

Webmaster note -The zoning code rewrite project has been going on for almost two years with one to go. The material below shows contains material from the past two years and might be useful for background reading.

December 7, 2010

Update on the Zoning Rewrite

By Meredith Wellington

On December 4th, the Planning Board sent an email to the members of the ZAP Committee. We don't have any details yet, and there is a lot that we need to learn, but the Planning Director, Rollin Stanley, has asked Planning Board staff to pull the Development Patterns—the tandem housing, community buildings, etc.—from the Draft, and to examine those new types in a “long-term study.” Material announcing the development is shown after this note.

Does this change our course of action? No. The County Council will be holding a session on the Zoning Rewrite in January. At that session the Council could direct the Planning Board to reinstate all of these development patterns into the Draft.

It is important that we continue to let the Planning Board and Council know about our opposition to these development patterns, and to the Rewrite Draft in general. In particular, we want the Council to support, and not overturn, the removal of these concepts from the current Draft, and perhaps direct the Planning Board to address the other issues in the Draft, like the lack of opportunity for citizen participation, and the denigration of Master Plans.

Pulling the development patterns from the draft is a small step in the right direction and we do thank the Planning Board. I will be in touch—as we learn more at the ZAP meeting on December 14th.

Announcement by the Planning Commission about removing the section on development patterns out of the zoning rewrite draft and next steps in the process

Pamela Dunn, Project Manager, MNCCPC

12/09/2010

November 10, 2010

In March, 2009 the Planning Board began a 3 year process to revise and simplify Montgomery County's complex, 1,100 page zoning code. A consulting firm, Code Studio, hired by the Board, presented a draft of their proposed changes to existing residential and agricultural zones to a Zoning Advisory Panel and the Planning Board itself in late October, 2010.

The Code Studio proposals are a first draft and will affect **all** county residents. So it is very important that individuals, neighborhoods and civic associations keep abreast of the zoning code rewrite effort and provide their comments to the Planning Board, County Council and County

Executive. The District One Community Caucus (D1CC) will help by attending the Planning Board's meetings and present summaries for all interested parties on this website. The summaries are intended to help communities prepare their own thoughts and perspectives for county officials. You can also follow the process on the Planning Board's website at www.montgomeryplanning.org/development/zoning/.

Thanks for your interest in the Montgomery County Zoning Rewrite Project. Following release of the first consultant draft of a section of the code, we are providing an update on the schedule and direction of the project.

The zoning rewrite is in the early drafting stage. The consultant team's first discussion [draft](#) on Agricultural and Residential zones lays out initial ideas related to building types and standards. The draft was posted online to foster discussion with the [Zoning Advisory Panel \(ZAP\)](#), appointed by the Planning Board to provide direction and advice to staff throughout the Zoning Code Rewrite project.

After three ZAP meetings commenting on the discussion draft and analysis by planning staff and the planning board chair, the planning director has directed the zoning team to pull the section on development patterns out of the draft. (Italics inserted by the D1CC webmaster, Bill Freund)

The ideas behind the development patterns - which the consultant proposed to raise the level of design and bring enhanced public benefits along with a slight increase in density in some areas with "cottage courts" and "corner stores" - will become the focus of a long-term study. Initial staff analysis indicates development patterns may be best placed along major arterials where infill housing may be appropriate.

A staff response draft to the consultant's discussion draft will be posted online early in the new year. Additional sections of the code will be drafted in the coming months. Later, these sections will be consolidated into a Public Review draft incorporating comments and input from the consultant team, planning staff, Zoning Advisory Panel, and other stakeholders.

The next section on Uses and Use Standards for Agricultural and Residential zones will be available later in December.

In concert with a team of consultants and a public steering committee, planners are simplifying a complex, outdated code to reinforce Montgomery County's enviable quality of place. The zoning code was last comprehensively rewritten in 1977.

You can continue to help the consultants and staff shape the future direction of the rewrite. [Learn more](#) and visit our new [online comment tool](#).

You are also invited to observe as our consultant, Code Studio, presents a discussion draft related to residential and agricultural uses to the Zoning Advisory Panel on Tuesday 12/14 at 7-9 pm in the auditorium at 8787 Georgia Ave, Silver Spring.

For questions or comments, please contact Pamela Dunn at 301-650-5649 or pamela.dunn@mncppc-mc.org.

The draft zoning code rewrite has reached the point where it is time for civic associations and others to contact both the Planning Board and County Council to express their views on the work done to date. To that end, Meredith Wellington has developed two documents to assist those wishing to comment. Her first document explains how the development process has evolved. The second provides some ideas that could be included in an email to the Planning Board and Council. While her comments are extremely helpful, you should take the time to study the draft rewrite and develop your own perspectives on the material.

(Webmaster's note: These documents represent Meredith Wellington's perspective on the rewrite process to date. We invite others to contribute their thoughts by sending an email to wmfreund@verizon.net.)

Document 1: An Overview of the Zoning Rewrite by Meredith Wellington

Jenny Sue Dunner, myself, Julie Davis, and Pat Baptiste—the latter two are on the Zoning Advisory Panel (ZAP)—attended the ZAP meeting held on November 17th at the Planning Board. The Staff proposed some changes to the draft, and asked for the panel's feedback. The meeting was disorganized because the panel members did not have copies of the materials that the Staff was working from, but many topics were covered, nevertheless.

I want to step back and look at the big picture. Unfortunately, the big picture is, if anything, as alarming as the specifics of the new code provisions that I reported about earlier this month (*see below*).

First, in the residential zones that predominate in District 1—R-60 and R-90—this rewrite is not a rewrite. It is not reforming the current code, it is basically throwing it out, and starting over. In doing so, it is substantively and procedurally offering a radically altered vision of Montgomery County.

Secondly, it doesn't appear that the consultants and even some Staff members really know Montgomery County. For example, at the last meeting, Staff proposed "corner stores" be located in the midst of single-family residential communities at the intersection of a primary and an arterial road, instead of two arterials. Staff and the consultants had learned that the County already had stores at most of the intersections of two arterials. The Code is not steeped in knowledge of the County, it is, with a few exceptions, generic, and could probably be used virtually anywhere in the United States.

And it is definitely not in the spirit of the planning traditions of the County. Once the new zones are applied, there is currently no role in the rewrite for citizen participation in the development

approval process, because most housing types are “by right” in the zone. Accordingly, once there is rezoning (and the draft is currently silent on how that will occur—but sectional map amendment is very likely), then most of the housing types can be built as long as the application meets the standards set in the zone—including substantially reduced setbacks and cookie cutter design standards. Contrast that to our current system of master plans with citizen participation and testimony, process for rezoning that allows for citizen participation, and process for approval of specific projects that also allows citizens to participate.

Document 2: Possible materials for emails to be immediately sent to Planning Board and County Council regarding the direction of the zoning code rewrite

Dear Civic Associations:

It is time to speak up about the Zoning Rewrite. The train is moving, and the time to reroute it is now. After December 3rd (when the new Council President, Valerie Ervin, takes over) please send an email to the Council and to the Planning Board. You can send the same email. The email addresses are Councilmember.Ervin@montgomerycountymd.gov and MCP-Chair@mncppc-mc.org.

Here are some ideas that could be included in an email:

The Zoning Rewrite was set up to reform an unwieldy Code, a worthy goal. But what we are getting is a total new vision of Montgomery County. This new vision is not steeped in knowledge of the County. It features new, one size fits all, R-60, R-90 and other residential zones that could be used virtually anywhere in the U.S.

The new Code also ignores the County’s long history of planning. Once the new zones are in place, citizens and neighborhoods will be excluded from participating in redevelopment of where they live. Everything is automatic—“by right”. There isn’t even any discretion on the part of the professional planners at the Planning Board. If the new zones are approved, developers will unilaterally build our communities—whether we like it or not! Citizen participation is at the heart of the County’s planning process, and must be retained at every step along the way. What has happened to the General Plan? What has happened to master plans? At this point, there is no indication that master plans will be part of the new Code. This is planning by zoning, not by master plan. The master plan process has worked well, and must be retained in any zoning rewrite.

Please help stop this Rewrite now. Inform the consultants and Planning Board Staff that the Rewrite must be a Rewrite, not a wholesale rejection of our County’s long-standing, highly esteemed system of planning. We must retain the existing R-60 and R-90 zones. We do not want cookie-cutter design standards for our homes. We must retain meaningful citizen participation. We must retain master plans. Finally, there must be more citizen involvement in the Zoning Rewrite process itself—and it must include citizens from every part of the County.

The first summary, written by Meredith Wellington, is presented below.

COUNTY PLANNING BOARD CONSULTANTS ARE RECOMMENDING SIGNIFICANT DENSITY INCREASES AND MULTI-FAMILY HOUSING FOR SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS IN DISTRICT 1 AND THROUGHOUT THE ENTIRE COUNTY

By Meredith Wellington^[1]

The Montgomery County Planning Board is in the process of rewriting the entire zoning code, and single-family residential neighborhoods throughout District 1 and the entire County could see major increases in densities and changes in housing patterns as a result. Code Studio, a consulting firm engaged by the Planning Board to draft the new zoning ordinance, presented a draft of its proposals for changing existing residential and agricultural zones on October 20th to a Zoning Advisory Panel (ZAP) appointed by the Planning Board, and to the Planning Board itself on October 21st.^[2]

I attended the October 21st session with the Planning Board and heard the Code Studio's presentation. Although its proposals are in the early stages, District 1 communities should pay very close attention to this zoning rewrite process, and ask the following questions as it goes forward.

1. What New Housing Patterns and Types Are the Consultants Proposing?

Based, inter alia, on assumptions that Montgomery County must accommodate significant new residential growth in the coming years especially in "Smart Growth" down-county areas, the Planning Board consultants believe that **the R-60 and R-90 single-family residential zones, which predominate in down-County areas such as District 1, should be changed to allow significantly increased densities and new multi-family housing patterns.**

The new housing types that could be allowed on current R-60 or R-90 properties, depending on the size of the lot in question, include "Tandem Housing" (two smaller detached

houses one in front of the other on a single residential lot); **“Cottage Court Housing”** (a group of smaller detached houses clustered around a common open space or courtyard); **“Garden Court Housing”** (a group of full-sized detached houses clustered around larger common open space or courtyard); **“Corner Stores”** (mixed use buildings on corner lots at the edge of residential neighborhoods, a gas station is also permitted); **Duplexes** (two dwelling units arranged one above the other or side by side); **Townhouses** (multiple dwelling units arranged side-by-side); **Accessory Structures** (large buildings apparently intended to serve as additional residential space for the principal dwelling, e.g., “accessory apartments”) and **“Conservation Subdivisions”** (cluster developments with a mix of detached homes, duplexes, townhouses, and/or apartments complexes).

2. Where Could the New Housing Types Be Located?

The new housing types could be approved for any property currently in the R-60 or R-90 zone that is located

- Within a ½ mile of an existing or proposed Metrorail or light rail station;
- Within a ½ mile of an existing or proposed MARC station or a dedicated fixed-route bus way station;
- Within ¼ mile of a stop on a bus line with service from 6 AM to 8 PM where service intervals are no longer than 15 minutes during peak commute hours.

I will be gathering more information on the specific areas in District 1 that meet one of these requirements. **However, it is clear that significantly increased densities and new housing types could be built in large areas of District 1 given these relatively loose location restrictions.**

3. What Development Standards Must the New Housing Types Meet?

The consultants’ current draft contains only minimal development standards, primarily setback (spacing) and design restrictions, for the new housing types and patterns. Significantly, no “compatibility” findings are required under the proposed zones. Instead, these new housing types will be treated as compatible with existing residential homes in the area if the new structures meet minimal rear and side yard setbacks, and are constructed to “look” like

typical single-family homes. **Residents of District 1 could thus find themselves living next door to or behind two separate “tandem” dwellings, “garden” or “courtyard” developments, townhouses, duplexes or even apartment buildings (depending on lot sizes) if the new dwellings “looked” like surrounding homes and were set back a few feet from the street or common property lines.**

The consultants’ draft also attempts to address **“Mansionization”** issues by developing special standards for single-family houses in older neighborhoods where the lot for the new home was platted before 1978 and is smaller than 25,000 sq. feet. Under those circumstances, there are design requirements such as side plane standards and controls on dormers. **Code Studio advised the Planning Board on October 21st, however, that their proposed “Mansionization” restrictions would only address the most egregious “monster house” issues.** Furthermore, if the site is on a newly platted lot, the restrictions would not apply at all.

4. What is the Role of Master Plans in the Proposed New Residential Zoning Scheme?

The current draft of the new residential zones makes no mention of master plans, nor does it suggest how the rezoning of individual properties would be accomplished. However, based on the Planning Board proposals for a new commercial zone (“CR-Commercial-Residential Zone”) last year, it is entirely possible that the consultants will recommend implementing the new R-60 and R-90 zones through a **County-wide “Sectional Map Amendment”** process, which provides few opportunities for meaningful community participation and input. The County Council ultimately adopted the new CR Zone with a requirement that it must be specifically recommended in an adopted master plan before it can be approved for an individual property. Similarly, **the new zoning code should prohibit imposition of these new R-60 and R-90 residential zones on any property unless the zones are specifically recommended in the applicable master plan for the property in question.**

5. How does the draft treat what are currently called “special exceptions”, that is, institutional buildings and uses in residential neighborhoods.

This is another important issue to follow. The draft contains another new building type that, as defined, appears to allow by right buildings and uses that are currently only allowed by special exception. The draft refers to a “Community Building.” Community building is defined as “A building type intended primarily for civic, institutional or public uses that serve the surrounding area.” Sec. 4.1.3. further provides that the

Community Building is allowed **by right** in every residential zone proposed by this draft. While the minimum lot size is 5 acres in the draft, there needs to be a much more detailed framework for the current category of special exceptions.

6. How Could District 1 Communities Participate in the Approval Process for Specific Housing Projects under the New R-60 and R-90 Zones?

As currently drafted, **the consultants' proposals provide little, if any, meaningful opportunities for community participation.** Under a **standard development method**, each of **these housing patterns, including corner stores and conservation districts, may be developed as a matter of right** if the project meets the minimal setback and design standards mentioned above. Even if the proposed project does not meet these standards, **the developer may still seek approval under an optional method** that involves site plan review, but with substantial discretion given to the Planning Board to determine whether to approve the project. **These proposed development patterns, therefore, will have a dramatic impact on the look and feel of our communities, and yet there is no meaningful process for hearing the views of citizens in the current draft.**

7. What Are the Next Steps in the Zoning Code Rewrite Process?

Having recently circulated the first section of their proposed zoning code rewrite that would consolidate and reformulate the existing agricultural and residential zones, [\[3\]](#) the Planning Board consultants plan to issue proposed uses for those two categories of zones. Following that, they will issue proposed consolidations and reformulations of existing industrial and commercial zones. This rewrite process is anticipated to take approximately one year, with the consultants' final draft then available for public comment. The Planning Board will then make recommendations to the County Council, and the Council, sitting as the District Council, will vote on the new code. The entire process is expected to take at least another two years.

Although the public will presumably be able to testify before the Planning Board and the County Council on the consultants' final rezoning recommendations, it will be very late in the process. Moreover, at the October 21st Council briefing, the consultants described their current draft as a "work in progress" and stated that there are "lots of bold new ideas for optional development" that have not been "opined" on.

Now is the time, therefore, for communities in District 1 to start following the zoning rewrite process closely and to participate to the extent possible at every stage of this process. This includes letting the Planning Board and County Council hear your views about the consultants' proposed changes to the existing zoning in your neighborhoods, even on this early stage of the process, before it is too late to have an impact.

8. Where Can Communities in District 1 Obtain More Information on the Zoning Rewrite Process?

The ZAP is currently scheduled to meet monthly with the Planning Board's consultants. The next three meetings will be Wednesday, November 17th; Tuesday, December 14th; and Wednesday, January 19th, at 7 p.m. in the Planning Board auditorium, 8787 Georgia Avenue, Silver Spring. The meetings are open to interested observers, and provide an opportunity to hear the latest thinking of the consultants and the ZAP panel on these rezoning issues. You can also follow the process on the Planning Board's website <http://www.montgomeryplanning.org/development/zoning/>. To read this draft rewrite for yourself, please go to the website, and in the box on the right click on "THE DRAFT".

I will be following this process closely in the coming months and will report on new developments as they occur on this District 1 website. I am also available to answer any questions you or your community might have on these rezoning issues, and can be reached at mkwellington@comcast.net.

[1] Meredith Wellington is a former member of the Montgomery County Planning Board, a long time resident of District 1, and participated last year in the process that led to the passage of a much-improved CR Zone.

[2] The ZAP is composed of 23 members representing communities, businesses and professional planning organizations in the County. Three of its members, Pat Baptiste, Diana Conway, and Julie Davis, are residents of communities in District 1.

[3] There are currently 29 residential zones in the Montgomery County Zoning Ordinance. The consultants recommend consolidating those into eight zones, two of which would replace the existing R-60 and R-90 zones which apply to most of the single family home areas in District 1.

Citizen and Association testimonies and articles

3/17/2010 A [letter](#) from Meredith Wellington, Julie Davis, Pat Baptiste, Jenny Sue Dunner, and the Citizens Coordinating Committee on Friendship Heights addressed to the County Council after the Council's approval of the Commercial Residential (CR) zone. The letter thanks the County Council for working with the community to add improvements to the Commercial/Residential (CR) zone and lists a number of the changes.

01/29/2010A [letter](#) and supporting materials by Meredith Wellington, Julie Davis, Pat Baptiste,s Jenny Sue Dunner, and the Citizens Coordinating Committee on Friendship Heights to Council President Nancy Floreen on ZTA 09-08, the Commercial/Residential Zone. The letter says the County Council could avoid a number of serious problems by using the TMX zone in lieu of the proposed C/R zone. The letter includes specific recommendations on how this could be accomplished.

10/29/2009Bill Chen [letter](#) to the County Council clarifying why not to use the Sectional Map amendment process for the CR zone. (PDF)

10/27/2009Julie Davis [testimony](#) on the CR zone (PDF)

10/27/2009Bill Chen [letter](#) to the County Council on the CR zone (PDF)

10/27/2009Meredith Wellington [testimony](#) on the CR zone (PDF)

10/27/2009 Ike Leggett [testimony](#) on the CR zone (presented by Gary Stith) (PDF)

County Council materials

3/2/2010The County Council issued a [press release](#) indicating they unanimously approved Zoning Test amendment 09-08 creating a new family of Commercial/Residential (CR) Zones. The new zones can only be applied when they are specifically recommended by a master plan or sector plan.

3/2/2010The County Council met again and agreed with the recommendations of the Planning, Housing, and Economic Development Committee (PHED) with some exceptions. These are listed in the [materials](#) along with the final version of the plan labeled draft 8, dated 2/23/2010.

2/23/2009County Council votes on establishing the commercial Residential (CR) zones, ZTA 09-08 in a session starting at 2:30PM.

2/9/2010[Material](#) from the Council work session on establishing the commercial Residential (CR) zones, ZTA 09-08. The staff letter and materials include a summary of the amendments recommended by the PHED committee and a clean copy of the ZTA 09-08 (pp. 61-80) amendment.

1/25/2010Planning, Housing and Economic Development Committee (PHED) meeting at 2PM on Zoning Text Amendment (ZTA) 09-08 that establishes Commercial Residential (CR) zones.

1/11/2009[Materials](#) from the Zoning Text Amendment (ZTA) 09-08 meeting of the Planning, Housing and Economic Development Committee (PHED).

11/23/2009[Materials](#) used at the Planning, Housing and Economic Development Committee (PHED) meeting on Zoning Text Amendment (ZTA) 09-08 that establishes Commercial Residential (CR) zones.

11/17/2009[Materials](#) from the Planning, Housing and Economic Development Committee (PHED) meeting held at 2:30 PM on Zoning Text Amendment (ZTA) 09-08 establishing the Commercial Residential (CR) zone.

11/09/2009[Materials](#) from the Planning, Housing & Economic Development (PHED) Committee meeting on Zoning Text Amendment (ZTA) 09-08 establishing the proposed CR zone. The material includes the Planning Board's third draft, dated 9/15/2009.

11/2/2009[Materials](#) from the Planning, Housing & Economic Development (PHED) Committee on Zoning Text Amendment (ZTA) 09-08 establishing a Commercial/Residential (CR) zone. The material highlights major issues in establishing CR zones.

Planning Board information

10/26/2008[Draft 4](#) of Zoning Text Amendment No. 09-08 establishing a Commercial/Residential (CR) zone.

Newspaper articles

[Montgomery Gazette](#) Search on "cr"