

(Attachment C.)

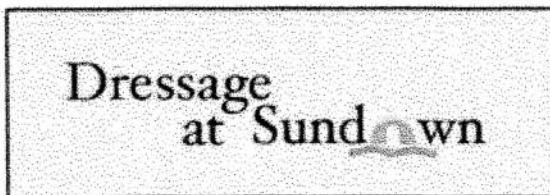
Criss, Jeremy

From: Jane Seigler [seigler.jane@gmail.com]
Sent: Friday, February 10, 2012 2:16 PM
To: Criss, Jeremy
Cc: Woody Woodroof; Ben Allnut; Callum Murray; Chuck Schuster; David Heisler; David Weitzer; Doug Lechlida; Doug Tregoning; Eddie Kuhlman; Fred Lechlida; Gary Marx; Gene Walker; George Lechlida; Jane Evans; Jane Hunter; Jim Clifford; Linda Lewis; Lois Stoner; Nancy Aldous; Patrick Brown; Patrick Brown; Randy Stabler; Robert Beall; Tim McGrath; Tom Linthicum; Vince Berg; Wade Butler; William Willard; klewis@ruppertcompanies.com; Steed, Melissa; Zawitoski, John; annets1@aol.com
Subject: Re: NEW TIME 7:00pm Agricultural Advisory Committee Meeting Tuesday February 21, 2012

Just a bit of clarification. Jeremy's first attachment contains on the first page the revised MCA proposal, which was distributed at the last ZAP meeting on January 25th. The second page is a memo from Pam Lindstrom, which is separate but related. Diana Conway, who presented the first page document, took pains at the meeting to make clear that Pam's memo is "separate" and should not distract from consideration of Diana's document, which she sees as the first priority.

Jeremy's second attachment contains a redlined version of Diana's document, highlighting changes from her original proposal, apparently made after a lengthy conversation with Francoise Carriere. The second page of this document is another copy of Pam Lindstrom's memo. Lastly, there are staff comments from Callum Murray.

Jane Seigler
USDF Silver Medalist
VP, Maryland Horse Council
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- like us!

On Feb 7, 2012, at 1:23 PM, Criss, Jeremy wrote:

2/17/2012

(Attachment C.)

Criss, Jeremy

From: Criss, Jeremy
Sent: Tuesday, February 07, 2012 1:23 PM
To: Criss, Jeremy; 'Woody Woodroof'; 'Ben Allnut'; 'Callum Murray'; 'Chuck Schuster'; 'David Heisler'; 'David Weitzer'; 'Doug Lechlides'; 'Doug Tregoning'; 'Eddie Kuhlman'; 'Fred Lechlides'; 'Gary Marx'; 'Gene Walker'; 'George Lechlides'; 'Jane Evans'; 'Jane Hunter'; 'Jane Seigler'; 'Jim Clifford'; 'Linda Lewis'; 'Lois Stoner'; 'Nancy Aldous'; 'Patrick Brown'; 'Patrick Brown'; 'Randy Stabler'; 'Robert Beall'; 'Tim McGrath'; 'Tom Linthicum'; 'Vince Berg'; 'Wade Butler'; 'William Willard'; 'klewis@ruppertcompanies.com'
Cc: Steed, Melissa; Zawitoski, John; 'annets1@aol.com'
Subject: RE: NEW TIME 7:00pm Agricultural Advisory Committee Meeting Tuesday February 21, 2012

Hello everyone,

The Montgomery County Agricultural Advisory Committee will be meeting Tuesday February 21, 2012 at the Up-County Regional Services Center in Room B in Germantown at a **NEW TIME of 7:00 pm**.

The meeting announcement and agenda will be available next week.

One of the items that we need to discuss surrounds a proposal from the Montgomery Countryside Alliance-MCA to the MNCPPC Zoning Advisory Panel.

Jane Seigler is the agricultural representative on the ZAP and Jane will be attended the February 21, 2012 AAC meeting to discuss this proposal.

The MCA is proposing changes to the legislative intent of the Agriculture Conservation-AC Zone which is proposed to replace the Rural Density Transfer-RDT zone.

Attached you will see two versions of the MCA proposal.

The first attachment shows what the MCA originally proposed and the second attachment reflects additional changes proposed by the MCA.

Outlined below you will see the existing legislative intent of the RDT zone that will help you to better understand the changes proposed by the MCA.

Next week I will forward to you the completed agenda and attachments for this meeting.

Thanks Jeremy

59-C-9.23. Intent of the Rural Density Transfer zone.

The intent of this zone is to promote agriculture as the primary land use in sections of the County designated for agricultural preservation in the General Plan, the Functional Master Plan for Preservation of Agriculture and Rural Open Space, and other master plans. This is to be accomplished by providing large areas of generally contiguous properties suitable for agricultural and related uses and permitting the transfer of development rights from properties in this zone to properties in designated receiving areas.

Agriculture is the preferred use in the Rural Density Transfer zone. All agricultural operations are permitted at any time, including the operation of farm machinery. No agricultural use can be subject to restriction on the grounds that it interferes with other uses permitted in the zone, but uses that are not exclusively agricultural in nature are subject to the regulations in Division 59-C-9 and in Division 59-G-2, "Special Exceptions—Standards and Requirements."

The intent of the child lot option in the Rural Density Transfer zone is to facilitate the continuation of the family farming unit or to otherwise meet the purposes of the RDT zone.

2/7/2012

This document includes zoning issues concerning the Agriculture Reserve that need further discussion by ZAP and drafters of the Zoning Code.

Proposed Intent statement

Sec. 2.2.1. Agricultural and Rural Zones A. Agricultural Conservation (AC)

1. The intent of the AC Zone is to implement the General Plan, the Functional Master plan for Preservation of Agriculture and Rural Open Space (AROS), and other master plans. This is to be accomplished by promoting agriculture as the primary and preferred land use, and by preventing the fragmentation of large areas of generally contiguous properties suitable for agriculture and related uses and resource conservation by non-agricultural uses or subdivisions and permitting the transfer of development rights from properties in the zone to properties in designated receiving areas.
 2. All agricultural operations are permitted at any time, including the operation of farm machinery. No agricultural use can be subject to restriction on grounds that it interferes with other uses permitted in the zone, but uses that are not exclusively agricultural in nature are subject to additional use standards or the conditional use approval process.
 3. The intent of the child lot option in the AC Zone is to facilitate continuation of the family farming unit or to otherwise meet the purposes of the AC Zone.
 4. The intent of the Use Standards and District Regulations of the AC Zone is to provide for housing and other structures that support farming, agricultural preservation, conservation of environmental resources, and are harmonious with the rural character of the Agriculture Reserve.
This is accomplished by standards and regulations that require that housing and other structures in the AC Zone support farming within and near the tract; and be, to the maximum extent feasible, arranged and located to protect agriculture, natural resources, and the rural character of the area, consistent with the policies of the AROS Plan.
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This document includes zoning issues concerning the Agriculture Reserve that need further discussion by ZAP and drafters of the Zoning Code.

Proposed Intent statement

Sec. 2.2.1. Agricultural and Rural Zones A. Agricultural Conservation (AC)

1. The intent of the AC Zone is to promote agriculture as the primary land use in sections of the County designated for agricultural preservation in implement the General Plan, the Functional Master plan for Preservation of Agriculture and Rural Open Space (AROS), and other master plans This is to be accomplished by providing large areas [promoting agriculture as the primary and preferred land use, and by preventing the fragmentation of] large areas of generally contiguous properties suitable for agricultural [agriculture] and related uses [and resource conservation by non-agricultural uses or subdivisions] and permitting the transfer of development rights from properties in the zone to properties in designated receiving areas.
2. All agricultural operations are permitted at any time, including the operation of farm machinery. No agricultural use can be subject to restriction on grounds that it interferes with other uses permitted in the zone, but uses that are not exclusively agricultural in nature are subject to additional use standards or the conditional use approval process.
3. The intent of the child lot option in the AC Zone is to facilitate continuation of the family farming unit or to otherwise meet the purposes of the AC Zone.
4. [The intent of the Use Standards and District Regulations of the AC Zone is to provide for housing and other structures that support farming, agricultural preservation, conservation of environmental resources, and are harmonious with the rural character of the Agriculture Reserve. This is accomplished by standards and regulations that require that housing and other structures in the AC Zone support farming within and near the tract; and be, to the maximum extent feasible, arranged and located to protect agriculture, natural resources, and the rural character of the area, consistent with the policies of the AROS Plan.]

Comment: Added per MCA after removing ordinance text

Deleted:

Comment: Added per MCA

Comment: Added per MCA

Comment: Added per MCA

Comment: Added per MCA

Comment: New addition by MCA.

Callum Murray's Comments

(Attachment C.)

General comment: These comments are constructive and the intent is laudable, but I do think they need revision as follows:

1. I would support separating out the Agricultural Conservation Zone from the Other Rural Zones, as I think it would transmit an unambiguous message about the intent of the Zone.
2. I would recommend retaining the first sentence of the "Intent" section from the existing Zoning Ordinance. It is crystal clear that the intent of the Zone is to promote agriculture as the primary land use. I realize that Diana incorporates it later in the paragraph, but I believe it should be the opening sentence.
3. Given that the AROS Plan will ultimately be amended, and may have a different geography and/or title, I would suggest substituting "Applicable Master Plan" as we have done in recent zoning text amendments.
4. Diana suggests adding a clause referring to "preventing the fragmentation of large areas of generally contiguous properties....." Unfortunately, there will always be some fragmentation generated by permitted development, so I would suggest substituting "Minimizing" for "Preventing."
5. I believe the phrase "Resource conservation by non-agricultural uses or subdivisions," is redundant. This is something we already practice, under the terms of NO.2 above.
6. I believe that Diana's paragraph 4 goes beyond the Intent of the Zone statement. If it is to be included, say before the Use Standards, I would suggest that it NOT include "The intent Is to provide for housing" I would suggest it commence: "The Use Standards and District Regulations of the AC Zone include provisions for housing ..."
7. On the second paragraph of Item 4, I would recommend deleting "support farming within and near the tract;" That is an impossible standard for many uses that are permitted in the AC Zone.
8. Finally, in order for the AC zone to have a parallel structure to some of our more recent ZTAs, I would recommend the incorporation of a Master Plan conformance clause, perhaps under "General Requirements" to read as follows:
"Any development under the AC Zone must be consistent with the recommendations of the applicable Master Plan."
(The AROS Plan is not the only Master Plan with RDT/AC Zoned land, and, as noted above, its name or geography may be amended in future).

Subject: Zoning Issues in the Agriculture Reserve Pam Lindstrom's Comments

The implications of the proposed AC zone and its associated intent, standards, uses, etc. will determine the long term future of the Agriculture Reserve, and thus the implementation of the Master Plan for Preservation of Agriculture and Rural Open Space. These implications need serious discussion by the drafters of the new Zoning Code and by the panel. This memo lists some issues other than the Intent, but is not necessarily an exhaustive list or discussion of the issues.

1. Height, lot coverage, impervious area allowed on non-agricultural lots

Since the underlying purpose of the Agriculture Reserve is agriculture, lots used for suburban residences, institutions, and other uses unrelated to agriculture need to be regulated carefully.

Among the issues raised by the draft Code are the allowed building lot coverage and height. As proposed, they allow quite large buildings on lots of only 2-3 acres. When spread over a large property of five acres or more, they allow large institutional buildings.

The Code does not include a cap on impervious area, so driveways, parking lots, etc. are unrestricted. The illustrations in the draft Code show how much of a lot can be rendered impervious.

There are data showing the upper limits to imperviousness to preserve surface and ground water quality. The EPA designated Piedmont Sole Source Aquifer which underlies the Ag Reserve is the only source of potable water for residents, visitors, livestock and wildlife, making an impervious cap all the more important. There are local references to calculating the percent of a lot or a larger area that is impervious. The Zoning Code should use them.

2. Clustering

The drafters of the Zoning Code need to think carefully about the effects of clustering of residential lots when a farm is subdivided. In some situations, clustering is beneficial, in some cases it is damaging (for instance on Peachtree Road). The Zoning Code should be flexible in the right sense, so that lots are placed and sized where they do least damage.

3. Building types

In the draft Code, the size of General Buildings and Community Buildings is unlimited, proportional to the lot size. The impervious area is not capped at all. These buildings could grow very large on a large lot.

4. Large permitted uses

Among the uses that can have large impacts are: Large Day Care Center (over 30 persons), Private Club, Charitable/Philanthropic Institution, and Religious Assembly (which includes religious school). In no case is an upper size limit proposed. These institutions are all designated as conditional (C) or limited (L) uses, but the conditions or limits are minimal.

5. TDR zones

The list of Zoning Conversion Defaults, circulated to ZAP members at the Jan. 15 meeting, shows conversion of the zones in the existing Zoning Ordinance, to a new smaller set of zones. The conversion table does not show any TDR zones. How would the new Zoning Code deal with conventional TDRs? This is an issue with many of the residential zones, and also with converting the TOMX to CR.

The Shady Grove Sector Plan area, the only area with the TOMX zone, has the potential to provide home for a lot of TDRs, but there is no provision for them if Shady Grove is converted to CR. Purchase of a few building lot TDRs (or BLTs) is required in CR. What are the tradeoffs?