

Action

MEMORANDUM

July 9, 2010

TO: County Council

FROM: *MM* Marlene Michaelson, Senior Legislative Analyst

SUBJECT: **Action** - Damascus Master Plan Corrective Map Amendment: Kings Valley Road and Kingstead Road (G-888)

The Planning Board has submitted a Corrective Map Amendment (G-888) for Council approval (attached on © 1 to 10). This Corrective Map Amendment (CMA) would adjust the boundary between the current Rural Density Transfer (RDT) zone and the Rural Neighborhood Cluster/Transferable Development Rights (RNC/TDR) zone to correspond with the realignment of Kings Valley Road. The Damascus Master Plan recommended that Kings Valley Road serve as the boundary between these two zones. During its review of the Damascus SMA, the Council determined that the zoning line would be adjusted once the realignment of Kings Valley Road was finalized.

The Corrective Map Amendment is limited to the corrections identified in the attached letter from the Planning Board and the Planning Department memorandum, and may not be used as a vehicle for additional zoning changes. A public hearing was held on June 29, and there was only one speaker who supported the CMA. Due to the limited scope of this amendment and the lack of any negative testimony, this CMA was not reviewed by the Planning, Housing, and Economic Development (PHED) Committee.

As a reminder, the same ex parte rules that apply to sectional map amendments and local map amendments also apply to corrective map amendments. Therefore, Councilmembers should not engage in off-the-record communications.

Council Staff recommends approval. An opinion is attached at © 11 to 12.

LU & ZONING



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

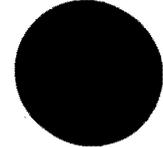
OFFICE OF THE CHAIRMAN

MM
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SBF
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May 12, 2010

The Honorable Nancy Floreen, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

057001



Dear Ms. Floreen:

I am pleased to inform you that the Montgomery County Planning Board, at its regular meeting on Thursday, May 6, 2010, reviewed Corrective Map Amendment No. G-888. By a vote of 4-0, the Board recommends APPROVAL of the Corrective Map Amendment for the 4.6 acres of land north of the intersection of Kings Valley Road and Kingstead Road, Damascus. The Amendment adjusts the boundary between the current RDT (Rural Density Transfer) zone and the RNC/TDR (Rural Neighborhood Cluster/Transferable Development Rights) zone to correspond with the recommended Kings Valley Road realignment in the Damascus Master Plan and with Council Resolution No. 15-1615.

The technical staff report is attached, and the foregoing is the recommendation adopted by the Montgomery County Planning Board, on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with Commissioners Dreyfuss, Wells-Harley, Presley, and Chairman Hanson voting in favor of the motion, and with Commissioner Alfandre absent, at its regular meeting on Thursday, May 6, 2010.

Sincerely,

Royce Hanson
Chairman

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RECEIVED
MONTGOMERY COUNTY
COUNCIL

Attachment

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

MCPB
5/6/10
Item #

April 19, 2010

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Glenn Kreger, Acting Chief *GK*
Vision Division
CM
Callum Murray, Potomac and Rural Area Team Leader
Vision Division

FROM: Katherine Holt, Senior Planner (301.495.4549) *KH*
Potomac and Rural Area Team
Vision Division

SUBJECT: Corrective Map Amendment No: G-888: 4.6 acres of Kingstead Farm, Kings Valley Road, Damascus from RDT Zone to RNC/TDR Zone in accordance with County Council Resolution No. 15-1615, adopted September 26, 2006.

RECOMMENDATION: Approval and transmit to the District Council.

Recommend approval to file Corrective Map Amendment G-888 for 4.6 acres of land north of the intersection of Kings Valley Road and Kingstead Road, Damascus. The proposed Amendment adjusts the boundary between the current RDT (Rural Density Transfer) zone and the RNC/TDR (Rural Neighborhood Cluster/Transferable Development Rights) zone to correspond with the recommended Kings Valley Road realignment in the Damascus Master Plan.

BACKGROUND:

On September 26, 2006, 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, approved the Damascus Sectional Map Amendment G-854 by Resolution No. 15-1615 (Attachment 1). The Sectional Map Amendment covered 27,689 acres of land and rezoned approximately 1,422 acres. The remaining acreage was reconfirmed as currently zoned. A portion of the zoning reclassification is depicted in Attachment 2.

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The pertinent language regarding the proposed rezoning appears in the Council Resolution as follows:

"The Council reviewed the request from owners of the Kingstead property asking the Council to include 6 additional acres in the RNC/TDR zone. This property is currently zoned RDT. The Master Plan recommended RNC/TDR zoning for the portion of this property that is east of the current alignment of Kings Valley Road and anticipates that Kings Valley Road will be realigned, resulting in an addition of 6 acres being east of Kings Valley Road. The Master Plan recommends that all of the property east of Kings Valley Road be zoned to RNC/TDR. Due to uncertainty regarding the exact location and future funding of the alignment, the Council recommended not including the additional 6 acres in the RNC/TDR zone until Kings Valley Road is realigned. The Council supported the future rezoning of any additional property that is east of Kings Valley Road once the timing and alignment of the road is clear (Resolution No: 15-1615)."

The owners of the Kingstead property have coordinated with the Montgomery County Department of Transportation on the realignment of Kings Valley Road. Agreement was reached on the realignment as depicted in Attachment 3. During the review process, a mapping error was noted; the current zoning line is on the west side of the road, but should be on the east. Roads take the least dense zone where they constitute the dividing line between two zones.

The Corrective Map Amendment would rezone 4.6 acres of land from the Rural Density Transfer (RDT) zone to the Rural Neighborhood Cluster/Transferable Development Rights (RNC/TDR) zone. Attachments 2 and 3 depict the existing and proposed RDT zoning lines respectively. The property owner intends to file a preliminary plan for the development of the property and an abandonment petition for a portion of the existing Kings Valley Road right-of-way. There will be no change to any Master Plan proposal as a consequence of the Corrective Map Amendment.

CONCLUSION:

The proposed zoning change should be made now that the future realignment of Kings Valley Road has been clarified. Planning staff recommends that Corrective Map Amendment G-888 be filed with the County Council with a Planning Board recommendation of approval in accordance with County Council Resolution No.15-1615.

KH:CM:ha: g:\murray\G-888 Kings Valley Damascus CMA(final)

Attachment 1	County Council Resolution No.15-1615
Attachment 2	Existing RDT and RNC/TDR Zoning
Attachment 3	Proposed RDT and RNC/TDR Zoning
Attachment 4	Linowes and Blocher letter dated March 29, 2010

ATTACHMENT 1

CORRECTED .GE

Resolution No.: 15-1615
Introduced: September 26, 2006
Adopted: September 26, 2006

**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

SUBJECT: Application No. G-854 for Amendment to the Zoning Map, County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located within Montgomery County, Opinion and Resolution on Application

OPINION

Sectional Map Amendment G-854 was filed by the Maryland-National Capital Park and Planning Commission and is a comprehensive rezoning application for the purpose of implementing the zoning recommendations contained in the Approved and Adopted Damascus Master Plan. The SMA application covers approximately 27,689 acres. The area proposed for reclassification consists of approximately 1,422 acres proposed for new zoning classifications. The remaining acreage is to be reconfirmed as currently zoned.

The District Council approved the Damascus Master Plan on May 25, 2006. The Master Plan sets forth the specific land use and zoning objectives for the development of the Damascus plan area and was subject to extensive and detailed review by the District Council. Following the transmittal of the fiscal impact analysis of the Damascus Master Plan by the County Executive, the District Council held public hearings on January 24 and February 28, 2006 wherein testimony was received from interested parties.

Sectional Map Amendment G-854 was filed on June 21, 2006 by the Montgomery County Planning Board to implement the specific zoning recommendations of the Shady Grove Sector Plan. The Council held a public hearing on July 25, 2006. The Planning, Housing and Economic Development Committee held a worksession on September 18, 2006, found the SMA to be consistent with the Master Plan, and discussed four issues raised in connection with Sectional Map Amendment G-854.

The Council reviewed a request from a County resident asking the Council not to rezone the Ridge Road North Transition Neighborhood properties to RE-1. These properties are currently zoned RE-2C. The Damascus Master Plan proposed the RE-1 zoning for these properties to conform the zoning to existing lot sizes. The SMA is consistent with the Master Plan recommendations and no new information was presented that would lead the Council to zone these properties contrary to the Master Plan.

The Council reviewed a request by the owner of the Miller property to include in Sectional Map Amendment G-854 a rezoning to the PD-10 zone. The Miller property is currently zoned RE-2C. The Damascus Master Plan recommended this property be zoned RE-1. Due to environmental

constraints associated with this property. Since the SMA is consistent with the Master Plan recommendations and no new information was presented that would lead the Council to zone these properties contrary to the Master Plan, the Council supported the RE-1 recommendation.

The Council discussed the request by the owner of the Cramer property to zone their property MXTC. The Cramer property is currently zoned RE-2C and I-1. The Approved and Adopted Damascus Master Plan recommends this property be zoned MXTC/TDR. Because of the substantial amount of increased residential potential, the Council supported the MXTC/TDR zone for this property and similarly zoned properties. The SMA is consistent with the Master Plan recommendations and no new information was presented that would lead the Council to zone these properties contrary to the Master Plan.

The Council reviewed the request from the owners of the Kingstead property asking the Council to include 6 additional acres in the RNC/TDR zone. This property is currently zoned RDT, RC, and RE-2C. The Master Plan recommends RNC/TDR zoning for the portion of this property that is east of the current alignment of Kings Valley Road and anticipates that Kings Valley Road will be realigned, resulting in an addition 6 acres being east of Kings Valley Road. The Master Plan recommends that all of the property east of Kings Valley Road be zoned RNC/TDR. Due to uncertainty regarding the exact location and future funding of the alignment, the Council recommended not including the additional 6 acres in the RNC/TDR zone until Kings Valley Road is realigned. The Council supported the future rezoning of any additional property that is east Kings Valley Road once the timing and alignment of the road is clear.

The Council considered the Sectional Map Amendment at a worksession held on September 26, 2006. The Council supported the Sectional Map Amendment as submitted by the Planning Board. The Council finds that Sectional Map Amendment Application G-854 is necessary to implement the land use and development policies expressed in the Approved and Adopted Damascus Master Plan.

The Council supports the technical changes highlighted in the Technical Staff Report, including adjustments to zoning boundaries indicated by the transition from hand-drawn zoning maps to digital map. The Council finds that all other zoning changes are consistent with the recommendations of the Approved and Adopted Damascus Master Plan.

The evidence of record for Sectional Map Amendment G-854 consists of all record materials compiled in connection with the County Council public hearing on the Planning Board Draft of the Damascus Master Plan, dated August 2005, and all record materials compiled in connection with the public hearing held by the Council on July 25, 2006 on Sectional Map Amendment G-854.

For these reasons and because to grant this application will aid in the accomplishment of a coordinated, comprehensive adjusted and systematic development of the Maryland-Washington Regional District, this application will be GRANTED.

Action

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 resolution:



1. Application No. G-854, Maryland-National Capital Park and Planning Commission, Applicants for the Sectional Map Amendment covering the area of the Damascus Master Plan, consisting of approximately 27,689 acres, more or less, is GRANTED. Approximately 1,422 acres are rezoned as a result of this action. The remaining acreage is to be reaffirmed as currently zoned.
2. The following parcels are reclassified as part of this action as recommended in the Master Plan.

<u>Parcel</u>	<u>Land Area*</u> <u>(acres)</u>	<u>Reclassification</u>
1	126.16	RE-2C, R-30, R-60, R-200, O-M, RT-8, PD-7, C-1, and C-2 to MXTC
2	66.37	RE-2C, R-30, R-200, C-T, C-2, and I-1 to MXTC/TDR
3	26.57	RE-2C to R-200
4	36.12	RE-2C to R-200
5	40.57	RE-2C to RE-1
6	27.3	RE-2C to RE-1
7	75.95	RE-2C to RNC/TDR
8	75.09	RE-2C to RNC/TDR
9	131.98	RC and RE-2C to RNC/TDR
10	16.86	RE-2C to RNC/TDR
11	35.29	RE-2C to RNC/TDR
12	43.58	RE-2C to RNC/TDR
13	27.03	RE-2C to RNC/TDR
14	3.79	RE-2C to R-90
15	590	RE-2C to RC
A	21.12	C-1 and R-200 to Rural Village Center Overlay Zone
B	44.78	C-1 and R-200 to Rural Village Center Overlay Zone
C	12.27	C-1 and R-200 to Rural Village Center Overlay Zone
D	20.72	C-1 and R-200 to Rural Village Center Overlay Zone
C1	0.05	RT-6 to R-200
C2	0.79	RT-6 to RT-8
C3	0.24	RE-2 to R-150
C4	1.42	RE-2C to RE-2C/TDR

This is a correct copy of Council action.

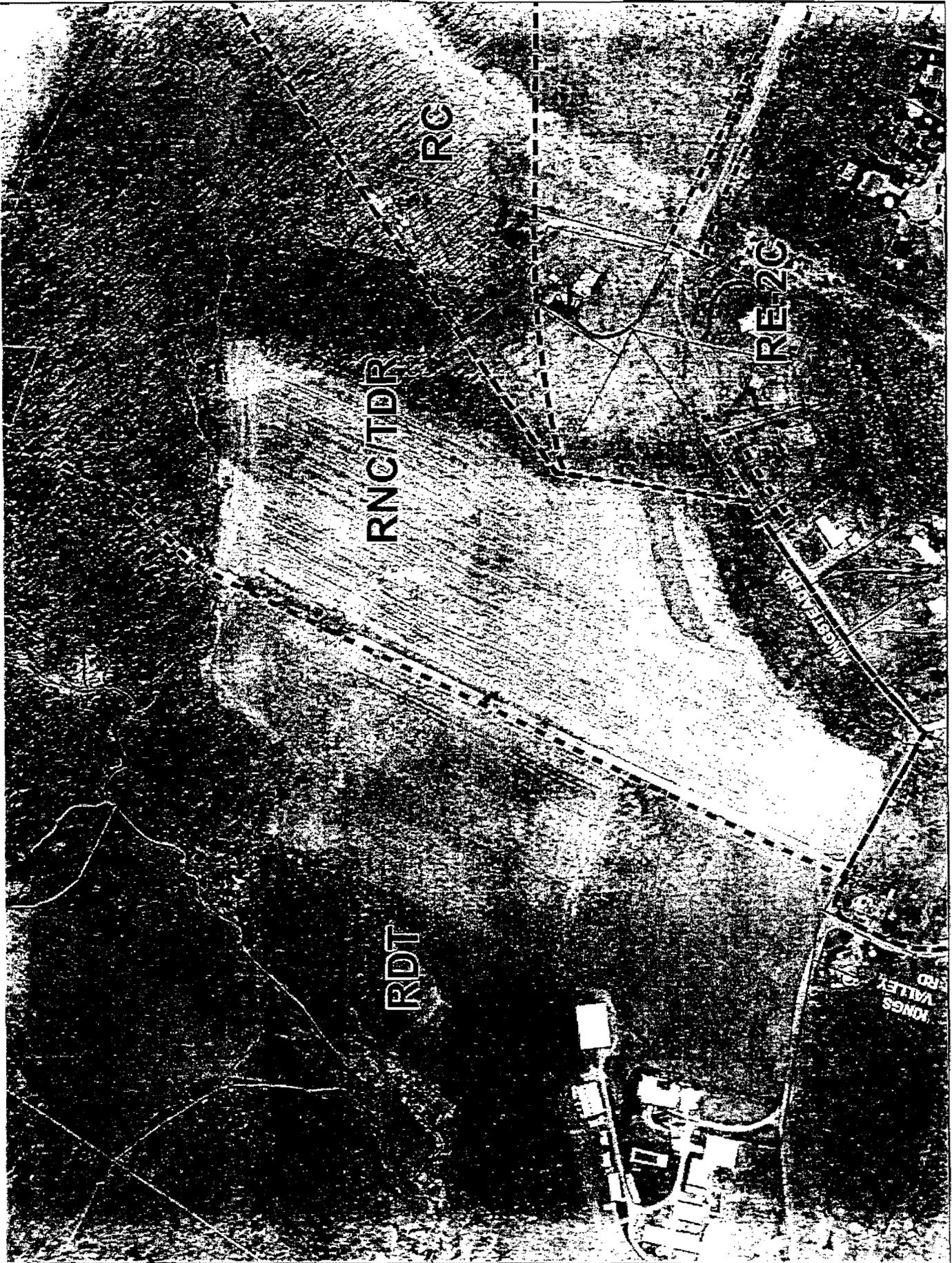
Linda M. Lauer

Linda M. Lauer, Clerk of the Council

*Indicated property acreages exclude public right-of-ways for roads. (While the Zoning Ordinance notes that "official zoning maps will not depict the zoning within existing rights-of-way" it also states that right-of-ways "are classified in the least intensive of adjacent zones.") When development is proposed, the gross acreage of the property is used to calculate density, including any land that has been or will be dedicated for public right-of-way.



ATTACHMENT 2

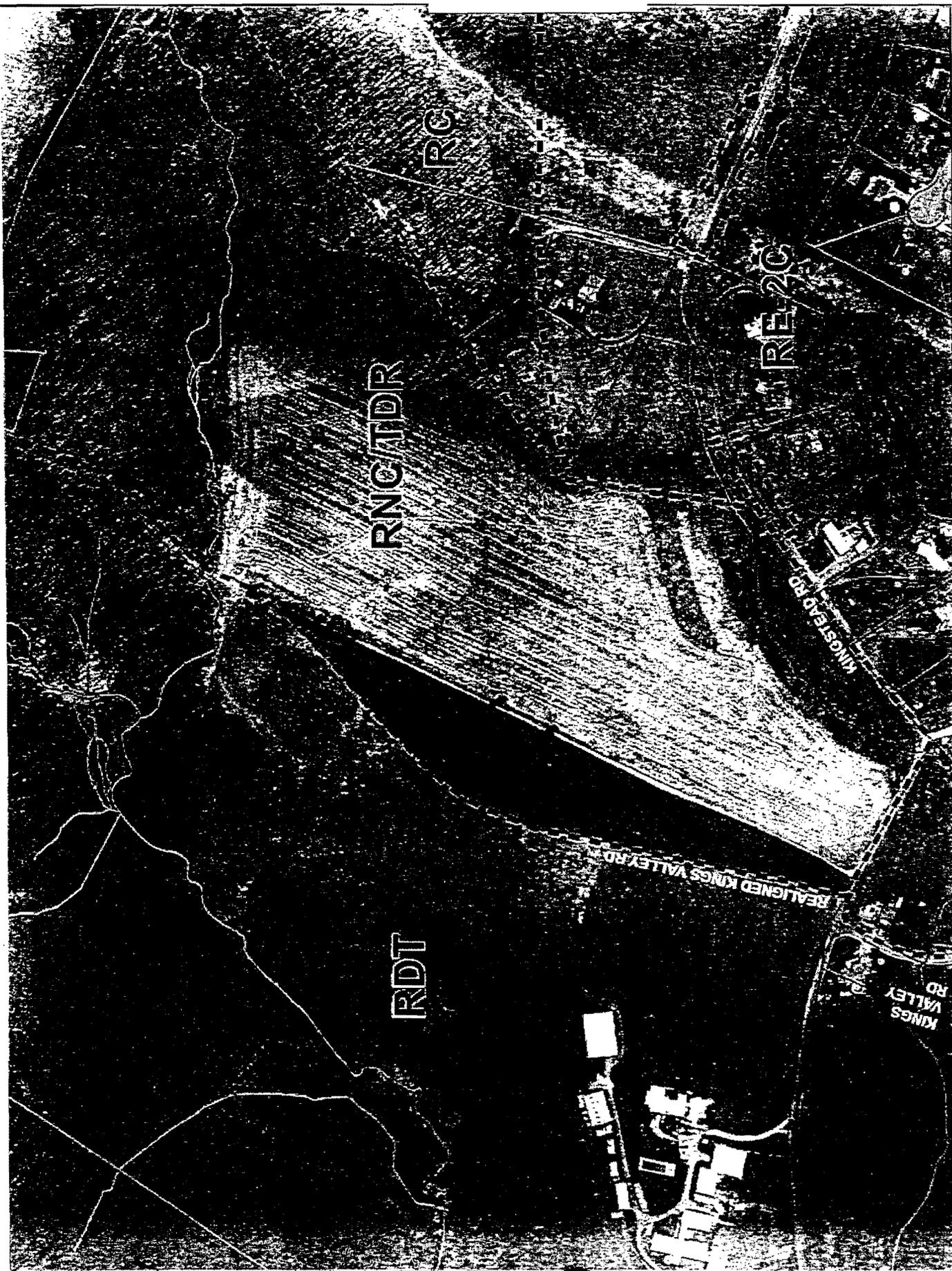


Attachment 2
Existing Zonina

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Legend
--- Zoning Line
--- Property Lines

ATTACHMENT 3



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Legend

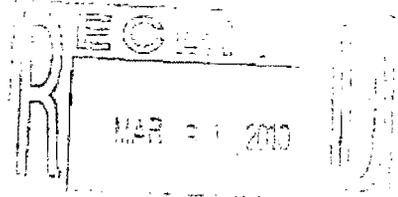
- Area to be rezoned
- Zoning Line
- Property Lines



1:3,600

Attachment 3
Proposed Zoning

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW



March 29, 2010

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Erin E. Girard
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egirard@linowes-law.com

Callum Murray
Maryland-National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Kingstead Farm, Damascus

Dear Mr. Murray:

On behalf of our clients, Jane, Mary and Douglas King, and as a follow-up to our recent meeting, the purpose of this letter is to review the Kings' plans for their property, located north of Kingstead Road and bisected by Kings Valley Road in Damascus, Maryland (the "Property"), going forward. As you are aware, now that the realignment of Kings Valley Road through the Property has been agreed to by the Montgomery County Department of Transportation, the Kings are awaiting a corrective map amendment that would rezone the approximately 6 acre portion of their Property, moving from the west to the east side of Kings Valley Road as a result of that road's realignment, to RNC. Following Council adoption of the corrective map amendment, the Kings expect to proceed with filing a preliminary plan for development of the Property, as well as an abandonment petition to abandon the portion of the existing Kings Valley Road right-of-way that will be realigned. While it is currently unclear whether the Kings will partner with a developer to bring the Property through the development process or pursue such a process on their own, it is anticipated that pursuit of necessary development approvals will follow adoption of the corrective map amendment rather closely.

Thank you for your attention to this matter. Should you have any questions or concerns, or require any additional information, please contact us.

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Callum Murray
March 29, 2010
Page 2

Very truly yours,

LINOWES AND BLOCHER LLP


Stephen Z. Kaufman


Erin E. Girard

cc: Jane, Mary and Douglas King
Jane Przygocki
Gary Unterberg

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Resolution No.: _____
Introduced: July 13, 2010
Adopted: _____

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

By: District Council

SUBJECT: Corrective Map Amendment Application No. G-888 for Amendment to the Zoning Map, County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located within Montgomery County, Opinion and Resolution on Application

OPINION

This Corrective Map Amendment Application (G-888) was filed on May 17, 2010 by the Maryland-National Capital Park and Planning Commission to correct a zoning line based on the realignment of Kings Valley Road in the official Zoning Map. On September 26, 2006 the District Council approved Sectional Map Amendment G-854 to implement the recommendations of the Damascus Master Plan. During its review of the Sectional Map Amendment, the Council determined that a future rezoning would be appropriate once the final alignment of Kings Valley Road was established.

When the Council reviewed the Damascus Master Plan, it determined that land east of Kings Valley Road on the Kingstead/Leishear property should be zoned Rural Neighborhood Cluster (RNC) 0.2 /Transferable Development Right (TDR) 0.5, and land west of Kings Valley Road should be zoned Rural Density Transfer (RDT). During its review of the Sectional Map Amendment, the owners of the Kingstead property indicated that the realignment of Kingstead Road was likely to increase the land east of Kings Valley Road by 6 acres and asked the Council to rezone these 6 acres to the RNC 0.2/TDR 0.5 in anticipation of the realignment. At that time, the Council determined that the zoning line should follow the existing alignment of the Kings Valley Road and be adjusted once the exact realignment was set. The Montgomery County Department of Transportation and the property owners have agreed on the alignment, and an additional 4.6 acres will now be east of Kings Valley Road. The change in zoning is consistent with the Damascus Master Plan and the Council's decisions during its review of the Damascus SMA.

Corrective Map Amendment Application G-888 was the subject of a public hearing held by the District Council on June 29, 2010. One speaker testified in favor of the rezoning. The Corrective Map Amendment and the recommendations of the Planning Board were carefully

considered by the District Council at a worksession held on July 13, 2010. The Corrective Map Amendment was submitted as technical in nature and only for the purpose of correcting a zoning line in the official Zoning Map.

For these reasons, and because to grant this application will aid in the accomplishment of a coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District, this application will be GRANTED, as filed.

Action

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 resolution:

Application No.G-888, requested by the Maryland-National Capital Park and Planning Commission, for the Corrective Map Amendment to correct a zoning line based on the realignment of Kings Valley Road in Damascus, is approved as filed.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council