

Clerk's Note: Technical correction made on page 21, table at line 395, to indicate the Council's intent that a pre-submittal community meeting must be held, consistent with Section 7.3.5.B.2.h.

CORRECTED

Ordinance No.: 18-45

Zoning Text Amendment No.: 18-05

Concerning: Uses, Use Standards, and
Regulatory Approvals –
Signature Business
Headquarters

Draft No. & Date: 2 – 5/18/18

Introduced: April 10, 2018

Public Hearing: May 15, 2018

Adopted: May 24, 2018

Effective: June 13, 2018

**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: District Council at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- create a new use for a Signature Business Headquarters, and
- provide a process for approval of a Signature Business Headquarters plan

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

DIVISION 1.4.	“DEFINED TERMS”
Section 1.4.2.	“Specific Terms and Phrases Defined”
DIVISION 3.1.	“USE TABLE”
Section 3.1.6.	“Use Table”
DIVISION 3.5.	“Commercial Uses”
Section 3.5.8.	“Office and Professional”
DIVISION 4.5.	“COMMERCIAL/RESIDENTIAL ZONES”
Section 4.5.2.	“Density and Height Allocation”
Section 4.5.4.	“Optional Method Development”
DIVISION 7.3.	“REGULATORY APPROVALS”
Section 7.3.3.	“Sketch Plan”
DIVISION 7.5.	“NOTICE STANDARDS”
Section 7.5.1.	“Noticed Required”

And by adding the following section:

Section 7.3.5. “Signature Business Headquarters Plan”

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

Zoning Text Amendment (ZTA) No. 18-05 was introduced on April 10, 2018. ZTA 18-05 would establish “Signature Business Headquarters” as a new limited use on Commercial/Residential (CR) zoned properties. The proposed text amendment would not change master plan recommended densities, but would allow flexibility to change the allocation between residential and commercial uses. It would allow increases in height (subject to a Planning Board finding of compatibility), but only for properties that are not in transition or in buffer areas (i.e., properties already zoned to be developed at 150 feet or higher). It presents an alternative means of meeting master plan staging goals. Most significantly, it dramatically reduces the regulatory review time for the development review process, while maintaining the same public participation for a Signature Business Headquarters plan as the one currently used for sketch plans and site plans approved under the CR zone.

In its report to the Council, the Montgomery County Planning Board recommended approval as introduced.

The Council’s public hearing was conducted on May 15, 2018. Eight of the speakers supported the text amendment as submitted. There was opposition to reducing the processing time required for a large headquarters.

The Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on May 17, 2018. The Committee recommended approving ZTA 18-05 with technical corrections. The Committee considered and rejected the idea of expanding the time limits in the ZTA as introduced. The Council agreed with the recommendation of the Committee to approve ZTA 18-05 with 2 revisions: 1) reduce the number of employees necessary to qualify as a

Signature Business Headquarters from 25,000 employees to 20,000; and 2) add a requirement for verification that a community meeting was held before the submission of the application.

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. 18-05 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:

Sec. 1. DIVISION 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Signature Business Headquarters: See Section 3.5.8.D[.]

* * *

Sec. 2. DIVISION 59-3.1 is amended as follows:

Division 3.1. Use Table

* * *

Section 3.1.6. Use Table

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

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USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential				Residential												Commercial / Residential			Employment				Industrial		
							Residential Detached						Residential Townhouse			Residential Multi-Unit												
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
COMMERCIAL																												
* * *																												
Office and Professional	3.5.8																											
Life Sciences	3.5.8.A																							P				
Office	3.5.8.B								C	C	C								P	P	P	P	P	L	P	L	L	
Research and Development	3.5.8.C																			P	P			P	L	P	P	
<u>Signature Business Headquarters</u>	<u>3.5.8.D</u>																				<u>L</u>							
* * *																												

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Sec. 3. Division 3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.8. Office and Professional

* * *

D. Signature Business Headquarters

1. Defined

Signature Business Headquarters means the headquarters or other primary place of business of a single commercial or industrial organization, including ancillary uses, that includes at least [[25,000]] 20,000 employees located within a single Metro Station Policy Area.

2. Exemptions

- a. A sketch plan and a site plan are not required for a Signature Business Headquarters if the Planning Board approves a Signature Business Headquarters plan under Section 7.3.5.
- b. A Signature Business Headquarters plan is exempt from the binding elements and conditions of a development plan approved before {date of adoption}.

3. Use Standards

- a. Commercial and residential FAR limits on the subject property may be reallocated, as long as total FAR does not exceed the maximum total mapped FAR of the property.
- b. If the subject property has a mapped height of 150 feet or more, height may be exceeded by up to 100 feet, but no greater than a total height of 300 feet, if the Planning Board finds that the additional height is compatible with abutting and confronting development.

c. The subject property may utilize FAR averaging under Section 4.5.2.B.

* * *

Sec. ~~[[3]]4. DIVISION 59-4.5~~ is amended as follows:

Division 4.5. Commercial/Residential Zones

* * *

Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

1. Density is calculated as an allowed floor area ratio (FAR).
2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:
 - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.5.2.C or Section 4.7.3.D.6.c;
 - b. The number following the C is the maximum nonresidential FAR allowed, unless additional FAR is allowed under Section 3.5.8.D;
 - c. The number following the R is the maximum residential FAR allowed, unless additional residential FAR is allowed under Section 3.5.8.D, Section 4.5.2.C, or Section 4.7.3.D.6.c; and
 - d. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 3.5.8.D, Section 4.5.2.C, Section 4.7.3.D.6.c, or Section 4.5.2.A.2.e.

B. FAR Averaging

1. Only standard method development projects that require site plan approval or optional method development projects can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Commercial/Residential zones, if:
 - a. the properties are under the same site plan, [or] sketch plan, or Signature Business Headquarters plan; however, if a sketch plan or Signature Business Headquarters plan is required, density averaging must be shown on the [sketch] applicable plan;
 - b. the resulting properties are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan or Signature Business Headquarters plan;
 - c. the maximum total, nonresidential, and residential FAR limits apply to the entire development, not to individual properties;
 - d. the total allowed maximum density on a resulting property that is abutting or confronting a property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use[[,]] does not exceed that allowed by the property's zone; and
 - e. public benefits are required to be provided under any phasing element of an approved sketch plan or Signature Business Headquarters plan.
3. Density may be averaged over 2 or more non-contiguous properties in one or more CRT or CR zones, if:
 - a. Each provision under Section 4.5.2.B.2 is satisfied;

- b. The properties are within 1/4 mile of each other, [or] located in a designated master-planned density transfer area, or are part of a Signature Business Headquarters plan;
- c. The minimum public benefit points required under Section 4.5.4.A.2 must be exceeded by at least 50%; and
- d. The applicable master plan does not specifically prohibit the averaging of density between non-contiguous properties.

- 4. If the Planning Board approves a site plan or Signature Business Headquarters plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the [site] applicable plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan or certified Signature Business Headquarters plan for such a project or, if plat approval is required, before plat approval, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 4.5.4. Optional Method Development

The CRT and CR [[zone]] zones allow development under the optional method.

A. General Requirements

1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3, unless a Signature Business Headquarters plan is approved under Section 7.3.5. A site plan must be approved under Section 7.3.4[[.]] for any development on a property with an approved sketch plan.

* * *

Sec. ~~[[4]]5. DIVISION 59-7.3 is amended as follows:~~

Division 7.3. Regulatory Approvals

* * *

Section 7.3.3. Sketch Plan

A. Applicability and Description

1. Development under optional method in the CRT, CR, EOF, or LSC zone requires approval of a sketch plan~~[[,]]~~ or Signature Business Headquarters plan.

* * *

Section 7.3.5. Signature Business Headquarters Plan

A. Applicability and Description

1. A Signature Business Headquarters plan provides a detailed overview of a proposed Signature Business Headquarters. A Signature Business Headquarters plan review will be used to determine if the proposed development satisfies current laws, regulations, and this Chapter, and substantially conforms with the intent of the applicable master plan and approved guidelines.
2. A Signature Business Headquarters plan may be phased, with each phase approved separately under this section.
3. A Signature Business Headquarters plan may encompass all or part of any property on which the Signature Business Headquarters will be located and must demonstrate its relation to and coordination with other applicable approvals or submittals. Any amendment to a previously approved plan may follow the timeframe for review under Section 7.3.5.B.3 through Section 7.3.5.B.6, Section 7.3.5.C~~[[,]]~~ and Section 7.3.5.D.

B. Application Requirements

1. Ownership

- a. An applicant must own the subject property or be authorized by the owner to file the application.
- b. If any land or right-of-way encompassed by a Signature Business Headquarters plan application is owned or controlled by the State, County, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the Signature Business Headquarters plan application.

2. A Signature Business Headquarters plan application must include:

- a. a legally binding commitment or other evidence accepted by the Planning Director that the Signature Business Headquarters will employ at least [[25,000]] 20,000 individuals within a single Metro Station Policy Area;
- b. an application form and fees required by the Planning Director;
- c. a site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, and zoning and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
- d. a list of abutting and confronting property owners in the County tax records;
- e. a list of any civic, homeowners, and renters associations that are registered with the Planning Department and located within ½ mile of the site;
- f. documentation of interest in the proposed development site under Section 7.3.5.B.1;

- g. a statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application;
- h. verification that the applicant has posted notice on the property [[and]], notified affected properties, and held a pre-submittal community meeting that followed the Planning Department's Administrative Procedures for Development Review process;
- i. a Traffic Statement or Study accepted by the Planning Director, if not submitted with a previous or concurrent application;
- j. environmental documentation or exemption for:
- i. an approved Natural Resources Inventory/Forest Stand Delineation;
- ii. a Stormwater Management Concept Application or, if required, a Water Quality Plan Application; and
- iii. a final Forest Conservation Plan application;
- k. existing and proposed dry and wet utility plan;
- l. plans of proposed development showing:
- i. use, footprints, ground-floor layout, and heights of all buildings and structures;
- ii. required open spaces and recreational amenities;
- iii. detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
- iv. grading;
- v. landscaping and lighting; and
- m. a development program and inspection schedule detailing the construction schedule for the project.

- 204 3. The applicant must submit an initial application to the Planning
 205 Director for approval of completeness. The Planning Director must
 206 review the application for completeness within 3 days after receipt.
 207 An application is incomplete if any required element is missing or is
 208 facially defective, e.g., a drawing that is not to scale or lacks proper
 209 signatures. The assessment of completeness must not address the
 210 merits of the application.
- 211 4. The applicant must submit any required revisions to the Planning
 212 Director. The Planning Director must review the revised application
 213 for completeness within 2 days after receipt.
- 214 5. After the Planning Director verifies that the application is complete,
 215 the applicant must file the final application with the Planning
 216 Director, who will accept the application and establish a hearing date
 217 under Section 7.3.5.C.
- 218 6. Public notice is required under Division 7.5.

219 **C. Hearing Date**

220 The Planning Board must schedule a public hearing to begin within 60 days
 221 after the date an application is accepted. The applicant may request an
 222 extension with Planning Board approval. Any extension of the public
 223 hearing must be noticed on the hearing agenda with the new public hearing
 224 date indicated.

225 **D. Review and Recommendation**

- 226 1. State and County Agencies
- 227 a. Reviewing State and County agencies and utilities must submit
 228 comments within 15 days after the date an application is
 229 accepted.

b. The applicant must submit revised drawings to address the comments a minimum of 20 days before the date of the hearing. The Planning Director may extend the deadline if the applicant submits a written request within 5 days after the revised drawings were due.

2. Planning Director

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board hearing.

3. Withdrawal of an Application

The Planning Board must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a headquarters plan.

E. Necessary Findings

1. When reviewing an application, the approval findings apply only to the site covered by the application.

2. To approve a Signature Business Headquarters plan, the Planning Board must find that the proposed development:

a. satisfies any previous approval that applies to the site, unless exempt under Section 3.5.8.D.2 or amended;

b. satisfies the applicable use and development standards and general requirements of this Chapter;

c. satisfies the applicable requirements of Chapter 19 and Chapter 22A;

d. provides safe, well-integrated parking, circulation patterns, building massing, and site amenities;

- e. substantially conforms with the intent of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;
- f. will be located within the same Metro Station Policy Area as all other phases of the Signature Business Headquarters;
- g. on a property in a master plan area that requires staging based on Non-Auto Driver Mode Share (NADMS), is exempt from the staging requirement if:
 - i. the applicant agrees to enter into a traffic mitigation agreement that provides an action plan for substantial achievement of the applicable NADMS goal[[.]];
 - ii. parking below the minimum required under Section 6.2.4 is provided[[.]]; and
 - iii. transit, bicycle, and pedestrian infrastructure required by the applicable stage of the master plan is funded in the Capital Improvements Program or Consolidated Transportation Program, or provided by the applicant; and[[.]]
- h. will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

F. Decision

1. The Planning Board must act upon the close of the record of the public hearing; by majority vote of those present at the public hearing to approve, approve with modifications or conditions, or deny the application. The Planning Board must issue a resolution reflecting its decision within 7 days of the Planning Board vote.

2. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within 30 days after the Planning Board's action to the Circuit Court and thereafter to the Court of Special Appeals.
3. Final [[headquarters]] Signature Business Headquarters plans must be certified by the Planning Director to confirm that the drawings reflect the Planning Board's approval.

G. Conforming Permits

For any development requiring a Signature Business Headquarters plan, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement unless the Planning Board has approved a Signature Business Headquarters plan and a bond has been approved under Section [[7.3.5.K.3]] 7.3.5.K.4.

H. Duration of Approval

1. A Signature Business Headquarters plan expires unless a certified Signature Business Headquarters plan is approved by the Planning Director within 24 months after the date the resolution is mailed.
2. A Signature Business Headquarters plan does not become effective until a record plat is recorded that satisfies any approved subdivision plan for the subject property.
3. Development activities under Section 7.3.5 must satisfy the certified Signature Business Headquarters plan and any conditions of approval.
4. If the Planning Board approves a Signature Business Headquarters plan, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department

of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit. The deadlines under this section may not be extended. If an applicant fails to comply with any of the deadlines under this section, the applicable phase of the Signature Business Headquarters plan approval is revoked.

I. Recording Procedures

The certified Signature Business Headquarters plan and Planning Board resolution must be maintained in the permanent files of the Planning Department.

J. Amendments

Any property owner may apply for a Signature Business Headquarters plan amendment to change a certified Signature Business Headquarters plan. There are two types of amendments: a major and a minor amendment.

1. Major Amendment

- a. A major amendment includes any request to:
 - i. increase density or height by more than that allowed under a minor amendment (Section 7.3.5.J.2);
 - ii. decrease open space;
 - iii. deviate from a condition of approval; or
 - iv. alter a basic element of the plan.
- b. Public notice is required under Division 7.5.
- c. A major amendment must follow the same hearing procedures and satisfy the same necessary findings as the original Signature Business Headquarters plan.

2. Minor Amendment

- a. A minor amendment includes any request to:

- i. increase density by up to 10% or 30,000 square feet, whichever is less, provided the increase is less than or equal to the total mapped density;
- ii. increase height by up to 10%, provided the height is less than or equal to the height allowed under Section 3.5.8.D; or
- iii. change an ancillary use, a parking or loading area, landscaping, sidewalk, recreational facility or area, configuration of open space, or any other plan element that will have a minimal effect on the overall design, layout, quality or intent of the plan.

A minor amendment also includes a reduction in approved parking to satisfy Article 59-6. A minor amendment does not include any change that prevents circulation on any street or path.

b. Public notice is required under Division 7.5.

c. A minor amendment may be approved by the Planning Director without a public hearing if no objection to the application is received within 15 days after the application notice is sent. If an objection is received within 15 days after the application notice is sent, and the objection is considered relevant, a public hearing is required. A public hearing must be held under the same procedures as an original application.

K. Compliance and Enforcement

- 1. If the Planning Board finds, after holding a public hearing or designating a hearing officer to hold a public hearing, that a property

under development is not in compliance with a certified Signature Business Headquarters plan, it may:

- a. impose a civil fine or administrative civil penalty authorized by Chapter 50 (Section 50-10.6.D);
- b. suspend or revoke Signature Business Headquarters plan approval;
- c. order a compliance program that would permit the applicant to take corrective action to satisfy the certified Signature Business Headquarters plan;
- d. allow the applicant to propose modifications to the certified Signature Business Headquarters plan; or
- e. take any combination of these actions.

- 2. If the Planning Board or its designee finds that the applicant has failed to comply with a compliance program approved under Section 7.3.5.K.1.c, the Planning Board may, without holding any further hearing, take any of the actions identified in Section 7.3.5.K.1.a. through Section 7.3.5.K.1.e.
- 3. If the Planning Board suspends or revokes a Signature Business Headquarters plan, DPS must immediately suspend any applicable building permit under which construction has not been completed or withhold any applicable use-and-occupancy permit, until the Planning Board reinstates the Signature Business Headquarters plan or approves a new plan for the development.
- 4. The Planning Board may require the applicant to post a commercially acceptable form of surety securing compliance with and full implementation of specified features of the certified Signature Business Headquarters plan in an amount set by the Planning Board.

389 If such surety is required, DPS must not issue a building permit or
390 use-and-occupancy permit until such surety is accepted.

391 * * *

Sec. ~~[[5]]~~6. DIVISION 59-7.5 is amended as follows:

Division 7.5. Notice Standards

Section 7.5.1. Notice Required

Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
* * *								
Regulatory Approvals								
* * *								
Site Plan		x	x	x	x	x		x
<u>Signature Business Headquarters Plan</u>		<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
* * *								
Amendments to Approvals								
* * *								
Minor Site Plan Amendment				x				x
<u>Major Signature Business Headquarters Plan Amendment</u>			<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
<u>Minor Signature Business Headquarters Plan Amendment</u>				<u>x</u>				

KEY: x = Required

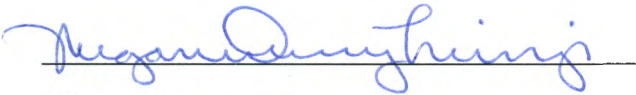
397 * * *

398 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
399 date of Council adoption.

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401 This is a correct copy of Council action.

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403 

404 Megan Davey Limarzi, Esq.

405 Clerk of the Council