

Ordinance No: 15-71
Zoning Text Amendment No: 06-01
Concerning: Modifications to the
Rural Village Center Overlay Zone
Draft No. & Date: 4 – 3/31/06
Introduced: January 24, 2006
Public Hearing: 3/7/06; 1:30 p.m.
Adopted: May 25, 2006
Effective: June 14, 2006

**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: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- amending the Rural Village Center Overlay Zone 59-C-18.23; and
- generally amending the Rural Village Center Overlay zone.

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

DIVISION 59-C-18	“OVERLAY ZONES”
Section 59-C-18.231	“Purpose”
Section 59-C-18.232	“Regulations”
 DIVISION 59-G-2	 “SPECIAL EXCEPTION STANDARDS AND REQUIREMENTS”
Section 59-G-2.06	“Automobile filling stations”
Section 59-G-2.13.1	“Child day care facility”
[[Section 59-G-2.26	“Group home, large”]]

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
*Underlining indicates text that is added to existing laws
by the original text amendment.*
*[Single boldface brackets] indicate text that is deleted from
existing law by the 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 (ZTA) No. 06-01 was introduced on January 24, 2006, to amend the Rural Village Center Overlay Zone. As introduced, the proposed amendment would prohibit certain uses in commercial and residential zones surrounded by the Rural Density Transfer (RDT) zone and limit density and green area requirements for commercial zones in villages surrounded by the RDT zone to what is allowed in the underlying zone. The proposed amendment would also allow more mixed-uses and appropriately scaled uses as determined by the underlying zone.

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

The County Council held a public hearing on March 7, 2006, to receive testimony concerning the proposed text amendment. 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 worksessions on March 17, March 20, and March 27, 2006 to review the amendment. The Committee considered all the testimony on the zone and recommended that ZTA 06-01 be approved with amendments.

The Committee recommended specifying that mixed-use buildings are allowed only to the extent allowed in the underlying zone. The Committee further recommended allowing the Planning Board to modify setback and green area requirements if the Board determines that a modification would better replicate existing development patterns. The Committee recommended allowing the Planning Board to increase commercial density from the limit in the existing zone (0.2 floor area ratio (FAR)) to the maximum allowed in the underlying zone if recommended in a master or sector plan and if the increase would better replicate existing development patterns. The Committee disagreed with the Planning Board recommendation to distinguish villages surrounded by the RDT zone from villages not surrounded by the RDT zone and recommended revising the list of permitted uses significantly to conform with this recommendation. The Council receive testimony requesting the zone permit drive-in eating establishments, but the Committee disagreed.

The District Council reviewed Zoning Text Amendment No. 06-01 at a worksessions held on April 4 and May 25, 2006, 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. 06-01 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. DIVISIONS 59-C-18 AND 59-G-2 ~~[[is]]~~ ARE amended as follows:

DIVISION 59-C-18. OVERLAY ZONES.

*** * ***

59-C-18.23. Rural village center overlay zone.

59-C-18.231. Purpose

It is the purpose of this overlay zone to create attractive, cohesive, and pedestrian-friendly rural village centers, consisting [primarily of retail uses] of a mix of ~~[[appropriately scaled]]~~ uses as allowed in the underlying zones, as limited in this section. Specifically, the overlay zone is designed to:

- (a) Draw upon the open, green character of the surrounding area, emphasizing this character through streetscape design, open space, and landscaping.
- (b) Maintain and enhance the rural village character through compatible scale, massing, siting, and setbacks for new and expanded uses.
- (c) Emphasize the pedestrian and bicycle circulation through street design, including streetscape and traffic calming, and trail networks.
- (d) Encourage a variety of uses that serve the needs of the local community, including mixed-use buildings that ~~[[can]]~~ provide housing and commercial ~~[[uses]]~~ ~~[[space]]~~ uses to the extent allowed in the underlying zone~~[[, and if supported in the applicable master or sector plan]]~~.
- (e) Provide opportunities for appropriately scaled new and existing business expansion, while keeping the commercial areas compact and low density.

59-C-18.232. Regulations

(a) *Commercial zones.* Where a lot is either partially or totally in a commercial zone the following regulations apply:

(1) *Land uses.* All permitted or special exception uses allowed in the underlying zones are allowed in the commercial portion of the overlay zone except as [[prohibited]] noted below [[or in the applicable master plan.]]:

[[The following uses are prohibited in [the] all Rural Village Center overlay zones:]] The following uses are prohibited:

Amusement center

Animal boarding place

Appliance repair shops

Appliance store

Automobile fluid maintenance station

Automobile, light truck and light trailer rentals, outdoor, except any automobile rental business in existence on October 13, 1998 may continue as a conforming use, and may be altered, repaired, or replaced in accordance with provisions of the zone in effect at the time the use was established

Automobile parts, supplies and tire stores

Automobile sales, indoor

Automobile sales, outdoor

Baseball driving range

Boat sales, indoors

Building materials and supplies

Chancery

Eating and drinking establishments, drive-in
Heliports
Helistops
Ice storage
International Organization
Multi-family dwellings, except when included in a structure
containing retail or commercial uses
Newspaper, printing or publishing shops
Rifle or pistol ranges, indoor
Roller and ice skating rinks
Stadiums or arenas
Swimming pools, commercial

The following uses [[are prohibited in designated overlay zone
villages that are surrounded by the Rural Density Transfer Zone]] may
be allowed only by special exception, subject to the review standards
of 59-G:

[[Amusement center
Appliance store]]

Automobile filling station; however, any automobile filling station
existing before June 14, 2006 not in compliance with the special
exception standards of 59-G-2.06 (9) may continue as a conforming
use.

[[Automobile fluid maintenance station]]

[[Child day care center]]

Dry cleaning and laundry establishments of no more than 3,000 sf of
gross floor area (Section 59-G-1 review standards only)

81 [[Funeral parlors or undertaking establishments]]

82
83 (2) *Development standards:*

84
85 (A) *Setbacks.* All buildings, off-street parking, loading and
86 maneuvering areas must be set back from lot lines adjoining
87 any residential or agriculture [[zones]] zone a distance of not
88 less than the applicable front, rear, or side yard of the adjoining
89 [[residential]] zone [[or agricultural zone, where applicable]].
90 However, the Planning Board may authorize alternative
91 setbacks that replicate existing development patterns if
92 recommended in a master or sector plan. All other setbacks
93 will be determined at site plan.

94
95 (B) *Density.* Except [[in villages surrounded by the Rural Density
96 Transfer Zone]] as noted below, [The] the floor area ratio for
97 commercial uses is limited to FAR 0.2 and is computed only on
98 the area of the underlying commercially zoned portion of the
99 site. Any project that received preliminary plan approval before
100 November 4, 2002 for commercial development at an FAR
101 greater than 0.2, is not subject to the FAR limitation of this
102 section and may be developed, as a conforming use, in
103 accordance with the approved preliminary plan.

104
105 [[Density for villages surrounded by the Rural Density Transfer
106 Zone is that of the underlying zone.]]

The Planning Board may [[authorize]] recommend density in excess of 0.2 FAR, up to the maximum allowed in the underlying zone, if authorized in a master or sector plan, if the Planning Board determines that the higher density is compatible with surrounding uses and will better replicate existing development patterns in a village.

(C) *Green area.* Except [[in villages surrounded by the Rural Density Transfer Zone]] as noted below, [The] the minimum green area is 35% of the gross tract area. [[The [[Green]] green area [[requirements]] requirement for villages surrounded by the Rural Density Transfer Zone is that of the underlying zone.]] The Planning Board may authorize less green area if recommended in a master or sector plan if the Planning Board determines that reduced green area will better replicate existing development patterns in a village.

(D) *Building height.* No building [[can]] may exceed a height of 35 feet.

(E) *Off street parking and loading.* Parking must be provided in accordance with the provisions of Division 59-E with the following exceptions:

1. Parking facilities must be located to maintain a pedestrian-friendly street orientation.
2. Trees must be planted and maintained throughout the parking facility to assure that at least 30% of the area is

shaded. Shading must be calculated using the area of the tree crown at 15 years after the parking facility is built.

3. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002 the entire off-street parking facility must be brought into conformance with this section.

(F) Commercial facilities must provide, as necessary, noise mitigation measures to minimize impact on adjacent residentially used properties.

(G) All outdoor lighting of commercial uses must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. Unless the Planning board requires different standards for a recreational facility or to improve public safety, luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.

(b) *Residential zones*: Where a lot is in a residential zone the following regulations apply:

(1) *Land uses*. All uses as allowed in the underlying zone as set forth in Sec. 59-C-1.31, except as prohibited below. In addition, residentially zoned land may provide septic capacity for an

adjacent commercial use, or adjacent residential property,
consistent with the applicable master plan recommendations.

[[The following uses are prohibited in village overlay zones
surrounded by the Rural Density Transfer Zone:

Group home, large]]

Life care facility

Child day care center

[[Clinic, medical or dental for 5 or more medical practitioners

Day care facility for more than 4 senior adults and persons with
disabilities

Domiciliary care for more than 16 residents]]

[[Hospitals]]

Hospital

Life sciences center

Nursing home

[[Golf courses or country clubs]]

Golf course or country club

(2) *Development standards.* Except as noted below, [[The]] the
development standards are the same as those in the underlying zones.

(A) *Setbacks.* If recommended in a master or sector plan, the
Planning Board may authorize alternative setbacks that
replicate existing development patterns at the time of site plan
review.

59-C-18.233. Procedure of application and approval.

A site plan for any development in the Rural Village Overlay Zone must be approved under the provisions of Section 59-D-3. Development includes the following:

- (a) Construction of a new building;
- (b) Additions and other exterior improvements to existing buildings that increase the amount of gross floor area on a site; and
- (c) Additions of off-street parking spaces or revisions to parking facilities that would otherwise require the approval of new parking facilities under Section 59-E-4.1.

59-C-18.234. Planning Board approval.

The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:

- (a) The site plan is consistent with the recommendations and guidelines in the applicable Master Plan; and
- (b) The site plan meets all of the requirements of this overlay zone as well as the applicable requirements of the underlying zone.

**ARTICLE 59-G. SPECIAL EXCEPTIONS, VARIANCES, AND
NONCONFORMING USES**

DIVISION 59-G-2. Special standards and requirements

* * *

59-G-2.06. Automobile filling stations.

* * *

- (b) In addition, the following requirements must be complied with:

* * *

(9) In a Rural Village Overlay Zone the following additional standards apply for new development:

(A) Car wash is prohibited.

(B) Pump canopies must not exceed 35 feet in height.

(C) [[Retail sales must be limited to automotive related items.

(D)] Any structure approved for the use must not exceed the scale and bulk of existing commercial structures in the village.

* * *

59-G-2.13.1. CHILD DAY CARE FACILITY.

* * *

[(c) In the Rural Village Center Overlay Zone, the following additional standards apply:

(1) A child care center for over 31 children is prohibited.

(2) Any building constructed or remodeled for the use must fit into the scale and context of the village existing character.]]

* * *

SEC. 59-G-2.26. GROUP HOME, LARGE.

* * *

240 [[c) in the Rural Village Center Overlay Zone any building constructed or
241 remodeled for the use must fit into the scale and context of the existing
242 village character.]]

243
244 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
245 date of Council adoption.

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248 This is a correct copy of Council action.

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252 Elda M. Dodson, CMC, Acting Clerk of the Council