ORDINANCE NO. ORD-2014-18

AN ORDINANCE TO AMEND CERTAIN PROVISIONS OF THE ZONING ORDINANCE FOR WASHINGTON COUNTY, MARYLAND AND TO REENACT SAID ORDINANCE WITH CHANGES RELATING TO ITS TEXT

(RZ-13-004)

RECITALS

The Board of County Commissioners of Washington County, Maryland (the "Board") adopted the Zoning Ordinance for Washington County, Maryland (the "Ordinance") on January 23, 1973, and it became effective on April 2, 1973.

The Washington County Department of Planning and Zoning filed an application requesting that an amendment be made to the text of the Ordinance. The amendment proposed adds a new section titled "Division XII – Limited Multiple Parcel Clustering Program." The purpose of this amendment is to allow adjacent properties with identical ownership to "cluster" development rights from multiple parcels onto a singular piece of land.

The Board believes it to be in the best interests of the citizens of Washington County for the amendment to be enacted.

The Washington County Planning Commission (the "Planning Commission") held a public meeting for the purpose of taking comments on the proposed amendment on April 21, 2014, pursuant to public notice duly given.

The Board held a public hearing for the purpose of taking testimony on the proposed amendment on August 26, 2014, pursuant to public notice duly given.

Following the public meeting and public hearing, the Board considered the recommendations of the Planning Commission and the Planning Department staff, and materials received, if any, as part of the public meeting and public hearing. The Board conducted this review in a public session.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that certain provisions of the Zoning Ordinance, as amended, be further amended as follows:

RZ-13-004

(1) ARTICLE 22 – "SPECIAL PROVISIONS", is amended to ADD a new section which shall read as follows:

DIVISION XII – LIMITED MULTIPLE PARCEL CLUSTERING PROGRAM

Section 22.12.1 – Purpose

The purpose of this Division of the Zoning Ordinance is to provide a method for adjoining properties with common ownership to effectively "cluster" multiple lot development rights into one existing parcel of record for the purpose of residential development under the provisions of

Maryland Annotated Code, Environment Article, Section 9-206. This division is intended to continue the policies and goals of the County to support agricultural operations through the preservation of agricultural lands in large indivisible tracts.

Section 22.12.2 – General Provisions

(a) For the purpose of this Division, a property owner who owns or holds title to multiple parcels of land, whether by one (1) deed with individual tracts each described by metes and bounds or by adjoining parcels described in separate deeds (adjoining being the key provision), is allowed to "cluster" development rights from each of the adjoining parcels onto one (1) parcel of land provided they meet all of the requirements of this Division. The provisions of this division shall only apply to those parcels designated in the Rural Areas of the County as delineated in the County Comprehensive Plan.

(b) These provisions may not apply to parcels located within Priority Funding Areas.

(c) In order to transfer development rights from one property to another, all properties involved in the transfer must be owned and titled to the same person(s) or entity(ies).

(d) Parcels designated as "receiving" areas shall comply with the regulations of the Sustainable Growth and Agricultural Preservation Act of 2012.

Section 22.12.3 – Definitions

The following definitions are for the purpose of interpreting this Division only:

(a) Clustering – Concentrating physical development into a more compact area to minimize the impacts on topography, historic and cultural resources, environmentally sensitive areas, and sensitive ecological areas. Many cluster developments require the remaining "open area" to serve as recreational areas for the subdivision created. However, clustering for the purpose of this Division will not require the "open area" to be turned over to a public entity but will rather create remaining lands without further subdivision rights and maintained in private ownership.

(b) Development Right – The entitlement to use one (1) lot for a principle permitted residential use.

(c) Receiving Area(s) – Areas to which development rights are being received from another parcel that meets the criteria outlined in 22.12.2 above.

(d) Sending Area(s) – Areas from which development rights are being sent from one parcel and being transferred to another that meets the criteria outlined in 22.12.2 above.

(e) Property Owner(s) – A person or entity who holds title to a parcel of land in Washington County.

Section 22.12.4 – Design Guidelines

(a) The total number of development rights transferred and clustered shall not exceed the number that would be permitted if the sending area(s) were developed in accordance with the minimum lot size and/or density permitted by the zoning district where the development right originates. Likewise, the total number of lots developed in the receiving area shall not exceed the number that would be permitted if the receiving area was developed in accordance with the minimum lot size and/or density permitted in the zoning district where the receiving area is located. In addition, in accordance with Maryland Annotated Code, Environment Article, Section 9-206, the total number of lots (including any remaining lands) developed on the receiving parcel on any parcel located within a Tier 4 area shall not be more than fifteen (15).

(b) If all of the density is utilized, the sending area(s) and any other remaining lands of the originating parcels shall be combined as a remaining lands tract with no further subdivision potential and notes shall be added to appropriate recorded plats that state that the density has been maximized and no further development shall be permitted on the residue. If there is further subdivision potential, plats may be submitted over time provided that each subdivision plat includes notes with the following information:

1. The number of development rights previously approved;
2. The subdivision plat recordation number provided by the Clerk of the Circuit Court for all previously approved and recorded subdivision plats; and
3. Calculations showing the density being transferred from the sending area(s) to the receiving area(s).

(c) Transferred lots shall be clustered so as to minimize the amount of agricultural land converted to residential use. The maximum lot size for transferred lots shall be two (2) acres.

(d) Forest Conservation mitigation may be applied on either the sending or receiving area. Lots transferred from a sending parcel to a receiving parcel shall meet off-site mitigation standards per the Washington County Forest Conservation Ordinance.

Section 22.12.5 – Development Calculations

(a) Development rights shall be calculated in accordance with the standards set forth in the Zoning District for which the "sending area" parcel is located. The total number of development lots shall not exceed the limits described in Section 22.12.4(a) above and the provisions of Maryland Annotated Code, Environment Article, Section 9-206.

(b) When determining the number of development rights permitted to be transferred from a sending area and clustered in a receiving area, the calculation will be based on the net acreage of land remaining after the following development-limiting conditions are placed upon the sending areas:

1. Public or private easements and/or rights of way delineated on a recorded plat or deed as areas where development is prohibited and/or restricted (i.e. land preservation easements, forest conservation easements, utility easements, etc.);
2. Delineated or designated road rights of way as required by the Highway Plan and/or the Subdivision Ordinance;
3. Delineated or designated road rights of way as required by the State Highway Administration; and
4. Hydric soils.

Adopted this 14th day of October, 2014.
Effective the 14th day of October, 2014.

ATTEST:

Vicki C. Lumm

Vicki C. Lumm, Clerk

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Terry L. Baker

Terry L. Baker, President

Approved as to legal sufficiency:

Kirk C. Downey

Kirk C. Downey
Deputy County Attorney

Mail to:
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