

MEMORANDUM

June 12, 2023

TO: Transportation & Environment Committee

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee

PURPOSE: Worksession

EXPECTED ATTENDEES

- Tanya Stern, Director, Planning Department
- Robert Kronenberg, Deputy Director, Planning Department
- Patrick Butler, Chief, Upcounty Division, Planning Department
- Donnell Zeigler, Supervisor, Upcounty Division, Planning Department
- Jamey Pratt, Planner III, Upcounty Division, Planning Department
- Roberto Duke, Planner III, Upcounty Division, Planning Department
- Rebeccah Ballo, Supervisor, Historic Preservation, Planning Department

INTRODUCTION

Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee, was introduced by Council President Glass at the request of the Planning Board on June 20, 2023. Bill 30-23 will enact recommendations from the “Implementation” chapter of the Rustic Roads Functional Master Plan (“RRFMP”) Update regarding the composition and duties of the Rustic Roads Advisory Committee.¹ Bill 30-23 changes the number of members on the Committee and clarifies additional duties of the RRAC that are already found in existing County provisions.

PUBLIC HEARING

A public hearing was held on June 11, 2023.² Several speakers testified with varying degrees of support and opposition for Bill 30-23. Speakers testified regarding whether to increase or decrease the number of farmers, whether the focus should be on “commodity farmers” or table crop farmers

¹ The Planning Board Draft of the RRFMP Update was transmitted to the County Council on April 18, 2023. It will be reviewed by the TE Committee in conjunction with this bill.

² Written testimony can be found here:

<https://cmsinternet.mcgov.org/COUNCIL/OnDemand/testimony/20230711/item2.html>.

who do not earn more than 50% of their income from farming, and whether the additional listed duties are unnecessary.

SUMMARY OF IMPACT STATEMENTS

Climate Assessment

The Office of Legislative Oversight (“OLO”) anticipates Bill 30-23 will have no impact on the County’s contribution to addressing climate change because it is proposing changes regarding the composition and duties of an existing committee.

Fiscal Impact Statement

The Office of Management and Budget (“OMB”) anticipates Bill 30-23 will have no impact on expenditures or revenues because Committee members receive no compensation.

Economic Impact Statement

OLO anticipates Bill 30-23 will have an insignificant impact on economic conditions in the County because there is no direct connection between increasing the size of voting members from 7 to 9 and the Council’s priority economic indicators, and because Bill 30-23 codifies activities that the RRAC is already undertaking.

RESJ Impact Statement

OLO anticipates Bill 30-23 could have a favorable impact on racial equity and social justice (RESJ) in the County if it increases the number of Rustic Roads Advisory Committee (RRAC) members from racially, ethnically, and socioeconomically diverse backgrounds. OLO notes that additional data describing the demographics of current RRAC members and the demographics of rustic road users that could serve on the proposed RRAC would be required to discern the anticipated RESJ impact of Bill 30-23 more definitively.

DISCUSSION

The Rustic Roads Advisory Committee is a County Executive agency, intended to help oversee the Rustic Roads Program. The committee is staffed by a member of Planning Staff, the Chief Administrative Officer, and a staff coordinator from the Department of Transportation (“MCDOT”). Committee members serve for 3 years.³ The Committee currently has the following 7 voting members:

- 3 members who are owner-operators of commercial farmland earning 50 percent or more of their income from farming, one of whom is a representative of the Agricultural Advisory Committee;

³ The term of RRAC members is not listed in Sec. 49-80. Rather, under Sec. 2-148, “Unless another term is established by the law, resolution, or executive order creating the group, the standard term for each appointment is 3 years, after any initial staggered term.”

- 1 member who knows rural preservation techniques through practical experience and training;
- 1 member who knows roadway engineering through practical experience and training;
- 1 member who represents civic associations located in the Agricultural Reserve; and
- 1 member who represents civic associations in areas located outside the Agricultural Reserve where there are rustic roads.

The RRFMP Update recommends making several changes to the RRAC. The two overarching goals are to increase diversity and representation on the Committee by increasing its size and the makeup of its members, and to clarify the duties of the Committee.

Increase diversity and representation on the Committee

1. Bill 30-23 directs the County Executive to achieve diversity on the Committee.

The County Executive must appoint, subject to confirmation by the County Council, a Rustic Roads Advisory Committee. In making appointments, the Executive should strive to achieve diversity on the Committee in support of racial equity and social justice.

In order to achieve the bill’s goal of increasing diversity on the RRAC, Council Staff recommends changing the word “should” to “must”.

The County Executive must appoint, subject to confirmation by the County Council, a Rustic Roads Advisory Committee. In making appointments, the Executive [should] **must** strive to achieve diversity on the Committee in support of racial equity and social justice.

2. Bill 30-23 increases the number of voting members on the Committee to enable a larger, more diverse Committee.

The Committee has [7] 9 voting members.

3. Bill 30-23 removes the requirement that a commercial farmer, referred to as a “commodity farmer” in the RRFMP Update, own the farm. This will allow full-time farmers who lease their land to serve on the Committee.

[3] three members who [are owner-operators of] operate commercial farmland earning 50 percent or more of their income from farming

4. Bill 30-23 does not make any changes to the existing requirement that the farmers on the RRAC earn 50% or more of their income from farming. This language mirrors the requirements of the Agricultural Preservation Advisory Board (APAB) and the

Agricultural Advisory Committee (AAC). However, this requirement has been discussed by the County’s agricultural boards and committees and during the public hearing. These comments include:

- During the public hearing, the Montgomery County Farm Bureau suggested an amendment that all future nominees for members who operate commercial farmland and earn more than 50% of their income from farming include a letter from their accountant specifically stating that they exceed the 50% income requirements from farming.⁴

Council Staff does not recommend an amendment on how to demonstrate the requirement is met in Bill 30-23. Currently, no tax information or other documentation is used to prove this requirement in the RRAC, AAC, or APAB. To maintain consistency, if the Committee wishes to require certain types of proof for the income requirement, then Council Staff recommends a separate bill that makes this change to the APAB and AAC as well.

- The AAC submitted written testimony requesting an amendment that requires the 3 members who earn more than 50 percent of their income from farming to earn it from “direct involvement in commodity farming.” The West Montgomery County Citizens Association (“WMCCA”) disagreed with this recommendation, noting that while there are over 1,000 active farms in Montgomery County, only 35 are large-scale commodity farmers.⁵

Council Staff does not recommend this amendment. First, the term “commodity farming” is not defined anywhere in County law. Based on the AAC’s written testimony, Council Staff’s understanding is that this additional language will ensure that large commercial farms will be given more voice in the RRAC, which is needed because they use large equipment such as combines that often require wider roads. However, the intent of the 50% income requirement is to capture these farmers.

5. Bill 30-23 requires the representative from the Agricultural Advisory Committee (“AAC”) be recommended to the County Executive by the AAC. This language was added to address concerns raised by many “commodity farmers” that their voices have been diminished on the RRAC. Another change being made in Bill 30-23 is this member will be in addition to the three members who operate commercial farmland and earn more than 50% of their income from farming. This acknowledges the importance of the County’s largest commercial farmers in the Agricultural Reserve by not reducing the proportion of farmers

⁴ According to the Office of Agriculture and the Montgomery County Farm Bureau, most farmers regardless of income levels hire an accountant.

⁵ The WMCCA cites a 2017 USDA Agricultural Census for these numbers.

on the RRAC – just above 40% of the RRAC. As noted in Planning Staff’s report, the AAC representative may be a farmer but need not be.⁶

one [of whom] member who is a representative of the Agricultural Advisory Committee and has been recommended to the Executive by the AAC;

6. Bill 30-23 removes the 2 members who represent civic associations. According to Planning Staff’s report, “[t]here did not seem to be a compelling reason to require that RRAC members also be members of other civic associations and it was unclear how they were intended to represent those other civic associations.”

[(4) one member who represents civic associations located in the Agricultural Reserve; and

(5) one member who represents civic associations in areas located outside the Agricultural Reserve where there are rustic roads.]

7. Bill 30-23 adds 3 at-large members. The at-large members are to be drawn from users of rustic roads. The intent behind adding 3 at-large members is to increase the pool of who is eligible to serve and therefore help the County achieve its racial equity and social justice goals. Bill 30-23 provides examples of an at-large member. These examples show the importance of selecting small-scale farmers, religious institutions along rustic roads, recreational users of rustic roads, and agritourism businesses. However, the list is illustrative, not exhaustive. And ultimately, who is appointed and confirmed is at the discretion of the County Executive and the County Council, respectively.

three at-large members to be drawn from other users of rustic roads. Examples of the at-large members include: a table crop farmer who does not earn more than 50 percent of their income from farming; an expert in tourism or historic sites along the roads; a member of a religious institution on a rustic road; an operator of an agritourism business, such as a winery, brewery, farm stand, or recreation or entertainment venue on a rustic road; or a person who regularly uses the roads to engage in or reach places for outdoor recreation, such as to bike, boat, kayak, hike, fish, ride horses, or go birding.

The Council has received testimony regarding this change, summarized below:

- Testimony requested the removal of the examples, either because it was not all-inclusive or because it was inappropriate for legislation.

⁶ Under Section 2B-21, the Agricultural Advisory Committee (“AAC”) has 15 voting members. These members are: 12 farmers, including at least 3 of whom earn 50% or more of their income from farming, 1 farm economist, and 1 conservationist; and 3 persons with no significant direct financial interest in farming.

From a legal standpoint, Council Staff does not find that removing the examples is necessary. While brevity in legislation is often the goal, the examples provide a useful insight into the Council’s intent regarding the at-large members. Without this list, it would be unclear how the at-large members should be selected and how they could improve diversity and representation. Further, there are other instances in the County Code where lists of examples are provided, such as Chapter 31B, Noise Control.

- One of the major issues raised has been whether the RRAC should have more or fewer farmers, and which farmers should be represented. While some agricultural groups believe the RRAC needs more “commodity farmers” because they operate large equipment that is difficult to operate on rustic roads, other agricultural groups point to a lack of representation of farmers who do not earn more than 50% of their income from farming. While it is important to ensure the large-scale farmers who contribute to the viability of the Agricultural Preserve continue to have a strong voice on the RRAC, the goal of Bill 30-23 is to increase diversity and representation on the RRAC. One data point that can help demonstrate the representation of farmers along rustic roads is the number of rustic roads in the Agricultural Reserve.⁷ According to Planning Staff, the breakdown of rustic roads in the Agricultural Reserve is as follows:

Based on mileage

- **Currently – 75.8%** (191.6 miles of rustic roads in the program, with 145.3 of these miles in the Agricultural Reserve)
- **Planning Board draft of RRFMP Update – 76.3%** (205.7 miles of rustic roads in the program, with 157.0 of these miles in the Agricultural Reserve)

Based on number of roads

- **Currently – 67.7%** (99 roads in the program, 67 of which have some portion within the Agricultural Reserve)
- **Planning Board draft of RRFMP Update – 70.4%** (115 roads, 81 of which have some portion within the Agricultural Reserve)

The AAC’s written testimony suggested adding 2 at-large members who “frequently use rustic roads”, and 1 member who is “actively engaged in either table crop farming or agritourism.”⁸ This amendment would ensure that a more diverse group of farmers is represented.

⁷ Council Staff is aware that there are farmers outside of the Agricultural Reserve but believes this can still be a useful data point.

⁸ Bill 30-23 defines a “table crop farmer” as “a person who grows crops or raises animals for the purpose of producing food items that are customarily consumed directly by humans, including but not limited to fruits, vegetables, meat, seafood, dairy, eggs, honey, pulses, and grains.”

Council Staff has three recommendations:

- 1) *Council Staff agrees with AAC, and recommends amending the first sentence of the at-large requirement to say “frequent” users instead of “other” users*

three at-large members to be drawn from ~~[[other]] frequent~~ users of rustic roads

- 2) *Council Staff agrees with the AAC-recommended addition of a member who is “actively engaged in either table crop farming or agritourism.” As introduced, Bill 30-23 anticipated one of the at-large members could be a farmer by including table crop farmers and operators of agritourism businesses in the examples for at-large members. Council Staff does note that Bill 30-23 already eliminated 2 civic association members. Therefore, reducing the at-large members to 2 and requiring a member who is actively engaged in either agritourism or table crop farming (and earns less than 50% of their income from farming) will increase the percentage of farmers on the RRAC. If this is a concern the Committee would need to instead reduce the number of members who earn 50% or more of their income from farming.*

- 3) *Council Staff recommends clarifying that the at-large members should not duplicate existing requirements. This recommendation is consistent with existing language in the bill as introduced, which stated the at-large members should be “other” users of the rustic roads. This implies members others than the ones already required. In addition, it ensures that the goal of increasing diversity and representation on the RRAC is achieved by allowing different members. The amendment could read:*

three at-large members, ~~who do not satisfy the requirements of subsection 49-80(a)(1) through (a)(4) above,~~ to be drawn from ~~[[other]] frequent~~ users of rustic roads.

Clarify duties of the Committee

Bill 30-23 also recommends clarifying the duties of the RRAC. Chapter 49 currently includes 4 duties:

- promote public awareness and knowledge of the County rustic roads program;
- review and comment on classification of rustic roads and exceptional rustic roads;

- review and comment on Executive Regulations and other County policies and programs that may affect the rustic roads program; and
- report on June 1 of each even numbered year to the Executive, the Council, and the Planning Board on the status of the rustic roads program.

According to Planning Staff’s report, the RRAC has additional duties that are not codified in Chapter 49. These changes are tasks that the RRAC is already undertaking based on Executive Regulations regarding rustic roads and on Chapter 50, Subdivision of Land.⁹

1. *Subdivision changes* – Under Section 50.4.3. of County Code, when approving a preliminary plan, the Planning Board must not require any improvements that are contrary to Chapter 49, Streets and Roads, or Executive Regulations governing rustic roads. If the Board is directed to require improvements contrary to rustic roads laws or regulations, the Board must consider the recommendations of the RRAC. Bill 30-23 therefore adds this requirement to the list of RRAC duties.

(3) review and provide comments on subdivision applications when the requirements of the Subdivision Regulations conflict with this Article or Executive Regulations;

2. *Executive Regulation changes* – There are at least two instances where Executive Regulations require actions by the RRAC. First, if MCDOT is going to make improvements to a rustic road, they must request a review by the RRAC. Second, the Department of Permitting Services (“DPS”) must submit any proposals for special signs within the right-of-way to the RRAC for review and comment.¹⁰

(4) review and provide comments on proposed improvements to rustic roads;
 (5) review and provide comments on proposed signs within the right-of-way of a rustic road;

Council Staff does not recommend removing the additional duties from Bill 30-23. Several people testified and submitted letters requesting that no additional duties be added. However, as noted above, the duties included in the bill already exist in County law and regulations.

This packet contains:

Bill 30-23	© 1
Planning Board Transmittal Memorandum	© 5
Planning Staff Report	© 6
Fiscal Impact Statement	© 17

⁹ Those Executive Regulations, COMCOR 49.79.01 Rustic Roads, can be found here: https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_comcor/0-0-0-26468.

¹⁰ “Special signs” include those identifying a historic site or scenic opportunity.

Economic Impact Statement	© 18
Climate Assessment	© 20
RESJ Impact Statement	© 23
Written Testimony	© 26
Map of Rustic Roads as Recommended by Planning Board	© 32

Bill No. 30-23
Concerning: Rustic Roads Program –
Rustic Roads Advisory Committee
Revised: 5/30/2023 Draft No. 1
Introduced: June 20, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. 49, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Glass at the request of the Planning Board

AN ACT to:

- (1) amend Chapter 49 to revise the composition of the Rustic Roads Advisory Committee;
- (2) specify additional duties of the Rustic Roads Advisory Committee; and
- (3) generally amend Chapter 49 regarding the Rustic Roads Advisory Committee.

By amending

Montgomery County Code
Chapter 49, Streets and Road
Sections 49-77 and 49-80

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 49-77 and 49-80 are amended as follows:**

2 **ARTICLE 8. RUSTIC ROADS PROGRAM**

3 * * *

4 **49-77. Definitions.**

5 In this Article, the following terms have the meanings indicated:

6 *Committee* means the Rustic Roads Advisory Committee.

7 *Exceptional rustic road* means an existing public road or road segment which is so
8 classified under Section 49-78.

9 *Public utility* means any private company or public agency that is regulated as a public
10 utility under state law, or otherwise provides water, sewer, electric, gas, telephone, or
11 cable service (as defined in Chapter 8A) in the County.

12 *Rustic road* means an existing public road or road segment which is so classified under
13 Section 49-78.

14 *Table crop farmer* means a person who grows crops or raises animals for the purpose
15 of producing food items that are customarily consumed directly by humans, including
16 but not limited to fruits, vegetables, meat, seafood, dairy, eggs, honey, pulses, and
17 grains.

18 * * *

19 **49-80. Rustic Roads Advisory Committee.**

20 (a) *Membership.* The County Executive must appoint, subject to
21 confirmation by the County Council, a Rustic Roads Advisory
22 Committee. In making appointments, the Executive should strive to
23 achieve diversity on the Committee in support of racial equity and social
24 justice. The Committee has [7] 9 voting members. Each member must be
25 a resident of the County. The Executive should appoint:

26 (1) [3] three members who [are owner-operators of] operate
 27 commercial farmland earning 50 percent or more of their income
 28 from farming[,];

29 (2) one [of whom] member who is a representative of the Agricultural
 30 Advisory Committee and has been recommended to the Executive
 31 by the AAC;

32 [(2)](3) one member who knows rural preservation techniques
 33 through practical experience and training;

34 [(3)](4) one member who knows roadway engineering through
 35 practical experience and training; and

36 [(4) one member who represents civic associations located in the
 37 Agricultural Reserve; and

38 (5) one member who represents civic associations in areas located
 39 outside the Agricultural Reserve where there are rustic roads.]

40 (5) three at-large members to be drawn from other users of rustic
 41 roads. Examples of the at-large members include: a table crop
 42 farmer who does not earn more than 50 percent of their income
 43 from farming; an expert in tourism or historic sites along the roads;
 44 a member of a religious institution on a rustic road; an operator of
 45 an agritourism business, such as a winery, brewery, farm stand, or
 46 recreation or entertainment venue on a rustic road; or a person who
 47 regularly uses the roads to engage in or reach places for outdoor
 48 recreation, such as to bike, boat, kayak, hike, fish, ride horses, or
 49 go birding.

50 * * *

51 (e) *Duties.* The Committee must:

- 52 (1) promote public awareness and knowledge of the County rustic
53 roads program;
- 54 (2) review and comment on classification of rustic roads and
55 exceptional rustic roads;
- 56 (3) review and provide comments on subdivision applications when
57 the requirements of the Subdivision Regulations conflict with this
58 Article or Executive Regulations;
- 59 (4) review and provide comments on proposed improvements to rustic
60 roads;
- 61 (5) review and provide comments on proposed signs within the right-
62 of-way of a rustic road;
- 63 ~~[(3)]~~(6) review and comment on Executive Regulations and other
64 County policies and programs that may affect the rustic roads
65 program; and
- 66 ~~[(4)]~~(7) report on June 1 of each even numbered year to the
67 Executive, the Council, and the Planning Board on the status of the
68 rustic roads program.



May 17, 2023

To: The Honorable Evan Glass
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

From: Montgomery County Planning Board

Subject: Bill to Enact Revisions to Chapter 49 Regarding the Composition and Duties of the Rustic Roads Advisory Committee

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on May 11, 2023, and by a vote of 5:0 recommended introducing the attached bill to enact revisions to Chapter 49 as recommended in the Planning Board Draft of the Rustic Roads Functional Master Plan Update. The Planning Board Draft of the Rustic Roads Functional Master Plan Update (“RRFMP Update”) was approved by the Planning Board on February 9, 2023, and transmitted to the County Council on February 24, 2023. The County Council held a public hearing for the RRFMP on April 18, 2023. Council staff requested the bill so that it could be considered by the Council at its work sessions simultaneously with the RRFMP Update. The work sessions are anticipated to be held in June 2023.

The proposed bill uses language that comes directly from recommendations 28 and 29 in the “Implementation” chapter of the RRFMP Update. The recommended changes require an amendment to Chapter 49 to implement. One recommendation proposes changes to the number of members and the membership criteria of the Committee, while the other proposes clarifications to the Committee’s duties.

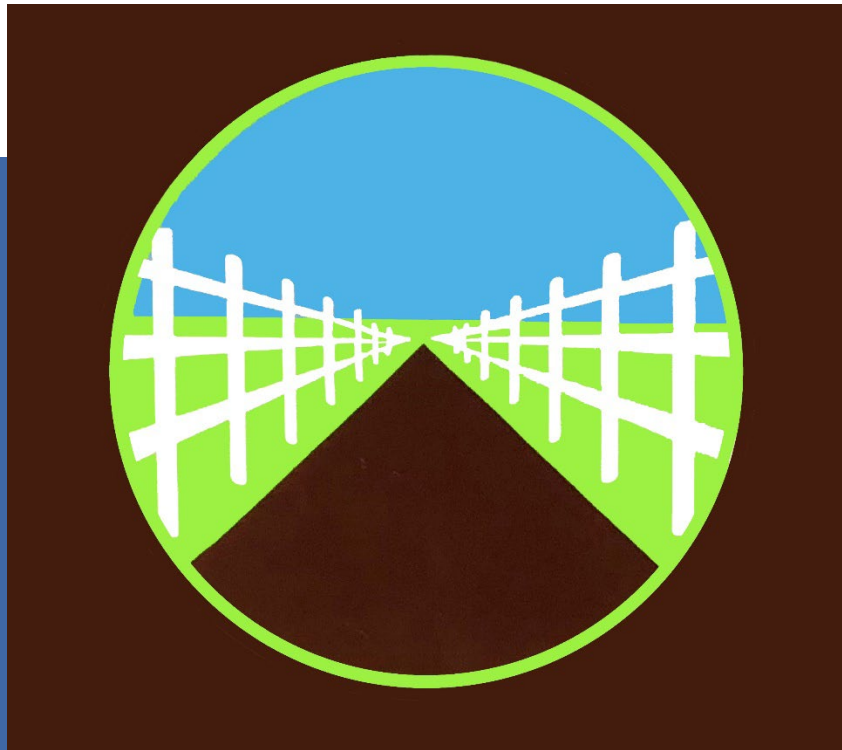
CERTIFICATION

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, at its regular meeting held in Wheaton, Maryland, on Thursday, May 11, 2023.

Jeffrey Zyontz
Chair

Attachments: A - Planning Board Staff Packet

BILL TO ENACT REVISIONS TO CHAPTER 49 REGARDING THE COMPOSITION AND DUTIES OF THE RUSTIC ROADS ADVISORY COMMITTEE



Rustic Roads logo used on brown street signs and RRAC correspondence

Description

The proposed bill enacts recommendations from the Rustic Roads Functional Master Plan Update regarding the composition and duties of the Rustic Roads Advisory Committee. The master plan update is currently under review by the Montgomery County Council.

Completed: 05-04-2023

MCPB
Item No. 9
05-11-2023

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
Wheaton, MD 20902

Planning Staff

JJP

Jamey Pratt, Planner III, Upcounty Division, jamey.pratt@montgomeryplanning.org, 301.495.4588

RVD

Roberto Duke, Planner III, Upcounty Division, roberto.duke@montgomeryplanning.org, 301.495.2168

DZ

Donnell Zeigler, Supervisor, Upcounty Division, donnell.zeigler@montgomeryplanning.org, 301.495.4511

PB

Patrick Butler, Chief, Upcounty Division, patrick.butler@montgomeryplanning.org, 301.495.4561

REVIEW BASIS

Chapter 49, Streets and Roads



Summary:

- The Rustic Roads Functional Master Plan Update proposes changes to Chapter 49 regarding the composition and duties of the Rustic Roads Advisory Committee.
- The County Council has already held a public hearing on the Master Plan Update and intends to hold work sessions on the plan in June 2023.
- Council staff has requested a draft bill to enact the proposed changes to the Committee in order to introduce the bill to Council. Council staff aims to consider both the Master Plan Update and the implementing language in the draft bill simultaneously.

TABLE OF CONTENTS

SECTION 1: BACKGROUND	3
RATIONALE FOR INTRODUCTION.....	3
SECTION 2: BILL ANALYSIS.....	3
BILL AS INTRODUCED	3
RRAC MEMBERSHIP.....	4
MEMBER DUTIES.....	6
SECTION 3: LEGISLATIVE ANALYSIS.....	9
RACIAL EQUITY AND SOCIAL JUSTICE	9
SECTION 4: CONCLUSION	10
ATTACHMENTS	10

SECTION 1: BACKGROUND

RATIONALE FOR INTRODUCTION

The Planning Board Draft of the Rustic Roads Functional Master Plan Update (“RRFMP Update”) was approved by the Planning Board on February 9, 2023 and transmitted to the County Council on February 24, 2023. The County Council held a public hearing for the plan April 18, 2023.

The original *Rustic Roads Functional Master Plan* was approved in 1996, but the Rustic Roads Program itself was established three years earlier via Article VII of Chapter 49, Streets and Roads (now “Article 8”). In addition to describing the qualifying criteria by which a road is designated rustic or exceptional rustic, this legislation also established the Rustic Roads Advisory Committee (RRAC). The RRAC advises on rustic road designations, improvements to roads in the Program, and other matters related to protecting roads in the Program.

The Planning Board Draft of the RRFMP Update includes two recommended changes to the RRAC that require an amendment to Chapter 49 to implement. One recommendation proposes changes to the number of members and the membership criteria of the Committee, while the other proposes clarifications to the Committee’s duties.

After this bill has been introduced at County Council, the Council will hold a public hearing on the bill. This will be followed by work sessions by the Transportation & Environment Committee and the full Council. It is anticipated that work sessions for the RRFMP Update will be held beginning in June 2023. Council staff desires that this bill “catch up” to the RRFMP Update so that the work sessions for the two items can be combined and proceed through the Council’s approval process simultaneously.

GENERAL APPROVAL

Staff recommends that the Planning Board approve transmittal of the attached bill to County Council so that the bill may be introduced. Staff also recommends that the Planning Board waive their typical review of the bill after it has been introduced at the County Council if there are no significant changes to the proposed bill.

SECTION 2: BILL ANALYSIS

BILL AS INTRODUCED

The “Implementation” chapter of the February 2023 Planning Board Draft of the RRFMP Update contains two recommended changes to the membership of the RRAC (pp. 58-59). Both recommendations require a change to County Code Section 49-80, which specifies membership criteria of the RRAC, how they are to be appointed and confirmed, and the Committee’s duties.

The bill proposes revisions to the composition and duties of the Rustic Roads Advisory Committee. Very broadly, the number of members on the Committee is proposed to change from seven to nine and the membership criteria for members is being revised to enable a more diverse Committee. Current duties performed by Committee members are also being codified in Chapter 49. Because the bill has not yet been introduced in the County Council, it has not been assigned a bill number.

RRAC MEMBERSHIP

The first of these changes, recommendation #28 in the plan, is intended to facilitate a more diverse Committee and to lighten the workload of individual Committee members.

CURRENT RRAC MEMBERSHIP CRITERIA

The current text of Section 49-80 (a) is as follows:

Membership. The County Executive must appoint, subject to confirmation by the County Council, a Rustic Roads Advisory Committee. The Committee has 7 voting members. Each member must be a resident of the County. The Executive should appoint:

- (1) 3 members who are owner-operators of commercial farmland earning 50 percent or more of their income from farming, one of whom is a representative of the Agricultural Advisory Committee;*
- (2) one member who knows rural preservation techniques through practical experience and training;*
- (3) one member who knows roadway engineering through practical experience and training;*
- (4) one member who represents civic associations located in the Agricultural Reserve; and*
- (5) one member who represents civic associations in areas located outside the Agricultural Reserve where there are rustic roads.*

INCREASING THE NUMBER OF MEMBERS

The RRFMP Update recommends changing the number of Committee members from seven (7) to nine (9).

FARMER MEMBERS AND AAC REPRESENTATIVE

The current membership criteria specify that three of the members be owner-operators of commercial farmland who earn at least half their income from farming. One of these three members is intended to represent Montgomery County's Agricultural Advisory Committee (AAC).

The new criterion keeps the number of farmer members at three but removes the requirement that the farmers own the land they work. This allows for a farmer who leases farmland to be considered for the Committee.

The member representing the AAC is now in addition to the three farmer members, and under the new requirement must be recommended by the AAC, whereas before it was at the sole discretion of the County Executive to select a farmer member to represent the AAC. The requirement that the AAC recommend their own representative arose because many of the commodity farmers in the area raised concerns that their voice had been diminished on the RRAC. The AAC's representative may be but need not be a farmer.

RURAL PRESERVATIONIST AND ROADWAY ENGINEER MEMBERS

The revised bill retains the members who know rural preservation techniques and roadway engineering through practical experience and training.

CIVIC ASSOCIATION REPRESENTATIVE MEMBERS

The current criteria include two members who represent civic associations: one who represents civic associations within the Agricultural Reserve and one who represents civic associations outside the Reserve. The new bill removes the requirement that two of the members represent civic associations. There did not seem to be a compelling reason to require that RRAC members also be members of other civic associations and it was unclear how they were intended to represent those other civic associations.

AT-LARGE MEMBERS

Instead of the two civic association representatives, the new bill specifies that there will be three at-large members drawn from other users of rustic roads. Several examples are given, but it is ultimately at the discretion of the County Executive to appoint and the County Council to confirm appropriate Committee members.

PROPOSED REVISIONS TO RRAC MEMBERSHIP CRITERIA

The proposed text for Section 49-80 (a) to implement the recommended changes is as follows:

Membership. The County Executive must appoint, subject to confirmation by the County Council, a Rustic Roads Advisory Committee. In making appointments, the Executive should strive to achieve diversity on the Committee in support of racial equity and social justice. The Committee

has nine voting members. Each member must be a resident of the County. The Executive should appoint:

- (1) three members who operate commercial farmland earning 50 percent or more of their income from farming;
- (2) one member who is a representative of the Agricultural Advisory Committee and has been recommended to the Executive by the AAC;
- (3) one member who knows rural preservation techniques through practical experience and training;
- (4) one member who knows roadway engineering through practical experience and training; and
- (5) three at-large members to be drawn from other users of rustic roads. Examples of the at-large members include, but are not limited to: a table crop farmer who does not earn more than 50 percent of their income from farming; an expert in tourism or historic sites along the roads; a member of a religious institution on a rustic road; an operator of an agritourism business, such as a winery, brewery, farm stand, or recreation or entertainment venue on a rustic road; or a person who regularly uses the roads to engage in or reach places for outdoor recreation, such as to bike, boat, kayak, hike, fish, ride horses, or go birding.

Note especially the addition of the following sentence within the introductory text to the membership criteria:

In making appointments, the Executive should strive to achieve diversity on the Committee in support of racial equity and social justice.

The new membership criteria do not guarantee that new Committee members will add to the diversity of the group, but the much larger pool of those eligible to serve—essentially anyone who uses a rustic road—should help with the county’s racial equity and social justice goals.

MEMBER DUTIES

The second of the two changes to the RRAC in the RRFMP Update is intended to clarify the duties of the Committee. The change is intended to codify activities that the RRAC is already undertaking, primarily due to tasks specified in the Executive Regulations regarding rustic roads. The following is the text of recommendation #29 in the plan:

To clarify the duties of the Rustic Roads Advisory Committee, the County Council should revise Section 49-80 to specify the additional duties that are to be performed by the RRAC, namely:

- *reviewing and providing comments on subdivision applications when the requirements of the Subdivision Regulations conflict with the Rustic Roads law or Executive Regulations;*
- *reviewing and providing comments on proposed improvements to rustic roads; and*
- *reviewing and providing comments on proposed signs within the right-of-way of a rustic road.*

CURRENT RRAC MEMBER DUTIES

The current text of Section 49-80 (e) is as follows:

Duties. *The Committee must:*

- (1) *promote public awareness and knowledge of the County rustic roads program;*
- (2) *review and comment on classification of rustic roads and exceptional rustic roads;*
- (3) *review and comment on Executive Regulations and other County policies and programs that may affect the rustic roads program; and*
- (4) *report on June 1 of each even numbered year to the Executive, the Council, and the Planning Board on the status of the rustic roads program.*

The four duties listed above are the only duties specified in Chapter 49 that the Committee must carry out. Examples of the RRAC performing these tasks:

- (1) The RRAC's information booth at the Ride the Reserve event is an example of the Committee promoting the program.
- (2) Area master plan updates and the current Functional Master Plan Update are examples of when the Committee would be asked to review and comment on the classification of rustic and exceptional rustic roads.
- (3) The Executive Regulations regarding maintenance of and along rustic roads has not been revised since 1996, but there are occasionally other county policies and programs that affect rustic roads that the Committee is expected to review and comment on. The revisions to County Code to implement the Complete Streets Design Guide is a recent example of carrying out this duty. We are also suggesting updates to the Executive Regulations as part of this Master Plan.
- (4) The Committee has published numerous biennial reports that are available on the [RRAC website](#).

PROPOSED ADDITIONAL DUTIES

The proposed additional duties recommended in the RRFMP Update are duties which have already been assigned to the Committee in other places in County Code or the Executive Regulations but which are not explicitly called out in Section 49-80 (e). Each is described below.

Reviewing and providing comments on subdivision applications

Chapter 50, Subdivision of Land, does not explicitly require a review by the Rustic Roads Advisory Committee for any application, although rustic roads are mentioned in the chapter a few times. However, Planning Staff always requests a courtesy review of subdivision plans when located on a rustic road. Planning Staff and the Planning Board appreciate and value the RRAC's input on regulatory applications with respect to their potential impacts to rustic roads. Planning Staff and the Planning Board consider recommendations from the RRAC when determining substantial conformance with the *Rustic Roads Functional Master Plan*.

The only action by the RRAC specified in Chapter 50 is in Section 4.3, which describes the technical review of subdivision applications. Subitem 5.c states:

*Rustic roads. In approving a preliminary plan, the Board must not require improvements that are contrary to Chapter 49, Article 8 or Executive Regulations governing rustic roads. The Board may waive any requirement of Sections 4.3.E.2.b and 4.3.E.3.b that is incompatible with the rustic road or substitute any alternative requirement that is consistent with the goals of the rustic roads law. The Board may only require those improvements that retain the significant features of the road identified by the Council for preservation. If the Board is otherwise directed by this Section to require improvements that are contrary to the rustic roads law or Executive Regulations, the Board must consider the recommendations of the **Rustic Roads Advisory Committee** and evaluate the feasibility of trip reduction and alternative road improvements to the local roadway network. If the Board determines that no feasible alternative exists, it may require improvements that are necessary for traffic safety or operational requirements.*

In this case, Chapter 50 states that the Planning Board must not require improvements as part of the review of subdivision applications that would be contrary to the Rustic Roads legislation in Chapter 49, Article 8 or the Executive Regulations governing rustic roads. This allows the Board to waive a requirement that would be incompatible with a rustic road or substitute an alternative requirement that is not. It is only when the subdivision regulations require an improvement that is contrary to the Rustic Roads law or Executive Regulations that the Board would seek the advice of the RRAC and take other actions if feasible. This situation rarely arises, but the proposed bill adds this responsibility to the list of the RRAC's duties.

Reviewing and providing comments on proposed improvements to rustic roads

Several items outlined in the Executive Regulations found in [COMCOR 49.79.01 Rustic Roads](#) specify actions to be taken by the Rustic Roads Advisory Committee.

49.79.01.03 Application Process and Eligibility Analysis

B. Eligibility and Project Development

1. Citizen or Department of Public Works and Transportation [former name of MCDOT] Initiated Improvements

Upon receipt of a request for improvements to a rustic or exceptional rustic road, or whenever improvements are initiated by the Department of Public Works and Transportation, the Department must assess the area proposed for improvements by conducting an engineering study. The study will identify possible improvements consistent with these regulations, that are appropriate for the road.

*The **Rustic Roads Advisory Committee** will review the Department of Public Works and Transportation proposal at their next scheduled meeting and forward comments to the*

Director, Department of Public Works and Transportation. Upon approval of the project by the Director of Department of Public Works and Transportation, the project will follow the current Capital Improvements Project process, including Mandatory Referral requirements.

If MCDOT is to undertake improvements to a rustic road, they must request a review by RRAC. Only after such review should a Mandatory Referral application be submitted to the Planning Board for review. The proposed bill adds this responsibility to the list of the RRAC's duties.

Reviewing and providing comments on proposed signs within the right-of-way of a rustic road

The final activity being added by the bill relates to signs along rustic roads. Again, from the Executive Regulations:

49.79.01.04 Maintenance and improvement guidelines

I. Maintenance of Rustic and Exceptional Rustic Roads

C. Signs

1. Identification of Rustic Roads and Exceptional Rustic Roads

*Free standing signs identifying roads as rustic or exceptional rustic roads will not be permitted in the right-of-way. The Department of Permitting Services will submit any proposal for special signs within the right-of-way, such as those identifying a historic site or scenic opportunity, to the **Rustic Roads Advisory Committee** for review and comment and to the Agricultural Advisory Committee for review and comment on impacts to agricultural operations.*

This requires DPS to submit signs within rustic road rights-of-way to the Committee for review. The proposed bill adds this responsibility to the list of the RRAC's duties.

SECTION 3: LEGISLATIVE ANALYSIS

RACIAL EQUITY AND SOCIAL JUSTICE

For all bills introduced to the County Council, the Director of the Office of Legislative Oversight must provide a statement to the Council describing any racial equity or social justice impact the bill may have. As mentioned above, the proposed changes to the membership of the RRAC are intended to allow for more diversity on the Committee by broadening the membership criteria beyond the current narrow criteria. For example, Asian and African immigrant farmers who grow table crops for local ethnic communities but who do not make the majority of their income from farming could be considered to serve on the Committee. Allowing the County Executive to appoint three at-large members who are general users of rustic roads will greatly expand the pool of eligible members to include those with more diverse racial or socioeconomic backgrounds.

SECTION 4: CONCLUSION

Typically, when the County Council introduces a bill affecting matters relevant to Montgomery Planning or the Planning Board, the Council sends the bill to the Department for review and comments. Because this bill is originating with Montgomery Planning and will be sent to the Council by the Board and the timeframe for getting the bill “caught up with” the RRFMP Update for Council’s work sessions, Staff recommends that the Planning Board waive their typical review of the bill once introduced unless substantive changes to the bill are made by the Council.

Staff therefore recommends that the Planning Board approve transmittal of the attached bill to County Council so that the bill may be introduced and that the Planning Board waive their typical review of the bill after it has been introduced at the County Council if there are no significant changes to the proposed bill.

ATTACHMENTS

Proposed Bill



Fiscal Impact Statement

Office of Management and Budget

Bill 30-23

Rustic Roads Program - Rustic Roads Advisory Committee

Bill Summary

Bill 30-23 will enact recommendations from the Rustic Roads Functional Master Plan Update regarding the composition and duties of the Rustic Roads Advisory Committee (RRAC). Recommendations include adding two additional committee members, revising the criteria for membership, and increasing the duties of the RRAC.

Fiscal Impact Summary

This bill is anticipated to have no impact on expenditures or revenues.

Fiscal Impact Analysis

There is no fiscal impact anticipated for this bill. Committee members receive no compensation for the duties performed, so the addition of two positions as well as increasing the duties of the RRAC would not result in any cost.

Staff Impact

Since the bill updates an existing program no significant changes to staff duties are anticipated.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

The bill does not authorize future spending.

Contributors

Tim Cupples, Montgomery County Department of Transportation
Richard Dorsey, Montgomery County Department of Transportation
Christina Contreras, Montgomery County Department of Transportation
Greg Bruno, Office of Management and Budget



Economic Impact Statement

Montgomery County, Maryland

Bill 30-23

Rustic Roads Program – Rustic Roads Advisory Committee

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 30-23 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND AND PURPOSE OF BILL 30-23

Rustic roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. Rustic and exceptional rustic roads are preserved under the Rustic Roads Program (Chapter 49, Article 8), which provides a system for evaluating, protecting, and enhancing these scenic roadways. The program includes 99 roads. These roads are listed and described in the Rustic Roads Functional Master Plans and in other area master plans.

The purpose of Bill 30-23 is to enact recommendations from the Rustic Roads Functional Master Plan (RRFMP) Update regarding the composition and duties of the Rustic Roads Advisory Committee (RRAC) as follows:

- Change the number of voting members from seven to nine members who are County residents, including three at-large members with general connection to Rustic Roads through their profession, business, or as users.
- Expand the Committee's duties to include providing reviews and comments on subdivision applications, proposed improvements to rustic roads, and proposed signs within the right-of-way of a rustic road.

Bill 30-23 also directs the County Executive to strive to achieve diversity on the RRAC in support of racial equity and social justice (RESJ).

Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee, was introduced by the Council on behalf of the Planning Board on June 20, 2023. The Planning Board Draft of the Rustic Roads Functional Master Plan Update is currently under review by the County Council pending a public hearing in July 2023.¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 30-23 on County-based private organizations and residents in terms of the Council’s priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.² OLO sees no direct connection between increasing the size of voting members from seven to nine and the Council’s priority economic indicators. Also, the Planning Staff Packet for the Bill states that modifying the RRAC’s duties

¹ Introduction Staff Report for [Bill 30-23](#).

² Montgomery County Code, [Sec. 2-81B](#).

“is intended to codify activities that the RRAC is already undertaking.”³ For these reasons, OLO anticipates that the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements.](#)

Montgomery County Council. [Introductory Staff Report for Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee.](#) Introduced on June 20, 2023.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

³ Planning Board Staff Packet is included in the Bill’s Introductory Staff Report.

Climate Assessment

Office of Legislative Oversight

Bill 30-23: Rustic Roads Program – Rustic Roads Advisory Committee

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 30-23 will have no impact on the County's contribution to addressing climate change as it is proposing changes regarding the composition and duties of an existing committee.

BACKGROUND AND PURPOSE OF BILL 30-23

Rustic roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. Rustic and exceptional rustic roads are preserved under the Rustic Roads Program (Chapter 49, Article 8), which provides a system for evaluating, protecting, and enhancing these scenic roadways. The program includes 99 roads. These roads are listed and described in the Rustic Roads Functional Master Plans and in other area master plans.¹

The purpose of Bill 30-23 is to enact recommendations from the Rustic Roads Functional Master Plan (RRFMP) Update regarding the composition and duties of the Rustic Roads Advisory Committee (RRAC) as follows:

- Change the number of voting members from seven to nine members who are County residents, including three at-large members with general connection to rustic roads through their profession, business, or as users.²
- Expand the Committee's duties to include providing reviews and comments on subdivision applications, proposed improvements to rustic roads, and proposed signs within the right-of-way of a rustic road.³

Bill 30-23 also directs the County Executive to strive to achieve diversity on the RRAC in support of racial equity and social justice (RESJ).

Bill 30-23, Rustic Road Program – Rustic Roads Advisory Committee, was introduced by the Council on behalf of the Planning Board on June 20, 2023. The Planning Board Draft of the Rustic Roads Functional Master Plan Update is currently under review by the County Council pending a public hearing in July 2023.⁴

ANTICIPATED IMPACTS

As Bill 30-23 proposes changes to the composition and duties of an existing committee, OLO anticipates the bill will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁵ OLO does not offer recommendations or amendments as Bill 30-23 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Introduction Staff Report for Bill 30-23, Montgomery County Council, June 20, 2023.](#)

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 30-23 RUSTIC ROADS PROGRAM – RUSTIC ROADS ADVISORY COMMITTEE

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 30-23 could have a favorable impact on racial equity and social justice (RESJ) in the County if it increases the number of Rustic Roads Advisory Committee (RRAC) members from racially, ethnically, and socioeconomically diverse backgrounds. However, in the absence of demographic data on the current or proposed RRAC, OLO finds the anticipated RESJ impact of this Bill to be indeterminant.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 30-23

Rustic roads are historic and scenic roadways that reflect the agricultural character and rural origins of the County. Rustic and exceptional rustic roads are preserved under the Rustic Roads Program (Chapter 49, Article 8), which provides a system for evaluating, protecting, and enhancing these scenic roadways. The program includes 99 roads. These roads are listed and described in the Rustic Roads Functional Master Plans and in other area master plans.³

The purpose of Bill 30-23 is to enact recommendations from the Rustic Roads Functional Master Plan (RRFMP) Update regarding the composition and duties of the Rustic Roads Advisory Committee (RRAC) as follows:

- Change the number of voting members from seven to nine members who are County residents, including three at-large members with general connection to rustic roads through their profession, business, or as users.⁴
- Expand the Committee's duties to include providing reviews and comments on subdivision applications, proposed improvements to rustic roads, and proposed signs within the right-of-way of a rustic road.⁵

Bill 30-23 also directs the County Executive to strive to achieve diversity on the RRAC in support of racial equity and social justice (RESJ).

The Planning Board Draft of the Rustic Roads Functional Master Plan Update is currently under review by the County Council pending a public hearing in July 2023.⁶ Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee, was introduced by the Council on behalf of the Planning Board on June 20, 2023.

RESJ Impact Statement

Bill 30-23

ANTICIPATED RESJ IMPACTS

The Montgomery County Planning Department states that the proposed changes to the membership of the RRAC are intended to allow for more diversity on the Committee by broadening the membership criteria.⁷ More specifically, Bill 30-23 changes the membership of the RRAC from two members representing civic associations located inside and outside of the Agriculture Reserve to three at-large members who are users of rustic roads (see Table 1).

Table 1: Rustic Roads Advisory Committee Members and Representation	
Existing – Seven Members	Bill 30-23 – Nine Members
<ul style="list-style-type: none"> • Three members are owner-operators of commercial farmland earning 50 percent or more of their income from farming with one representing the Agricultural Advisory Committee (AAC). • One member who knows rural preservation techniques through practical experience and training. • One member who knows roadway engineering through practical experience and training. • One member who represents civic associations located in the Agricultural Reserve. • One member who represents civic associations in areas located outside the Agricultural Reserve where there are rustic roads. 	<ul style="list-style-type: none"> • Three members who operate commercial farmland earning 50 percent or more of their income from farming. • One member is a representative of the AAC and has been recommended to the Executive by the AAC. • One member who knows rural preservation techniques through practical experience and training. • One member who knows roadway engineering through practical experience and training. • Three at-large members to be drawn from other users of rustic roads. Examples of the at-large members include: <ul style="list-style-type: none"> ○ A table crop farmer who does not earn more than 50 percent of their income from farming; ○ An expert in tourism or historic sites along the roads; ○ A member of a religious institution on a rustic road; ○ An operator of an agritourism business, such as a winery, brewery, farm stand, or recreation or entertainment venue on a rustic road; or ○ A person who regularly uses the roads to engage in or reach places for outdoor recreation, such as to bike, boat, kayak, hike, fish, ride horses, or go birding.

If the users of rustic roads in Montgomery County are more racially, ethnically, and/or socioeconomically diverse than members of civic associations, the changes in RRAC membership proposed by Bill 30-23 could increase the racial, ethnic, and socioeconomic diversity of the RRAC in a way that promotes RESJ in the County. Yet, as noted by the Planning Department, the new RRAC membership criteria in and of itself does not guarantee that new RRAC members will be more racially, economically, or socioeconomically diverse than current RRAC members.⁸

While Bill 30-23 does not guarantee the representation of Black, Indigenous, or Other People of Color (BIPOC) or those from lower income backgrounds on the RRAC, OLO observes that the added number of members on the RRAC coupled with the new membership criteria could result in a more racially and economically diverse RRAC. Given this possibility, OLO anticipates that Bill 30-23 could have a favorable impact on RESJ in the County, albeit a small one. Yet, in the absence of data describing the demographics of the current or proposed RRAC, OLO finds the anticipated impact of Bill 30-23 on RESJ to be indeterminant. Additional data describing the demographics of current RRAC members and the demographics of rustic road users that could serve on the proposed RRAC would be required to discern the anticipated RESJ impact of Bill 30-23 more definitively.

RESJ Impact Statement

Bill 30-23

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to offer recommended amendments to bills that are anticipated to have a negative impact on RESJ in the County.⁹ In the absence of data describing the race, ethnicity, and income demographics of current RRAC members, or for the revised RRAC members proposed under Bill 30-23, OLO cannot discern the anticipated RESJ impact of this Bill. As such, OLO does not offer recommended amendments for Bill 30-23.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools.

<https://www.racialequitytools.org/glossary>

² Ibid.

³ Ibid.

⁴ Bill-30-23 Rustic Roads Program-Rustic Road Committee. Introduced June 20, 2023

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230620/20230620_1C.pdf

⁵ Ibid.

⁶ Memorandum from Livhu Ndou, Legislative Attorney and Glenn Orlin, Senior Legislative Analyst to County Council. June 20, 2023

⁷ Montgomery Planning. 2023. Staff Report: Bill to Enact Revisions to Chapter 49 Regarding the Composition and Duties of the Rustic Roads Advisory Committee. May 11.

<https://montgomeryplanningboard.org/wp-content/uploads/2023/04/Bill-to-Update-RRAC-per-RRFMP-Update-Staff-Report-Final-with-Attachment.pdf>

⁸ Montgomery Planning. May 11, 2023. Staff Report.

⁹ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

**West Montgomery County Citizens Association
PO Box 5935
Potomac, MD 20854
240-281-5147
hooverb@msn.com**

July 9, 2023

Evan Glass, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

RE: Rustic Roads Bill 30-23

Dear Council President Glass:

The West Montgomery County Citizens Association (WMCCA) has recently celebrated our 75th year representing the interests of the residents of the Potomac Sub-Region which contains 9 rustic and exceptional rustic roads. I am a member of the Rustic Roads Advisory Committee (RRAC), serving as the member who represents a civic association located outside the Agricultural Reserve where there are rustic roads.

WMCCA Supports:

- Changing the number of voting members from seven to nine members who are County residents, including three at-large members with general connection to rustic roads through their profession, business, or as users.
- Directing the County Executive to strive to achieve diversity on the RRAC in support of racial equity and social justice (RESJ)
- Removing from Bill 30-23, lines 25 to 33 - examples of the at-large members that do not add any value and contains language that does not belong in legislation.

25 Examples of the at-large members include, but are not limited to: a table
26 crop farmer who does not earn more than 50 percent of their income
27 from farming; an expert in tourism or historic sites along the roads; a
28 member of a religious institution on a rustic road; an operator of an
29 agritourism business, such as a winery, brewery, farm stand, or
30 recreation or entertainment venue on a rustic road; or a person who
31 regularly uses the roads to engage in or reach places for outdoor
32 recreation, such as to bike, boat, kayak, hike, fish, ride horses, or go
33 birding

Additionally, we have had the opportunity to review the testimony submitted by the Agricultural Advisory Committee (AAC) and WMCCA opposes the following recommended change, with reasons:

- Adding the requirement that three farmer members of the Committee have, “direct involvement in commodity farming” to Lines 26-28 of Bill 30-23 unfairly and inappropriately limits the farmer membership on the Committee. Farmer membership should include all farmers including table crop farmers and agritourism businesses. Both categories are farmers. All agritourism operations are required to do farming. Additionally, limiting farmer participation in this category of Committee

membership unfairly limits the possible pool of participants to only 35 large-scale commodity farmers when there are over 1,000 farms active in Montgomery County.¹ Discriminating against any type of farmer is inappropriate.

The Potomac Subregion that WMCCA represents encompasses the three planning areas of Potomac, Travilah, and Darnestown, an area of about 66 square miles bounded by I-270 and I-495 on the east, the Potomac River on the south, Seneca Creed to the west, and Darnestown Road and the City of Rockville to the north. Many of our residents are frequent users of rustic and exceptional rustic roads for commuting, recreation, sports and tourism.

WMCCA believes that rustic roads are heritage and agricultural tourism assets and must be cherished and protected. According to Sarah Rogers, Executive Director of Heritage Montgomery, Rustic Roads play a major role in Heritage Tourism, which is vital to Montgomery County's rural economic development.

This agricultural and historical tourism brings in over \$376 million in revenue annually and supports over 5,327 jobs. These roads give the experience of being carried back in time, and they set the stage for the numerous historic, cultural and natural sites along the roads.

Our Rustic Roads Program is the envy of other Maryland counties as well as other jurisdictions around the nation for its protection of our network of roads with original alignments, unique qualities, and beauty.

Sincerely,

Barbara Hoover
West Montgomery County Citizens Association

¹ According to U.S.D.A. Ag Census 2017, Summarized by Montgomery County Office of Agriculture.



AGRICULTURAL ADVISORY COMMITTEE

July 5, 2023

Evan Glass, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Glass: Rustic Roads Bill 30-23

The Agricultural Advisory Committee (the “AAC”) has carefully followed and appreciates the significant amount of time that the planning staff and board have put into the new Rustic Roads Advisory Functional Master Plan. As an important source of food products and other economic benefits to Montgomery County, our farmers can be dramatically impacted by this Plan. Therefore, we think it’s important that the new plan is precise and clear. Doing so ensures that its execution follows its intent.

The AAC recommends that the Montgomery County Council include the following changes in the final bill:

49-80 (a) (1-5) Rustic Roads Advisory Committee membership

We support the increase in the number of committee members from seven to nine. We are also encouraged to see the addition of one member with an understanding of roadway engineering, as unburdened access to roads is crucial to moving farm products and customers safely and efficiently.

We recommend the following to facilitate a crystal-clear understanding of each appointment type and ensure equitable representation among the various constituencies.

- (1) Change Lines 26 – 28 to read as follows: Three members who operate commercial farmland earning 50 percent or more of their income from direct involvement in commodity farming.

Commercial commodity farmers are managing a clear majority of the total tillable acres in Montgomery County. These commodity farmers are most impacted by rustic roads



and, therefore, should have clear and meaningful representation on the Committee. To



produce their crops, equipment such as large combines must be moved to and from the approximately 35,000 acres of land producing various grains (such as corn, wheat, soybeans, sorghum, barley, and turf) in Montgomery County without damaging expensive equipment or incurring lengthy detours due to road conditions arising from a “rustic road” designation. In the past, both the designation of

the large number of rustic roads as well as the maintenance practices associated with them has placed a significant burden on the farmers in Montgomery County as well as the residents who live on those roads.

- (5) Item 5, which begins at Line 40, is overly broad. The committee should reflect the breath and diversity of the users of rustic roads by a clearer segmentation of user types. To do so, we recommend two changes.

First, change the first sentence to “two at-large members who frequently use rustic roads”

To simply state “other users of rustic roads” is much broader than the examples that are given thereafter. The Planning Board implied that the operative term here is regularity of use as they included in in their last sentence. This change better institutionalizes that intent by bringing that language to the first sentence.

Second, add a number six

- (6) which reads “One member actively engaged in either table crop farming or agritourism”.

Both table crop farming and agritourism businesses offer strong economic development opportunities and draw more people into and expand awareness of the importance of agriculture and the beauty of rustic roads in Montgomery County. Economic development is an important consideration in any comprehensive plan and this rapidly growing segment of the market should be represented on the committee. This also is a grouping which can serve the county’s goals of equity and inclusion. By ensuring that these groups are represented, the committee will better reflect the growing diversification of economic development in the County and users of our more rural roadways.

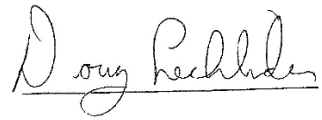
49-80 (e) Rustic Roads Advisory Committee Duties

The AAC does not support the addition of more duties to the Committee at this time. The committee should focus its valuable volunteer time on expanding the awareness of County residents to the existence of the 99 roads currently in the program as well as working with the agricultural community and local residents to improve working relationships. Such time could be

well spent working through the conflicts of the Rustic Roads program with the legislative intent of the Agricultural Reserve-AR zone where agricultural operations are permitted at all times.

In order to promote successful farming in Montgomery County, we must create an environment where the farmers' concerns are addressed, and the rural and rustic roads are safe for the movement of large farm equipment. The changes that we are referring to above will serve to promote such an environment.

Sincerely,

A handwritten signature in cursive script that reads "Doug Lechliden". The signature is written in black ink and is positioned above a thin horizontal line.

Doug Lechliden, Chairman

Cc: Marc Elrich, County Executive



AGRICULTURAL PRESERVATION ADVISORY BOARD

July 11, 2023

The Honorable Evan Glass, President
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Bill 30-23, Rustic Roads Program – Rustic Roads Advisory Committee Public Hearing

Dear Council President Glass,

The Montgomery County Agricultural Preservation Advisory Board (APAB) met on June 13, 2023, for its regularly scheduled meeting. During the meeting, Bill 30-23 was discussed, and the Board moved and approved providing testimony in support.

The APAB supports the bill to amend the make-up of the membership of the Rustic Roads Advisory Committee (RRAC). The farmer members selected for the RRAC must meet the income requirement. The APAB believes the amendments as proposed may give agricultural producers a greater voice related to the Rustic Roads, the vast majority of which are in the Agricultural Reserve.

The APAB does not support the additional duties assigned to the RRAC, like reviewing signs in the rights of ways. We believe the original duties assigned to the RRAC are sufficient and no further duties are necessary.

We look forward to working with the Council on Bill 30-23.

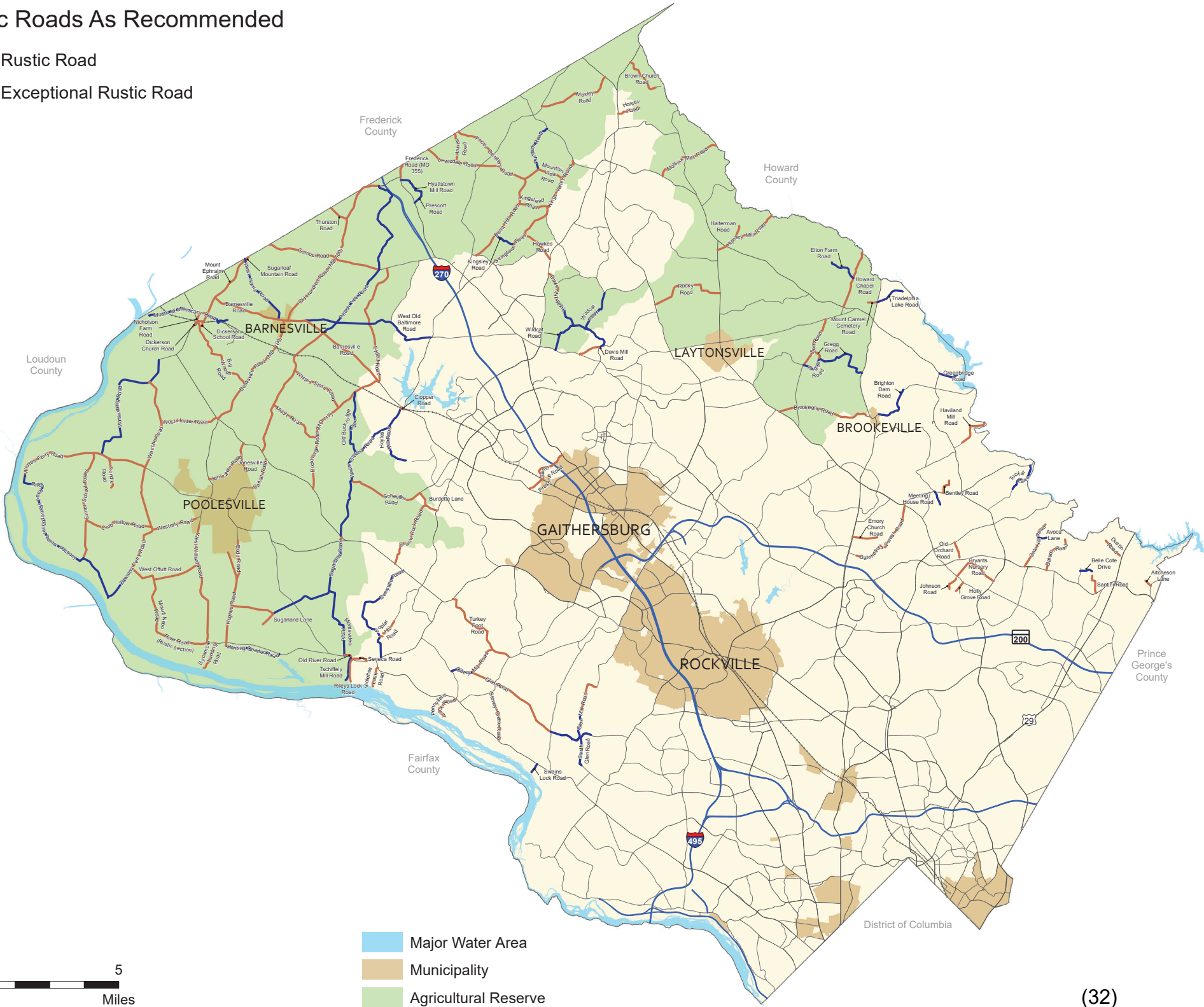
Sincerely,

Michael Jamison, Chairman

cc: Marc Elrich, County Executive
Jeremy Criss, Director, Office of Agriculture
Chris Conklin, Director, Department of Transportation

Rustic Roads As Recommended

- Rustic Road
- Exceptional Rustic Road



- Major Water Area
- Municipality
- Agricultural Reserve

