

Action

MEMORANDUM

June 5, 2015

TO: County Council

FROM: Jeffrey L. Zyontz,  Senior Legislative Attorney

SUBJECT: Action - Zoning Text Amendment 15-05,
Commercial/Residential Zones – Site Plan Flexibility

PHED Recommendation: On May 18, 2015, the Committee (3-0) recommended approval with the following amendments:

- 1) Modify the development standards tables in Article 59-4 for the Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones to be consistent with the changes made to Setback Compatibility (Section 4.1.8.A).
- 2) Modify other provisions to read “Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones”.
- 3) Clarify the Rear Setback, Alley development standard, which currently is stated as “4 foot or 20 feet” to a minimum of 4 foot setback.
- 4) Modify new Section 4.5.3.B to allow the Planning Board to determine when greater flexibility in development standards should be permitted.
- 5) Make editorial changes recommended by the Planning Board.

Background

The lead sponsor for Zoning Text Amendment (ZTA) 15-05, introduced on March 24, 2015, is the Planning, Housing, and Economic Development Committee. The Committee recognized the need for more flexibility in Commercial/Residential zone standards in the course of the worksession on the Aspen Hill Minor Master Plan Amendment. ZTA 15-05 would:

- 1) revise compatibility requirements to allow minimum setbacks from multi-family zones to be determined at site plan;
- 2) allow the site plan process to establish the development standards for standard method development in Commercial/Residential zones; and
- 3) allow the site plan process to establish the location of a building on a Commercial/Residential zoned site.

The proposed notice for ZTA 15-05 was sufficiently broad to allow the Council to amend any provision concerning Commercial/Residential zones.

On May 5, 2015, the Council held a public hearing. The Planning Board recommended approval of ZTA 15-05 with additional elements to assure that the alternative design satisfies the intent of the zone. Both the Planning Board and Planning Staff recommended a dozen amendments to correct and clarify the CR zone. The Planning Board recommendation would clarify that parking would be allowed if the build-to area is satisfied and the parking is in front of any other building on the site.

A representative of Lee Development believes that parking location should be included in a list of development standards that may be determined by the Planning Board on a case-by-case basis.

Issues

Most of the proposed changes to ZTA 15-05 as introduced are from the Planning Board. The Planning Staff memorandum to the Planning Board did an excellent job describing Planning Staff's recommended changes, and this memorandum borrows heavily from that document.

Setback Compatibility-Applicability (Lines 4-30)

ZTA 15-05 as introduced would make setback compatibility (Section 4.1.8.A.1) consistent with the height compatibility section by excluding multi-family from the list of building types that require more consideration. Under ZTA 15-05, a table would be deleted and a simpler statement would make the minimum side and rear setbacks equal to 1.5 times the minimum side or rear setback required for a detached house on abutting property.

The Planning Board and Planning Staff recommend further clarifications by separating the side and rear setbacks into two sentences. As a result, when determining the side setback required for a project, the applicant would use the side setback required for the detached house in the abutting property (even if the abutting property has its rear lot line against the project's side lot line).

The Committee agreed with this proposed change.

Modifications to the Development Standards Tables (Throughout the Document)

The Planning Board and Planning Staff recommend modifying the development standards tables in Article 59-4 for the Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones to be consistent with the changes made to Setback Compatibility (Section 4.1.8.A). These development standards tables all have language that states "Side setback, abutting Agricultural, Rural Residential, or Residential zones" and then directs the reader to Section 4.1.8.A. To be consistent with the changes made to Section 4.1.8.A in ZTA 15-05, this language should be modified to read "Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones". A similar change is recommended for "Rear setback, abutting Agricultural, Rural Residential, or Residential zones".

The Planning Board also recommended clarifying the Rear Setback, Alley development standard. The 4 foot or 20 foot standard in the current code is confusing and, in the Board's opinion, has not resulted in

better designed projects. The Planning Board recommended clarifying this development standard by making the setback a minimum of 4 feet. This problem exists in other zones and will be corrected soon.¹

The Committee agreed with these proposed changes.

Commercial/Residential Zones-Standard Method Development (Lines 70-77)

ZTA 15-06 as introduced would add a new Section (4.5.3.B) that describes the procedures for approval of a standard method development in the CR zones to allow the Planning Board to determine when greater flexibility in development standards should be permitted. One provision clarifies that site plan approval may be required under Section 7.3.4.A.8. The second provision establishes a new procedure that permits the Planning Board (during site plan review) to modify several development standards - the Build-to Area, Building Orientation, and Transparency requirements. This provision is also referenced in the Standard Method Development Standards table.

The Planning Board recommended allowing flexibility from the “build to” and transparency standards if the design deviates from the requirements “only to the extent necessary to accommodate the characteristics of the subject property or the proposed use, and satisfies the purpose...[of the standard] including to ensure that (a) the building engages and enhances the quality of the public realm, and (b) the building and site design (i) promote a safe and active pedestrian environment and (ii) do not create dead or inaccessible spaces between the building and the public realm.”

ZTA 15-05 as introduced is short and direct:

...requirements may be modified by the Planning Board during site plan review under Section 7.3.4 if it finds that the alternative design creates a pedestrian environment and enhances neighborhood compatibility.

The Committee did not recommend the Planning Board’s suggestion for the following reasons:

- 1) The code does not include a purpose statement for the “build-to-area” or the transparency requirement. There is no explanatory text in the code. As such, the only way to accomplish x percent of glass frontage would be to have x percent of glass frontage.
- 2) The current code completely avoids the use of the term “public realm”. No one among County staff knew or could explain where the realm began and ended.² Public realm is a term used in form-based zoning codes and urban design descriptions. It would require a codified definition.
- 3) The Planning Board recommendation is unnecessarily redundant. Any building that engages the built realm would always enhance the public realm. Is there any accessible dead space? If the

¹ Only changes to the CR zones were advertised for ZTA 15-06.

² The public realm is sometimes defined as 3 categories: parks, streetscapes, and public places. Definitions for these categories are as follows:

- Parks - Public open spaces within a community for recreational use.
- Streetscapes - The visual elements of a street, including the road, sidewalk, street furniture, trees and open spaces that combine to form the street’s character.
- Public Places - All open areas within a community visible to the public or for public gathering or assembly.

To the extent that the public realm transcends ownership and includes private visible areas, the exact boundaries are debatable.

new configuration enhances the quality of public realm in general, can it never have inaccessible space between the building and the public realm?

- 4) The Planning Board recommendation adds complexity when the intent is to allow flexibility.

The Committee agreed to recommend the following text:

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

The Planning Board and Planning Staff did **not** recommend adding the location of surface parking to the list of development standards that may be amended by the Planning Board, as recommended by Lee Development's representative. In the opinion of the Planning Board and Planning Staff, the clarification they suggest gives sufficient clarification; if the applicant wants flexibility beyond that, such flexibility is available in the optional method process.

The Committee agreed with the Planning Board that the location of parking should be left to optional method projects.

Corrections and Clarifications to the Commercial/Residential Zones (Lines 76-98)

Listed below are a number of corrections and clarifications to the Commercial/Residential zones that Planning Board and Planning Staff recommend within the scope of ZTA 15-05.

- 1) Correcting the header in the C/R standard method table: "Duplex-Over"³ standards should be for the "Duplex-Side"⁴ and vice versa. These were unintentionally reversed in the Zoning Ordinance.
- 2) Correcting the development standards for the townhouse building type in the C/R zones (specifically, the open space, lot coverage, certain side and rear setbacks).
- 3) Correcting the Specification for Density. In ZTA 14-09, effective on October 30, 2014, the language related to a historic resource was modified for optional method development. That same language is also in the standard method table and was inadvertently unchanged. The Planning Board proposed revision would correct the language in the standard method table to match the clarification approved in ZTA 14-09 under the optional method of development.
- 4) Correcting the side street setback for surface parking lots to read "must be behind the side street building line" (as opposed to the front building line). This correction is needed to match the intent of the parking setback restrictions and the restrictions in the definition of build-to area.
- 5) Correcting the header in the table for Build-to Area to be a percentage of building façade, as opposed to percent of lot width.
- 6) Correcting "Specification" to "Specifications" when there is more than one specification listed in the table.
- 7) Correcting an error in the public benefit points table (Section 4.5.4.A.2). There was a "to" mistakenly left over from a previous version of the table.

³ Duplex – Over is 2 single-family dwellings where one is on top of the other, sharing a floor.

⁴ Duplex – Side is 2 single-family dwellings where one is alongside the other, sharing a common wall.

- 8) Correcting the open space table in C/R optional method (Section 4.5.4.B.1). In optional method, the percent of open space a project has to provide is based on the size of the tract, not the lot (the actual square footage of open space provided is still based on the site size).
- 9) Correcting the numbering in Section 4.5.4.B.1 (the document was missing the “b.”).
- 10) Clarifying that parking setbacks must be behind the front/side street building line of buildings located in the Build-to Area (BTA). The intent is to clarify that, in instances where a lot has multiple buildings, the surface parking lot cannot be between the buildings in the BTA and the lot line/street (to protect the pedestrian environment). In the Planning Board’s opinion, this provision is not intended to prevent an instance where the parking is in front of a building, if the building is internal to the site and not in the build-to area (and the build-to area requirements of the zone have already been met).

The Committee recommended all of these changes.

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Zoning Text Amendment No.: 15-05
Concerning: Commercial/Residential
Zones – Site Plan
Flexibility
Draft No. & Date: 3 – 5/19/15
Introduced: March 24, 2015
Public Hearing: May 5, 2015
Adopted:
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: The Planning, Housing, and Economic Development Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

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

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

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

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

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

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

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

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

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

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

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

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

ORDINANCE

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

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

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

3 * * *

4 **Section 4.1.8. Compatibility Requirements**

5 **A. Setback Compatibility**

6 **1. Applicability**

7 a. Section 4.1.8.A.2 applies to a property in a Residential Multi-
8 Unit, Commercial/Residential, Employment, or Industrial zone
9 that:

10 i. abuts a property in an Agricultural, Rural Residential,
11 [or] Residential Detached, or Residential Townhouse
12 zone that is vacant or improved with an agricultural or
13 residential use; and

14 ii. proposes development of an apartment, multi use, or
15 general building type.

16 b. On a property in a Residential Multi-Unit,
17 Commercial/Residential, Employment, or Industrial zone for
18 which Section 4.1.8.A.1.a does not apply, the minimum side
19 and rear [setback is] setbacks are equal to the [setback] setbacks
20 required for “Side setback, abutting all other zones” and “Rear
21 setback, abutting all other zones” in the applicable standard
22 method development standards tables in Division 4.4 through
23 Division 4.8.

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

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

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

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

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

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

* * *

Sec. 2. DIVISION 59.4.4 is amended as follows:

Division 4.4. Residential Zones

* * *

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

* * *

B. R-30 Zone, Standard Method Development Standards

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

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

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

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

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

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

49 * * *

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

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

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

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

54 * * *

55 **Section 4.5.3. Standard Method Development**

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

58 **A. In General**

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

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

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

68
 69 **B.** **Procedure for Approval**

- 70 1. Site plan approval may be required under Section 7.3.4.A.8.
 71 2. An applicant may file a site plan application to modify the Build-to
 72 Area, Building Orientation, and Transparency requirements under
 73 Section 4.5.3.C.

74 **C.** **CRN, CRT, and CR Zones, Standard Method Development Standards**
 75

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

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

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

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

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

76 **Section 4.5.4. Optional Method Development**

77 * * *

78 **A. General Requirements**

79 * * *

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

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

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

84 * * *

85 **B. Development Standards**

86 **1. Open Space**

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

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

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

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

98 [[e]]d. Open space must satisfy Division 6.3.

99 * * *

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

101 **Division 4.6. Employment Zones**

102 * * *

103 **Section 4.6.3. Standard Method Development**

104 * * *

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

106

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

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

108

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

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

109 E. EOF Zone, Standard Method Development Standards

110

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

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

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

112 **Division 4.8. Industrial Zones**

113 * * *

114 **Section 4.8.3. Standard Method Development**

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

116

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

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

118

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

119

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

122

123 This is a correct copy of Council action.

124

125

126 _____
Linda M. Lauer, Clerk of the Council



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

May 5, 2015

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. 15-05

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment (ZTA) No. 15-05 at our regular meeting on April 30, 2015. By a vote of 4:0, (Commissioner Dreyfuss was absent) the Planning Board recommends approval of the text amendment as modified by the Board to revise the compatibility standards for consistency throughout and to allow the site plan process to establish the development standards for standard method development in Commercial/Residential zones for the Build-to Area, Building Orientation, and Transparency requirements if the Board finds that the alternative design satisfies the applicable elements of the intent of the zone. As introduced, the finding for alternative design would require creation of a pedestrian environment and enhancement of neighborhood compatibility. However, the Planning Board believes that additional elements that are tied to the overall intent of the zone also should be considered in order to ensure that the design goals of the new code are achieved to the maximum extent possible while addressing the constraints presented in individual development applications. Other modifications by the Board (as depicted in the attached ZTA and the technical staff report) generally work to clarify and provide consistency throughout the code.

Through the Aspen Hill Minor Master Plan Amendment (AHMMPA) process, as well as recent development projects, potential challenges were raised concerning the development standards required under Standard Method Development for the CRT zone. ZTA No. 15-05 was initiated by the County Council as a component of the AHMMPA approval in order to implement the Plan and address previously identified challenges. The CRT zone incorporates a series of prescriptive development standards to accomplish the intent of the zone. Given the vast differences in site constraints and development contexts throughout the County, the ZTA

20

would allow property owners greater flexibility to achieve the intent of the zone in alternative ways. ZTA No. 15-05 would address the County Council's concern, and allow additional flexibility through the site plan approval process, ultimately instituted through Planning Board review.

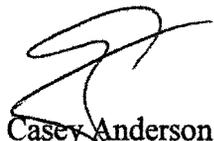
In addition to the introduced version of ZTA No. 15-05, the Board also modified the development standards tables in Article 59-4 for the Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones to be consistent with the changes made to Setback Compatibility (Section 4.1.8.A) to say "*Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones*".

The Board further clarified the rear setback, alley development standard for the C/R zones. The 4' or 20' standard has been confusing and has not resulted in better designed projects. The Board recommends clarifying this development standard by making the setback a minimum of 4'.

One of the more significant clarifications to the C/R zones recommended by the Board clarifies that parking setbacks must be behind the front/side street building line of buildings located in the Build-to Area (BTA). The intent is to clarify that in instances where a lot has multiple buildings, the surface parking lot cannot be between the buildings in the BTA and the lot line/street (to protect the pedestrian environment). This provision is not intended to prevent an instance where the parking is in front of the front building line of a building if the building is internal to the site and not in the build-to area (and the build-to area requirements of the zone have already been met). The Board's proposed clarifications as modified during the Planning Board hearing are included separate from the technical staff report.

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, April 30, 2015.


Casey Anderson
Chair

CA:GR



Zoning Text Amendment (ZTA) No. 15-05, Commercial/Residential Zones – Site Plan Flexibility

- Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174
- Pam Dunn, Acting Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed: 04/23/15

Description

Zoning Text Amendment (ZTA) No. 15-05 as introduced would:

- 1) revise compatibility requirements; 2) allow the site plan process to establish certain development standards for standard method development in Commercial/Residential zones.

Staff has included additional modifications throughout the compatibility requirements, Commercial/Residential, Employment and Industrial zones for plain language clarifications and for consistency with similar language in other sections of the Code.

Summary

Staff recommends approval of ZTA No. 15-05 as modified to revise the compatibility standards for consistency throughout and to allow the site plan process to establish the development standards for standard method development in Commercial/Residential zones for the Build-to Area, Building Orientation, and Transparency requirements. Other modifications by staff generally work to clarify and provide consistency throughout the code.

Background/Analysis

Through the Aspen Hill Minor Master Plan Amendment (AHMMPA) process, as well as recent development projects, potential challenges were raised concerning the development standards required under Standard Method Development for the CRT zone. ZTA No. 15-05 was initiated by the County Council as a component of the AHMMPA approval in order to implement the Plan and address previously identified challenges. The CRT zone incorporates a series of prescriptive development standards to accomplish the intent of the zone. Given the vast differences in site constraints and development contexts throughout the County, the ZTA would allow property owners greater flexibility to achieve the intent of the zone in alternative ways. Rather than an amendment to the specific development standards identified as a challenge when faced with unique site conditions, staff proposes

an amendment to the Procedure for Approval under Standard Method Development. ZTA 15-05 would address County Council concern, and allow additional flexibility through the site plan approval process, ultimately instituted through Planning Board review.

Setback Compatibility-Applicability (Lines 4-30)

- **ZTA 15-05 as introduced** makes the applicability of setback compatibility (Section 4.1.8.A.1) consistent with that of the height compatibility section where the applicable property *abuts a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use; and...*
- Staff received comments that the language in Section 4.1.8.A.2 describing when to use the side versus rear setback of the abutting property needed clarification. As introduced, the table was deleted and a simpler statement was provided making the minimum side and rear setbacks equal to 1.5 times the minimum side or rear setback required for a detached house on abutting property.

Staff has further clarified ZTA No. 15-05 as introduced by separating the side and rear setbacks into two sentences. As a result, when determining the side setback required for your project, you use the side setback required for the detached house in the abutting property (even if the abutting property has its rear lot line against your projects side lot line). This language clarifies the original intent of this provision.

Modifications to the Development Standards Tables (Throughout the document)

- In addition to the introduced version of ZTA No. 15-05, staff modified the development standards tables in Article 59-4 for the Residential Multi-Unit, Commercial/Residential, Employment, and Industrial zones to be consistent with the changes made to Setback Compatibility (Section 4.1.8.A). These development standards tables all have language that states *"Side setback, abutting Agricultural, Rural Residential, or Residential zones"* and then directs you to Section 4.1.8.A. To be consistent with the changes made to Section 4.1.8.A in ZTA No. 15-05 as introduced, this language needs to be modified to say *"Side setback, abutting Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zones"*. A similar change is necessary for *"Rear setback, abutting Agricultural, Rural Residential, or Residential zones"*

Commercial/Residential Zones-Standard Method Development (Lines 70-77)

- ZTA No. 15-06 as introduced establishes a new Section 4.5.3.B. describing the procedures for approval of a Standard Method development in the CR zones. One provision clarifies that site plan approval may be required under Section 7.3.4.A.8. The second provision establishes a new procedure that permits the Planning Board (during site plan review) to modify several

development standards- the Build-to Area, Building Orientation, and Transparency requirements. This provision is also delineated in the Standard Method Development Standards table. As stated above, this provision would allow property owners greater flexibility to achieve the intent of the zone in alternative ways.

Corrections and Clarifications to the Commercial/Residential zones (Lines 76-98)

- Listed below are a number of corrections and clarifications to the Commercial/Residential zones that staff believes are within the scope of public notice for ZTA No. 15-05.
 - a. Correcting the header in the C/R standard method table: “Duplex Over” standards should be for the “Duplex Side” and vice versa. These were accidentally reversed in the Zoning Ordinance.
 - b. Correcting the development standards for the townhouse building type in the C/R zones (specifically, the open space, lot coverage, certain side and rear setbacks)
 - c. Correcting the Specification for Density. In ZTA No. 14-09 effective on October 30, 2014, the language related to an historic resource was modified for the optional method of development. However, that exact same language is also in the standard method table, inadvertently overlooked at the time. Staff is correcting the language in the standard method table to match the clarification adopted in ZTA No. 14-09 under the optional method of development.
 - d. Clarifying the rear setback, alley development standard. The 4’ or 20’ standard has been confusing and has not resulted in better designed projects. Staff is recommending clarifying this development standard by making the setback a minimum of 4’.
 - e. Correcting the side street setback for surface parking lots to read “must be behind the side street building line” (as opposed to the front building line). This correction is needed to match the intent of the parking setback restrictions and the restrictions in the definition of build-to area.
 - f. Correct the header in the table for Build-to Area to be % of building façade as opposed to % of lot width.
 - g. Correct “Specification” to “Specifications” when there is more than one specification listed in the table.
 - h. Correct an error in the public benefit points table (Section 4.5.4.A.2). There was a “to” accidentally left over from a previous version of the table.
 - i. Correct the open space table in C/R optional method (Section 4.5.4.B.1). In optional method, the percent of open space a project has to provide is based on the size of the

tract, not the lot (the actual square footage of open space provided is still based on the site size).

- j. Correct the numbering in Section 4.5.4.B.1 (the document was missing the "b."...an error that had been made in InDesign).

- k. Clarify that parking setbacks must be behind the front/side street building line of buildings located in the Build-to Area (BTA). The intent is to clarify that in instances where a lot has multiple buildings, the surface parking lot cannot be between the buildings in the BTA and the lot line/street (to protect the pedestrian environment). This provision is not intended to prevent an instance where the parking is in front of the front building line of a building if the building is internal to the site and not in the build-to area (and the build-to area requirements of the zone have already been met).

Attachments

- 1. ZTA No. 15-05 as modified by staff

10



ideas that work

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ZONING TEXT AMENDMENT NO. 15-05

(Testimony of William Kominers, for Lee Development Group, Inc.)

(May 5, 2015)

Good afternoon President Leventhal and Members of the Council. I am William Kominers from the firm of Lerch, Early & Brewer, representing Lee Development Group.

I would first like to thank the Council and its Staff for drafting and introducing this Text Amendment, as promised during the Minor Master Plan process. The purpose of the Text Amendment, is to provide some flexibility to the Planning Board during site plan review, in applying the very prescriptive and inflexible design requirements of the standard method of development for the CRT Zone. Flexibility is provided as to (1) building transparency, (2) build-to-area, and (3) building orientation. LDG supports this Text Amendment. With site plan review should come flexibility in these areas, in order to address specific site constraints and individual peculiarities of properties, such as the Vitro/BAE site, and thereby achieve good design.

The one area that is not addressed by the Text Amendment is flexibility in parking location. Let us be clear, we are not advocating revisions that would allow buildings to be set back on the site with a sea of parking in front. We understand that the vision for Aspen Hill is to have the building or buildings pushed toward Connecticut Avenue, with parking located behind. Our concern arises for situations where there may be multiple buildings on the property. Some buildings may therefore have their "front facades" well behind the rear of a building in the build-to-area. In such instance, the Ordinance language should be clear that parking will be allowed on the site "in front" of these buildings that are not adjacent to the street, but are interior to the site.

One of the problems for the Vitro/BAE site is that the owner does not have a specific tenant or plan at this time. Thus, we must consider theoretical design issues. We appreciate that in his analysis, Greg Russ indicates on page 4, subparagraph k, of his Staff Report, that with changes proposed by the Staff, the multiple building parking issue is satisfied, so long as the parking is behind the front or side street building line of buildings actually located in the build-to-area. However, with a site such as the Vitro/BAE site, that is essentially an "L" shape adjacent to two streets, there may be multiple "sides" and "fronts" of multiple buildings, and there may be unintended consequences with the language as revised by Staff.

The best way to address the parking issue would be to give the Board the same ability to review and adjust the parking location during site plan review, just as the Board will adjust the other elements that are a part of this Text Amendment (i.e., transparency, build-to-area, and building orientation). The Board would then apply the same standard to modify parking location as it will apply to the evaluation of the other elements of the site plan—that what is being proposed should create “a pedestrian environment and enhance neighborhood compatibility.” The Board should holistically evaluate the site plan in light of the requirements of the CRT zone, and approve a site plan only if the Board believes that the plan accomplishes those goals. This way, all potential site plan modifications will have the same standard of review. We have attached some suggested language to achieve this change.

We believe that the plain reading of the Ordinance language should be clear and unambiguous in addressing the allowable parking layout for the reality of multiple buildings, streets, and design.

There is one other clarification needed in the Text Amendment. Mr. Russ has suggested in Section 4.5.3.C.3, on page 13 of the ZTA in his Staff Report that the header for the built-to-area be “% of building façade,” as opposed to “% of lot width”. We agree with the intent of this revision. But we suggest that the word “front” be inserted before the word “façade,” since only the front “façade,” is being measured relative to the build-to-area, not all of the building facades measured as the perimeter.

Thank you for your consideration of our views.

AMENDMENT FOR ZTA NO. 15-05

(William Kominers, For Lee Development Group)

(May 5, 2015)

1. Amend Section 4.5.3.B.2. (p. Circle 5, Lines 53-55)

An applicant may file a site plan application to modify the Parking Setbacks for Surface Parking Lots, Build-to Area, Building Orientations, and Transparency requirements under Section 4.5.3.C., and the location of a surface parking lot under Section 4.1.7.B.2.b.

2. Amend Section 4.5.3.C.3 (p. Circle 6.)

Parking Setbacks for Surface Parking Lots (min).

3. The Parking Setbacks for Surface Parking Lots requirement may be modified by the Planning Board in a site plan under Section 7.3.4. if it finds that the alternative design creates a pedestrian environment and enhances neighborhood compatibility.