

Action

MEMORANDUM

January 29, 2010

TO: County Council

FROM: Jeffrey L. Zyontz, <sup>JK</sup>Legislative Attorney

SUBJECT: Action - Zoning Text Amendment 09-12, Rural Services – Development Standards

**PHED Recommendation:** On January 21, 2010 the Committee (3-0) recommended approval of ZTA 09-12 as introduced.

**Background**

Zoning Text Amendment (ZTA) 09-12, sponsored by Councilmember Knapp, was introduced on November 17, 2009. This ZTA would allow parcels in the Rural Service (RS) zone with less than 300 feet of road frontage to develop with the frontage that existed when the Rural Service zone was applied. The sponsor believes that this provision was mistakenly absent when the RS zone was first applied. The Planning Staff report found that RS zoned properties are only located in the Rt. 355 Business Corridor north of Hyattstown. Seven of the 13 contiguous RS parcels have frontage less than 300 feet.

On January 12, 2010 the Council held a public hearing. The Planning Board and the Planning Board Staff recommended approval of ZTA 09-12 as introduced. Planning Staff and public testimony agree that the grandfathering provision to allow less than 300 feet of road frontage was inadvertently omitted when the RS zone was adopted.

**What is the purpose of the RS zone?**

Section 59-C-9.24 of the Zoning Ordinance defines the purpose of the RS zone as follows:

The purpose of this zone is to allow limited types of service and commercial uses in rural areas of the County. Such uses must support traditional low density rural land uses, while protecting and maintaining an overall rural character. Further, it is intended that this zone be located in areas that are not suitable for primarily residential development. The zone must be located in areas recommended on an approved and adopted master plan and must front on and have direct access to a road of arterial or higher classification.

Development in this zone must have a rural appearance and character. In order to maintain rural character, development must have limited imperviousness and may provide landscaping and screening and a high percentage of open space. Landscaping and screening is also to be used to provide adequate screening from adjacent land uses. All proposed landscaping, and screening must be approved at the site plan review.

**Can the purpose of the RS zone be retained with road frontages less than 300 feet?**

Planning Staff is confident that site plan review would assure that a rural character is maintained. The Planning, Housing, and Economic Development Committee recommended approval of ZTA 09-12 as introduced.

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Zoning Text Amendment No: 09-12  
Concerning: Rural Service (RS) Zone -  
Development Standards  
Draft No. & Date: 1 – 11/10/09  
Introduced: November 17, 2009  
Public Hearing: January 12, 2010  
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: Councilmember Knapp

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AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- exempt pre-existing lots or parcels in the Rural Service zone from the minimum frontage requirements; and
- generally amend the provision related to the standards for development in the Rural Service zone.

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

DIVISION 59-C-9  
Section 59-C-9.42

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

## OPINION

Zoning Text Amendment No. 09-12, sponsored by Councilmember Knapp, was introduced on November 17, 2009. This ZTA would allow parcels in the Rural Service (RS) zone with less than 300 feet of road frontage to develop with the frontage that existed when the Rural Service zone was applied. The sponsor believed that this provision was mistakenly absent when the RS zone was first applied.

The Montgomery County Planning Board and the Planning Board Staff in its report to the Council recommended that the text amendment be approved as introduced.

The County Council held a public hearing on January 12, 2010 to receive testimony concerning the proposed text amendment. Public testimony agreed with the sponsor that the grandfathering provision to allow less than 300 feet of road frontage was inadvertently omitted when the RS zone was adopted by the Council. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on January 21, 2010 to review the amendment. The Committee recommended approval of ZTA 09-12 as introduced.

The District Council reviewed Zoning Text Amendment No. 09-12 at a worksession held on February 2, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

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. 09-12 will be approved as introduced.

## 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-C-9 is amended as follows:**

2           **Sec. 59-C-9.4. Development standards.**

3           The following requirements apply in all cases, except as specified in the optional  
 4           standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and  
 5           the exemption provisions of section 59-C-9.7.

6           \*    \*    \*

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
<b>59-C-9.42. Minimum net lot area.</b>							
No main building, together with its accessory buildings, shall be located on a lot having a net area of less than	5 acres	5 acres	5 acres	40,000 sq. ft.	2 acres <sup>4</sup>	25,000 sq. ft.	25,000 sq. ft.
<b>59-C-9.43. Minimum lot width (in feet):</b>							
(a) Measured along front building line	300	300	300	125	125	100	100
(b) Measured along front street line	25	300	300	25	300*	25	25

7           \*           A minimum street frontage is not required if the lot or parcel:

8           1) was created before the application of the RS zone to the lot or parcel; and

9           2) has not changed in size or configuration by deed after the application of

10          the RS zone to the lot or parcel.

11          \*           \*           \*

12           **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of  
13 Council adoption.

14

15 This is a correct copy of Council action.

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17 \_\_\_\_\_

18 Linda M. Lauer, Clerk of the Council



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

**MONTGOMERY COUNTY PLANNING BOARD**

The Maryland-National Capital Park and Planning Commission

January 7, 2010

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Zoning Text Amendment No. 09-12

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 09-12 at its regular meeting on January 7, 2010. By a vote of 4:0, the Board recommends approval of the text amendment as introduced.

The text amendment proposes to amend the Zoning Ordinance to allow parcels in the Rural Service (RS) zone with less than the 300-foot road frontage requirement to develop with the frontage that existed when the RS zone was applied. The sponsor of ZTA 09-12 believes this grandfathering provision was mistakenly omitted when the RS zone was first established.

At the time of establishment of the RS zone, footnote 4 of the development standards table established grandfather language that allowed any lot smaller than two acres (the established minimum net lot area), created by deed and existing at the date of inclusion in the zone to be created as a record lot. In its transmittal comments to the County Council, the Planning Board also recommended that this grandfathering provision be extended to the 300-foot road frontage requirement in order to allow those existing parcels not wide enough at their road frontage to qualify for development in the zone. The Board agrees with the sponsor of the text amendment that this provision was omitted inadvertently.

## CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, January 7, 2010.



Royce Hanson  
Chairman

RH: GR



MONTGOMERY COUNTY PLANNING DEPARTMENT  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB  
Item #5  
1/7/10

**DATE:** December 10, 2009  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review *RK*  
 Ralph Wilson, Zoning Supervisor, Development Review *RW*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To exempt pre-existing lots or parcels in the Rural Service zone from the minimum frontage requirements

**TEXT AMENDMENT:** No. 09-12  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Councilmember Knapp  
**INTRODUCED DATE:** November 17, 2009

**PLANNING BOARD REVIEW:** January 7, 2010  
**PUBLIC HEARING:** January 12, 2010; 1:30 PM

**STAFF RECOMMENDATION:** APPROVAL to exempt pre-existing lots or parcels in the Rural Service (RS) zone from the minimum frontage requirements if: the lot or parcel was created before the application of the RS zone to the lot or parcel; and the lot or parcel has not been altered in size or configuration since the application of the RS zone.

**BACKGROUND/ANALYSIS**

ZTA 09-12 would allow parcels in the Rural Service (RS) zone with less than 300 feet of road frontage (frontage requirement is a minimum of 300 feet in the RS zone) to develop with the frontage that existed when the RS zone was applied. The sponsor of ZTA 09-12 believes this grandfathering provision was mistakenly omitted when the RS zone was first established.

Establishment of the RS zone

On October 25, 1994, Zoning Text Amendment No. 94021 (Ordinance No. 12-79) established the RS zone as recommended in the Clarksburg Master Plan. The 1994 Clarksburg Master Plan approved the Rt. 355 Business Corridor (Hyattstown Special Study Area) for light industrial and rural service uses (see Attachment 2). Currently, the only RS zoned properties in the County are located in the Rt. 355 Business Corridor. Along this corridor, there are 13 contiguous RS zoned parcels. Seven of the 13 RS parcels located along the corridor have frontage less than 300 feet.

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[www.MontgomeryPlanning.org](http://www.MontgomeryPlanning.org)

**RS Zone**

The purpose of the RS zone is to allow limited types of service and commercial uses in rural areas of the County. Such uses must support traditional low density rural land uses, while protecting and maintaining an overall rural character. Further, it is intended that this zone be located in areas that are not suitable for primarily residential development. The zone must be located in areas recommended on an approved and adopted master plan and must front on and have direct access to a road of arterial or higher classification.

Development in this zone must have a rural appearance and character. In order to maintain rural character, development must have limited imperviousness and may provide landscaping and screening and a high percentage of open space. Landscaping and screening is also to be used to provide adequate screening from adjacent land uses. All proposed landscaping and screening must be approved at the site plan review.

The proposed ZTA as introduced is depicted below.

**Division 59-C-9 AGRICULTURAL ZONES.**

\* \* \*

**Sec. 59-C-9.4. Development standards.**

The following requirements apply in all cases, except as specified in the optional standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and the exemption provisions of section 59-C-9.7.

\* \* \*

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
59-C-9.42. Minimum net lot area.							
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59-C-9.43. Minimum lot width (in feet):							

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(b) Measured along front street line	25	300	300	25	300*	25	25

\* A minimum street frontage is not required if the lot or parcel:

- 1) was created before the application of the RS zone to the lot or parcel; and
- 2) has not changed in size or configuration by deed after the application of the RS zone to the lot or parcel.

\* \* \*

At the time of establishment of the RS zone, footnote 4 of the development standards table established grandfather language that allowed any lot smaller than two acres (the established minimum net lot area), created by deed and existing at the date of inclusion in the zone to be created as a record lot. In its transmittal comments to the County Council, the Planning Board also recommended that this grandfathering provision be extended to the 300-foot road frontage requirement in order to allow those existing parcels not wide enough at their road frontage to qualify for development in the zone. Staff agrees with the sponsor of the text amendment that this provision was omitted inadvertently.

In addition and as stated in the purpose clause, the rural character of this zone can be maintained through a number of ways (open space, landscaping, screening, limited imperviousness, etc.). As such, staff believes that an existing lot less than two acres or narrower along the road frontage than 300 feet can still meet the rural character intent of the RS zone.

### RECOMMENDATION

For the reasons stated above, staff recommends approval of ZTA 09-12 to exempt pre-existing lots or parcels in the Rural Service (RS) zone from the minimum frontage requirements if: the lot or parcel was created before the application of the RS zone to the lot or parcel; and the lot or parcel has not been altered in size or configuration since the application of the RS zone.

Attachment 1 depicts the proposed text amendment as introduced.

GR

