

**MEMORANDUM**

October 27, 2016

TO: Planning, Housing, and Economic Development Committee  
FROM: Jeff Zyontz, Senior Legislative Analyst  
SUBJECT: Zoning Text Amendment 16-11, Rural and Residential Zones – Road Setback

Zoning Text Amendment (ZTA) 16-11, lead sponsor the Planning, Housing, and Economic Development Committee, was introduced on August 2, 2016. ZTA 16-11 would revise the requirements for setbacks from roads in rural and residential zones. Currently, the setback required from a private road is much less than the setback required for a public road. As introduced, ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process.

The Subdivision Rewrite effort (Subdivision Regulation Amendment 16-01) brought the issue of private roads to the Committee's attention. The current code provides an unintended incentive for subdivision applicants to propose private roads. Private roads are a future public problem for a number of reasons:

- Private road ownership arrangements are subject to future failure.
- Future owners will object to private maintenance fees in addition to general taxes.
- When maintenance fails, the County will be petitioned to fix the problem and accept the road as a public road.
- When a private road is used for public transit, inadequate private maintenance becomes a public issue.
- The County's flexibility to accommodate future network connections (new utilities or above or below grade transportation) will be restrained.
- Future water and sewer connections (that will not go on private roads) may be far less efficient.

ZTA 16-11 would eliminate the zoning incentive for private roads. The requirement for site plan approval to use the reduced setback would continue to ensure development compatible with neighboring property. The Planning Board and Planning Staff recommended approval as introduced.

A public hearing was held September 13, 2016 at 1:30 p.m. The 3 residents who testified spoke in opposition to the approval of ZTA 16-11. The opposition expressed concern that it increased density and would allow for an urban design out of character to nearby communities. In the opinion of the Bradley Hills Citizens Association, ZTA 16-11 would undermine the work of the 2008 Infill Development Task Force. One land use attorney spoke in favor of ZTA 16-11.

## Issues

### *How does ZTA 16-11 eliminate the incentive for private roads?*

For all residential zones, ZTA 16-11, as introduced, would make the current reduced setback for private roads applicable to public roads. Where there were separate provisions for private streets and public streets, the provision for public streets was deleted and the private street standards were made applicable to public and private streets.

### *How does the reduced setback relate to the density of a project?*

Where private roads are currently proposed, ZTA 16-11 would not change any aspect of the development except that the same development could be built with public roads instead of private roads. (There are no current subdivision limitations on when and where private roads can be proposed and approved. SRA 16-01 would address that situation.)

The primary density limitations in residential zones are units per acre and minimum lot size (although some zones do not have a minimum lot size). Setbacks are a limitation on the building location within a site. Reduced setback allow more flexibility on locating a house within a lot. With shallow lots, a reduced front yard setback would allow a larger house footprint. When a developer has a particular size house in mind, an increased setback may result in fewer lots. The larger house would require a larger lot when larger front setbacks are required. Larger lot sizes can reduce density, but independently reduced setback does not change the number of dwellings allowed per acre.

### *How would lot coverage be affected by ZTA 16-11?*

The limits on lot coverage in the current zoning code would be not be changed by the approval of ZTA 16-11. In large lot zones, a small percentage of the lot is allowed to be covered. For example, in the RC and RNC zones the limit is 10%. The standard method for RE-2 and RE-2C zones is limited to 25%. In preexisting neighborhoods in the R-200, R-90, R-60, and R-40 zones, the lot coverage limit is 30% for 6,000 square foot lots, with decreasing lot coverage limits as lot size increases. A lot that is 16,000 feet or larger is limited to 20% building coverage. Optional method development has lot coverage limits for detached houses and duplexes, but not for townhouses. Using the R-90 zone as an example, there is a 30% coverage limit for detached and duplexes, but no limit on coverage for townhouses.

### *How are existing neighborhoods protected from reduced setbacks?*

For a reduced setback, ZTA 16-11 would require a finding of compatibility by the Planning Board in the course of site plan approval. A number of residential zones have optional method development standards. Optional method development always requires site plan approval. When site plan approval is not always required, the proposed reduced setback would require site plan approval. Older traditional communities were not subject to site plan approval.

It would be unusual for infill subdivisions (subdivisions of 6 or fewer lots in an established neighborhood) to voluntarily undertake site plan approval. If a developer chooses to do so, the Planning Board must make a finding of compatibility. The expense and risk of disapproval may be sufficient to deter any such applications.

*Can the goal of evening the playing field for public and private roads be accomplished in another way?*

ZTA 16-11 proposes making the reduced private road setback available for public roads. *An even playing field for public roads could also be achieved by eliminating the reduced setback for private roads.*

Reduced setbacks allow for a much more urban looking environment with houses close to the street. This development form has been favored in recent years. It does give more flexibility to the development community at a time when stormwater management requirements have put on more constraints.

This Packet Contains

ZTA 16-11

Planning Board and Planning Staff Recommendation

© number

1 – 24

25 – 28

Zoning Text Amendment No.: 16-11  
Concerning: Rural and Residential  
Zones – Road Setback  
Draft No. & Date: 1 – 7/5/16  
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**

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Lead Sponsor: The Planning, Housing, and Economic Development Committee

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- revise the building setback requirements from streets in rural residential and residential zones.

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

DIVISION 4.3.	“Rural Residential Zones”
Section 4.3.4.	“Rural Cluster Zone (RC)”
Section 4.3.5.	“Rural Neighborhood Cluster Zone (RNC)”
DIVISION 4.4.	“Residential Zones”
Section 4.4.5.	“Residential Estate - 2C Zone (RE-2C)”
Section 4.4.6.	“Residential Estate - 1 Zone (RE-1)”
Section 4.4.7.	“Residential - 200 Zone (R-200)”
Section 4.4.8.	“Residential - 90 Zone (R-90)”
Section 4.4.9.	“Residential - 60 Zone (R-60)”
Section 4.4.10.	“Residential - 40 Zone (R-40)”
Section 4.4.11.	“Townhouse Low Density Zone (TLD)”
Section 4.4.12.	“Townhouse Medium Density Zone (TMD)”
Section 4.4.13.	“Townhouse High Density Zone (THD)”
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)”

**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 59-4.3 is amended as follows:**

2   **Division 4.3. Rural Residential Zones**

3   \*   \*   \*

4   **Section 4.3.4. Rural Cluster Zone (RC)**

5   \*   \*   \*

6   **D.    RC Zone, Optional Method Development Standards**

1. Site	Cluster Development
	Detached House
*   *   *	
<b>3. Placement</b>	
<b>Principal Building Setbacks (min)</b>	
[Front setback from public street]	[50']
Front setback from [private] <u>any</u> street or open space	50'
Side street setback	50'
Side or rear setback	Determined at site plan
Side setback, abutting property not included in application	17'
Rear setback, abutting property not included in application	35'
Rear setback, alley	4'
*   *   *	

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8   **Section 4.3.5. Rural Neighborhood Cluster Zone (RNC)**

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10   **C.    RNC Zone, Standard Method Development Standards**

1. Site	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
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
Front setback[,] from a public street	40'	40'	40'	25'
Front setback[, private street or] from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016	40'	40'	40'	4'
Side street setback	50'	50'	50'	15'
Side setback	15'	15'	15'	4'
Side setback, end unit	n/a	n/a	n/a	5'
Side setback between lot and site boundary	n/a	n/a	n/a	15'
Rear setback	35'	35'	35'	20'
Rear setback between lot and site boundary	n/a	n/a	n/a	15'
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**E. RNC Zone, Optional Method Development Standards**

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
* * *			
<b>3. Placement</b>			
<b>Principal Building Setbacks (min)</b>			
[Front setback from public street]	[15']	[15']	[15']

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
Front setback from [private street or] open space or <u>any street</u> . Requires site plan approval under Section 7.3.4.	15'	15'	15'
Side street setback	15'	15'	15'
Side or rear setback	Determined at site plan		
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method		
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14 **Sec. 2. DIVISION 59-4.4 is amended as follows:**

15 **Division 4.4. Residential Zones**

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17 **Section 4.4.5. Residential Estate - 2C Zone (RE-2C)**

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19 **D. RE-2C Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
[Front setback from public street]	[35']	[35']	[35']	[35']
Front setback from [private] <u>any</u> street or open space	10'	10'	10'	10'

1. Site	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	35'	35'	35'	35'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	20'	20'	20'	20'
Side or rear setback	Determined at site plan			Determined at site plan
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method
Rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			50'
Rear setback, alley	4'	4'	4'	4'
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21 **Section 4.4.6. Residential Estate - 1 Zone (RE-1)**

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23 **D. RE-1 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
[Front setback from a public street]	[35']	[35']	[35']	[35']
Front setback from [private] any street or open space	10'	10'	10'	10'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	35'	35'	35'	35'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	20'	20'	20'	20'
Side or rear setback	Determined at site plan			Determined at site plan
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method
Rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			50'
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25 **Section 4.4.7. Residential - 200 Zone (R-200)**

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27 **C. R-200 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development
	Detached House	Duplex	Townhouse	Detached House
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
[Front setback from public street]	[25']	[25']	[25']	[25']
Front setback from [private] <u>any</u> street or open space	10'	10'	10'	10'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	25'	25'	25'	25'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	15'	15'	15'	15'
Side or rear setback	Determined at site plan			Determined at site plan
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method
Rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			40'
Rear setback, alley	4'	4'	4'	4'
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29 **Section 4.4.8. Residential - 90 Zone (R-90)**

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31 **C. R-90 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
* * *						
<b>3. Placement</b>						
<b>Principal Building Setbacks (min)</b>						
[Front setback from public street]	[25']	[25']	[25']	[25']	[25']	[25']
Front setback from [private] any street or open space	10'	10'	10'	10'	10'	10'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	25'	25'	25'	25'	25'	25'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	15'	15'	15'	15'	15'	15'
Side or rear setback	Determined at site plan			Determined at site plan		
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method		30'
Rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			30'	30'	30'
Rear setback, alley	4'	4'	4'	4'	4'	4'
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33 **Section 4.4.9. Residential - 60 Zone (R-60)**

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35 C. R-60 Zone, Optional Method Development Standards

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
* * *						
<b>3. Placement</b>						
<b>Principal Building Setbacks (min)</b>						
[Front setback from public street]	[20']	[20']	[20']	[20']	[20']	[20']
Front setback from [private] <u>any</u> street or open space	10'	10'	10'	10'	10'	10'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	20'	20'	20'	20'	20'	20'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	15'	15'	15'	15'	15'	15'
Side or rear setback	Determined at site plan			Determined at site plan		
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method		30'
Rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			30'	30'	30'
Rear setback, alley	4'	4'	4'	4'	4'	4'
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37 **Section 4.4.10. Residential - 40 Zone (R-40)**

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39 **C. R-40 Zone, Optional Method Development Standards**

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
* * *			
<b>3. Placement</b>			
<b>Principal Building Setbacks (min)</b>			
[Front setback from public street]	[20']	[20']	[20']
Front setback from [private] <u>any</u> street or open space	10'	10'	10'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	20'	20'	20'
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached zone	15'	15'	15'
Side or rear setback	Determined at site plan		
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method		
Rear setback, alley	4'	4'	4'
* * *			

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41 **Section 4.4.11. Townhouse Low Density Zone (TLD)**

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43 **B. TLD Zone, Standard Method Development Standards**

1. Site	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
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
Front setback[,] from a public street	20'	20'	20'	20'
Front setback[, private street or] from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016	4'	4'	4'	4'
Side street setback	15'	15'	15'	5'
Side setback, abutting Agricultural, Rural Residential, or Residential zones	6'	6'	6'	n/a
Side setback, abutting all other zones	4'	4'	4'	n/a
Side setback, end unit	n/a	n/a	n/a	4'
Side setback between lot and site boundary	n/a	n/a	n/a	5'
Rear setback	20'	20'	20'	20'
Rear setback, alley	4'	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'
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45 **C. TLD Zone, Optional Method Development Standards**

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
* * *			
<b>3. Placement</b>			
<b>Principal Building Setbacks (min)</b>			
[Front setback from public street ]	[10']	[10']	[10']
Front setback from [private] <u>any</u> street or open space	4'	4'	4'
Side street setback	10'	10'	5'
Side or rear setback	Determined at site plan		
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method		
Rear setback, alley	4'	4'	4'
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47 **Section 4.4.12. Townhouse Medium Density Zone (TMD)**

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49 **B. TMD Zone, Standard Method Development Standards**

1. Site	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
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
Front setback[,] <u>from</u> a public street	20'	20'	20'	20'

1. Site	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
Front setback[, private street or] from open space or <u>any street, if approved through site plan under Section 7.3.4 after September 13, 2016</u>	4'	4'	4'	4'
Side street setback	15'	15'	15'	5'
Side setback, abutting Agricultural, Rural Residential, or Residential zones	6'	6'	6'	n/a
Side setback, abutting all other zones	4'	4'	4'	n/a
Side setback, end unit	n/a	n/a	n/a	4'
Side setback between lot and site boundary	n/a	n/a	n/a	5'
Rear setback	20'	20'	20'	20'
Rear setback, alley	4'	4'	4'	3'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'
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**C. TMD Zone, Optional Method Development Standards**

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
* * *			
<b>3. Placement</b>			
<b>Principal Building Setbacks (min)</b>			

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
[Front setback from public street]	[10']	[10']	[10']
Front setback from [private] <u>any</u> street or open space	4'	4'	4'
Side street setback	10'	10'	5'
Side or rear setback	Determined at site plan		
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method		
Rear setback, alley	4'	4'	4'
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**Section 4.4.13. Townhouse High Density Zone (THD)**

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**B. THD Zone, Standard Method Development Standards**

1. Site	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
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
Front setback[,] <u>from a public street</u>	20'	20'	20'	20'
Front setback[, private street or] <u>from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016</u>	4'	4'	4'	4'
Side street setback	15'	15'	15'	5'

<b>1. Site</b>	<b>Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone</b>	<b>Duplex - Side</b>	<b>Duplex - Over</b>	<b>Townhouse</b>
Side setback, abutting Agricultural, Rural Residential, or Residential zones	6'	6'	6'	n/a
Side setback, abutting all other zones	4'	4'	4'	n/a
Side setback, end unit	n/a	n/a	n/a	3'
Side setback between lot and site boundary	n/a	n/a	n/a	5'
Rear setback	20'	20'	20'	20'
Rear setback, alley	4'	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'
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**C. THD Zone, Optional Method Development Standards**

<b>1. Site</b>	<b>MPDU Development</b>		
	<b>Detached House</b>	<b>Duplex</b>	<b>Townhouse</b>
* * *			
<b>3. Placement</b>			
<b>Principal Building Setbacks (min)</b>			
[Front setback from public street]	[10']	[10']	[10']
Front setback from [private] <u>any</u> street or open space	4'	4'	4'
Side street setback	10'	10'	10'
Side or rear setback	Determined at site plan		

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method		
Rear setback, alley	4'	4'	4'
* * *			

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

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61 **B. R-30 Zone, Standard Method Development Standards**

1. Site	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
* * *					
<b>3. Placement</b>					
<b>Principal Building Setbacks (min)</b>					
Front setback[, from a public street	20'	20'	20'	20'	30'
Front setback[, private street or] from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016	4'	4'	4'	4'	20'
Side street setback	15'	15'	15'	5'	10'

1. Site	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
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	6'	6'	6'	n/a	See Section 4.1.8.A
Side setback, abutting all other zones	4'	4'	4'	n/a	10'
Side setback, end unit	n/a	n/a	n/a	3'	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	5'	n/a
Rear setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	20'	20'	20'	20'	See Section 4.1.8.A
Rear setback, abutting all other zones	20'	20'	20'	20'	30'
Rear setback, alley	4'	4'	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'	n/a
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**C. R-30 Zone, Optional Method Development Standards**

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
* * *				
<b>3. Placement</b>				

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
<b>Principal Building Setbacks (min)</b>				
[Front setback from public street ]	[10']	[10']	[10']	[Determined at site plan]
Front setback from [private] <u>any</u> street or open space	4'	4'	4'	Determined at site plan
Side street setback	10'	10'	5'	Determined at site plan
Side or rear setback	Determined at site plan			
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method and Section 4.1.8.A
Rear setback, alley	4'	4'	4'	n/a
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65 **Section 4.4.15. Residential Multi-Unit Medium Density - 20 Zone (R-20)**

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

1. Site	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
* * *					
<b>3. Placement</b>					
<b>Principal Building Setbacks (min)</b>					
Front setback[,] <u>from a public street</u>	20'	20'	20'	20'	30'
Front setback[, private street or] <u>from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016</u>	4'	4'	4'	4'	20'
Side street setback	15'	15'	15'	5'	10'
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	6'	6'	6'	n/a	See Section 4.1.8.A
Side setback, abutting all other zones	4'	4'	4'	n/a	10'
Side setback, end unit	n/a	n/a	n/a	3'	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	5'	n/a
Rear setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	20'	20'	20'	10'	See Section 4.1.8.A
Rear setback, abutting all other zones	20'	20'	20'	10'	30'

1. Site	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
Rear setback, alley	4'	4'	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'	n/a
* * *					

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69 **C. R-20 Zone, Optional Method Development Standards**

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
[Front setback from public street]	[10']	[10']	[10']	[Determined at site plan]
Front setback from [private] <u>any</u> street or open space	6'	6'	4'	Determined at site plan
Side street setback	10'	10'	5'	Determined at site plan
Side or rear setback	Determined at site plan			

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method and Section 4.1.8.A
Rear setback, alley	4'	4'	4'	n/a
* * *				

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

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

1. Site	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
* * *					
<b>3. Placement</b>					
<b>Principal Building Setbacks (min)</b>					
Front setback[,] from a public street	20'	20'	20'	20'	30'

1. Site	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
Front setback[, private street or] <u>from open space or any street, if approved through site plan under Section 7.3.4 after September 13, 2016</u>	4'	4'	4'	4'	20'
Side street setback	15'	15'	15'	5'	10'
Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	6'	6'	6'	n/a	See Section 4.1.8.A
Side setback, abutting all other zones	4'	4'	4'	n/a	10'
Side setback, end unit	n/a	n/a	n/a	3'	n/a
Side setback between lot and site boundary	n/a	n/a	n/a	5'	n/a
Rear setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones	20'	20'	20'	10'	See Section 4.1.8.A
Rear setback, abutting all other zones	20'	20'	20'	10'	30'
Rear setback, alley	4'	4'	4'	4'	4'
Rear setback between lot and site boundary	n/a	n/a	n/a	10'	n/a
* * *					

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**C. R-10 Zone, Optional Method Development Standards**

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
* * *				
<b>3. Placement</b>				
<b>Principal Building Setbacks (min)</b>				
[Front setback from public street]	[10']	[10']	[10']	[Determined at site plan]
Front setback from [private] any street or open space	6'	6'	4'	Determined at site plan
Side street setback	10'	10'	5'	Determined at site plan
Side or rear setback	Determined at site plan			
Side or rear setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method			Equal to required setback for a detached house building type in the abutting zone under standard method and Section 4.1.8.A
Rear setback, alley	4'	4'	4'	n/a
* * *				

76 \* \* \*

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

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80 This is a correct copy of Council action.

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 Linda M. Lauer, Clerk of the Council



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

OFFICE OF THE CHAIR

September 8, 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. 16-11

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment (ZTA) No. 16-11 at our regular meeting on September 8, 2016. By a vote of 3:0 (Commissioners Dreyfuss and Fani-Gonzalez absent from the meeting), the Planning Board recommends approval of the text amendment as introduced to revise the building setback requirements from streets in rural residential and residential zones. Specifically, ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback for private roads is approved through the site plan approval process.

ZTA 16-11 would revise the requirements for setbacks from roads in rural and residential zones. Currently, the setback required from a private road is much less than the setback required for a public road. As introduced, ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process. The Subdivision Rewrite effort (Subdivision Regulation Amendment 16-01) brought the issue of private roads to the PHED Committee's attention. The current code provides an unintended incentive for subdivision applicants to propose private roads. The PHED Committee believes that private roads can potentially be a future public concern.

During PHED Committee worksessions on the proposed Subdivision Regulations rewrite, consensus was reached that public roads are generally the preferred alternative and that developers should justify the use of a private road based upon certain criteria and the specific circumstances of the property being developed. Provisions to this effect have been added to the latest draft of the proposed Subdivision Regulations along with language that gives the Board authority to modify certain public road standards to increase the opportunities

to have public roads and still achieve other overall design goals. ZTA 16-11 is intended to create another incentive for choosing public roads over private roads in the residential and townhouse zones by making the required setbacks for single-family residential structures the same for either type of road. The Board supports the ZTA as another means of leveling the playing field in making the choice between public and private roads, and promoting the preference for public roads in most situations.

The Board's concern with the possible reduction of building setback requirements, in some cases from 35 feet to 10 feet, is minimized by requiring site plan approval for use of the reduced setback, thereby continuing to ensure development compatible with neighboring property.

#### 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 8, 2016.

  
Casey Anderson  
Chair

CA:GR

**Zoning Text Amendment (ZTA) No. 16-11, Rural and Residential Zones – Road Setback**

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**Completed: 09/1/16**

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**Description**

ZTA No. 16-11 would revise the building setback requirements from streets in rural residential and residential zones. Specifically, ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process.

**Summary**

**Staff recommends approval of ZTA No. 16-11 to revise the building setback requirements from streets in Rural Residential and Residential zones by making the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process. Staff's concern with the possible reduction of building setback requirements, in some cases from 35 feet to 10 feet, is minimized by requiring site plan approval for use of the reduced setback thereby continuing to ensure development compatible with neighboring property.**

**Background/Analysis**

The Planning, Housing, and Economic Development (PHED) Committee sponsored Zoning Text Amendment (ZTA) 16-11. ZTA 16-11 would revise the requirements for setbacks from roads in rural and residential zones. Currently, the setback required from a private road is much less than the setback required for a public road. As introduced, ZTA 16-11 would make the required setback for public and private roads equal, if the reduced setback is approved through the site plan approval process. The Subdivision Rewrite effort (Subdivision Regulation Amendment 16-01) brought the issue of private roads to the Committee's attention. The current code provides an unintended incentive for subdivision applicants to propose private roads. The PHED Committee believes that private roads can potentially be a future public concern for a number of reasons:

- Private road ownership arrangements are subject to future failure.
- Future owners will object to private maintenance fees in addition to general taxes.
- When maintenance fails, the County will be petitioned to fix the problem and accept the road as a public road.

- When a private road is used for public transit, inadequate private maintenance becomes a public issue.
- The County's flexibility to accommodate future network connections (new utilities or above or below grade transportation) will be restrained.
- Future water and sewer connections (that will not go on private roads) may be far less efficient.

#### Staff Comments

During PHED Committee worksessions on the proposed Subdivision Regulations rewrite, a considerable amount of time was devoted to the discussion of creating private roads versus public roads as part of new development plans. Consensus was reached that public roads are generally the preferred alternative and that developers should justify the use of a private road based upon certain criteria and the specific circumstances of the property being developed. Provisions to this effect have been added to the latest draft of the proposed Subdivision Regulations along with language that gives the Board authority to modify certain public road standards to increase the opportunities to have public roads and still achieve other overall design goals. The proposed ZTA is intended to create another incentive for choosing public roads over private roads in the residential and townhouse zones by making the required setbacks for single-family residential structures the same for either type of road. Staff supports the ZTA as another means of leveling the playing field in making the choice between public and private roads, and promoting the preference for public roads in most situations.

Staff's concern with the possible reduction of building setback requirements, in some cases from 35 feet to 10 feet, is minimized by requiring site plan approval for use of the reduced setback thereby continuing to ensure development compatible with neighboring property.

#### **Attachments**

1. ZTA No. 16-11 as introduced