight glare caused by cars leaving an event after dark.

Recommendation: The staff has considered these traffic and transportation issues and recommends consideration of the following modifications to ZTA 03-21.

1. Clarify whether the various types of events may be cumulative. For example, on a 75 acre tract may both eight minor equestrian events and four major events take place in one year? Staff believes it would be inadvisable to allow cumulative events that, when combined together, create intense activities on a site more than once a month.
2. Require the amount of parking required for each type of event to be defined.

3. Reduce the number of major equestrian events a year on 75 acres, perhaps to two a year, or reducing the number of participants to 150 to minimize intrusive traffic noise and headlight glare.
4. Prohibit major events on sites that rely on access to roads that are narrow, with limited or no shoulder or other criteria that indicate a roadway inadequate to serve the traffic demands of major events.
5. Add language to Section 59-G-2.49.1 to require evaluation of the adequacy of traffic operational considerations, such on and off site queuing, similar to the language included under Section 59-G-2.19, dealing with private educational institutions: *“Adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter queues of waiting vehicles from spilling over onto adjacent streets”*.
6. Require any equestrian facility that abuts or is across a street, either public or private, from residentially zoned property to meet the setback and open space requirements of the residential zone along the abutting frontage to reduce the impacts to the residential area from traffic noise and headlight glare. This provision should apply to both special exceptions and uses permitted by right.
7. Require a Traffic Statement for any facility conducting events, including a statement of operations describing the maximum number of events to be permitted in one year, and a calculation of trip generation rates for the largest event to be held.

Environmental Issues

According to the 2001 Horse Study for Montgomery County, the condition of pastures for most stable owners are fair or poor and many have no prescribed method for dealing with animal waste. Although as yet not quantified, this poses a significant cumulative environmental impact, especially as the number of small and large horse operations continues to increase. The Soil and Water Conservation District has education and staff resources that are helpful in this regard, and many management plans have been implemented on various agricultural uses with their assistance.

Recommendation: The staff recommends that any modifications to the regulations for equestrian uses require that all intensive horse operations, both commercial and private, be required to develop a nutrient management plan with the assistance of the Soil and Water Conservation District. Further, as a broader goal, the staff recommends that the Riding Stable Focus Group and/or other appropriate agencies continue to study this issue and explore long-term solutions for the environmental impacts of intensive equestrian uses to facilitate the anticipated transition from traditional agriculture to alternative uses of this type that is occurring in the county.

SUBDIVISION REGULATIONS AMENDMENT

Summary of Proposal: The proposed changes to the subdivision regulations would:

1. Amend the definition of agriculture in several ways including specifically adding equestrian activities to the definition,
2. Add a definition for “agricultural land”, and
3. Specifically exempt all “agricultural land” (as defined) from subdivision review.

Recommendation: The staff supports the modifications to the definition of agriculture for the reasons noted in the review of the proposed Zoning Text Amendment. And the staff supports the inclusion of a definition for agricultural land.

The staff does not support the language to exempt all structures that require a building permit on “agricultural land” (as defined) from the subdivision requirements of Section 50-9.

The intent of these modifications is to exempt commercial equestrian facilities whose barns and stables require a building permit; but the language would exempt any structure on any so defined “agricultural land” in all the agricultural zones. The staff believes this is too permissive, and that any structure that requires a building permit should be subject to the review under Chapter 50.

The Subdivision Regulations provide a coordinated and comprehensive review of some of the critical criteria associated with new construction. The scale and intensity that may be proposed from buildings associated with some equestrian facilities may have a profound cumulative impact on the environment in the agricultural wedge. Eliminating the subdivision review process would eliminate the means to review the impact of significant clearing that could result in forest removal, or the reduction of best management practices that affect soil and water quality conservation, stormwater management and sewage disposal.

The subdivision process administrative procedures require an applicant to demonstrate how their proposal addresses issues that protect adjoining properties from erosion and sedimentation. They must also demonstrate how the proposed site development will preserve important trees or tree-stands, and provide adequate soil conservation methods. All these issues are potentially as important for an equestrian facility, particularly a large facility, as they are for a dwelling or commercial use. And these uses – unlike most agricultural uses – generate considerable traffic and impact on the surrounding neighborhood. For these reasons, the staff does not support this element of the proposed amendment to the subdivision regulations.

FOREST CONSERVATION AMENDMENT

Summary of Proposal: The proposed amendment adds a definition for an equestrian facility and a specific exemption from the Forest Conservation Legislation (FCL) for these facilities when they are located in agricultural zones. The proposed exemption would apply to equestrian facilities in agricultural zones that are exempt from platting requirements under Section 50-9, whether or not a sediment control permit is obtained under Section 19-2(d). But Section 22A-6(b) applies if any specimen or champion tree would be cleared. The proposed amendment to Section 50-9 exempts equestrian facilities from platting requirements.

Recommendation: The staff believes a blanket exemption from forest conservation requirements should not be provided for equestrian facilities.

The existing agricultural exemption in the FCL permits land and forest clearing associated with the creation of pastures, or fields for crop production. It also permits the associated support buildings for these activities. Under typical circumstances anticipated for most equestrian facilities, these activities usually involve little or no grading or re-shaping of the land and do not include the addition of large areas of impervious surface to the site. However, a large equestrian facility can have significantly greater development impacts.

The existing FCL language refers to platting and sediment and erosion control requirements because of the need for them reflect the differences in the levels of disturbance and impact noted above. The staff thinks that forest conservation should be required when significant impacts are being proposed to protect any environmentally sensitive area and to mitigate their impacts, particularly any significant proposed increase in impervious surfaces (parking lots, impervious trails, large roof areas, hard packed arenas or playing fields).

Further, if equestrian facilities become a permitted use in agricultural zones, there will be no mechanism for protecting stream buffers and any associated high priority forest areas. If a decision is made to provide a forest conservation exemption, the staff recommends that the proposed language be amended as follows. The suggested change provides for protection of these areas in the absence of the special exception review process.

- (r) an **equestrian facility** in an agricultural zone that is exempt from platting requirements under Section 50-9, **[[whether or not a sediment control permit is obtained under Section 19-2(d)]]** if development does not result in the cutting, clearing, or grading of any forest in a stream buffer, or any specimen or champion trees. **[[but]]** Section 22-1-6(b) applies if any specimen or champion trees would be cleared.

COMMUNITY COMMENTS

The staff has received one letter at this time. It does not support these amendments and is attached to the report. This is a very controversial set of amendments, and there will probably be additional letters supporting and protesting these amendments. There will also probably be several speakers on both sides of this issue.

CONCLUSION

For all of the above stated reasons, the staff believes that additional discussions, evaluation and modifications are necessary to the various elements of this text amendment, the subdivision regulations amendment, and the forest conservation amendment, and that a recommendation to the County Council of deferral or denial is warranted. Too many areas need extensive revision to recommend conditions for approval at this time.

The Planning Board may also wish to consider proposing an alternate concept for amending the Zoning Ordinance. As noted at the beginning of this report, the staff prepared a proposal for a text amendment in January of this year that was withdrawn from the Board's agenda before being reviewed. We believe that proposal is more moderate in its approach to the issue, and it addresses most of the issues of concern raised in this report. A summary of the elements of that alternative approach is given below, and that ZTA proposal is attached to this report.

The Board may wish to consider supporting that proposal instead of the proposed ZTA, or to recommend that the Council defer action on the proposed ZTA to allow the County and the M-NCPPC staff time to evaluate both proposals and recommend one, the other, or a hybrid approach.

Summary of Planning Staff Proposed ZTA

1. Also changes name of the use to equestrian facility from riding stable throughout the zoning ordinance.
2. Sets up a new section in Division 59-A-6 (Uses Permitted in More than One Class of Zone) to create basic standards and operating criteria for all Equestrian Facilities and a table to determine when they are permitted by right and when permitted by special exception (not just in agricultural zones).

The basic standards include acres of pasture per horse, nutrient management plans, water quality plans, and soil conservation plans for all facilities for more than 10 horses.

The thresholds for requiring special exception relate to:

For commercial facilities: the number of horses boarded, number of horses available to rent for riding or instruction, and the total number of horses on the property.

For all facilities: the number of shows/events per year, the number of horses per acre of pasture, the number of lighted outdoor arenas or rings, and whether any sport field (usually polo) has lights for evening play.

3. Amends Section 59-C-1.31 (Land Uses in the One-Family Residential Zones) to change the name of the use, and to modify the use footnote to reference the new standards in Section 59-A-6.

4. Like the proposed ZTA, it amends Section 59-C-9.3 (Land Uses in the Agricultural Zones) to move the “Equestrian Facility” use from the “Cultural, Entertainment, Recreational” category to the “Agricultural” category. Unlike the proposed ZTA, within that category, it separates private facilities from commercial facilities to ensure that the commercial facilities are required to meet subdivision regulations.

Provides that the use is a P/SE use (depending on the threshold criteria in the new Section 59-A-6 provisions – referenced in the footnote), except in the RNC Zone, where it is always to be a Special Exception use.

Replaces the extensive footnote (#17) that caused the problems with the use at the Board of Appeals, with a reference to the Section 59-A-6 provisions for all Equestrian Facilities.

5. Revises the Special Exception requirements in Section 59-G-2.49 to:

- Change the name of the use to Equestrian Facility
- Remove the acreage requirements, which are to be placed in the Section 59-A-6 provisions for all facilities, not just special exceptions.
- Add a provision for the Board to limit hours of operation for commercial facilities
- Add a provision for the Board to limit the number of lighted elements
- Add a provision to require facilities with less than one acre of pasture per horse to submit pasture maintenance, animal feeding, and other evaluation methods to determine that there will be proper care for the horses and proper maintenance of the pastures.
- Delete the requirement to coordinate a soil and water conservation plan as that element is to be placed in the Section 59-A-6 provisions.
- Replaces the containment of animal waste provision with a more extensive requirement for meeting nutrient management, water quality, and soil conservation standards.

The staff believes that the elements of these two proposals contain the nucleus of a solution to this thorny issue facing the equestrian community. Allowing a few more months for reflection and refinement of approach will be the best means of ensuring revised regulations that are fair (with limited regulatory intrusion) to the large majority of

smaller riding stables who cause little disruption in their communities; and fair to the residents of communities where the few large equestrian facilities need some level of regulation to ensure protection of their neighborhoods from overly intrusive levels of activity.


AGENDA ITEMS #3&4
July 29, 2003

Introduction

MEMORANDUM

July 25, 2003

TO: County Council

FROM: Ralph D. Wilson, Senior Legislative Analyst 

SUBJECT: Introduction – ZTA 03-21 and SRA 03-01, Revisions to riding stable regulations

Councilmember Silverman will introduce ZTA 03-21 and certain related legislation on Tuesday. Councilmember Silverman is proposing a comprehensive revision to the riding stable regulations that provides new policies and standards affecting riding stables in the agricultural reserve.

The Council will recall that in 1998 an Agricultural Working group was established to examine the special exceptions in the agricultural reserve. The Council accepted as a general policy the recommendation of the Agricultural Special Exception Working Group that any agricultural or agriculturally-related activity should be permitted by right in the agricultural zones rather than by special exception.

The Council agreed at the time that in the agricultural zones any horse farm, private riding stable, or commercial riding stable should be uses permitted by right, provided that not more than two horse shows are held during a year on a lot that is less than 25 acres. A riding stable in the residential zones was not affected and remains a special exception in all instances. The policy was not correctly codified in law. As the law now stands, there are greater restrictions on a riding stable in the agricultural zones, than a riding stable in the residential zones.

The attached memorandum from Councilmember Silverman more completely explains the specifics of the proposed legislation. A public hearing on the ZTA and related legislative proposal will be held on September 23.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

STEVEN A. SILVERMAN
COUNCILMEMBER

MEMORANDUM

July 24, 2003

To: Councilmembers

From: Steven A. Silverman, Council Vice President

Subject: ZTA for Riding Stables in Agricultural Reserve

I am proposing a zoning text amendment to establish new standards for riding stables in our Agricultural Reserve. Generally, the text amendment provides that riding stables (redefined as equestrian facilities) that meet certain standards as outlined in the proposed text amendment would be permitted uses in the agricultural zones. Equestrian facilities whose operations are more intense than the standards outlined in the text amendment would be required to obtain a special exception. Additional details are contained later in this memo. Accompanying changes to the Subdivision Regulations and Forest Conservation law are also proposed.

Background

As the recently completed County Horse Study (2001) concludes, the face of Agriculture has changed over the past 23 years since the adoption of the Master Plan for Agriculture and Rural Open Space in 1980. In particular, the horse industry component of agriculture has soared in popularity and is a significant contributor to the agricultural economy. A survey conducted as part of the Horse Study estimated that there are over 10,000 horses in Montgomery County, with approximately 100 properties boarding or training horses. Their economic impact is substantial, almost \$80 million annually. They also help sustain traditional farming operations in the County that produce hay, straw, and grain consumed by the horses.

I believe that if the County is to remain successful in preserving the Agricultural Reserve for its stated purpose of agriculture, then our land use policies must recognize and support newer agricultural and agricultural related uses such as horticulture, pick-your-own-farms, and riding stables.

In 1998, the Council adopted this approach by generally accepting the recommendations of the Agriculture Special Exception Working Group that agricultural and agricultural-related activities should be permitted by right in the agricultural zones, rather than by

special exception. At that time, the Council generally agreed that riding stables should be a permitted use in agricultural zones and only require a special exception if a commercial riding stable has more than two horse shows during a year on a lot that is less than 25 acres.

While I believe our land use policies should be supportive of riding stables in the Agricultural Reserve, I believe that the approach taken by the Council in 1998 is too lenient, given the potential impacts of larger commercial riding stables. In addition, a recent Board of Appeals decision regarding riding stables has resulted in questions regarding what is or is not permitted with respect to riding stables, so many believe it is necessary to clarify our policies.

In February 2003, members of a Riding Stable Focus Group created under the direction of the Agricultural Advisory Committee issued a report recommending that a new zoning text amendment is needed to clarify the specific requirements for horse operations and to simplify the regulatory environment for equestrian operations.

Proposal

Riding stables/equestrian facilities that provide riding instruction, recreational riding opportunities, boarding of horses, and/or hold horse shows typically have two kinds of impacts. One set of impacts is to the land itself and there are soil conservation and water quality requirements that must be met. In addition, the State requires nutrient management plans for all stables with more than 8 horses.

A second set of impacts are those that go beyond the property itself, such as traffic, lighting, etc. Traffic is an issue primarily due to horse shows. I have taken the approach that the number of participants coming to an equestrian event and the size of the property should dictate how many, how frequently, and when equestrian events can occur by right and beyond which a special exception should be required. Equestrian events are defined as one of four categories: below 25 riders and spectators; 26-75 participants; no more than 150 participants; and no more than 300. Each category would have limits on the number of horse shows permitted by right and limits on when they could occur. Any event over 300 would always require a special exception. For more details, see lines 79 through 88 of the text amendment. With respect to lighting, the proposed text amendment states that if a riding stable/equestrian facility wishes to have an outdoor lighted horse arena by right, the lights must be designed to aim downward, have cutoff type fixtures, and not cause nuisance glare beyond the property line. There are also limits on hours of operations for by right equestrian facilities.

Finally, there are accompanying proposed changes to the Subdivision Regulations and Forest conservation law to make them consistent with the proposed zoning ordinance changes regarding riding stables/equestrian facilities as agricultural related uses.

Zoning Text Amendment No: 03-21
Concerning: Riding Stables
Draft No. & Date: 1 – 7/22/03
Introduced: July 29, 2003
Public Hearing: 9/23/03; 7:30 PM
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 Silverman

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- comprehensively revising the regulations pertaining to a riding stable;
- defining equestrian facility to replace the definition of riding stable;
- defining informal equestrian event;
- defining minor equestrian event;
- defining major equestrian event;
- amending the definition of “Kennel, Noncommercial” to substitute “Equestrian Facility for “Riding Stable”;
- adding standards for an Equestrian Facility as a permitted use in the agricultural zones; and
- adding special exception standards for an equestrian facility;

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

Division 59-A-2	“Definitions and Interpretation”
Section 59-A-2.1	“Definitions”
Division 59-C-1	“Residential Zones”
Section 59-C-1.3	“Land Uses”
Division 59-C-9	“Agricultural Zones”
Section 59-C-9.3	“Land Uses”
Section 59-G-1.23	“General development standards”
Section 59-G-2.49	“Riding Stable”

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 **DIVISION 59-A-2. Definitions and Interpretation.**

2 * * *

3 **59-A-2.1. Definitions.**

4 * * *

5 **Agriculture:** The business, science and art of cultivating and managing the soil,
6 composting, growing, harvesting, and selling crops and livestock, and the products
7 of forestry, horticulture and hydroponics; breeding, [or] raising, or managing
8 livestock, poultry, fish, game, and fur-bearing animals, dairying, beekeeping and
9 similar activities, and equestrian activities including the boarding, breeding, and
10 training of horses. Agriculture includes processing on the farm of an agricultural
11 product in the course of preparing the product for market and may or may not
12 cause a change in the natural form or state of the product.

13 * * *

14 **Equestrian event, informal:** A competitive or non-competitive event that
15 involves between 26 and 75 equestrians and spectators.

16 **Equestrian event, major:** A competitive or non-competitive event that does not
17 involve more than 300 equestrians and spectators.

18 **Equestrian event, minor:** A competitive or non-competitive event that does not
19 involve more than 150 equestrians or spectators.

20 **Equestrian facility:** Any building(s), structure(s), or land area that is used or
21 designed for the care, breeding, boarding, rental, riding, sport eventing, training of
22 horses or ponies or the teaching of equestrian skills and for competitive equestrian
23 events. An equestrian facility may conduct equestrian events for the display of
24 riding ability. An equestrian facility may be private or commercial in nature.

25 * * *

26 **kennel, noncommercial:** Any building or buildings and land used, designed or
27 arranged for the boarding, breeding or care of dogs, cats, or other domestic animals

28 belonging to the owner thereof and kept for purposes of show, hunting or as pets.

29 An equestrian facility [A riding stable] is not a kennel.

30 * * *

31 **Riding stable:** [Any building, structure, or land area, other than a horse farm, that
32 is used or designed for the care, breeding, boarding, rental, or training of horses or
33 ponies other than farm livestock. A riding stable may conduct horse shows for
34 competition or other display of riding ability.] See "Equestrian Facility."

35

36 **Sec. 2. Division 59-A-4 is amended as follows:**

37 **DIVISION 59-A-4. County Board of Appeals.**

38 **59-A-4.123. Adoption of Resolutions.**

39 * * *

40 (c) The affirmative vote of at least 4 members is required to adopt a resolution
41 granting, revoking, suspending, modifying, amending, or extending the time
42 in which to implement a special exception. However, any action regarding
43 the following special exceptions in an agricultural zone requires the vote of
44 3 members:

45 * * *

46 Equestrian Facility

47 * * *

48 [Riding stable, commercial]

49

50 **Sec. 3. Division 59-C-1 is amended as follows:**

51 **DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.**

52 **59-C-1.31. Land Uses.**

53

54

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
(e) Cultural, entertainment and recreational										

[Equestrian facility ⁴²	SE	SE	SE	SE	SE					SE]

[Riding stables ⁴²	SE	SE	SE	SE	SE					SE]

(f) Resource production extraction and Agriculture.										

Equestrian facility ⁴²	SE	SE	SE	SE	SE					SE]

55
56 ⁴² Any equestrian facility that was first established as a riding stable [established]
57 by special exception in the R-90 zone before May 6, 2002 is a conforming use
58 and may be modified, repaired or reconstructed, or enlarged a maximum of 5%
59 of the total floor area in accordance with the special exception standards in
60 effect before May 6, 2002.

61
62 **Sec. 4. Division 59-C-9 is amended as follows:**

63 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

64 * * *

65 **59-C-9.3. Land uses.**

	Rural	RC	LDRC	RDT	RS	RNC
(a) Agricultural:						

Equestrian facility	P/SE	P/SE	P/SE	P/SE	P/SE	SE
(i) Cultural, Entertainment and Recreational:						

[Riding stable. ¹⁷	P/SE	P/SE	P/SE	P/SE	P/SE	SE]

66
67 [17 Minimum lot area for one or 2 horses is 2 acres. For 3 to 10 horses, the
68 minimum lot area is 5 acres. If more than 10 horses are kept, the minimum

69 lot area of 5 acres must be increased by one-half acre per horse. A
70 maximum of 2 horses may be rented out for recreational riding or
71 instruction. A maximum of 2 horses not belonging to the property owner
72 may be boarded. Any riding stable for more than 10 horses must coordinate
73 with the soil conservation district in the development of a soil and water
74 conservation plan. If more than two horse shows are conducted per year and
75 the property contains less than 25 acres, a special exception is required.]

76 **59-C-9.31. Equestrian facility standards as a permitted use in the**
77 **agricultural zones.**

78 (a) Equestrian events:

- 79 (1) Any equestrian event or activity that does not involve more than 25
80 equestrians and spectators may take place on at least 25 acres of land.
- 81 (2) An informal equestrian event may take place on Saturdays, Sundays
82 and Holidays at any time on at least 25 acres of land. An informal
83 equestrian event may take place on any two weekdays each week on
84 at least 25 acres of land.
- 85 (3) Up to 8 minor equestrian events may take place each year on at least
86 50 acres of land.
- 87 (4) Up to 4 major equestrian events may take place each year on at least
88 75 acres of land.

89 (b) Number of horses kept or Boarded:

- 90 (1) A minimum tract area of 2 acres is required for one or 2 horses.
- 91 (2) A minimum tract area of 5 acres is required for 3 to 10 horses.
- 92 (3) If more than 10 horses are kept or boarded, the minimum tract area of
93 5 acres must be increased by one-half acre for each additional horse.

94 (c) Plan Approvals and Compliance.

8

95 An equestrian facility must meet all nutrient management, water quality and
96 soil conservation standards of the County and State; and must submit a
97 nutrient management plan approved by the Cooperative Extension Service;
98 and a soil conservation and water quality plan approved by the Montgomery
99 Soil Conservation District Board of Supervisors to the Department of
100 Permitting Services within one year of commencement of operations. Each
101 such plan must be reapproved and resubmitted to the Department of
102 Permitting Services every five (5) years.

103 (d) Setbacks.

104 (1) Buildings in which horses are kept or boarded must be setback a
105 minimum of 50 feet from all property lines.

106 (2) Outdoor arenas must be setback a minimum of 75 feet from any
107 property line

108 (3) Outdoor arenas must be setback a minimum of 100 feet from the
109 nearest side wall of an adjoining detached single-family residence on
110 a record lot

111 (4) Outdoor arenas must be setback a minimum of 135 feet from the
112 nearest rear wall of an adjoining detached single-family residence on a
113 Record lot.

114 (e) Noise Levels.

115 (1) Amplified noise levels at the property line of an equestrian facility
116 that is adjacent to a detached single-family residence on a Record lot must
117 not exceed 65 dBA during the daytime or 55 dBA at a receiving area
118 immediately adjacent to the property line of the record lot during the

119 nighttime after 9pm Sunday through Thursday and after 11pm Friday and
120 Saturday.

121 (2) The noise levels do not apply to:

122 (A) Agricultural field machinery used and maintained in accordance
123 with the manufacturer's specifications;

124 (B) Sound, not electronically amplified, created between 7 a.m. and
125 11 p.m. by usual activities normally associated with an equestrian
126 facility including shows, events or other gatherings.

127 (3) The measurement of sound must be in accordance with regulations
128 issued by the Department of Permitting Services under Chapter 31B
129 of the County Code establishing the equipment and techniques used to
130 measure sound levels. The Department of Permitting Services may
131 rely on currently accepted standards of recognized organizations,
132 including the American National Standards Institute (ANSI),
133 American Society for Testing and Materials (ASTM), and the United
134 States Environmental Protection Agency.

135 (f) Lighting.

136 (1) Outdoor lighting must be appropriate for the activity for which
137 lighting is required, and must include glare and spill control devices.

138 (2) Outdoor lighting must be designed and aimed downward toward the
139 activity area and must not cause nuisance glare beyond the property
140 lines.

141 (3) Full cut off type fixtures must be used for outdoor lighting unless a
142 waiver to use a different fixture is approved by the Department of
143 Permitting Services.

144 (4) Outdoor Lighting must not obscure astronomical observation from
145 off-site locations.

146 (g) Hours of Operation.

147 Riding instruction and informal equestrian events are permitted from 6 am to
148 10 pm Sunday through Thursday and from 6 am to 11 pm Friday and
149 Saturday. Minor equestrian events and major equestrian events are
150 permitted only from 6 am to 11 pm Fridays and Saturdays and from 6 am to
151 10 pm Sundays and holidays.

152 (h) An equestrian facility requires a special exception only if:

153 (1) one or more informal equestrian events or one or more minor or major
154 equestrian events are proposed to be held on a tract of land containing
155 less than 25 acres of land.

156 (2) any type of equestrian event that is not allowed on a particular tract of
157 land by subsection (a).

158 (3) the number of equestrian events proposed for an equestrian facility
159 exceeds the maximum number of such events allowed by subsection
160 (a).

162 **Sec. 5. Division 59-G-1 is amended as follows:**

163 **DIVISION 59-G-1. SPECIAL EXCEPTIONS—AUTHORITY AND**
164 **PROCEDURE.**

165 * * *

166 **59-G-1.23. General development standards.**

167 * * *

168 (c) **Minimum frontage.** In the following special exceptions the Board
169 may waive the requirement for a minimum frontage at the street line if



170 the Board finds that the facilities for ingress and egress of vehicular
171 traffic are adequate to meet the requirements of section 59-G-1.21:

172 * * *

173 (6) [Riding stables] Equestrian facility.

174 **Sec. 6. Division 59-G-2 is amended as follows:**

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

177 * * *

178 **59-G-2.49. [Riding stable] Equestrian facility in residential zones.**

179 The following provisions apply to [a riding stable] an equestrian facility in any
180 residential zone where [allowed by] a special exception is required:

- 181 (a) The minimum [lot] tract area required for one or 2 horses is 2 acres.
- 182 (b) If 3 to 10 horses are kept, the minimum [lot] tract area is 5 acres. If
183 more than 10 horses are kept, the minimum [lot] tract area of 5 acres
184 must be increased by one-half acre per horse. A 5-acre [riding
185 stable] equestrian facility accommodating more than 10 horses for
186 which a petition was filed with the board prior to March 25, 1986, is a
187 conforming use and may be amended in accordance with the
188 modification provisions of section 59-G-1.3(c).
- 189 (c) No building, show ring, paddock area or manure storage may be
190 located less than 50 feet from the nearest property line, unless the
191 Board or Hearing Examiner grants a waiver upon a finding that the
192 reduced setback is compatible with adjacent land uses.
- 193 (d) In order to prevent adverse impact on adjoining uses, the board may
194 limit or regulate:
- 195 (1) The number of horses [not belonging to the property owner]
196 that may be kept or boarded.

- 197 (2) The number of horses that may be rented out for recreational
198 riding or instruction.
- 199 (3) The number of horse shows that may be held in a one-year
200 period.
- 201 (4) The hours of operation of any equestrian activity.
- 202 (5) Outdoor lighting that results in demonstrated adverse impact on
203 adjoining residentially developed property that is not
204 considered agricultural land for state property tax assessment
205 purposes.
- 206 (e) [Any riding stable for more than 10 horses must coordinate with the
207 soil conservation district in the development of a soil and water
208 conservation plan.] Any equestrian facility on less than five (5) acres
209 must establish through a pasture maintenance plan, feeding plan and
210 any other documents the Board may require, that the property contains
211 sufficient open pasture to ensure proper care of the horses and proper
212 maintenance of the property.
- 213 (f) [In evaluating the compatibility of [this] an equestrian facility special
214 exception with surrounding land uses in the Agricultural Zones, the
215 Board must consider that the impact of an agricultural special
216 exception on surrounding land uses in the agricultural zones does not
217 necessarily need to be controlled as stringently as the impact of a
218 special exception in the residential zones.] All animal waste must be
219 handled in accordance with state requirements for nutrient
220 management.
- 221 (g) [All animal waste must be contained and controlled on the site] Any
222 equestrian facility requiring a special exception must meet all nutrient
223 management, water quality, and soil conservation standards of the

13

224 county and state; and must submit a nutrient management plan
225 approved by the Cooperative Extension Service and a soil
226 conservation and water quality plan approved by the Montgomery
227 Soil Conservation District Board of Supervisors, both of which are to
228 be submitted to the Department of Permitting Services within one year
229 following approval of the special exception.

230
231 **Sec. 6. Division 59-G-2 is amended as follows:**

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

234 * * *

235 **59-G-2.49.1. Equestrian facility in agricultural zones.**

236 The following provisions apply to an equestrian facility in the agricultural zones
237 where a special exception is required:

238 (a) In order to prevent adverse impact on adjoining uses, the board may limit or
239 regulate the number of equestrian events that exceed the number permitted
240 for the particular property based on its acreage upon a finding that the
241 additional shows will adversely affect the surrounding road network. The
242 applicant has the burden of producing substantial evidence that the property
243 has adequate access to accommodate the additional traffic and that the road
244 from which the property has access and the nearest intersections operating at
245 an acceptable level of service utilizing the Local Area Transportation
246 Review Guidelines adopted by the Planning Board.

247 (b) In evaluating the impact of an equestrian facility special exception on the
248 surrounding road network and land uses in the agricultural zones, the Board
249 must take into account the legislative determination that the impact of this
250 agricultural special exception in the agricultural zones does not need to be

251 controlled as stringently as the impact of a similar special exception in the
252 residential zones.

253
254 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
255 date of Council adoption.

256
257 This is a correct copy of Council action.

258

259

260

261

262 Mary A. Edgar, CMC

263 Clerk of the Council

Resolution No:
Introduced: July 29, 2003
Adopted:

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

By: District Council

Subject: Notice of Public Hearing on Zoning Text Amendment 03-21

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within thirty days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 03-21, which would amend the Zoning Ordinance for the purpose of comprehensively revising the regulations pertaining to a riding stable, was introduced on July 29, 2003.

Action

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 resolution:

Legal notice will be given of the public hearing to be held on September 23, 2003 at 7:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council

Subdivision Regulation: 03-01
Concerning: Equestrian facilities
Draft No. & Date: 1 - 7/23/03
Introduced: July 29, 2003
Public Hearing: 9/23/03; 7:30 PM
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 Silverman

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- revising the definition of "agriculture" and "agricultural land"; and
- revising exceptions to the platting requirements for agricultural land and agricultural uses.

By amending the following section of the Montgomery County Code
Chapter 50, Subdivision Regulations:

Section 50-1 "Definitions"

Section 50-9 "Exceptions to platting requirements"

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. Section 50-1 is amended as follows:**

2 **Sec. 50-1. Definitions.**

3 For the purposes of this chapter, the following words and phrases shall have
4 the meanings respectively ascribed to them by this section. All terms used in this
5 chapter which are defined in Chapter 59 of this Code or the road construction code
6 shall have the same meaning as the definition therein, unless otherwise defined
7 herein.

8 *Agriculture:* The business, science or art of cultivating and managing the
9 soil, composting, growing [and] harvesting and selling crops and livestock and the
10 products of [other plants,] forestry, horticulture, hydroponics[,]; breeding [or]
11 raising, or managing livestock, poultry, fish, game and fur-bearing animals,
12 dairying, beekeeping and similar activities; and equestrian activities, including the
13 boarding breeding, and training of horses. Agriculture includes processing on the
14 farm of an agricultural product in the course of preparing the product for market
15 and may or may not cause a change in the natural form or state of the product.

16 *Agricultural land:* Land classified in the agricultural zones established by
17 Division 59-C-9 of Chapter 59 of the Code and land in other zones containing at
18 least 25 acres of ground devoted to agricultural uses as defined in this chapter.

19 **Sec. 2. Section 50-9 is amended as follows:**

20 **Sec. 50-9. Exceptions to platting requirements.**

21 Recording of a subdivision plat under this chapter is not required in the
22 following situations:

23 (a) Agriculture and uses located on agricultural land.

24 (1) A bona fide division or partition of land that is and will remain
25 in exclusively agricultural use, as agriculture is defined by this
26 chapter.

- 27 (2) Land that is a farm and will remain part of a farm, as defined in
28 this chapter, [but that is used concurrently for a related use that
29 requires issuance of a building permit. This includes a special
30 exception use approved under divisions 59-G-1 and 59-G-2,
31 Montgomery County Code, unless the board of appeals requires
32 subdivision as a condition of the special exception.]
- 33 (3) Agricultural land as defined by this chapter that is otherwise
34 exempt from the platting requirements, that is used concurrently
35 for a related use that requires issuance of a building permit.
- 36 (4) This exemption includes a special exception use approved
37 under divisions 59-G-1 and 59-G-2, Montgomery County Code,
38 unless the Board of Appeals requires subdivision as a condition
39 of the special exception.

40 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
41 date of Council adoption.

42
43 This is a correct copy of Council action.
44

45 _____
46 Mary A. Edgar, CMC
47 Clerk of the Council
48

49 Approved:
50

51 _____
52 Douglas M. Duncan, County Executive

Resolution No:
Introduced: July 29, 2003
Adopted:

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

By: District Council

Subject: Notice of Public Hearing on Subdivision Regulation Amendment 03-01

Background

1. Section 50-6A of the Montgomery County Code requires that, within thirty days of introduction of any subdivision regulation amendment, the Council act by resolution to set a date and time for public hearing on the proposed subdivision regulation amendment.
2. Subdivision Regulation Amendment 03-01, which would amend the County Code to revise the definition of "agriculture" and "agricultural land"; and revise exceptions to the platting requirements for agricultural land and agricultural uses, was introduced on July 29, 2003.

Action

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 resolution:

Legal notice will be given of the public hearing to be held on September 23, 2003, at 7:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council

(21)

(Attachment D)

AGENDA ITEM 13
July 29, 2003
Introduction

MEMORANDUM

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: Introduction: Bill 29-03, Forest Conservation – Equestrian facilities

Bill 29-03, Forest Conservation – Equestrian facilities, sponsored by Councilmember Silverman, is scheduled to be introduced on July 29, 2003. A public hearing is tentatively scheduled for September 23 at 7:30 pm.

This bill would insert an exemption in the forest conservation law for certain equestrian facilities on land in agricultural zones.

This packet contains:

Bill 29-03

Legislative Request Report

Circle #

1

3

Bill No. 29-03
 Concerning: Forest Conservation-
Equestrian Facilities
 Revised: 7-25-03 Draft No. 2
 Introduced: July 29, 2003
 Expires: January 29, 2005
 Enacted: _____
 Executive: _____
 Effective: _____
 Sunset Date: none
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Silverman

AN ACT to:

- (1) amend the requirements for forest conservation for certain equestrian facilities on land in agricultural zones; and
- (2) generally amend the forest conservation law regarding equestrian facilities.

By amending

Montgomery County Code
 Chapter 22A, Forest Conservation – Trees
 Sections 22A-3 and 22A-5

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

LEGISLATIVE REQUEST REPORT

Bill 29-03

Forest Conservation-Equestrian Facilities

DESCRIPTION: Exempts certain equestrian facilities in the agricultural zones from certain provisions of the forest conservation law.

PROBLEM: Equestrian facilities are subject to the forest conservation law, although they share characteristics of other agricultural uses.

GOALS AND OBJECTIVES: To clarify the status of equestrian facilities under the forest conservation law.

COORDINATION: Planning Board, Department of Permitting Services

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Michael Faden, Senior Legislative Attorney, 240-777-7905

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class A.

Zoning Text Amendment No.:
Concerning: Providing
Draft No. & Date:
Introduced:
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:

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of

- Changing the requirements related to facilities for stabling, riding, training and other recreational use of horses.

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

Division 59-A-2, 59-A-6,

Section 59-C-1.31, 59-C-9.3, 59-G-2.49

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 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:

Sec. 1. Division 59-A-2 is amended as follows:

DIVISION 59-A-2. Definitions and Interpretation:

* * *

Equestrian Facility: Any building(s), structure(s), or land area that is used or designed for the care, breeding, boarding, rental, riding, sport eventing, or training of horses or ponies. An equestrian facility may conduct horse shows, rodeos or other competition or display of riding ability. An equestrian facility may be private or commercial in nature.

* * * * *

Riding Stable: Any building, structure, or land area other than a horse farm, that is used or designed for the care, breeding, boarding, rental, or training of horses or ponies other than farm livestock. A riding stable may conduct horse shows for competition or display of riding ability. See Equestrian Facility.

Sec. 2. Division 59-A-6 is amended as follows:

DIVISION 59-A-6. Uses Permitted in More Than One Class of Zone

* * *

Sec. 59-A-6.X. Equestrian Facility in Agricultural Zones

All Equestrian Facilities must meet the operating standards of "A" below. An Equestrian Facility in designated Agricultural Zones (59-C-9.3) may be permitted by right or by special exception, as determined in the criteria in "B" below.

A. Operating Criteria:

1. For any equestrian facility, the minimum acreage of pasture per horse must be:

For 1-2 horses, 2 acres;

For 3-10 horses, 5 acres;

For more than 10 horses, an additional one-half acre per horse

2. All Equestrian Facilities for more than 10 horses must meet all nutrient management, water quality, and soil conservation standards of the County and State; and must submit a nutrient management plan approved by the Cooperative Extension Service; and a soil conservation and water quality plan approved by the Montgomery Soil Conservation District Board of Supervisors. Both are to be submitted to the Department of Permitting Services within one year of approval of the special exception.

B. Special Exception Threshold Criteria for Agricultural Zones:

Any one of the listed criteria is sufficient to require special exception review. Those requiring special exception are reviewed under the specific special exception standards of 59-G.2.49.

	<u>Commercial Facility</u>		<u>Private Facility</u>
<u>Horses Boarded</u>	<u>P</u>	<u>30</u>	<u>NA</u>
	<u>SE</u>	<u>over 30</u>	<u>NA</u>
<u>Horses Rented for Riding Or Used for Instruction For compensation</u>	<u>P</u>	<u>30</u>	<u>NA</u>
	<u>SE</u>	<u>over 30</u>	<u>NA</u>
<u>Total Horses on the property</u>	<u>P</u>	<u>Up to 50</u>	<u>NA</u>
	<u>SE</u>	<u>Over 50</u>	<u>NA</u>
Use footnote instead – easy enough instead of differentiation			
<u>Number Shows per Year</u>	<u>P</u>	<u>1-2</u>	<u>1-2</u>
	<u>SE</u>	<u>More than 2</u>	<u>More than 2</u>
<u>Number Horses Per Acre</u>	<u>P</u>	<u>1 per acre of pasture</u>	<u>1 per acre of pasture</u>
	<u>SE</u>	<u>Over 1 per pasture acre</u>	<u>Over 1 per pasture acre</u>
<u>Lighted Outdoor Arena/Ring</u>	<u>P</u>	<u>1</u>	<u>1</u>
	<u>SE</u>	<u>More than 1</u>	<u>More than 1</u>
<u>Sport Field</u>	<u>P</u>	<u>no lights</u>	<u>no lights</u>
	<u>SE</u>	<u>lights</u>	<u>lights</u>

Sec. 3. Division 59-C is amended as follows:

DIVISION 59-C-1. Residential Zones, One-Family.

Section 59-C-1.31. Land uses.

(e) Cultural, entertainment and recreational.

~~Riding Stables~~ Equestrian Facility (42)

42 See Operating Criteria standards for Equestrian Facilities in 59-A-6.X(A). Any equestrian facility riding stable established.....

Sec. 4. Division 59-C-9 is amended as follows:

DIVISION 59-C-9. Agricultural Zones

Section 59-C-9.3. Land Uses

ZONES	Rural / RC / LDRC / RDT / RS	RNC
(a) Agricultural:		
<u>Equestrian Facility, Private (17)</u>	<u>P/SE</u>	<u>SE</u>
(c) Agricultural-Commercial:		
<u>Equestrian Facility, Commercial (17)</u>	<u>P/SE</u>	<u>SE</u>
(i) Cultural, Entertainment, Recreational:		
Riding stable	P/SE	SE

*17 See 59-A-6.4 for Equestrian Facility standards. Minimum lot area for one or 2 horses is 2 acres. For 3-10 horses, the minimum lot area is 5 acres. If more than 10 horses are kept, the minimum lot area of 45 acres must be increased by one-half acre per horse. A maximum of 2 horses may be rented out for recreational riding or instruction. A maximum of 2 horses not belonging to the property owner may be boarded. Any riding stable for more than 10 horses must coordinate with the soil conservation district in the development of a soil and water conservation plan. If more than two horse shows are conducted per year and the property contains less than 25 acres, a special exception is required.

Sec. 5. Division 59-G is amended as follows:

DIVISION 59-G-2. Special Exceptions - Standards and Requirements

* * *

Sec. 59-G-2.49. Equestrian Facility or Riding Stable.

1. The following provisions apply to an equestrian facility ~~a riding stable~~ in any zone where allowed by special exception:

- (a) ~~The minimum lot area for one or 2 horses is 2 acres.~~
- (b) ~~If 3-10 horses are kept, the minimum lot area is 5 acres. If more than 10 horses are kept, the minimum lot area of 5 acres must be increased by one-half acre per horse.~~
A 5-acre riding stable accommodating more than 10 horses for which a petition was filed with the board prior to March 25, 1986, is a conforming use and may be amended in accordance with the modification provisions of section 59-G-1.3(c).
- (b e) No building, show ring, paddock area or manure storage may be located less than 50 feet from the nearest property line, unless the Board or Hearing Examiner grants a waiver upon a

finding the reduced setback is compatible with adjacent land uses.

- (c d) In order to prevent adverse impact on adjoining uses, the Board may limit:
- (1) The number of horses not belonging to the property owner that may be boarded.
 - (2) The number of horses that may be rented for recreational riding or instruction.
 - (3) The number of horse shows that may be held in a one-year period.
 - (4) The hours of operation for a commercial equestrian facility
 - (5) The number of lighted outdoor riding rings, arenas, sport fields or other facilities.
- (d) Any Equestrian Facility proposing less than one acre of pasture per horse kept on the property must submit a complete plan of pasture maintenance, animal feeding methods, and other information to allow a full evaluation that ensures proper care of the horses and proper maintenance of the pastures.
- (e) ~~Any riding stable for more than 10 horses must coordinate with the soil conservation district in the development of a soil and water conservation plan.~~
- (e f) In evaluating the compatibility of this special exception with surrounding land uses, the Board must consider that the impact of an agricultural special exception on surrounding land uses in the agricultural zones does not necessarily need to be controlled as stringently as the impact of a special exception in the residential zones.
- (f g) ~~All animal waster must be contained and controlled on the site.~~ Any Equestrian Facility requesting special exception approval must meet all nutrient management, water quality, and soil conservation standards of the County and State; and must submit a nutrient management plan approved by the Cooperative Extension Service; and a soil conservation and water quality plan approved by the Montgomery Soil Conservation District Board of Supervisors. Both are to be submitted to the Department of Permitting Services within one year of approval of the special exception.

Sec. last?. **Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Secretary of the Council

LUKAS, NACE, GUTIERREZ & SACHS

CHARTERED
1111 NINETEENTH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20036
(202) 857-3500

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
JOEL R. KASWELL
PAMELA L. GIST
DAVID A. LAFURIA
MARILYN SUCHECKI MENSE
B. LYNN F. RATNAVALE
TODD SLAMOWITZ
DAVID M. BRIGLIA
STEVEN M. CHERNOFF

* NOT ADMITTED IN D.C.

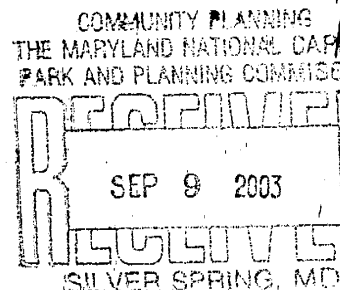
September 8, 2003

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEROY A. ADAM
LEILA REZANAVAZ
—
OF COUNSEL
JOHN J. MCAVOY
J.K. HAGE III+
LEONARD S. KOLSKY+
HON. GERALD S. MCGOWAN
—
TELECOPIER
(202) 857-5747
—
<http://www.fcclaw.com>
—
WRITER'S DIRECT DIAL

(202) 828-9470
tgutierrez@fcclaw.com

Chairman Derick Berlage
Montgomery County Planning Board
Montgomery County Department of Park and Planning
Mayland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Proposed Zoning Text Amendment ZTA 03-21 SRA 03-01
(Proposed Revisions to Riding Stable Regulations)



Dear Chairman Berlage:

I write to urge you, in the strongest possible terms, to vote against recommending adoption of the referenced proposed legislation. For the reasons set forth below, I submit that adoption of this subject proposal would constitute bad government and do irreversible damage to the Agricultural Reserve – all without offering any socially redeeming benefit to the County or its citizens.

By way of introduction, my family resides at 15410 Partnership Road in Poolesville, MD. Our home is immediately across from the birthplace of this legislation – the proposed Green Acres commercial horse complex. As such, we have a very keen interest in, and knowledge about, the proposed legislation.

The list of horrors that would stem from passage of this proposed legislation is far too great to cover in any single communication. So here I will limit my discussion to the top ten problems associated with it. They are as follows. Where appropriate, proposed corrections to the proposal are presented.

PRIMARY FAILINGS OF THE PROPOSED LEGISLATION

1. The Proposed Legislation Constitutes a Private Law. This proposed legislation was initially drafted and is principally supported by the applicant for the Green Acres special exception. As you may know, that proposal was dismissed outright by the Board of Appeals. So now, having not been able to comply with the rules currently in effect, the proponent's strategy has switched

to one of simply changing the rules to permit what otherwise would not be permissible. Towards that end, the proposed legislation has been crafted primarily to meet the needs of Green Acres and constitutes "special legislation". As such, it carries with it all of the constitutional and associated baggage. It also appears to prove the adage that "bad facts make bad laws". Here the need for the proposed legislation to cover the bad facts associated with Green Acres causes this legislation to be "bad law". More importantly, were it to pass, it would erode further, citizen's faith in government at a time when that simply cannot be afforded.

2. The Proposal Threatens the Agricultural Reserve. Were this legislation to be granted, it would defile the Agricultural Reserve in that it would permit construction that would be completely out of character with the reserve (and could lead to its destruction.) This is unquestionably the case, and is demonstrated by the detailed report conducted last year by staff at the Park and Planning Commission when reviewing the Green Acres proposal. There, the staff properly explained that this is among the largest and most complex proposals presented to the Commission for approval. Among other things, more than two acres of open space would be placed under roof. Were the legislation to pass, there would be no need for any approval prior to construction of the Green Acres complex.

As you are probably aware, the Agricultural Reserve is fragile in its current state. Whereas the reserve could be destroyed in number of ways, it is most likely that if it is destroyed it will meet a "death by a thousand cuts". Adoption of this proposal would be a vicious and wholly unnecessary cut to the reserve.

3. The Proposed Legislation is Non-Responsive to Existing Needs. The subject legislation does not address the existing problems that are in need of correction. The staff at the Park and Planning Commission has stated publicly, and repeatedly, that a principal need is relief to small family farmers who should not be subject to the same regulation as are large commercial entities. There is nothing in this legislation that helps the small farmer. Indeed, the proposed increased set-backs serve just the opposite purpose. They can increase the need for approvals for existing farmers where none now exist. In addition, it ignores entirely the concept of "grandfathering", whereby a number of long-existing horse facilities that may be technically out of compliance with certain rules should be afforded an opportunity easily and quickly come into compliance. Thus, not only does this proposal not help those in need, it hurts them while facilitating the destruction of the Agricultural Reserve.

Proposed Correction: Revise the thresholds below which a special exception is not needed to the range of 8-10 horses, which is the threshold now existing for certain other stable authorizations. Also, grandfather existing buildings and paddocks that are near property lines and revise the set-back rules so that (a) they apply to all frontage borders and (b) for non-frontage borders, the set-back rules should apply only in the absence of an agreement with the neighboring property owners.

4. The Proposed Legislation Permits Too Many Horses Without The Need for any Special Exception. The proposed legislation cleverly, but deceptively, sets up one standard for the

number of horses that can be maintained then bursts a hold in the standard by explaining that privately owned horses owned by the proprietor and not available to others on a for hire basis are not to be included in that number. The simple fact of the matter is that the base number of horses included in the proposal is far too high and, in any event, it certainly leaves room for a number personal horses to be included in it without impacting negatively on owner interest. More importantly, it permits the untenable situation where one argues that 20 or 30 of the horses on the premises, all doing the damages to the environment that horses by definition do, are private.

Proposed Correction: Reduce the special exception threshold relating to the number of horses present to 8-10. Do not provide any exception for not-for-hire horses. The horse thresholds are high enough to make it unnecessary.

5. The Proposed Legislation Ignores Fundamental Protections to Neighbors. The simple fact of the matter is that any reasoned assessment of compatibility of horse operations must take in consideration at least three fundamental matters (in addition to traffic discussed below): noise pollution; light pollution and odor. Each of these is currently included in the special exception process. The assessment criteria need to be clarified, not removed, by virtue of making the special exception process irrelevant.

Proposed Correction: Undertake reasoned inquiry, then specify that each of these matters needs to be considered, and how.

6. The Proposed Legislation Provides no Necessary Guidance Regarding Traffic Assessment. One of the key considerations in a special exception proceeding currently is assessment of the impact of change traffic on the community. By taking large commercial riding establishments out of the special exception process generally, this proposal would also take away any assessment of traffic.

Proposed Correction: Traffic analysis is both necessary and appropriate. Such analysis should focus on the "before and after" impact of the establishment at issue. That is to say, a straightforward report on the difference of traffic is what should be considered. In addition, as that straightforward assessment is undertaken, it is critical that a common sense appreciation be provided regarding the different impact that small passenger cars have in comparison to diesel powered trucks hauling expensive trailers.

7. The Proposed Legislation Wrongfully Limits Public Scrutiny of Complex Proposals. The proposal provides that the individual land owner and the County's nutrient management group would get together, out of public scrutiny, and decide upon a mutually expectable nutrient management plan. The problem with this, of course, is that the land owner has every incentive to provide biased information to the county officials, and the county officials simply do not have the resources to devote to the project to double-check all facts. That is why under the current arrangements the public has the right to participate in the overall process to assess the accuracy of the information presented to the staff and comment appropriately.

Proposed Correction: Specify that each element of the process, including but not limited to nutrient management plans, must be open to review by the public.

8. The Proposed Legislation Could be Interpreted as Permitting Franchising. This proposal could be interpreted as permitting franchising of riding stables as if they were convenience stores or hamburger restaurants, as there is no express prohibition against them. Obviously, the nature of riding stables is such that franchising arrangements hardly make sense for them, especially where the proprietor does not reside on site.

Proposed Correction: Provide that no person may hold a controlling interest, directly or indirectly, as measured by equity or management control, in more than one riding stable requiring any form of authorization from the County.

9. The Proposed Legislation Could be Viewed as Permitting Bunkhouse Operations. One of the contested issues in the Green Acres proceeding was whether a proposed bunkhouse located at the facilities was consistent with county regulations. As a father of small children in the county, I am most cognizant of the concerns that such operations would raise. Here, the legislation (by avoiding any mention of it) could be viewed as tacitly permitting it.

Proposed Correction: Specify that riding stables may not include boarding house type facilities.

10. The Proposed Legislation Does Not Address Enforcement. An unquestionably outstanding issue before the County involving special exceptions is enforcement. The proposed legislation does not address it, apparently because the proponents would prefer that enforcement not exist. The simple fact of the matter is that all involved parties have a right to know the sanctions that would be associated with violation of certain provisions, and how provisions will be enforced. More importantly, there needs to be an assessment at the approval stage as to qualifications of the party seeking special exception. In this instance, there is no greater predictor of future actions than past behavior. It is in this context that inquiry needs to be made as to compliance by the proponents with respect to administrative regulations and all other federal, state and local matters.

Proposed Correction: Enact the protections discussed immediately above.

CONCLUDING THOUGHTS

From its inception, the Green Acres efforts have been strident and controversial. Now in the legislative arena, the nature of their efforts has not changed. This is illustrated in two ways. First, there is the effort to have horses be included within the definition of "Agriculture". To be clear, the reasoning behind that effort is to provide horses with the same benefit that farmers now have in the county with respect to harvesting crops. From this vantage point it is easy to see a vast and significant difference between (a) permitting farmers to harvest their crops at all hours of the day and

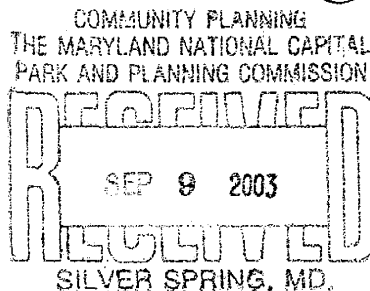
night when the whether permits and (b) permitting horse folks to ride at all hours of the day and night or to have lights on throughout the night. Thus, there is no need for this change.

Second, the proponents of this legislation have inappropriately tried to convince the public that the County's Riding Stable Focus Group has endorsed this legislation. As a member of the focus group, I know this not to be true. Prior to proceeding with this legislation, the County Council should make inquiry into the matter of this misrepresentation, as a pseudo-official County organization has been improperly labeled as supporting it.

In order to keep all of my comments in perspective, you should understand that the undersigned is an avid equestrian. Thus, whereas your office and the County Council will undoubtedly hear cry that opponents of the proposed legislation are "anti-horse", nothing could be further from the truth. Rather, this opponent of the legislation simply wants the County to stand by its commitment to the Agricultural Reserve, to keep open space so that equestrians can enjoy that space and to limit the development that has been so ruinous to our neighbors on the south side of the river.

Very Truly Yours,


Thomas Gutierrez



22

Horses polluting bay, officials say

FRED. POST
By NANCY HERNANDEZ

News-Post Staff 8/27/03
nhernandez@fredericknewspost.com

FREDERICK — Horses are not the first thing that come to mind when people talk about pollution in the Monocacy River and the Chesapeake Bay. But horses pose a challenge for water quality restoration efforts, state and county officials said Wednesday during a meeting of the Upper Potomac Tributary Team.

The team meets once a month around the region to discuss ways to reduce nutrient and sediment pollution in streams in the Upper Potomac Watershed, which includes all of Frederick, Washington and Allegany counties and parts of Carroll and Garrett counties. Nutrient and sediment build-up have economic, recreational and health impacts on Maryland residents because they hurt water supply and quality and can cause a loss of crabs, fish and other aquatic life.

Maryland, five other states and the District of Columbia agreed in March to reduce the nutrient flow into the Chesapeake Bay and its rivers from a current 285 million pounds a year to no more than 175 million pounds. The Maryland Department of Natural Resources (DNR) and other groups have begun an effort to identify regional strategies to meet the new goals.

Frederick County is being scrutinized because of its booming development and the fact that the Monocacy River dumps a large amount of sediment into the Potomac and ultimately the bay, said Shannon Moore, project manager with the Frederick County Division of Public Works.

In Frederick County, development and agriculture are two of the largest contributors to sediment and nutrient problems but practices are being implemented to address

“The problem is that a lot of people are hobby farmers on small lots The horses have too much impact on that little bit of land.”

Claudia Donegan
Department of Natural Resources

them. Horses were identified by local officials as a pollution source that still needs attention.

According to statistics from the Maryland Department of Agriculture, there are 8,290 horses in 2,180 locations in Frederick County, making the county one of the state's five largest in terms of horse population.

“The problem is that a lot of people are hobby farmers on small lots of two or three acres. The horses have too much impact on that little bit of land. It becomes degraded so the soil and nutrient runs off from manure into the nearby streams and water bodies,” said Claudia Donegan, a DNR official.

She said horses affect land on big farms, also, but larger farms have access to cost-share money to put in good management practices, such as manure storage areas, so there isn't a big build-up of nutrients that can pollute the streams.

“We need to find programs for the hobby or backyard farmer,” said Dawn Early, district manager for soil conservation.

Jefferson farmer Dan Poole suggested a

change in county zoning laws may be necessary to limit the amount of animals on small farms. Currently, the county doesn't have a restriction on the number of animals that can be kept on land zoned agricultural.

The county planning department is trying to address the issue as it updates the zoning laws but any changes won't affect existing properties since they will be protected by grandfathering clauses, said Tim Goodfellow, Frederick County planner.

Other areas that merit attention are golf courses and the lawn care habits of individual homeowners, officials said.

Some people concerned about the bay have proposed a statewide tax on fertilizer to help create awareness about water quality problems, said Jamie Baxter, director of tributaries strategies for DNR.

DNR staff will create a draft plan that incorporates suggestions of local teams across the state and will present a draft for public comment in October. The targeted date for approval by the governor is December.

Columnist's sour grapes distorts ICC process

SOUR GRAPES 6/21/03

Well, columnist Pam Lindstrom still hasn't come to grips with reality, based on her distortion of the Inter-County Connector Environmental Impact Statement process ("The EIS for the ICC is Methodical Madness," June 25). She disagrees with a fair and open process because it is nothing like the way she wanted the Transportation Policy Report II to run.

I wonder why *The Journal* continues to publish her columns on the Opinion page, because they really belong in the comics section — or in a course on fiction writing.

Lindstrom previously has shared her fantasies that additional road capacity would not be necessary if only we built our towns like European cities, and that obesity is the result of sprawl.

Sorry, Pam. Europe is growing more congested every day, and historical tourist districts aren't the only place Europeans live. They love their cars, too. And obesity more likely can be attributed to inactive, sedentary couch potatoes eating far too much sugar and fat.

The ICC EIS process is just beginning, and there is no hidden scheme in the draft Statement of Purpose. That is her imagination and illogic running wild again. It has been the ICC's opponents who have grabbed the process in the past and run it to extreme lengths to delay and obstruct the conclusion.

The idea that the ICC has been studied to death is a myth. In fact, the ICC studies in the past never were completed because opponents and deceitful politicians managed to kill them.

What ICC opponents fear most is the lack of control of a process which, if properly concluded, will not agree with their foregone conclusions.

Lindstrom and a small number of people were to have conducted the TPR study in the spring of 2000 so they could push their failed policies, which have resulted in our region having the third-worst congestion in the

country. But a number of people complained that the process wasn't open to enough community representatives, and Lindstrom's crowd lost control of it. To this day, they continue to misrepresent the TPR II conclusions and insist that land use only will solve our congestion mess.

But a majority of the TPR — just short of the super-majority required for consensus — supported the ICC. And guess who the open-minded individuals were who refused to look at the facts because they didn't support their fantasies of how we should live and get around?

TOM REINHEIMER
Germantown

Instead of HOT lanes, get rid of HOV

The Journal is absolutely wrong that HOT lanes will do anything for congestion ("HOT Enough Now," June 13). Why have drivers pay again for lanes they already have paid for?

If HOV is working, then there should be no excess capacity for other traffic.

Already over half the traffic on HOV lanes in restricted hours are violators. Allowing other non-HOV traffic surely will complicate the already hopeless task of policing current HOV traffic.

HOT lane supporters, including *The Journal*, are careful to mention that the HOT profits will go toward other transportation improvements. Of course, since the funds are generated from road users, they should go to road improvements, where they are really needed.

But no one is sure that there will be any profits at all, given the set-up and operating costs, and the uncertain and probably fluctuating amount of traffic that will use these lanes under the current scenario, where tolls can change often.

HOV was successful only in the 1970s where multi-tasking was not a way of life. The fools in transportation leadership have continued to push this dinosaur when they know there is no hope for it to be successful. The sheer number of violators show that.

Any time a large number of citizens openly break a law (like speed limits), you can assume the law is a bad one.

The best way to make a minor — but immediate — improvement in congestion is to get rid of HOV lanes and spread the flow over all the available lanes. It will work.

Meanwhile, the same folks who continue to push HOV — and do everything they can to not do the obvious, and build more efficient roads to address congestion — will continue to use smoke-and-mirror illusions like HOT lanes, which are just another way to take money out of your pocket and put it into theirs.

MICHAEL MCGUIRE
National Motorists Assn.
Falls Church, VA

23