

Ordinance No.: 18-03
Zoning Text Amendment No.: 15-05
Concerning: Commercial/Residential
Zones – Site Plan
Flexibility
Draft No. & Date: 3 – 5/19/15
Introduced: March 24, 2015
Public Hearing: May 5, 2015
Adopted: June 9, 2015
Effective: June 29, 2015

**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: The Planning, Housing, and Economic Development Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Revise compatibility requirements;
- Allow the site plan process to establish the development standards for standard method development in Commercial/Residential zones;
- Allow the site plan process to establish the location of a building on a Commercial/Residential zoned site; and
- Generally amend provisions concerning Commercial/Residential zones

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

DIVISION 4.1.	“Rules for All Zones”
Section 4.1.8.	“Compatibility Requirements”
DIVISION 4.4	“Residential Zones”
Section 4.4.14.	“Residential Multi-Unit Low Density -30 Zone (R-30)”
Section 4.4.15.	“Residential Multi-Unit Medium Density -20 Zone (R-20)”
Section 4.4.16.	“Residential Multi-Unit High Density -10 Zone (R-10)”
DIVISION 4.5.	“Commercial/Residential Zones”
Section 4.5.3.	“Standard Method Development”
Section 4.5.4.	”Optional Method Development”
DIVISION 4.6.	“Employment Zones”
Section 4.6.3	“Standard Method Development”
DIVISION 4.8.	“Industrial Zones”
Section 4.8.3	“Standard Method Development”

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.*

OPINION

The lead sponsor for Zoning Text Amendment (ZTA) No. 15-05, which was introduced on March 24, 2015, is the Planning, Housing, and Economic Development Committee.

ZTA 15-05 would add flexibility to Commercial/Residential zone standards and would make setback compatibility (Section 4.1.8.A.1) consistent with the height compatibility section by excluding multi-family from the list of building types that require more consideration.

In its report to the Council, the Montgomery County Planning Board recommended that the ZTA be approved with amendments to clarify correct standards.

The Council held a public hearing on May 5, 2015 to receive testimony concerning the proposed ZTA. The ZTA was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the ZTA on May 18, 2015. With one exception, the Committee agreed with all of the recommendations made by the Planning Board. They recommended different text to describe the circumstances under which the Planning Board could exercise deviations from transparency and building orientation (maximum setback or "build-to" line) standards. The Committee recommended the following text:

In approving a site plan submitted under this subsection, the Planning Board must find that the plan (1) deviates from the "... requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use, and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.

The District Council reviewed Zoning Text Amendment No. 15-05 at a worksession held on June 9, 2015 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 15-05 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59.4.1 is amended as follows:**

2 **Division 4.1. Rules for All Zones**

3 * * *

4 **Section 4.1.8. Compatibility Requirements**

5 **A. Setback Compatibility**

6 **1. Applicability**

- 7 a. Section 4.1.8.A.2 applies to a property in a Residential Multi-
8 Unit, Commercial/Residential, Employment, or Industrial zone
9 that:
- 10 i. abuts a property in an Agricultural, Rural Residential,
11 [or] Residential Detached, or Residential Townhouse
12 zone that is vacant or improved with an agricultural or
13 residential use; and
- 14 ii. proposes development of an apartment, multi use, or
15 general building type.
- 16 b. On a property in a Residential Multi-Unit,
17 Commercial/Residential, Employment, or Industrial zone for
18 which Section 4.1.8.A.1.a does not apply, the minimum side
19 and rear [setback is] setbacks are equal to the [setback] setbacks
20 required for “Side setback, abutting all other zones” and “Rear
21 setback, abutting all other zones” in the applicable standard
22 method development standards tables in Division 4.4 through
23 Division 4.8.

24 **2. Setback Required along Side or Rear Lot Line**

- 25 a. The minimum side [[and rear setbacks are]] [as follows:]
26 setback is equal to 1.5 times the minimum side [[or rear]]
27 setback required for a detached house on the abutting property.

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The minimum rear setback is equal to 1.5 times the minimum rear setback required for a detached house on the abutting property.

		[Abutting Zone]				
[Zone]	[Building Type]	[Agricultural]	[Rural Residential]	[Residential Detached]	[Residential Townhouse]	[Residential Multi-unit]
[Residential Multi-unit]	[Apt]	[1.5]	[1.5]	[1.5]	[1.5]	[1]
[C/R and Employment]	[Apt]	[1.5]	[1.5]	[1.5]	[1.5]	[1]
	[Multiuse, General]	[1.5]	[1.5]	[1.5]	[1.5]	[1.5]
[Industrial]	[Multiuse, General]	[1.5]	[1.5]	[1.5]	[1.5]	[1.5]

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[Key: 1.5 = setback is equal to 1.5 times the minimum required for a detached house on abutting property]
[1 = setback is equal to the minimum required for a detached house on abutting property]

* * *

Sec. 2. DIVISION 59.4.4 is amended as follows:

Division 4.4. Residential Zones

* * *

Section 4.4.14. Residential Multi-Unit Low Density -30 Zone (R-30)

* * *

B. R-30 Zone, Standard Method Development Standards

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
* * *					
3. Placement					
Principal Building Setbacks (min)					
* * *					
Side setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse zones</u>	6'	6'	6'	n/a	See Section 4.1.8.A
* * *					
Rear setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse zones</u>	20'	20'	20'	20'	See Section 4.1.8.A
* * *					

44 **Section 4.4.15. Residential Multi-Unit Medium Density -20 Zone**

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46 **B. R-20 Zone, Standard Method Development Standards**

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	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
* * *					
3. Placement					

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
Principal Building Setbacks (min)					
* * *					
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	6'	6'	6'	n/a	See Section 4.1.8.A
* * *					
Rear setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	20'	20'	20'	10'	See Section 4.1.8.A
* * *					

48 **Section 4.4.16. Residential Multi-Unit High Density -10 Zone (R-10)**

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50 **B. R-10 Zone, Standard Method Development Standards**

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	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	Duplex - Side	Duplex - Over	Townhouse	Apartment
* * *					
3. Placement					
Principal Building Setbacks (min)					
* * *					
Side setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse</u> zones	6'	6'	6'	n/a	See Section 4.1.8.A
* * *					
Rear setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse</u> zones	20'	20'	20'	10'	See Section 4.1.8.A
* * *					

52 **Sec. 3. DIVISION 59.4.5 is amended as follows:**

53 **Division 4.5. Commercial/Residential Zones**

54 * * *

55 **Section 4.5.3. Standard Method Development**

56 The CRN, CRT, and CR zone allow standard method development under the
57 following limitations and requirements.

58 **A. In General**

59 1. In the CRN zone, the maximum total, nonresidential, and residential
 60 FARs and maximum height for any property [is] are set by the zone
 61 shown on the zoning map.

62 **[B.]** 2. In the CRT and CR zones, the maximum standard method height for
 63 any property is the height set by the zone shown on the zoning map;
 64 the maximum total standard method FAR for any property is the limit
 65 indicated in the following table, unless shown as lower on the zoning
 66 map:

Zone	Total Density (max)
CRT	The greater of 1.0 FAR or 10,000 SF of gross floor area
CR	The greater of 0.5 FAR or 10,000 SF of gross floor area

68

69 **B. Procedure for Approval**

70 1. Site plan approval may be required under Section 7.3.4.A.8.

71 2. An applicant may file a site plan application to modify the Build-to
 72 Area, Building Orientation, and Transparency requirements under
 73 Section 4.5.3.C.

74 **C. CRN, CRT, and CR Zones, Standard Method Development Standards**

75

	Detached House	Duplex – Side	Duplex – Over	Townhouse	Apartment	Multi Use	General
1. Site							
Open Space (min)							
Open space, site ≤ 10,000 SF	n/a	n/a	n/a	[[20]]10%	0%	0%	0%
Open space, site > 10,000 SF	n/a	n/a	n/a	[[20]]10%	10%	10%	10%

	Detached House	Duplex – Side	Duplex – Over	Townhouse	Apartment	Multi Use	General
* * *							
2. Lot and Density							
Lot (min)							
Lot area	1,000 SF	[[1,000]] <u>500 SF</u>	[[500]] <u>1,000 SF</u>	800 SF	n/a	n/a	n/a
Lot width at front building line	25'	[[25']] <u>12.5'</u>	[[12.5']] <u>25'</u>	12'	n/a	n/a	n/a
* * *							
Specification for Density							
a. In the CR zone, a <u>designated</u> historic resource [[recommended in the applicable master plan to be preserved and reused, which]] <u>that</u> does not occupy more than 10% of the gross floor area[[,]] is excluded from the FAR calculation.							
Coverage (max)							
Lot	90%	90%	90%	[[90%]] <u>n/a</u>	n/a	n/a	n/a
3. Placement							
Principal Building Setbacks (min)							
* * *							
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	6'	6'	6'	4'	See Section 4.1.8.A		
Side setback, abutting all other zones	4'	4'	4'	n/a	0'	0'	0'

	Detached House	Duplex – Side	Duplex – Over	Townhouse	Apartment	Multi Use	General
Side setback, end unit	n/a	n/a	n/a	[[4]]2'	n/a	n/a	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	[[8]]4'	n/a	n/a	n/a
Rear setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse</u> zones	15'	15'	15'	10'	See Section 4.1.8.A		
Rear setback, abutting all other zones	15'	15'	15'	10'	0'	0'	0'
Rear setback, alley	4' <u>[[or 20']]</u>	4' <u>[[or 20']]</u>	4' <u>[[or 20']]</u>	4' <u>[[or 20']]</u>	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	[[15]]5'	n/a	n/a	n/a
Accessory Structure Setbacks (min)							
Front setback, behind front building line	5'	5'	5'	5'	0'	0'	0'
Side street setback	15'	15'	15'	[[15]]5'	0'	0'	0'
Side setback	4'	4'	4'	4'	equal to Principal Building Setback		

	Detached House	Duplex – Side	Duplex – Over	Townhouse	Apartment	Multi Use	General
Rear setback	4'	4'	4'	4'	equal to Principal Building Setback		
Rear setback, alley	4' [[or 20']]	4' [[or 20']]	4' [[or 20']]	4' [[or 20']]	4'	4'	4'
Parking Setbacks for Surface Parking Lots (min)							
Front setback	n/a	n/a	n/a	n/a	must be behind front building line of <u>building in the BTA</u>		
Side street setback	n/a	n/a	n/a	n/a	must be behind [front] <u>side street building line of building in the BTA</u>		
* * *							
Build-to Area (BTA, max setback and min % of [[lot width]] <u>building façade</u>)							
* * *							
[[Specification]] <u>Specifications for Build-to Area</u>							
a. The Build-to Area maximum front or side street setback may be increased by the minimum setback necessary to avoid a platted public transportation or utility easement, or a platted public transportation or utility reservation.							
b. <u>The Build-to Area requirements may be modified by the Planning Board during site plan review under Section 7.3.4 [[if it finds that the alternative design creates a pedestrian environment and enhances neighborhood compatibility]]. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) deviates from the Build-to-Area requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.</u>							
* * *							
5. Form							
* * *							
Transparency, for Walls Facing a Street or Open Space							
* * *							
Blank wall, side/rear (max)	n/a	n/a	n/a	35'	35'	35'	35'
Specification for Building Orientation and Transparency							

	Detached House	Duplex – Side	Duplex – Over	Townhouse	Apartment	Multi Use	General
<p>a. <u>Building Orientation and Transparency requirements may be modified by the Planning Board in a site plan under Section 7.3.4 [[if it finds that the alternative design creates a pedestrian environment and enhances neighborhood compatibility]]. In approving a site plan submitted under this subsection, the Planning Board must find that the plan: (1) deviates from the Building Orientation and Transparency requirements only to the extent necessary to accommodate the physical constraints of the site or the proposed land use; and (2) incorporates design elements that engage the surrounding publicly accessible spaces such as streets, sidewalks, and parks.</u></p>							
* * *							

76 **Section 4.5.4. Optional Method Development**

77 * * *

78 **A. General Requirements**

79 * * *

80 **2. Public Benefit Points and Categories**

81 a. Public benefits under Division 4.7 must be provided according
 82 to zone and tract size or maximum total mapped FAR,
 83 whichever requires more public benefit points:

Zone	Tract Size OR Max Total FAR	Public Benefit Points (min)	Number of Benefit Categories (min)
CRT	< 10,000 SF OR < 1.5 max FAR	25	2
	≥ 10,000 SF OR ≥ 1.5 [[to]] max FAR	50	3
CR	< 10,000 SF OR < 1.5 max FAR	50	3
	≥ 10,000 SF OR ≥ 1.5 [[to]] max FAR	100	4

84 * * *

85 **B. Development Standards**

86 **1. Open Space**

87 a. A developer must provide open space based on the lot tract
88 area and number of frontages as described in the following
89 table:
90

Tract Area	# of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	1	2	3	4 or more
	% of Site Required to be Dedicated for Open Space			
≤ 0.50 acres	0%	0%	0%	5%
0.51 to 1.00 acres	0%	0%	5%	10%
1.01 to 3.00 acres	0%	5%	10%	10%
3.01 to 6.00 acres	5%	10%	10%	10%
≥ 6.01 acres	10%	10%	10%	10%

91 b. In a development with townhouse, apartment, multi use, or
92 general building types, open space is calculated on the net site
93 area minus any area used for detached house and duplex unit
94 lots.

95 c. Open space for the townhouse building type is common open
96 space (see Section 6.3.5) and for other buildings is public open
97 space (see Section 6.3.6).

98 d. Open space must satisfy Division 6.3.

99 * * *

100 **Sec. 4. DIVISION 59.4.6 is amended as follows:**

101 **Division 4.6. Employment Zones**

102 * * *

103 **Section 4.6.3. Standard Method Development**

104 * * *

105 **C. GR and NR Zones, Standard Method Development Standards**

106

	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
3. Placement							
Principal Building Setbacks (min)							
* * *							
Side setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse zones</u>	6'	6'	6'	4'	See Section 4.1.8.A		
* * *							
Rear setback, abutting Agricultural, Rural Residential, <u>[[or]] Residential Detached, or Residential Townhouse zones</u>	15'	15'	15'	10'	See Section 4.1.8.A		
* * *							

107 **D. LSC Zone, Standard Method Development Standards**

108

	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
3. Placement							
Principal Building Setbacks (min)							
* * *							

	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	6'	6'	6'	4'	See Section 4.1.8.A		
* * *							
Rear setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	15'	15'	15'	10'	See Section 4.1.8.A		
* * *							

109 E. EOF Zone, Standard Method Development Standards

110

	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
* * *							
3. Placement							
Principal Building Setbacks (min)							
* * *							

	Detached House	Duplex - Side	Duplex - Over	Townhouse	Apartment	Multi Use	General
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	6'	6'	6'	4'	See Section 4.1.8.A		
* * *							
Rear setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached, or Residential Townhouse</u> zones	15'	15'	15'	10'	See Section 4.1.8.A		
* * *							

111 **Sec. 5. DIVISION 59.4.8 is amended as follows:**

112 **Division 4.8. Industrial Zones**

113 * * *

114 **Section 4.8.3. Standard Method Development**

115 **A. IL and IM Zones, Standard Method Development Standards**

116

	Multi Use	General
* * *		
3. Placement		
Principal Building and Accessory Structure Setbacks (min)		
* * *		
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached</u> , or <u>Residential Townhouse</u> zones	See Section 4.1.8.A	See Section 4.1.8.A
* * *		
Rear setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached</u> , or <u>Residential Townhouse</u> zones	See Section 4.1.8.A	See Section 4.1.8.A
* * *		

117 **B. IH Zone, Standard Method Development Standards**

118

	Multi Use	General
* * *		
3. Placement		
Principal Building and Accessory Structure Setbacks (min)		
* * *		
Side setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached</u> , or <u>Residential Townhouse</u> zones	See Section 4.1.8.A	See Section 4.1.8.A
* * *		
Rear setback, abutting Agricultural, Rural Residential, [[or]] Residential <u>Detached</u> , or <u>Residential Townhouse</u> zones	See Section 4.1.8.A	See Section 4.1.8.A
* * *		

119

120 **Sec. 6. Effective date.** This ordinance becomes effective 20 days after the
121 date of Council adoption.

122

123 This is a correct copy of Council action.

124

125



126

Linda M. Lauer, Clerk of the Council