

"Federation Corner" column
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New zoning code could bring major changes

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The idea of revising the current Montgomery County zoning code was hatched some twenty years ago; and a consultant hired to analyze the ordinance in 2001 proclaimed it to be the most complicated and difficult to understand of any they had researched. Finally, the effort to revise the code began in earnest in 2008 and reached a milestone in May of this year when the Planning Board sent a recommended draft to the County Council, which has sole authority to approve zoning laws.

This coming Tuesday, June 11, starting at 7:30 p.m. the Council will hold a public hearing on the proposed new zoning ordinance, which was introduced in legislative form as Zoning Text Amendment 13-04. The hearing will be held in the 3rd floor chamber of the County Council Building in Rockville and is open to the public, although those wishing to testify must sign up in advance by calling (240)777-7803. The proceedings will also be broadcast live on county cable television, or can be viewed over the internet through a link on the Council's homepage at www.montgomerycountymd.gov/council.

While the initial idea of revising the zoning code involved only reorganizing, streamlining and clarifying the existing set of laws, the proposed draft being recommended by the Planning Board goes quite a bit further by offering some major alterations to current law. Two of the more significant changes would affect the small lot residential zones--the R-60 zone (home lots of around 6,000 square feet in size) and R-90 zone (home lots of around 9000 square feet in size)--zoning classifications which are applied primarily to properties in neighborhoods of older downcounty communities like Bethesda, Kensington, Wheaton and Silver Spring.

One major change in the R-60 and R-90 zones would be the allowing of "Farming", "Animal husbandry", and "On-site farm markets" as "Limited Uses".

Farming is defined in the new zoning code as "the practice of agriculture on a property" which is "the business, science, and art of cultivating and managing the soil, composting, growing, harvesting, and selling crops and livestock, and the products of forestry, horticulture and hydroponics, breeding, raising, or managing livestock, including horses, poultry, fish, game, and fur-bearing animals, dairying, beekeeping and similar activities..." including the "processing on the farm of an agricultural product in the course of preparing the product for market..." Fortunately, the limitations imposed on farming on small residential lots would prohibit "sod farming" or "the raising, breeding or managing of livestock."

However, the allowance of Animal Husbandry as a Limited Use will permit residents on R-60 and R-90 zoned lots to keep and raise miniature goats (one per every 3,000 square feet of lot size), and hens, ducks and rabbits (one per every 1,000 square feet of lot size), up to a maximum total of eight animals. And the allowed menagerie of goats, ducks, hens and rabbits could be in addition to a beekeeping operation and aquaculture tanks or ponds for raising fish.

Another concern is that current law requires structures housing animals be at least 100 feet from the property line and 25 feet from the nearest neighboring home, while the new ordinance would require only a 15 foot setback from the property line.

I suppose that permitting Farming as a Limited Use might also allow the industrious resident on an R-60 or R-90 lot to run a small-scale forestry operation comprised of felling and milling trees grown on his

property, and air drying the lumber for sale in his On-site farm market (along with the goats milk, eggs, honey, and fish he produces). That's a lot to allow on small properties tucked close together in residential neighborhoods!

By the way, there is no explanation of what constitutes an On-site farm market, simply the proviso that in the small lot zones one can only sell products grown or produced on the property. Is the market a folding table set up temporarily at the front of the property near the street? Is it a more substantial set of shelves in place only through the growing season? Or is it a structure with a roof but no side walls left in place permanently? Unfortunately the draft zoning code would leave these questions to be answered at a later time, more than likely through the lodging of neighbor-against-neighbor law suits in the courts.

A second major change proposed to R-60 and R-90 neighborhoods in the Planning Board draft zoning ordinance is the uses allowed by a new set of "Floating Zones". Floating zones are zoning classifications that do not have to be recommended and applied as part of the master plan for an area, but which can change the existing zoning of a property at the request of the owner and upon approval by the County Council.

The new zoning code would allow, under certain rather too loose limitations, the following uses to float onto an existing small lot residential property: a mixed use Commercial/Residential building; a general or neighborhood retail building; an office building, or a structure for life sciences activities or light or moderate industrial uses. Buildings to accommodate these uses would be limited to the approximate size of home structures in the neighborhood. But this looks like a sure way for commercial areas to eat into residential ones, while the code gives lip service to protecting the character of existing neighborhoods.

This seems more than reorganizing the current code. It seems a rather drastic change.

Following the public hearing, the Planning, Housing and Economic Development (PHED) Committee of Council will hold a series of worksessions on the various sections of the proposed zoning code. The public can attend these sessions but may not participate; and many, if not all, will be televised. The PHED schedule is:

June 14--Overview/preliminary implementation discussion/Agricultural zone

June 21--Rural and Residential zones

June 28--Mixed use Commercial/Residential zones

July 2--Employment and Industrial zones

July 12--Overlay zones

July 19--Floating zones

July 26--Parking/signs

September 13--Administration and procedure

September 20--Wrap-up and outstanding issues

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800 to 1000 word column for consideration, send as an email attachment to montgomerycivic@yahoo.com