



Montgomery
County Council

Committee: PHED

Staff: Pamela Dunn, Senior Legislative Analyst

Livhu Ndou, Legislative Attorney

Purpose: Final action – vote expected

Keywords: #ZTA 20-04, #Accessory Mulching, #Accessory Composting

AGENDA ITEM 12A

February 9, 2021

Action

SUBJECT

Zoning Text Amendment 20-04, Farming Defined – Accessory Mulching and Composting

EXPECTED ATTENDEES

Casey Anderson, Chair, Montgomery County Planning Board

Jason Sartori, Chief, Countywide Planning and Policy, Planning Department

Benjamin Berbert, Planner Coordinator, Countywide Planning and Policy, Planning Department

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Committee (3-0) recommends approval of ZTA 20-04 without amendment.

DESCRIPTION/ISSUE

ZTA 20-04 would allow mulching and composting with more off-site material as an accessory farming use. Currently, mulching and composting are allowed as accessory uses to farming if material trucked from off-site locations is limited to 20 percent. ZTA 20-04 would amend that provision by allowing a maximum of 50 percent of materials used in mulching and composting operations from off site.

SUMMARY OF KEY DISCUSSION POINTS

ZTA 20-04 provides added flexibility to the agricultural industry to use more off-site yard and food waste in processing compost and mulch and limiting the intensity of the use. However, whether the material used in accessory processing comes from on or off site, mulch and compost processing will be limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the farming use.

This report contains:

Staff memorandum

ZTA 20-04

Planning Board recommendation

Planning Staff recommendation

Pages

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MEMORANDUM

February 4, 2021

TO: County Council

FROM: Pamela Dunn, Senior Legislative Analyst
Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 20-04, Farming Defined – Accessory Mulching and Composting

PURPOSE: Approve ZTA 20-04 as recommended by the Committee without amendment

Zoning Text Amendment (ZTA) 20-04, Lead Sponsors Councilmembers Glass, Friedson, Navarro, and Rice, Co-Sponsors Councilmember Riemer, Council Vice President Alborno, Councilmembers Jawando and Katz, and Council President Hucker, was introduced on October 27, 2020. ZTA 20-04 would allow an increase in the percentage of off-site material that can be used in accessory composting and mulching from 20 percent to 50 percent¹.

Committee Recommendation: On January 25, 2021, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 20-04 without amendment.

Background

In 1998, the County first created opportunities for the production of compost and mulch as an accessory use to farming. In 2014, the Council's approval of the Zoning Ordinance Rewrite expanded these opportunities by permitting up to 20 percent of materials used in production of compost and mulch to be sourced from off-site.²

In 2016, the County Government mandated the creation of a strategic plan to advance composting, compost use and food waste diversion.³ The County Council found that after waste reduction,

¹ Accessory Use means a use that is incidental and subordinate to the principal use of a lot, site, or principal building and located on the same lot or site as the principal use or building. ZTA 20-04 would not change activity beyond this limitation. Mulching would fall under the category of Agricultural Processing if it were a principal use. Agricultural Processing use requires approval of a conditional use application in more limited locations.

² ZTA 13-04.

³ https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/bill/2016/Packets/20160628_4B.pdf.

composting was a preferred management technique. It also found that food waste represents a significant percentage of the County's solid waste stream.

Public Hearing and Testimony

The Council held a public hearing concerning ZTA 20-04 on December 1, 2020. There were six speakers, including the Planning Board Chair. All speakers supported ZTA 20-04 as a way to meet the County's sustainability goal and a way to improve soil quality without chemical fertilizers.

The Agricultural Preservation Advisory Board thinks that ZTA 20-04 would encourage the creation of more small-scale operations.

The Agricultural Advisory Committee cautioned about creating an environment where the County Government relies solely on the Agricultural Reserve as the only area for processing all waste generated by County residents.

The Montgomery Soil Conservation District believes ZTA 20-04 represents a step in the right direction for smaller-scale, farm-based, local composting as a better alternative to large-scale composting facilities.

Zoning Text Amendment No.: 20-04
Concerning: Farming Defined –
Accessory Mulching and
Composting
Draft No. & Date: 2 – 10/27/2020
Introduced: October 27, 2020
Public Hearing: December 1, 2020
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 Sponsors: Councilmembers Glass, Friedson, Navarro, and Rice
Co-Sponsors: Councilmembers Riemer, Albornoz, and Jawando, Council President Katz, and
Councilmember Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Allow mulching and composting with more off-site material as an accessory farming use; and
- Generally amend the definition of Farming

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

Division 3.2. “Agricultural Uses”
Section 3.2.6. “Farming”

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) 20-04, Lead Sponsors Councilmembers Glass, Friedson, Navarro, and Rice, Co-Sponsors Councilmembers Riemer, Albornoz, and Jawando, Council President Katz, and Councilmember Hucker, was introduced on October 27, 2020.

Currently, mulching and composting are allowed as accessory uses to farming if material trucked from off-site locations is limited to 20%. ZTA 20-04 would amend that provision by allowing a maximum of 50% of materials used in mulching and composting operations from off site.

In its report to the Council, the Montgomery County Planning Board and Planning staff recommended approval of ZTA 20-04 as introduced.

The Council's public hearing was conducted on December 1, 2020. There were six speakers, including the Planning Board Chair. All testimony was in support of ZTA 20-04 as introduced.

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

The PHED Committee held a worksession on January 25, 2020. The Committee recommended approving ZTA 20-04 as introduced.

The Council agreed with the recommendation of the 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. 20-04 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 3.2. Agricultural Uses

* * *

Section 3.2.6. Farming

Defined

Farming means the practice of agriculture on a property, and any associated buildings. Agriculture means the business, science, and art of cultivating and managing the soil; composting, growing, harvesting, and selling crops, and the products of forestry, horticulture, and hydroponics; breeding, raising, managing, or selling livestock, including horses, poultry, fish, game, and fur-bearing animals; dairying, beekeeping, and similar activities; and equestrian events and activities. Agriculture includes processing on the farm of an agricultural product to prepare the product for market and may cause a change in the natural form or state of the product. Farming includes the following accessory uses:

* * *

E. The production and manufacturing of mulch or compost where [up to 20%] a maximum of 50% of the materials used in accessory processing can come from off-site sources.

* * *

Sec. 2. Effective date. This ordinance becomes effective immediately upon the Council's adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council



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

OFFICE OF THE CHAIR

November 30, 2020

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. 20-04

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 20-04 (ZTA 20-04) at its regular meeting on November 19, 2020. By a vote of 5:0, the Planning Board recommends approval of the ZTA to allow mulching and composting with more off-site material as an accessory farming use. Currently, mulching and composting are allowed as accessory uses to farming if material trucked from off-site locations is limited to 20%. ZTA 20-04 would amend that provision by allowing a maximum of 50% of materials used in mulching and composting operations from off site. The Board believes that ZTA 20-04 strikes a balance in addressing the desire to provide more flexibility to the agricultural industry to use more off-site yard and food waste in processing compost and mulch while limiting the intensity of the use. Whether the material used in accessory processing comes from on or off site, mulch and compost processing will be limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the farming use.

According to the sponsors, ZTA 20-04 will create a greener local economy by increasing the amount of materials farmers can use on their property to produce and manufacture compost and mulch. In addition, while the county currently lacks the infrastructure to compost food waste at a commercial scale, partnering with local farmers and local green entrepreneurs is a step toward fully harnessing the power of the land so that the county can reduce its waste and increase its climate goals. The Board is in agreement with the sponsors' rationale.

ZTA 20-04 would allow an increase in the percentage of off-site material that can be used in accessory composting and mulching uses from 20% to 50%. The County generates a tremendous amount of yard and food waste. Recycling that material is preferred over having that material go to the incinerator. This amendment would give more flexibility to the agricultural industry to use more yard and food waste. However, the Board does not believe that this amendment permits this use to expand beyond its accessory status. Mulch and compost processing is limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the

farming use. Any capacity beyond an accessory use falls under the use category Agricultural Processing, a use allowed only by conditional use approval in the Agricultural Reserve (AR), Rural (R) and Rural Cluster (RC) zones under more limited situations. Farming is a permitted use in the Ag, Rural Residential and Residential Detached zones.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, November 19, 2020.



Casey Anderson
Chair

CA:GR:aj



Zoning Text Amendment (ZTA) No. 20-04, Farming Defined – Accessory Mulching and Composting



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



Jason Sartori, Chief, CP&P, jason.sartori@montgomeryplanning.org, 301-495-2172

Completed: 11/12/20

Description

ZTA 20-04 would allow mulching and composting with more off-site material as an accessory farming use. Currently, mulching and composting are allowed as accessory uses to farming if material trucked from off-site locations is limited to 20%. ZTA 20-04 would amend that provision by allowing a maximum of 50% of materials used in mulching and composting operations from off site.

Summary

Staff recommends approval of ZTA No. 20-04, as introduced, to allow mulching and composting with more off-site material as an accessory farming use. Staff believes that ZTA 20-04 strikes a balance in addressing the desire to provide more flexibility to the agricultural industry to use more off-site yard and food waste in processing compost and mulch and limiting the intensity of the use. Whether the material used in accessory processing comes from on or off site, mulch and compost processing will be limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the farming use.

Background/Analysis

Rationale for ZTA Introduction (*Excerpt from the Sponsors of ZTA 20-04*)

According to the sponsors, Zoning Text Amendment (ZTA) 20-04 will create a greener local economy by increasing the amount of materials farmers can use on their property to produce and manufacture compost and mulch. Below is an excerpt from the sponsors' press release concerning ZTA 20-04:

"As our climate continues to change, we need to utilize every opportunity to protect our environment and create good green jobs," said Councilmember Evan Glass. "Composting is a core farming activity and an effective way to reduce food waste, and by partnering with local environmental entrepreneurs, it will lead to a greener environment and economy. This is good for our farmers, our small businesses, our residents and the planet."

Montgomery County currently produces 147,000 tons of food waste per year. This waste is generated across every building type and is the largest contributing factor to the county's waste stream. While the

county currently lacks the infrastructure to compost food waste at a commercial scale, partnering with our local farmers and local green entrepreneurs is a step toward fully harnessing the power of our land so that the county can reduce its waste and increase its climate goals. The ZTA would increase the amount of off-site material that farmers can use in the manufacturing of compost and mulch from 20 percent to 50 percent.

“This legislation will increase the amount of compostable materials that stay out of our waste stream while helping prized and family-owned agricultural operations financially,” Councilmember Andrew Friedson said. “It’s a true win-win that proves how benefitting our environment can also benefit the local small business owners who are the foundation of our County’s economy.”

“Montgomery County has made a commitment to eliminate our greenhouse gas emissions by 2035; finding ways to reduce the amount of material in our waste stream is a crucial part of attaining this goal. This ZTA offers us a common sense strategy to achieve this goal, while at the same time, providing a direct benefit to residents and institutions seeking more opportunities for composting,” said Councilmember Nancy Navarro. “Thanks to this ZTA, our farmers on the Agricultural Reserve will have another resource to enrich their farms and refine their operations. I am proud to lend my support to this initiative.”

Ben Parry, CEO of Compost Crew, a Montgomery County-based compost company said, “Most people don’t know enough about where their food comes from. Sadly, unsustainable agricultural practices are slowly killing the earth’s topsoil while producing less nutritious food. We need to help our farmers implement regenerative farming practices to build local food security, produce more nutritious food, improve biodiversity, and sequester carbon. Composting helps with all of these things. The Agricultural Reserve is the backbone of Montgomery County. Removing restrictions to support sustainable farming is a no-brainer.”

ZTA 20-04

Specifically, ZTA 20-04 modifies the definition of farming as follows:

Section 3.2.6. Farming

Defined

Farming means the practice of agriculture on a property, and any associated buildings. Agriculture means the business, science, and art of cultivating and managing the soil; composting, growing, harvesting, and selling crops, and the products of forestry, horticulture, and hydroponics; breeding, raising, managing, or selling livestock, including horses, poultry, fish, game, and fur-bearing animals; dairying, beekeeping, and similar activities; and equestrian events and activities. Agriculture includes processing on the farm of an agricultural product to prepare the product for market and may cause a change in the natural form or state of the product. Farming includes the following accessory uses:

* * *

- E. The production and manufacturing of mulch or compost where [up to 20%] a maximum of 50% of the materials used in accessory processing can come from off-site sources.

ZTA 20-04 would allow an increase in the percentage of off-site material that can be used in accessory composting and mulching uses from 20% to 50%. The County generates a tremendous amount of yard

and food waste. Recycling that material is preferred over having that material go to the incinerator. This amendment would give more flexibility to the agricultural industry to use more yard and food waste. However, as discussed below, ***this amendment does not permit this use to expand beyond its accessory status.***

Accessory Use means a use that is incidental and subordinate to the principal use of a lot or site or the principal building, and located on the same lot or site as the principal use or building. Any permitted or limited use in a zone may be an accessory use to any other use in the same zone; any applicable use standards must be satisfied.

As such, whether the material used in accessory processing comes from on or off site, mulch and compost processing is limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the farming use. Any capacity beyond an accessory use falls under the category of Agricultural Processing,¹ a use allowed only by conditional use approval in the Agricultural Reserve (AR), Rural (R) and Rural Cluster (RC) zones. Farming is a permitted use in the Ag, Rural Residential and Residential Detached zones.

Additional comments raised by staff include the following:

- Heavy truck deliveries to and from individual farm properties could possibly increase. Rural roads may not be designed for this level of heavy traffic.
- Small truck traffic to and from individual farms (landscape operations) could increase to accommodate larger-scale production.

Conclusion

Staff believes that ZTA 20-04 strikes a balance in addressing the desire to provide more flexibility to the agricultural industry to use more off-site yard and food waste in processing compost and mulch and limiting the intensity of the use. Whether the material used in accessory processing comes from on or off site, mulch and compost processing will be limited, based on the requirement that the production or manufacturing of mulch or compost must be accessory to the farming use. Any capacity beyond an accessory use falls under the category Agricultural Processing, which requires approval of a conditional use application in more limited locations.

Attachment

1. ZTA No. 20-04 as introduced.

¹ Section 3.2.2. Agricultural Processing

A. Defined

Agricultural Processing means any operation that transforms, packages, sorts, or grades farm products into goods that are used for intermediate or final consumption, including goods for non-food use, such as the products of forestry. Agricultural Processing includes milk plant, grain elevator, and mulch or compost production and manufacturing, but does not include Slaughterhouse (see Section 3.2.8, Slaughterhouse).