

Public Hearing

MEMORANDUM

November 8, 2013

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Public Hearing – Zoning Text Amendment 13-04, Zoning Ordinance Rewrite; and District Map Amendment G-956

ZTA 13-04 would replace Chapter 59 in its entirety. On May 7, 2013, the Council introduced a new Zoning Ordinance (Chapter 59) as Zoning Text Amendment (ZTA) 13-04. The Council held a public hearing on June 11, 2013. The Planning, Housing, and Economic Development (PHED) Committee conducted 11 worksessions and tentatively recommended numerous revisions to the proposed code. The new text of ZTA 13-04, as revised by the Committee and plain English edits by Staff, may be found on the Planning Department's website: <http://www.zoningmontgomery.org>.

The PHED Committee recommends in part:

- having more restrictions on floating zone applications;
- requiring a master plan recommendation for overlay zones;
- limiting public benefit categories and reducing non-MPDU public benefit points;
- retaining the current restrictions on the location of chicken coops (25 feet from a lot line and 100 feet from a neighbor's house, with an allowance for pets);
- restricting seasonal sales to two 45 day sale periods per year, with more requirements to assure appropriate locations; and
- adding agricultural tourism and combination retail store in the land use tables.

The current zoning maps of the County would be replaced by District Map Amendment G-956. This zoning map amendment would implement ZTA 13-04 and would make the GIS zoning layer, which is accessible online, the official zoning map of the County. The proposed zoning map as revised by the PHED Committee and the current zoning also may be found on the Planning Department's website: <http://www.zoningmontgomery.org>.

The Committee recommends restricting the height and density allowed by the recommendations of the relevant master plan, except where unbuilt approvals would allow higher heights or more density (completed buildings would be covered by the proposed grandfathering provisions).

The PHED Committee intends to hold two worksessions (December 2 and December 9) to consider the testimony received at the Council's second public hearing.

Background

When it was first started in FY 2008, the Planning Director listed the goals of the Zoning Ordinance Rewrite project as follows:

- Streamline the Ordinance – all aspects of the document, from the number of districts to the number of processes outlined in various sections.
- Simplify all aspects of the document.
- Improve the organization of the document.
- Rationalize/update provisions to reflect the changing development climate with a greater emphasis on infill development.
- Create predictability in the standards as well as in the format.
- Promote “green” land use policies.

The Council did not object to a scope of work that included substantive changes to the Zoning Ordinance.

The proposed code is organized into articles by function. Article 59-1 contains introductory material and definitions used in the code. Article 59-2 establishes all of the zones and provides an intent statement for each zone or family of zones. Article 59-3 contains one use table. This is a huge improvement over the current code, which contains 14 use tables. Article 59-4 provides the development requirements for standard method development for all Euclidean zones. Article 59-5 contains the development requirements for all floating zones; this is significant because, in the current code, floating zones are indistinguishable from Euclidean zones. Article 59-6 contains regulations for the optional method of development for all Euclidean zones. Article 59-7 contains general development requirements such as parking, landscaping, and lighting. Article 59-8 establishes the administration and procedures of the code. Article 59-9 retains zones that may be eliminated by future master plans.

Planning Staff produced several documents to aid in the analysis and tracking of elements from the current to the proposed code; these are available online at <http://www.zoningmontgomery.org>. One document is a spreadsheet that lists each of the current uses (and whether it is a permitted use or special exception) and where it appears in the proposed code and how it is allowed – permitted, under limited standards, or conditioned upon approval of the Board of Appeals or Hearing Examiner. Fact sheets for each of the current residential zones are also online and include a map of the County that shows the total amount of land under the current zone and where it is. The fact sheet also includes an aerial view of a typical block under the zone, a diagram illustrating various dimensional standards, and a chart that compares current and proposed dimensional standards.

The Planning Board proposes a system of land use regulation that considers the:

- property’s zoning;
- development method;
- use proposed;
- intensity of development (density and height); and
- zoning of adjacent properties.

The combination of these elements determines which regulations are imposed on a development and under which process an application must be reviewed.

Staff's Overview of the Draft Ordinance

The draft completely restructures the current code. The current code is organized by major zoning classifications. There is a different land use table in every major section of the code. In the draft Ordinance, chapters are defined by the form of regulation or function (e.g., land use, optional development, standard development, amendments). For example, the draft has a single "Uses and Use Standards" Chapter, with a single land use table for all zones.

The draft Ordinance has fewer zones than the current Ordinance, and collapses very particular land use categories (e.g., newspaper stand, flower shop) into more general land use categories (e.g., retail/service). In the C/R and Employment zones, reducing the number of uses makes the zones generally more permissive than the current code. On the other hand, the proposed code would more directly regulate the design aspects of development in these zones.

The following are examples of other substantive changes:

- Mixed-use and employment zones are consolidated, with the exception of the LSC, CR, CRT, and CRN zones.¹
- All floating zones are new and clearly identified as floating zones.
- The standards for the number of on-site parking are reduced in some instances and design standards are added.
- The amount of open space required in mixed-use and employment zones is generally reduced.
- The process for reviewing and approving Local Map Amendments is simplified.

The one-family residential zones are retained with the same development standards. The names of the zones remain the same, except for the R-150, RMH, and RMH-200 zones, which are being consolidated into other existing zones. Staff expects the desirability or undesirability in residential zones of such uses as "animal husbandry" and "seasonal sales" (e.g., raising chickens and selling Christmas trees) as proposed in the draft Code and revised by the PHED Committee, to be raised in testimony.

District Map Amendment G-956

A new Ordinance with new zones would be implemented by the adoption of a zoning map amendment for the County (a District Map Amendment). The Planning Board asked the Council to introduce a District Map Amendment. Currently, the official zoning maps are on 1,200 paper maps. District Map Amendment G-956 would make a GIS zoning layer, which is web accessible, the official County zoning map. The proposed zoning map can be viewed at any scale. The proposed zoning for every property is viewable on the Planning Department's website: <http://www.zoningmontgomery.org>.

¹ CR, CRT, and CRN zones keep their names with some change to their standards. These zones would be used to replace a wide variety of mixed-use zones. CRN is also proposed to consolidate CT, C-4 and, in some instances, C-1. The LSC zone is based on the current LSC zone and is proposed to be used to replace the R&D zone. These proposed consolidations of zones would be a substantive change. In many instances, the new zone is based on a current zone but may also be used to consolidate other zones:

NR is based on C-1.

GR is based on C-2 and would also be used to replace C-3.

EOF is based on CO and would also be used to replace O-M, C-P, and I-3.

IL is based on I-4.

IM is based on I-1.

IH is based on I-2.

If approved by the County Council, the Planning Board's recommended zoning map will change the following zones within the County's zoning jurisdiction:

CBD-0.5, CBD-R1, CBD-R2, CBD-1, CBD-2, CBD-3, MXN, MXP, MXTC, MXTC/TDR, RMX-1, RMX-1/TDR, RMX-2, RMX-2C, RMC-2C/TDR, RMX-3/TDR, RMX-3C, TMX-2, TOMX-2, TOMX-2/TDR, TS-M, TS-R, C-1, C-2, C-3, C-4, C-T, H-M, C-O, C-P, O-M, I-1, R&D, R-S, I-2, I-3, I-4, C-INN, R-MH, RMH-200, R-150, R-150/TDR, and RDT.

This Packet Contains

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

OFFICE OF THE CHAIRMAN

May 2, 2013

The Honorable Nancy Navarro, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council for Introduction
of a Zoning Text Amendment to Replace Chapter 59 and Application
for a District Map Amendment.

Dear Ms. Navarro and Councilmembers:

In 2007, the County Council approved a Planning Department work program item to comprehensively rewrite the County's zoning ordinance. After a multi-year effort guided by the objectives of the General Plan, County policies, and extensive stake-holder input, attached for your consideration is the zoning text amendment (ZTA) to replace Chapter 59. It is accompanied by an application for a corresponding district map amendment to apply new zoning in several areas of the county.

The main goals in rewriting Chapter 59 have been to modernize the ordinance and make it easier to use and understand, while minimizing changes to the residential zones. Since the zoning code has not been comprehensively rewritten since 1977, modernizing the ordinance includes updating the single-use commercial areas to allow limited residential development, consolidating uses to reflect market and demographic changes, comprehensively regulating the transitions between our urban and suburban areas, streamlining and rationalizing our review processes, and revising parking requirements to reduce surface parking and improve air and water quality.

At our meeting on May 2, 2013, the Planning Board voted unanimously, 5-0, to recommend introduction of the attached ZTA. We believe that the comprehensive revision of Chapter 59 will provide a modern, accessible, and context-sensitive code that will support and enhance the creation and implementation of our master plans, lead to better development, and ensure a more sustainable future.

After years of outreach, research, and drafting by Planning Department Staff, including the benefit of extensive and thorough two-year review by our Board-appointed Zoning Advisory Panel, the Planning Board undertook a detailed process of reviewing, revising and finalizing the attached ZTA and zoning map. We held over 30 worksessions, including several devoted to public comment and discussion. Throughout the process, we received detailed written

comments from participants with a variety of viewpoints and expertise. We also had the benefit of the considerable energy and talent of our own Staff, who repeatedly considered the public comments and Board discussion and made modifications or new suggestions to respond to questions, concerns, and ideas. Of course, this meant that the draft text and map were changing rapidly, but every effort was made to discuss changes publicly, post new and supplementary material on-line, and continually send information to our 500+ list-serve recipients. We think the results were worth these considerable efforts.

The proposed zoning ordinance has been carefully calibrated to address varied and sometimes competing goals. The key to accommodating our diverse county was to balance the interaction between uses, density and height, parking requirements, development standards, screening and landscaping requirements, adjacent properties, and review process. These factors are all tied together such that a change to any one usually results in a change in another to maintain the balance. This ordinance is an integrated land use document that ensures appropriate public review based on development method, uses, intensity and context; numerous new protections for residential neighborhoods are embedded in the fabric of the ordinance.

One of the challenges we faced as a deliberative body was the difficulty of satisfying diverse interests. The primary concern raised by some is preserving maximum flexibility for property owners; for others, the main goal is minimizing the risk that redevelopment might adversely affect residential neighborhoods; and many others were in-between, but cared deeply about a particular issue. We expect the Council will hear similar concerns as it considers this ZTA.

Another important aspect of this project is translation and implementation of the new ordinance, which will require changes to our zoning maps and the attached district map amendment. To summarize the zoning changes:

- About 58.6% of the County zoning map is unchanged.
- About 37% of the County zoning map changes in name only, from RDT (Rural Density Transfer) zone to AR (Agricultural Reserve) zone.
- About 4.7% of the County's land, currently in mixed-use, industrial and commercial zones, changes to the C/R zones or the newly created Employment and Industrial zones.

The zone consolidation and translation discussions began at the Zoning Advisory Panel in 2009 and the first draft maps were presented at public forums, open houses, and zoning meetings throughout 2011 and 2012. After deliberation on the ZTA from September 2012 to January 2013, the Planning Board spent another three months on translation and implementation. We believe we have found the right balance between protection of existing communities and modernization targeted to less than 5% of the county. A complete summary of current zones, acreage, and area percentage is attached to this report. A countywide map will be posted on-line showing the areas of the county proposed for translation into a new zone. These on-line maps, individual master plan analyses, and

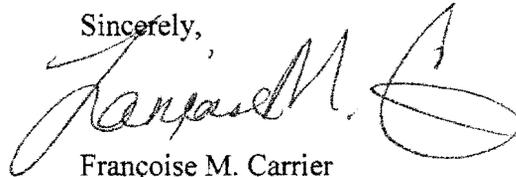
The Honorable Nancy Navarro
May 2, 2013
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supplementary on-line material provide the supporting documentation for the district map amendment.

The Planning Department Staff will be providing summaries of changes between the existing and proposed ordinance and supplementary information on many particular topics during your review. We will always be pleased to provide specific information and research as needed to assist the Council in its deliberations on the enclosed ZTA.

We are excited to bring the County this opportunity for a new, modern, zoning code that will give us a better tool for planning and development, and we look forward to working on it with the Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Françoise M. Carrier". The signature is fluid and cursive, with a large, stylized initial "F" and "C".

Françoise M. Carrier
Chair

Enclosures

cc: Montgomery County Planning Board
Rose Krasnow

APPLICATION NUMBER: G-956

DATE FILED: _____

HEARING DATE: _____

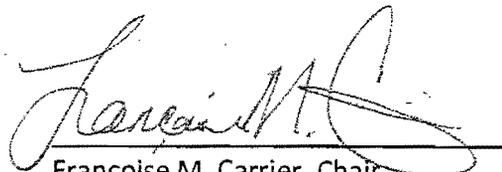
APPLICATION FOR A DISTRICT MAP AMENDMENT TO ADOPT THE "DIGITAL ZONING MAP FOR THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN MONTGOMERY COUNTY, MARYLAND" AND TO AMEND THE "ZONING MAP FOR THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN MONTGOMERY COUNTY, MARYLAND" FILED UNDER ARTICLE 59-H OF THE ZONING ORDINANCE FOR MONTGOMERY COUNTY, MARYLAND

The Maryland-National Capital Park and Planning Commission makes application with the County Council, sitting as the District Council for that portion of the Maryland-Washington Regional District within Montgomery County, (1) to adopt the zoning district maps shown on the map entitled "Zoning Map for the Maryland-Washington Regional District in Montgomery County, Maryland" as a digital map known as the "Digital Zoning Map for the Maryland-Washington Regional District in Montgomery County," and (2) for a District Map Amendment to implement the revised zoning ordinance.

The revised zoning ordinance, which is being transmitted to the Council simultaneously with this application, eliminates certain zones, adds new zones, and amends some existing zones. The District Map Amendment proposes zoning changes where the revised code eliminates or changes the name of the current zone, and reconfirms the existing zoning in all other areas.

The total area within the boundaries of the District Map Amendment is approximately 282,670 acres, of which approximately 117,034 acres is proposed to change zoning classification; for 103,795 acres of this area the only change is changing the name of the RDT zone to the AR (Agricultural Reserve) zone. The remaining 165,636 acres will be reconfirmed in their existing zoning classifications.

The Planning Board expects the District Map Amendment to change before the Council adopts it to reflect changes in zoning that the Council may approve in connection with master plan amendments that we anticipate will be approved while the District Map Amendment is pending.



Françoise M. Carrier, Chair
Montgomery County Planning Board

Zoning Text Amendment No.: 13-04
Concerning: Zoning Ordinance –
Revised

Draft No. & Date: 1 – 5/3/13

Introduced:

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 Navarro at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to replace Chapter 59 with the attached Code.

The proposed new Code is also available on the Planning Department website:
<http://www.zoningmontgomery.org>.

Resolution No.:
Filed: May 2, 2013
Introduced:
Public Hearing:
Adopted:

**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 Navarro at the request of the Planning Board

SUBJECT: District Map Amendment G-956

The proposed new zoning map, available on the Planning Department website: <http://www.zoningmontgomery.org>, would replace all zoning maps in the County. This District Map Amendment would adopt the zoning district maps shown on the map entitled "Zoning Map for the Maryland-Washington Regional District in Montgomery County, Maryland" as a digital map known as the "Digital Zoning Map for the Maryland-Washington Regional District in Montgomery County" and would implement the revised Zoning Ordinance (ZTA 13-04).

The total area within the boundaries of the District Map Amendment is approximately 282,670 acres, of which approximately 117,034 acres is proposed to change zoning classification; for 103,795 acres of this area, the only change is changing the name of the RDT zone to the AR (Agricultural Reserve) zone. The remaining 165,636 acres will be confirmed in their existing zoning classifications.

If approved by the County Council, the Planning Board's recommended zoning map will change the following zoning classifications within the County's zoning jurisdiction to different zoning classifications:

CBD-0.5, CBD-R1, CBD-R2, CBD-1, CBD-2, CBD-3, MXN, MXPD, MXTC, MXTC/TDR, RMX-1, RMX-1/TDR, RMX-2, RMX-2C, RMC-2C/TDR, RMX-3/TDR, RMX-3C, TMX-2, TOMX-2, TOMX-2/TDR, TS-M, TS-R, C-1, C-2, C-3, C-4, C-T, H-M, C-O, C-P, O-M, I-1, R&D, R-S, I-2, I-3, I-4, C-INN, R-MH, RMH-200, R-150, R-150/TDR, and RDT.