

MEMORANDUM

January 28, 2016

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz, ^{JK} Senior Legislative Analyst
SUBJECT: Zoning Text Amendment 15-11, Employment Office (EOF) Zone – Limited Uses

Zoning Text Amendment (ZTA) 15-11, introduced on November 3, 2015, would allow additional limited uses in the Employment Office (EOF) zone. Council Vice President Floreen is the lead sponsor of ZTA 15-11. Councilmember Hucker is a co-sponsor.

Currently, vehicle sales and vehicle repair are not permitted land uses in the EOF zone. ZTA 15-11 would allow these uses on sites of at least 10 acres in size that are located outside of Metro Station Policy Areas.

The Council held a public hearing on January 12, 2016. The County Executive and the representative for MileOne Automotive spoke in favor of ZTA 15-11. The Planning Board and Planning Board Staff recommended denial of ZTA 15-11.

Background

The purpose of the EOF zone is as follows:

The EOF zone is intended for office and employment activity combined with limited residential and neighborhood commercial uses. The EOF allows flexibility in building, circulation, and parking lot layout.¹

The uses proposed as limited uses have the following definitions:

Light Vehicle Sales and Rental (Indoor)

1. Defined

Light Vehicle Sales and Rental (Indoor) means a building for the indoor sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving. Light Vehicle Sales and Rental (Indoor) includes the repair of vehicles and equipment for sale,

¹ Montgomery County Code, Section 59.4.6.1.E.

rent, or lease as an incidental use if conducted indoors. Light Vehicle Sales and Rental (Indoor) includes indoor storage of vehicles for sale, and an accessory car wash for vehicles and equipment for sale, rent, or lease.²...

Light Vehicle Sales and Rental (Outdoor)

1. Defined

Light Vehicle Sales and Rental (Outdoor) means the sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving, outside of a building. Light Vehicle Sales and Rental (Outdoor) includes the repair of vehicles and equipment for sale, rent, or lease as an incidental use if conducted indoors. Light Vehicle Sales and Rental (Outdoor) includes outdoor storage of vehicles for sale, and an accessory car wash for vehicles and equipment for sale, rent, or lease.³...

Repair (Major)

1. Defined

Repair (Major) means an establishment where general vehicle repair and service is conducted, including engine and transmission replacement or rebuild, body, and paint shops. Repair (Major) does not include repair or services for commercial vehicles or heavy equipment (see Section 3.5.13.D, Repair (Commercial Vehicle)).⁴

Issues

Would allowing vehicle sales and repair fit within the purpose of the EOF zone?

The essence of the EOF zone is that it is a zone suitable for offices. Staff has not noted a trend to suggest that auto sales and repair make an area more suitable for offices. If the Council thought vehicular sales was a desirable land use, it could have zoned such areas GR. As the Planning Board suggests, floating zones are an option for the property owners who want this use without an amendment to the code.

Within the 3 proposed land use additions, indoor vehicle sales is the least objectionable to the Planning Board. **Staff recommends allowing indoor vehicle sales and deleting the other proposed uses. If the Council wants to include outdoor sales and repair as an allowed use in the EOF zone, Staff recommends that those be allowed only as a conditional use.**

Would ZTA as proposed allow vehicle sales and repair in areas where it would be incompatible?

As proposed, the ZTA would allow vehicular sales and repair near metro stations (but outside of metro station policy areas) and abutting residential communities. Both of these concerns can be addressed by additional limits on where the new uses could be located:

- 1) Replace “not within a metro station policy area” with “at least 3,000 feet from a Metrorail Station”;
- 2) Add a restriction that the use may not be located abutting any area used for household living (detached single family homes); and

² Montgomery County Code, Section 59.3.5.12.B.

³ Montgomery County Code, Section 59.3.5.12.C.

⁴ Montgomery County Code, Section 59.3.5.13.

3) Add a requirement that the site abuts an arterial or higher classified right-of-way.

There are 404 acres that satisfy these three criteria. Planning Staff developed a GIS application to review standards with the Committee. (Staff would like to acknowledge the work of Jay Mukherjee on this effort.) The GIS application is online at <http://goo.gl/ypgSdT>.

Please note that, once in the application, the viewer must click on the content button on the left hand side to see all the available layers. To see the location of alternatives in the list of layers, the upper layers must be clicked off. The layer that shows residential use will take time to display.

The Committee will be able to see where property is zoned EOF and how various alternative limitations would change where the new uses might be allowed.

<u>This Packet Contains</u>	<u>© number</u>
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Zoning Text Amendment No.: 15-11
Concerning: Employment Office
(EOF) Zone – Limited
Uses

Draft No. & Date: 2 - 11/23/15
Introduced: November 3, 2015
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**

Lead Sponsor: Council President Floreen
Co-Sponsor: Councilmember Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow additional limited uses in the EOF zone;
- establish standards for limited uses the EOF zones; and
- generally amend the provisions for the EOF zone.

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

DIVISION 59-3.1. “Use Table”
Section 59-3.1.6. “Use Table”
DIVISION 59-3.5. “Commercial Uses”
Section 59-3.5.12. “Vehicle/Equipment Sales and Rental”
Section 59-3.5.13. “Vehicle Service”

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 59-3.1 is amended as follows:**

2 **Division 3.1. Use Table**

3 * * *

4 **Section 3.1.6. Use Table**

5 The following Use Table identifies uses allowed in each zone. Uses may be
6 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	* * *	Commercial/Residential			Employment				Industrial		
			CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH
* * *												
VEHICLE/EQUIPMENT SALES AND RENTAL	3.5.12											
Heavy Equipment Sales and Rental	3.5.12.A					L					P	P
Light Vehicle Sales and Rental (Indoor)	3.5.12.B			L	P	P			<u>L</u>	P	P	
Light Vehicle Sales and Rental (Outdoor)	3.5.12.C			L	P	L	C		<u>L</u>	P	P	
VEHICLE SERVICE	3.5.13											
* * *												
Repair (major)	3.5.13.E			C	C	L		C	<u>L</u>	P	P	P
* * *												

7
8 **Sec. 2. DIVISION 59-3.5 is amended as follows:**

9 **Division 3.5. Commercial Uses**

10 * * *

11 **Section 3.5.12. Vehicle/Equipment Sales and Rental**

12 * * *

13 **B. Light Vehicle Sales and Rental (Indoor)**

14 **1. Defined**

15 Light Vehicle Sales and Rental (Indoor) means a building for the
16 indoor sales, rental, or leasing of light equipment and vehicles,
17 including vehicles for hauling and moving. Light Vehicle Sales and
18 Rental (Indoor) includes the repair of vehicles and equipment for sale,
19 rent, or lease as an incidental use if conducted indoors. Light Vehicle
20 Sales and Rental (Indoor) includes indoor storage of vehicles for
21 sale[,] and an accessory car wash for vehicles and equipment for sale,
22 rent, or lease.

23 **2. Use Standards**

24 a. Where Light Vehicle Sales and Rental (Indoor) is allowed as a
25 limited use, and the subject lot abuts or confronts a property
26 zoned Agricultural, Rural Residential, or Residential Detached
27 that is vacant or improved with an agricultural or residential
28 use, it must satisfy the following standards:

29 [a] i. Access to the site from a street with a residential
30 classification is prohibited.

31 [b] ii. Site plan approval is required under Section 7.3.4.

32 b. In the EOF zone, the tract on which a Light Vehicle Sales and
33 Rental (Indoor) use is allowed must also be:

34 i. less than 10 acres in size; and

35 ii. located outside of a Metro Station Policy Area.

36 **C. Light Vehicle Sales and Rental (Outdoor)**

37 **1. Defined**

38 Light Vehicle Sales and Rental (Outdoor) means the sales, rental, or
39 leasing of light equipment and vehicles, including vehicles for hauling
40 and moving, outside of a building. Light Vehicle Sales and Rental

41 (Outdoor) includes the repair of vehicles and equipment for sale, rent,
42 or lease as an incidental use if conducted indoors. Light Vehicle Sales
43 and Rental (Outdoor) includes outdoor storage of vehicles for sale[,]
44 and an accessory car wash for vehicles and equipment for sale, rent, or
45 lease.

46 **2. Use Standards**

47 a. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a
48 limited use, and the subject lot abuts or confronts a property
49 zoned Agricultural, Rural Residential, or Residential Detached
50 that is vacant or improved with an agricultural or residential
51 use, it must satisfy the following standards:

- 52 i. Access to the site from a street with a residential
53 classification is prohibited.
- 54 ii. Vehicles must be stored or parked only on a hard surface
55 that is constructed of material resistant to erosion, is
56 adequately treated to prevent dust emission, and is
57 surrounded by a raised curb. The parking and storage
58 area must be set back 15 feet from any right-of-way, 15
59 feet from any lot line abutting land in an Agricultural,
60 Rural Residential, or Residential Detached zone, and 3
61 feet from any other lot line.
- 62 iii. There must be a minimum of 20 feet between access
63 driveways, and all driveways must be perpendicular to
64 the curb or street line.
- 65 iv. When such use occupies a corner lot, an access driveway
66 is prohibited within 20 feet from the intersection of the
67 rights-of-way, and cannot exceed 30 feet in width.

- 68 v. Product displays, parked vehicles, and other obstructions,
69 which would adversely affect visibility at intersections or
70 to driveways, are prohibited.
- 71 vi. In the CRT zone, site plan approval is required under
72 Section 7.3.4.
- 73 b. In the EOF zone, the tract on which a Light Vehicle Sales and
74 Rental (Outdoor) use is allowed must also be:
 - 75 i. less than 10 acres in size; and
 - 76 ii. located outside of a Metro Station Policy Area.
- 77 c. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a
78 conditional use, it may be permitted by the Hearing Examiner
79 under all applicable limited use standards[,] and Section 7.3.1,
80 Conditional Use.

81 **Section 3.5.13. Vehicle Service**

82 * * *

83 **E. Repair (Major)**

84 **1. Defined**

85 Repair (Major) means an establishment where general vehicle repair
86 and service is conducted, including engine and transmission
87 replacement or rebuild, body, and paint shops. Repair (Major) does
88 not include repair or services for commercial vehicles or heavy
89 equipment (see Section 3.5.13.D, Repair (Commercial Vehicle)).

90 **2. Use Standards**

- 91 a. Where Repair (Major) is allowed as a limited use, and the
92 subject lot abuts or confronts a property zoned Residential that
93 is vacant or improved with a residential use, it is subject to the
94 following standards:

- 95 i. All buildings must be set back a minimum of 100 feet
- 96 from the abutting residential lot line.
- 97 ii. All parking and storage for vehicles must be set back a
- 98 minimum of 50 feet from the abutting residential lot line.
- 99 iii. The minimum site is 20,000 square feet if not fully
- 100 contained in a structure.
- 101 iv. Access to the site from a street with a residential
- 102 classification is prohibited.
- 103 b. In the EOF zone, the tract on which a Repair (Major) use is
- 104 allowed must also be:
- 105 i. less than 10 acres in size; and
- 106 ii. located outside of a Metro Station Policy Area.
- 107 c. Where Repair (Major) is allowed as a conditional use, it may be
- 108 permitted by the Hearing Examiner under all limited use standards
- 109 and Section 7.3.1, Conditional Use.

110 * * *

111 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
112 date of Council adoption.

113
114 This is a correct copy of Council action.

115
116 _____
117 Linda M. Lauer, Clerk of the Council

#5



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

OFFICE OF THE CHAIR

January 11, 2016

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. 15-11

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 15-11 at our regular meeting on January 7, 2016. By a vote of 5:0, the Planning Board recommends denial of the text amendment to allow Light Vehicle Sales and Rental (Indoor and Outdoor) and Vehicle Service Repair (major) as limited uses in the Employment Office (EOF) zone, if each use is located on a tract less than 10 acres in size and located outside of a Metro Station Policy Area. The Board has concerns with permitting vehicle sales or rental facilities and major vehicle repair in a zone that is intended for office and employment activity with limited residential and neighborhood commercial uses. A more appropriate method for providing an alternative to development under the restrictions of the EOF zone would be to request a change in zoning to an applicable floating zone that allows these uses either as permitted or with limited standards.

Currently, Light Vehicle Sales and Rental (Indoor or Outdoor) and Vehicle Service Repair (major) are not permitted in the EOF zone. The EOF zone is intended for office and employment activity combined with limited residential and neighborhood commercial uses. The EOF allows flexibility in building, circulation, and parking lot layout. Currently under the Employment zones, the GR zone allows indoor light vehicle sales and rental as a permitted use and outdoor sales as a limited use. No other Employment Zone allows the indoor sales use as a permitted or limited use. Under the NR zone, outdoor sales require conditional use approval. Currently under the Employment zones, only the GR zone allows major repair of vehicles as a limited use. Under the LSC zone, this use requires conditional use approval.



In summary, the Planning Board believes that indoor auto sales/rental and repair uses, in some instances, could be compatible with other uses allowed in EOF, but outdoor auto sales/rental and major repair uses (especially if the repair use is not fully contained in a structure) are not appropriate. The Board further believes that a more appropriate method for providing an alternative to development under the restrictions of the EOF zone would be to request a change in zoning to an applicable floating zone (in this case, the GRF zone).

On a case by case basis, a floating zone can provide flexible applicability to respond to changing economic, demographic, and planning trends that occur between a comprehensive District or Sectional Map Amendment. Floating zones were established to ensure protection of established neighborhoods by establishing compatible relationships between new development and existing neighborhoods, providing development standards and general compatibility standards to protect the character of adjacent neighborhoods and allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.

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, January 7, 2016.


Casey Anderson
Chair

CA:GR

Zoning Text Amendment (ZTA) No. 15-11, Employment Office (EOF) Zone – Limited Uses



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



Pamela Dunn, Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed: 12/18/15

Description

ZTA No. 15-11 would allow additional limited uses in the Employment Office (EOF) zone and establish standards for those additional limited uses in the EOF zones. Specifically, the ZTA would allow Light Vehicle Sales and Rental (Indoor and Outdoor) and Vehicle Service Repair (major) as limited uses in the EOF zone, if each use is located on a tract less than 10 acres in size and located outside of a Metro Station Policy Area. All other limited use standards currently associated with these three uses would remain in effect.

Summary

Staff recommends denial of ZTA No. 15-11 to allow additional limited uses in the Employment Office (EOF) zone and establish standards for those additional limited uses in the EOF zones. Staff has concerns with permitting vehicle sales or rental facilities and major vehicle repair in a zone that is intended for office and employment activity with limited residential and neighborhood commercial uses (a maximum of 30% retail/service uses). A more appropriate method for providing an alternative to development under the restrictions of the EOF zone would be to request a change in zoning to an applicable floating zone (in this case, the GRF zone) that allows these uses either as permitted or with limited standards.

Background/Analysis

Currently, Light Vehicle Sales and Rental (Indoor or Outdoor) and Vehicle Service Repair (major) are not permitted in the EOF zone. The EOF zone is intended for office and employment activity combined with limited residential and neighborhood commercial uses. The EOF allows flexibility in building, circulation, and parking lot layout.

Use Definitions and Limited Use Standards

Light Vehicle Sales and Rental (Indoor) means a building for the indoor sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving. Light Vehicle Sales and Rental (Indoor) includes the repair of vehicles and equipment for sale, rent, or lease as an incidental use if

conducted indoors. Light Vehicle Sales and Rental (Indoor) includes indoor storage of vehicles for sale, and an accessory car wash for vehicles and equipment for sale, rent, or lease.

Where Light Vehicle Sales and Rental (Indoor) is allowed as a limited use and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, access to the site from a street with a residential classification is prohibited and site plan approval is required.

Currently under the Employment zones, the GR zone allows indoor light vehicle sales and rental as a permitted use. No other Employment Zone allows this use as a permitted or limited use.

Light Vehicle Sales and Rental (Outdoor) is defined similarly to indoor sales, except for the inclusion of outdoor storage of vehicles for sale. Where Light Vehicle Sales and Rental (Outdoor) is allowed as a limited use and the subject lot abuts or confronts a property zoned Agricultural, Rural Residential, or Residential Detached that is vacant or improved with an agricultural or residential use, it must satisfy the following standards:

- i. Access to the site from a street with a residential classification is prohibited.
- ii. Vehicles must be stored or parked only on a hard surface that is constructed of material resistant to erosion, is adequately treated to prevent dust emission, and is surrounded by a raised curb. The parking and storage area must be set back 15 feet from any right-of-way, 15 feet from any lot line abutting land in an Agricultural, Rural Residential, or Residential Detached zone, and 3 feet from any other lot line.
- iii. There must be a minimum of 20 feet between access driveways, and all driveways must be perpendicular to the curb or street line.
- iv. When such use occupies a corner lot, an access driveway is prohibited within 20 feet from the intersection of the rights-of-way, and cannot exceed 30 feet in width.
- v. Product displays, parked vehicles, and other obstructions, which would adversely affect visibility at intersections or to driveways, are prohibited.
- vi. In the CRT zone, site plan approval is required under Section 7.3.4.

Currently under the Employment zones, only the GR zone allows Light Vehicle Sales and Rental (Outdoor) as a limited use. Under the NR zone, this use requires conditional use approval.

Under the Vehicle Service category (Section 3.5.13.), **Repair (Major)** means an establishment where general vehicle repair and service is conducted, including engine and transmission replacement or rebuild, body, and paint shops. Repair (Major) does not include repair or services for commercial vehicles or heavy equipment. Where Repair (Major) is allowed as a limited use, and the subject lot abuts or confronts a property zoned Residential that is vacant or improved with a residential use, all buildings must be set back a minimum of 100 feet from the abutting residential lot line; parking and storage for vehicles must be set back a minimum of 50 feet from the abutting residential lot line; the site must be a minimum of 20,000 square feet if the use is not fully contained in a structure; and access to the site from a street with a residential classification is prohibited.

Currently under the Employment zones, only the GR zone allows major repair of vehicles as a limited use. Under the LSC zone, this use requires conditional use approval.

Uses Allowed in the EOF Zone

Section 3.1.6. (Use Table), depicts a number of commercial/service uses as permitted or limited uses in the EOF zone including Restaurants, Hotel, Motel, Clinics, Medical, Dental Laboratory, Office, Research and Development, Structured Parking, Surface Parking for Use Allowed in the Zone, Conference Center, Health Clubs and Facilities, Retail/Service Establishment (up to 30% of gross floor area on the subject site), and Minor (Vehicle) Repair (subject to certain setback, lot size and access requirements when abutting or confronting property zoned Agricultural, Rural Residential, or Residential). As introduced, the ZTA would allow automobile sales/rental and major auto repair establishments on EOF zoned properties all over the County under the current and proposed limited use standards. The proposed additional standards would limit the size of a tract to less than 10 acres and would limit property locations to outside of Metro Station Policy Areas.

Overall, Staff has concerns with permitting vehicle sales or rental facilities in a zone that is intended for office and employment activity with limited residential and neighborhood commercial uses (a maximum of 30% retail/service uses). Staff believes that indoor auto sales/rental and repair uses, in some instances, could be compatible with other uses allowed in EOF, but outdoor auto sales/rental and major repair uses (especially if the repair use is not fully contained in a structure) are not appropriate. Staff further believes that a more appropriate method for providing an alternative to development under the restrictions of the EOF zone would be to request a change in zoning to an applicable floating zone (in this case, the GRF zone).

On a case by case basis, a floating zone can provide flexible applicability to respond to changing economic, demographic, and planning trends that occur between a comprehensive District or Sectional Map Amendment. Floating zones were established to ensure protection of established neighborhoods by establishing compatible relationships between new development and existing neighborhoods, providing development standards and general compatibility standards to protect the character of adjacent neighborhoods and allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.

Should the County Council decide to allow the subject uses in the EOF zone, Staff suggest that either more standards be provided to limit where outdoor auto sales/rental and repair uses could be located in the EOF zone (for example, only located adjacent to zones that allow this use as a permitted or limited use) or only allow the outdoor auto sales/rental and repair uses as conditional uses.

GIS Data on EOF Properties

Attachment 2 includes 10 maps and a table depicting 349 EOF zoned properties (totaling over 484 acres), each less than 10 acres in size and located outside of the Metro Station Policy Areas. The table and maps also list the zones that are closest in location to the EOF zones. Although the adjacent uses and zones vary throughout the County, the data depicts that a number of the EOF zoned properties (approximately 47%) abut or confront property in a residential zone or use. The table further indicates the uses that are located on the EOF zoned properties including offices, apartments, vacant land, retail, parking, warehouses, detached residences, agriculture, industrial uses, and open space/recreation, with a majority of the acreage devoted to office use.

Conclusion

Based on the analysis above, Staff recommends denial of ZTA 15-11. Staff has concerns with permitting vehicle sales or rental facilities and major vehicle repair in a zone that is intended for office and employment activity but believes that, on a case by case basis, an alternative to development under the restrictions of the EOF zone would be to request a change in zoning to an applicable floating zone (in this case, the GRF zone).

Attachments

1. ZTA No. 15-11 as introduced
2. GIS information of EOF zoned properties based on parameters of the ZTA