

Clerk's Note: The Council adopted ZTA 15-09 (Ordinance No. 18-08) on December 1, 2015, before the adoption of ZTA 15-06 (Ordinance No. 18-09) on December 8, 2015. ZTA 15-09 added Subsection 7.7.1.D.8.b. That provision, as adopted on December 1, 2015, is included in this correction to provide context. The Subsection referred to as 7.7.1.D.8.b in ZTA 15-06, starting on line 97, is corrected by changing it to Subsection 7.7.1.D.8.c. Also, on line 91, to correct a grammatical error, the word "approve" is changed to "approval".

CORRECTED

Ordinance No.: 18-09

Zoning Text Amendment No.: 15-06

Concerning: Rural Cluster Zone –
Land Use and Setbacks

Draft No. & Date: 3 – 12/1/15

Introduced: 3/24/15

Public Hearing: May 5, 2015

Adopted: December 8, 2015

Effective: October 30, 2014

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: The District Council at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- expand the land uses allowed in the RC zone under certain circumstances; and
- revise the setbacks in the RC zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-3.1.	"Use Table"
Section 59-3.1.6.	"Use Table"
DIVISION 59-3.5.	"Commercial Uses"
<u>Section 59-3.2.5.</u>	<u>"Farm Supply or Machinery Sales, Storage, and Service"</u>
[[Section 59-3.5.11.	"Retail Sales and Service"]]
DIVISION 59-7.7.	"Exemptions and Nonconformities"
Section 59-7.7.1.	"Exemptions"

EXPLANATION: *Boldface indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment or text added by this amendment in addition to ZTA 14-09.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 15-06 was sponsored by the District Council at the request of the County Executive. The Executive believes that the text amendment is business friendly, limited in scope, and furthers the principles of sustainable development.

ZTA 15-06, as introduced, would allow Retail/Service Uses of less than 5,000 square feet of floor area in the Rural Cluster zone as a limited use. Only property at least as large as 2.5 acres that abuts or confronts Industrial zoned land would be allowed this use.

There are also provisions for grandfathering existing parcels and existing buildings. Existing parcels in the Rural Cluster zone would be exempted from minimum lot area and frontage requirements. Existing buildings would be exempt from minimum setbacks.

In its report to the Council, the Montgomery County Planning Board recommended that the Council not approve the text amendment. In the opinion of the Planning Board, the ZTA ran counter to the recommendations of the Master Plan and the intent of the RC zone. Planning Board Staff had a similar recommendation.

The Council conducted a public hearing on May 5, 2015. The Executive, who requested the introduction of ZTA 15-06, expressed the view that the ZTA was a means to remove barriers to small business. One supporter of the ZTA recommended amendments to expand the meaning of confronting and limit the potential for making non-conforming buildings conforming. Two other speakers also supported the ZTA. There was testimony submitted to the Council supporting the ZTA as a means to allow Pat's Outdoor Equipment to continue to operate at its current location. The Agricultural Advisory Committee wrote:

Farmers on the Eastern side of the County rely on Pat since she has the skill and expertise to work on and repair older farm equipment.

The Montgomery County Farm Bureau, Inc. noted that ZTA 15-06 would help Pat's Outdoor Equipment stay in business in her current location and urges support so that Pat Dunn can continue helping farmers. Some consumers who were satisfied with the service they received at Pat's Outdoor Equipment also support ZTA 15-06. There were a number of similarly situated

people (Ms. Dunn's satisfied customers) who had supported ZTA 14-12 (the identical expired ZTA) as well.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

On November 30, 2015, the Committee (2-1, then-Council Vice President Floreen dissenting) recommended approval of ZTA 15-06 with amendments. Rather than allow up to 5,000 square feet of retail in the RC zone, the Committee recommended amending the definition of the "Farm Supply or Machinery Sales, Storage, and Service" to include lawn care equipment repair. The conditions for the limited use would add a requirement that impervious surface would not exceed master plan recommended limits. In all other respects, the Committee recommended approval of ZTA 15-06. In the Committee's opinion, ZTA 15-06 achieved the Executive's goal of allowing a limited small business opportunity while respecting the intent of the RC zone.

The District Council reviewed Zoning Text Amendment No. 15-06 at a worksession held on December 8, 2015. The Council agreed with the Committee recommendations.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 15-06 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-3.1 is amended as follows:

DIVISION 3.1. Use Table

* * *

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		
		AR	R	RC	RNC
AGRICULTURAL					
* * *					
Farm Supply, Machinery Sales, Storage, and Service	3.2.5	C		[[C]] <u>L/C</u>	
* * *					
COMMERCIAL					
* * *					* * *
RETAIL SALES AND SERVICE	<u>3.5.11</u>				
Combination Retail	<u>3.5.11.A</u>				
Retail/Service Establishment (Up to 5,000 SF)	<u>3.5.11.B</u>			[[L]]	
Retail/Service Establishment (5,001 - 15,000 SF)	<u>3.5.11.B</u>				
Retail/Service Establishment (15,001 - 50,000 SF)	<u>3.5.11.B</u>				
* * *					
Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed					

7 * * *

8 **Sec. 2. DIVISION 59-3.2 is amended as follows:**

9 **DIVISION 3.2. Agricultural Uses**

10 * * *

11 **Section 3.2.5. Farm Supply or Machinery Sales, Storage, and Service**

12 **A. Defined**

13 Farm Supply or Machinery Sales, Storage, and Service means the sales,
14 storage, or service of farm supply materials and machinery used in farming
15 for agricultural purposes or similar equipment service such as lawn care
16 equipment repair. Farm Supply or Machinery Sales, Storage, and Service
17 does not include sales, storage, or service of vehicles and other machinery
18 not associated with farming.

19 **B. Use Standards**

20 1. Where Farm Supply or Machinery Sales, Storage, and Service is
21 allowed as a limited use [and], it must satisfy the following standards:

22 a. If the subject lot abuts property in the AR zone, this use is
23 limited to farm building supply and services that construct,
24 stabilize, and repair farm accessory buildings, structures, and
25 fences.

26 b. If the following standards are satisfied, the use is allowed:

27 i. the minimum lot area is 2.0 acres;

28 ii. it abuts or is located perpendicularly across a right-of-
29 way from property in an Industrial zone;

30 iii. the impervious area of the site does not exceed any
31 impervious area recommendation for the site in the
32 master plan; and

33 iv. the subject lot does not abut property in the AR zone.

34 * * *

35 **Sec. 3. DIVISION 59-3.5 is amended as follows:**

36 **DIVISION 3.5. Commercial Uses**

37 * * *

38 **Section 3.5.11. Retail Sales and Service**

39 * * *

40 **B. Retail/Service Establishment**

41 **1. Defined**

42 Retail/Service Establishment means a business providing personal
43 services or sale of goods to the public. Retail/Service Establishment
44 does not include Animal Services (see Section 3.5.1, Animal Services)
45 or Drive-Thru (see Section 3.5.14.E, Drive-Thru).

46 **2. Use Standards**

47 a. Where a Retail/Service Establishment is allowed as a limited
48 use, it must satisfy the following standards:

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50 [[ix. In the RC zone, a Retail Service Establishment is allowed
51 only if the site is:

52 (a) larger than 2.5 acres; and

53 (b) abutting or confronting Industrial zoned land.]]

54 * * *

55 **Sec. 4. DIVISION 59-7.7 is amended as follows:**

56 **Division 7.7. Exemptions and Nonconformities**

57 **Section 7.7.1. Exemptions**

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59 **D. Residential Lots and Parcels**

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8. Exempted Lots, [and] Parcels, and Buildings in the Rural Cluster Zone

- a.** A lot or a parcel in the Rural Cluster (RC) zone, in addition to other exemptions in this subsection, is exempt from the minimum area requirements and dimension requirements of the Rural Cluster zone, but must satisfy the requirements of the zone applicable to it before its classification to the RC zone if:
- [a] i.** the property owner held title to the property before June 4, 1974;
 - [b] ii.** a reduced lot size is required for a lot created for a detached house; and
 - [c] iii.** the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot.
- b.** A lot or parcel in the Rural Cluster (RC) zone, in addition to other exemptions in this subsection, is exempt from the minimum lot area requirements and lot width requirements of the Rural Cluster zone, but must satisfy the requirements of the zone applicable to it before its classification to the RC zone if:
- i.** the lot was created by deed executed on or before the earliest of the following dates:
 - the approval date of the most recent Sectional Map Amendment that included the lot;
 - the approval date of the most recent Local Map Amendment that included the lot;
 - October 30, 2014; or

87 ii. the recorded lot has an area of less than 5 acres and was
88 created before the earliest of:

- 89 - the approval date of the most recent Sectional
- 90 Map Amendment that included the lot;
- 91 - the ~~[[approve]]~~ approval date of the most recent
- 92 Local Map Amendment that included the lot; or
- 93 - October 30, 2014

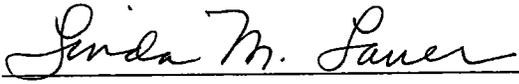
94 by replatting 2 or more lots, provided that the resulting
95 number of lots is not greater than the number of lots that
96 were replatted.

97 ~~[[b]]~~c. Any parcel with an existing building on October 30, 2014 is
98 exempt from the minimum lot area and frontage requirement.
99 Any existing building located on any lot or parcel on October
100 30, 2014 is exempt from the minimum side setbacks of the
101 zone.

102 * * *

103 **Sec. 5. Effective date.** This ordinance becomes effective on October 30,
104 2014.

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106 This is a correct copy of Council action.

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109 Linda M. Lauer, Clerk of the Council