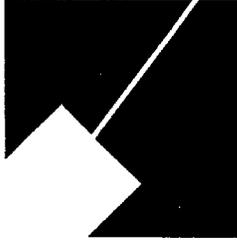


M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

January 10, 2006

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** John A. Carter, Chief *JAC*  
Community-Based Planning Division

Rose Krasnow, Chief *RK*  
Development Review Division

**FROM:** Judy Daniel, Team Leader (301-495-4559) *JD*  
Rural Area Planning Team

Greg Russ, Planner Coordinator *GR*  
Development Review Division

**SUBJECT:** **Proposed Zoning Text Amendments:** 1. Modify the Mixed-Use Town Center Zone; 2. Modify the Rural Village Zone; and 3. Create a new Rural Neighborhood Cluster/Transferable Development Rights Zone as recommended in the Planning Board Draft Damascus Master Plan

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**STAFF RECOMMENDATION:** Approval to transmit the attached Zoning Text Amendments to the District Council for introduction.

**PURPOSE**

The purpose of these Zoning Text Amendments is to implement the zoning modifications recommended for the Damascus Master Plan. They include:

1. Adaptations to the Mixed-Use Town Center Zone that was created for the Olney Master Plan and the Damascus Town Center. The adaptations foster the creation of the small town character recommended in the Damascus Master Plan
2. Adaptations to the Rural Village Zone that was created for the Darnestown community in the Potomac Master Plan for use in three rural villages in the rural areas of the Damascus Master Plan. The adaptations reflect and protect the very small village character of these communities.
3. Provisions for the transfer of development rights in the Rural Neighborhood Cluster Zone.

## **DISCUSSION**

The Planning Board Draft Damascus Master Plan recommends changes to existing zones and creation of a new transfer of development rights zone as discussed below:

### **Mixed-Use Town Center (MXTC) Zone**

The Damascus Master Plan recommends replacing ten existing commercial, industrial, and residential zones in downtown Damascus – the C-2, C-T, O-M, I-1, R-200, RE-2C, PD-7, RT-8.0, R-30, and R-60 – with a mixed-use zone, either a new zone or an adaptation of an existing zone. The Master Plan establishes a two-tier framework for the use of the zone, more residential incentives on the outer perimeter, and more commercial incentives in the inner core – although both are fully mixed-use. The Master Plan also contains guidance regarding the intent and concept for the Town Center, which reflects its history and heritage as a rural market town while allowing growth. The Master Plan reflects a desire for strengthening the Town Center as a place to live, work and shop, with the thought that additional housing will support more varied and more locally based retail opportunities.

The use of the MXTC Zone for other communities was contemplated when it was created for use in Olney, and the staff has concluded that with only minor modifications it can be applied in Damascus. The MXTC Zone is proposed for many of the same reasons discussed in the context of the Olney Master Plan including lack of design control, an excess of conventional commercial potential (exceeding market realities), and regulatory roadblocks in creating vertical mixed-use buildings. The staff report for the MXTC Zone for Olney noted that “the existing commercial zones are inappropriate tools to meet the demands of newer land use objectives, especially in encouraging mixed-use development with a more compact development pattern.” That statement is equally true for Damascus. That staff report also noted the potential for this zone to be used in other master plan areas, and this recommendation fulfills that promise. The key elements of change in the MXTC Zone and how they differ from the zone as created, include:

1. The criteria for the threshold requiring the use of the MXTC Zone standards for new construction or modification to existing structures (59-C-11.2) is not modified. The MXTC standards are required for changes of more than 10 percent of the gross floor area or 10,000 square feet, whichever is less.
2. The criteria determining whether a site plan is required (59-C-11.3.1) is modified to allow the determination within the master or sector plan, not just gross floor area or floor area ratio. This modification is necessary because the Damascus Master Plan requires a site plan for any structures that do not meet the exemption standard in Section 59-C-11.2 described above. The structure of the section and some of the language is modified for clarity.

3. The permitted uses section (59-C-11.4) is modified to include certain light industrial uses, if they are authorized in a master or sector plan. This modification is needed, because there is some I-1 Zone property in the Damascus Town Center, and at least one existing use that is not allowed in any commercial zones (warehousing). These are light industrial uses that already exist in Damascus, or that are being contemplated by property owners. These uses would be appropriate in a mixed-use small town, at the scale allowed in the zone.

Since these uses may not be appropriate in Olney, the restriction is added that industrial uses must be authorized in a master or sector plan. This modification will also require a minor modification to the language of the master plan, authorizing the use of light industrial uses specified in the Zoning Ordinance.

4. The development standards (59-C-11.5) are not modified, but there are certain proposed changes to the footnotes that include:
  - a. Footnote "1" addressing the ability of the master or sector plan to limit height or density below the maximum permitted in the zone, is modified to authorize light industrial uses as well as commercial and residential uses in the mix of uses allowed.
  - b. Footnote "2" which allows the Planning Board to authorize increased building setbacks is proposed to be modified to clarify that the authorization should relate to achieving compatibility with surrounding land uses.
  - c. Footnote "3" addressing public use space, is proposed to be modified to reflect the definition of public use space and to indicate that any public use space must be in conformance with the guidance of the master or sector plan.
  - d. Footnote "4" is added to require a minimum setback of less than 15 feet, measured from the curb. This change reflects the actual building patterns in older downtown areas, and is important in Damascus and Olney.
5. The street façade requirements (59-C-11.5.1) contain a minor modification that broadens the directive for ground floor design.
6. The parking requirements (59-C-11.5) are modified to establish that "on-street" parking may be used to meet "off-street" parking requirements in a MXTC Zone. This is an important change for a zone where the intent is to create a traditional town character, and on-street parking is a predominant characteristic in traditional towns.

## Rural Village Zone

The Rural Village Zone would replace three existing zones that are in use in the villages of Etchison, Purdum, and Browningsville. The use of a village zone was contemplated and recommended in the 1981 Master Plan for the Preservation of Agricultural and Rural Open Space for the small historic villages located within the Agricultural Reserve, and surrounded by the Rural Density Transfer Zone.

The zoning text amendment adapts the provisions for the Rural Village Zone created for use in Darnestown within the Potomac Master Plan. The key elements of the zone, and how they differ from the existing zone, include:

1. Adding language to the purpose clause (50-C-18.231) that:
  - a. Reflects that these zones can be of a more mixed-use nature (rather than primarily retail) with appropriately scaled uses allowed in the underlying zones.
  - b. Support having trail networks in the circulation planning for the village.
  - c. Supports the use of mixed-use buildings that can provide both commercial and residential uses.
2. Adding language to the land use section for the underlying commercial zones (59-C-18.232(a)(1) that:
  - a. Allows certain listed uses to be prohibited in village zones that are surrounded by the Rural Density Transfer Zone. This language is necessary in order to protect the small historic villages where certain uses that are allowed in Darnestown are not appropriate.
  - b. Establishes density for villages surrounded by the Rural Density Transfer Zone to be that of the existing underlying zones, rather than the .02 FAR currently allowed. This density is proposed because the lots that have the C-1 zoning that is being replaced are very small, and a .02 FAR would render them unbuildable.
  - c. Establishes green area requirements for villages surrounded by the Rural Density Transfer Zone to be that of the underlying zone, as the 35 percent green area requirement is unrealistic for the very small lots or parcels that are in the underlying C-1 zoning in these villages.
  - d. The building height, parking, and lighting standards are not modified.
3. Adding language to the land use section for the underlying residential zones (59-C-18.232(a)(1) that allows certain listed uses to be prohibited in village zones that are surrounded by the Rural Density Transfer Zone. This language is necessary in order to protect the small historic villages where certain uses that are allowed in Darnestown are not appropriate.

## **Rural Neighborhood Cluster/Transferable Development Rights Zone**

The Damascus Master Plan recommends a transferable development rights version of the Rural Neighborhood Cluster (RNC) Zone as the most rational means of creating TDR capacity in this Master Plan. Use of the RNC Zone allows much smaller lots and tighter cluster than the RE-2C Zone. This is important for a community with many environmental challenges, and a tradition of small lot single-family neighborhoods. The key elements of the new zone include:

1. Establishing Development Standards for Transferable Development Rights Zones (59-C-9.49) within the Agricultural Zones (59-C-9.4). These standards reflect the development standards for transferable development rights zones in the Residential Zones (59-C-1).
2. Establishing the Optional Method for using Transferable Development Rights in the Rural Neighborhood Cluster Zone (59-C-9.575). This language reflects similar language for transferable development rights zones in the residential zones (59-C-1.395). The proposed RNC/TDR Zone allows both one-family detached and one-family townhouse or attached housing, but does not establish any specific percentage requirements for either. The staff believes that the market should establish the unit type mix. The green area requirement reflects the existing requirement range within the RNC Zone.

## **CONCLUSION**

The Planning Board Draft Damascus Master Plan contemplates either a new Town Center Zone or use of an existing zone. After review of the Mixed-Use Town Center Zone, the staff believes that this zone can fulfill the vision for the Damascus Town Center. Similarly, the Rural Village Zone, with the modifications proposed, can fulfill the vision for these small mixed-use rural communities. And the transfer of development rights version for the Rural Neighborhood Cluster Zone will allow expansion of the promise of sufficient development rights receiving potential, while fulfilling the vision of Damascus as a small town of compact, livable neighborhoods.

Staff recommends approval of the attached zoning text amendments for transmittal to the County Council for introduction. The County Council can be expected to introduce these zoning text amendments in January 2006. The Public Hearing for the Damascus Master Plan is set for January 24, 2006. After introduction, the zoning text amendments would be sent back to the Planning Board for final comments and recommendations.

JD:ha: j:\staff reports2006\team 7\PB Report Damascus Zones

### **Attachments**

- Circle A: Zoning Text Amendment – MXTC Zone
- Circle B: Zoning Text Amendment – Rural Village Zone
- Circle C: Zoning Text Amendment – RNC/TDR Zone

Ordinance No:  
Zoning Text Amendment No:  
Concerning: Modifications to MXTC Zone  
Draft No. & Date:  
Introduced:  
Public Hearing:  
Effective:

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

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By: District Council at the request of the Planning Board

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

- amending the Mixed-Use Town Center Zone by amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-11

“MIXED-USE TOWN CENTER ZONE (MXTC)”

ARTICLE 59-D

“ZONING DISTRICTS—APPROVAL PROCEDURES”

**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.*

**OPINION**

**ORDINANCE**

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

**Sec. 1. DIVISION 59-C-11 is amended as follows:**

**DIVISION 59-C-11. MIXED-USE TOWN CENTER ZONE (MXTC).**

**59-C-11.1 Where Applicable**

No land may be classified in the MXTC zone unless recommended in an approved and adopted master or sector plan.

**59-C-11.2. New construction, re-use of existing building, remodeling and reconstruction.**

Any lawful structure or building that existed before the applicable Sectional Map Amendment adoption date, is a conforming structure and may be continued, structurally altered, repaired, renovated or enlarged up to 10 percent of the gross building floor area or 10,000 square feet, whichever is less. However, any enlargement of the building that is more than 10 percent of the gross floor area or 10,000 square feet, or construction of a new building must comply with the standards of the MXTC zone.

**59-C-11.3. Methods of Development.**

Two methods of development are available under the MXTC zone.

**(a) Standard Method.**

A standard method project must comply with the applicable development requirements of 59-C-11.5 and the recommendations of the applicable master or sector plan. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

**(b) Optional Method**

Under the optional method of development, building height, and density levels greater than allowed under the standard method of development may be achieved for increased public use space. An optional method development must comply with the applicable development requirements of 59-C-11.5 and the recommendations of the applicable master or sector plan. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on site.

**59-C-11.3.1 Site Plan Approval.**

Site plan approval is required for:

- [1. A standard method development with a lot area of five acres or more;
  2. A standard method development that has certain uses with more than 20,000 square feet for each establishment as specified in Sec. 59-C-11.4.;
  3. A standard method development proposal for any modification of the maximum front setback or the street facade requirements.]
1. A standard method development:
    - a. For a net lot area of five acres or more;
    - b. For certain uses with more than 20,000 square feet for each establishment as specified in Sec. 59-C-11.4.;
    - c. for any modification or reduction of the maximum front setback or the street facade requirements; or
    - d. if required in the applicable master or sector plan.
  2. [An optional method development project.] All optional method development projects. For an optional method development project, the Board must find that the proposed development:
    - a. conforms to recommendations of the applicable approved and adopted master or sector plan;
    - b. is not detrimental to any existing development due to the size, intensity, design, scale and operational characteristics of its uses;
    - c. satisfies the public use space requirements of the zone;
    - d. takes maximum advantage of the topography, vistas, façade articulation, and other urban design elements to create an attractive physical environment;
    - e. provides adequate linkages among different functions or structures, open areas, public amenities, parking, and adjoining properties and streets, and
    - f. provides adequate parking and loading service areas with appropriate landscaping, screening, and lighting that will not adversely affect adjoining neighborhoods.

**59-C-11.4. Permitted 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.

<b>(a) Residential <sup>2</sup>:</b>	
Dwellings	P
Group home, small	P
Group home, large	P
Hotel or Motel	P
Housing and related facilities for the elderly or handicapped	P
Life care facility	P
Personal living quarters	P
<b>(b) Transportation, Communication and Utilities:</b>	
Parking of motor vehicles, off-street, in connection with any use permitted	P
Public utility buildings and structures, telecommunications facilities	SE
Radio and television broadcasting studio	SE
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room	P <sup>6</sup>
Taxicab stand	P
<b>(c) Commercial <sup>2</sup>:</b>	
Antique stores, handicrafts or art sales	P <sup>1</sup>
Book store	P <sup>1</sup>
Delicatessen	P
Drug store	P <sup>1</sup>
Eating and drinking establishment, excluding drive-in	P
Eating and drinking establishment, drive-in	SE
Florist shop	P
Furniture store, carpet or related furnishing sales or service	P <sup>1</sup>
Garden supply shop	P <sup>1</sup>
Gift shop	P
Grocery store	P <sup>1</sup>
Hardware store	P <sup>1</sup>
Jewelry store	P
Newsstand	P
Office supply store	P <sup>1</sup>
Photographic supply store	P
Pet sales and supply store	P <sup>1</sup>
Specialty shop	P <sup>1</sup>
Variety and dry goods store	P <sup>1</sup>
<b>(d) Services:</b>	
Adult foster care home	P
Ambulance or rescue squad	P
Animal boarding place	SE
Appliance repair shop	P <sup>1</sup>
Art, music and photographic studio	P <sup>1</sup>
Automobile filling station	SE <sup>3</sup>
Automobile fluid maintenance station	SE <sup>4</sup>
Automobile rental services, excluding automobile storage	P/SE <sup>5</sup>

* Automobile repair and service	SE <sup>4</sup>
Barber and beauty shop	P
Car wash	SE
<b>(d) Services: (cont)</b>	
Charitable and philanthropic institution	P
Clinic	P
Child daycare facilities:	
Family day care home	P
Group day care home	P
Child day care center	P
Daycare facility for not more than 4 senior adults and persons with disabilities	P
Domiciliary care home for more than 16 residents	P
Dry cleaning and laundry establishment, consisting of no more than 3,000 square feet of gross floor area	P
Dry cleaning and laundry pick-up station	P <sup>1</sup>
Duplicating services	P <sup>1</sup>
Educational institution	SE
Home occupation, no impact	P
Home occupation, registered	P
Home occupation, major	SE
Hospice care facility	P
Hospitals, veterinary	SE
Laundromat, self-service	P <sup>1</sup>
Office, general	P <sup>1</sup>
Office, professional	P <sup>1</sup>
Place of worship	P
Publicly owned or publicly operated uses	P
Shoe repair shop	P
Tailoring or dressmaking shop	P
Research, development and related activities	P <sup>1</sup>
<b>(e) Cultural, Entertainment and Recreational:</b>	
Billiard parlor	P <sup>1</sup>
Bowling alley	P <sup>1</sup>
Health clubs and gyms	P <sup>1</sup>
Libraries and museums	P
Private clubs and service organizations	SE
Recreational or entertainment establishments, commercial	P <sup>1</sup>
Theaters, indoor	P <sup>1</sup>
<b>(f) Miscellaneous Uses</b>	
Accessory buildings and uses	P <sup>1</sup>
Signs in accordance with Article 59-F	P
<b>(g) Uses of a light industrial nature<sup>7</sup></b>	
Warehouse	P
Manufacturing of electronic components, instruments and devices	P
Manufacturing of medical, scientific or technical instruments, devices and equipment.	P

<u>Manufacturing and assembly of semi-conductors, microchips, circuits and circuit boards.</u>	<u>P</u>
<u>Printing and publishing.</u>	<u>P</u>
<u>Research, development and related activities.</u>	<u>P</u>
<u>Sign making shop.</u>	<u>P</u>
* <u>Warehousing and storage services:</u>	
<u>- Industrial and commercial users.</u>	<u>P</u>
<u>- Self-storage facilities.</u>	<u>P</u>

1. Any non-residential use with more than 20,000 square feet per floor requires approval of a site plan under Division 59-D-3
2. A commercial use other than a grocery store, is limited to a maximum of 40,000 square feet of gross floor area.
3. A car wash with up to 2 bays may be allowed as an accessory use to an automobile filling station.
4. Not abutting or confronting any lot which is in a residential zone and is not recommended for commercial or industrial use on a master plan; and not within 300 feet of an entrance to a school, park, playground, or hospital.
5. Up to 10 cars may be stored on site.
6. Refer to section 59-A-6.14.
7. Industrial Uses allowed only if authorized in a master or sector plan.

**59-C-11.5. Development standards**

Development standards applicable to the standard and optional method development are indicated by the letters "S" and "O".

		S	O
1	<b>Maximum residential density</b> (units/acre)	8	20 <sup>1</sup>
2	<b>Maximum non-residential FAR</b>	0.35	1.0 <sup>1</sup>
3	<b>Maximum Building height</b>		
		42 feet	70 feet <sup>1</sup>
4	<b>Minimum public use space</b>		
	For lots of up to 40,000 sf:	10% <sup>3</sup>	10% <sup>3</sup>
	For lots of more than 40,000 sf:	10% <sup>3</sup>	20% <sup>3</sup>
5	<b>Building setbacks:</b>		
	Minimum front setback (feet)	0	0
	Maximum front setback (feet)	10 <sup>2</sup>	10 <sup>2</sup>
	Minimum side or rear setback from another lot in the same zone, or from an adjacent commercial zone (feet)	0 <sup>1</sup>	0 <sup>1</sup>
	Minimum side or rear setback from an adjacent residential zone (feet)	20	20

1. A master or sector plan may establish a building height or density limit up to the maximum of the zone, and the appropriate mix of commercial [and], residential [development], and light industrial uses. Notwithstanding any building height limitation established in a master plan or sector plan, the Planning Board may further limit the maximum allowable building height to achieve compatibility with surrounding land uses.
2. The Planning Board may allow a maximum front setback greater than 10 feet subject to site plan review and the street façade controls of MXTC zone to achieve compatibility with surrounding land uses.
3. Public use space may be provided indoors or outdoors, and must be in conformance with the guidance in the master or sector plan. Development on lots of up to 40,000 square feet may provide a portion or all of the required public use space as green area.
4. Setbacks shall be no less than fifteen (15) feet measured from the curb.

**59-C-11.5.1. Street façade requirements.**

1. Any development under the MXTC zone must provide at least one street facade for a minimum of 75 percent of the lot frontage along a street or other publicly accessible sidewalk, way or space. The street façade must be located within 10 feet of: 1) the front lot line or; 2) the public use space along a street or other publicly accessible sidewalk, way or space.
2. The ground floor portion of any street facade in a non-residential development must have [display] windows or other street activating elements and principal entrances to stores and retail establishments from the adjoining sidewalk or public use space. Off-street parking structures, if located along required street facades, must have retail or other pedestrian-oriented uses at the ground floor level fronting the street with direct access to the sidewalk or a public use space.
3. The Planning Board may modify a street facade requirement, including the location or the minimum length of a required street facade as specified in this zone or as recommended in the local area master plan or sector plan, during site plan review to achieve the objectives of the applicable master or sector plan. For lots with more than one street frontage, the Planning Board may establish which side would be subject to the street façade requirements during site plan review based on a layout that best achieves pedestrian oriented streets.

**59-C-11.6. Off-Street Parking.**

- (a) Required off-street parking must be provided pursuant to Article 59-E. and off-street parking spaces for mixed-use projects must be provided pursuant to Sec. 59-E 3.1.
- (b) Off-street parking for two or more properties may be grouped to serve more than one lot or establishment pursuant to Section 59-E-3.4 and may be eligible for reduction in required number of spaces pursuant to Section 59-E. 3.1.
- (c) On-street parking may be provided to fulfill off-street parking requirements.

**59-C-11.6.1. Internal connection between parking lots.**

Any new developments pursuant to this zone must provide for pedestrian and vehicular connection to existing and proposed parking areas on at least one adjoining lot where

feasible. The Planning Board may modify this requirement during site plan review if the applicant demonstrates that compliance with this requirement is not feasible or that compliance with the requirement would preclude the lot from meeting the off-street parking requirements on site. The Director may modify this requirement for projects not subject to site plan review.

Ordinance No:  
Zoning Text Amendment No:  
Concerning: Modifications to the Rural  
Village Overlay Zone  
Draft No. & Date:  
Introduced:  
Public Hearing:  
Effective:

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

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By: District Council at the request of the Planning Board

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

- **amending the Rural Village Center Overlay Zone 59-C-18.23.**

*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.*

OPINION

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:*

B-1

## 59-C-18. OVERLAY ZONES

### 59-C-18.23. Rural village center overlay zone.

#### 59-C-18.231. Purpose

It is the purpose of this overlay zone to create attractive, cohesive, and pedestrian-friendly rural village centers, consisting [primarily of retail uses] of a mix of appropriately scaled uses as allowed in the underlying zones, as limited in this section. Specifically, the overlay zone is designed to:

- (a) Draw upon the open, green character of the surrounding area, emphasizing this character through streetscape design, open space, and landscaping.
- (b) Maintain and enhance the rural village character through compatible scale, massing, siting, and setbacks for new and expanded uses.
- (c) Emphasize the pedestrian and bicycle circulation through street design, including streetscape and traffic calming, and trail networks.
- (d) Encourage a variety of uses that serve the needs of the local community, and mixed-use buildings that can provide housing and commercial uses.
- (e) Provide opportunities for appropriately scaled new and existing business expansion, while keeping the commercial areas compact and low density.

#### 59-C-18.232. Regulations

- (a) *Commercial zones.* Where a lot is either partially or totally in a commercial zone the following regulations apply:
  - (1) *Land uses.* All permitted or special exception uses allowed in the underlying zones are allowed in the commercial portion of the overlay zone except as prohibited below or in the applicable master plan.

The following uses are prohibited in all Rural Village Center overlay zones:

Animal boarding place  
Appliance repair shops  
Automobile, light truck and light trailer rentals, outdoor, except any automobile rental business in existence on October 13, 1998 may continue as a conforming use, and may be altered, repaired, or replaced in accordance with provisions of the zone in effect at the time the use was established  
Automobile parts, supplies and tire stores  
Automobile sales, indoor  
Automobile sales, outdoor  
Baseball driving range  
Boat sales, indoors  
Building materials and supplies  
Chancery  
Eating and drinking establishments, drive-in

Heliports  
Helistops  
Ice storage  
International Organization  
Multi-family dwellings, except when included in a structure containing retail  
or commercial uses  
Newspaper, printing or publishing shops  
Rifle or pistol ranges, indoor  
Roller and ice skating rinks  
Stadiums or arenas  
Swimming pools, commercial

The following uses are prohibited in designated overlay zone villages that are surrounded by the Rural Density Transfer Zone:

Amusement center  
Appliance store  
Automobile filling station  
Automobile fluid maintenance station  
Child day care center  
Dry cleaning and laundry establishments of no more than 3,000 sf of gross floor area  
Funeral parlors or undertaking establishments

(2) *Development standards:*

(A) *Setbacks.* All buildings, off-street parking, loading and maneuvering areas must be set back from lot lines adjoining residential zones a distance of not less than the applicable front, rear, or side yard of the adjoining residential zone or agricultural zone, where applicable. All other setbacks will be determined at site plan.

(B) *Density.* Except in villages surrounded by the Rural Density Transfer Zone, the floor area ratio for commercial uses is limited to FAR .02 and is computed only on the area of the underlying commercially zoned portion of the site. Any project that received preliminary plan approval before November 4, 2002 for commercial development at an FAR greater than 0.2, is not subject to the FAR limitation of this section and may be developed, as a conforming use, in accordance with the approved preliminary plan.

Density for villages surrounded by the Rural Density Transfer Zone shall be as set for the underlying zone.

(C) *Green area.* Except in villages surrounded by the Rural Density Transfer Zone, the minimum green area is 35% of the gross tract area. Green area requirements for villages surrounded by the Rural Density Transfer Zone shall be as required for the underlying zone.

(D) *Building height.* No building can exceed a height of 35 feet.

(E) *Off street parking and loading.* Parking must be provided in accordance with the provisions of Division 59-E with the following exceptions:

1. Parking facilities must be located to maintain a pedestrian-friendly street orientation.
  2. Trees must be planted and maintained throughout the parking facility to assure that at least 30% of the area is shaded. Shading must be calculated using the area of the tree crown at 15 years after the parking facility is built.
  3. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002 the entire off-street parking facility must be brought into conformance with this section.
- (F) Commercial facilities must provide, as necessary, noise mitigation measures to minimize impact on adjacent residentially used properties.
- (G) All outdoor lighting of commercial uses must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. Unless the Planning board requires different standards for a recreational facility or to improve public safety, luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.
- (b) *Residential zone:* Where a lot is in a residential zone the following regulations apply:
- (1) *Land uses.* All uses as allowed in the underlying zone as set forth in Sec. 59-C-1.31, except as prohibited below. In addition, residentially zoned land may provide septic capacity for an adjacent commercial use, or adjacent residential property, consistent with the applicable master plan recommendations.

The following uses are prohibited in village overlay zones surrounded by the Rural Density Transfer Zone:

Group home, large  
Life care facility  
Child day care center  
Clinic, medical or dental for 5 or more medical practitioners  
Day care facility for more than 4 senior adults and persons with disabilities  
Domiciliary care for more than 16 residents  
Hospitals  
Life sciences center  
Nursing home  
Golf courses or country clubs

- (2) *Development standards.* The development standards are the same as those in the underlying zones.

**59-C-18.233. Procedure of application and approval.**

A site plan for any development in the Rural Village Overlay Zone must be approved under the provisions of Section 59-D-3. Development includes the following:

- (a) Construction of a new building;
- (b) Additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site; and
- (c) Additions of off-street parking spaces or revisions to parking facilities that would otherwise require the approval of new parking facilities under Section 59-E-4.1.

**59-C-18.234. Planning Board approval.**

The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:

- (a) The site plan is consistent with the recommendations and guidelines in the applicable Master Plan; and
- (b) The site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone.

**CORRECTED COPY**

Ordinance No: XX-XX  
Zoning Text Amendment No: XX-XX  
Concerning: Creating a new TDR Zone  
Draft No. & Date: XX  
Introduced: XX  
Public Hearing: XX  
Adopted: XX  
Effective: XX

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

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By: District Council at the request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of establishing a new TDR Receiving Zone, by adding the following sections to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

**Section 59-C-9.49: Development Standards – Rural Neighborhood Cluster Transferable Development Rights Zone**

and

**Section 59-C-9.575. Special regulations for development in the Rural Neighborhood Cluster Zone, Optional method using transferable development rights.**

*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.*

**OPINION  
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:*

(C-1)

**Sec. 1. Section 59-C-9.4 Agricultural Zones is amended as follows:**

**59-C-9.4. Development Standards.**  
\* \* \*

**59-C-9.49. Development Standards – Transferable Development Rights Zones**

	<b>RNC-TDR</b>
<b>(a) Land uses.</b> Uses allowed in the TDR zones are those uses allowed in the following zones:	RNC
The optional method of development may allow more residential uses. See subsection 59-C-9.54.1, chart.	
<b>(b) Development standards – Standard method:</b>	
Density limitations for cluster development (section 59-C-9.57) or MPDU development (section 59-C-9.574), applicable to the following zones, apply to similar development in the standard method TDR zones:	RNC
All other development standards must be in accord with the development standards applicable in the following zones:	RNC
<b>(c) Development standards – Optional method:</b>	
- Maximum density of development (maximum number of dwellings per acre)	1
- All other development standards as specified in the special regulation provisions of section 59-C-1.39.	

**Sec. 2. Section 59-C-9.57 Special regulations for development in the Rural Neighborhood Cluster zone, is amended as follows:**

**59-C-9.57. Special regulations for development in the Rural Neighborhood Cluster Zone.**  
\* \* \*

**59-C-9.74. Optional method development.**  
\* \* \*

**59-C-9.575. Optional method using transferable development rights.**

The use of transferable development rights including applicability, general provisions, development approval procedures, and development standards shall be governed by the provisions within Section 59-C-1.39 of this Chapter. Special additional provisions for use in TDR developments are noted below. The following development standards for the development of a property under the optional method apply to the TDR density shown on the master plan for that area. Where moderately priced dwelling units are included in accordance with the requirements of chapter 25A of this Code, as amended, the MPDU development standards apply. The increase in density must not exceed 22 percent of the TDR density.

<i>TDR Density per Acre Shown on Master Plan</i>	<i>Development Standards and Permitted Residential Uses</i>	
	<i>Without MPDU's</i>	<i>With MPDU's</i>
1	RNC	RNC

<i>TDR Density per Acre Shown on Master Plan</i>	<i>Size of Development</i>	<i>Minimum (Maximum) percentage required</i>		
		<i>One-Family Detached</i>	<i>One-Family Townhouse and Attached</i>	<i>Green Area</i>
1	All sizes	P	P	65-85%

**59-C-9.57[5]6. Off-street parking.**

Parking must be provided in accordance with the provisions of Division 59-E except as follows: All parking must be located on the same lot as the use with which it is associated.

**59-C-9.57[6]7. Site plan review.**

Site plan approval is required under the optional method of the Rural Neighborhood Zone as set forth in Division 59-D-3.

**Sec. 4. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council