

## ARTICLE 20A – "AO" ANTIETAM OVERLAY DISTRICT<sup>114</sup>

### Section 20A.0 Purpose

The purpose of the Antietam Overlay District is to provide mechanisms for the protection of significant historic structures and land areas by requiring development and land subdivision to occur in a manner that 1) preserves the existing quality of the viewshed of the Antietam Battlefield, and 2) ensures that development of certain lands adjacent to the major roads which provide public access to the Antietam Battlefield (i.e., Maryland Routes 34 and 65) is compatible with the agricultural and historic character of the area. The "AO" District is an overlay zone meant to enhance, not substitute for the existing underlying zoning designation, which regulates land use.

### Section 20A.1 Regulations

#### (a) Subdistricts Established and Areas Delineated

1. The Antietam Overlay District is comprised of these subdistricts: The Battlefield Buffer (AO-1), the Approach Zones (AO-2), and the Red Hill Area (AO-3).
2. Lands zoned AO-1 (Battlefield Buffer) and AO-3 (Red Hill Area) are situated within the Battlefield Foreground and Red Hill Middleground, respectively, of the Antietam Viewshed, as determined by the National Park Service and documented in its April 1988 technical study entitled Analysis of the Visible Landscape: Antietam. The boundaries of the AO-1 and AO-3 zones conform to property boundaries except where manmade or natural features provide suitable boundaries.
3. Lands zoned AO-2 (Approach Zones) are situated within 1000 feet of the centerline of certain road segments, and do not necessarily conform to property boundaries. The length of the AO-2 (Approach Zones) are as shown on the zoning maps.

### Section 20A.2 AO-1 Battlefield Buffer Regulation

- (a) The regulations and criteria in this subsection are in addition to the conventional underlying zoning which regulates land use.
- (b) The following additional regulation shall apply:

The exterior appearance of all uses, unless otherwise exempted by County Ordinance, shall automatically be subject to the provisions of Article 20, Historic Preservation District, and Section 20.6.

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<sup>114</sup> Revision 14, Article 20A replaced in its entirety 7/26/05 (RZ-03-005)

### Section 20A.3 AO-2 Approach Zone Regulations

- (a) The regulations and criteria in this subsection are in addition to the conventional underlying zoning which regulates land use.
- (b) The exterior appearance of all commercial and nonresidential uses excluding all farm structures shall be subject to the provisions of Article 20, Historic Preservation District, and Section 20.6.

### Section 20A.4 AO-3 Red Hill Area

- (a) The regulations and criteria in this subsection are in addition to the conventional underlying zoning which regulates land use.
- (b) Prior to any tree cutting activity in the AO-3 Zone which is not associated with development of or construction on the property, a Forestry Management Plan, as prepared by Maryland Department of Natural Resources - Forest, Park and Wildlife Service, or a Registered Professional Forester and approved by the Forest, Park and Wildlife Service, must be submitted to the Planning Department. (The cutting of firewood and dead trees for personal use shall be permitted). Subsequent cutting of trees on the property shall be in accordance with the Forestry Management Plan. The plan will be kept on file with the Planning Department.

A declaration of intent shall be filed with the Planning Department for tree harvesting activities in accordance with the Washington County Forest Conservation Ordinance.

Unless exempt, all tree cutting relating to development of a property within the Antietam Overlay District shall be in accordance with an approved Forest Conservation Plan.

1. Tree removal, which is inconsistent with the Forestry Management Plan, is subject to the enforcement provisions included in Article 26 of the Ordinance with the exception that the offense shall not continue beyond the original cutting of each tree.
  2. The property owner will be required to replace any trees cut inconsistently with the Forestry Management Plan with a similar or compatible variety.
- (c) The Zoning Administrator shall review applications for building permits, site plans and zoning certifications with respect to the cutting of trees, and may impose limitations on the number, location, and distribution of trees proposed for removal in order to minimize negative impact on viewshed quality. The Zoning Administrator shall use the guidelines in Section 20A.4(f) in deciding the disposition of the requested building permit, site plan or zoning certification.

- (d) The Board of Appeals shall review applications for variances, expansion of non-conforming uses, and special exceptions with respect to the cutting of trees, and may impose limitations on the number, location, and distribution of trees proposed for removal in order to minimize negative impact on viewshed quality. The Board of Appeals shall use the guidelines in Section 20A.4(f) in deciding the disposition of the requested variance, expansion of nonconforming use or special exception.
- (e) The Planning Commission shall review site plan and subdivision applications with respect to the cutting of trees, and may impose limitations on the number, location, and distribution of trees proposed for removal in order to minimize negative impact on viewshed quality. The Planning Commission shall use the guidelines in Section 20A.4(f) in deciding the disposition of the site plan or subdivision request.
- (f) All tree cutting activity which is done for the purpose of, or is related to, development of a property in the AO-3 Overlay District shall be subject to the following guidelines:
  - 1. During site development, minimum tree cutting is permitted to allow construction of an access and driveway, related parking areas, a dwelling, related accessory structures and required septic disposal system.
  - 2. Additional tree cutting on the site during development is permitted within 35' of the dwelling and related accessory structures.
  - 3. Where possible and practical, property owners are encouraged to maintain as much of the existing tree cover as possible within the 35 foot area to preserve the existing quality of the Antietam Battlefield Viewshed.
  - 4. Tree cutting on the remainder of the site, not covered in 1-3 above, is subject to the following requirements:
    - a. Prior to the cutting of trees on the remainder of the site, the property owner must have prepared by the Maryland Department of Natural Resources Forest, Park and Wildlife Service or a Registered Professional Forester and approved by the Forest, Park and Wildlife Service a Forest Management Plan, the goal of which is to preserve the quality of the Antietam Battlefield Viewshed. (The cutting of firewood and dead trees for personal use shall be permitted)
    - b. Cutting of trees outside the area measuring 35' from the dwelling as described in (2) above is permitted only according to the selection and timing contained in the Forestry Management Plan with the exception of (c) below.

- c. Any tree of a height, which has the potential to cause damage to the dwelling if it were to fall due to natural causes (disease or insect infestation, wind, lightning, erosion, etc.), may be removed.
- (g) Applications submitted for subdivisions, site plans, special exceptions, expansion of non-conforming use building permits, zoning certifications or variances on land zoned AO-3 shall be accompanied by scale drawings which indicate the locations of structures and the areas where trees are proposed for removal. Any other material, which would assist in determining the existing and proposed conditions of the subject site, may be submitted.
- (h) Tree removal, which is inconsistent with the standards specified above including the Forestry Management Plan, is subject to the enforcement provisions included in Article 26 of this Ordinance with the exception that the offense shall not continue beyond the original cutting of each tree.
- (i) The property owner will be required to replace any trees cut inconsistently with the Forestry Management Plan with a similar or compatible variety.

#### Section 20A.5 Establishment of "AO" Zone

An area may be zoned "AO" by request of the property owner or by comprehensive zoning, and only upon findings of fact by the County Commissioners that:

- (a) The area falls within the viewshed of Antietam Battlefield and that the exterior appearance of development in the area has significant potential to diminish the existing quality of the viewshed; or
- (b) The area falls within 1000 feet of the centerline of the segment of a major road which provides public access to Antietam Battlefield, and that the exterior appearance of development in the area has significant potential to detrimentally affect the public's use, enjoyment, and appreciation of the Antietam Battlefield, or may otherwise impair the integrity of the Battlefield.

#### Section 20A.6 Appeals

Decisions rendered under Article 20A may be appealed according to the guidelines of Article 25 - Board of Appeals.