

Ordinance No: 15-69
Zoning Text Amendment No: 06-04
Concerning: Rural Neighborhood Cluster –
Rural Open Space
Draft No. & Date: 3 – 4/14/06
Introduced: January 24, 2005
Public Hearing: 3/7/06; 1:30 p.m.
Adopted: April 18, 2006
Effective: May 8, 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: Councilmember Praisner

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

- clarifying the circumstances for subdivision of a one-family residential lot in the rural open space area of the Rural Neighborhood Cluster (RNC) zone, and
- requiring all publicly held or privately held land in the rural open space area of the Rural Neighborhood Cluster (RNC) zone to be preserved in perpetuity by easement or covenant; and
- generally amending the Rural Neighborhood Cluster zone.

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-9.57	“Special regulations for development in the Rural Neighborhood Zone”
Section 59-C-9.572	“Rural Open Space”
Section 59-C-9.574	“Optional method of development”

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

Zoning Text Amendment No. 06-04 was introduced on January 24, 2005, to clarify that all publicly or privately held land in the rural open space area must be preserved in perpetuity as rural open space through an easement or covenant. The ZTA would also establish that subdivision for a one-family lot in the rural open space area of the Rural Neighborhood Cluster zone is allowed only if recommended in an approved and adopted master or sector plan..

The Montgomery County Planning Board in its report to the Council recommended that the text amendment not be approved. The Board's position was that it's unwise to cede public control over public land in an easement or covenant to a private entity.

The County Council held a public hearing on March 7, 2006, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on April 3, 2006, to review the Zoning Text Amendment. The Committee recommended that ZTA 06-04 be approved, with revisions. As recommended by the Committee, all publicly held or privately land in the rural open space area of the RNC zone must be preserved in perpetuity as rural open space by application of an easement or covenant in a recordable form. The Committee also agreed that 10-acre conservancy lots would not be required to be identified in an approved and adopted master or sector plan provided the conservancy lot contributes to the overall total of rural open space and is a logical extension of the existing open space area

The District Council reviewed Zoning Text Amendment No. 05-09 at a meeting held on April 3, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-09 will be approved as amended.

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-9.57. Special regulations for development in the Rural Neighborhood**
5 **Cluster zone.**

6 **59-C-9.571. Purpose.**

7 The cluster method of development is intended to preserve large areas of
8 contiguous rural open space, consistent with the recommendations and
9 guidelines of the applicable master or sector plan. Cluster development is
10 required under both the standard and optional methods of development.
11 Cluster development requires the setting aside of rural open space. Under
12 the optional method of development the maximum development unit density
13 allowed may be increased to accommodate the construction of Moderately
14 Priced Dwelling Units in accordance with Chapter 25A.

15 **59-C-9.572. Rural Open Space.**

16 Rural open space is land that is managed, as described in Section 59-C-
17 9.574(g)(3), or is unmanaged, which means that it is returning to its natural
18 state without human intervention. Contiguous rural open space shares an
19 extended boundary with a residential cluster neighborhood. The open space
20 may preserve sensitive natural resources, other sensitive areas and associated
21 habitat.

22 Recreational facilities in the rural open space are limited to trails and related
23 amenities or other facilities recommended in the master plan. The following
24 classes of uses are not permitted in the rural open space area. The
25 exceptions noted in subsections (d) and (f) are not excluded from this area;
26 they are permitted by right or special exception, as stated in section 59-C-
27 9.3:

- 28 (a) Agricultural-industrial;
- 29 (b) Agricultural-commercial;
- 30 (c) Resource production and extraction;
- 31 (d) Residential, with the following exceptions:
 - 32 - [[If recommended in an approved and adopted master or sector
 - 33 plan,]] a one-family detached dwelling located on a lot, 10 acres
 - 34 or greater in size, that contributes to the overall total of rural
 - 35 open space, and is a logical extension of the existing open space
 - 36 area;
 - 37 - accessory apartment that is part of a one-family detached
 - 38 dwelling located on a lot, 10 acres or greater in size, that
 - 39 contributes to the overall total of rural open space;
 - 40 - a farm tenant dwelling in existence prior to application of the
 - 41 Rural Neighborhood Cluster zone, or a structure converted to a
 - 42 farm tenant dwelling included as part of a historic site
 - 43 designated in the Historic Master Plan;
 - 44 - a one-family semidetached dwelling and townhouse as part of a
 - 45 moderately-priced dwelling unit development;
- 46 (e) Commercial; and
- 47 (f) Services, except a home occupation associated with an otherwise
- 48 permitted residential use.

49 * * *

50 **59-C-9.574. Optional method of development.**

51 * * *

- 52 (h) Rural open space design guidelines

53 * * *

54 (4) All publicly held or privately held land in the rural open space
55 area must be preserved in perpetuity as rural open space [,
56 either by dedication to parkland or] by application of an
57 easement or covenant in a recordable form approved by the
58 Planning Board. The easement or covenant must restrict uses in
59 the rural open space area to those [set forth in this zone] uses
60 allowed under 59-C9.572, [establish procedures] provide for the
61 management of any natural or agricultural features [as set forth]
62 in accordance with the approved site plan, and prohibit any
63 [further] development or subdivision within the rural open
64 space area not expressly authorized.

65 * * *

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

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69 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council