

MEMORANDUM

October 20, 2016

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz  Senior Legislative Analyst
SUBJECT: Zoning Text Amendment 16-09, Commercial/Residential Zones – Location Signs

Background

Zoning Text Amendment (ZTA) 16-09, introduced on August 2, 2016, would allow a location sign (a wall sign at least 26 feet from the ground) in Commercial/Residential zones on each face of a building.

Currently, a building in a Commercial/Residential zone may have one location sign for the building. In addition to being at least 26 feet above ground level and 10 feet from the corner of a building, a location sign must be located over an entrance to the building and may not be within 10 feet of the top of a building. Council President Floreen believes that a number of these conditions are too restrictive.

ZTA 16-09 would give building owners the ability to place a sign on each building face for the major tenants in their building without requiring the existence of an entrance below the sign. It would also delete the requirement that a location sign must be 10 feet below the parapet or eave of a building.

The Council held a public hearing on September 20, 2016. The Planning Board had no objection to ZTA 16-09. Development industry representatives spoke in favor of ZTA 16-09. Two members of the County Sign Review Board, who spoke as individuals, opposed ZTA 16-09 as did other written testimony. The County Executive submitted written testimony in support of ZTA 16-09 with a recommendation to include a maximum number of location signs. There was Chamber of Commerce testimony in support of the ZTA and a Bethesda resident opposed.

This memorandum examines the issues raised in testimony. It notes how other jurisdictions resolved these issues. It is clear that there is no universal approach to the treatment of location signs in local ordinances. Some jurisdictions are more tolerant than others. Staff has provided options for the Council fundamentally based on the alternatives employed by other jurisdictions.

Issues

What is a location sign?

These signs are generally located near the roof of a building.¹ The sign allows the viewer to identify a building by name rather than street address. The sign may be for any building tenant. Typically, it identifies the owner or major tenant of the building.

Why does the current code limit each building to one location sign?

“Why” questions are difficult to answer.² The sign provisions were significantly revised in 1997 after a 5 year study. Part of the intent of those changes was to reduce the number of signs visible to drivers. Without regard to that intent, the County Executive proposed allowing a location sign (a new category of sign) “on the face of each building that has building frontage and at each customer entrance to the building and parking area.” The Council did not make any changes to that proposed text.

The Department of Permitting Services (DPS) believes that a single location sign is allowed under this provision because the description of a location sign is singular.

Location Sign. Additional sign area is allowed for a permanent location sign erected at **an** entrance to a building or a development if the sign is a ground sign or flat wall sign located at the entrance. **The sign must meet the following requirements: [Emphases added]**

DPS has consistently interpreted the current code to mean one location sign per building.³ DPS refers applicants for more than one location sign per building to the Sign Review Board for a variance.⁴ Such variances have not been recently granted by the Board.

Why should multiple signs be allowed?

Council President Floreen believes that allowing multiple location signs will provide a significant enticement for major tenants to rent in Montgomery County buildings. In her opinion, a location sign on each face of a building, without regard to the location of a building entrance, will allow more flexibility for building owners without creating confusing sign clutter.

The County Executive believes that ZTA 16-09 would remove a barrier that has been of concern to prospective large tenants. ZTA 16-09 would allow building owners to highlight major tenants in the building. This would in turn allow landlords to better compete for major tenants.

¹Under § 59-6.7.4.B, a sign may not project from the roof of a building. In this manner, the code avoids allowing a sign that could add to the perceived height of a building.

² The following note is repeated from the staff memorandum written for the public hearing on ZTA 16-09.

“The answer to a ‘why’ question is an explanation. The premises of an explanation have to include invariant relationships, and thus the reliability of such answer depends on whether the domain of invariance of the relevant relationships covers the domain of the question.” Marcel J. Boumans, *Sociology of the Sciences Yearbook*, pages 107-124, 2006.

Staff still has nothing to add to this remarkable insight.

³ Under §59-1.4.1.E, a singular includes a plural; however, the Department’s long-standing interpretation would prevail unless changed by the Council’s approval of ZTA 16-09. DPS agrees that ZTA 16-09, as introduced, would allow multiple location signs on a building.

⁴ Under Section 59-6.7.2, any sign not allowed by the code may be constructed if the applicant obtains a variance from the Sign Review Board.

Why should multiple location signs not be allowed?

The testimony against ZTA 16-09 suggested 5 reasons to not approve ZTA 16-09.

- 1) Multiple location signs will create confusion by having a single building referred to by different names.**

With multiple signs mounted near the top of a building, people approaching a building from opposite directions will see a different sign. Some people coming from one direction may refer to a building as the XYZ building; other people coming from a different direction will refer to the same building as the ABC building. This individual confusion becomes a safety concern if first responders do not know where to go when called for an emergency.

Staff asked the Fire Marshal if multiple locations signs would be a problem for fire services. In the opinion of the Fire Marshal it would not be a problem in directing equipment and personnel to the correct location.⁵

Option

Howard County allows multiple location signs on tall buildings with the limitation that the sign on each side of the building consists of the same combination of names or corporate logos.

- 2) The ZTA will result in unsightly sign clutter.**

ZTA 16-09 would increase the number of location signs allowed on any high building. Describing multiple signs as “clutter” is a conclusion. Webster’s Dictionary defines the transitive verb “clutter” as actions “to fill or cover with scattered or disordered things that impede movement or reduce effectiveness.” Whether or not a collection of signs is scattered or disordered in a matter that amounts to clutter is an aesthetic assessment.

Signs are subject to, first, first amendment rights.⁶ The County may direct when signs may be constructed (time), where they may be constructed (place) and how signs may be constructed (manner). The County cannot regulate on the basis of aesthetics absent some other public purpose such as historic preservation or preventing driver distractions.⁷ Aesthetic considerations depend on human sensibilities that are necessarily incapable of objective treatment and are subject to being arbitrary and vague.⁸

⁵ Email from Rick Merck; “I do not think that this will affect the ability for the dispatch and emergency responders to identify locations where services are needed. It is true that there are times where describing one's surroundings may be a method used to identify a location, but with the advent of cellphone use and reverse 9-1-1 and other technological advances, the frequency of use of that method is minimized. I have no issues, from a Fire Marshal perspective with this ZTA.”

⁶ Reed v. Town of Gilbert, 576 U.S. ____ (2015).

⁷ Cochran v. Preston, 108 Md. 220 (1908); Mayor and City Council of Baltimore v. Mano Swartz, 268 Md. 79 (1973); Coscan Washington Inc. v. Maryland-National Park and Planning Commission 87 Md. 602 (1991).

⁸ Staff, having been raised in New Jersey, does not have a sufficient frame of reference with any urban aesthetic standards that should be emulated.

Options

No location signs

Fort Worth, Texas is quite proud of the fact that their skyline does not have any signs near the top of any high-rise buildings. This was not required by zoning regulation in Fort Worth, although a ban was the topic of discussion. It occurred purely by civic cooperation.

Boston city officials negotiate the size and placement of signs. Their general preference in Boston is to not have a skyline dominated by corporate signs and instead to have a skyline that's dominated by interesting buildings.⁹ Some think that architecture should speak for itself rather than having signs bark at people.¹⁰ In this regard, the John Hancock Building is known as the John Hancock Building without any sign on the building.

Limit Total Location Sign Area

Some jurisdictions do not limit the number of location signs but do limit the total sign area for location signs. Under current code, a location sign is limited to 100 square feet. If the total area of location signs was limited (say 200 feet total, as is the limit in some other jurisdictions), then the applicant would have to consider how many location signs are practicable. Fairfax County limits the total area of location signs to 200 square feet or, when there are multiple tenants with separate entrances, to 1.5 square feet of sign area for every 1 linear foot of building frontage.¹¹

3) Some signs will advertise products not based on-site (much like small billboards).

As a general matter, the County is prohibited from regulating the content of a sign; however, advertising off-site businesses, products or services is prohibited. Once the business, product or service is located on-site, then it may have a sign.

At the discretion of the building owner, it is accurate to say that any chain restaurant or chain franchise business may be prominently displayed under ZTA 16-09. The County may not constitutionally regulate sign content. ZTA 16-09 would not restrict the sign to a major (in terms of a percentage of the gross floor area of a building) building tenant. This would be difficult and time-consuming to enforce.

Option

The total number of location signs or total location sign area could be limited.

4) In mixed-use areas, high-rise multi-family dwellings will be close to multiple signs.

The approval of ZTA 16-09 will increase the number of allowable signs. Many multi-story buildings are in mixed-use areas of the County where there are nearby residents. Some residents may view nearby signs as an undesirable, intrusive addition to their view. As proposed, there are no setback requirements for location signs from existing or planned multi-family high-rises.

⁹ Jon Chesto, Boston Globe, November 30, 2015.

¹⁰ Cambridge architect Hubert Murray.

¹¹ Fairfax County Zoning Ordinance Article 12-206.

Option

If the Council is concerned about the proximity of location signs to apartment building, it could require that a location sign be located along street frontage. This would at least mean that a sign could not be closer than the width of a right-of-way.

5) There are no problems with the current system that allows otherwise prohibited signs in the variance process.

When an application for a sign permit fails to satisfy the standards for the code, the applicant may apply for a variance from the Sign Review Board.¹² After a hearing, the Sign Review Board may approve an application for a sign variance from the sign requirements of Division 6.7 if:

- a. the strict application of the sign requirements of Division 6.7 would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on an applicant;
- b. the sign variance is the minimum reasonably necessary to overcome any exceptional conditions; and
- c. the sign variance can be granted without substantial impairment of the purpose of Division 6.7.¹³

In at least in two other instances, the Sign Review Board granted a variance to allow 2 location signs on the top of a building. The Park Potomac office building (I-270 near Montrose Road) was approved several years ago with different membership on the Sign Review Board. The Board agreed to allow two wall location signs on different building elevations with a condition (as part of a sign concept plan for that project). The signs could specify tenants when the signs were installed; however, if one of those tenants left, then the sign could not be replaced.

Two location signs were also allowed on the same building at the Milestone Business Park located next to I-270 in Germantown. This approval was also by the Sign Review Board with different membership. This location is unique. There are multiple high-rise buildings that create a campus-like setting. A sign for WeatherBug was the second sign allowed and came with strong support from the then Department of Economic Development.

Proponents for ZTA 16-09 argue that the time and experience for the possibility of getting a variance from the Sign Review Board is a detriment to economic development. In any event, variances are not always granted.

Option

Disapprove ZTA 16-09.

¹² Section 59-6.7.2.C.

¹³ Section 59-7.4.4.C.2.

How many location signs should be allowed?

Many jurisdictions limit a building to one location sign.¹⁴ Prince George’s County leaves the issue up to Planning Board approval.¹⁵

The Executive expressed concern about ZTA 16-09’s limiting the number of location signs to the number of building faces. In his opinion, the number of signs would be too open to interpretation and manipulation. He recommended a limit expressed in terms of a number.

Options

Commercial interests supporting ZTA 16-09 would recommend that number be 4.

A limit of 2 signs on opposite sides of a building would prevent an observer from seeing more than one sign at a time. Commercial interests supporting ZTA 16-09 would not favor a limit of 2 signs.

A number limit would not be necessary if the Council retains the condition that one location sign may be located along street frontage, although this alternative is not favored by the commercial interests supporting ZTA 16-09.

What else would ZTA 16-09 change, in addition to the number of location signs?

ZTA 16-09 would remove the requirement that a sign be located at least 10 feet below the top of a building. In the sponsor’s opinion, this requirement is an unnecessary restriction, as long as the sign is below the roof of a building. In a number of instances, 10 feet below the eave would put a significant sized sign in front of windows on the highest floor. The current code actually gives an incentive to landowners to increase the height of a parapet wall.

ZTA 16-09 would also remove the requirement that a sign may only be above an entrance. Entrances are not required on the face of each building. Security concerns dictate fewer entrances. Retaining the limitation for an entrance would run counter to the intent of the sponsor.

Option

A requirement that a location only be allowed at an entrance or only along street frontage is common among the sign regulations in other jurisdictions.

<u>This Packet Contains</u>	<u>© number</u>
ZTA 16-09	1 – 4
Planning Board and Planning Staff recommendation	5 – 8
Executive Recommendation	9 – 10

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¹⁴ Sample Ordinances: Clarkstown, NY: Ch. 243; College Township, PA: Ch. 170; Dagsboro, T., DE: Ch. 275; Montgomery County, PA.

¹⁵ Prince George’s County Code Section 27-546.

Zoning Text Amendment No.: 16-09
Concerning: Commercial/Residential
Zones – Location Signs
Draft No. & Date: 1 – 7/14/16
Introduced: August 2, 2016
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

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the number and the placement of location signs on buildings located in Commercial/Residential, Employment, and Industrial zones.

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

DIVISION 6.7. “Signs”
Section 6.7.9. “Commercial/Residential, Employment, and Industrial Zones”

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 59-6.7 is amended as follows:**

2 **DIVISION 59-6.7. Signs**

3 * * *

4 **Section 6.7.9. Commercial/Residential, Employment, and Industrial Zones**

5 * * *

6 B. Additional Sign Area

7 1. Location Sign

8 Additional sign area is allowed for a permanent location sign [erected
9 at an entrance to a building or a development] if the sign is a ground
10 sign or flat wall sign [located at the entrance]. [The] Each sign must
11 meet the following requirements:

- 12 a. A sign may be placed on each face of the building [that abuts,
13 parallels, or is nearest to parallel with, a street, a parking area,
14 or other circulation area open to the general public and that has
15 either a main window display or a public entrance to the
16 building, and at each customer entrance to the building and
17 parking area].
- 18 b. The maximum sign area is 100 square feet for each sign.
- 19 c. The location is the same as provided generally for the zone,
20 based on the type of sign. A location sign erected as a ground
21 sign must satisfy the setback restrictions for a freestanding sign,
22 and a location sign erected as a wall sign must satisfy the
23 requirements for a wall sign.
- 24 d. [The] A sign may be placed on [a wall] each face of a building
25 more than 26 feet from the ground if it is [at least 10 feet]
26 located below the eave or parapet and at least 10 feet from the
27 corner of the building.

- 28 e. An entrance sign that is a freestanding location sign must be
- 29 placed [a minimum of] at least 100 feet from another
- 30 freestanding sign. A wall location sign at an entrance must be
- 31 placed a minimum of 30 feet from another wall sign.
- 32 f. The sign may be illuminated (see Section 6.7.6.E).

33 * * *

34 **Sec. 2. Effective date.** This ordinance becomes effective on the date of

35 Council adoption.

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37 This is a correct copy of Council action.

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40 _____
Linda M. Lauer, Clerk of the Council



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

OFFICE OF THE CHAIR

September 19, 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. 16-09

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment (ZTA) No. 16-09 at our regular meeting on September 15, 2016. By a vote of 4:0 (Commissioner Dreyfuss absent from the meeting), the Planning Board recommends approval of the text amendment as introduced to revise the number and the placement of location signs on buildings located in Commercial/Residential, Employment, and Industrial zones. The resulting text would allow a wall sign more than 26 feet from the ground in Commercial/Residential, Employment, and Industrial zones to be located on each face of a building.

A location sign is a sign which portrays a logo, symbol, name, or address to identify the location of the building or use. Currently, (as interpreted by DPS) a building in a Commercial/Residential, Employment or Industrial zone may have one location sign for the building. A location sign must be located over an entrance to the building; however, if the sign is placed on a wall at a location more than 26 feet from the ground, it must be at least 10 feet below the eave or parapet and at least 10 feet from the corner of the building. The sponsor of the text amendment believes that a number of these conditions are too restrictive. ZTA 16-09 would give building owners the ability to place a sign on each building face for the major tenants in their building. In the sponsor's opinion, a location sign on each face of a building, without regard to the location of a building entrance, will allow more flexibility for building owners without creating confusing sign clutter.

ZTA 16-09 would also remove the requirement that a sign be located at least 10 feet below the top of a building. In the sponsor's opinion, this requirement is an unnecessary restriction as long as the sign is below the roof of a building. Also, this removal would not

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impact the requirement that a wall sign is prohibited from extending above any portion of a roof. In summary, the Board has no objection to providing more flexibility for providing wall signs in the nonresidential zones.

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, September 15, 2016.



Casey Anderson
Chair

CA:GR

Zoning Text Amendment (ZTA) No. 16-09, Commercial/Residential Zones – Location Signs



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



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

Completed: 09/8/16

Description

ZTA No. 16-09 would revise the number and the placement of location signs on buildings located in Commercial/Residential, Employment, and Industrial zones. The resulting text would allow a wall sign more than 26 feet from the ground in Commercial/Residential zones to be located on each face of a building.

Summary

Staff has no objection to ZTA 16-09 that would allow a location sign (a wall sign at least 26 feet from the ground) in Commercial/Residential, Employment and Industrial zones on each face of a building and would remove the requirement that a sign be located at least 10 feet below the top of a building. This removal does not impact the requirement that a wall sign is not permitted on the roof of a building.

Background/Analysis

Zoning Text Amendment (ZTA) 16-09 would allow a location sign (a wall sign at least 26 feet from the ground) in Commercial/Residential, Employment and Industrial zones on each face of a building. A location sign is a sign which portrays a logo, symbol, name, or address to identify the location of the building or use. Currently, (as interpreted by DPS) a building in a Commercial/Residential, Employment or Industrial zone may have one location sign for the building. A location sign must be located over an entrance to the building; however, if the sign is placed on a wall at a location more than 26 feet from the ground, it must be at least 10 feet below the eave or parapet and at least 10 feet from the corner of the building. The sponsor of the text amendment believes that a number of these conditions are too restrictive. ZTA 16-09 would give building owners the ability to place a sign on each building face for the major tenants in their building. The sponsor further believes that this will provide a significant enticement for major tenants to rent in Montgomery County buildings. In her opinion, a location sign on each face of a building, without regard to the location of a building entrance, will allow more flexibility for building owners without creating confusing sign clutter. ZTA 16-09 would also remove the

requirement that a sign be located at least 10 feet below the top of a building. In the sponsor's opinion, this requirement is an unnecessary restriction as long as the sign is below the roof of a building. Staff has provided the proposed language below for the Board's convenience. Staff has no objection to ZTA 16-09.

DIVISION 59-6.7. Signs

* * *

Section 6.7.9. Commercial/Residential, Employment, and Industrial Zones

* * *

B. Additional Sign Area

1. Location Sign

Additional sign area is allowed for a permanent location sign [erected at an entrance to a building or a development] if the sign is a ground sign or flat wall sign [located at the entrance]. [The] Each sign must meet the following requirements:

- a. A sign may be placed on each face of the building [that abuts, parallels, or is nearest to parallel with, a street, a parking area, or other circulation area open to the general public and that has either a main window display or a public entrance to the building, and at each customer entrance to the building and parking area].
- b. The maximum sign area is 100 square feet for each sign.
- c. The location is the same as provided generally for the zone, based on the type of sign. A location sign erected as a ground sign must satisfy the setback restrictions for a freestanding sign, and a location sign erected as a wall sign must satisfy the requirements for a wall sign.
- d. [The] A sign may be placed on [a wall] each face of a building more than 26 feet from the ground if it is [at least 10 feet] located below the eave or parapet and at least 10 feet from the corner of the building.
- e. An entrance sign that is a freestanding location sign must be placed [a minimum of] at least 100 feet from another freestanding sign. A wall location sign at an entrance must be placed a minimum of 30 feet from another wall sign.
- f. The sign may be illuminated (see Section 6.7.6.E).

* * *



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

MEMORANDUM

September 20, 2016

Isiah Leggett
County Executive

RECEIVED
MONTGOMERY COUNTY
ADMINISTRATION

2016 SEP 21 PM 2:44

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TO: Nancy Floreen, President
County Council

FROM: Isiah Leggett 
County Executive

SUBJECT: Zoning Text Amendment 16-09
Location Signs in Commercial/Residential Zones

I am writing to express my support for Zoning Text Amendment (ZTA) 16-09 which proposes to increase the number of location signs allowed on the face of buildings in the Commercial/Residential Zones. Under existing law a single sign is allowed which has been the standard for many years. Under this standard the County has seen quality downtown areas and thriving office buildings. In recent years, however, the office market has radically changed for a variety of reasons and many urban areas and office buildings around the country are experiencing significant vacancy rates.

Last year I put together an Office Market Work Group comprised of leading builders, owners and managers of office buildings to look at options the County can pursue to help fill vacant office space. This group noted in its report that office vacancies are a problem regionally and that “[c]utbacks in Federal spending and leasing, teleworking, technological advances and more efficient work spaces are having an impact on the County’s ability to lease available office space, a trend expected to continue in the foreseeable future.”

Of concern for this group was the need to minimize barriers in the Zoning Ordinance that inadvertently could hamper leasing and to update the sign ordinance. Signage and wayfinding identification is needed and is of significant interest to office tenants. Proposed ZTA 16-09 removes a barrier that has been of concern to prospective large area tenants. I support the clear intent of this ZTA to help remove obstacles to filling our vacant office buildings.

While I support the ZTA, I recommend that the ZTA be clarified so that there is a limit on the total number of identifying signs to avoid a cluttered appearance and to ensure that signs are limited to actual tenancies within the building. I believe that a reasonable balance can be achieved to accommodate all of the major concerns on this matter.

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Nancy Floreen, President
September 20, 2016
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I commend Council President Floreen for introducing the ZTA. My staff is available to work with Council staff to assure that the ZTA is clear and maintains a standard that avoids sign clutter while maintaining the objective of the ZTA which is to minimize restrictions that interfere with filling vacant spaces and to allow for signage that provides a clear indication of the business located within.