

ATTACHMENT 1

Zoning Text Amendment No: 04-
Concerning: Environmental Overlay
For the Upper Rock Creek SPA
Draft No. & Date: 4 7/01/04
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:

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

- creating an Environmental Overlay Zone for the Upper Rock Creek Special Protection Area.

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

DIVISION 59-C-18

“OVERLAY ZONES”

By adding a new section

Section 59-C-18.24

- “Environmental Overlay Zone for the Upper Rock Creek
Special Protection Area.”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

**** indicates existing law unaffected by the text amendment.*

ORDINANCE

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

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

2
3 **DIVISION 59-C-1. OVERLAY ZONES.**

4 * * *

5 **Sec. 59-C-18.24. Environmental Overlay Zone for the Upper Rock Creek Special**
6 **Protection Area.**

7
8 **59-C-18.241. Purpose.**

9
10 It is the purpose of this overlay zone to:

- 11
- 12 (a) Protect the water quality and quantity of the Upper Rock Creek and its
13 tributaries, as well as the biodiversity situated in these resources. The
14 resources consist of those tributaries of Rock Creek and the North Branch of
15 Rock Creek north of Muncaster Mill Road in the Upper Rock Creek
16 Planning Area.
- 17
- 18 (b) Regulate the amount and location of impervious surfaces in order to
19 maintain levels of groundwater, control erosion, and allow the ground to
20 filter water naturally and minimize the temperature and volume of
21 stormwater runoff.

22
23 **59-C-18.242. Regulations.**

- 24
- 25 (a) **Applicability.** All development or subdivisions, including areas to be
26 dedicated to public rights-of-way, requiring a building permit (except as
27 noted below) served by community sewer will be subject to these

1 regulations. The provisions of this overlay zone are not intended to preclude
2 the development of public facilities. Such facilities must keep
3 imperviousness to the minimum needed to accomplish the public purpose
4 intended.

5 (b) Exemptions. The following are exempted from the provisions of this
6 overlay zone:

- 7
- 8 i. Any property expressly exempt by the applicable approved and adopted
9 master plan.
 - 10 ii. An addition or accessory structure to an existing one-family residential
11 dwelling.
 - 12 iii. Any use in an industrial or commercial zone.
- 13

14 (c) Development standards. The development standards of the underlying zone
15 apply except as modified by the requirements of this overlay zone.

16

17 (1) Restriction on Impervious Surface. No development may result in
18 more than 8 percent impervious surface of the total area under
19 application for development.

20

21 (A) Any impervious surface lawfully existing pursuant to a building
22 permit issued before [the effective date of this regulation] that
23 exceeds the 8 percent restriction, may continue or be
24 reconstructed using the original footprint.

25

26 (B) Any impervious surface which results from construction pursuant
27 to a building permit application filed with the Department of

1 Permitting Services as of [the approval date of this regulation],
2 may continue or be reconstructed using the original footprint.

3
4 (C) No expansion of an impervious surface above the 8 percent
5 restriction is allowed, except in accordance with the waiver
6 provision of Subsection (c)(2).

7
8 (2) Waiver. The Planning Board, or if no Planning Board action is
9 required, the Director, may grant a waiver from the 8 percent
10 impervious surface restriction subject to the following standards and
11 procedures:

12
13 (A) Written Request. The request and basis for a waiver from the 8
14 percent impervious surface restriction must be made in writing to
15 the Planning Board or Director.

16
17 (B) Review and action. The Planning Board or Director may grant a
18 waiver from the 8 percent impervious surface restriction if the
19 applicant shows by clear and convincing evidence that:

20
21 (i) the 8 percent impervious surface restriction would result in
22 undue hardship to the applicant because of events or
23 circumstances not caused or facilitated by the applicant;

24
25 (ii) the applicant complies with all applicable federal, state,
26 and county water quality standards; and

27

1 (iii) the relief sought is the minimum needed to prevent the
2 hardship and the applicant has applied all appropriate
3 alternative techniques to minimize imperviousness.
4
5

6 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of
7 Council adoption.
8

9 This is a correct copy of Council action.
10
11
12

13 _____
14 Mary A. Edgar, CMC
15 Clerk of the Council