

MEMORANDUM

September 5, 2013

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz,  Legislative Attorney
SUBJECT: Zoning Text Amendment 13-05, US 29 Overlay Zone – Standards

Zoning Text Amendment (ZTA) 13-05, sponsored by Councilmembers Ervin and Floreen, was introduced on May 14, 2013.

The Council adopted the US 29 Cherry Hill Employment Area Overlay Zone to implement the recommendations of the 1997 Fairland Master Plan. The overlay zone was applied to a 500-acre area with four different industrial zoning classifications, including: light (I-1 and I-4); heavy (I-2); and research/development (I-3) zoning.

Approval of ZTA 13-05 would allow property owners that are interested in pursuing plans for a mixed-use residential/retail project to proceed in advance of the Sectional Map Amendment that will implement the proposed zoning recommendations in the draft White Oak Science Gateway Master Plan. In particular, ZTA 13-05 would allow multi-family residential and grocery store uses as part of a multi-use project where the underlying zone is I-1; establish development standards for the additional uses; and generally amend the text of the zone to make it more concise, precise, and decisive.

The Council conducted a public hearing concerning ZTA 13-05 on June 18, 2013. The 2 speakers recommended approval of ZTA 13-05. The Planning Board and Planning staff recommended approval of ZTA 13-05 with plain English changes.

Issue

Should a ZTA which partially implements the recommendation of a staff-recommended Sector Plan be adopted in advance of the Sector Plan?

The draft Plan recommends that this entire area (with the exception of a property recommended for the LSC zone) be rezoned from I-1, I-2, I-3, and I-4 to several CR zones, which allow mixed-use developments. This recommendation was based on stakeholders' interest in seeing the area transform from industrial, office, and service uses to a more diverse mix that includes retail, housing, and

additional employment opportunities in technology and, possibly, life sciences. One block is of interest to Finmarc Management, whose representative spoke at the Council's public hearing. The draft Plan recommends that this block, currently zoned I-1, be rezoned to CR 1.0, C 0.75, R 0.75, H 75 "to accommodate redevelopment plans of new owners of these parcels. These areas could redevelop with either all residential or all commercial but are more likely to become mixed-use with residential above retail, which the proposed CR Zone will accommodate."

The Zoning Code allows zoning and preliminary plan approvals that are contrary to a draft master plan to be deferred until the Council takes action on the proposed plan. This ZTA (and ZTA 13-07) allows development consistent with a proposed master plan to proceed in advance of the Council's consideration of the master plan. The code does not allow a proposed master plan to trump the current zoning map and text. This "lean-forward" ZTA is a new concept to zoning.¹

ZTA 13-05 allows a mixed-use project where it currently is not allowed. If the Council believes that the public interest is served by this change in advance of reviewing the sector plan, then it should approve the ZTA. Such approval would allow a broader range of land uses, even if the draft Sector Plan is not approved.

Staff recommends approval with the plain English changes recommended by the Planning Board.

<u>This Packet Contains</u>	<u>© number</u>
ZTA 13-05	1 – 9
Planning Board Recommendation	10 – 20
Planning Staff Recommendation	21 – 39

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¹ "The secret of getting ahead is getting started." Mark Twain.

Zoning Text Amendment No.: 13-05
Concerning: US 29 Overlay Zone --
Standards
Draft No. & Date: 2 – 5/7/13
Introduced: May 14, 2013
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: Councilmembers Ervin and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to revise the provisions of US 29/Cherry Hill Road Employment Area Overlay Zone to:

- allow additional residential and retail uses where the underlying zone is I-1;
- establish development standards for the additional uses; and
- generally amend the text of the zone to make it more concise, precise, and decisive

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

DIVISION 59-C-18.	“OVERLAY ZONES.”
Section 59-C-18.13.	“US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.”

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:

1 **Sec. 1. DIVISION 59-C-18 is amended as follows:**

2 DIVISION 59-C-18. OVERLAY ZONES.

3 * * *

4 **Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of**
5 **the Fairland Master Plan.**

6 **59-C-18.131. Purpose.**

7 The purpose of this overlay zone is to:

- 8 (a) Develop a compatible mix of office, regional commercial, and light
9 industrial uses within a designated employment area.
- 10 (b) Establish a uniform set of development standards for the zone.
- 11 (c) Allow local and regional retail and service uses.
- 12 (d) Encourage the use of appropriate traffic-limiting measures, where such
13 measures are [not already in place] absent, such as car pools and use of mass
14 transit.
- 15 (e) Eliminate uses [not considered compatible] incompatible with the intent of
16 this overlay zone.
- 17 (f) Allow for multi-family residential uses as a part of a mixed-use development
18 in certain situations, in combination with retail uses.

19 **59-C-18.132. Regulations.**

20 (a) **Land uses.**

21 (1) The following uses are permitted in the U.S. 29/Cherry Hill Road
22 Employment Area overlay zone:

- 23 (A) All permitted and special exception uses allowed in the
24 underlying zones are allowed in the U.S. 29/Cherry Hill Road
25 Employment Area overlay zone, except as specifically modified
26 [and set forth in] by this overlay zone.

27 (i) The following additional retail commercial uses are
28 permitted:

- 29 Beauty supply stores.
- 30 Computer and computer supply stores.
- 31 Electronics stores.
- 32 Express or mailing offices.
- 33 Food and beverage stores.
- 34 Music stores.
- 35 Office supply stores.
- 36 Pet supply stores.
- 37 Shoe stores.
- 38 Theaters, indoor.

39 (ii) The following additional commercial uses are permitted:

- 40 Eating and drinking establishment, excluding a drive-in.
- 41 Delicatessen.
- 42 Cafeteria.
- 43 Snack Bar.
- 44 Ice Cream Parlor.

45 (iii) The following additional cultural, entertainment or recreational
46 use is permitted:

47 * * *

48 (iv) The following additional manufacturing and industrial,
49 service, and transportation/communication/utility uses
50 are permitted where the underlying base zone is I-2:

51 * * *

52 (v) The following additional retail commercial use is
53 permitted where the underlying base zone is I-1:
54 Grocery store.

55 (vi) The following additional residential use is permitted,
56 where the underlying base zone is I-1 and the use is part
57 of a mixed-use development that also includes principally

58 commercial or retail commercial uses on the ground
59 floor:
60 Multi-family residential.

61 (2) The following uses are prohibited in the U.S. 29/Cherry Hill Road
62 Employment Area overlay zone:

63 * * *

64 (b) **Development standards.** Development will proceed under the standards of
65 the underlying zones, except as modified by the provisions of this overlay
66 zone.

67 (1) **Setbacks.**

68 (A) Where the overlay zone adjoins, or is separated only by a public
69 road from residentially zoned land that is recommended for
70 residential use and development in the Fairland Master Plan, all
71 buildings must be set back at least 100 feet from such
72 residential land. All parking and maneuvering areas must be set
73 back at least 50 feet from such residential land and be
74 appropriately screened from such adjoining uses.

75 (B) Any building that devotes 50 percent or more of its gross floor
76 area to a retail commercial use must be located at least 200 feet
77 from the boundary of the overlay zone, unless a waiver is
78 granted by the Planning Board. The 200 foot building setback
79 requirement must [not] be [reduced below] at least 150 feet.
80 The parking and maneuvering areas for such a building must be
81 located at least 100 feet from the boundary of the overlay zone.
82 A setback is not required from lot lines, zoning lines, utility
83 rights-of-way or road rights-of-way within this overlay zone.

- 84 (C) Where the overlay zone adjoins residentially zoned land that
85 adjoins US 29 or a service road that adjoins US 29, and the
86 residentially zoned land is not used or recommended for
87 residential use and development in the Fairland Master Plan,
88 the following setback and screening requirements apply:
- 89 (i) A setback is not required from the overlay zone
90 boundary; however, notwithstanding the preceding sub-
91 paragraph (B) above, buildings and parking areas must be
92 setback at least 50 feet from US 29 or a service road that
93 adjoins US 29[,]; and
- 94 (ii) Screening and landscaping requirements must be
95 established by the Planning Board through site plan
96 review. The parking facility setback and screening
97 requirements of Section 59-E-2.81 and 59-E-2.9 do not
98 apply.
- 99 (2) **Retail commercial area.**
- 100 (A) Where the underlying base zone is other than the C-6 Zone:
- 101 (i) the cumulative square footage of retail commercial uses
102 permitted on land classified in each particular base zone
103 within the boundaries of the overlay zone must [not
104 exceed] be equal to or less than a total of 50,000¹ gross
105 square feet; and
- 106 (ii) development of retail commercial use cannot exceed
107 15,000¹ square feet on any individual lot; and

¹ Any square footage devoted: (i) to an eating and drinking establishment use, excluding a drive-in, and (ii) where the underlying base zone is I-1, to a grocery store, is in addition to this amount.

108 (iii) [no] except for a grocery store, a single tenant free-
109 standing structure that devotes 50 percent or more of its
110 gross floor area to a retail commercial use [may exceed a
111 total of] must be equal to or smaller than 10,000 gross
112 square feet.

113 (B) Subsection (A) also applies where the underlying base zone is
114 C-6, and when development occurs [pursuant to] under Section
115 59-C-18.132(b)(6)(B).

116 (3) **Height limit.** A retail building must [not exceed] be equal to or less
117 than 40 feet in height, excluding parapets.

118 (4) **Coverage limitation.** Where the underlying base zone is other than
119 C-6, the coverage standards for principally retail buildings will be as
120 follows:

121 (A) Green area must encompass at least 35 percent of the lot area.

122 (B) Off-street parking [is not allowed to] must occupy [more than]
123 45 percent or less of the lot area, except that in unusual
124 circumstances the Planning Board may waive this requirement
125 at the time of site plan approval upon a finding that a more
126 compatible arrangement of uses would result.

127 * * *

128 (6) **Retail commercial development.**

129 (A) Where the underlying base zone is C-6 and the principal use of
130 the C-6 zoned property is a retail commercial use, then the
131 standards of the C-6 Zone will apply[,] and, in addition:

132 (i) [no] a single retail use within a multiple tenant
133 principally retail use structure [may be less than a gross

134 floor area of] must be at least 10,000 square feet of gross
135 floor area.

136 (ii) [no more than] only one principally retail commercial use
137 [can] may exceed a gross floor area of 100,000 square
138 feet.

139 (B) Where the underlying zone is C-6 and the principal use of the
140 C-6 property is other than retail commercial use, then the
141 standards of the overlay zone will apply.

142 (7) **Multi-family residential development.**

143 Where a development includes multi-family dwelling units, the
144 following standards must be satisfied:

145 (A) The development must have a mix of uses that includes
146 commercial or retail commercial uses.

147 (B) At least 65 percent of the FAR of the development must be for
148 residential use, and the ground floor must principally be for
149 commercial or retail commercial uses; however, the ground
150 level may also include:

151 (i) incidental non-commercial uses, such as lobbies, loading
152 areas, and parking access; and

153 (ii) a maximum of 10 percent of the total number of
154 residential units in the building.

155 (C) The building height must be equal to or less than 75 feet,
156 excluding parapets and mechanical equipment.

157 (D) Except as provided in subsection (E), the maximum FAR of the
158 mixed-use building is 1.0 FAR, of which the maximum FAR
159 for residential use is .75 FAR; and

160 (E) The maximum 1.0 FAR and the maximum 0.75 FAR of
161 residential must be increased to accommodate the construction
162 of moderately priced dwelling units and any density bonus
163 authorized under Chapter 25A.

164 (c) **Trip reduction guidelines.** Within the overlay zone, compliance with the
165 special trip reduction guidelines under Section 59-C-5.436[,] satisfies and
166 represents full compliance with the requirements and[/or] goals for traffic
167 mitigation/management.

168 (d) **Site plan.**

169 (1) Any retail commercial development in the U.S. 29/Cherry Hill Road
170 Employment Area overlay zone must be approved under the site plan
171 review provisions of Division 59-D-3, except where the cumulative
172 redevelopment [does not exceed] is 20 percent or less of the existing
173 gross floor area.

174 (2) For uses other than retail, site plan review is required only where it is
175 required in the [underlying] underlying zone.

176 * * *

177 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
178 date of Council adoption.

179

180 This is a correct copy of Council action.

181

182

183 _____
Linda M. Lauer, Clerk of the Council



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

OFFICE OF THE CHAIR

The Maryland-National Capital Park and Planning Commission

July 1, 2013

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. 13-05

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 13-05 at our regular meeting on June 20, 2013. By a vote of 5:0, the Planning Board recommends approval of the text amendment as modified by the Board for plain language clarifications. The Board further expressed that our recommendation of approval for the zoning text amendment in no way prejudices our upcoming review and recommendations on the draft White Oak Science Gateway Master Plan. The text amendment language as modified is included as an attachment to this memorandum, separate from the technical staff report.

ZTA No. 13-05 revises the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to allow additional residential and retail uses where the underlying zone is I-1 and to establish development standards for the additional uses. Specifically, the ZTA would allow multi-family residential where the underlying base zone is I-1 and the use is part of a mixed-use development that also includes principally commercial or retail commercial uses on the ground floor. The ZTA would also allow a grocery store where the underlying base zone is I-1.

The original idea of the overlay zone was to be able to provide services for the local residential communities and new development once the FDA relocated, Site II closed and Percontee ended gravel operations. The overlay zone was intended to create a self-supporting employment area with on-site services. Commercial uses were to be added in two ways: by rezoning a forty-acre area to allow for large-scale regional retail (C-6 zoning located along Cherry Hill Road between Broadbirch Drive and Plum Orchard Drive) and by allowing a smaller amount of commercial retail per underlying zone (50,000 square feet per zone, 15,000 square feet per lot—restaurant floor area is in addition to this maximum square footage) to

provide for smaller scale goods and services throughout the 500 acre area. Restaurants, but not drive-ins, were especially desirable because that type of restaurant was lacking in the eastern part of the county, especially near the employment area.

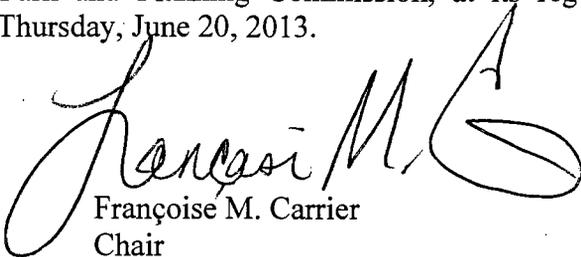
In 2005, the overlay zone was amended to allow research, development and related activities where the underlying base zone is I-2 (59-C-18.132). This text change supported the County's interest in utilizing its Site 2 property as a life sciences, education, and research center.

The 1997 Overlay Zone (and the 2005 text amendment) was an incremental step in a gradual transition in land use from strictly industrial to a more diverse mix of commercial uses.

ZTA No. 13-05 provides for another incremental change in the land uses permitted in this area. The provisions of this ZTA are consistent with the recommendations of the Public Hearing Draft of the White Oak Science Gateway Master Plan. Approval of this ZTA will allow property owners that are interested in pursuing plans for a mixed-use residential/retail project to proceed in advance of the Sectional Map Amendment that will implement the proposed zoning recommendations in the draft White Oak Science Gateway Master Plan, assuming the plan is approved. The recommendations in the draft plan represent the next phase of land use planning and set the stage for a transformation of this area. Should the County Council adopt zoning recommendations inconsistent with the land use allowances proposed in this ZTA, future development on the currently zoned I-1 properties could be limited to development approvals existing at the time of adoption of the master plan.

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, June 20, 2013.


Françoise M. Carrier
Chair

FC:GR

AS MODIFIED BY THE PLANNING BOARD ON JUNE 20, 2013

Zoning Text Amendment No.: 13-05
Concerning: US 29 Overlay Zone –
Standards
Draft No. & Date: 2 – 5/7/13
Introduced: May 14, 2013
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: Councilmembers Ervin and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to revise the provisions of US 29/Cherry Hill Road Employment Area Overlay Zone to:

- allow additional residential and retail uses where the underlying zone is I-1;
- establish development standards for the additional uses; and
- generally amend the text of the zone to make it more concise, precise, and decisive

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

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Section 59-C-18.13.	“US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.”

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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-18 is amended as follows:**

2 DIVISION 59-C-18. OVERLAY ZONES.

3 * * *

4 **Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of**
5 **the Fairland Master Plan.**

6 **59-C-18.131. Purpose.**

7 The purpose of this overlay zone is to:

- 8 (a) Develop a compatible mix of office, regional commercial, and light
9 industrial uses within a designated employment area.
- 10 (b) Establish a uniform set of development standards for the zone.
- 11 (c) Allow local and regional retail and service uses.
- 12 (d) Encourage the use of appropriate traffic-limiting measures, where such
13 measures are [not already in place] absent, such as car pools and use of mass
14 transit.
- 15 (e) Eliminate uses [not considered compatible] incompatible with the intent of
16 this overlay zone.
- 17 (f) Allow for multi-family residential uses as a part of a mixed-use development
18 in certain situations, in combination with retail uses.

19 **59-C-18.132. Regulations.**

20 (a) **Land uses.**

21 (1) The following uses are permitted in the U.S. 29/Cherry Hill Road
22 Employment Area overlay zone:

- 23 (A) All permitted and special exception uses allowed in the
24 underlying zones are allowed in the U.S. 29/Cherry Hill Road
25 Employment Area overlay zone, except as specifically modified
26 [and set forth in] by this overlay zone.

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- (i) The following additional retail commercial uses are permitted:
 - Beauty supply stores.
 - Computer and computer supply stores.
 - Electronics stores.
 - Express or mailing offices.
 - Food and beverage stores.
 - Music stores.
 - Office supply stores.
 - Pet supply stores.
 - Shoe stores.
 - Theaters, indoor.

- (ii) The following additional commercial uses are permitted:
 - Eating and drinking establishment, excluding a drive-in.
 - Delicatessen.
 - Cafeteria.
 - Snack Bar.
 - Ice Cream Parlor.
- (iii) The following additional cultural, entertainment or recreational use is permitted:
 - * * *

- (iv) The following additional manufacturing and industrial, service, and transportation/communication/utility uses are permitted where the underlying base zone is I-2:
 - * * *

- (v) [[The following additional retail commercial use]] A grocery store is a permitted retail commercial use where the underlying base zone is I-1.]]:
Grocery store.]]

- (vi) [[The following additional residential use is permitted, where]] Where the underlying base zone is I-1, multi-

58 family residential uses are permitted under 59-C-
59 18.132(b)(7)[[and the use is part of a mixed-use
60 development that also includes principally commercial or
61 retail commercial uses on the ground floor:
62 Multi-family residential]].

63 (2) The following uses are prohibited in the U.S. 29/Cherry Hill Road
64 Employment Area overlay zone:

65 * * *

66 (b) **Development standards.** Development will proceed under the standards of
67 the underlying zones, except as modified by the provisions of this overlay
68 zone.

69 (1) **Setbacks.**

70 (A) Where the overlay zone adjoins, or is separated only by a public
71 road from residentially zoned land that is recommended for
72 residential use and development in the Fairland Master Plan, all
73 buildings must be set back at least 100 feet from such
74 residential land. All parking and maneuvering areas must be set
75 back at least 50 feet from such residential land and be
76 appropriately screened from such adjoining uses.

77 (B) Any building that devotes 50 percent or more of its gross floor
78 area to a retail commercial use must be located at least 200 feet
79 from the boundary of the overlay zone, unless a waiver is
80 granted by the Planning Board. The 200 foot building setback
81 requirement must [not] not be [reduced below] reduced below
82 [[at least]] 150 feet. The parking and maneuvering areas for
83 such a building must be located at least 100 feet from the
84 boundary of the overlay zone. A setback is not required from

85 lot lines, zoning lines, utility rights-of-way or road rights-of-
86 way within this overlay zone.

87 (C) Where the overlay zone adjoins residentially zoned land that
88 adjoins US 29 or a service road that adjoins US 29, and the
89 residentially zoned land is not used or recommended for
90 residential use and development in the Fairland Master Plan,
91 the following setback and screening requirements apply:

92 (i) A setback is not required from the overlay zone
93 boundary; however, notwithstanding the preceding sub-
94 paragraph (B) above, buildings and parking areas must be
95 setback at least 50 feet from US 29 or a service road that
96 adjoins US 29[,] and

97 (ii) Screening and landscaping requirements must be
98 established by the Planning Board through site plan
99 review. The parking facility setback and screening
100 requirements of Section 59-E-2.81 and 59-E-2.9 do not
101 apply.

102 (2) **Retail commercial area.**

103 (A) Where the underlying base zone is not [[other than the]] C-6
104 [[Zone]]:

105 (i) the cumulative square footage of retail commercial uses
106 permitted on land classified in each particular base zone
107 within the boundaries of the overlay zone must [not
108 exceed] be equal to or less than a total of 50,000¹ gross
109 square feet; [[and]]

¹ Any square footage devoted: (i) to an eating and drinking establishment use, excluding a drive-in, and (ii) where the underlying base zone is I-1, to a grocery store, is in addition to this amount.

110 (ii) development of retail commercial use cannot exceed
111 15,000¹ square feet on any individual lot; and
112 (iii) [no] except for a grocery store, a single tenant, free-
113 standing structure that devotes 50 percent or more of its
114 gross floor area to a retail commercial use [may exceed a
115 total of] must be equal to or smaller than 10,000 gross
116 square feet.

117 (B) Subsection (A) also applies where the underlying base zone is
118 C-6, and when development occurs [pursuant to] under Section
119 59-C-18.132(b)(6)(B).

120 (3) **Height limit.** A retail building must [not exceed] be equal to or less
121 than 40 feet in height, excluding parapets.

122 (4) **Coverage limitation.** Where the underlying base zone is other than
123 C-6, the coverage standards for principally retail buildings will be as
124 follows:

125 (A) Green area must encompass at least 35 percent of the lot area.

126 (B) Off-street parking [is not allowed to] must occupy [more than]
127 45 percent or less of the lot area, except that in unusual
128 circumstances the Planning Board may waive this requirement
129 at the time of site plan approval upon a finding that a more
130 compatible arrangement of uses would result.

131 * * *

132 (6) **Retail commercial development.**

133 (A) Where the underlying base zone is C-6 and the principal use of
134 the C-6 zoned property is a retail commercial use, then the
135 standards of the C-6 Zone will apply[,] and, in addition:

- 136 (i) [no] a single retail use within a multiple tenant
137 principally retail use structure [may be less than a gross
138 floor area of] must be at least 10,000 square feet of gross
139 floor area.
- 140 (ii) [no more than] only one principally retail commercial use
141 [can] may exceed a gross floor area of 100,000 square
142 feet.
- 143 (B) Where the underlying zone is C-6 and the principal use of the
144 C-6 property is other than retail commercial use, then the
145 standards of the overlay zone will apply.

146 (7) **Multi-family residential development.**

147 Where a development includes multi-family dwelling units, the
148 following standards must be satisfied:

- 149 (A) The development must have a mix of uses including a
150 minimum of 65 percent gross floor area for [[that includes
151 commercial or retail commercial]] residential uses.
- 152 (B) [[At least 65 percent of the FAR of the development must be
153 for residential use, and the]] The ground floor of the
154 development must principally be for commercial or retail
155 commercial uses; however, the ground [[level]] floor may also
156 include:
- 157 (i) incidental non-commercial uses, such as lobbies, loading
158 areas, and parking access; and
- 159 (ii) a maximum of 10 percent of the total number of
160 residential units in the mixed-use building.
- 161 (C) The building height must be equal to or less than 75 feet,
162 excluding parapets and mechanical equipment.

163 (D) Except as provided in subsection (E), the maximum FAR of the
164 mixed-use building is 1.0 FAR, of which the maximum FAR
165 for residential use is .75 FAR; and

166 (E) The maximum 1.0 FAR and the maximum 0.75 FAR of
167 residential must be increased to accommodate the construction
168 of moderately priced dwelling units and any density bonus
169 authorized under Chapter 25A.

170 (c) **Trip reduction guidelines.** Within the overlay zone, compliance with the
171 special trip reduction guidelines under Section 59-C-5.436[,] satisfies and
172 represents full compliance with the requirements and[/or] goals for traffic
173 mitigation/management.

174 (d) **Site plan.**

175 (1) Any retail commercial development in the U.S. 29/Cherry Hill Road
176 Employment Area overlay zone must be approved under the site plan
177 review provisions of Division 59-D-3, except where the cumulative
178 redevelopment [does not exceed] is 20 percent or less of the existing
179 gross floor area.

180 (2) For uses other than retail, site plan review is required only where it is
181 required in the [underlying] underlying zone.

182 * * *

183 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
184 date of Council adoption.

185

186 This is a correct copy of Council action.

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189 _____
Linda M. Lauer, Clerk of the Council



Zoning Text Amendment (ZTA) No. 13-05, US 29 Overlay Zone – Standards

Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174

Mary Dolan, Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552

Completed: 06/12/13

Description

ZTA No. 13-05 would revise the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to allow additional residential and retail uses where the underlying zone is I-1; and establish development standards for the additional uses. Specifically, the ZTA would allow multi-family residential where the underlying base zone is I-1 and the use is part of a mixed-use development that also includes principally commercial or retail commercial uses on the ground floor. The ZTA would also allow a grocery store where the underlying base zone is I-1.

Summary

Staff recommends approval, with plain language modifications, of ZTA No. 13-05 to allow additional residential and retail uses in the US 29/Cherry Hill Road Employment Area Overlay Zone where the underlying zone is I-1.

Background/Analysis

The US 29/Cherry Hill Road area (bounded by US 29, Cherry Hill Road, the Federal Research Center, and the Paint Branch stream valley park) has been home to light industrial and service uses, offices, public sector facilities, and heavy industrial. The area was identified as the Montgomery Industrial Park in the 1981 Master Plan for the *Eastern Montgomery County Planning Area: Cloverly, Fairland, White Oak*, with uses that included the International Fabricare Institute, Contee Sand and Gravel, and the Montgomery County Sludge Composting Facility (the latter two now known respectively as Percontee and Site 2). The 1981 Plan recommended continued industrial land use and zoning in this area. "Public policy discourages premature development which would preclude sand and gravel extraction... followed by restoration of the mined area for development purposes. This approach looks on mineral resource development as an interim use of land." (page 122)

In 1997, Council adopted the US 29 Cherry Hill Employment Area Overlay Zone to implement the recommendations of the *1997 Approved and Adopted Fairland Master Plan*. The overlay zone was applied to a 500-acre area with four different industrial classifications including: light (I-1 and I-4); heavy (I-2); and research/development (I-3) zoning. During the 1980s the area developed with light industrial uses and some commercial and service uses such as a hardware store (Home Depot), DarCars auto sales

and repair and a hotel (Courtyard by Marriott). One hundred acres served as the Site 2 WSSC composting facility (I-2 zone) and 180 acres contained the Percontee gravel washing facility (I-2).

The idea of the overlay zone was to be able to provide services for the local residential communities and new development once the FDA relocated, Site II closed and Percontee ended gravel operations. The overlay zone intended to create a self-supporting employment area with on-site services. Commercial uses were to be added in two ways: by rezoning a forty-acre area to allow for large-scale regional retail (C-6 zoning located along Cherry Hill Road between Broadbirch Drive and Plum Orchard Drive) and allowing a smaller amount of commercial retail per underlying zone (50,000 square feet per zone, 15,000 square feet per lot—restaurant floor area is in addition to this maximum square footage) to provide for smaller scale goods and services throughout the 500 acre area. Restaurants, but not drive-ins, were especially desirable because that type of restaurant was lacking in the eastern part of the county, especially near the employment area.

In 2005, the overlay zone was amended to allow research, development and related activities where the underlying base zone is I-2 (59-C-18.132). This text change supported the County's interest in utilizing its Site 2 property as a life sciences, education, and research center.

The 1997 Overlay Zone (and the 2005 text amendment) was an incremental step in a gradual transition in land use from strictly industrial to a more diverse mix of commercial uses.

ZTA No. 13-05 provides for another incremental change in the land uses permitted in this area. Approval of this ZTA will allow property owners that are interested in pursuing plans for a mixed-use residential/retail project to proceed in advance of the Sectional Map Amendment that will implement the proposed zoning recommendations in the draft White Oak Science Gateway Master Plan. The recommendations in the draft Plan represent the next phase of land use planning and set the stage for a transformation of this area.

U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan

The purpose of this overlay zone is to:

- (a) Develop a compatible mix of office, regional commercial and light industrial uses within a designated employment area.
- (b) Establish a uniform set of development standards for the zone.
- (c) Allow local and regional retail and service uses.
- (d) Encourage the use of appropriate traffic-limiting measures, where such measures are not already in place, such as car pools and use of mass transit.
- (e) Eliminate uses not considered compatible with the intent of this overlay zone.

ZTA 13-05 proposes to include an additional purpose to the overlay zone that *allows for multi-family residential uses as a part of a mixed-use development in certain situations, in combination with retail uses located on the ground floor.* In addition, and as proposed in Subsection (b)(7), *Development Standards*, at least 65 percent of the FAR of the development must be for multi-family residential use, the building height must be equal to or less than 75 feet and the maximum FAR of the mixed-use building is 1.0 FAR, of which the maximum FAR for residential use is .75 FAR.

Currently in the overlay zone, development of retail commercial use in the areas not zoned C-6 in the overlay zone cannot exceed 15,000 square feet on any individual lot; and no single tenant, free-standing structure that devotes 50 percent or more of its gross floor area to a retail commercial use may exceed a total of 10,000 gross square feet. The exception to this requirement is limited to an eating and drinking establishment use without a drive-in. ZTA 13-05 modifies this limitation by also permitting a grocery store to exceed this standard.

All of the proposed changes are consistent with the recommendations of the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan*, as discussed in the "Master Plan Update" section below.

The overlay zone also requires certain trip reduction measures in accordance with Section 59-C-5.436. Under the I-1 zone, any expansion, redevelopment, etc. of the existing uses that trigger site plan approval and/or preliminary plan approval/amendment will be required to address adequate public facilities requirements at that time. Any retail commercial development in the U.S. 29/Cherry Hill Road Employment Area overlay zone must be approved under the site plan review provisions of Division 59-D-3, where the cumulative redevelopment exceeds 20 percent of the existing gross floor area. As such, establishment of a new mixed use development will more than likely trigger site plan review, where compatibility issues with adjoining uses would be addressed.

Master Plan Update (Attachments 2 & 3)

A Master Plan update is underway for the area covered by the US 29/Cherry Hill Road Employment Area Overlay Zone. Planning Board worksessions are scheduled in June and July on the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan*. The draft Master Plan encourages reinvestment and redevelopment in three activity centers. The largest of these centers is the North White Oak/Cherry Hill Road Center (referred to in the 1997 Plan as the "US 29/Cherry Hill Road Employment Area"), which is roughly the same area covered by the Overlay Zone. The draft Plan recommends that this entire area (with the exception of a property recommended for the LSC Zone) be rezoned from I-1, I-2, I-3, and I-4 to several CR zones, which allow mixed-use developments. This recommendation is based on stakeholders' interest in seeing the area transform from industrial, office, and service uses to a more diverse mix that includes retail, housing, and additional employment opportunities in technology and, possibly, life sciences.

Several properties in this area have recently been purchased by an entity that is interested in redevelopment that is consistent with the vision of the draft Master Plan. One of these sites is the nearly 20-acre block bounded by Industrial Parkway, Tech Road, and Old Columbia Pike that includes a one-story building with leasable flex space and the vacant American Postal Workers Union (APWU) building. The draft Plan specifically references the recent acquisition: "This is a highly visible location along US 29, as well as a gateway to this node between two primary roads. Redevelopment of this entire block, including the former APWU building, would be a significant improvement and would complement the Westech Village Corner project, across Tech Road from this site." (page 41) The draft Plan recommends that this block, currently zoned I-1, be rezoned to CR-1.0, C-0.75, R-0.75, H-75 "to accommodate redevelopment plans of new owners of these parcels. These areas could redevelop with either all residential or all commercial but are more likely to become mixed-use with residential above retail, which the proposed CR Zone will accommodate." (page 46)

Conclusion

With the proposed changes to the ZTA language as depicted in Attachment 1 (plain language clarifications), staff recommends approval of ZTA 13-05. Incremental modifications to the overlay zone as established in 1997 have gradually transitioned the area from strictly industrial to a more diverse mix of commercial uses. The inclusion of a residential component appears plausible when considering the development limitations proposed in the ZTA and the recommendations of the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan*.

Attachments

1. ZTA No. 13-05 as modified by staff
2. Area 2 Comments
3. Maps-Existing & Proposed Zoning

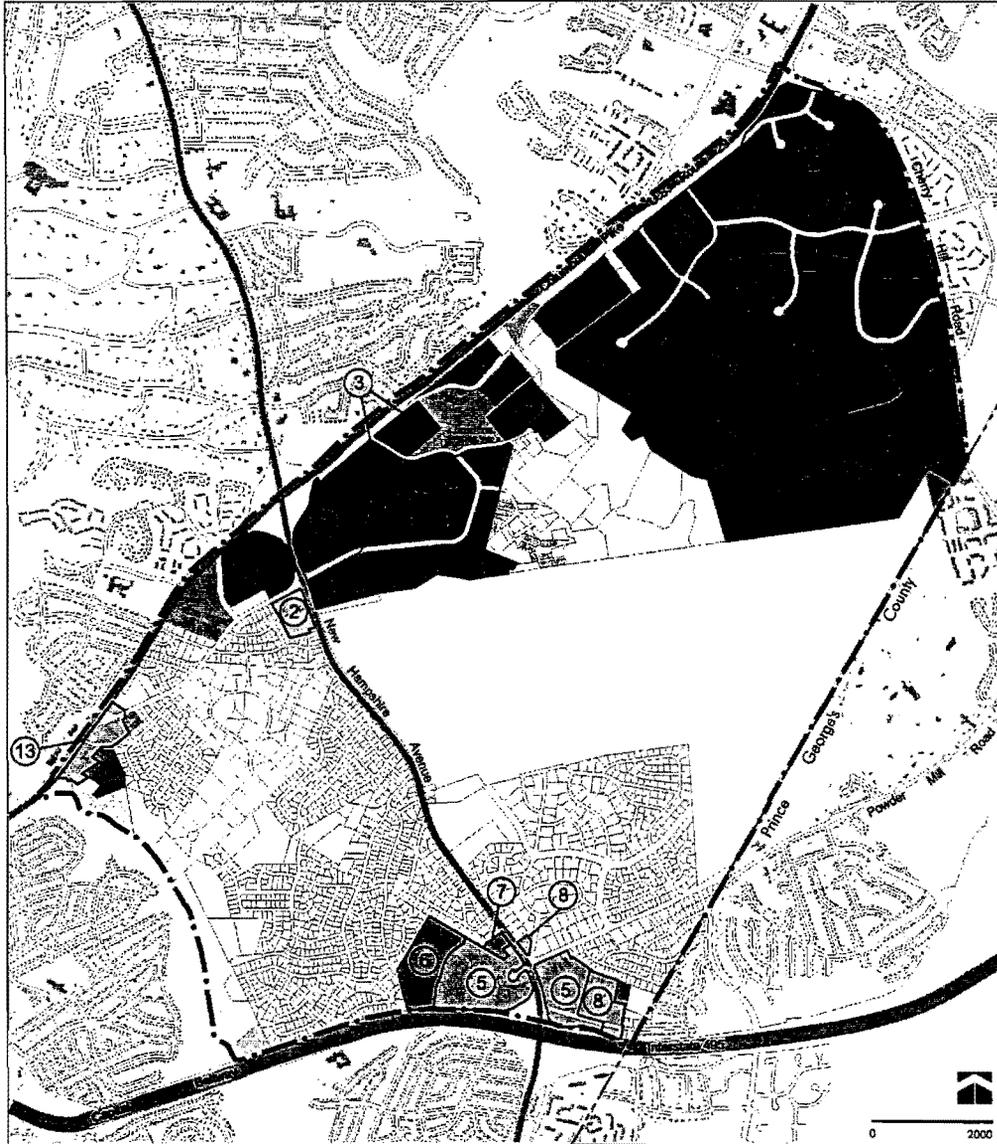
Existing Zoning



 Master Plan Area Boundary	 Office Building, Moderate Intensity
 County Boundary	 Commercial, Office Building
 Overlay Zone Boundary	 Commercial, Transitional
 RE-2 Residential Estate, 2 Acres	 Convenience Commercial
 RE-1 Residential Estate, 1 Acre	 General Commercial
 RE-20 Residential Estate, 1 Acre	 Limited Commercial
 R-90 One-Family Detached Restricted Residential	 C-6 Low-Density, Regional Commercial
 R-60 One-Family Detached Residential	 LI Light Industrial
 RT-1 Residential, Town House	 HI Heavy Industrial
 RT-2 Residential, Town House	 TB Technology and Business Park
 RT-3 Residential, Town House	 LIL Low Intensity, Light Industrial
 RT-4 Residential, Town House	
 RM-25 Residential, Town House	
 RM-1 Multiple-Family Medium-Density Residential	
 RM-2 Multiple-Family High-Rise Planned Residential	

25

Proposed Zoning



--- Master Plan Area Boundary

... County Boundary

RE-2 Residential Estate, 2 Acres

RE-1 Residential Estate, 1 Acre

R-200 Residential Estate, 1 Acre

R-80 One-Family Detached Restricted Residential

R-40 One-Family Detached Residential

RT-3 Residential, Town House

RT-9 Residential, Town House

RT-10 Residential, Town House

RT-125 Residential, Town House

MR Multiple-Family Medium-Density Residential

HR Multiple-Family High-Rise Planned Residential

LC Life Sciences Center

CRN Commercial Residential Neighborhood

6 CRN-0.25 C-0.0 R-0.25 H-45

7 CRN-1.0 C-0.75 R-0.75 H-45

CRT Commercial Residential Town

2 CRT-1.5 C-1.0 R-0.75 H-50

8 CRT-1.0 C-0.75 R-0.75 H-45

5 CRT-1.5 C-1.0 R-1.0 H-75

13 CRT-0.75 C-0.5 R-0.25 H-45

CR Commercial Residential

1 CR-2.5 C-1.5 R-1.5 H-200

3 CR-1.0 C-1.0 R-0.75 H-65

4 CR-1.5 C-0.25 R-1.5 H-75

9 CR-0.75 C-0.50 R-0.50 H-120

10 CR-1.25 C-1.0 R-0.25 H-220

11 CR-1.0 C-0.75 R-0.75 H-75

12 CR-0.75 C-0.75 R-0.25 H-75

ATTACHMENT 1

Zoning Text Amendment No.: 13-05
Concerning: US 29 Overlay Zone –
Standards
Draft No. & Date: 2 – 5/7/13
Introduced: May 14, 2013
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: Councilmembers Ervin and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to revise the provisions of US 29/Cherry Hill Road Employment Area Overlay Zone to:

- allow additional residential and retail uses where the underlying zone is I-1;
- establish development standards for the additional uses; and
- generally amend the text of the zone to make it more concise, precise, and decisive

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

DIVISION 59-C-18.	“OVERLAY ZONES.”
Section 59-C-18.13.	“US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.”

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:

1 **Sec. 1. DIVISION 59-C-18 is amended as follows:**

2 DIVISION 59-C-18. OVERLAY ZONES.

3 * * *

4 **Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of**
5 **the Fairland Master Plan.**

6 **59-C-18.131. Purpose.**

7 The purpose of this overlay zone is to:

- 8 (a) Develop a compatible mix of office, regional commercial, and light
9 industrial uses within a designated employment area.
- 10 (b) Establish a uniform set of development standards for the zone.
- 11 (c) Allow local and regional retail and service uses.
- 12 (d) Encourage the use of appropriate traffic-limiting measures, where such
13 measures are [not already in place] absent, such as car pools and use of mass
14 transit.
- 15 (e) Eliminate uses [not considered compatible] incompatible with the intent of
16 this overlay zone.
- 17 (f) Allow for multi-family residential uses as a part of a mixed-use development
18 in certain situations, in combination with retail uses.

19 **59-C-18.132. Regulations.**

20 (a) **Land uses.**

- 21 (1) The following uses are permitted in the U.S. 29/Cherry Hill Road
22 Employment Area overlay zone:
- 23 (A) All permitted and special exception uses allowed in the
24 underlying zones are allowed in the U.S. 29/Cherry Hill Road
25 Employment Area overlay zone, except as specifically modified
26 [and set forth in] by this overlay zone.

27 (i) The following additional retail commercial uses are
28 permitted:

- 29 Beauty supply stores.
- 30 Computer and computer supply stores.
- 31 Electronics stores.
- 32 Express or mailing offices.
- 33 Food and beverage stores.
- 34 Music stores.
- 35 Office supply stores.
- 36 Pet supply stores.
- 37 Shoe stores.
- 38 Theaters, indoor.

39 (ii) The following additional commercial uses are permitted:

- 40 Eating and drinking establishment, excluding a drive-in.
- 41 Delicatessen.
- 42 Cafeteria.
- 43 Snack Bar.
- 44 Ice Cream Parlor.

45 (iii) The following additional cultural, entertainment or
46 recreational use is permitted:

47 * * *

48 (iv) The following additional manufacturing and industrial,
49 service, and transportation/communication/utility uses
50 are permitted where the underlying base zone is I-2:

51 * * *

52 (v) [[The following additional retail commercial use]] A
53 grocery store is permitted where the underlying base
54 zone is I-1.]]:

55 Grocery store.]]

56 (vi) [[The following additional residential use is permitted,
57 where]] Where the underlying base zone is I-1, multi-

58 family residential uses are permitted under 59-C-
59 18.132(b)(7)[[and the use is part of a mixed-use
60 development that also includes principally commercial or
61 retail commercial uses on the ground floor:
62 Multi-family residential]].

63 (2) The following uses are prohibited in the U.S. 29/Cherry Hill Road
64 Employment Area overlay zone:

65 * * *

66 (b) **Development standards.** Development will proceed under the standards of
67 the underlying zones, except as modified by the provisions of this overlay
68 zone.

69 (1) **Setbacks.**

70 (A) Where the overlay zone adjoins, or is separated only by a public
71 road from residentially zoned land that is recommended for
72 residential use and development in the Fairland Master Plan, all
73 buildings must be set back at least 100 feet from such
74 residential land. All parking and maneuvering areas must be set
75 back at least 50 feet from such residential land and be
76 appropriately screened from such adjoining uses.

77 (B) Any building that devotes 50 percent or more of its gross floor
78 area to a retail commercial use must be located at least 200 feet
79 from the boundary of the overlay zone, unless a waiver is
80 granted by the Planning Board. The 200 foot building setback
81 requirement must [not] not be [reduced below] reduced below
82 [[at least]] 150 feet. The parking and maneuvering areas for
83 such a building must be located at least 100 feet from the
84 boundary of the overlay zone. A setback is not required from

85 lot lines, zoning lines, utility rights-of-way or road rights-of-
86 way within this overlay zone.

87 (C) Where the overlay zone adjoins residentially zoned land that
88 adjoins US 29 or a service road that adjoins US 29, and the
89 residentially zoned land is not used or recommended for
90 residential use and development in the Fairland Master Plan,
91 the following setback and screening requirements apply:

92 (i) A setback is not required from the overlay zone
93 boundary; however, notwithstanding the preceding sub-
94 paragraph (B) above, buildings and parking areas must be
95 setback at least 50 feet from US 29 or a service road that
96 adjoins US 29[,] and

97 (ii) Screening and landscaping requirements must be
98 established by the Planning Board through site plan
99 review. The parking facility setback and screening
100 requirements of Section 59-E-2.81 and 59-E-2.9 do not
101 apply.

102 (2) **Retail commercial area.**

103 ~~[(A)]~~Where the underlying base zone is not ~~[[other than the]]~~ C-6
104 ~~[[Zone]]~~ or is C-6 and develops under Section 59-C-
105 18.132(b)(6)(B):

106 ~~[(i)](A)~~ the cumulative square footage of retail commercial
107 uses permitted on land classified in each particular base
108 zone within the boundaries of the overlay zone must [not

109 exceed] be equal to or less than a total of 50,000¹ gross
110 square feet; [[and]]

111 ~~[[ii]]~~(B) development of retail commercial use cannot
112 exceed 15,000¹ square feet on any individual lot; and

113 ~~[[iii]]~~(C) [no] except for a grocery store, a single tenant,
114 free-standing structure that devotes 50 percent or more of
115 its gross floor area to a retail commercial use [may
116 exceed a total of] must be equal to or smaller than 10,000
117 gross square feet.

118 ~~[[B)]~~ Subsection (A) also applies where the underlying base zone is
119 C-6, and when development occurs [pursuant to] under Section
120 59-C-18.132(b)(6)(B).]]

121 (3) **Height limit.** A retail building must [not exceed] be equal to or less
122 than 40 feet in height, excluding parapets.

123 (4) **Coverage limitation.** Where the underlying base zone is other than
124 C-6, the coverage standards for principally retail buildings will be as
125 follows:

126 (A) Green area must encompass at least 35 percent of the lot area.

127 (B) Off-street parking [is not allowed to] must occupy [more than]
128 45 percent or less of the lot area, except that in unusual
129 circumstances the Planning Board may waive this requirement
130 at the time of site plan approval upon a finding that a more
131 compatible arrangement of uses would result.

132 * * *

133 (6) **Retail commercial development.**

¹ Any square footage devoted: (i) to an eating and drinking establishment use, excluding a drive-in, and (ii) where the underlying base zone is I-1, to a grocery store, is in addition to this amount.

- 134 (A) Where the underlying base zone is C-6 and the principal use of
135 the C-6 zoned property is a retail commercial use, then the
136 standards of the C-6 Zone will apply[,] and, in addition:
- 137 (i) [no] a single retail use within a multiple tenant
138 principally retail use structure [may be less than a gross
139 floor area of] must be at least 10,000 square feet of gross
140 floor area.
- 141 (ii) [no more than] only one principally retail commercial use
142 [can] may exceed a gross floor area of 100,000 square
143 feet.
- 144 (B) Where the underlying zone is C-6 and the principal use of the
145 C-6 property is other than retail commercial use, then the
146 standards of the overlay zone will apply.

147 **(7) Multi-family residential development.**

148 Where a development includes multi-family dwelling units, the
149 following standards must be satisfied:

- 150 (A) The development must have a mix of uses including a
151 minimum of 65 percent gross floor area for [[that includes
152 commercial or retail commercial]] residential uses.
- 153 (B) [[At least 65 percent of the FAR of the development must be
154 for residential use, and the]] The ground floor must principally
155 be for commercial or retail commercial uses; however, the
156 ground level may also include:
- 157 (i) incidental non-commercial uses, such as lobbies, loading
158 areas, and parking access; and
- 159 (ii) a maximum of 10 percent of the total number of
160 residential units in the building.

161 (C) The building height must be equal to or less than 75 feet,
162 excluding parapets and mechanical equipment.

163 (D) Except as provided in subsection (E), the maximum FAR of the
164 mixed-use building is 1.0 FAR, of which the maximum FAR
165 for residential use is .75 FAR; and

166 (E) The maximum 1.0 FAR and the maximum 0.75 FAR of
167 residential must be increased to accommodate the construction
168 of moderately priced dwelling units and any density bonus
169 authorized under Chapter 25A.

170 (c) **Trip reduction guidelines.** Within the overlay zone, compliance with the
171 special trip reduction guidelines under Section 59-C-5.436[,] satisfies and
172 represents full compliance with the requirements and[/or] goals for traffic
173 mitigation/management.

174 (d) **Site plan.**

175 (1) Any retail commercial development in the U.S. 29/Cherry Hill Road
176 Employment Area overlay zone must be approved under the site plan
177 review provisions of Division 59-D-3, except where the cumulative
178 redevelopment [does not exceed] is 20 percent or less of the existing
179 gross floor area.

180 (2) For uses other than retail, site plan review is required only where it is
181 required in the [underlying] underlying zone.

182 * * *

183 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
184 date of Council adoption.

185

186 This is a correct copy of Council action.

187

188 _____

189 Linda M. Lauer, Clerk of the Council



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

ATTACHMENT 2

MEMORANDUM

TO: Greg Russ, Planner Coordinator, Functional Planning and Policy Division

VIA: Khalid Afzal, Master Planner Supervisor, Area 2 Planning Division
Glenn Kreger, Chief, Area 2 Planning Division

FROM: Nancy Sturgeon, ^{ns} Master Planner, Area 2 Planning Division

DATE: June 7, 2013

SUBJECT: ZTA No. 13-05

Recommendation

Staff in the Area 2 Planning Division recommends approval of Zoning Text Amendment (ZTA) No. 13-05, which proposes revisions to the US 29/Cherry Hill Road Employment Area Overlay Zone including:

- allow additional residential and retail uses where the underlying zone is I-1; and
- establish development standards for the additional uses.

Background

The US 29/Cherry Hill Road area (bounded by US 29, Cherry Hill Road, the Federal Research Center, and the Paint Branch stream valley park) has been home to light industrial and service uses, back offices, public sector facilities, and heavy industrial. The area was identified as the Montgomery Industrial Park in the 1981 Master Plan for the *Eastern Montgomery County Planning Area: Cloverly, Fairland, White Oak*, with uses that included the International Fabricare Institute, Contee Sand and Gravel, and the Montgomery County Sludge Composting Facility (the latter two now known respectively as Percontee and Site 2). The 1981 Plan recommended continued industrial land use and zoning in this area. "Public policy discourages premature development which would preclude sand and gravel extraction... followed by restoration of the mined area for development purposes. This approach looks on mineral resource development as an interim use of land." (page 122)

The 1997 *Fairland Master Plan* recommended the US 29/Cherry Hill Road Employment Area Overlay Zone (Section 59-C-18.13 of the Zoning Ordinance) for the purpose of allowing certain uses and limiting other uses permitted in the underlying base zones (I-1, I-2, I-3, I-4) within the area. The Plan also recommended a new commercial zone, C-6 (low-density, regional commercial), for 42 acres of I-3 land on Cherry Hill Road that was developed as retail a center.

The 1997 Plan provided the following rationale for the Overlay Zone:

The employment area has the potential to be a modern employment center with a diversity of uses in a park-like setting, but the existing zoning pattern and allowable uses hinders coordinated development. A strategy to guide future development, such as creating a special district through an overlay zone, could unify the area by permitting supportive services, such as restaurants and banks. Another benefit of specifying uses would be flexibility so that, for example, the owners of the I-2 property could pursue other options than heavy industrial at some point in the future. There is also an opportunity within the Technology Park, given its location within the planning area near US 29, the configuration of lots, and the existing industrial road network, to create a retail commercial area under commercial zoning that could serve both the employment area and the surrounding communities.
(page 76)

In 2005, the overlay zone was amended to allow research, development and related activities where the underlying base zone is I-2 (59-C-18.132). This text change supported the County's interest in utilizing its Site 2 property as a life sciences, education, and research center.

Master Plan Update

A Master Plan update is underway for the area covered by the US 29/Cherry Hill Road Employment Area Overlay Zone. Planning Board worksessions are scheduled in June and July on the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan*. The draft Master Plan encourages reinvestment and redevelopment in three activity centers. The largest of these centers is the North White Oak/Cherry Hill Road Center (referred to in the 1997 Plan as the "US 29/Cherry Hill Road Employment Area"), which is roughly the same area covered by the Overlay Zone. The draft Plan recommends that this entire area (with the exception of a property recommended for the LSC Zone) be rezoned from I-1, I-2, I-3, and I-4 to several CR zones, which allow mixed-use developments. This recommendation is based on stakeholders' interest in seeing the area transform from industrial, office, and service uses to a more diverse mix that includes retail, housing, and additional employment opportunities in technology and, possibly, life sciences.

Several properties in this area have recently been purchased by an entity that is interested in redevelopment that is consistent with the vision of the draft Master Plan. One of these sites is the nearly 20-acre block bounded by Industrial Parkway, Tech Road, and Old Columbia Pike that includes a one-story building with leasable flex space and the vacant American Postal Workers Union (APWU) building. The draft Plan specifically references the recent acquisition: "This is a highly visible location along US 29, as well as a gateway to this node between two primary roads. Redevelopment of this entire block, including the former APWU building, would be a significant improvement and would complement the Westech Village Corner project, across Tech Road from this site." (page 41) The draft Plan recommends that this block, currently zoned I-1, be rezoned to CR-1.0, C-0.75, R-0.75, H-75

“to accommodate redevelopment plans of new owners of these parcels. These areas could redevelop with either all residential or all commercial but are more likely to become mixed-use with residential above retail, which the proposed CR Zone will accommodate.” (page 46)

Conclusion

This area is slowly evolving. Over thirty years ago, the 1981 Master Plan preserved this area for a variety of industrial uses, including the sludge composting facility. The 1981 Plan specifically cited a public policy to support mineral extraction (at the Contee site), while also recognizing that such uses are, ultimately, temporary. Fifteen years ago, the 1997 *Fairland Master Plan* recognized that the area had significant enough employment that supportive uses (such as restaurants and banks) should be permitted. The 1997 Plan also acknowledged that the owners of the I-2 properties may want to pursue options other than heavy industrial use in the future. The 1997 Overlay Zone (and the 2005 text amendment) was an incremental step in a gradual transition in land use from strictly industrial to a more diverse mix of commercial uses.

ZTA No. 13-05 provides for another incremental change in the land uses permitted in this area. Approval of this ZTA will allow property owners that are interested in pursuing plans for a mixed-use residential/retail project to proceed in advance of the Sectional Map Amendment that will implement the proposed zoning recommendations in the draft White Oak Science Gateway Master Plan. The recommendations in the draft Plan represent the next phase of land use planning and set the stage for a transformation of this area. The Plan’s recommendations for the North White Oak/Cherry Hill Road Center are intended to spur reinvestment and support the County’s goals for its Site 2 property as well as the surrounding area.

O:\AREA_2\Regulatory\ZTA 13-05