



Subdivision Regulation Amendment (SRA) No. 14-01, Platting Exceptions – Rural Village Overlay Zones

Zoning Text Amendment (ZTA) No. 14-06, Rural Village Overlay Zones – Site Plan Requirement Exceptions



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Description

SRA No. 14-01 proposes to expand the existing provisions of Chapter 50 to exempt certain small commercial additions and the reconstruction or replacement of certain existing buildings located in Rural Village Overlay zones from subdivision platting requirements. Specifically, the recording of a subdivision plat under this Chapter would not be required for a building permit for an addition to, or to reconstruct or replace, a building on commercially zoned property:

- (1) adjoining a state highway;
- (2) located in a Rural Village Overlay zone;
- (3) with less than 10,000 square feet of existing gross floor area where subsequent building permits cumulatively allow net increases in total gross floor area of less than 2,000 square feet;
- (4) that includes a description and locational survey drawing of the lot and proposed structure which shows that the additional floor area will not extend into any adopted master plan road right-of-way; and
- (5) that is submitted within one year after demolition or destruction of the previous building

ZTA 14-06 proposes to exempt from site plan requirements those properties that are exempt from platting requirements under the provisions above.

Summary

Staff recommends approval of SRA 14-01, as modified by staff, to clarify that the intent is for this provision to apply to the Rural Village Overlay zone (Darnestown and Damascus) but not the Sandy Spring/Ashton Rural Village Overlay zone. Staff recommends approval of ZTA 14-06 as introduced.

The Subdivision Regulations generally specify that whenever land in the county is subdivided for any purpose, a plat of such subdivision must be recorded in the land records of the county. They further specify that, with certain exceptions, the Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure, unless the dwelling or structure is located

on a lot or parcel of land which is shown on a recorded plat. A subdivision record plat requires engineered drawings and the dedication of land for master planned rights-of-way. As with certain other exceptions to the platting requirements (see Attachment 3), the County wants certain small commercial properties in the Rural Village Overlay zone to be exempt from these requirements. Attachment 5 includes maps and a table depicting the 12 properties within the two areas of the County where the Rural Village Overlay zone has been designated-Damascus and Darnestown. For informational purposes (not included as part of the SRA and ZTA), the table and maps also depict the 32 properties zoned Sandy Spring/Ashton Rural Village Overlay zone.

SRA No. 14-01 would address the situation where the burdens of proposed rights-of-way fall on small unplatted parcels. The sponsors believe that the platting requirement for small projects (less than 10,000 square feet) is not necessary. In addition, ZTA 14-06 proposes to exempt small projects that fit the criteria establish in SRA 14-01 from the site plan requirement of the zone.

In general, staff supports expanding the existing provisions of Chapter 50 to exempt small commercial additions to structures located in the Rural Village Overlay zone from subdivision platting requirements. Staff recommends one plain language modification to the SRA as introduced to clarify that the intent is for this provision to apply to the Rural Village Overlay zone (Darnestown and Damascus) but not the Sandy Spring/Ashton Rural Village Overlay zone. Staff has no objection to the exemption from the site plan requirement (ZTA 14-06) based on the limited expansion provision and since all other applicable regulations and non-discretionary development standards of the zone still apply including permitted and prohibited land uses, setbacks, density, green area, building height etc.. The SRA language as modified by staff is depicted in Attachment 1.

Staff recommends approval of SRA 14-01 with the one minor modification and recommends approval of ZTA 14-06 as introduced.

ATTACHMENTS

1. SRA 14-01 as modified by staff
2. ZTA 14-06
3. Chapter 50-9, Exceptions to platting requirements.
4. Rural Village Overlay zone regulations
5. Maps and Table of Rural Village Overlay Areas

ATTACHMENT 1

Subdivision Regulation Amendment No.: 14-01
Concerning: Platting requirements – exceptions –
Rural Village Overlay zones
Draft No. & Date: 2 – 5/15/14
Introduced: May 22, 2014
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**

By: Council President Rice and Councilmember Floreen

AN AMENDMENT to the Subdivision Regulations to:

- Exempt certain small commercial additions and the reconstruction or replacement of certain existing buildings in Rural Village Overlay zones from certain platting requirements

By amending the following section of County Code Chapter 50:
Section 50-9. Exceptions to platting requirements.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</i>

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:

ATTACHMENT 2

Zoning Text Amendment No.: 14-06
Concerning: Rural Village Overlay
zones – site plan
requirements – exceptions
Draft No. & Date: 2 – 5/15/14
Introduced: May 22, 2014
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**

By: Council President Rice and Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- exempt certain property from certain site plan requirements in Rural Village Overlay zones

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-18.23. Rural village center overlay zone.
Section 59-C-18.233. Procedure for application and approval.

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 text that 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.*

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-C-18 is amended as follows:

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

* * *

59-C-18.233. Procedure for 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, except that a site plan is not required for a property that is exempt from platting requirements under Section 50-9(j). Development as used in this paragraph includes [the following]:

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

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Sec. 50-9. Exceptions to platting requirements.

Recording of a subdivision plat under this Chapter is not required for:

(a) *Agriculture and uses located on agricultural land.*

(1) A bona fide division or partition of land that is and will remain in exclusively agricultural use, as agriculture is defined in this chapter.

(2) Land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires issuance of a building permit. This includes a special exception use approved under divisions 59-G-1 and 59-G-2, unless the Board of Appeals requires subdivision as a condition of the special exception.

(3) The issuance of a building permit for any equestrian facility building or structure on land classified in an agricultural zone.

(b) *Court action.* Partition of lands by will or through action of a court of competent jurisdiction unless or until development of the lands is proposed.

(c) *Public taking.* Where a property has been changed in size or shape subsequent to the date of its inclusion within the district or subsequent to October 19, 1934, whichever is the later date, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right of way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

(d) *Adjoining properties.* The sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties for the purpose of small adjustments in boundaries; provided, that additional lots are not thereby created and that the original lots are not reduced below the minimum sizes required by this Chapter or by Chapter 59 of this Code. This exemption is not applicable to minor lot line adjustments that occur after May 19, 1997.

(e) *Utility rights-of-way.* A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as part of an electric transmission line right of way or other public utility right of way; provided, that if a parcel resulting from such division is ever to be used as a building site for other than an electric transmission line or other public right of way, then before a building permit may be issued for such other use, a plat must be filed and recorded.

(f) *Single residential lot.*

(1) An application for a building permit for one (1) single-family detached dwelling unit on a parcel not previously included on a recorded plat, which has not changed in size or shape since June 1, 1958, provided:

(A) A description and location plat of the lot and proposed structure have been furnished with the permit application, sufficiently detailed, to locate the same on the base maps of Montgomery County.

(B) Approval of the permit application would not result in obstructing the future opening, extension or widening of any road deemed essential in the public interest, nor would it otherwise jeopardize any planned public facility.

(C) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width.

(D) Approval of the permit would not affect adversely the general plan for the physical development of the regional district or any portion thereof.

(2) An application for a building permit to rebuild a one-family detached dwelling unit, on a parcel or on part of a lot, when the permit is to rebuild a dwelling involuntarily demolished by fire, wind, falling debris, water, or other force of nature. The new replacement dwelling must be located:

(A) on the same footprint as the demolished dwelling; or

(B) on the same lot or part of a lot where current zoning setback standards are satisfied.

(g) Telecommunications towers/antennas, including associated accessory structures, unless other development of the land requires a subdivision plan.

(h) *Certain Residential Property in the City of Takoma Park.* An application for a building permit for one single-family detached dwelling unit on property located in the portion of the City of Takoma Park annexed into Montgomery County on July 1, 1997 that was recorded by a deed prior to January 1, 1982 and which remains otherwise buildable under the Prince George's County Zoning and Subdivision Regulations on June 30, 1997, provided that a description and locational survey drawing of the lot and proposed structure have been furnished with the permit application, sufficiently detailed to locate the lot and structure on the 1 inch equals 200 foot scale base map of Montgomery County.

(i) *Certain commercial properties adjoining state highways.* An application for a building permit for an addition to a building on commercially zoned property:

(1) adjoining a state highway;

(2) located within a state approved Community Legacy Plan Area on October 30, 2012;

(3) with less than 10,000 square feet of gross floor area on October 30, 2012 where subsequent building permits cumulatively allow increases in total gross floor area by less than 2,000 square feet; and

(4) that includes a description and locational survey drawing of the lot and proposed structure on a 1 inch equals 50-foot scale base map of Montgomery County in any building permit application that demonstrates that the additional floor area will not extend into any adopted master plan road right-of-way.

Sec. 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 of a mix of 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 provide housing and commercial uses to the extent allowed in the underlying zone.
- (e) Provide opportunities for appropriately scaled new and existing business expansion, while keeping the commercial area 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 noted below:

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 and publishing shops

Rifle or pistol ranges, indoor

Roller and ice skating rinks

Stadiums or arenas

Swimming pools, commercial

The following uses may be allowed only by special exception, subject to the review standards of 59-G:

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

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

(2) Development standards:

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

(B) Density. Except as noted below, the floor area ratio for commercial uses is limited to FAR 0.2, and is computed only on the area of the underlying commercially zoned portion of the site. Any project that received preliminary plan approval before November 4, 2002 for commercial development at an FAR greater than 0.2, is not subject to the FAR limitation of this section and may be developed, as a conforming use, in accordance with the approved preliminary plan.

The Planning Board may 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 as noted below, the minimum green area is 35% of the gross tract area. 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 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 percent 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.

Life care facility

Child day care center

Hospital

Life sciences center

Nursing home

Golf course or country club

(2) Development standards. Except as noted below, 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 for 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 a new parking facilities plan 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.

RURAL VILLAGE OVERLAY ZONE PROPERTIES (Highlighted)

ATTACHMENT 5

1	00002486	MENCIA INTERPRISES LLC	24230 OLNEY LAYTONSVILLE RD, GAITHERSBURG MD 20882
2	00007160	MENCIA ENTERPRISES 2 LLC	24221 LAYTONSVILLE RD, GAITHERSBURG MD 20882
3	00397950	SMWS GROUP LLC	14121 SENECA RD, GERMANTOWN MD 20874
4	03233800	HARRIS DARNESTOWN LLC	14101 DARNESTOWN RD, GAITHERSBURG MD 20878
6	00701590	ASHTON MEETING LLC	17821 NEW HAMPSHIRE AVE, ASHTON MD 20861
7	00703532	M & W COMPANY	17800 NEW HAMPSHIRE AVE, ASHTON MD 20861
8	00705028	SANDY SPRING NATIONAL BANK	0 NEW HAMPSHIRE AVE, MD 0
9	01526737	STABLER 1848 LLC	0 OLNEY SANDY SPRING RD, MD 0
10	03315182	ALLOWAY BUILDING L L C	17830 NEW HAMPSHIRE AVE, ASHTON MD 20861
11	00397961	SMWS GROUP LLC	14121 SENECA RD, GERMANTOWN MD 20874
12	03068288	SANDY SPRING NATL BANK &	17841 NEW HAMPSHIRE AVE, ASHTON MD 20861
13	00701043	PMIG MD 085 LLC	17840 NEW HAMPSHIRE AVE, ASHTON MD 20861
14	02860303	STABLER 1848 LLC	17810 MEETING HOUSE RD, SANDY SPRING MD 20860
15	00397948	MURPHY LAND GROUP LLC	14119 SENECA RD, GERMANTOWN MD 20874
16	00003253	MENCIA ENRIQUE M & EILEEN J	24220 LAYTONSVILLE RD, GAITHERSBURG MD 20882
17	00718282	FIREHOUSE CENTER LLC	816 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
18	00718271	FIREHOUSE CENTER LLC	816 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
19	00718351	SANDY SPRING NATL BANK &	908 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
20	00708831	NEW ERA INV GRP LTD CO	905 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
21	00714604	YOUNG STEVEN A & C V	913 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
22	00715153	METRO SERVICE LLC	17816 NEW HAMPSHIRE AVE, ASHTON MD 20861
23	00705520	SANDY SPRING NATIONAL BANK	17827 NEW HAMPSHIRE AVE, ASHTON MD 20861
24	00711793	AMICUS LLC	500 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
25	00711782	OLIVE BRANCH COMMUNITY CHURCH INC	0 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
26	01958698	COOPERSMITH MARYLAND PROP LLC	14106 SENECA RD, GERMANTOWN MD 20874
27	03348422	DERRICK BROTHERS L L C	0 NEW HAMPSHIRE AVE, MD 0
28	03322688	DERRICK BROTHERS LLC	2 ASHTON RD, ASHTON MD 20861

29	00393245	DARVISH ENTERPRISES LLC	14115 SENECA RD, GERMANTOWN MD 20874
30	01823874	DARVISH ENTERPRISES LLC	14111 SENECA RD, GERMANTOWN MD 20874
31	00390617	COOPERSMITH MARYLAND PROP LLC	14020 DARNESTOWN RD, DARNESTOWN MD 20878
32	00702344	SANDY SPRING NATL BANK &	0 ASHTON RD, MD 0
33	00714400	NEBULA LLC	1001 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
34	00718362	SANDY SPRING NATL BANK &	0 OLNEY SANDY SPRING RD, MD 0
35	03068290	DERRICK BROTHERS LLC	10 ASHTON RD, ASHTON MD 20861
36	03015441	POWER FUEL & TRANSPORT REAL ESTATE	501 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
37	00720057	NEW ERA INVESTMENT GRP	0 OLNEY SANDY SPRING RD, MD 0
38	00710140	SHAHROOZ GHASSEM	805 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
39	03636198	VANIC LLC	14105 SENECA PL, GAITHERSBURG MD 20878
40	00705462	SANDY SPRING NATIONAL BANK	0 ASHTON RD, MD 0
41	00710151	SHAHROOZ GHASSEM	0 OLNEY SANDY SPRING RD, MD 0
42	01869728	STABLER 1848 LLC	1100 OLNEY SANDY SPRING RD, SANDY SPRING MD 20860
43	00711190	CAPITAL ONE NATIONAL ASSOCIATION	12 OLNEY SANDY SPRING RD, ASHTON MD 20861
44	00705212	NEW ERA INVESTMENT GRP	0 OLNEY SANDY SPRING RD, MD 0
45	00720718	CAPITAL ONE NATIONAL ASSOCIATION	17825 PORTER RD, ASHTON MD 20861





