

Action

MEMORANDUM

September 11, 2009

TO: County Council *JL*
FROM: Jeffrey L. Zyontz, Legislative Attorney
SUBJECT: Action - Zoning Text Amendment 09-04, Rural Neighborhood Cluster (RNC) Zones -
Equestrian Facilities

PHED Committee Recommendation. On July 27, 2009 the Committee recommended (3-0) the approval of ZTA 09-04 as introduced. The Committee noted that the RNC zone was an agricultural zone; allowing horses in the zone under the provisions of ZTA 09-04 would be consistent with its agricultural classification. The ZTA would only allow for horses owned or used by the resident of the property to be stabled on RNC zoned property larger than 2 acres.

Background

Zoning Text Amendment (ZTA) 09-04 is sponsored by Councilmember Knapp. The ZTA proposes to amend the Rural Neighborhood Cluster (RNC) Zones to allow lots or parcels larger than 2 acres to board and raise 1 horse per acre. No more than 5 horses would be allowed on sites larger than 5 acres. More than 5 horses would require a special exception. Currently, boarding 1 horse requires a special exception. In the sponsor's opinion, the current limitation is unduly restrictive in agricultural zones.

On July 17, 2009 the Planning Board and Planning Staff recommended approval of ZTA 09-04 with revisions to exclude equestrian facilities as of right in clustered developments and rural open spaces.

The Council held a public hearing on July 21, 2009. The only speaker was the representative from the Planning Board. The Executive and the Agricultural Advisory Board submitted testimony in support of the ZTA as introduced.

Issues

1) Should the RNC and RNC/TDR zones allow some equestrian facilities without a special exception?

The RNC and RNC/TDR zones are unique agricultural zones established with the following intent:

The intent of the Rural Neighborhood Cluster zone is to preserve open land, environmentally sensitive natural resources 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.¹

Farming is consistent with that intent and is currently allowed in the zone.² A farm is defined as follows:
A tract of land, with or without associated buildings, that is devoted to *agriculture*, as defined in this section.³ [emphasis added]

Agriculture is defined as follows:

Agriculture: The business, science and art of cultivating and managing the soil, composting, growing, harvesting, and selling crops and livestock, and the products of forestry, horticulture and hydroponics; breeding, raising, or managing livestock, including *horses*, poultry, fish, game, and fur-bearing animals, dairying, beekeeping and similar activities, and equestrian events and activities....⁴ [emphasis added]

Agriculture is part of the definition of a farm. Breeding and raising horses are part of the definition of agriculture, but equestrian facilities are a separate use in the land use table. In all other agricultural zones except for the RNC and RNC/TDR zones, some equestrian facilities are permitted without a special exception. In the RNC and RNC/TDR zones, all equestrian facilities require a special exception. The Zoning Ordinance does not limit the number of cows and pigs that can be farmed on RNC and RNC/TDR property, but currently even 1 horse requires a special exception. The provision that restricts equestrian facilities lacks horse sense.⁵

There are 167 parcels 2 acres or larger in the RNC and RNC/TDR zone. A map of the parcels provided by Planning Staff is on © 12.

2) When should an equestrian facility be allowed without a special exception?

ZTA 09-04 proposes the following limits to equestrian facilities without a special exception:

- a) horses on the property must be for personal use;
- b) the parcel must be at least 2 acres in size;
- c) the number of horses is limited to 1 horse per acre; and
- d) the maximum number of horses on any parcel would be 5.

The Planning Board recommended no changes to the current provision for cluster development and rural open space.

The Committee did not agree that horses permitted as of right would be a problem on clustered lots 2 acres or larger. If the lot size is sufficient, the fact that it may be part of a clustered development is irrelevant. The Committee also recommended allowing some equestrian facilities as of right in rural open space.

¹ §59-C-9.23.1.

² §59-C- 9.3(a).

³ §59-A-2.1.

⁴ Ibid.

⁵ "Horse sense is the thing a horse has which keeps it from betting on people." W. C. Fields.

The rural open space area of the RNC zones is governed by special provisions in the Zoning Ordinance:

Rural open space is land that is managed, as described in Section 59-C-9.574(g)(3), or is unmanaged, which means that it is returning to its natural state without human intervention. Contiguous rural open space shares an extended boundary with a residential cluster neighborhood. The open space may preserve sensitive natural resources, other sensitive areas and associated habitat.

Recreational facilities in the rural open space are limited to trails and related amenities or other facilities recommended in the master plan. The following classes of uses are not permitted in the rural open space area...

- (a) Agricultural-industrial;
- (b) Agricultural-commercial;
- (c) Resource production and extraction....⁶

A farm is not prohibited in rural open space. It is allowed in a land use classification titled "Agricultural". "Agricultural-industrial" and "Agricultural-commercial" uses are prohibited in rural open space, but "Agricultural" uses are allowed. In the Committee's opinion, at least some equestrian facilities should be allowed as of right wherever farms are allowed as of right.

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⁶ §59-C-9572.

Zoning Text Amendment No: 09-04
Concerning: RNC Zones – Equestrian
Facilities
Draft No. & Date: 1 - 5/12/09
Introduced: June 16, 2009
Public Hearing: July 21, 2009
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: Councilmember Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow equestrian facilities in the RNC and RNC/TDR zones under certain circumstances; and
- make editorial changes to the land use provisions of Agricultural zones.

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-9.3 “Land uses”

*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-9. is amended as follows:**

2 **Division 59-C-9 AGRICULTURAL ZONES.**

3 * * *

4 **59-C-9.3 Land uses.**

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

6 **-Permitted Uses.** Uses designated by the letter "P" are permitted on any lot
7 in the zones indicated, subject to all applicable regulations.

8 **-Special Exception Uses.** Uses designated by the letters "SE" may be
9 authorized as special exceptions[, in accordance with the provisions of]
10 under Article 59-G.

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
(a) Agricultural:							
Agricultural processing, primary						P	P
Equestrian facility. ⁴¹	P/SE	P/SE	P/SE	P/SE	P/SE	<u>P*/SE²</u>	<u>P*/SE²</u>
Farm. ¹	P	P	P	P	P	P	P
Fish hatchery.	P	P	P	P	P		
Other agricultural use.	P	P	P	P	P	P	P

11 * * *

12 *A resident of a lot or parcel at least 2 acres in size may raise, ride, and board
13 horses for personal use. One horse is permitted for every 1 gross acre of the lot or
14 parcel, up to a maximum of 5 horses. Any building or manure storage area must
15 be located at least 100 feet from any existing dwelling on an adjacent tract of land.

16 * * *

17 **Sec. 2. Effective date.** This ordinance takes effect immediately after the
18 date of Council adoption.

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20 This is a correct copy of Council action.

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23 Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

July 17, 2009

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 09-04

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 09-04 at its regular meeting on July 16, 2009. By a vote of 3:0, the Board recommends approval of the text amendment as modified by staff to clarify the intent and as included in the technical staff report.

The text amendment proposes to allow a resident of a lot or parcel that is at least 2 acres in size and located in the RNC Zone or RNC/TDR Zone to raise, ride, and board horses for personal use up to a maximum of 5 horses. More than 5 horses would require a special exception. The minimum gross acreage calculation per horse would be the same as for all other agricultural zones.

The Planning Board supports the proposed amendment since the request would require a 2 acre minimum lot size (versus the zones' otherwise cluster standard method minimum requirement of 25,000 square feet and minimum requirement of 4,000 square feet for the optional method of development) and would establish a ratio of 1 horse per acre. These standards are consistent with the requirements for permitting horses by right in all other agricultural zones. The proposed requirements also limit the number of horses to 5 unless a special exception is granted, thereby minimizing the impact of the use on the surrounding properties.

The Board recommends one clarification to the language to ensure that the proposed use is not located in the open space portion of any cluster development regulated by Section 59- C-9.52 or in any rural open space area regulated by Section 59-C-9.57. This restriction currently is required in the special exception provisions for permitting an equestrian facility in the RNC and RNC/TDR Zones and therefore should be required for any by right equestrian facility located in these zones.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on a motion by Commissioner Alfandre, seconded by Commissioner Presley, with Commissioners Alfandre and Presley and Chairman Hanson voting in favor of the motion, and with Vice-Chairman Robinson and Commissioner Cryor absent from the room, at its regular meeting held in Silver Spring, Maryland, on Thursday, July 16, 2009.



Royce Hanson
Chairman

RH: GR



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #15
7/16/09

DATE: July 9, 2009
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor, Development Review *RW*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To allow equestrian facilities in the RNC and RNC/TDR zones under certain circumstances

TEXT AMENDMENT: No. 09-04
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Knapp
INTRODUCED DATE: June 16, 2009
PLANNING BOARD REVIEW: July 16, 2009
PUBLIC HEARING: July 21, 2009; 1:30 PM

STAFF RECOMMENDATION: APPROVAL to allow a resident of a lot or parcel that is at least 2 acres in size and classified in the RNC zone or RNC/TDR zone to raise, ride, and board horses for personal use.

The text amendment allows by right one horse for every 1 gross acre of the lot or parcel, up to a maximum of 5 horses. Staff recommends a minor change to the proposed language to clarify the intent that horses cannot be located in the designated open space or rural open space area of a cluster development.

BACKGROUND/ANALYSIS

Current regulations permit as a matter of right equestrian activity (defined as the care, breeding, boarding, rental, riding or training of horses or the teaching of equestrian skills) in all agricultural zones, except the RNC and RNC/TDR Zones. Under Section 59-C-9.31, *Equestrian facility standards as a permitted use in the agricultural zones*, a property owner with at least two acres is allowed to keep horses at a ratio of 1 horse per acre (up to 10 horses) and may keep additional horses (beyond 10) at a ratio of one-half acre per horse. Also, Section 59-C-9.31 allows a limited number of equestrian events by right under certain circumstances. In the RNC and RNC/TDR Zones an equestrian facility may be established only through the approval of a special exception. In the case

where an equestrian facility is granted by special exception, the facility cannot be located in the designated open space or rural open space area of a cluster development.

The proposed text amendment, as introduced by Councilmember Knapp, allows a resident of a lot or parcel that is at least 2 acres in size located in the RNC Zone or RNC/TDR Zone to raise, ride, and board horses for personal use up to a maximum of 5 horses. More than 5 horses would require a special exception. The minimum gross acreage calculation per horse would be the same as for all other agricultural zones. The ZTA as introduced is shown below.

Division 59-C-9 AGRICULTURAL ZONES.

* * *

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] under Article 59-G.

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
(a) Agricultural:							
Agricultural processing, primary						P	P
Equestrian facility. ⁴¹	P/SE	P/SE	P/SE	P/SE	P/SE	<u>P*/SE²</u>	<u>P*/SE²</u>
Farm. ¹	P	P	P	P	P	P	P
Fish hatchery.	P	P	P	P	P		
Other agricultural use.	P	P	P	P	P	P	P

* * *

* A resident of a lot or parcel at least 2 acres in size may raise, ride, and board horses for personal use. One horse is permitted for every 1 gross acre of the lot or parcel, up to a maximum of 5 horses. Any building or manure storage area must be located at least 100 feet from any existing dwelling on an adjacent tract of land.

* * *

RNC Zone

The intent of the Rural Neighborhood Cluster zone is to preserve open land, environmentally sensitive natural resources and rural community character that would be lost under conventional, large-lot development. This has been 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, preserving 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 and is compatible with existing development in adjoining communities.

Staff recommends approval of the text amendment since the request would require a 2 acre minimum lot size (versus the zones' otherwise cluster standard method minimum requirement of 25,000 square feet and minimum requirement of 4,000 square feet for the optional method of development) and would establish a ratio of 1 horse per acre. These standards are consistent with the requirements for permitting horses by right in all other agricultural zones. The proposed requirements also limit the number of horses to 5 unless a special exception is granted, thereby minimizing the impact of the use on the surrounding properties. The subject proposal further minimizes the impact of the use on neighboring properties by limiting the type and scope of equestrian activity permitted to the raising, riding and boarding of horses for personal use only. The text amendment also requires that any building or manure storage be located at least 100 feet from any existing dwelling on an adjacent tract of land; consistent with setback requirements for equestrian facilities in all other agricultural zones.

Staff recommends one clarification to ensure that this use or class of uses is not located in the open space portion of any cluster development regulated by Section 59- C-9.52 or in any rural open space area regulated by Section 59-C-9.57. This restriction is currently required in the special exception provisions for permitting an equestrian facility in the RNC and RNC/TDR Zones. Staff's proposed modification is included in Attachment 1 of the staff report.

RECOMMENDATION

For the reasons stated above, staff recommends approval of the zoning text amendment to allow a resident of a lot or parcel at least 2 acres in size to raise, ride, and board horses for personal use.

Attachment 1 depicts the proposed text amendment as modified by staff.

GR

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

Division 59-C-9 AGRICULTURAL ZONES.

* * *

59-C-9.3 Land uses.

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

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	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
(a) Agricultural:							
Agricultural processing, primary						P	P
Equestrian facility. ⁴¹	P/SE	P/SE	P/SE	P/SE	P/SE	P*/SE ²	P*/SE ²
Farm. ¹	P	P	P	P	P	P	P
Fish hatchery.	P	P	P	P	P		
Other agricultural use.	P	P	P	P	P	P	P

* * *

*A resident of a lot or parcel at least 2 acres in size may raise, ride, and board horses for personal use. One horse is permitted for every 1 gross acre of the lot or parcel, up to a maximum of 5 horses. Any building or manure storage area must be located at least 100 feet from any existing dwelling on an adjacent tract of land. This use or class of uses is not permitted in the portion of any cluster development

17 regulated by Section 59- C-9.52 or in any rural open space area regulated by
18 Section 59-C-9.57.

19 * * *

20 **Sec. 2. Effective date.** This ordinance takes effect immediately after the
21 date of Council adoption.

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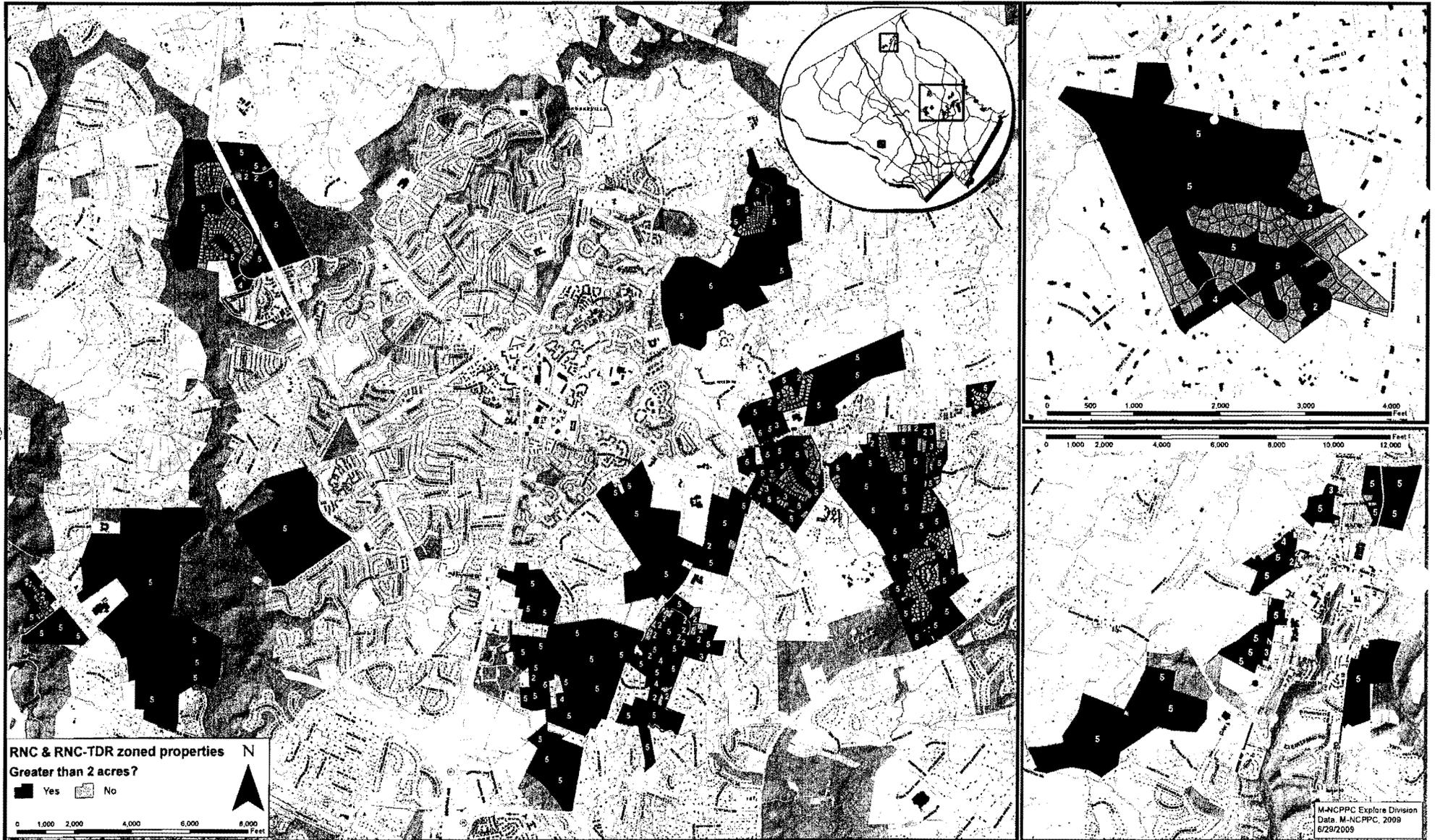
23 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

RNC & RNC-TDR Areas: ZTA 09-04 Eligibility





DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

David E. Dise
Director

July 21, 2009

Phil Andrews, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

RE: ZTA 09-04, Rural Neighborhood Cluster (RNC) Zones – Equestrian Facilities

Dear Mr. Andrews:

The Executive Branch has reviewed ZTA 09-04, Rural Neighborhood Cluster (RNC) Zones – Equestrian Facilities. We support the adoption of this ZTA and have no comments or suggested changes.

Please contact me if any issues arise in the Council's review of this ZTA.

Sincerely,

Gary Stith
Deputy Director

cc: Diane Schwartz Jones
Jeff Zyontz

Office of the Director
101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
www.montgomerycountymd.gov

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AGRICULTURAL ADVISORY COMMITTEE

July 17, 2009

The Honorable Phil Andrews,
Montgomery County Council President
100 Maryland Avenue
Rockville, Maryland 20850

Dear Council President Andrews: ZTA 09-04 Equestrian Facilities RNC zones

Please accept this letter on behalf of the Montgomery County Agricultural Advisory Committee (AAC) in support of ZTA 09-04 which will permit Equestrian Facilities in the RNC and RNC/TDR zones under certain circumstances.

The RNC and RNC/TDR zones are the only agricultural zones that require a special exception (S/E) to permit equestrian facilities. The other agricultural zones permit these facilities by P/SE and the proposed ZTA 09-04 will help the owners of some RNC properties.

We have heard from several folks regarding the requirement for SE to operate an equestrian facility and some of these folks simply want to board their own horse on their property. The AAC suggests that some of the residential zones may need to be considered for application of this ZTA with certain circumstances. It seems to us that while the zoning regulations permit agricultural uses as a matter of right in residential zones, it does not make sense to require an SE for any horse when cows are permitted by right.

There are certain circumstances that need to be considered for some of the residential zones to permit equestrian facilities by P/SE.

Thank you for considering the views of the Montgomery County Agricultural Advisory Committee. We look forward to working with the Council in committee as these amendments are discussed.

Sincerely,
Wade Butler, Sr.
Wade Butler, Chairman

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