



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760MCPB
Item 8
07/20/2004

MEMORANDUM

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

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

SUBJECT: Amending the Zoning Ordinance to clarify the intent and purpose of the Rural Neighborhood Cluster Zone, including its rural open space requirements, and to establish required findings for approval of preliminary plans

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

On July 15, the Planning Board extensively discussed a zoning text amendment for the Rural Neighborhood Cluster Zone, and heard testimony from interested residents of the Olney and Upper Rock Creek areas. The Planning Board deferred a decision on forwarding the text amendment to the District Council for introduction and asked the staff to revise the text amendment prior to approving its transmittal to the District Council for introduction.

The Planning Board discussion and the public testimony centered on two issues: the use, configuration and management of rural open space; and the ability of the Rural Neighborhood Cluster Zone to maintain rural character in the areas in which it has been established. The revisions proposed in this memorandum attempt to address the rural open space issues. Staff proposes that the text amendment be transmitted to the Council with the revisions proposed. As the Council prepares for the public hearing and worksessions on the text amendment, the staff will continue its evaluation of rural character preservation proposals made by residents of Olney, Upper Rock Creek and Sandy Spring and will continue to work closely with them and with other interested residents. The focus of this review will be on determining the best way to maintain existing residential character in areas deemed suitable in master plans for development in the Rural Neighborhood Cluster Zone.

Several of the proposed language changes discussed previously remain in place. The proposed text amendment strengthens the idea that protecting sensitive resources and maintaining environmental quality are key components of the zone by including new language in the intent section. It also adds language indicating that open space is calculated in certain circumstances by deducting rights-of-way from the gross area of a tract. Attachment 1, revised from last week, outlines each issue addressed in preparing this text amendment, highlights language revisions and their consequences, and provides a recommendation for the Planning Board. The proposed zoning text amendment is attachment 2.

ANALYSIS

The proposed additional revisions to the RNC zone are designed to provide a more precise set of standards for those portions of an RNC community identified as rural open space. New language in Section 59-C-9.571 defines unmanaged land and establishes a clear meaning for contiguous rural open space. This section also states that contiguous open space is a requirement of standard and optional method development. These revisions respond to concerns raised by the Olney and Upper Rock Creek coalitions. Other new language in this section indicates that rural open space may be used for limited and passive recreation, such as trails. Language outlining uses not allowed in the public open space remains unchanged.

Staff also proposes revised language in Sections 59-C-9.572 and 59-C-9.573 eliminating the phrase "public use" and replacing it with the word "parkland." This revision explicitly limits to parkland the type of public use appropriate for rural open space. This revision addresses an issue raised both by members of the Planning Board and local residents, who were concerned that the existing language was too broad. Satisfactory long-term protection of rural open space dedicated as parkland occurs through its designation as Conservation-Oriented Parkland, which is managed to provide stewardship of sensitive areas. New

language discussed above emphasizing passive recreation also will help keep rural open space in low-intensity recreational uses.

Revised language in Section 59-C-9.573(b) requires all developments using the optional method to provide diversity of lot sizes; the zone had previously required developments larger than 70 acres to provide diversity and encouraged diversity of lot sizes in developments smaller than 70 acres. This section also requires the Planning Board to evaluate the lot sizes provided in a proposed development and to insure that the proposed development is compatible with existing adjacent development. These revisions strengthen the ability to create rural neighborhoods with varying types and sizes of lots and provide the Planning Board with a review mechanism to insure both diversity of lot sizes and overall compatibility with existing development.

Finally, new language is proposed for Section 59-C-9.573(g)(3), which lists techniques that may be used to manage or maintain rural open space. The proposed revision limits stormwater management facilities to those that do not require man-made or hard surface structures. Such structures conflict with the generally undeveloped nature of rural open space.

RECOMMENDATION

Staff recommends that this proposed Zoning Text Amendment be transmitted to the District Council for introduction.

ATTACHMENTS

1. Review of Rural Neighborhood Cluster Zone Table
2. Proposed Zoning Text Amendment for modifications to the Rural Neighborhood Cluster Zone

Review of Rural Neighborhood Cluster Zone

Issue	Task	Possible Revision	Consequence	Recommendation
Clarify that density is calculated on gross tract area	Amend Zoning Ordinance	First sentence in Sections 59-C-9.572(a) and 59-C-9.573 states that densities are calculated on gross tract area	Clearly indicates that <i>all</i> densities are measured on gross tract area	No amendment seems necessary
Clarify that open space is calculated on net tract area	Amend Zoning Ordinance	Add language to Section 59-C-9.573(g)(2) stating that in specific circumstances open space is calculated by deducting rights-of-way from gross tract area	Clearly outlines and limits circumstances when net tract area may be used to determine open space	Amend Zoning Ordinance
Examine ways to achieve lot size diversity	Analysis	Add language to Section 59-C-9.573(b) requiring Planning Board to evaluate range of lot sizes provided Incorporate minimum and maximum percentages for lot sizes in Section 59-C-9.573(b)	Provides additional force during development review process May force developers to build smaller houses; reduces ability of master plans to guide use of the zone for specific properties or to support specific concepts	Amend Zoning Ordinance Consider as part of ongoing review and public consultation

Review of Rural Neighborhood Cluster Zone

Issue	Task	Possible Revision	Consequence	Recommendation
Examine ways to achieve lot size diversity	Analysis	<p>Amend Section 59-C-9.573(c)(iv) to include a maximum lot width</p> <p>Amend Section 59-C-9.573(c)(v) to incorporate residential floor area ratios</p> <p>Amend Section 59-C-9.573(c)(vi) to reduce maximum lot coverage</p>	<p>May force developers to build smaller houses; reduces ability of master plans to guide use of the zone for specific properties or to support specific concepts</p> <p>May force developers to build smaller houses; reduces ability of master plans to guide use of the zone for specific properties or to support specific concepts</p> <p>May force developers to build smaller houses without compromising role of master plan in guiding development on specific properties or to support specific concepts</p>	<p>Consider as part of ongoing review and public consultation</p> <p>Consider as part of ongoing review and public consultation</p> <p>Consider as part of ongoing review and public consultation</p>
Using the zone to protect environmental resources	Analysis	Amend Section 59-C-9.23.1 to strengthen idea that protecting sensitive resources and maintaining environmental quality are intents of the zone	Provides clearer statement that environmental protection is a key component of the zone	Amend Zoning Ordinance

Review of Rural Neighborhood Cluster Zone

Issue	Task	Possible Revision	Consequence	Recommendation
Using the zone to protect environmental resources	Analysis	Include finding on environmental resources in new subsection requiring MCPB findings for subdivision approval	Duplicates requirements already in place	Consider as part of ongoing review and public consultation
Review uses in the zone		Amend ordinance to eliminate equestrian facility as special exception use in rural open space	Removes arguably commercial use from rural open space; enhances notion that open space should remain generally undeveloped	Amend Zoning Ordinance
Determine if other changes to open space requirements are needed	Analysis	Add definition of rural open space to Section 59-C-9.571	Clearly defines and locates rural open space; ties rural open space more closely to master plan guidelines	Amend Zoning Ordinance
Consider other changes that enhance compatibility with existing communities	Analysis	Add section requiring MCPB to make findings before approving subdivisions; findings would include adherence to plan guidelines and to plan environmental objectives; compatible nature of design and location of cluster neighborhoods	Duplicates requirements already in place	Consider as part of ongoing review and public consultation

ATTACHMENT 2

Zoning Text Amendment No: 04-
Concerning: Various Modifications
to the RNC Zone
Draft No. & Date: 4-07/20/2004
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 ² This use or class of uses is not permitted in the portion of a rural cluster development regulated by
 4 section 59-C-9.52 or in the rural open space as regulated by section 59-C-9.57, except as noted in those
 5 sections.

6

7 * * *

8 **59-C-9.5. Cluster development--Option in Rural Cluster zone and Low Density**
 9 **Rural Cluster zone.**

10 * * *

11 **59-C-9.57. Special regulations for development in the Rural Neighborhood Cluster**
 12 **zone.**

13 **59-C-9.571. Purpose.**

14 The cluster method of development [required in this zone] is intended to preserve
 15 large areas of contiguous open space, consistent with the recommendations and
 16 guidelines of the applicable master or sector plan. The preserved open space is to
 17 be classified as rural open space, which is defined as managed land as described in
 18 Section 59-C-9.573(g)(3) or as unmanaged land, which is defined as land returning
 19 to its natural state without human intervention. Contiguous rural open space shares
 20 an extended boundary with a residential cluster neighborhood. The open space
 21 may preserve sensitive natural resources, other sensitive areas and associated
 22 habitat. Cluster development is required under [either] both the standard [method

1 of development or the] and optional methods of development. Cluster
2 development requires the setting aside of rural open space.

3
4 Rural open space may be used for limited and passive recreation, such as biking
5 trails. The following classes of uses are not permitted in the rural open space area.
6 The exceptions noted in subsections (d) and (f) are not excluded from this area;
7 they are permitted by right or special exception, as stated in Section 59-C-9.3:

8
9 * * *

10 **59-C-9.572. Standard method of development.**

11 * * *

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

15 * * *

16 (3) Rural open space: A minimum of 60 percent of the property must be
17 reserved for contiguous rural open space, [which must be a contiguous
18 area and be] consistent with the recommendations and guidelines set
19 forth in the applicable master or sector plan. All land in the rural open
20 space area must be preserved either by dedication as parkland or by
21 application of an easement or covenant in a recordable form approved by
22 the Planning Board. The rural open space may be recorded as either:

23
24 * * *

1 **59-C-9.573. Optional method of development.**

2
3 The density of development under the optional method must not exceed one
4 dwelling unit per gross acre. The density must conform to the recommendations
5 and guidelines of the applicable master or sector plan. In such cases, the following
6 development standards apply:

7 * * *

8 (b) Diversity of Lot Sizes: Under the optional method, a diversity of lot sizes is
9 required for all developments, [of 70 acres or more. Diversity of lot sizes is
10 also encouraged in developments of less than 70 acres in order to provide for a
11 range of housing opportunities. Where diversity of lots is provided, t]The
12 Planning Board must evaluate the range of lot sizes provided and insure that a
13 proposed development is compatible [consider the compatibility of the
14 proposed development] with existing development on adjoining properties.

15
16 * * *

17 (g) Rural open space design guidelines.

18 * * *

19 (2) Rural open space must comprise a sizeable contiguous area, must
20 be within a range of 65 percent to 85 percent of the tract area and
21 must be consistent with the recommendations and guidelines of
22 the applicable master plan. When a property includes rights-of-
23 way for roads classified as major highways or freeways, rural
24 open space is calculated on the net tract area by deducting those
25 rights-of-way from the gross area of the property. The Planning
26 Board may approve a minor variation in the master plan-
27 recommended rural open space if the Board finds that the

variation would retain both the quality and character of the open space as set forth in the guidelines of the master plan.

- (3) Rural open space may be managed and maintained but may be modified to improve its appearance, function or overall condition by using the following techniques:

* * *

- (E) Stormwater management facilities that do not require man-made or hard surface structures

* * *

- (4) All land in the rural open space area must be preserved either by dedication to [public use] parkland or by application of an easement or covenant in a recordable form approved by the Planning Board. The easement or covenant must restrict uses in the rural open space to those set forth in this zone, establish procedures for the management of natural or agricultural features as set forth in the approved site plan and prohibit any further development or subdivision within the rural open space area.

* * *

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

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council