

## Item 6 - Correspondence

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**Subject:** RRAC Testimony for Worksession #3  
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**Attachments:** [RRAC TESTMONY WORKSESSION 3.pdf](#)

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Dear Planning Board Chair Zyontz and Commissioners,

In this one document that contains an appendix, please find the Rustic Roads Advisory Committee testimony for the worksession to be held on Feb. 9, 2023.

Thank you,

Laura Van Etten  
Chair, Rustic Roads Advisory Committee

19735 Mouth of Monocacy Road  
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## RUSTIC ROADS ADVISORY COMMITTEE



### WRITTEN TESTIMONY ON RUSTIC ROADS FUNCTIONAL MASTER PLAN WORKSESSION # 3

FEBRUARY 8, 2023

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The Rustic Roads Advisory Committee has the following comments on the staff draft of the RRFMP for the upcoming worksession. We plan to be present to testify in person.

The following comments follow by page number in the draft.

#### **P.3 AWKARD LANE**

Staff writes:

*Planning Staff and the Planning Board reached a consensus during the second work session that the road meets some of the criteria necessary for a rustic designation, primarily because it is within the historic Holly Grove community, but to be designated, a road must meet all the criteria. Staff does not agree that any of the natural, agricultural, or historic features are “predominant” on Awkard Lane, and therefore the road is not eligible for a rustic designation.*

RRAC clarification: We wish to correct a small but pertinent error here. Criteria (4) in County Code for a rustic designation has three parts and includes the word “or,” so it is **not** necessary for the road to meet all of the criteria. The Code reads:

- (4)(A) has outstanding natural features along its borders, such as native vegetation, stands of trees, stream valleys;
- (B) provides outstanding vistas of farm fields and rural landscape or buildings; or
- (C) provides access to historic resources, follows historic alignments, or highlights historic landscapes;

As stated above, staff and the Planning Board agree that Awkard Lane meets some of the criteria. Given the word “or,” meaning that the road needs to meet only one criterion out of three, we can confirm that the road does meet the criteria for rustic and should therefore be designated as rustic. We note that the word “or” does not appear under the criteria for exceptional rustic, so we do not believe the road would meet the criteria for an exceptional rustic designation.

#### **P.4 BRIDGES AS SIGNIFICANT FEATURES**

A correction is recommended for the bridges listed as eligible for listing in the National Register of Historic Places to include Montevideo Road Bridge).

Staff writes:

While many bridges along rustic roads have been identified as significant features, none are currently locally designated historic resources, although **five** have been found eligible for listing in the National Register of Historic Places:

- Bucklodge Road (MD 117) (SHA Bridge #1501800)
- **Montevideo Road (Mont. Co. Bridge #M-0030)**
- Schaeffer Road (Mont. Co. Bridge #M-0137)
- West Harris Road (Mont. Co. Bridge #M-0046)
- Whites Ferry Road (Mont. Co. Bridge #M-0186)

**P.7 RECOMMENDATIONS**

Staff recommends adding the following text to the end of the Section 49-78, subitem (d), where significant features are defined:

*Replacement or rehabilitation of a bridge identified as a significant feature must be of a design and materials that preserve or enhance the rustic appearance of the road. Special bridge design features identified in the Master Plan should be preserved. If a different design is required for safety reasons or to accommodate the movement of agriculture-related equipment, a new bridge must be of a design and materials that complement or enhance the rustic appearance of the road*

RRAC recommendation:

Delete the sentence “*Special bridge design features identified in the Master Plan should be preserved....*” since these are not defined in the Master Plan.

**P.17 DUTIES OF THE RRAC**

Staff writes:

*The Committee also performs “courtesy reviews” of development plans and driveway permits for projects on rustic roads.*

**P.18 CHAPTER 50, SUBDIVISION OF LAND**

Staff writes:

*Chapter 50, Subdivision of Land, does not explicitly require a review by the Rustic Roads Advisory Committee for any application, although rustic roads are mentioned a few times. However, Planning Staff always requests a courtesy review of subdivision plans when located on a rustic road.*

RRAC recommendation: Remove the word “courtesy” in both places. RRAC’s advisory review of preliminary plans is clearly anticipated by this language so that the Planning Board may make an informed decision. The use of the words “must consider” in the Code section cited below is an emphatic reference for extreme instances to ensure that all other measures are exhausted before a rustic road is altered. As written, this language grossly minimizes the role that RRAC plays in review of applications.

**P.19 CHAPTER 50, SUBDIVISION OF LAND**

Staff writes:

*Section 4.3 of Chapter 50 describes the technical review of subdivision applications. Subitem 5.c states:*

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

Staff summarizes their view:

*It is only when the subdivision regulations require an improvement that is contrary to the Rustic Roads law or Executive Regulations that the Board would seek the advice of the RRAC and take other actions if feasible. This situation rarely arises.*

RRAC recommendation: Remove these sentences as they ignore the clear meaning of the first part of this section of the statute. Staff has extracted one sentence from the paragraph which is a stand-alone sentence. It is clear that RRAC review provides a valuable assessment of driveway access, roadside conditions, trees within the ROW, and views and vistas on each road that could be impacted by subdivision improvements. RRAC has a key role in this process that is being undermined by this language. We request that the Master Plan recommend that RRAC continue to perform site visits as currently undertaken. We request that the Master Plan ask the appropriate and knowledgeable Planning Department staff to accompany RRAC on these site visits.

#### **P.19 OTHER DEVELOPMENT APPLICATION REVIEWS CURRENTLY PERFORMED BY RRAC**

Staff writes:

*Conditional Use and Site Plan applications follow procedures under Chapter 59, the county's Zoning Ordinance. There are no provisions in Chapter 59 that require a review by the RRAC, although these applications must be in substantial conformance with applicable master plans, which may include the Rustic Roads Functional Master Plan. As with any other development plan, Planning Staff performs the master plan review of these applications. It has become customary for Planning Staff to direct applicants to send applications to the RRAC for review, but there is no requirement that they do so.*

RRAC recommendation: Add a recommendation that Site Plan and Conditional Use applications on or affecting a rustic road be referred to the RRAC for review. This has been the practice since the inception of the program, and the committee's recommendations are valuable to staff, the Planning Board and the Hearing Examiner. As an example of Conditional Use reviews, a recent CU on a rustic road was unanimously denied by the Planning Board based upon two factors: the lack of septic and the effect on the rustic roads. The RRAC has continued to provide input to the Hearing Examiner, and then to the Board of Appeals. RRAC's analysis and input was essential to the Planning Department staff and the Planning Board's evaluation of this case.

**P.20 EXECUTIVE REGULATIONS**

Staff writes:

*If MCDOT is to undertake improvements to a rustic road, they must request a review by RRAC. Only after such review should a Mandatory Referral application be submitted to the Planning Board for review.*

RRAC clarification: Because MCDOT does not generally follow this provision, RRAC has worked to establish protocols for MCDOT to give advance notice to the Committee for rustic road improvements. We are not always so advised. We have not received a Mandatory Referral in approximately 10 years.

**P.21 EXECUTIVE REGULATIONS**

Staff writes:

*MCDOT will review subdivision applications along rustic roads and ensure that required improvements to the road are consistent with the Executive Regulations and that the proposed plan complies with approved and adopted master plans. If a permit from DPS requires work within the right-of-way of a rustic road, DPS must ensure that the work requiring the permit is consistent with the Regulations. It has become customary for DPS to send permits for driveways on rustic roads to the Committee for review, but there is no requirement that they do so.*

RRAC clarification: MCDOT for several years did not ensure that improvements were consistent with the Executive Regulations covering rustic roads. Nor does DPS review consistency with rustic roads regulations except on rare occasions. In the past few years has the Committee received a request to review 2 permits for driveways; therefore, it cannot be described as “customary.” We wish to clarify this to show the importance of our commitment to reviewing such improvements and driveways on a regular basis.

Staff writes:

*To summarize the required duties of the RRAC specified in the Executive Regulations, the Committee is to advise when:*

- *Improvements are to be performed on a rustic road.*
- *DPS is reviewing a sign permit within a rustic road right-of-way.*
- *Maintenance and improvement procedures are considered or necessary.*

RRAC comments: This does minimally reflect our duties and we concur with staff.

**P.23 GUIDELINES FOR FOLIAGE AND TREE MAINTENANCE**

Staff writes:

*It is not known whether the Office of Agriculture has identified roads frequently used for the movement of farm equipment or whether the RRAC reviewed such a list if provided.*

RRAC response: RRAC has shared with staff the list provided by the Office of Agriculture.

**P.23 DISCUSSION**

Staff writes:

*After reviewing the responsibilities of the Committee specified in County Code and the Executive Regulations, the RRAC appears to be carrying out more work than is required by statute. The Committee has been in place for over 25 years, and it is only within the last few years that the amount over the last two years is related to the ongoing Master Plan, where the Committee reviewed all of the new road profiles and wrote the travelling experience section for most of the new profiles. They advised on road classifications and identified significant features.*

RRAC clarification: Staff does not have knowledge of the work done by the Committee or who bore the burden of this work. For the record, we inform the Planning Board that prior to 2011, we had very active staff support from a highly respected transportation planning professional at DPS who knew the program well, attended all DRC meetings, and had an excellent understanding of MCDOT, DPS, and the Planning Department. This staff coordinator, together with the Planning Board’s appointed representative, performed routine and time-consuming tasks such as drafting agendas, drafting letters, transmitting letters, taking and preparing minutes, arranging and making site visits, sourcing and reviewing all applications, and presenting this information to the Committee. Prior to 2011, the Committee had not undertaken any public outreach events.

After 2011 and the retirement of this staffer, RRAC members began having to do all of the above tasks and began doing public outreach as required by Code. DPS began rotating staffers each year, resulting in the committee having to annually train a new staff member. With the duties shifting to MCDOT in 2018, staffing has stabilized but the committee continues to do nearly all of the work once performed by staff. Our current staff coordinator is excellent, but does not and has not offered to perform these tasks, and is not a regulatory reviewer by training. As much as we value her assistance, it is not comparable in hours or workload to that of any other committee.

#### **P.24 DISCUSSION**

Staff writes:

*Add to the list the duties identified elsewhere in County Code and the Executive Regulations:*

- (5) review subdivision applications when the requirements of the Subdivision Regulations are at odds with the Rustic Roads law or Regulations;*
- (6) review proposed improvements to rustic roads; and*
- (7) review proposed signs within the right-of-way of a rustic road.*

RRAC recommendation: Revise (5) above to read: “review subdivision, site plan and conditional use applications to determine whether requirements of the Subdivision Regulations are at odds with the Rustic Roads law or Regulations and to ensure compliance with the Master Plan;”

Staff writes:

*The last two biennial Committee reports show an average of about four development reviews per year (seven in the 2014-2016 report and eight in the 2012-2014 report).*

RRAC notes: In 2022 we held site visits at 25 locations. In 2021 we held site visits at 17 locations. We have provided in Appendix A a list of those by year and location.

#### **P.26 DISCUSSION**

Staff writes:

*In discussions with the AAC, Staff discovered that the AAC did not have a part in the appointment of the current RRAC member who represents them. Members are appointed by the County Executive, and the AAC was not consulted in the appointment.*

**RRAC correction:** The current committee chair, Laura Van Etten, is the appointed AAC representative. Jeremy Criss, Director of the Office of Agriculture, confirmed his approval of Laura Van Etten to be the AAC representative farmer on RRAC to her in person. Leslie Saville, then-Planning Board appointee to RRAC, also confirmed this with Mr. Criss by phone. In Laura Van Etten's 2017 letter to then-County Executive Ike Leggett, she stated, per Mr. Criss' request: "I have spoken with Jeremy Criss, Agricultural Services Director for Montgomery County, and he supports my application for RRAC as the representative to the AAC."

## **P.28 RECOMMENDATIONS**

### **RRAC MEMBERSHIP AND MEMBERSHIP CRITERIA**

#### Staff writes:

- The seven members could remain defined as they currently are (the "no change" option).
- Keep the seven current members and add two or more from the new categories above.
- Keep the number of members at seven but choose the four non-farmer members from a broad list of categories.
- Consolidate some of the new categories or create others.
- Change the farm income requirement for one, two, or all of the farmer members.
- Add two new members, but one of them as another commodity farmer.

**RRAC recommendation:** The options described in the staff report do not shift the committee toward greater racial equity and social justice. As such, we support the "no change" option and withdraw our request for membership related code changes.

## **P.28 DUTIES OF THE COMMITTEE**

### Staff clarification of duties of the Committee:

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

**RRAC recommendation:** If these are to be listed, they could be included in the Master Plan, with the recommendation that the first bulleted item above be revised to read "reviewing and providing comments on subdivision, conditional use, and site plan applications to determine consistency with the Master Plan and advise on conflicts between the Subdivision Regulations and the Rustic Roads law or Executive Regulations;

Thank you for providing the committee the opportunity to present our views.

You may reach the Committee through our staff coordinator, Darcy Buckley, at [Darcy.Buckley@montgomerycountymd.gov](mailto:Darcy.Buckley@montgomerycountymd.gov).

Sincerely,



Laura Van Etten, Chair

Committee Members:

Laura Van Etten, Chair

N. Anne Davies, Barbara Hoover, Charles Mess,  
Kamran Sadeghi, Dan Seamans, Elena Shuvalov

Montgomery  
Countryside  
Alliance 

**ROYCE HANSON AWARD**

• 2018 WINNER •



MONTGOMERY  
PRESERVATION

**MONTGOMERY PRIZE**

• 2019 WINNER •





## RUSTIC ROADS ADVISORY COMMITTEE



### APPENDIX A: RRAC SITE VISITS FOR 2021 & 2022

#### 2022 RRAC Site Visit Tally

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1. Conditional Use Application -- Chapingo Tree -- **Prices Distillery Road**
2. Driveway Concept Plan and Public Sewer/Septic -- Mohammed -- 11410 **Game Preserve Road**
3. Driveway 15350 **Sugarland Road** -- Allnutt property
4. Telecon Services fiber optic proposal -- **Martinsburg Road**
5. 12120 **Prices Distillery Road** -- Conditional Use Application 22-07 -- Chapingo LLC
6. 22900 **Old Hundred Road** -- Cell Tower Balloon Test – **multiple locations** regarding views
7. Paving preview site visits – **Purdum Road,**
8. **Big Woods Road,** and
9. **Wasche Road**
10. **Martinsburg Road Bridge** No. M-0042 over Potomac River Tributary
11. **Schaeffer Road Bridge** No. M-0137 over Little Seneca Creek
12. **River Road** site visit re: proposal to encapsulate asbestos in roadway
13. Elton Farm Road - new timing for Heritage History project
14. Nash Country Estates, 3727 **Gregg Road**
15. Telcon Services fiber-optic line under rustic and exceptional rustic roads **Mouth of Monocacy Road,**
16. **Whites Ferry Road**
17. **Martinsburg Road 2 locations**
18. **River Road**
19. **Batson Road** Admin Subdivision Plan 620220080
20. Proposed assisted living facility on **Game Preserve Road**
21. **Tucker Lane** site visit report; consider speed humps on rustic roads
22. Request for lower speed limit on **Peach Tree Road**
23. Request for Equestrian Crossing signs on **Slidell Road** and Peach Tree Road
24. Howard Property, Admin. Subdivision 620230020, **Batchellors Forest Road**
25. Shivacharan Property, Admin. Subdivision 620220060, **Whites Ferry Road**

#### 2021 RRAC Site Visit Talley

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1. Freeman Property – **Sugarland Road** Driveway
2. **Moore Road** – Access via Park Property
3. **Glen Road** Bridge over Piney Branch
4. Kilmain ETC Parcel (120200180) **West Hunter Road, Wasche Road**
5. Sandy Spring Village, Concept Plan, 17810 **Meeting House Road**
6. Tobytown Bus Turnaround (Angel Cheng, MCDOT) **Pennyfield Lock Road**
7. Driveway (P. 934087), 21721 **Peach Tree Road**
8. **Glen Road** Bridge over Sandy Branch (M-0148)
9. J&M Andrews Farm, **Westerly Road** (rustic), Admin Subdivision
10. 19120 **Jerusalem Rd** (rustic) – Driveway apron

11. Site visit for 23020 **Peach Tree Road**
12. Driveway request, 17125 **Batchellors Forest Road**
13. Solar project, 16925 **Black Rock Road**
14. Property subdivision on **Peach Tree Road**
15. Realignment of Driveway on Belt Property, **Peach Tree Road** -- reconsideration
16. **South Glen Road**: review curbing, consider alternative long-term action