

Zoning Text Amendment No.: 10-15
Concerning: Agricultural Zones - Airstrips
Draft No. & Date: 1 – 12/02/10
Introduced: December 14, 2010
Public Hearing: January 18, 2011
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**

By: Councilmembers Elrich and Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- clarify that airstrips allowed in agricultural zones must be associated with farming operations; and
- provide an amortization period for certain approved airstrip special exceptions

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

Section 59-C-9.3. Land uses.
DIVISION 59-G-2 SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS.
Section 59-G-2.00.4 Airstrip associated with farm.

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. 10-15, sponsored by Councilmembers Elrich and Rice, was introduced on December 14, 2010.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be reviewed by the County Attorney's Office concerning the issue of preemption by the Federal Aviation Act.

The County Council held a public hearing on January 18, 2011 to receive testimony concerning the proposed text amendment. The Agricultural Preservation Advisory Board recommended against the adoption of ZTA 10-15. In its opinion, the ZTA would be too restrictive and did not recognize that the 1964 General Plan emphasized the need "to provide and protect large open spaces for recreational opportunities". The majority of written testimony supported ZTA 10-15 as a method to protect agriculture. Some testimony opposed ZTA 10-15, emphasizing that airstrips are not harmful to agriculture.

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 February 28, 2011 to review the amendment. The Committee (2-1, Committee Chair Floreen opposed) recommended approval of ZTA 10-15 with amendments to:

- 1) Add 2 requirements for the approval of a special exception:
 - (a) Prohibit paved airstrips;
 - (b) Require that airstrips be located at least 1,000 feet from a property line; and
- 2) Delete the amortization period and make the ZTA effective on the date of approval.

The Committee majority was convinced by the public testimony that the adoption of ZTA 10-15 with amendments would be in the public interest. The additional requirements recommended by the Committee are consistent with farming operations. The prohibition on paving would allow the airstrip to easily revert to direct agricultural use. The distance required would allow airstrips without diminishing the ability of neighbors to raise livestock or board horses.

The Committee was aware that there are no approved special exceptions for airstrips in the RDT zone, although one application is currently pending before the Board of Appeals. The Committee was informed that ZTA 10-15 would apply to the pending application and all future applications. Under those circumstances, the Committee recommended deleting the amortization period proposed by ZTA 10-15 and changing the effective date to make the ZTA effective when it is approved.

Committee Chair Floreen disagreed with the Committee. She agreed with the Planning Board; it would be more appropriate to introduce a new ZTA that would simply eliminate airstrips as a special exception in the RDT zone. In addition, Committee Chair Floreen opposed the application of ZTA 10-15 to the pending special exception application.

25 Airstrip associated with [a farm] farming operations..... G-2.00.4

26 * * *

27 Sec. 59-G-2.00.4. Airstrip associated with [farm] farming operations.

28 A special exception may be granted for an airstrip on a farm, as defined in section
29 59-A-2.1, subject to the following requirements:

30 (a) Only one airplane is permitted to be permanently housed at the airstrip.

31 (b) The applicant must obtain a favorable air space determination from the
32 Federal Aviation Agency (FAA) in response to an application filed on Form
33 FAA 7480.1, [title] titled "Notice of Proposed Landing Area Established," or
34 whatever form number and title the FAA may require.

35 (c) The aircraft using the airstrip must aid farming operations.

36 (d) The airstrip must not be paved.

37 (e) The airstrip must be set back from any property line a minimum of 1,000
38 feet.

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40 **Sec. 3. Effective date.** This ordinance becomes effective [[20 days after]] on
41 the date of Council adoption.

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43 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council