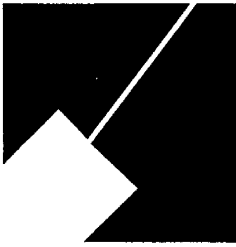


M-NCPPC



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

MCPB
Items 7, 8 & 9
02/16/06

DATE: February 7, 2006
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *JC*
Rose Krasnow, Chief, Development Review *RK*
Carlton Gilbert, Zoning Supervisor *CG*
FROM: Judy Daniel, Community-Based Planning *JD*
Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendments
PURPOSE: To amend the Zoning Ordinance language based on recommendations from the Draft Damascus Master Plan Specifically, amend the Rural Village Center Overlay Zone; amend the Mixed-Use Town Center zone, and establish a new Rural Neighborhood Cluster/TDR zone.

TEXT AMENDMENT: 06-01, 06-02 and 06-03
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance
INTRODUCED BY: District Council at the request of the Planning Board
INTRODUCED DATE: January 24, 2006

PLANNING BOARD REVIEW: February 16, 2006
PUBLIC HEARING: March 7, 2006, 1:30 PM

STAFF RECOMMENDATION: APPROVAL (for all three applications)

PURPOSE OF THE TEXT AMENDMENTS

To amend the Zoning Ordinance language based on recommendations from the Draft Damascus Master Plan. The Master Plan includes recommendations for three text amendments as follows:

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 a transfer of development rights option in the Rural Neighborhood Cluster Zone for use on six property groups in the Damascus transitional areas and ultimately on other properties in other master plans.

BACKGROUND

- On January 19, 2006, the Planning Board authorized the transmittal of these three zoning text amendments to the County Council for introduction in fulfillment of the recommendations of the Planning Board Draft of the Damascus Master Plan.
- On February 8, 2006, the County's Zoning Screening Committee reviewed the three text amendments and agreed in concept with the language. Modifications suggested by the Committee were plain language and stylistic in nature and will be addressed during the upcoming Planning, Housing and Economic Development (PHED) Committee worksessions.

ANALYSIS

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:

ZTA 06-01: 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 the current zone are not appropriate.
 - b. Establishes the density for villages surrounded by the Rural Density Transfer Zone to be that of the existing underlying zones, rather than the maximum .02 FAR currently allowed. The underlying zone 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.

ZTA 06-02: 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 “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. The staff report also noted the potential for this zone to be used in other master plan areas, and the subject 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 or other potential locations for this zone, 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 “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. This footnote is also modified to state that developments located on lots of more than 40,000 square feet may not provide all of the required public use space as green area.
 - c. Footnote “4” is added to require a minimum setback of less than 15 feet, measured from the curb unless authorized by the Planning Board. 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.

ZTA 06-03: 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 mirror 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 as in the residential zones (59-C-1.395). The proposed RNC/TDR Zone allows one-family detached and one-family townhouse or attached housing, but does not establish any specific percentage requirements for either. The staff recommends that the market should establish the unit type mix. The green area requirement reflects the existing requirement range within the RNC Zone.

RECOMMENDATION

The staff recommends that ZTA Nos. 06-01, 06-02 and 06-03, to address Damascus Master Plan recommendations, be approved as submitted. 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, it was determined 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. The transfer of development rights option 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.

Attachments 1, 2 and 3 depict the proposed amendments as submitted.

Attachments

1. Zoning Text Amendment No. 06-01
2. Zoning Text Amendment No. 06-02
3. Zoning Text Amendment No. 06-03
4. Transmittal Letter from Planning Board to George Leventhal, Council President

ATTACHMENT 1

Zoning Text Amendment No: 06-01
Concerning: Modifications to the
Rural Village Center Overlay Zone
Draft No. & Date: 1 – 1/20/06
Introduced: January 24, 2006
Public Hearing: 2/28/06; 1:30 p.m.
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:

- amending the Rural Village Center Overlay Zone 59-C-18.23; and
- generally amending the Rural Village Center Overlay zone.

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

DIVISION 59-C-18	“OVERLAY ZONES”
Section 59-C-18.231	“Purpose”
Section 59-C-18.232	“Regulations”

*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 **DIVISION 59-C-18. OVERLAY ZONES.**

3 * * *

4 **59-C-18.23. Rural village center overlay zone.**

5 **59-C-18.231. Purpose**

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

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

22 **59-C-18.232. Regulations**

- 23 (a) *Commercial zones.* Where a lot is either partially or totally in a
24 commercial zone the following regulations apply:

26 (1) *Land uses.* All permitted or special exception uses allowed in the
27 underlying zones are allowed in the commercial portion of the overlay
28 zone except as prohibited below or in the applicable master plan.

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

31 Animal boarding place

32 Appliance repair shops

33 Automobile, light truck and light trailer rentals, outdoor, except any
34 automobile rental business in existence on October 13, 1998 may
35 continue as a conforming use, and may be altered, repaired, or
36 replaced in accordance with provisions of the zone in effect at the
37 time the use was established

38 Automobile parts, supplies and tire stores

39 Automobile sales, indoor

40 Automobile sales, outdoor

41 Baseball driving range

42 Boat sales, indoors

43 Building materials and supplies

44 Chancery

45 Eating and drinking establishments, drive-in

46 Heliports

47 Helistops

48 Ice storage

49 International Organization

50 Multi-family dwellings, except when included in a structure
51 containing retail or commercial uses

52 Newspaper, printing or publishing shops

53 Rifle or pistol ranges, indoor

54 Roller and ice skating rinks

55 Stadiums or arenas

56 Swimming pools, commercial

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

59 Amusement center

60 Appliance store

61 Automobile filling station

62 Automobile fluid maintenance station

63 Child day care center

64 Dry cleaning and laundry establishments of no more than 3,000 sf of
65 gross floor area

66 Funeral parlors or undertaking establishments

67

68 (2) *Development standards:*

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

75

76 (B) *Density.* Except in villages surrounded by the Rural Density
77 Transfer Zone, the floor area ratio for commercial uses is
78 limited to FAR 0.2 and is computed only on the area of the
79 underlying commercially zoned portion of the site. Any project

80 that received preliminary plan approval before November 4,
81 2002 for commercial development at an FAR greater than 0.2,
82 is not subject to the FAR limitation of this section and may be
83 developed, as a conforming use, in accordance with the
84 approved preliminary plan.

85
86 Density for villages surrounded by the Rural Density Transfer
87 Zone is that of the underlying zone.

88
89 (C) *Green area.* Except in villages surrounded by the Rural
90 Density Transfer Zone, the minimum green area is 35% of the
91 gross tract area. Green area requirements for villages
92 surrounded by the Rural Density Transfer Zone is that of the
93 underlying zone.

94
95 (D) *Building height.* No building can exceed a height of 35 feet.

96
97 (E) *Off street parking and loading.* Parking must be provided in
98 accordance with the provisions of Division 59-E with the
99 following exceptions:

- 100 1. Parking facilities must be located to maintain a
101 pedestrian-friendly street orientation.
- 102 2. Trees must be planted and maintained throughout the
103 parking facility to assure that at least 30% of the area is
104 shaded. Shading must be calculated using the area of the
105 tree crown at 15 years after the parking facility is built.

106 3. For any cumulative enlargement of a surface parking
107 facility that is greater than 50% of the total parking area
108 approved before November 4, 2002 the entire off-street
109 parking facility must be brought into conformance with
110 this section.

111

112 (F) Commercial facilities must provide, as necessary, noise
113 mitigation measures to minimize impact on adjacent
114 residentially used properties.

115

116 (G) All outdoor lighting of commercial uses must be located,
117 shielded, landscaped, or otherwise buffered so that no direct
118 light intrudes into an adjacent residential property. Unless the
119 Planning board requires different standards for a recreational
120 facility or to improve public safety, luminaries must incorporate
121 a glare and spill light control device to minimize glare and light
122 trespass.

123

124 (b) *Residential zone:* Where a lot is in a residential zone the following
125 regulations apply:

126

127 (1) *Land uses.* All uses as allowed in the underlying zone as set forth
128 in Sec. 59-C-1.31, except as prohibited below. In addition,
129 residentially zoned land may provide septic capacity for an
130 adjacent commercial use, or adjacent residential property,
131 consistent with the applicable master plan recommendations.

- 132 The following uses are prohibited in village overlay zones
133 surrounded by the Rural Density Transfer Zone:
134 Group home, large
135 Life care facility
136 Child day care center
137 Clinic, medical or dental for 5 or more medical practitioners
138 Day care facility for more than 4 senior adults and persons with
139 disabilities
140 Domiciliary care for more than 16 residents
141 Hospitals
142 Life sciences center
143 Nursing home
144 Golf courses or country clubs

145
146 (2) *Development standards.* The development standards are the same as
147 those in the underlying zones.

148
149 **59-C-18.233. Procedure of application and approval.**
150 A site plan for any development in the Rural Village Overlay Zone must be
151 approved under the provisions of Section 59-D-3. Development includes the
152 following:

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

159 **59-C-18.234. Planning Board approval.**

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

162 (a) The site plan is consistent with the recommendations and guidelines in
163 the applicable Master Plan; and

164
165 (b) The site plan meets all of the requirements of this overlay zone as well
166 as the applicable requirements of the underlying zone.

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

169
170 This is a correct copy of Council action.

171
172
173
174 _____
175 Linda M. Lauer, Clerk of the Council