



**Zoning Text Amendment (ZTA) No. 15-06, Rural Cluster Zone - Land Use and Setbacks**

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**Completed: 04/23/15**

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**Description**

ZTA No. 15-06 would expand the land uses allowed in the Rural Cluster (RC) zone under certain circumstances and revise the setbacks in the RC zone. There are also provisions for grandfathering existing parcels and existing buildings. Specifically, the ZTA would allow a Retail/Service Establishment (up to 5,000 SF) as a limited use in the RC zone if the site is larger than 2.5 acres and abuts or confronts industrially zoned land. Also, any parcel with an existing building on it as of October 30, 2014 would be exempt from the minimum lot area and frontage requirement. Any existing building located on any lot or parcel on October 30, 2014 would be exempt from the minimum side setbacks of the zone.

**Summary**

**Staff recommends denial of ZTA No. 15-06 to expand the land uses allowed in the RC zone under certain circumstances and revise the setbacks in the RC zone. Staff believes that the ZTA is inconsistent with the intent of the RC zone and is in conflict with policies established in master plans that include environmental protections recommending low impervious limits and low intensity land uses in watershed areas.**

**Background/Analysis**

Zoning Text Amendment (ZTA) 15-06 is 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. Although limited in applicability, staff believes that the ZTA is inconsistent with the intent of the RC zone.

Intent of RC Zone

The intent of the RC zone is to provide designated areas of the County for a compatible mixture of agricultural uses and very low-density residential development, to promote agriculture, and to protect scenic and environmentally sensitive areas. The RC zone permits an optional method Cluster Development alternative to provide greater flexibility in achieving a compatible mixture of agricultural and residential uses and to protect scenic and environmentally sensitive areas without jeopardizing farming or other agricultural uses. Staff believes that relaxing the land use requirements to permit a

general retail service (regardless of the limitation on size) possibly unrelated to agriculture is inconsistent with the intent of the RC zone.

### Retail/Service Establishment

A Retail/Service Establishment is defined as *a business providing personal services or sale of goods to the public*. Currently, only two types of retail sales and service uses are allowed in the RC zone; a Rural Antique Shop and a Rural Country Market—both uses requiring conditional use approval. Also, Nursery (retail), defined as *an establishment for selling plants and plant materials to the public as well as garden supplies, equipment, and related items*—is an agricultural use allowed only through conditional use approval. A Nursery (retail) prohibits the sale of general hardware or power equipment.

ZTA No 15-06 would allow a Retail/Service Establishment (up to 5,000 SF) as a limited use on a minimum lot area of 2.5 acres—half the lot size required for any other use located on RC zoned property unless the lot area is exempted under the provisions of section 59.7.7.1.D.8.

The limited standards for allowing a Retail/Service Establishment also require the property to abut or confront industrially zoned property. Attachment 2 depicts the GIS analysis for the properties potentially impacted by ZTA No. 15-06. There are 10 RC zoned properties in Burtonsville and located along the north side of Sandy Spring Road (Route 198) across Route 198 from industrially zoned land (IM-2.5,H-50) to the south. Five of the properties are at least 2.5 acres. At first glance, these five properties could potentially fit the criteria of “confronting” industrially zoned land. However, as defined “confronting” properties are directly across a right-of-way with a master plan width of less than 80 feet. In this case, the master plan right-of-way width along Sandy Spring Road is approximately 120 feet. Therefore, no properties fit the criteria established for allowing a Retail/Service Establishment (up to 5,000 SF) in the RC zone.

### Exemption Provisions

A lot or a parcel in the Rural Cluster (RC) zone 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 the property owner held title to the property before June 4, 1974; a reduced lot size is required for a lot created for a detached house; and the child of the property owner, or the spouse of a child, or the parents of the property owner provided they will reside in the house on the additional lot. These provisions address the ability to create child lots on the property.

ZTA No. 15-06 proposes to relax these provisions further by exempting a parcel that has an existing building on it (as of October 30, 2014) from the minimum lot area and frontage requirements of the RC zone (five acre minimum lot area and 300 feet frontage) and by exempting any existing building from the minimum side setbacks of the zone. Attachment 2 indicates that three of the properties are at least five acres in size, with two of the three having a frontage of at least 300 feet.

Staff believes that the proposed relaxation of standards conflicts with policies established in master plans that have recommendations for low impervious limits and low intensity land uses in watershed areas. Parts of Burtonsville (including the RC zoned parcels impacted by ZTA No. 15-06) are located in the Patuxent watershed and have recommended limits on imperviousness ranging from eight to 10

percent. The proposed language allowing any existing building to remain ignores the legal status of a building or a use (Section 7.7.1.A), and further exempts these buildings from certain development standards. Staff also has concerns with allowing a relaxation of the minimum lot size in a zone that typically does not allow public sewer and therefore might find it useful to have the five acre minimum lot size for locating a suitable septic system.

**Attachments**

1. ZTA No. 15-06
2. GIS Map of RC property

# ATTACHMENT 1

Zoning Text Amendment No.: 15-06  
Concerning: Rural Cluster Zone –  
Land Use and Setbacks  
Draft No. & Date: 1 – 3/16/15  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

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

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By: The District Council at the Request of the County Executive

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**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”  
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.*

*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:*

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

2 **DIVISION 59-3.1. Use Table**

3 \* \* \*

4 **Section 3.1.6. Use Table**

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

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential									Commercial/ Residential			Employment				Industrial							
					Residential Detached						Residential Townhouse													Residential Multi-Unit				
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
<b>COMMERCIAL</b>																												
RETAIL SALES AND SERVICE	<a href="#">3.5.11</a>																											
Combination Retail	<a href="#">3.5.11.A</a>																		C	C	C	C						
Retail/Service Establishment (Up to 5,000 SF)	<a href="#">3.5.11.B</a>																											
Retail/Service Establishment (5,001 - 15,000 SF)	<a href="#">3.5.11.B</a>																											
Retail/Service Establishment (15,001 - 50,000 SF)	<a href="#">3.5.11.B</a>																											
* * *																												
<b>Key:</b> P = Permitted Use    L = Limited Use    C = Conditional Use    Blank Cell = Use Not Allowed																												

7 \* \* \*

8 **Sec. 2. DIVISION 59-3.5 is amended as follows:**

10 **DIVISION 59-3.5. Commercial Uses**

11 \* \* \*

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

13 \* \* \*

14 **B. Retail/Service Establishment**

15 1. Defined

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

20 2. Use Standards

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

23 \* \* \*

24 ix. In the RC zone, a Retail Service Establishment is allowed  
25 only if the site is:

26 (a) larger than 2.5 acres; and

27 (b) abutting or confronting Industrial zoned land.

28 \* \* \*

29 **Sec. 3. DIVISION 59-7.7 is amended as follows:**

30 **Division 59-7.7. Exemptions and Nonconformities**

31 **Section 59-7.7.1. Exemptions**

32 \* \* \*

33 **D. Residential Lots and Parcels**

34 \* \* \*

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



