

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB
Item 9
07/09/04

MEMORANDUM

TO: Montgomery County Planning Board
VIA: John A. Carter, Chief *JAC*
Community-Based Planning Division
Richard C. Hawthorne, Acting Chief *ChH. for RH.*
Development Review Division

FROM: Frederick Vernon Boyd, Community Planner *FVB*
Georgia Avenue Planning Team
Greg Russ, Planner-Coordinator *GR*
Development Review Division

REVIEW TYPE: Transmittal to County Council for introduction as a Zoning Text Amendment

PURPOSE: To amend the Zoning Ordinance language to make various modifications to the Rural Neighborhood Cluster Zone

TEXT AMENDMENT: Not applicable until introduced

REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance

INTRODUCED BY: N/A

INTRODUCED DATE: N/A

PLANNING BOARD REVIEW: July 15, 2004

PUBLIC HEARING: N/A

STAFF RECOMMENDATION Approval to transmit Proposed Zoning Text Amendment to District Council for introduction

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance language to make various modifications to the Rural Neighborhood Cluster Zone.

BACKGROUND

During the District Council review of the Upper Rock Creek Area Master Plan, the Planning, Housing and Economic Development Committee and the full Council extensively discussed the Rural Neighborhood Cluster Zone. These discussions centered on issues raised by local residents in Sandy Spring, the first area in the County to use the RNC Zone; Upper Rock Creek, where the Planning Board Draft master plan had recommended the zone for four undeveloped properties; and Olney, where the Public Hearing Draft had recommended the zone for properties in the southeast quadrant of the planning area. Sandy Spring residents were concerned about the impact of recently completed RNC developments, while Upper Rock Creek and Olney residents were concerned about how the zone would be applied in those communities.

The Council discussion focused on three areas of concern: lot size, diversity of lot sizes and open space preservation. The Council included a request to revise the RNC Zone, and an outline of issues to be addressed, in its resolution approving the Upper Rock Creek Area Master Plan (see Attachment 2 for excerpt from Resolution No. 15-519). Councilmember Marilyn J. Praisner sent a separate memorandum to the Planning Board outlining her concerns and suggesting several possible revisions (see Attachment 3).

ANALYSIS

The principal goals of the Rural Neighborhood Cluster Zone are several: preservation of open space, rural community character and natural areas. The zone also is designed to implement recommendations of the relevant master plan and can only be used on land that has been recommended for the zone in master plans.

To achieve these goals, the RNC Zone has as an important objective the provision of additional flexibility in development standards. The zone relies on master plans to devise appropriate guidelines for density and character of development. This reliance is deliberate. During its discussions on the zone in 1998, the County Council opted for increased flexibility in the zone, recommending that master plans include additional standards as needed to implement a particular master plan or that the Planning Board impose additional requirements at the time of development.

The revisions proposed to the RNC Zone are designed to retain its original framework as a zone that provides broad goals and objectives—preservation of open space, community character and sensitive areas—while allowing applicable master plans to guide densities and provide design and development guidelines that can be used by the Planning Board during the development review process. In preparing the proposed revisions, staff discussed the zone with local residents in Sandy Spring, Upper Rock Creek and Olney, with developers who had used

the zone in Sandy Spring, and with residents of new RNC communities. The staff considered a number of alternative ways to address issues of lot size and lot diversity. Ideas suggested by local residents and elected officials included:

- Specifying a “bell curve” of lot sizes; such an arrangement could, for example, require that specific percentages of lots be less than 10,000 square feet in size; between 10,000 square feet and 20,000 square feet in size; between 20,000 square feet and 40,000 square feet in size; and more than an acre in size;
- Specifying a maximum lot width to accompany the existing standard for minimum lot width;
- Creating a residential floor area ratio for the zone; and
- Reducing maximum lot coverage.

Staff also met with representatives of the development community. Ideas broached by local developers included:

- Using one dwelling unit per acre (the current maximum density of development in the RNC Zone) as the base density and allowing increases as an incentive to provide lot diversity or additional open space;
- Broadening the definition of open space to allow for additional flexibility in permitted uses, such as institutional uses; and
- Incorporating necessary development standards and bonus density provisions in the event Moderately Priced Dwelling Units are required in the RNC Zone.

Some of these alternatives--particularly those requiring that specific ranges of lot sizes be included in RNC developments--are similar to standards put forth in the rural neighborhood overlay zone proposed for Sandy Spring in 1998 and dropped by the County Council in favor of a Euclidean approach. These alternatives will result in smaller lots in RNC communities. But significant numbers of small lots in Upper Rock Creek, for example, would be contrary to the prevailing land use pattern that consists mainly of houses on large lots, and would be contrary to the master plan objective of preserving low-density residential character.

Similarly, imposition of a floor-area ratio on residences would result in smaller houses on residential lots, a stated goal of some local residents. Both approaches seem contrary to the overall objective of relying on the master plan to put forth design guidelines that are appropriate for a given property's physical characteristics or the stated objectives of the master plan in a specific issue area, such as preservation of natural resources. A residential FAR would also be the

first of its kind among the residential zones. Consideration of such a step should occur for all the residential zones, not a single specific zone.

Allowing density bonuses as an incentive to provide diversity of lot sizes presents the same issue. It would produce a broader range of lot sizes, but it would do so by creating standards in the zone itself, reducing the ability of master plans to guide development standards that further master plan objectives or reflect a specific property's physical conditions. To the extent that the density bonuses exceeded one unit to the acre, as has been suggested, the concept conflicts with the idea of low density or rural character that the zone was designed to preserve.

Broadening the definition of open space to accommodate a broader range of uses for the zone risks conflict with the principles on which the zone was founded. Rural open space acquired as public parkland is typically incorporated as Conservation-Oriented Parkland, which focuses on stewardship of sensitive areas. Expanding the definition of open space to include active recreation areas seems to conflict directly with the stewardship concept.

The development community's third desire is the establishment of separate development standards for MPDUs and the provision of bonus densities when a project is able to achieve greater than 12.5 percent MPDUs. Provision of such standards is likely to be part of the implementation package devised for any extension of MPDUs to the large lot zones and, as a result, is best addressed as the County Council undertakes its separate review of the merits of that issue.

Staff proposes revisions to selected subsections of the Zoning Ordinance to achieve three objectives: enhancing the zone's value for preserving sensitive areas; improving its commitment to preserving open space; and strengthening its ability to achieve diversity of lot sizes while continuing to rely on master plans for design guidelines. This proposed zoning text amendment:

- Revises the "intent" language for the zone to include preservation of environmentally sensitive natural resources;
- Provides a clear definition of rural open space that focuses on the uses to which the open space will be put and clearly requires its permanent preservation; and
- Requires the Planning Board to evaluate the range of lot sizes provided in a proposed Rural Neighborhood Cluster community as part of the development approval process.

RECOMMENDATION

Staff recommends that the proposed Zoning Text Amendment to make revisions to the Rural Neighborhood Cluster Zone as included in Attachment 1 be transmitted to the County Council for introduction.

ATTACHMENTS

1. Proposed Zoning Text Amendment for Various RNC Zone Modifications
2. Excerpt from Resolution No. 15-519 approving the Planning Board Draft Upper Rock Creek Master Plan
3. Memorandum from Councilmember Marilyn Praisner to Chairman Berlage
4. Electronic message from James Snee, representing the Montgomery Civic Federation, seeking a community meeting on revisions to the Rural Neighborhood Cluster Zone

Zoning Text Amendment No: 04-
Concerning: Various Modifications
to the RNC Zone
Draft No. & Date: 3 – 07/07/04
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: District Council at the request of the Planning Board

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

- clarifying the intent and purpose of the RNC Zone including the rural open space requirements.

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

DIVISION 59-C-9	“AGRICULTURAL ZONES”
Section 59-C-9.2.	“Purposes or intent of the zones”
Section 59-C-9.3	“Land uses”
Section 59-C-9.57	“Special regulations for development in the Rural Neighborhood Cluster zone.”

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:

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Sec. 1. DIVISION 59-C-9 is amended as follows:

DIVISION 59-C-9. AGRICULTURAL ZONES.

* * *

Sec. 59-C-9.2. Purposes or intent of the zones.

* * *

59-C-9.23.1. Intent of the Rural Neighborhood Cluster zone.

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

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

* * *

59-C-9.3. Land uses.

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

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

1

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
(a) Agricultural:						
* * *						
Equestrian facility	P/SE	P/SE	P/SE	P/SE	P/SE	SE ²
* * *						

2

3 * * *

4 **59-C-9.5. Cluster development--Option in Rural Cluster zone and Low Density**
 5 **Rural Cluster zone.**

6 * * *

7 **59-C-9.57. Special regulations for development in the Rural Neighborhood Cluster**
 8 **zone.**

9 **59-C-9.571. Purpose.**

10 The cluster method of development [required in this zone] is intended to preserve
 11 large areas of contiguous open space, consistent with the recommendations and
 12 guidelines of the applicable master or sector plan. The preserved open space is to
 13 be classified as Rural Open Space and may be defined as unmanaged land or
 14 managed land as described in Section 59-C-9.573(g)(3). Cluster development is
 15 required under [either] both the standard [method of development or the] and
 16 optional methods of development. Cluster development requires the setting aside
 17 of Rural Open Space. Rural Open Space must be permanently preserved and
 18 limitations on its use established in the land records.

19 * * *

20

1 **59-C-9.572. Standard method of development.**

2 * * *

3 (c) The following guidelines are in addition to those provided in section 50-39
4 of the subdivision regulations and apply to all cluster development in this
5 zone:

6 * * *

7 (3) Rural open space: A minimum of 60 percent of the property must be
8 reserved for contiguous rural open space, [which must be a contiguous
9 area and be] consistent with the recommendations and guidelines set
10 forth in the applicable master or sector plan. All land in the rural open
11 space area must be preserved either by dedication to public use or by
12 application of an easement or covenant in a recordable form approved
13 by the Planning Board. The rural open space may be recorded as
14 either:

15 * * *

16
17 **59-C-9.573. Optional method of development.**

18
19 The density of development, under the optional method must not exceed one
20 dwelling unit per gross acre. The density must conform to the recommendations
21 and guidelines of the applicable master or sector plan. In such cases, the following
22 development standards apply:

23 * * *

24 (b) Diversity of Lot Sizes: Under the optional method, a diversity of lot sizes is
25 required for developments of 70 acres or more. Diversity of lot sizes is also
26 encouraged in developments of less than 70 acres in order to provide for a
27 range of housing opportunities. Where diversity of lots is provided, the

1 Planning Board must evaluate the range of lot sizes provided and consider
2 the compatibility of the proposed development with existing development
3 on adjoining properties.

4 * * *

5 (g) Rural open space design guidelines.

6 * * *

7 (2) Rural open space [must] should comprise a sizeable contiguous area
8 and must be within a range of 65 percent to 85 percent of the tract
9 area and be consistent with the recommendations and guidelines of the
10 applicable master plan. When a property includes rights-of-way for
11 roads classified as major highways or freeways, Rural Open Space is
12 calculated on the net tract area by deducting those rights-of-way from
13 the gross area of the property.

14 * * *

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

17
18 This is a correct copy of Council action.

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22 _____
23 Mary A. Edgar, CMC

24 Clerk of the Council

General

The Planning Board should immediately undertake a review of the Rural Neighborhood Cluster (RNC) zone to address issues raised during the Council's review of the Master Plan with the goal of incorporating changes into an RNC zoning text amendment that can be acted on prior to Council action on the sectional map amendment. Park and Planning Department should seek the input of community representatives and property owners during its evaluation of different options for improving the RNC zone. Issues that should be considered include the following:

- Clarify that density is calculated on the gross tract area (including developable land and land dedicated to the County, but excluding land purchased by a government entity).
- Clarify that open space is calculated on the net tract area (which excludes land either dedicated or sold to the County or any other government entity other than the open space required as part of the RNC zone).
- Review whether the RNC zone has accomplished the objectives of the relevant master plan in the communities in which development has occurred; identification of problems with existing RNC communities that can be addressed by a change in the zone.
- Examine how to better achieve the diversity of lot size which is currently required by the zone but has not occurred in RNC projects to the extent some believe it should have.
- Review other options for encouraging diversity in RNC neighborhoods and consider whether there are zoning tools that can address the size and style of house.
- Identify other development standards that should be reviewed such as lot coverage and setbacks.
- Determine whether the zone should be amended (or a new zone created) to address situations in the cluster provisions of the zone used to protect environmental resources.
- Review permitted and special exception uses in the open space.
- Determine whether any other changes are necessary related to open space requirements, (in particular whether the open space must be one contiguous area) or common space requirements.
- Consider changes which could further encourage cluster developments to be compatible with the character of existing communities.

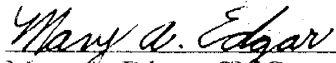
The Park and Planning Department should also prepare an overlay zone to create an 8 percent impervious surface cap for the area designated in the Plan. The RNC and environmental overlay zoning text amendments should be submitted to the Council either before or at the same time the Sectional Map Amendment to enable the Council to take action on these changes before any rezoning occurs.

Planning staff should continue to work with Council staff to identify options to ensure that the open space required under the RNC zone is preserved in perpetuity. Options to be considered include designation as parkland and/or use of covenants or easements to be held by adjacent property owners, a local community group or regional entity that helps preserve land as open space (e.g. Greater Sandy Spring Greenspace, Inc., the Potomac Conservancy, etc.). Recommendations regarding the most appropriate form(s) of protection should be considered as

soon as possible so that a specific option for preserving open space can be included in Planning Board approvals of RNC development applications.

All figures and tables included in the Plan are to be revised where appropriate to reflect District Council changes to the Planning Board Draft Upper Rock Creek Master Plan and to reflect actions taken on related zoning text amendments prior to the final printing of the approved Master Plan. Maps should be revised where necessary to conform to Council actions. The text is to be revised as necessary to achieve clarity and consistency, to update factual information, and to convey the actions of the District Council. All identifying references pertain to the Planning Board Draft Upper Rock Creek Master Plan.

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

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OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

MARILYN J. PRAISNER
DISTRICT 4

MEMORANDUM
March 4, 2004

TO: Derick Berlage, Chair
Montgomery County Planning Board

Marlene Michaelson
County Council Senior Legislative Analyst

FROM: Marilyn J. Praisner *MJP*
Councilmember

SUBJECT: Review of the Rural Neighborhood Cluster (RNC) Zone

A review of the RNC zone is of critical importance not only to the Upper Rock Creek Master Plan but also to the County's master plan process in general. As we worked through the Upper Rock Creek plan, both the community and I raised a number of questions about the ability of the zone to accomplish the objectives it was expected to, particularly since it was developed for the specific purpose of preserving rural viewsheds in the Sandy Spring area. I would like to suggest that you consider the following points in your review:

- *Consider broadening the language of intent.* The current language says that the intent is to "preserve open land, sensitive natural areas and rural community character." Since the zone is being recommended in the Upper Rock Creek plan for environmental reasons (i.e., preserving high water quality), the language should reflect that. It would be helpful to have a discussion about whether additional development standards are needed to enhance environmental protection or whether the RNC zone should include not only an "optional method" of development but perhaps an "environmental cluster option."
- *Achieving compatibility, scale, and balance.* There are many folks in the Sandy Spring area who have expressed disappointment in the way the RNC developments have built out. Among the complaints: loss of the rural "vista" and "feel" as seen from the roads (as opposed to the vistas seen along the Rural Legacy Trail); open space that is not visible as one drives past; the high visibility of large homes in "pods," in contrast to the lower profile of the existing homes. Among the suggestions offered to address these issues: changes to the percentage

of lot coverage and/or height requirements; allowing for noncontiguous open space where appropriate, with development occurring within the parcel rather than along the road; requiring greater diversity in lot sizes, including the lower ranges (the RNC zone allows for lots as small as 4,000 square feet, but to my knowledge the smallest lot size proposed so far is more than 15,000 square feet; this combined with the allowable lot coverage seems to be stifling diversity in housing styles and sizes).

- *Preserving open space in perpetuity.* The community makes the point that there is nothing in the language of the RNC zone that guarantees that the open space being set aside in RNC developments will remain so forever. I share their concerns. I hope there will be an in-depth discussion of the options available to us.
- *Guidance for further discussions.* This may or may not be appropriate, but as long as I am putting ideas out there I thought I would mention this. In discussing the RNC zone with the community, Marlene mentioned a number of issues that may be more appropriately addressed either in the master plan or the site plan review process (which views to protect along which roads, setbacks, location of open space, where the new homes are placed in relation to existing neighborhoods, etc.) Some, but not all, of these issues were discussed in the Upper Rock Creek plan; I wonder whether future plans would benefit from including language in the zone that suggests discussion of these issues during the master plan and site plan processes.

One final point: I don't believe that the Council gave any specific direction on how to conduct the review of the RNC zone. I would like to suggest a series of forum-type meetings involving community representatives as well as professional planners. If you agree, I would like to have a schedule of the meetings and would like my staff to attend. I look forward to hearing from you, and extend my thanks to you for undertaking this review process,

RECEIVED
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JUL 06 2004 #9

DeSouza, Karina

From: Nancy & James Snee [snees@estart.com]

Sent: Saturday, July 03, 2004 5:37 AM

To: MCP-Chairman; djwilhelm@erols.com

Cc: Robin Ziek (E-mail); Carolyn Snowden (E-mail); Diana Conway (E-mail); George & Ginny Barnes (E-mail); Arnold Gordon (E-mail); Carole Carlson (E-mail); David Troutner (E-mail); Elaine Jagoda (E-mail); Espy Driscoll (E-mail); James Snee (E-mail); Karen Ehrlich (E-mail); Lori Keesey (E-mail); Robert Kneisley (E-mail); Rosey Poole (E-mail); Susan Petrocci (E-mail); carylamar@yahoo.com; theelms518@earthlink.net; datibbitts@aol.com

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Subject: Creation of the new RNC zoning modifications and lack of process

As an elected officer of several Civic Organizations representing "ALL of Derwood" we expect to have RNC zoning developments happening within our community. Our problem is that the creation of the RNC zoning rules are being created that will impact the COUNTY-WIDE development processes and we have to hear (via grapevine) about the single public hearing coming to only the Olney residents .

As an elected officer of the Montgomery Civic Federation I invite you to present the RNC zoning rules, guidelines and specifications to the Montgomery Civic Federation prior to submission to the Council for approval. When a set of rules are being created for county-wide impact, open discussion after the guidelines are created, should be presented to an open forum that represents the residents across the County.

Extract from my grapevine, **"As you know when the Council approved the Upper Rock Creek Master Plan it charged MNCPPC with holding community outreach meetings and coming back to the Council with an assessment of what is / is not working in the RNC zone and recommendations for how to remedy the shortcomings of the zone. In fact, MNCPPC must do this before they can proceed with the Sectional Map Amendment for the Upper Rock Creek Master Plan."**

If one presentation to a limited geographical Civic Coalition means you are complying with community outreach meetings, then you and most of the county residents have a difference of opinion. I ask you to provide an OPEN and County-wide forum for issues that will impact the whole county.

Thanks for your consideration.

Jim Snee

2nd VP, Montgomery Civic Federation
President, Greater Shady Grove Civic Alliance