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DRAFT

Burtonsville in Crisis: Solutions for Revitalization



OBJECTION: to zoning recommendations
of the Staff Draft for the Burtonsville Crossroads Neighborhood Plan

Prepared by
Thomas Norris, President
Burtonsville Crossing, LLC
P. O. Box 310 • Ashton, MD 20861
(240) 786-5691 • (240) 786-5713 fax



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1.

Bad Policy Results in Crisis

During the past 20 years, the local Burtonsville politicians have embraced very limited growth. This anti-development policy has resulted in far too much retail space, with not enough residential units. It also explains why this County Gateway to Howard County in the North and to Prince George's County in the East looks so shabby and underdeveloped. Burtonsville looks bad, even though it lacks many of the fundamentals that define a successful town.

BYPASS CRISIS

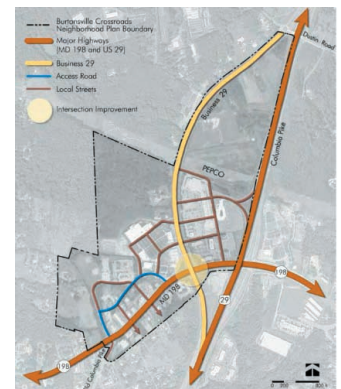
With no residential housing in Burtonsville, it was only a matter of time before this bad local policy would eventually become a full-blown crisis.

When the Route 29 Burtonsville bypass was built, the crisis hit. The effects of removing 50,000 cars per day from this small town resulted in economic disaster. There were no longer enough people to support the commercial zones. In fact, many of the people that used to stop and shop in Burtonsville, have moved up the road to Maple Lawn, which is located the next exit off Route 29 to the North. This area was designed to be the

modern gateway into Howard County. It had everything that Burtonsville lacked, including high-density residential development to support the new commercial zones.

Columbia was not much further North, with a successful destination Mall. So why would anyone need to stop in Burtonsville? The traffic patterns, as well as the Maple Lawn development to the North, have changed Burtonsville forever. When the State mandated the Route 29 bypass, and redirected 50,000 cars per day to speed past the town, a full-scale economic crisis resulted.

Such a major redirection of the traffic flow should have been predictable. The town started losing one business after another. Burtonsville was now dying. It had no residential base to support the overbuilt commercial areas. There were no people anymore.



Today, the major draw for the whole town is still one Giant Food grocery store. Even the new office buildings are empty, and foreclosure proceedings have started on some of the older offices.

Those that had once driven through its main street, Old Columbia Pike, also known as Rt 29A, have quickly forgotten Burtonsville. They are not coming back.

The bypass exposed the lack of residential development. Burtonsville had been almost totally dependent on the large North-South traffic flow from Route 29. When this source dried up, it created a crisis situation for the entire town, which the Planners refuse to address and resolve.

Today, Burtonsville is dying. It does not have enough residential housing to support its two commercial centers on Route 29A, much less the rest of the commercial zones off Route 198 that struggle to survive. The Burtonsville Crossing Shopping Center has become a blight for all to see, even as the new shopping center across the street struggles to attract tenants.

All of the merchants, including those that own restaurants, are negatively affected by the loss of traffic that no longer flows through Burtonsville. After the bypass, there are simply not enough people to support the disproportionately large commercial area. This is the problem.

THE SOLUTION

The solution is simple and obvious. Burtonsville needs more residential development to survive. Without more people, the local businesses cannot survive, much less prosper. The bypass sent many shoppers away from Burtonsville, and the solution is to find a way to get them back as fast as possible. This is the primary way to solve this crisis.

COUNTY ACTION

In an effort to resolve this debilitating crisis, the County commissioned a number of studies. They focused on developing what little land is left in a responsible and helpful manner. One of these studies became known as the Burtonsville Crossroads Neighborhood Plan, which was presented to the Montgomery County Planning Board by the Planning staff on June 7, 2012.

As part of this planning process, the County Planners held numerous meetings with the community and made presentations to the East County Citizens Advisory Board and to others, as they endeavored to solve this crisis.

However, in hindsight, it is obvious that they wasted many months, focusing on minor matters that did not address, much less solve, the crisis. This is because they were constantly lobbied by the local anti-development groups that had been the problem all along. The Planners embraced these same views that caused the crisis. Unfortunately, they continued the long tradition of rejecting any residential housing in Burtonsville.

MAPLE LAWN Shopping Center Fulton, Maryland



BURTONSVILLE IN CRISIS:

Many of the long time, anti-development critics live to the north of the RC zone. Ironically, they are on septic systems, very close to the WSSC reservoir. If anyone would be polluting the drinking water, it would be this crowd, not anyone further south, who would be using new water and sewer lines that flowed away from the watershed.

Whenever this 38-acre, RC zone was brought up at any public meetings, or afterwards, the Planners would declare that this land was not part of the Burtonsville study, and they did not want to see any development in this area anyway.

The Planners joined with the "no growth" activists by pretending that this area was rural in nature, when that is clearly not the case. Thus, they ignored the fact that this land was surrounded by highways, commercial, shopping, and offices, with large transmission towers bisecting this land. This land is no longer rural.

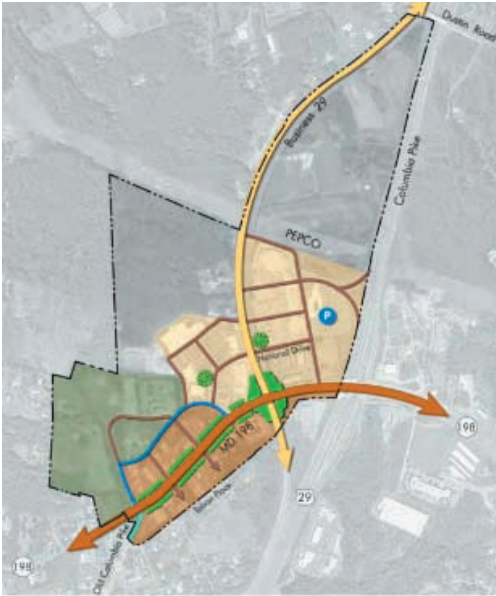
Unfortunately, the Planners have been compromised by the local politics of the area, and their study was not objective. They were influenced by the very anti-development groups that were responsible for keeping Burtonsville backward and undeveloped all these years.

While the Planners spoke of their "vision" for Route 198, and spent much time addressing this East-West axis, including proposing new landscaping and alignment, they completely ignored the longer, undeveloped North-South axis,. This corridor was the original Route 29 main street, which provided the large traffic flow that once supported Burtonsville.



The East-West axis was studied by the Planning Board, while the North-South axis was ignored.

The Planners should not have ignored the North-South main street. In fact, they should have used this existing corridor to design a new suitable Gateway into and out of the County. It was a great mistake for the Planners to pretend that this long, underused corridor, next to 38 acres of prime, infill land, should be ignored in this study. Such an obvious oversight speaks volumes about the existing bias of the Planners, who have done a very poor job.



The County's Route 198 "vision," but there is no vision for Route 29A

The Staff plan as written will not solve anything, much less save the failing shopping center. In fact, if this plan were implemented, it would seal the fate of this Community by making sure that no new residential development will be developed in the next decade. Such a counter productive plan will not revitalize this small town, which is dying for lack of people, not for more parks or green space.

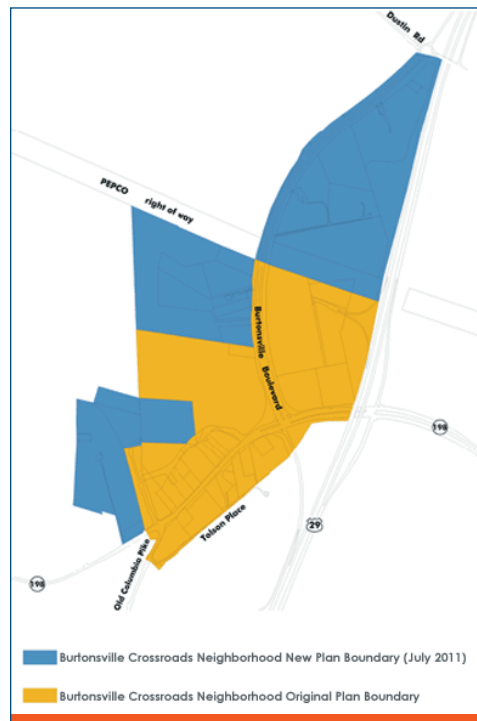
The solution to the lack of people caused by the bypass, - is to allow immediate residential development next to the shopping centers. This is the most obvious, short term, answer to this on-going crisis.

The Planners position, and that of the local activists, that there should be no residential development in the 38-acres next to the failing shopping center makes no sense and is wrong. This is the only large tract left in town to provide residential housing, which is desperately needed to support the excessive retail that had been developed over the years.

The fact that this land is located right next to the shopping center and the rest of the commercial zone is all the better. Burtonsville needs residential development, without delay to stabilize and help revitalize this town in crisis.

NEIGHBORHOOD PLAN ENLARGED: TO INCLUDE RC LAND

As the Burtonsville study proceeded, some were complaining that the County was ignoring the RC zone, next to the shopping center. Others also complained that the County seemed to



Enlarged study area

be turning down all development in this area, even if it was a church or senior housing. This made no sense.

In order to address this oversight, the boundary for the Neighborhood Plan was enlarged to include the 38 acres of RC land that the Planners ignored. In July 2011, the land North of the failing Burtonsville Crossing shopping center, as well as some other land on the West side of old Route 29 became part of the study plan.

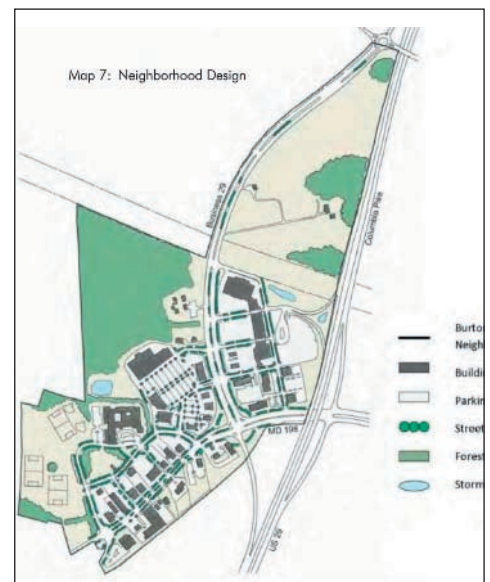
PLANNERS REFUSE TO STUDY RC LAND

After years of avoiding development in this area, it appeared that this large tract would now receive some attention. However, the Planners continued to ignore this RC land, even as they refused to consider any new rezoning or residential development. They claimed this land was rural in nature and must be protected from development.

The Planners refused to study the North-South axis, much less consider any residential housing in the town. The Planners called for a Park. They even vowed at one public hearing that this RC land would never be developed. To underscore their bias, they supported such typical myths as, “the site cannot be sewered properly” or “the drinking water would be ruined by any residential development.”

The Planners insistence to ignore the RC zone, refusing to study or change it, will not save the shopping center, much less change Burtonsville “into a complete community.” How can you have a “complete community” without people? This is the problem with Burtonsville, it has too few people. There is no residential core.

Realizing that the Town needs people, the Planners claimed that the failing, older shopping center would produce people if they were given the zoning to do so through a mixed-use configuration.



Planners refuse to study RC land for development

However, this proposal to give more zoning rights to this small, 12-acre shopping center, which already has 90% lot coverage, will not produce any new residential development--at least not in the next 10-15 years, if ever. Such plans, and assumptions, are empty and worthless gestures that are designed to overlook the real issue: the RC zoned land should be re-zoned and developed for high density residential housing.

The Shopping Center has zero plans to do anything with this new mixed use zoning, nor are they willing to provide any promises for short- or long-term residential development--and the Planners are aware of this fact.

The proposed townhouse site plan for approximately 230 townhouse units is shown below.



Proposed townhouse subdivision

CONCLUSION: Residential Housing Needed

The crisis in Burtonsville can only be solved with new residential housing. The sooner the better. This idea that the RC zone, which is next to a shopping center, and a number of 4 story office buildings, surrounded by major highways and bisected with large 10 story transmission towers, is rural in nature, - is absurd. This area is no longer “rural.” Nor are there any environmental issues standing in the way of development as some are pretending.

The only solution to revitalizing Burtonsville, is to bring in new residential housing as soon as possible. There is no other solution. Without more people to support the local merchants, the area cannot become stabilized or revitalized.

Without more people living in Burtonsville, there can be no real solution to the crisis. Nor is there any reason to talk about neighborhood “connectivity” for pedestrians; if there are no people that live in town. What is the point?

What the Planners have proposed is worthless. They have failed to understand the situation, much less resolve it. They have wasted a lot of time and resources, even as they have been unable and unwilling to address the real issues and solve them. The State caused this problem with the bypass and the County has made matters worse by failing to promote the necessary residential development that is so necessary to revitalize this town.

2.

RC Zoning: History

The subject RC land falls under the Fairland Master Plan, which was completed in 1997. In 1998, the County Planners recommended approval for 291 units, in three (3) four-story buildings (Special Exception S-2322). However, the Board of Appeals did not approve the submission because neither the ICC or the new Route 29 bypass had been funded or finalized as yet.

In fact, most of this RC land would have been used for ramps if the ICC had taken the Northern route. This is why this land was placed in the less costly RC zone in the first place. Such a low zoning would reduce the State's purchase price should it be needed for the ICC Northern route.

Consequently, there was no activity on this property for some time as it fell into a development moratorium. Following the completion of the Route 29 bypass, and the selection of the ICC Southern route, the property came out of moratorium.

SENIOR HOUSING PROPOSED 2008

In 2008, the land owners proposed 86 Senior Condo units in five, 4-story buildings, including a small community center next to the fire tower to the North (see: S-2724 Board of Appeals Case: Stanley D. Abrams, Attorney for Patuxent Ridge, LLC, requests a special exception pursuant to Section 59-G-2.35, Housing and related facilities for senior adults) of the Zoning Ordinance to permit:

- 1) Construction of five independent living, four-story condominium buildings for seniors, which includes a total of 86 units;
- 2) Parking: 156 spaces including six handicap spaces;
- 3) A separate community building for recreation and social facilities;

The subject property is Part of Tax Parcel 293, located between Columbia Pike and Relocated U.S. Route 29, approximately 600 feet south of Dustin Road, Burtonsville, Maryland, in the RC Zone.

As this Special Exception moved forward, the County Planners said they would support a three-story project, but not the four-story buildings as proposed.

However, they suggested that a four-story senior project would make sense if placed next to the Burtonsville Crossing Shopping Center, which is next to at least three- and four-story office buildings and large ten-story transmission towers. The Community also seemed favorable to such a suggestion.

Below are the project engineer's notes (Karen Carpenter) about this Special Exception, which is referred to as Patuxent Ridge:

“We have also worked with the Owner on a site to the north, Patuxent Ridge. The Fairland Master Plan recommended that the Patuxent Ridge site be developed as housing for the elderly.”

“During the course of the review of the Patuxent Ridge site, M-NCPPC staff stated that they preferred that the elderly housing be moved next to the Burtonsville Crossing parcel because that parcel is closer to the existing commercial area and services.”

(March 4, 2009 memo to Tom Norris from Karen Carpenter of Petra Engineering).

SENIOR HOUSING PROJECT RELOCATED, THEN DENIED

In an attempt to work with the community and the County, the Developer withdrew his Senior Housing Special Exception and placed this land under contract with the New Hope Korean church, which is a “by right” use in the RC zone.

The Developer then moved the senior housing project, next to the Burtonsville Crossing Shopping Center and applied for a sewer and water category change. However, their request was denied as premature. The County Planners also discouraged the Korean Church from developing their church on this Northern site. The Church's request for a water and sewer category change was not approved.

Below is the record about this water and sewer category change request for senior housing, next to the shopping center:

Patuxent Watershed Conservation Planning Area

WSSCR 08A-PAX-01: Burtonsville Associates, LLC

Columbia Pk.-16000 block, Pt. Parcel P293, Waters Gift

- Map tile: KS62; WSSC: 221NE04
- East side of Columbia Pk. (old U.S. 29) south of Dustin Rd.

- Fairland Master Plan (1997)
- Lower Patuxent River Watershed (MDE Use I)
- RC Zone;

Existing use: Farm (agricultural)

Proposed use: Senior adult housing

Requested - Service Area Categories W-6, S-6 to W-3, S-3

County Council Action:

Deny the request for categories W-3 and S-3;

Maintain W-6 and S-6.

Notes:

- The applicant may not file a new request for this property before September 30, 2009, without prior approval from DEP.
- The Council notes that the category change request application, provided well in advance of action on the required senior housing special exception, is premature. The owner and the proposed user may consider reapplying when the special exception process has advanced to at least a hearing before the Hearing Examiner.

See http://www.montgomerycountymd.gov/content/dep/water/council_res_16-728.pdf.

CHURCH USE NOT APPROVED

The anti-development traditions are so strong in Burtonsville that even a Church was viewed as a hostile intruder. Although the RC zone is a by right use for a Church, the County Planners broke Federal law and refused to support the New Hope Korean Church, who were contract purchasers.

The Montgomery County Planners employed the same arguments against the Korean Church's plans, as were made by neighboring Prince Georges County against the Reaching Hearts International church. In that case, Reaching Hearts was much closer to this same watershed, even as they were confronted with the typical impervious rules and denied their request for a sewer and water category change, which made it impossible for them to build.

However, such local rules did not matter to the Federal Court. After making Prince George's County pay over \$4 million in damages to the church, the County was forced to give full approval to the Church's original plans.

The Federal Courts, even after Prince George's County's failed appeal, have now ruled against these standard anti-development arguments, and thus Montgomery County was wrong to deny the Korean church's request for a water and sewer category change in the same watershed. See: Reaching Hearts International v Prince Georges County (<http://www.baltimoresun.com/explore/howard/news/community/ph-ll-reaching-hearts-20111221,0,141433.story>).

It is against Federal law to prohibit any church use on this 38 acres of RC land. Montgomery County should learn from the mistakes of neighboring Prince George's County.

FEDERAL LAW TRUMPS COUNTY REGULATIONS

Federal law grants wide-ranging privileges for Church development. Churches are exempt from impervious calculations as well as the withholding of sewer and water categories which would prevent their development, even on the edge of a reservoir.

Below is a summary of the landmark Reaching Hearts case located in the same watershed as Burtonsville:

Prince George's Council Removes Barrier for Reaching Hearts Church

by Miranda S. Spivack

Reaching Hearts International, which wants to build a 900-seat church and grade school in Laurel, won approval Tuesday for water and sewer rights needed before it can build.

The Prince George's County Council voted 7-1 in favor of the church, which already has won \$3.7 million from the county in a lawsuit over the proposed church.

Council member Mary A. Lehman (D-Laurel) cast the only dissenting vote. She reiterated concerns about the potential environmental harm to a nearby source of drinking water. Council member Ingrid M. Turner (D-Bowie) was absent.

The church still must seek approval from the county's planning board for a detailed plan for the site. Michael Oxentenko, the church's pastor, said he was "grateful for the county's decision." The church is seeking legal ex-

penses from the county, in a case pending in federal court in Greenbelt.

The council acted after a December ruling by U.S. District Judge Roger Titus found the county had acted improperly when it turned down the church's request for permission to run water and sewer lines onto its property.

http://www.washingtonpost.com/blogs/post_now/post/prince-georges-council-removes-barrier-for-reaching-hearts-church/2012/01/24/gIQA1rbAOQ_blog.html.

While Church development cannot be stopped on this land, it is not the best use. Burtonsville needs residential development, not parks or churches.

ENVIRONMENTAL ISSUES

Today, the engineers have designed over 200 townhouses on this land next to the shopping center. They have also found a way to sewer the project with a gravity system.

Moreover, the storm drain system for this project will actually improve the water quality from its present state, which means that after development, the water running off this site will be higher quality than present. Such a fact blunts this worn-out myth that development on this site will be harmful to the watershed. This is just not true.

CONCLUSION

As a result of the Route 29 bypass, Burtonsville needs residential housing to support the failing commercial centers. The 38-acres of infill land is surrounded by four-lane highways. It is no longer rural or country. This land should be zoned for RT6, residential townhouses. Burtonsville needs a residential core in order to become stabilized and revitalized.

3. Summary

The no-growth policy in Burtonsville has led to a crisis. The town has no residential core and far too much commercial space. Now that the bypass is completed, the town needs people.

The many attempts by land owners to develop their land next to the shopping center has been unfairly and needlessly frustrated. Moreover, the Planners' design for a park on this prime, infill land is unwarranted and counter-productive. Even though the owners have had to pay property taxes year after year, the County Planners are still trying to prevent its development with the false claim that this land is Rual in nature, and must remain undeveloped forever in order to protect the watershed. However, Maple Lawn is closer to the reservoir than Burtonsville and they managed to develop a large, modern town center without causing any harm to the watershed. So, too, can Burtonsville.

Burtonsville has too much commercial space and no residential core. It needs residences and people to support the struggling shopping centers. Such a subdivision can be developed on this 38 acres without compromising any environmental issues or in any way harming the watershed.

The proposal to prohibit residential development on this large tract of land, which is surrounded by highways and located next to two shopping centers and office buildings, makes no sense. It is not in the public or private interest.

Burtonsville needs housing, not a park to attract more deer, which cause auto accidents and spread Lyme disease. The Planners have made a great mistake to ignore the Route 29A, North-South axis, of Columbia Pike. This is the best opportunity to create a planned and pleasant gateway into Burtonsville, where today there is nothing but blight and ram-shackled buildings.

If Burtonsville is to be stabilized, residential development is needed on the North-South corridor. This will do more to revitalize Burtonsville than anything else. Such a plan will:

1. create jobs,
2. increase the tax base,
3. stimulate the failing shopping centers and other the commercial zones;
and
4. improve Route 29A, which is the North-South gateway, into and out of
Burtonsville.

We respectfully request that the Planning Boad reject the Staff Planners' Report as it relates to the RC zone North of the Burtonsville Crossing shopping center. We look forward to the opportunity of working with the Staff to develop a better plan for Burtonsville, one which will generate immediate solutions to the crisis caused by the Route 29 bypass and lack of residential planning.