

**AGENDA DATE: APRIL 12, 2007**  
**AGENDA ITEMS NO.S 10 - 11**

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April 6, 2007

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Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Preliminary Plan No. 1-20050060;  
Site Plan No. 8-20060230;  
"Ashton Meeting Place"

Dear Chairman Hanson and Members of the Planning Board:

The members of the project team for "Ashton Meeting Place" look forward to making a comprehensive presentation to you during your consideration of the applications referred to above on April 12<sup>th</sup>. In advance of that presentation which, due to time limitations, will focus primarily on design issues, the Applicant offers a summary response in the order established in the Staff Report, followed by an extended elaboration on the legal and technical issue found in paragraph numbers 1, 2, and 5, in the section entitled "Executive Summary: Outline of Denial" in the Staff Report.

**1. Parking for Commercial Uses is not permitted in the R-60 Zone.**

In its recommendation, the Community Based Planning Division states they are of the opinion that "Ashton Meeting Place" complies with the land use vision of the Master Plan. They also acknowledge there is some ambiguity in the recommendations of the Master Plan.

The 1998 Master Plan at page 31 recommends a land use mix of stores and homes for both the Sandy Spring and Ashton village centers. As stated in the CBP memo, nowhere in the Master Plan is there a specific designation of "suitable for mixed-use", suggested by the text of the Rural Village Overlay Zone (RVOZ). Some of the confusion regarding this designation may flow from the Planning Board's original proposal for the RVOZ to

permit commercial uses in R-60 zoned land. The County Council amended the RVOZ to drop this option and the final version of the Sandy Spring/Ashton Master Plan was accordingly amended. However, the option to provide parking in the R-60 zoned land for commercial uses remains. The basic intent, however, to encourage mixed-use development in the Ashton village center dates back to the 1980 Master Plan, as described in more detail below.

**2. Parking Garage in the C-1 Zone.**

Parking garages have always been permitted in the C-1 zone, including properties that have received site plan approval, as evidenced by the examples provided later in this letter so this issue is not an impediment to approval of the “Ashton Meeting Place” applications.

**3. Conformance to Master Plan Design Guidelines.**

At the April 12<sup>th</sup> public hearing, the Applicant will provide graphic exhibits to explain how the project does substantially conform to the design guidelines of the Sandy Spring/Ashton Master Plan. The Sandy Spring Historic District has been utilized as a design source and as a guide for height limit. Buildings in the Sandy Spring Historic District were used as design cues in the development of the architecture for “Ashton Meeting Place”.

For the subject property, Ashton Road (MD 108) is maintained as a “main street”, with parallel parking, and balanced with SHA proposed road improvements. Since no parallel parking is permitted along New Hampshire Avenue, a single-loaded, parallel drive with parking is provided to ensure that the stores facing New Hampshire Avenue, will be actively utilized. Only approximately 180 homes are within walking distance (1/4 mile) of Ashton Meeting Place, and the adjacent land to the northeast and southeast are classified in five-acre zoning. Thus, the number of pedestrians accessing the village center will be low relative to the number of Ashton residents that will drive to the center. Once parked, these patrons will also become pedestrians, and an extensive pedestrian system within the development is provided to access the stores, residences, and green spaces at “Ashton Meeting Place”, as well as to uses in the other three quadrants of Ashton village center from the south.

While a small amount of convenient parking is provided in front of the New Hampshire Avenue retail building to ensure active store fronts, additional parking is provided in the center of the site, screened from view from New Hampshire Avenue and Ashton Road. The green at the MD 108/MD 650 corner provides a highly visible, and inviting, pedestrian access to the center. The green on the south end of Ashton Meeting Place, with residences overlooking, provides an attractive, active open space setting and entry to the village center from the south.

**4. Pedestrian and Vehicular Circulation System and Safety.**

Pedestrian safety is assured foremost by the installation of pedestrian activated crossing signals at MD 108 and MD 650 as part of the SHA intersection improvement program. Handicap access is provided into the pedestrian system within Ashton Meeting Place from the surrounding sidewalks along MD 108 and MD 650, including directly from the Metro bus stop at the south end of the MD 650 frontage. Pedestrians approaching from off-site, as well as patrons who arrive by car, may have to cross interior drives, as is the case with virtually all commercial and residential projects. We do not feel, and the Planning Board has not previously determined, that this situation represents an unsafe condition.

Moving the MD 650 retail building to the street, as suggested by the Staff, would reduce the activity of the store fronts to pedestrians only since, unlike MD 108, no parallel parking is permitted along MD 650. In addition, the grade of the site, sloping downward away from MD 650, results in stores which, while at street level facing MD 650, would be one level above grade toward the interior of the site. This would make accessing the stores difficult for the majority of patrons, including complicating the provision of handicap parking.

**5. Environmental Impact.**

First, it should be noted that the Applicant has worked with the State Highway Administration and SHA has redesigned its stormwater management facilities to be located on the adjacent Matthews property, facilities that "Ashton Meeting Place" was going to share with SHA in order to have a more efficient system for both parties. As a result of the redesign, all SHA facilities, including associated grading, have been removed entirely from any stream valley buffer. Accordingly, the only issue presented to the Planning Board in these applications is whether wetlands encroachment within "Ashton Meeting Place" are environmentally acceptable in light of other public benefits achieved by the project.

Basically, within the "Ashton Meeting Place" project, the Applicant proposes to encroach on only 2,000 square feet of wetlands area (14% of the wetlands on site), but proposes to create new wetlands area of 9,450 square feet (providing replacement wetlands at a rate of 4.75:1, well in excess of the expectations of the Environmental Guidelines). Moreover, approximately 8,900 square feet of wetlands buffer are being replaced at a rate of 2.75:1. The Applicant's wetlands encroachment has been approved by the Maryland Department of the Environment and the stormwater management program has been approved by the Montgomery County Department of Permitting Services Stormwater Management Section.

I. PARKING FOR COMMERCIAL USES IN THE R-60 ZONE.

- A. Contrary to what is asserted in the staff report, the subject property is one of two sites identified in the Sandy Spring/Ashton Master Plan as suitable for mixed use development. Therefore, off-street parking in the residential zone to support commercial uses without special exception approval is allowable on the subject site pursuant to Section 59-C-18.185(b) of the Overlay Zone.

1. The “Sandy Spring/Ashton Master Plan of 1998”, while standing on its own, nevertheless incorporated portions of the previous 1980 Sandy Spring-Ashton Special Study Plan that were reconfirmed by the 1998 Plan and that are relevant to the analysis of the issue.

2. A land use recommendation for a mixed use “type” of development for the subject property first appears in the 1980 Sandy Spring-Ashton Special Study Plan (“1980 Plan”). The 1980 Plan recommended the use of planned development zones under which both commercial and residential uses could be compatibly developed to achieve a rural village concept for both the northwest and southeast corners of the Ashton Village Center. (1980 Plan, pgs. 39-40; Exhibit A) This recommendation was then expressly confirmed in the 1998 Plan, stating on page 38 as follows: “[t]his Plan confirms the 1980 Plan land use recommendations and the existing zoning pattern in the Ashton village center...” (1998 Plan, pg. 38; Exhibit B)

3. As evidenced by the CBP memo, staff seems to be struggling with the fact that nowhere in either the 1980 or 1998 Plans is there a more specific designation of which properties are “suitable for mixed-use”. Staff’s search for a more specific “mixed-use” designation (when one was not necessarily intended to be required) appears to stem from the fact that certain language dealing with a “mixed use concept” was deleted from the 1998 Plan. Legislative history reveals that the deletion of the language of concern to Staff had nothing to do with the underlying recommendation for a mixed use type of development on the subject site and therefore contradicts staff’s analysis.

a. The legislative history of the Overlay Zone and the 1998 Plan reveals that the deleted language that is noted in the staff report was in response to a different issue that was being debated in 1997-1998 and was not intended to strip the subject site of its established suitability for mixed use. During the Council deliberations on the Rural Village Overlay Zone, a legal concern was raised as to whether it was appropriate to allow mixed use projects to locate commercial components on the residentially zoned portions of a development through application of the Overlay Zone (i.e., without the benefit of commercial zoning). This issue was commonly referred to at the time of debate as the “Overlay Zone mixed-use provision”. When the County Council decided to delete this provision from the Overlay Zone, corresponding language in the 1998 Plan intended to describe the “Overlay Zone mixed-use” concept (e.g., flexibility in the placement of commercial uses, etc.) was also removed.

b. However, the deletion of the “Overlay Zone mixed-use provision” and related language in the 1998 Plan did not “strip” the subject property of its suitability for mixed use development. As indicated above, the subject site’s suitability for mixed use development had been established in the land use recommendations of the 1980 Plan and was reconfirmed by the 1998 Plan. The deleted language simply limited the flexibility with which a mixed use project could locate its commercial uses on the site; it did not change the subject site’s established land use recommendations or “designation” for mixed use development.

c. Moreover, the “Overlay Zone mixed-use provision” was a separate issue from the off-street parking provision found in Section 59-C-18.185(b). Even as the County Council decided to eliminate the former from the Overlay Zone, it affirmed and retained the latter. A Council staff memorandum to the County Council dated June 30, 1998 outlines PHED Committee recommendations relative to the Overlay Zone that were ultimately adopted by the County Council. It includes among other things: (1) deleting the mixed-use provision but (2) allowing commercial parking on the residential portion of the subject site at site plan review without a requirement for a special exception. (Memorandum to County Council dated June 30, 1998; Exhibit C)

B. County Council legislative history demonstrates that two groupings of properties in the Sandy Spring/Ashton area, including the subject site, were identified as logical and viable locations for a mixed use type of development.

1. In a memorandum to the Planning Board dated February 27, 1998 regarding the proposed text of the Sandy Spring/Ashton Rural Village Overlay Zone, staff notes:

“There are two areas recommended in the final draft master plan for mixed use. These are the three properties in the Sandy Spring village center on the north side of MD 108 east of Brooke Road, and the two properties in the southeast quadrant of the Ashton village center. The plan recommends flexibility of development on these sites, which could include allowing commercial uses on the residentially-zoned portion of the site.”

(See Memorandum to Planning Board dated February 27, 1998, pg. 3; Exhibit D)  
(Emphasis added.)

C. The absence of the use of the specific term “mixed use” or the lack of a more specific mixed use “designation” on a map, however, DOES NOT undermine what was clearly understood and intended by the Plans’ authors.

1. The Plans speak in general terms of a mixed use/rural village concept by describing an overall vision for “achieving a compatible mix of commercial and residential uses in a rural village setting” as opposed to using the specific phrase “mixed use”. In addition, the Plans provide development guidelines for what the mixed use

village centers might look like by encouraging a “land-use mix of stores and homes” that incorporate “traditional village design” concepts such as “active fronts on buildings”, “height limits compatible with the Sandy Spring Historic District” and “buildings facing the main road”, etc. (1998 Plan, pg. 31; Exhibit B.)

In summary, as indicated previously, the legislative history clearly indicates that the Plans’ authors had two groupings of properties in mind for future mixed use development, one of which is the subject site. The 1998 Plan expressly defers to recommendations made in the previous 1980 Plan relative to the Ashton village center area. (1998 Plan, pg. 38; Exhibit B) Moreover, on page 80 of the 1998 Plan, it indicates that the creation of the Sandy Spring/Ashton Rural Village Overlay Zone was in fact originally recommended in the 1980 Plan (i.e., the rural planned development zone for Ashton) but had never been developed. Thus, not only does the 1998 Plan expressly confirm the land use recommendations for the Ashton village center contained in the previous Plan, but it finally creates the zoning mechanism necessary to achieve the type of development that was contemplated by 1980 Plan for the subject site.

## II. PARKING STRUCTURE IN C-1 ZONED LAND.

### A. Parking structures are permitted in the C-1 zone.

The Applicant has provided, and the Staff Report contains a countersigned letter from the Department of Permitting Services confirming that under its interpretation of the Montgomery County Zoning Ordinance “...structured parking that is incorporated within buildings on a site to serve permitted uses is allowed in the C-1 zone.”

The Planning Board may also wish to note that under Section 2-42B of the County Code, one of the functions of Department of Permitting Services is to “...administer, interpret and enforce the zoning law...,” a Code section which we understand gives MCDPS primary responsibility for interpretation of the Montgomery County Zoning Ordinance in matters that would not be in the exclusive purview of M-NCPPC.

### B. Parking structures have been regularly approved, including under site plan procedures, for new development in the C-1 zone..

To emphasize this point, two examples readily come to mind:

1. The “Cloverly Town Center” shopping center, Site Plan Review No. 8-01001, approved by the Planning Board in June, 2001 with 63 parking spaces in garage surmounted by a mixture of offices and retail shops. (Information provided to Staff by letter dated March 7, 2007.)
2. “The Potomac Promenade Shopping Center” in Potomac Village approved by the Planning Board in Site Plan Review No. 8-86040 in 1987.

a. This case is particularly instructive to the Planning Board because the Potomac Subregion Master Plan was amended in June, 1986 to contain language and design guidance that allowed below grade parking beneath an existing structure.

b. It should be further noted that the provision allowing for structured parking in the C-1 zone at this location was further confirmed by a covenant, required by the Master Plan, that ran to the benefit of Maryland-National Capital Park & Planning Commission and the "Montgomery County Citizens' Association".

C. Any person familiar with the history of the master planning and zoning actions associated with the development of the "Potomac Promenade Shopping Center" would know that if the legality of siting a parking garage in the C-1 zone didn't arise in that case, then it isn't an issue!

In summary, the Applicant acknowledges Dr. Hanson's oft-expressed remark that "The Planning Board is allowed to get smarter." However, the Staff's position on this subject is contrary to prior approvals and the combined wisdom of not only past Staff and Planning Boards but the County Council as well which approved a master plan allowing a parking garage in the C-1 zone.

### III. ENVIRONMENTAL.

A. The Staff recommendation of denial due to construction activity in a wetlands area elevates environmental considerations to a higher priority than other land use and public benefit considerations presented by these applications.

1. Everyone involved in land use and environmental planning is familiar with the three-part mantra associated with encroachments into environmentally sensitive areas, those being:

- (1) Avoidance
- (2) Minimization
- (3) Mitigation

Unfortunately, the Staff recommendation places such emphasis on "avoidance" at all costs that no "balancing" of competing public interest goals is allowed in the plan review process.

The disagreement and difference of opinion between the Applicant and the Environmental Planning Division Staff focuses on the threshold of what constitutes "avoidance" and, to a lesser extent, what constitutes "minimization". The Staff Report highlights the relevant language from the Environmental Guidelines:

- “b. No buildings, structures or impervious surfaces, or activities requiring clearing or grading will be permitted in stream valley buffers, except for infrastructure uses, bikeways, and trails found to be necessary, unavoidable and minimized by the Park and Planning Department environmental staff working closely with the utility or lead agency.”

The principles of avoidance, minimization and mitigation stated above are comparable to the statutes and regulations regarding disturbance of wetlands. Yet, inexplicably, particularly when enforcement flows from a document which establishes “Guidelines”, M-NCPPC’s view of what is acceptable encroachment in a wetland area is much more rigid and stringent than that of other reviewing. In this instance, the Applicant has received approval from the Maryland Department of the Environment for the wetlands encroachment shown on the pending plans, having found that the disturbance was “necessary and unavoidable”. By comparison, the Environmental Planning Division seems to be saying “Don’t even think about it!”

2. Can “Ashton Meeting Place” be developed without an encroachment into wetland areas? Yes! But, as the Staff Report acknowledges, it will be a different kind of project. It won’t have a grocery store; it won’t have some of the community features found in the current plan, some of which are the product of modifications suggested by persons who will use the Center; and it won’t be able to support the tenant mix contemplated in the current proposal. In essence, it won’t be “Ashton Meeting Place”! For some that may be acceptable, but for the majority of neighbors and potential users, that is a loss.

3. The Applicant’s conclusion about why the modest encroachment into wetland areas is “necessary and unavoidable” proceeds from the following logic:

- a. The Ashton area needs a grocery store. (No food store is found within this market area).
- b. Grocery stores are the core anchor fixtures around which successful small community-oriented centers are constructed.
- c. A successful grocery store acts as a magnet that encourages co-location of other successful retail stores, offices and services that contribute to a successful and vital shopping center.
- d. The size of the proposed grocery store has been reduced to as small a square footage (33,120 SF) as possible.



- e. Due to a number of site features, and due to SHA access requirements, the grocery store can only be located along the Route 108 frontage and access to the store and the Center from Route 108 can only be achieved as shown on the site plan.

Given those parameters and given the Applicant's desire to create a retail center with character and energy, a modest encroachment into the wetlands area for what is largely devoted to an access roadway is "necessary and unavoidable".

- 4. The Staff will acknowledge that the Applicant has taken several steps to reduce the amount of the encroachment into the wetlands area as a result of which the extent of disturbance within the SVB has been markedly reduced. Therefore, the Applicant would disagree that its efforts to "minimize" impacts on the stream valley buffer have been inadequate; it is merely a question of perspective.
- B. The Applicant has proposed a plan that will not only increase the area of the wetlands but will make them a "higher order" of wetlands.

- 1. In exchange for unavoidably having to remove 2,000 square feet of wetlands, the Applicant proposes to create 9,450 square feet of new wetlands. More importantly, the Applicant proposes to "upgrade" the quality of those wetlands to better accomplish the purposes for which they are generally preserved.

Today the upper reaches of the wetlands near the proposed development are a grassed area without much biological diversity. The Applicant proposes to plant within the retained wetlands, and within the new created wetlands, native woody species of trees and plants that are complementary with wetlands. These enhanced wetlands will result in a more effective environmental tool than would the existing conditions or if the area was allowed to naturally regenerate eventually to forest cover.

- C. The long term viability of the enhanced wetlands area is assured by the Applicant's program.

The Staff Report has drawn into question whether the wetlands area, both retained and newly created, can receive adequate water supply to survive and to be effective. To address that concern, the Applicant has proposed a program to recharge the wetlands in the following manner:

- 1. Use of porous paving in a parking lot east of the grocery store, and diversion of run-off from the grocery store roof, through a recharge facility that will ensure adequate water flow to the wetlands.
- 2. Development of a water flow budget to demonstrate that the wetlands area will receive adequate water flow.

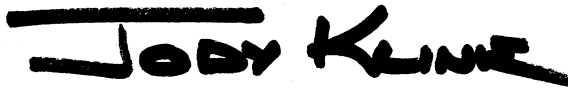
As part of its approval of a stormwater management concept, the Montgomery County Department of Permitting Services, Stormwater Management Section, has reviewed the proposals above and has determined that water flow to the wetlands will be adequate to ensure the viability of this environmental resource.

In summary, the Environmental Planning Division disappointingly remains unconvinced that the Applicant's plans should be approved in the face of approvals of other public agencies with similar environmental concerns and in light of overwhelming empirical evidence in support of the Applicant's proposal. The Applicant can state, without equivocation, that its program will result in superior water quality and watershed protection than if the property was developed without any wetlands encroachment!

The Applicant appreciates the Planning Board's consideration of these lengthy comments. We will be prepared to discuss them further with you in more detail on April 12<sup>th</sup>.

Sincerely yours,

MILLER, MILLER & CANBY

A bold, black, handwritten signature that reads "Jody Kline". The signature is written in a cursive style with thick, dark ink.

Jody S. Kline

A handwritten signature in cursive script that reads "Soo Lee-Cho". The ink is black and the signature is fluid and somewhat stylized.

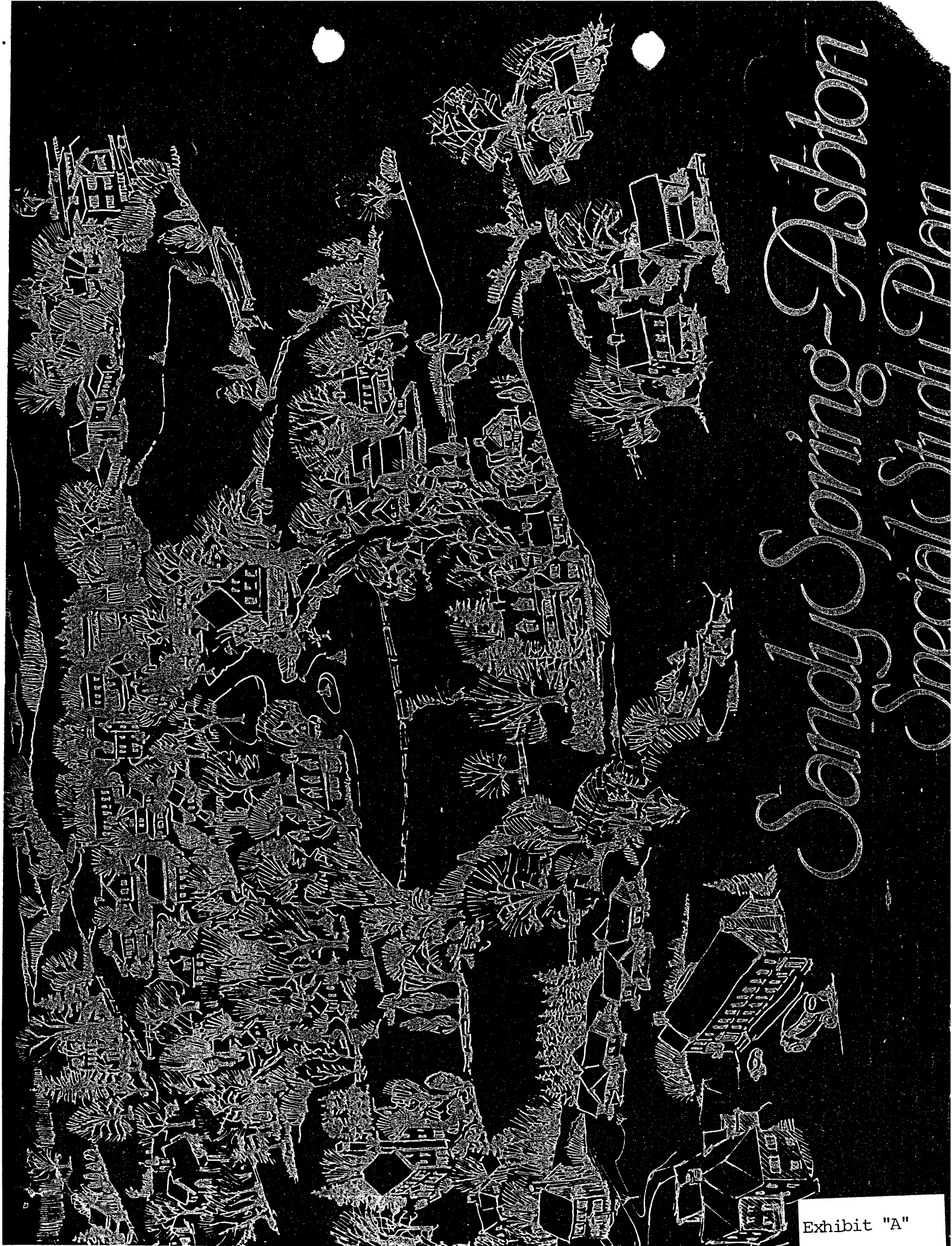
Soo Lee-Cho

JSK/dlt

Enclosures

cc: Faroll Hamer  
Rose Krasnow  
Cathy Conlon  
Rich Weaver  
Josh Sloan  
Dan Janousek  
Bill Barron  
Piera Weiss  
Candy Bunnag  
Cherian Eapen  
Fred Nichols  
Phil Perrine  
Mike Plitt  
Jim Emr  
Craig Hedberg  
Ben Brockway  
David Brown, Esquire

# **Exhibit A**



# *Sandy Spring-Pishton Special Study Plan*

Exhibit "A"

## CHAPTER 3

### LAND USE PLAN

A Land Use Plan is a set of policies to guide physical growth and future development. The Land Use Plan for Sandy Spring/Ashton confirms the area's rural character and seeks to preserve local identity.

The Plan Terminology Map identifies five planning areas:

- Sandy Spring Village Center
- Ashton Village Center
- Brooke Road-Chandlee Mill Road Area
- Rural Buffer Area
- Rural/Open Space Area

Generally, the Plan proposes small concentrations of commercial and residential uses in the Sandy Spring and Ashton Village Centers. A limited amount of residential development is recommended in the Brooke Road-Chandlee Mill Road area. Policies for the surrounding areas encourage open space preservation.

### LAND USE RECOMMENDATIONS FOR THE SANDY SPRING VILLAGE CENTER

The following points summarize the land use recommendations for Sandy Spring Village Center:

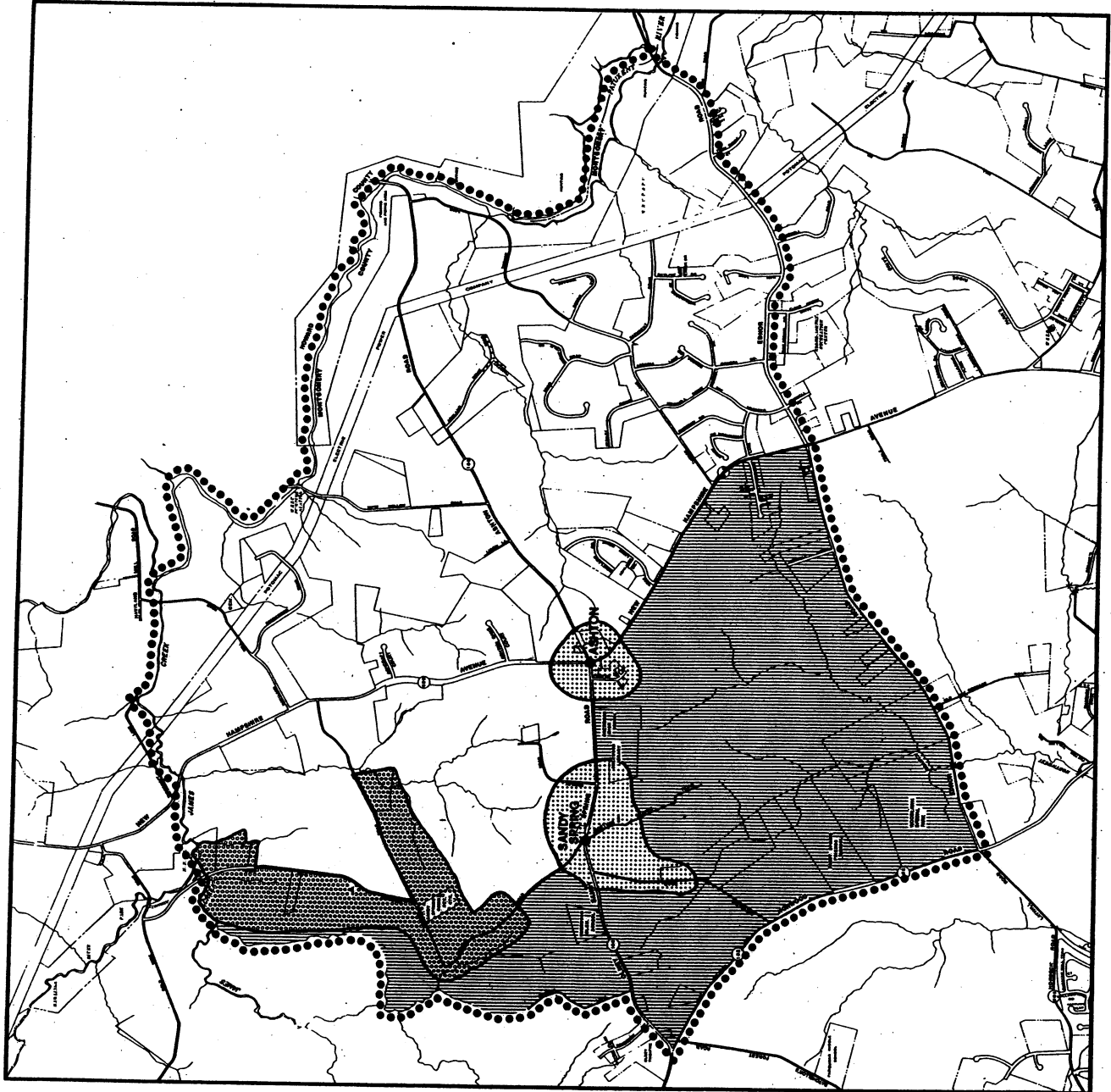
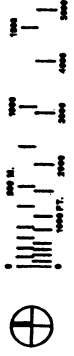
- Provide areas in the Village Center for half-acre residential lots to encourage a mixture of housing types and lot sizes.
- Provide a maximum density of 5 homes per acre on 14.2 acres near the Village Center to allow a low- and moderate-priced housing development.
- Limit commercial development (existing and proposed) to 15 acres or less.
- Encourage design improvements (sidewalks, plantings, rebuilding, renovation) in the commercial area.

# PLAN TERMINOLOGY

- Planning Area Boundary
- ▨▨▨▨ Village Centers
- ▨▨▨▨▨▨ Brooke Rd. - Chandless Mill Rd. Area
- ▨▨▨▨▨▨ Rural Buffer Area
- ▭ Rural / Open Space Area

OLNEY MASTER PLAN: SPECIAL STUDY  
APPROVED AND ADOPTED

**SANDY SPRING/  
ASHTON PLAN**  
Montgomery County, Maryland  
November 1980



Preserve the pastoral setting of Meeting House Road by allowing clustering of residential development on surrounding properties.

The commercial center of Sandy Spring is at Maryland Route 108 and Brooke Road. The Land Use Plan recommends very little additional commercial acreage in Sandy Spring. Approximately 50,000 square feet of vacant land behind existing stores north of Maryland Route 108 is proposed for commercial use to encourage rebuilding and renovation. Additionally, the Plan proposes commercial development on properties adjacent to existing stores to allow for a small amount of commercial expansion (one-half acre) in accord with the present development pattern.

A gas station at the corner of Bentley Road and Maryland Route 108 is presently a non-conforming use; this means the owner may not substantially improve the property or rebuild if the station is destroyed by fire or other natural disaster. This Plan designates enough commercial acreage to allow the gas station to continue and to allow for limited expansion once the new right-of-way requirements for Maryland Route 108 are met. More intense commercial development would be inconsistent with the village center concept.

The Plan recommends one-half acre residential lots for the properties west of Bentley Road and a continuation of the existing one-half acre residential lots for properties south of Maryland Route 108 east of Meeting House Road.

~~A major goal of the Plan is to provide a range of housing types to help meet the present housing needs of residents.~~ Sandy Spring has always been characterized by a mix of lifestyles, occupations and income levels. The escalating cost of housing, however, is threatening this diversity and historic character. Single-family detached homes on smaller lots are proposed along both sides of Maryland Route 108, but this recommendation alone is not sufficient to ensure housing that will meet the needs of low- to moderate-income families. Because the land market in Montgomery County is so strong, it is unlikely that lower cost housing will become available through conventional means. For this reason, the Plan supports the proposal by Housing Opportunities Commission (HOC) to build low- to moderate-priced housing in Sandy Spring on the 14.2 acre Patterson tract north of Maryland Route 108.

The Patterson tract is a desirable housing site from a planning perspective for the following reasons:

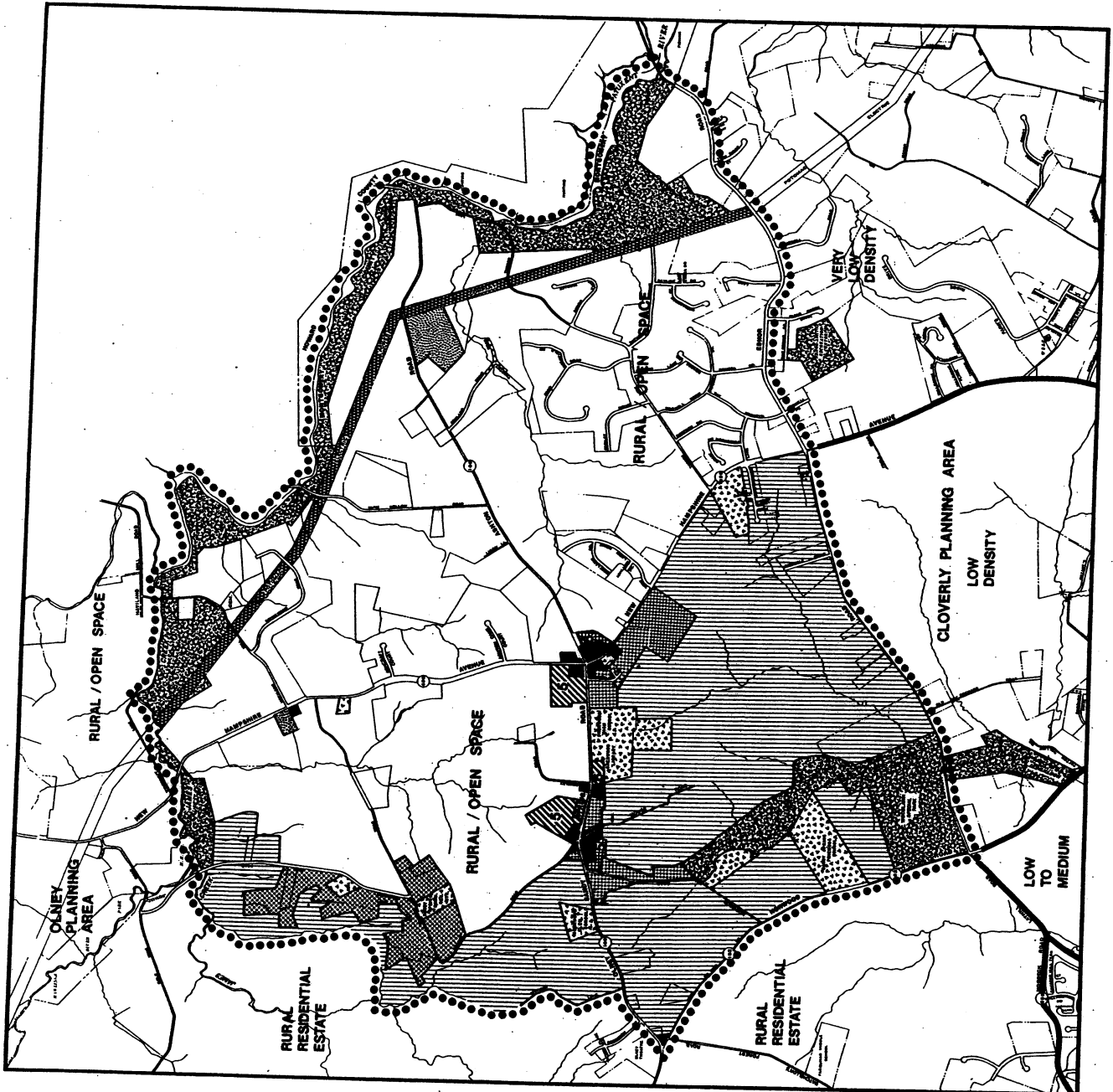
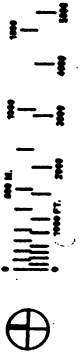
# PROPOSED LAND USE

- ..... Planning Area Boundary
- ||||| Rural, Residential Estate
- ||||| Residential, One Family
- ||||| Residential, Mix of Attached and Detached Units at Density Shown
- ||||| Residential, Townhouses
- ||||| Commercial
- ||||| Institutional
- ||||| Park
- ||||| Rural/Open Space
- ||||| Private Open Space
- ||||| Public Utility

OLNEY MASTER PLAN: SPECIAL STUDY  
APPROVED AND ADOPTED

## SANDY SPRING/ ASHTON PLAN

Montgomery County, Maryland  
November 1980





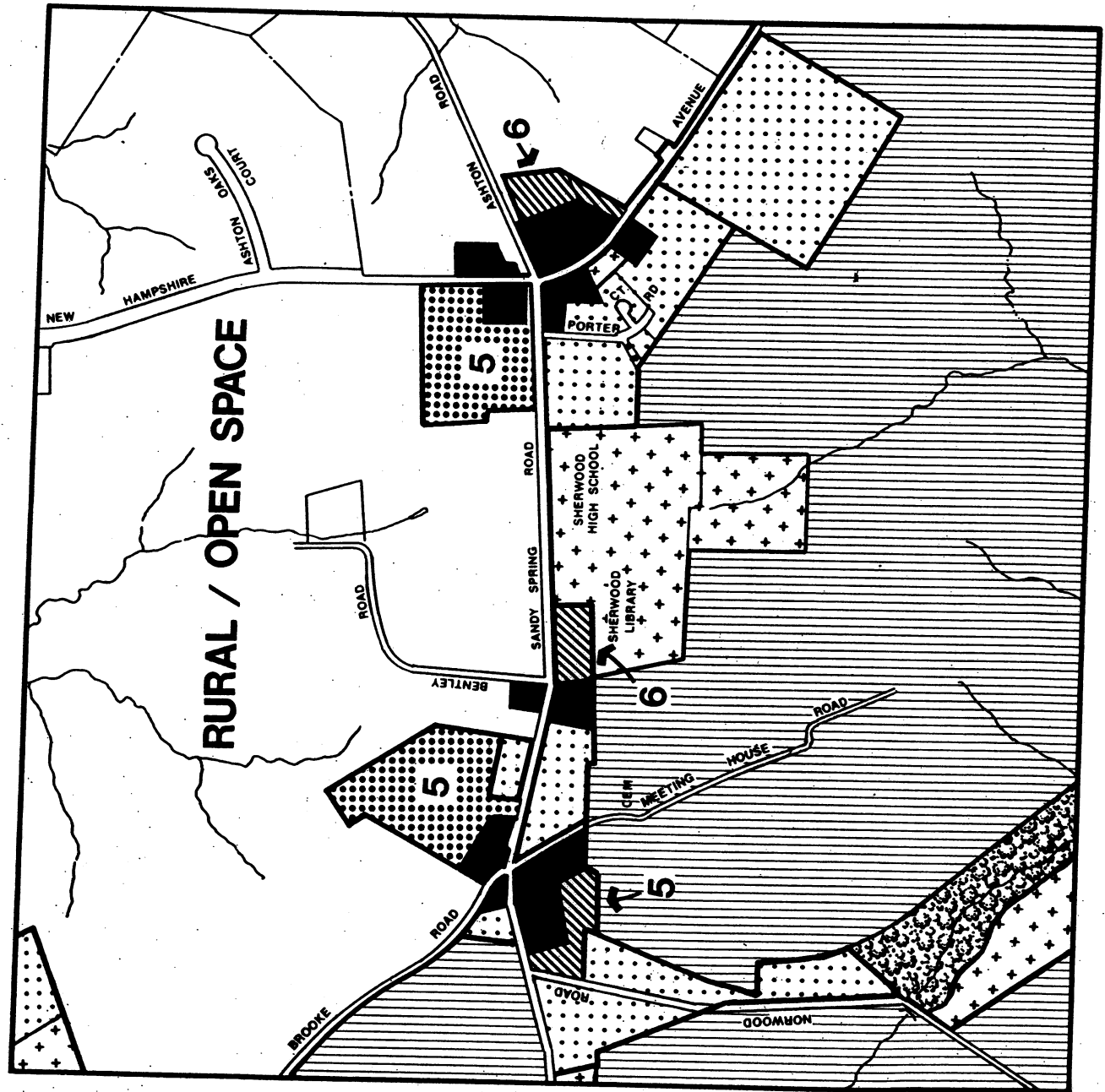
- the site is within walking distance of stores and businesses;
- public transportation is nearby;
- there is direct access to Maryland Route 108.

The Plan proposes a residential density of 5 units per acre for the Patterson tract. The number of houses shall not exceed 60. The Planning Board will review and may reduce the total number of units at time of subdivision to insure the mix of units and site layout is compatible with surrounding land uses, nearby homes, and the rural village concept. The actual mix of housing types (townhouses, duplexes, cottages for the elderly) will also be determined at time of subdivision. Approval of the site plan will be conditional on HOC meeting several design criteria which would help assure the compatibility of the development to surrounding uses. These criteria would include, but not be necessarily limited to, the following:

- the entrance to the site should be from Maryland Route 108 and should be tree-lined;
- there should be no access to the site from Bentley Road;
- the "panhandle" portion of the site fronting Bentley Road should not be developed;
- to maintain the existing visual character of Maryland Route 108, single-family detached homes should be located on the portion of the site near Maryland Route 108;
- to preserve the setting and character of the Bentley Road area, any attached units proposed by HOC should be screened from Bentley Road residences;
- the site plan should include recreational facilities, a tot lot and a pedestrian connection to Sandy Spring Village Center.

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The County Council intends, that to the extent possible, housing provided on this site by HOC be an ownership program, including cooperative housing.



# VILLAGE CENTERS PROPOSED LAND USE

- Rural, Residential Estate
- Residential, One Family
- Residential, Mix of Attached and Detached Units at Density Shown
- Residential, Townhouses
- Commercial
- Institutional
- Park
- Rural / Open Space

OLNEY MASTER PLAN: SPECIAL STUDY  
APPROVED AND ADOPTED

**SANDY SPRING /  
ASHTON PLAN**  
Montgomery County, Maryland  
November 1980

The HOC development is proposed as a community resource. To the maximum extent possible, housing preference should be given to present and former Sandy Spring residents. Many people wish to remain in Sandy Spring/Ashton; the HOC development will provide this opportunity.

The Stull-Dawson-Hawkins properties are located between commercially zoned land and the Patterson tract. Since no additional commercial land is needed, a residential density comparable to the Patterson tract is recommended.

A density of 6 units per acre is also recommended for a 2.8 acre tract of land located west of Sherwood High School.

In other portions of the Village Center, the Plan continues the existing residential land use pattern. This Plan changes the permitted density from 14.5 to 5 units per acre for one site near the intersection of Norwood Road and Maryland Route 108. This lower density allows for a more gradual residential transition from the Village Center and is compatible with other densities in the area.

Residential lots along Norwood Road range in size from one-half to one-acre lots. The Plan confirms this land use pattern.

#### ASHTON VILLAGE CENTER LAND USE RECOMMENDATIONS

The Land Use Plan for Ashton Village Center:

- Proposes 5 acres of additional commercial development along New Hampshire Avenue south of Maryland Route 108.
- Encourages a planned mix of commercial and residential uses in the northwest corner and reduces commercial acreage from nearly 6 acres to 2 acres.
- Extends the commercial uses along Maryland Route 108 from New Hampshire Avenue to the east side of Porter Road.
- Reflects environmental constraints.

Ashton Village Center lies in three watersheds: the Patuxent, the Hawlings and the Anacostia. The ridge lines between these basins roughly follow New Hampshire

Avenue and Maryland Route 108. The Anacostia Watershed is the only drainage basin with sewerage treatment facilities so all sewage must be carried to this basin (see Proposed Amendment to the Comprehensive Water Supply and Sewerage Systems Plan Map). Servicing development north of Maryland Route 108 and west of New Hampshire Avenue would require pumping stations to "lift" the sewage over ridge lines into the Anacostia Basin. To avoid the need to build costly pumping stations and to minimize development in the environmentally sensitive Hawlings and Patuxent watersheds, the Plan proposes only a limited amount of new development in Ashton Village Center.

Commercial development is channeled along New Hampshire Avenue south of Maryland Route 108 where stores and offices are interspersed with small residential lots. A small amount of commercial expansion should occur in these areas in accord with the present development pattern: small stores fronting New Hampshire Avenue. Parking for these uses should be coordinated and placed in the rear of these structures, if this is feasible.

Commercial uses along New Hampshire Avenue north of Maryland Route 108 consist of a gas station and food store. A portion of the gas station is within the proposed right-of-way of Maryland Route 108. The Plan designates enough additional commercial acreage north of the gas station to allow the owner to relocate if future improvements to Maryland Route 108 disrupt operations.

The northwest corner of the intersection across from the gas station is vacant and nearly 6 acres are zoned for commercial uses. This amount of acreage would allow up to 60,000 square feet of commercial floor area. This level of development is appropriate in more urbanized areas but it is inconsistent with the scale of uses envisioned for a village center. Commercial services of this character are already located in Olney and lower New Hampshire Avenue. The Plan, therefore, recommends only 2 acres of commercial uses at this corner and proposes residential development on the remainder of the property.

Residential land use recommendations for the Ashton Village Center are as follows:

Future development of the 14.6 acres at the northwest corner of New Hampshire Avenue and Maryland Route 108 will affect the character of Ashton Village Center. Now vacant and used as a parking lot, this corner is a key entry point into Ashton. A residential density of 5 dwelling units per acre is proposed for this lot. A Planned

Development (P-D)<sup>5</sup> at this density would allow a mix of detached homes and townhouses and increase housing diversity in the Village Center. ~~Development would also encourage an overall plan for both commercial and residential uses at this corner and help assure that future development is compatible with the village concept.~~ Planned Development Zones are optional and must be requested by the property owner. To encourage owners of the Hunt property to apply for a PD-5, the Zoning Plan designates the land for a lower density: 2 units per acre. To qualify for more housing units, the owner will have to apply for a PD Zone.

Approval of a Planned Development at 5 units per acre would be dependent on several conditions, including, but not be necessarily limited to, the following:

- detached homes should adjoin existing detached homes;
- parking for commercial area should be buffered from the intersection;
- a mix of attached and detached units should be provided;
- green space should be provided at the intersection of Maryland Route 108 and New Hampshire Avenue.

Properties in the southeast area range in size from 1 to 3 acres. An apartment house is located here and is served by public sewer and water. Environmental factors played an important part in residential land use recommendations for the southeast quadrant. This is an environmentally sensitive area since it is very near the headwaters of a tributary to the Patuxent River. The Patuxent River Basin Water Quality Management Plan specifically recommends that no concentrated development occur in the watershed.

The Plan recommends R-60 (6 units per acre) for 3.5 acres of the southeast area. This density is far less than the present zoning (R-30 or 14.5 units per acre) and would allow a maximum number of 17 units. According to Washington Suburban Sanitary

5 ~~A Planned Development Zone is in the nature of a special exception and it allows the developer more site design flexibility than mixed zones.~~ The Planning Board may recommend a Planned Development Zone, but it is up to the developer to apply for it.

Commission (WSSC), public water and sewer service could be provided and water and sewer lateral lines about this corner. WSSC also indicates that a pump station may be required to serve the residential development.

The Plan recommends that a site plan be developed which is concerned with erosion control, stormwater controls for runoff and downstream channel erosion. Adequate buffers must be considered to protect the integrity of streams.

~~Preserving zoning regulations to not permit Planned Developments on small tracts of land. If a rural Planned Development zone is adopted, it should be considered for this area.~~

The Plan confirms the existing land use pattern of quarter-acre lots in the southwest quadrant of the Village Center and extends commercial development from New Hampshire Avenue to the east side of Porter Road.

The residential land use pattern surrounding the Village Center generally consists of single-family homes on half-acre and quarter-acre lots, farms and rural estates. The Plan recommends continuation of this pattern.

#### LAND USE RECOMMENDATIONS FOR THE RURAL BUFFER AREA

The purpose of the Rural Buffer area is to provide a transition from more urbanized areas (Olney to the west and Cloverly-Norwood to the south). Many important open space features are located in the rural buffer area including farmland, stream valleys and wooded hillsides. Land use policies in this area:

- Encourage the preservation of open space;
- Limit development in soil unsuitable or only marginally suitable for construction;
- Preserve the rural setting of Sandy Spring/Ashton;
- Provide a rural entry to the Village Centers;
- Encourage preservation of historic buildings and their environs.

The open space area south of Maryland Route 108 and west of New Hampshire Avenue is proposed for 2-acre minimum lot sizes. Stream valleys of the Northwest Branch of the Anacostia River and steep hillsides in this area pose many development constraints. According to the Planning Board's environmental analysis, most of the soils close to the stream are unsuitable or only marginally suitable for construction.

# **Exhibit B**

1998

sandy spring/ashto

Approved and Accepted by

WATER PLAN

prepared by



THE MONTGOMERY COMPANY  
DEVELOPMENT/PLANNING

5387 Lee Road, Suite 100

Sandy Spring, Maryland 20886

Exhibit "B"



- Maximum density of 1 dwelling unit per 2.2 acre with density to be capped in the master plan
- Preservation of 65-85 percent of the land in rural open space
- Centrally located neighborhood open space
- A variety of lot sizes: starting as low as 4,000 square feet
- The possibility of some very large lots of 10 acres or more
- Sewer and water service

This Plan recommends that the properties in the Rural Legacy area owned by the following parties be rezoned from RE-2 to the new Rural Neighborhood Cluster Zone: Hodges, Alfandre, Hoffman, Johnson, Dematatis, O'Connell, and Schaeffer. (See Appendix A.)

## **VILLAGE CENTERS**

~~This Plan emphasizes "rural villages" as one of the important elements of rural character in Sandy Spring/Ashton. The village centers provide for the business of daily life also. The rural character of the village centers is of great value to the community.~~ There is concern about the future economic and social health of these village centers. This Plan acknowledges and addresses these issues to the extent possible through land use and design recommendations.

The rural entries along MD 108, Norwood/Dr. Bird Road, and Norwood Road separate the village centers from other nearby areas of settlement, such as the Olney Town Center and Cloverly. The entries create attractive entrances to the village centers and help establish the character of the area. These roads are lined with homes of varied vintage, scattered vistas of open cropland and fields, woodland, hedgerows and some of the area's institutions. The importance of the rural entry experience was recognized in the 1980 Plan and remains an important theme of this Plan.

**OBJECTIVE:**           **Ensure that the villages of Sandy Spring and Ashton maintain separate and distinct identities.**

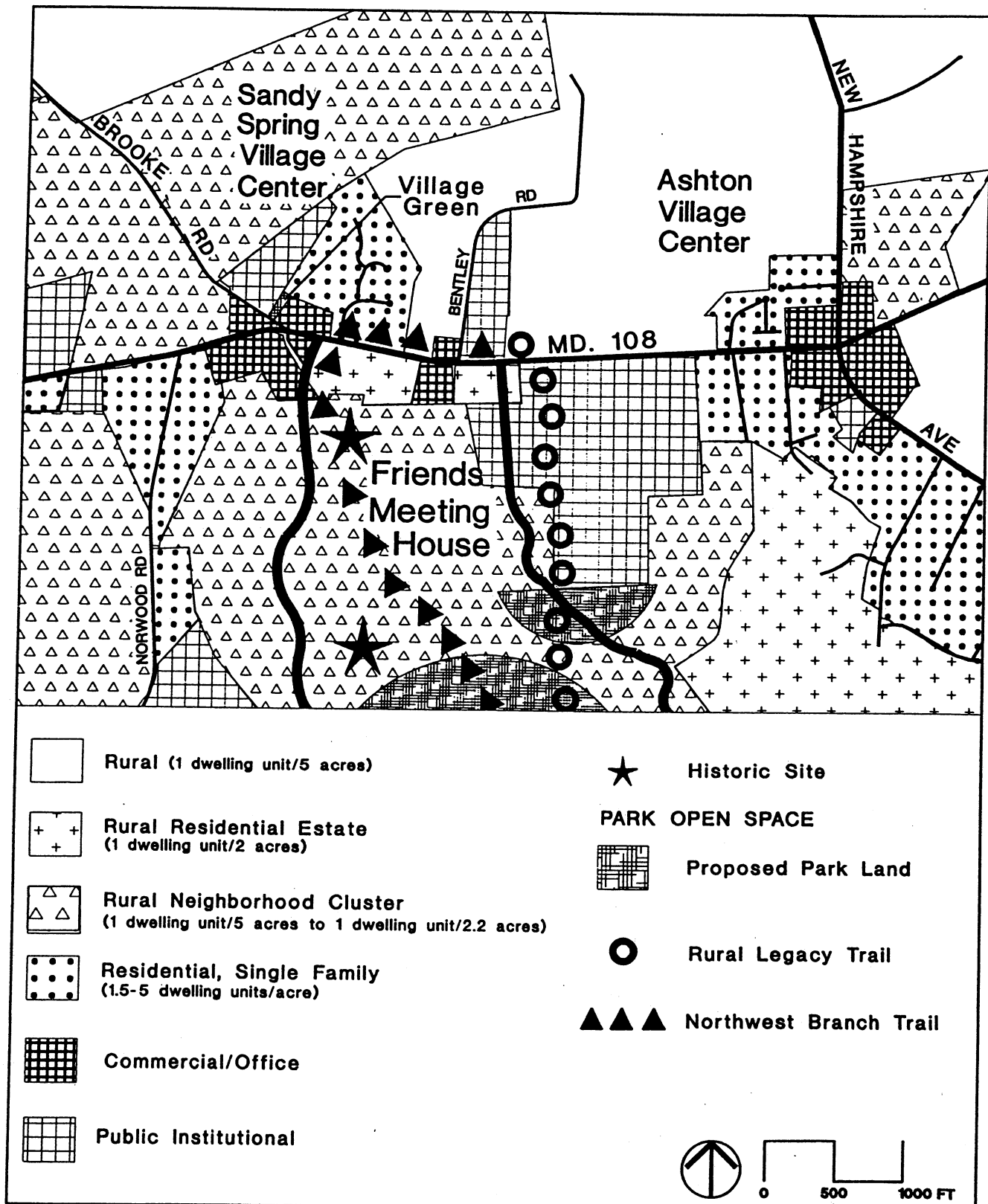
The village centers of Sandy Spring and Ashton are located on the same roadway (MD 108) and lie less than one-half mile from each other. The centers have maintained separate identities because commercial uses are clustered within the villages and there is a low-density land use pattern between the villages. The following recommendations will help reinforce the separate identity of each village center.

## **RECOMMENDATIONS:**

- **Maintain low density on the north side of MD 108 between Bentley Road and Ashton Club Way with appropriate setbacks of rural open space or a heavily wooded edge.**
- **Reinforce the eastern edge of the Sandy Spring village center. Allow some additional large-lot homes on the Brown Property as a transition between the medium-density residential and commercial uses of the villages and the adjacent rural/open space area that is 1 dwelling unit per 5 acres density with a cluster option (RC). Rezone the 3.59-acre parcel from Rural Cluster to RE-1.**

# VILLAGE CENTERS

FIGURE 14



- ~~Apply the new Sandy Spring/Ashton Rural Village Overlay Zone to allow additional flexibility in development while providing the option of design review to ensure conformance with this Plan.~~
- **Balance the need for increased road capacity along portions of MD 108 with the need to maintain a "main street" character on MD 108 within the village centers. This Plan reaffirms the 1980 Plan recommendation that the right-of-way for MD 108 remain 80 feet to help ensure the road functions as a street serving the village centers rather than dividing them. (See also Transportation Chapter.)**
- ~~Encourage development and revitalization of the village centers. This Plan recognizes that incentives to property owners are an important part of revitalizing the village centers. Providing for increases in commercial density is one way of encouraging redevelopment. However, in these village centers such increases need to be balanced with the Plan intent to maintain the small scale of the existing centers.~~
- ~~Develop the new Rural Village Overlay Zone to include the following features to encourage coordinated design, simplify requirements and protect the viability of existing businesses. (See also Implementation Chapter.)~~
  - ~~flexibility in parking requirements.~~
  - ~~flexibility in minimum lot size for certain special exceptions~~
  - ~~grandfathering certain existing uses which would otherwise be considered inconsistent with traditional village character.~~
  - ~~FAR of 0.75 to be calculated on the underlying commercial zone portion of the site.~~
  - ~~flexibility to increase the building height up to 30 feet on the commercial sites at site plan review.~~
- ~~In combination with the above flexibility provisions, this Plan recommends the following development guidelines which, with design review, will help ensure that new development maintain the small scale envisioned for the village centers:~~
  - ~~Encourage use of traditional village design, such as height limits compatible with the Sandy Spring Historic District and buildings facing the main road.~~
  - ~~Encourage "active fronts" on buildings, such as porches and street entrances.~~
  - ~~Encourage a land use mix of stores and homes by maintaining the existing mix of commercial and residential zoning within the village centers.~~

- Create pedestrian "traffic" with uses and designs that invite frequent visits by all members of the community.
- Encourage stores and other uses that provide services to local residents and are at a compatible scale.
- Encourage use of the Sandy Spring Historic District as a source for design.
- Create small parking areas that are well-landscaped, preserve trees, and compatible with nearby uses both day and night.
- Place most off-street parking out of view of common space and active fronts, rather than between buildings and the street.
- Provide lighting that is consistent with the area's character in terms of style, scale and intensity.

### **SANDY SPRING VILLAGE CENTER**

~~The Sandy Spring village center should be the heart of the community in terms of local commerce and community gatherings.~~ Already the Friends Meeting House, Montgomery Mutual Insurance Company, Sandy Spring National Bank and the Sandy Spring Volunteer Fire Department (VFD) Station contribute to this goal.

While the character of the village center south of MD 108 is well-established, efforts are needed to reinforce the village center on the north side. Many buildings are not in keeping with the historic character of the area. Parking intrudes on the pedestrian areas and several uses serve only a very small segment of the community and are not inviting to the rest. Development of public/private strategies is essential to make Sandy Spring village center more inviting.

**OBJECTIVE:** Create a Sandy Spring village center concept that will help ensure that the village center serves its role as a focal point of community life.

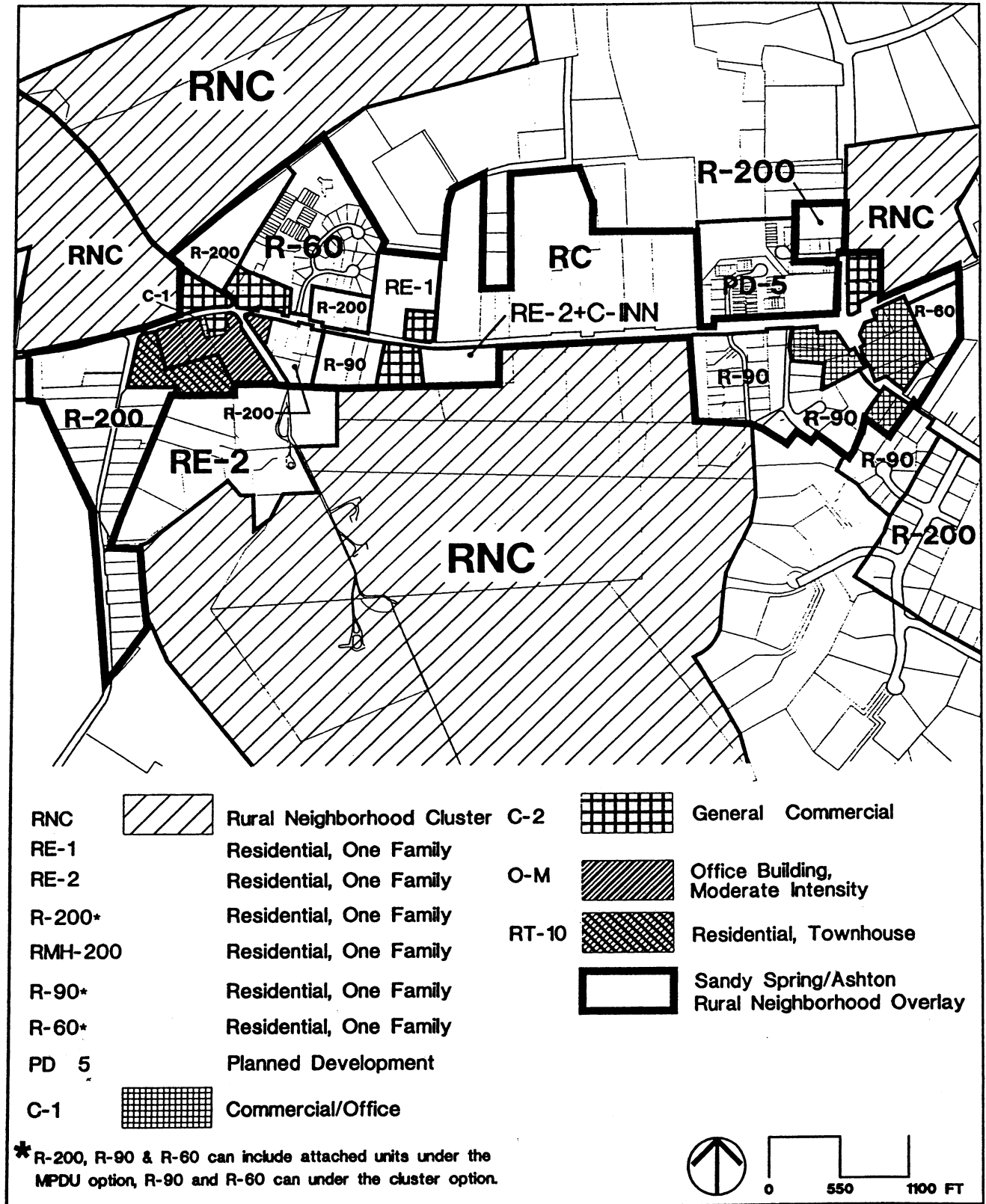
### **RECOMMENDATIONS:**

- The village center concept (Figure 15) should consist of the three following elements.

*Development of a new fire station as a community focal point.* The Sandy Spring Volunteer Fire Department has purchased a 7-acre site in the village center to build a new fire station. The fire station has the potential to be a strong civic presence. The fire station building and site should be carefully planned to maximize potential as a community focal point. However, the site should be rezoned from RC to R-200 which is a more appropriate intensity for reinforcing the village center should the fire station not be built.

# ZONING PLAN FOR THE VILLAGE CENTERS

FIGURE 15



***Realignment of Brooke Road.*** This Plan recommends that Brooke Road be realigned slightly to help improve pedestrian and vehicular movement in the village center. This improvement will maintain the historic crossroads of Brooke Road and MD 108 as the center of the village while allowing better pedestrian access to shops and homes in the area.

***Village green for civic events and casual socializing.*** Creation of a civic space in the center of the village should be studied in conjunction with the new fire station and the realignment of Brooke Road. Since the Plan recommends that the village green be located where there are existing businesses, purchase or redevelopment of those businesses will be necessary to implement the Plan's recommendations. The village green is intended to be a unifying design element that could also serve as a focal point for the Rural Legacy Trail as it reaches the village center. It should be planned and designed in coordination with the redevelopment of private businesses, the post office and fire station, and be large enough to accommodate community gatherings. Approximately one-half acre is desirable. The edges of the village green should be reinforced by the placement of buildings. Implementation will call for public-private partnerships.

- **To allow better design, incorporate the village green and accommodate the new fire station, this Plan recommends allowing parking in connection with the commercial uses on the properties east of Brooke Road, which also front on MD 108, where properties are zoned commercial and residential.** These properties are shown in Figure 14 and Appendix A and identified as the Batheja, Isaacson and Eppard properties. The relocation of the fire department will provide the opportunity for realigning the Brooke Road intersection and creating the village green. This may necessitate the relocation of the existing commercial buildings. Under the provisions of the Village Overlay Zone, the residential portion of these sites is suitable for parking in conjunction with the current uses in the C-2 zone, without the necessity for obtaining a special exception. At such time as the fire station and village green projects are programmed and funded, the resulting change in the neighborhood will allow for rezoning of the residential portions of the Batheja, Eppard, and Isaacson properties to the C-2 zone via a new sectional map amendment (SMA) to be filed by the County. This will permit relocation and redevelopment of the existing commercial uses without a net increase in the overall amount of commercial zoning in the Sandy Spring Village Center. The Village Overlay Zone attempts to address parking concerns of local businesses by providing flexibility where parking can be located. An overall parking scheme for the village should be a product of the design study recommended below.
- **Develop a more detailed concept plan.** Certain Plan recommendations regarding the Sandy Spring village center require a level of study and refinement that is beyond the scope of this Plan. To implement the concept for the village center a more detailed study should be prepared. The study could not only address the above recommendations, but also streetscape elements. Staff from different agencies could participate in the study.
- **Provide for business expansion and better customer parking and circulation in the Sandy Spring village center.** Property owners expressed concern about these issues. To respond to these concerns, this Plan:

- Supports the reuse of the existing fire station as office space for Montgomery Mutual Insurance Company's expansion. Should the fire station relocate, the current site would be appropriate for commercial use. For this reason this site, which is currently zoned R-200, is recommended for rezoning to O-M.
- Encourages the creation of parallel parking along MD 108 and Brooke Road in the village center. Safety issues associated with this recommendation must be studied further.
- Encourages flexibility in the on-site parking requirements.
- **Use the rural neighborhood concept to help reinforce the Sandy Spring village center while maintaining the village's rural setting and rural entries along Norwood Road and MD 108.**

This Plan proposes a modest expansion of the village center to include an additional 23-45 homes under the rural neighborhood cluster concept. This recommendation will help preserve an attractive rural edge to the village center as well as attractive rural entries.

Several properties are affected by these recommendations: Danshes and Ligon (Avalon) at the village edge, and Farquhar, Bancroft and some smaller properties (Gibian, Olds and DiBatista) in the rural entries. All the properties are currently zoned for low-density, large-lot development under the RE-2 or RC Zone. The intent of this Plan is to encourage clustering and create a setting of rural open space around the village center and in the rural entries with rural open space between 70 to 75 percent. Therefore, this Plan recommends rezoning the following properties to the Rural Neighborhood Cluster Zone: Danshes, Ligon, Bancroft, Gibian, Old, DiBatista and Farquhar. These properties are shown in Figures 18 and 30 and Table 8. There are also high priority reforestation areas on the Farquhar and Bancroft properties that should be identified at the time of development in conformance with the County Forest Conservation Regulations.

#### **Farquhar Property**

The Farquhar property contains 69.7 acres and is currently zoned RE-2. The Rural Neighborhood Cluster Zone could be used to guide development towards the villages and away from the rural surroundings. Development along Marden Lane could be achieved in a manner consistent with the pattern that has developed there over the years.

#### **Ligon and Danshes Properties**

The Ligon Property (26 acres) and the Danshes Property (40 acres) are located on either side of Brooke Road just at the western edge of the Sandy Spring Village. Development of these two properties under the Rural Neighborhood Cluster Zone could achieve densities at the village edge and open space past the village and in the rural entry area.

### **Gibian, Olds, DiBatista and Bancroft Properties**

These four properties are located on the south side of MD 108 in the rural entry area just west of the Sandy Spring Village Center. Gibian property contains 18 acres, DiBatista property 10 acres, Olds property 22 acres, and Bancroft property 106 acres. DiBatista and Olds properties have access to MD 108; Gibian and Bancroft properties have access to MD 182. Development of these properties under the Rural Neighborhood Cluster Zone should be in accordance with this Plan's rural neighborhood concept and guidelines.

#### ***Design Guidelines***

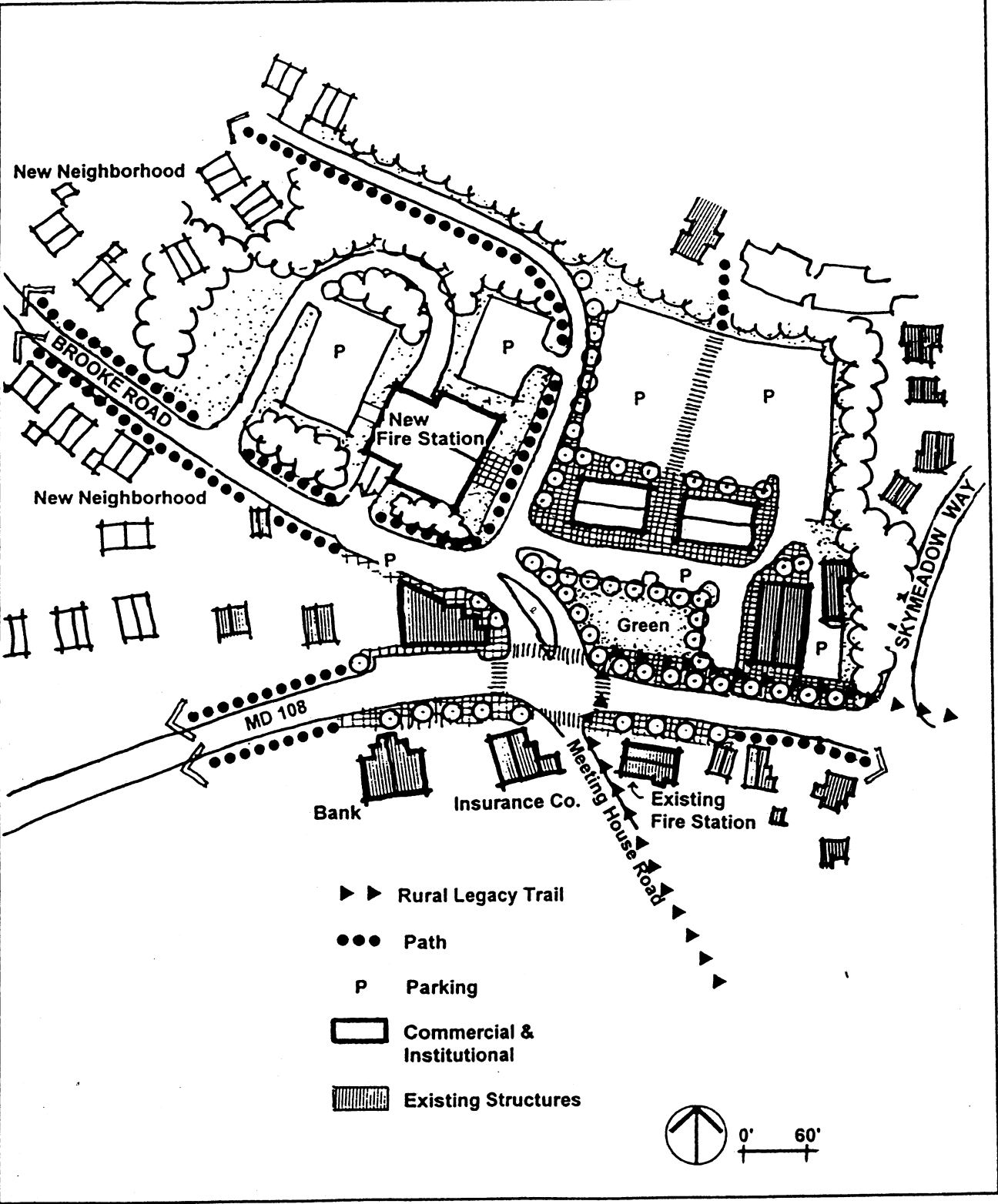
The following objectives should be accomplished as new development occurs in the village center and rural entries:

- Preserve the rural entry experience along MD 108, Brooke Road, and Norwood/ Dr. Bird Road.
- Provide the critical rural setting for the Sandy Spring village center right at the edge of the village.
- Locate new neighborhoods to either reinforce the village centers or preserve the character of the rural entries to the village centers.
- Ensure that the residential portions of the sites are compatible with the village center and historic district.
- Ensure that any existing homesteads remain part of the rural open space and rural setting of the village center and that an ample setting is maintained.
- Provide main access for new neighborhoods from roads other than MD 108 such as Brooke Road, to reduce the need to widen the pavement of MD 108 for new acceleration and deceleration or turn lanes. Increase the use of Brooke Road for access to the village center.
- Maintain the rural character of the preserved rural open space as well as woodland edges along the existing roads.
- Ensure that the character of new neighborhoods reflects a rural setting.



**SANDY SPRING VILLAGE CENTER CONCEPT**

**FIGURE 16**



- **Require that campus institutional uses be compatible with the rural character of the area.** This Plan addresses the rural entry areas leading into the village of Sandy Spring including several existing campus institutional uses: Brooke Grove Foundation, Friends House Retirement Community and Sandy Springs Friends School. To ensure compatibility with the rural character of the area, this Plan:
  - Encourages using the traditional buildings of Sandy Spring/Ashton as inspiration for design. Strategies should include deep setbacks, significant landscaping and screening.
  - Encourage institutional uses when these campuses are expanded, to provide rural open space in accord with the goals and objectives of this Plan. The appropriate percentage of rural open space should be considered at the time of development and should encompass at least 60% of the entire site.

### *Design Guidelines*

The following guidelines apply to specific sites:

**Brooke Grove Foundation:** Provide rural open space along Lake Hallowell, MD 108, and Brooke Road. Cluster new structures in the central area of site. Ensure that the visitors center at the site entrance on MD 108 is of residential scale in keeping with the rural entry concept for Sandy Spring village center.

**Friends House Retirement Community and Sandy Spring Friends School:** Rural open space should be located along Norwood Road. New structures and parking should blend in with the rural landscape.

## **ASHTON VILLAGE CENTER**

There is constant pressure for the Ashton village center to continue to grow into a suburban crossroads since it sits at the junction of two heavily used roads. ~~The 1980 Plan recommendations for limited commercial use and moderate- to low-density residential use are confirmed, with changes primarily to address character.~~

**OBJECTIVE:** Maintain the existing scale of Ashton village center and encourage improvements to its character.

~~This Plan confirms the 1980 Plan land use recommendations~~ and the existing zoning pattern in Ashton village center with the following changes that are reflected in Figure 14 and concern properties identified by owner in Figure 32:

## **RECOMMENDATIONS:**

- **Allow modest expansion of Kimball's Market.** Kimball's Market contributes significantly to the sense of community and the village's character. This Plan recommends additional

commercial zoning on 0.5 acres adjacent to the existing commercial lot where the market is located. This modest expansion will help the market. Therefore, the 0.5 acres should be rezoned from R-90 to C-1.

- ~~Limit residential development in the southeast quadrant to single-family detached homes only, rather than townhouses. This Plan recognizes that special exception uses may be appropriate as well. This Plan recommends that there be flexibility in placement of commercial uses in the southeast quadrant to encourage design that better integrates residential and commercial uses. This flexibility is allowed through the proposed Sandy Spring/Ashton Rural Village Overlay Zone. The existing zoning should be confirmed.~~
- **Implement the 1980 Plan recommendation for commercial land use on the Cuff Property in the southwest quadrant.** This property is within the bounds of the small village center commercial area, although it has remained residentially zoned. This Plan recommends that the property be rezoned from R-90 to C-1 as intended in the 1980 Plan.
- **Apply the Rural Neighborhood Cluster zone to the Oakton Associates property.** Oakton Associates property lies in the Patuxent watershed in the northeast quadrant of the Ashton Village Center at the corner of MD 108 and New Hampshire Avenue. The property consists of 20.19 acres. One acre of the property is zoned C-2, the remainder is zoned RC. The acre of commercial zoning was added by the 1980 Master Plan to provide enough commercial zoning to allow relocation of the existing gas station (Free State Garage) from the MD 108 right-of-way. The property is undeveloped and is currently leased for growing nursery stock. To the west, opposite New Hampshire Avenue, is R-200 and PD-5 development. The residential portion of the Oakton property, if developed under the Rural Neighborhood Cluster Zone, could achieve a pattern similar to existing patterns and still provide sufficient open space to create transition and buffer between existing development in the Ashton Village Center and rural development to the north and east. Density for the residential portion should be capped at 8 to 10 units and clustered toward the Village Center. The commercial portion of the site should be included in the Rural Village Overlay Zone.

## **RURAL/OPEN SPACE AREA**

The Rural/Open Space Area is the largest part of Sandy Spring/Ashton and is envisioned to remain predominantly rural. This area is zoned Rural and Rural Cluster.

**OBJECTIVE:** Continue to recommend a low-density land use pattern to protect farmland and other rural open space.

The few remaining farms in this area are interspersed with subdivisions and development pressures are mounting. Unlike Olney, where the Agricultural Reserve was established to protect large areas of working farms, this area has never been considered part of the County's critical mass of farm-land. This Plan envisions the continuation of small farms along with some residential development.

# IMPLEMENTATION

## OVERVIEW

Implementation of this Plan's recommendations will involve a number of different public and private actions. This chapter sets forth the major public controls and programs necessary to realize the Plan's recommendations.

## ZONING

Zoning is the primary tool by which the land use and design recommendations of this Plan will be implemented. The zoning plan shown in the fold-out map and in Figure 19 summarizes all the zoning recommendations. The zoning plan confirms most of the existing zoning in Sandy Spring/Ashton and shows zoning changes within the Rural Legacy area, areas designated for new rural neighborhoods, and the village centers.

The zoning recommended in this Plan will be implemented through Sectional Map Amendment (SMA) process. The two new zones recommended in this Plan will be implemented through the SMA. There is, however, one exception. This Plan recommends that a staged zoning should occur for three properties: the Batheja, Isaacson, and Eppard properties located within the Rural Village Overlay. The Rural Village Overlay will be placed on these properties through the SMA and the underlying existing residential and commercial zoning confirmed by the SMA. If the County purchases the existing commercial properties before the SMA, then the rezoning of the residential portions of these properties to commercial zoning can occur as part of the SMA. If this does not occur, then the County can initiate a second SMA to change the underlying zoning for these three properties when the existing commercial structures are purchased or torn down.

## RECOMMENDATIONS:

This Plan recommends amending the Zoning Ordinance in the following ways:

### Rural Neighborhood Cluster Zone

This new zone is needed to implement Plan recommendations for the Rural Legacy area and rural entry areas. The purpose of the Rural Neighborhood Cluster (RNC) Zone is to require clustering of development into neighborhoods and ensure preservation of large areas of rural open space. The areas of application are shown in Figure 19. The new zone has a standard method of development that allows 1 dwelling unit per 5 acres, with a requirement to provide at least 60% rural open space. The

optional method of development can allow densities of up to 1 dwelling per acre, with a consequent increase in the amount of open space. (The Master Plan may cap the density at a lower amount.) Reduced lot sizes allowed under the optional method allow for a more compact, efficient neighborhood and encourage preservation of additional open space.

As shown in Table 6, the RNC Zone allows an optional density of one dwelling unit per 1 acre but this Plan caps the density for properties recommended for the RNC Zone at 1 unit per 2.2 acres. The optional method provides: a density bonus for the preservation of additional open space that will remain rural and open in perpetuity, diversity of lot and house sizes, and responsiveness to the guidelines of the Plan, particularly those related to qualities of the rural neighborhood and its setting.

The RNC Zone requires preservation of 65-85 percent rural open space; however, the Plan recommends more limited ranges for specific properties. At the time of development, the Planning Board will have to determine the amount of open space within the specific range that achieves the Plan's objectives.

The standards that would still have to be met include:

- Views from the Rural Legacy Trail, rural entries or village edges are protected.
- Sensitive environmental features are protected and impact minimized.
- Rural setting for the residential neighborhood is maintained.

This Plan strongly recommends that the Zoning Ordinance be amended to include Rural Neighborhood Cluster Zone at the time of the comprehensive rezoning (the Sectional Map Amendment) of the Sandy Spring/Ashton Master Plan area would be applied.

### **Sandy Spring/Ashton Rural Village Overlay Zone**

The purpose of the Rural Village Overlay Zone is ~~to address issues related to enhancing rural village character and providing design flexibility.~~ Rural Village Overlay Zone will help ensure the continuation of land uses and patterns that characterize rural settlements. ~~A rural village zone to do this was recommended in the 1980 Plan but never developed.~~ In part, this was because the rural village zone as it was envisioned at the time was to have County-wide implications and was to be formulated to meet the needs of many rural settlements. The proposed Overlay Zone has been tailored to the specific needs of Sandy Spring/Ashton without affecting all of the other rural villages of the County. Key features of the zone are described in Table 6.

#### ***For Residential Only***

- Flexibility to reduce lot sizes with site plan review to create better design, with flexible setbacks and zero lot line configurations, but with no change in density.

*For Commercial*

- ~~Flexibility to create better design with site plan review~~
- ~~Flexibility in siting to allow parking in conjunction with commercial uses to float between certain adjacent properties to the most desirable locations on the site if the master plan so recommends.~~
- ~~Height limit consistent with the Sandy Spring Historic District and an appropriate FAR limit for the size and scale of the village centers.~~
- ~~Exclusion of new auto-oriented or typically large-scale uses that are inconsistent with traditional rural development patterns with flexibility to ensure the continuation of existing uses through grandfathering.~~
- ~~Flexibility for on-street parking to count toward meeting the parking requirement for new development if so determined by the Planning Board at the time of site plan review.~~
- ~~Flexibility to allow a waiver of the minimum acreage requirement for special exception uses, such as a nursery in a residential zone.~~

**TABLE 6**

**SUMMARY OF KEY FEATURES OF RURAL  
NEIGHBORHOOD CLUSTER ZONE**

	Standard Method (1 du per 5 acres)	Optional Method (1 du per 2.2 acres)
Mandatory Clustering with water and sewer service on properties 25 acres or more	YES	YES
Minimum Amount of Open Space	60%	75-85% with flexibility to provide 70% if Plan objectives can still be achieved (such as protecting views from the Rural Legacy Trail, maintaining the rural setting, and providing diversity of lot sizes)
Lot Size	minimum of 25,000 sf	No minimum lot size. Additional variety encouraged by allowing accessory units over garages as well as zero lot lines.
Preservation of Open Space	Requires preservation in perpetuity and ensures uses permitted within the rural open space are consistent with the intent of the master plan to preserve the rural character of the area.	

~~Once the zone is adopted, the specific properties where it will be applied will be determined via the Sectional Map Amendment using the following guidelines:~~

- ~~- Commercial properties and adjacent residential uses where design flexibility is recommended in the Plan.~~
- Residential properties to maintain residential height limits consistent with the neighborhood character.
- Residential properties where flexibility in lot sizes is desirable.

## **PRESERVING RURAL OPEN SPACE**

The permanent retention of the rural open space created through the Rural Neighborhood Cluster Zone is important to the objectives of this Plan. To do this, techniques should be used that will preserve land designated as rural open space, maintain the aesthetic and environmental qualities of that open space over time, and limit uses to those that are acceptable in the rural open space area.

Zoning is the vehicle that allows clustering and open space to be set aside from development and preserved. Rural open space, once approved by the Planning Board, would be recorded as such in the land records of Montgomery County.

The Rural Neighborhood Cluster Zone identifies uses that are permitted by right or as special exceptions within the 65-85 percent rural open space.

This Plan describes two strategies that may serve to preserve the special character of the rural open space. The size of the rural open space area and the degree to which public access is encouraged are important considerations.

- **Public ownership** of the open space by a state or local government, such as the M-NCPPC, Department of Parks.
- **Private ownership** either by an individual or entity of the open space with an easement for public access.

During the course of this Plan, the community formed an organization, the *Greater Sandy Spring Green Space, Incorporated*. Such an organization could address the community concerns about the future of the open space and could provide for direct and on-going involvement of the community in preserving the rural open space.

This Plan, therefore, recommends that the most suitable strategy and appropriate mechanism available at the time of development under the Rural Neighborhood Cluster Zone be selected to protect the open space. This Plan also recommends that a report on the different means available to preserve open space, the advantages and disadvantages of each, and changes in policy or law necessary to ensure long-term preservation of open space be developed.

# **Exhibit C**



AGENDA ITEM #4D

July 7, 1998

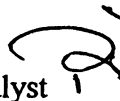
Action

*RNC passed 8-0  
passed 8-0*

## MEMORANDUM

June 30, 1998

TO: County Council

FROM: Ralph D. Wilson, Senior Legislative Analyst 

SUBJECT: Action- ZTA 98002 - Rural Village Overlay Zone

**The Rural Village Overlay Zone was recently reviewed by the Council in connection with its worksession on the Sandy Spring/Ashton Master Plan. The Council supported approval of the Rural Village Overlay Zone with modifications as recommended by the PHED Committee.**

### Background

The Rural Village Overlay Zone as introduced would overlay the commercial centers and intervening residential areas of Sandy Spring/Ashton and encourage a mix of commercial and residential uses in a village center concept. The zone is intended to overlay properties with base zones that include R-60, R-200, rural cluster and C-1. Flexible lot sizes are permitted in the areas designated in the master plan for residential development and the density is limited to that permitted under the cluster provision of the base zone. In those areas designated in the master plan for commercial or mixed use development, the C-1 zone uses, with some exceptions, would apply. The Floor Area Ratio would be capped at 0.4, and the building height limited to 24 feet. The C-1 commercial uses would be allowed throughout the overlay zoned area regardless of the underlying base zone.

### PHED Worksession

The following issues were discussed by the Planning, Housing, and Economic Development (PHED) Committee over the course of two worksessions:

1. Use of the overlay zone concept to overlay base zones with little inherent relationship was questioned. The Rural Village Overlay Zone is the first use of an overlay zone to achieve mixed-use development where commercial and residential zoning exists on the same property. It was generally accepted, based on research done by legal counsel for the Planning Board that the Rural Village Overlay Zone is legally defensible (legal opinion is attached). It was concluded that as overlay zones are more widely used, it may be necessary for the circumstances and standards appropriate for use of overlay zones to be clearly established in the Zoning Ordinance.

2. ~~Elimination of the mixed use provision that would allow commercial uses to be relocated onto the residential portion of the site.~~ This proposal was discussed in connection with the Sandy Spring Master Plan worksession and the Zoning Text Amendment worksession and ~~it was generally agreed that approaches other than the overlay zone mixed-use provision would be used to address the village green concept and may involve some sort of staged zoning at the time the fire station and village green proposals come forward.~~

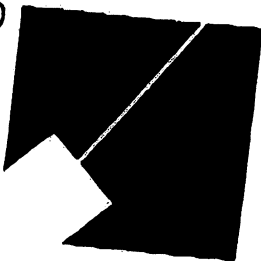
3. Proposals contained in the attached letter dated March 18, 1998, from Steve Kaufman, on behalf of the Isaacson's property. The property owner requested an increase in the allowable building height in the Overlay Zone to three stories, and for the FAR to be increased to a range of 0.5 to 1.0 to be determined at the time of site plan review. The letter also seeks clarification to determine if a destroyed building may be reconstructed to its current size.

After a full discussion of the issues with the Planning Board and Council Staff, the Committee recommends approval of the Rural Village Overlay Zone with the following modifications:

- include additional land uses that are not consistent with the rural village character of Sandy Spring/Ashton to be prohibited on the commercial site;
- ~~delete mixed use provision in favor of other approaches described in the master plan for implementing the village green concept;~~
- allow commercial parking on the residential portion of the subject site at site plan review, without a requirement for a special exception;
- increase the FAR from 0.4 to 0.75; and
- allow flexibility for building height on the commercial site to increase up to 30 feet at site plan review.

# **Exhibit D**

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

MCPB  
Item #10  
3/5/98

**MEMORANDUM**

**DATE:** February 27, 1998  
**TO:** Montgomery County Planning Board  
**FROM:** Deane Mellander for the Department of Park and Planning (301-495-4595)  
**SUBJECT:** Text Amendment No. 98002 to create a new Overlay Zone, the Sandy Spring/Ashton Rural Village Overlay Zone

**STAFF RECOMMENDATION: APPROVAL**

**BACKGROUND**

This proposed text amendment was prepared by the technical staff to implement the recommendations contained in the Planning Board (Final) Draft of the Sandy Spring/Ashton Master Plan. The master plan calls for the creation of an overlay district to aid in implementing the master plan concepts for the Sandy Spring/Ashton village centers. The final draft plan calls for an overlay zone to encourage and enhance both residential and mixed use/commercial development in the village centers area. This proposed text amendment is intended to help implement that concept.

**ANALYSIS**

The Sandy Spring/Ashton Rural Village Zone is intended to be applied by comprehensive Sectional Map Amendment (SMA) following adoption of the master plan. The zone will modify the provisions of the underlying base zones.

The proposed text amendment was reviewed by the Zoning Screening Committee prior to introduction. Some technical changes recommended by the committee have been incorporated into the introduced text amendment.

The zone is in two parts. The first section deals with sites that are to remain in residential

use. All uses allowed in the underlying residential zone are also allowed in the overlay district. Development may proceed under the standards of the underlying base residential zone. In that case, no site plan review will be required. Flexibility of lot sizes down to 3,000 square feet may also be allowed, at the same densities as are currently allowed in the cluster provisions of the underlying zones. This may include zero-lot-line units, but not townhouses. Under the flexibility provision, site plan review is required. Building height is limited to 35 feet, the current standard for the R-60 and R-90 zones.

The second section of the proposed overlay encompasses those properties recommended in the master plan for commercial or mixed use development. In order to retain the character of the area, the Planning Board Draft plan, at page 42, makes the following recommendation:

- Encourage stores and other uses that provide services to local residents and are of a scale compatible with these rural villages.

In the Implementation chapter, at page 102, the plan goes on to make the following recommendation:

- Exclusion of new auto-oriented or typically large-scale uses that are inconsistent with traditional rural development patterns with flexibility to ensure the continuation of existing gas stations and auto rental uses through grandfathering, since they are already part of the community.

In order to meet these recommendations, the following uses are recommended to be prohibited in the overlay area:

- Automobile filling station
- Automobile fluid maintenance station
- Automobile, light truck and light trailer rentals, outdoor
- Baseball driving range
- Eating and drinking establishments, drive-in
- Multi-family dwellings, except when included in a structure containing retail or commercial uses.

There are several automobile filling stations, and an auto rental business within the proposed overlay zone area, that are a functional part of the Sandy Spring/Ashton area. They will be "grandfathered" to allow them to continue as conforming uses.

As a result of the review by the Screening Committee, the draft-text amendment was modified for introduction. Instead of limiting commercial uses to only those allowed in the C-1 Zone, the introduced version allows all the uses in the underlying commercial zone, except those specifically prohibited. This was done so as not to inadvertently create any non-conforming uses that might currently exist. Depending on where the final boundary of the overlay is drawn, the

underlying commercial zones include the C-2, C-1, and O-M zones. In order to maintain the intent of the overlay to limit the commercial uses to those considered appropriate for the Sandy Spring/Ashton village areas, the staff recommends the following additional uses in the C-2 Zone be prohibited within the Sandy Spring/Ashton Rural Village Overlay Zone:

- Ice Storage
- Newspaper, printing and publishing shops
- Heliports
- Helistops
- Automobile sales, indoor
- Automobile sales, outdoors
- Building materials and supplies
- Department stores
- Laboratories
- Fairgrounds, circuses and amusements parks
- Rifle or pistol ranges, indoor
- Roller and ice skating rinks
- Stadiums or arenas
- Swimming pools, commercial

The overlay zone applies the development standards of the underlying commercial zone (primarily C-1 and C-2) to those properties that are purely commercial, except that the green area requirement is enlarged to 20% of the net lot area, as opposed to 10% in the existing zones. Building height is limited to a maximum of 24 feet in order to retain the low-scale character of the village commercial uses.

There are two areas recommended in the final draft master plan for mixed use. These are the three properties in the Sandy Spring village center on the north side of MD 108 east of Brooke Road, and the two properties in the southeast quadrant of the Ashton village center. The plan recommends flexibility of development on these sites, which could include allowing commercial uses on the residentially-zoned portion of the site.

The County Attorney has expressed concerns about allowing uses not permitted in the underlying zone. The Purpose and General Provisions for overlay zones reads as follows:

*Overlay zones are created in areas of critical public interest. An overlay zone provides regulations and standards that are necessary to achieve the planning goals and objectives for development or redevelopment of an area. Overlay zones provide uniform comprehensive development regulations for an area.*

The Development Procedure provisions for overlay zones reads as follows:

*Development in an overlay zone must conform with the standards and requirements of the*

*underlying zone, except as specifically modified by the standards and regulations of the overlay zone. Where there is an ambiguity as to whether the regulations of the underlying zone or overlay zone apply, the regulations of the overlay zone apply. A site plan must be submitted under Division 59-D-3 except where specifically exempted in the development standards of each overlay zone.*

The technical staff believes that the overlay zone enabling language has been written broadly enough to accommodate both restrictive and permissive master plan recommendations. It is possible, however, that the PHED Committee and Council may elect to explore other commercial zoning options for these two sites.

Even if alternative zoning recommendations are made by the Council for the proposed mixed use properties, the other provisions of the overlay zone are still necessary. In order to meet the goals of the plan, controlling uses, building height, and allowance for parking flexibility are still needed for the other commercial sites in the area. We also want to retain the lot flexibility for the residential sites as well.

In areas where mixed commercial and residential uses are recommended, commercial uses are limited to the ground floor only. Where residential is provided, the zone requires that the minimum lot area be 2,000 square feet per dwelling, in order to provide an opportunity for some useable green space for the residents. The zone will also allow the Board of Appeals to waive the minimum area requirement for certain special exception uses, where such waivers are recommended as appropriate in the master plan. This may, however, require adding a waiver provision in the standards of the specific special exception for which the waiver is to be granted. Staff is in the process of reviewing Article 59-G as part of the comprehensive Zoning Ordinance review, and will suggest changes at that time.

The density of all commercial development is limited to FAR 0.4. This FAR is to be computed based only on the area of commercial zoning in the underlying zone. Part of the reason for recommending mixed uses on certain sites was to allow for flexibility of site design and provision of parking. In the case of the designated mixed use sites in Sandy Spring, this provision would allow for the opportunity to provide the "village green" and realignment of Brooke Road while allowing the property owners to retain their commercial development potential. We would note that much of the existing commercial zoning in Sandy Spring and Ashton is C-2, which permits an FAR of up to 1.5, though this density is rarely achievable.

Site plan review will be required for all development in the overlay district except one-family residential using the standards of the underlying base zone. Site plan review will encompass development utilizing the residential lot flexibility provisions, new construction, additions and improvements that increase the gross floor area, and addition or revision of off-street parking areas that would result in the need for a parking facility plan. The site plan contents requirement is slightly modified from the standard requirements in Division 59-D-3, consistent with other overlay zones.

During the course of site plan review for commercial or mixed-use development, the Planning Board may allow a portion of on-street parking to count towards the off-street parking requirement. Properties designated as suitable for commercial or mixed-use development may be utilized for off-street parking without the need for a special exception. The zone also encourages parking to be located in side or rear yards, and may require interconnection of parking areas to reduce curb cuts and improve village circulation.

The staff finds that the proposed rural village overlay zone will aid in the implementation of the recommendations of the Sandy Spring/Ashton Master Plan. Staff therefore recommends that this proposed text amendment be approved as introduced.

DM:

Attachment

rvillovl.rpt