



Committee: PHED
Staff: Livhu Ndou, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #Overlay Zone, #Germantown-Churchill Village

AGENDA ITEM #2B
October 19, 2021
Action

SUBJECT

Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village

Lead Sponsor: Council President at the request of the Planning Board

EXPECTED ATTENDEES

Casey Anderson, Chair, Planning Board
Jason Sartori, Chief, Countywide Planning and Policy, Planning Department
Benjamin Berbert, Planner Coordinator, Countywide Planning and Policy, Planning Department
Patrick Butler, Chief, Up-County Planning Division, Planning Department
Don Zeigler, Supervisor, Up-County Planning Division, Planning Department
Phillip Estes, Planner Coordinator, Up-County Planning Division, Planning Department

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The PHED Committee unanimously (3-0) recommended approval without amendments.

DESCRIPTION/ISSUE

ZTA 21-04 will establish the Germantown-Churchill Village Overlay Zone.

SUMMARY OF KEY DISCUSSION POINTS

- This Overlay zone supports the implementation of new zoning recommended by the recently adopted and approved Germantown Plan for the Town Sector Zone by offering protections to the existing development character of Churchill Village.
- The Overlay zone addresses irregularities between existing development and new zoning standards due to prior rezoning; grandfathers existing by-right uses from the old Town Sector (T-S) zone; and protects quasi-public open spaces from future development.
- ZTA 21-04 makes multiple technical corrections to the Zoning Ordinance, such as changing the subsection number for the existing Overlay zones that alphabetically come after the Germantown-Churchill Village and changing references to these renumbered subsections throughout the Ordinance.

This report contains:

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Planning Board Request for Introduction	© 14-15
Planning Staff Memorandum	© 16-31

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Action

MEMORANDUM

October 14, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village

PURPOSE: Action

Committee Recommendation: The PHED Committee unanimously (3-0) recommended approval without amendments.

Background

Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village, lead sponsor Council President Hucker at the request of the Planning Board, was introduced on July 20, 2021.

The County Council approved and adopted the Germantown Plan for the Town Sector Zone in July 2020. As part of this master plan, the Planning Board transmitted both this ZTA and a Sectional Map Amendment (SMA) to amend the zoning map and Zoning Ordinance as recommended by the master plan.¹

Public Hearing

A public hearing was held on September 14, 2021. There were no speakers.

¹ SMA H-139 to implement the Approved and Adopted Germantown Plan for the Town Sector Zone was scheduled for public hearing on July 27, 2021. There were no speakers at the public hearing, so it was not scheduled for a PHED Committee worksession. However, SMA H-139 and ZTA 21-04 have been scheduled together for full Council worksession and action.

Discussion

ZTA 21-04 will establish the Germantown-Churchill Village Overlay zone. This Overlay zone covers approximately 1,270 acres of land. It will support the implementation of new zoning recommended by the recently adopted master plan by offering protections to the existing development character of Churchill Village.

When the Zoning Ordinance was updated in 2014, it removed the Town Sector (T-S) zone. The Overlay zone addresses irregularities between existing development and new zoning standards due to the rezoning, and it grandfathers existing by-right uses from the old T-S zone. Some properties that were built under the T-S zone do not conform to the development standards of the new Euclidean zones; they will be allowed to continue as legally non-conforming. Existing uses permitted by-right under the T-S zone will also be grandfathered in. If a redevelopment occurs or an existing use is expanded, and the proposed use is a limited or conditional use in the new zone, then the applicant will be required to follow the requirements for that use.

In addition, the Overlay zone protects quasi-public open space and recreation areas, particularly those owned and maintained by the various homeowner associations, from future development. It will also address compatibility between existing and anticipated development of vacant parcels. In sum, this proposed Overlay zone is “necessary to preserve the unique residential character and open spaces within the Churchill Village community, and to ensure a compatible relationship between new and existing development.” *See*, Planning Board memorandum.

ZTA 21-04 also makes multiple technical corrections to the Zoning Ordinance, such as changing the subsection numbers for the existing Overlay zones that alphabetically come after the Germantown-Churchill Village, and changing references to these renumbered subsections throughout the Zoning Ordinance.

PHED Committee

The Planning, Housing, and Economic Development (PHED) Committee held a worksession on September 27, 2021. The PHED Committee unanimously recommended approval of ZTA 21-04 without amendments.

This packet contains:

ZTA 21-04	© 1-13
Planning Board Memorandum	© 14-15
Planning Staff Memorandum	© 16-31

Zoning Text Amendment No.: 21-04
Concerning: Overlay Zone –
Germantown-Churchill
Village
Draft No. & Date: 1 – 7/13/2021
Introduced: July 20, 2021
Public Hearing: September 14, 2021
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Germantown-Churchill Village Overlay zone.

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

ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Section 4.9.10.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.11.	“Montgomery Village (MV) Overlay Zone”
Section 4.9.12.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.13.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.14.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.15.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”
Section 4.9.16.	“Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
Section 4.9.17.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.18.	“Twinbrook (TB) Overlay Zone”
Section 4.9.19.	“Upper Paint Branch (UPB) Overlay Zone”
Section 4.9.20.	“Upper Rock Creek (URC) Overlay Zone”
Section 4.9.21.	“White Flint 2-Parklawn (WF-P) Overlay Zone”

And adding

Section 4.9.10.	“ <u>Germantown-Churchill Village (GCV) Overlay Zone</u> ”
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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) 21-04, Overlay Zone – Germantown-Churchill Village, lead sponsor Council President at the request of the Planning Board, was introduced on July 20, 2021. ZTA 21-04 will establish the Germantown-Churchill Village Overlay zone. This Overlay zone covers approximately 1,270 acres of land and will support the implementation of new zoning recommended by the recently adopted master plan by offering protections to the existing development character of Churchill Village

The County Council approved and adopted the Germantown Plan for the Town Sector Zone in July 2020. As part of this master plan, the Planning Board transmitted both this ZTA and a Sectional Map Amendment (SMA) to amend the zoning map and Zoning Ordinance as recommended by the master plan.

The County Council held a public hearing on September 14, 2021. There were no speakers.

The County 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 September 27, 2021. The PHED Committee unanimously (3-0) recommended approval of ZTA 21-04 without amendments.

At a District Council session on October 19, 2021, 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. 21-04 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. ARTICLE 59-2 is amended as follows:

DIVISION 2.1. Zones Established

*** * ***

Section 2.1.3. Establishment of Zones

*** * ***

G. Overlay Zones

1. There are [20] 21 Overlay zone classifications:

- a. Bethesda (B),
- b. Burtonsville Employment Area (BEA),
- c. Chevy Chase Neighborhood Retail (CCNR),
- d. Clarksburg East Environmental (CEE),
- e. Clarksburg West Environmental (CWE),
- f. Community-serving Retail (CSR),
- g. Fenton Village (FV),
- h. Garrett Park (GP),
- i. Germantown-Churchill Village (GCV)
- [i]j. Germantown Transit Mixed Use (GTMU),
- [j]k. Montgomery Village (MV),
- [k]l. Regional Shopping Center (RSC),
- [l]m. Ripley/South Silver Spring (RSS),
- [m]n. Rural Village Center (RVC),
- [n]o. Sandy Spring/Ashton Rural Village (SSA),
- [o]p. Takoma Park/East Silver Spring Commercial Revitalization (TPESS),
- [p]q. Transferable Development Rights (TDR),
- [q]r. Twinbrook (TB),
- [r]s. Upper Paint Branch (UPB),

[s]t. Upper Rock Creek (URC), and
[t]u. White Flint 2-Parklawn (WF-P).

2. Building types, uses, density, height, and other standards and requirements may be modified by the Overlay zones under Section 4.9.2 through Section [4.9.20] 4.9.21.

* * *

Sec. 2. ARTICLE 59-4 is amended as follows:

DIVISION 4.9. Overlay Zones

* * *

Section 4.9.10. Germantown-Churchill Village (GCV) Overlay Zone

A. Purpose

The purpose of the GCV Overlay zone is to:

1. preserve the unique character of Churchill Village;
2. protect existing open space and conservation areas; and
3. ensure a compatible relationship between new and existing development.

B. Land Uses

1. On properties in the RE-1 zone, all uses are prohibited except the following, which are permitted:
 - a. Agricultural Vending;
 - b. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons);
 - c. Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons);
 - d. Distribution Line (Below Ground);
 - e. Pipeline (Below Ground);
 - f. Playground, Outdoor (Private);

- g. Seasonal Outdoor Sales;
- h. Solar Collection System;
- i. Day Care and Health Clubs in Community Centers; and
- j. An Accessory Use associated with any of the above uses.

- 2. On properties in the RE-1 zone, any of the allowed features in open space under Section 6.3.3.A are permitted, except for above-ground utility rights-of-way.

C. Development Standards

In addition to any other requirements of Division 6.3 and Chapter 50, common and public open space in Churchill Village must be recorded within a separate lot or parcel with a protective easement or covenant in the land records, in a form approved by the Planning Board, unless the parcel is exempted from recordation under Chapter 50.

D. Development Procedures

- 1. Site plan approval under Section 7.3.4 is required for all development in the GCV Overlay zone, except for:
 - a. construction of an accessory structure;
 - b. construction of a structure less than 5,000 square feet in size in the RE-1 zone;
 - c. the modification or expansion of an existing detached house, duplex, townhouse, or accessory structure; or
 - d. a conditional use.
- 2. Record plats must show all land designated for open space and have a statement on the plat granting public access to those lands.
- 3. A certified site plan must show all land designated for open space.
- 4. Applications for a Floating zone on land classified in the RE-1 zone are prohibited.

E. Existing Buildings and Uses

1. A legal structure or site design existing on {DAY BEFORE EFFECTIVE DATE} that does not meet its current zoning is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased, except as provided below.
2. On a lot that has not changed in size or shape since {INSERT THE EFFECTIVE DATE}, a detached house, duplex, or townhouse may be constructed, reconstructed, or expanded:
 - a. without regard to the minimum lot size or lot width at the front building line; and
 - b. in a manner that satisfies the maximum building height and lot coverage of its current zone and the side, front, and rear setback that was required when the lot was first created.
3.
 - a. A legal use existing on {DAY BEFORE EFFECTIVE DATE} is conforming and may be continued. Expansion of any such use must satisfy the standards of the current zone under Article 59-3.
 - b. An existing Charitable, Philanthropic Institution (as defined by Section 3.4.2) may expand without conditional use approval but must satisfy Section 4.9.10.D.

Section [4.9.10] 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay

Zone

* * *

Section [4.9.11] 4.9.12. Montgomery Village (MV) Overlay Zone

* * *

E. Existing Buildings and Uses

* * *

3. a. A legal use existing on February 28, 2016 is conforming and may be continued. Expansion of any such use must satisfy the standards of the current zone under Article 59-3.
- b. An existing Charitable, Philanthropic Institution (as defined by Section 3.4.2) may expand without conditional use approval, but must satisfy Section [4.9.11.D] 4.9.12.D.
- c. An existing Storage Facility (as defined by Section 3.6.8.e.1) owned and operated by a Charitable, Philanthropic Institution may expand by up to the lesser of 10% or 30,000 square feet without conditional use approval, but must satisfy Section [4.9.11.D] 4.9.12.D.

Section [4.9.12] 4.9.13. Regional Shopping Center (RSC) Overlay Zone

* * *

D. Site Plan

Site plan approval under Section 7.3.4 is required for any increase in building height under Section [4.9.12.C.1] 4.9.13.C.1.

E. Parking

* * *

2. Pedestrian Access

The major point of pedestrian access for an off-street parking facility that occupies contiguous land area integral to the regional shopping center property may extend more than 500 feet walking distance from an entrance to the center to satisfy the number of spaces required under Section [4.9.12.E.1.a] 4.9.13.E.1.a.

* * *

Section [4.9.13] 4.9.14. Ripley/South Silver Spring (RSS) Overlay Zone

* * *

Section [4.9.14] 4.9.15. Rural Village Center (RVC) Overlay Zone

* * *

C. Development Standards

1. Where a lot is either partially or totally in a Commercial/Residential zone:

* * *

- e. In addition to the parking requirements in Division 6.2:

* * *

- iii. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before November 4, 2002, the entire off-street parking facility must be brought into conformance with Section [4.9.14] 4.9.15.

* * *

Section [4.9.15] 4.9.16. Sandy Spring/Ashton Rural Village (SSA) Overlay Zone

* * *

Section [4.9.16] 4.9.17. Takoma Park/East Silver Spring Commercial Revitalization (TPRESS) Overlay Zone

* * *

D. Site Plan

* * *

3. For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet and does not require site plan approval under Section [4.9.16.D.1.c] 4.9.17.D.1.c, the Planning Board or its designee must review the building permit to determine compliance

with master plan recommendations and the provisions of this Overlay zone. If an existing building is located on the site or on an adjacent property, the minimum setback of the zone may be reduced to conform to the existing setback on the site or on the adjacent property.

Section [4.9.17] 4.9.18. Transferable Development Rights (TDR) Overlay Zone

B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density[,] if the development satisfies the requirements for optional method development using Transferable Development Rights under Section [4.9.17.B] 4.9.18.B.

a. Applicability

The procedures and requirements in Section [4.9.17.B] 4.9.18.B apply to the transfer of development rights from land in the AR zone to land in a Transferable Development Rights (TDR) Overlay zone. The Planning Board may approve subdivision of such land at densities up to the maximum density allowed in the applicable TDR Overlay zone and substantially conforming to the recommendations in the applicable master plan.

c. Recording of Development Right

- ii. A final record plat for a subdivision using transferred development rights must contain a statement including the development proposed, the zoning classification of

the property, the number of development rights used, and a notation of the recordation of the conveyance as required by Section [4.9.17.B] 4.9.18.B.

d. Development with Moderately Priced Dwelling Units

- i. A property developed under Section [4.9.17.B] 4.9.18.B must satisfy Chapter 25A.
- ii. Any increase in density allowed under the optional method of development for the provision of MPDUs is calculated after the base density of the property has been increased under Section [4.9.17.B] 4.9.18.B through TDRs.
- iii. In a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development. Any other optional method development in a Rural Residential or Residential zone must satisfy the requirements of Section [4.9.17.B] 4.9.18.B.

e. Additional Findings

In addition to the findings required for approval of a site plan under Section 7.3.4, for projects developed under Section [4.9.17.B] 4.9.18.B, the Planning Board must find that the proposed development provides an appropriate range of housing types that takes advantage of existing topography and environmental features and achieves a compatible relationship between the proposed development and adjoining land uses.

* * *

Section [4.9.18] 4.9.19. Twinbrook (TB) Overlay Zone

* * *

Section [4.9.19] 4.9.20. Upper Paint Branch (UPB) Overlay Zone

* * *

B. Exemptions

The following are exempt from Section [4.9.19] 4.9.20:

* * *

C. Land Uses

1. Except as listed in Section [4.9.19.C.2] 4.9.20.C.2 and Section [4.9.19.C.3] 4.9.20.C.3, the land uses of the underlying zone apply.

The use standards of the underlying zone apply unless the development standards in Section [4.9.19.D] 4.9.20.D are more restrictive, in which case Section [4.9.19.D] 4.9.20.D must be followed.

* * *

3. If validly existing on July 1, 1997, the uses in Section [4.9.19.C.2] 4.9.20.C.2 may be continued under the requirements in effect at the time the use was established. Any expansion requires compliance with the UPB Overlay zone.

* * *

E. Waiver

The applicable review body may grant a waiver of the development standards in Section [4.9.19.D] 4.9.20.D if it finds that:

* * *

4. Alternative water quality and control techniques are used to meet the purposes of Section [4.9.19] 4.9.20.

Section [4.9.20] 4.9.21. Upper Rock Creek (URC) Overlay Zone

* * *

B. Exemptions

1. The following are exempt from Section [4.9.20] 4.9.21:

* * *

D. Waiver

The applicable review body may grant a waiver of the development standards in Section [4.9.20.C] 4.9.21.C if it finds that:

* * *

4. Alternative water quality and quantity control techniques are used to meet the purposes of Section [4.9.20] 4.9.21.

Section [4.9.21] 4.9.22. White Flint 2-Parklawn (WF-P) Overlay Zone

* * *

**Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING
ORDINANCE SECTION CROSS REFERENCE is amended as follows:**

* * *	
Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.	New ZONING ORDINANCE
* * *	
Division 59-C-18. Overlay Zones.	
* * *	
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.19] <u>4.9.20</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.15] <u>4.9.16</u> . Sandy Spring/Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.16] <u>4.9.17</u> . Takoma Park/East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
* * *	
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.20] <u>4.9.21</u> . Upper Rock Creek (URC) Overlay Zone

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council

March 15, 2021

TO: The Honorable Tom Hucker, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

SUBJECT: Planning Board Recommendation to County Council for introduction of a Zoning Text Amendment to amend the Zoning Ordinance (Chapter 59) to establish a new Germantown-Churchill Village Overlay Zone.

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on March 11, 2021 and by a vote of 5:0 recommended transmitting the attached draft Zoning Text Amendment (ZTA) to establish a new Germantown-Churchill Village Overlay Zone (GCVOZ). This overlay zone is a critical part of implementing the new zoning recommended by the recently adopted and approved *Germantown Plan for the Town Sector Zone* by offering protections to the existing development character of Churchill Village.

The *Germantown Plan for the Town Sector Zone* is primarily a technical plan that analyzes the different villages within the old Town Sector (T-S) zone areas of Germantown, recommending new zones that are in the Ordinance. This is necessary because the Zoning Ordinance update in 2014 removed the T-S zone. This recommended ZTA is being transmitted to the Council concurrently with the Board's recommended approval of Sectional Map Amendment H-139, which maps the recommended underlying zoning changes.

The proposed overlay zone is necessary to preserve the unique residential character and open spaces within the Churchill Village community, and to ensure a compatible relationship between new and existing development. Specifically, the overlay addresses irregularities between existing development and new zoning standards as a result of the rezoning, it grandfathers existing by-right uses from the old T-S zone, and protects the quasi-public open spaces from future development. The uniqueness of the T-S zone allowed different types of uses and structures in arrangements not often seen with standard residential zones and created a substantial amount of open space, which should be protected from future development pressure. The proposed ZTA also makes multiple technical corrections to the Zoning Ordinance specifically changing the subsection number for the existing overlay zones that alphabetically come after Germantown-Churchill Village, and changes references to these renumbered subsections throughout the Ordinance.

The framework of the GCVOZ is nearly identical to the Montgomery Village Overlay Zone which was approved in conjunction with the Montgomery Village Master Plan in 2016 for the same purpose of rezoning properties from the T-S zone to new residential and mixed-use zones.

The Board appreciates the Council's consideration of the attached draft ZTA to create the GCVOZ and Planning Staff is able and willing to assist the Council as needed in the review of the proposed revisions.

A handwritten signature in black ink, appearing to read 'Casey Anderson', with a stylized, cursive script.

Casey Anderson
Chair

Request to Introduce a Zoning Text Amendment, Germantown-Churchill Village Overlay Zone

 Benjamin Berbert, Planner Coordinator, CP&P, Benjamin.Berbert@montgomeryplanning.org, 301.495.4644

 Jason Sartori, Chief, CP&P, Jason.Sartori@montgomeryplanning.org, 301.495.2172

Completed: 3/5/2021

Staff Recommendation

Approval to submit a zoning text amendment (ZTA) to create the Germantown-Churchill Village (GCV) Overlay Zone in order to implement recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone*.

Summary

Staff recommends approval to transmit the proposed ZTA to the Montgomery County District Council requesting introduction. The proposed ZTA would create an overlay zone, as recommended in the approved and adopted 2020 *Germantown Plan for the Town Sector Zone*, and is mirrored on the Montgomery Village Overlay Zone established in 2015 for similar purposes of protecting properties originally developed under the now outdated Town Sector zoning.

Background

The purpose of the *Germantown Plan for the Town Sector Zone* is to replace the existing and outdated Town Sector (T-S) zoning with current zoning classifications for the Churchill Village community of Germantown. The master plan recommends appropriate zoning categories and policies to protect the community's open space and recreation areas, while maintaining the overall residential character of Churchill Village. Additionally, rezoning minimal areas of non-Town Sector zones (along the plan's boundary) is recommended to correct zoning inconsistencies caused mostly by right-of-way alignments and the creation of Little Seneca Lake. A Sectional Map Amendment is concurrently being reviewed to apply the recommended changes to the underlying zones.

The project was initiated in April 2018 followed by community engagement, analysis and by the approval of the Scope of Work in November 2018. The following recent milestone dates are noted below:

- On July 17, 2019, the Planning Board held a public hearing on the public hearing draft.
- On February 4, 2020, the County Council held a public hearing on the Planning Board draft.
- On February 25, 2020 the Planning, Housing, and Economic Development Committee (PHED) of the County Council held a work session to review the Planning Board draft.

- On July 21, 2020, the County Council adopted Resolution No. 19-543, which approved the plan with amendments.
- On July 30, 2020 the Planning Board adopted Resolution of Adoption No. 20-081, which adopted the plan as amended by the County Council.
- On September 19, 2020, the Maryland-National Capital Park and Planning Commission (M-NCPPC) approved and adopted the Germantown Plan for the Town Sector Zone by Resolution No. 20-019.

Recommended Overlay Zone

This recommended ZTA requests the creation of a new Overlay Zone to complement the Sectional Map Amendment implementing the recommended zoning changes. This Overlay Zone is necessary to fully implement the goals and recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone* to 1) maintain the residential core, 2) protect open spaces and recreation areas, and 3) support neighborhood-serving commercial uses.

The GCV Overlay Zone would cover approximately 1,272 acres of land. The purpose of the Overlay Zone is to facilitate the preservation of the unique residential character and open space system that exists in the Churchill Village community, and to ensure compatibility between new and existing development. The framework of this Overlay Zone is similar to the Montgomery Village Overlay Zone which was created in 2015 following the 2015 Montgomery Village Master Plan, which had a similar purpose to update the Town Sector zoning with new zones while protecting the unique development and open space characteristics that were created under the old zone.

Specifically, the GCV overlay zone will:

- Address irregularities with development standards that will occur as a result of the rezoning from the Town Sector Zone to the various updated zoning categories. Some properties that were built to development standards under the T-S Zone do not conform to the development standards (e.g., front or side setbacks) of their proposed new Euclidean zones. In effect, such properties will be “grandfathered” (legally non-conforming).
- Allow existing uses that were permitted by-right under the T-S Zone to be “grandfathered” under the newly proposed zones. If expansion of the use or redevelopment occurs and the proposed use is considered a limited or conditional use under the new zone, then the applicant must follow the review requirements for a limited or conditional use.
- Preserves the existing quasi-public open space and recreation areas owned and maintained by the various homeowner associations.
- Addresses compatibility between existing and anticipated development of vacant parcels.

ZTA Process

A change in the text of the zoning ordinance requires approval of a ZTA. Section 59.7.2.4 (Zoning Text Amendment) of the Montgomery County Zoning Ordinance enables the Planning Board to request the District Council or an individual District Council member to sponsor a zoning text amendment. After introduction of the ZTA, the District Council then transmits the official ZTA to the Planning Director with

notification of the District Council's public hearing date. The Planning Director must publish a report and recommendation at least seven days before the Planning Board officially reviews the introduced ZTA in a public meeting. The District Council must hold a public hearing within 60 days after introduction of the ZTA, unless extended. Upon approval, a ZTA takes effect 20 days after adoption, unless a different date is specified.

Conclusion

Staff recommends the Planning Board transmit the proposed ZTA to the District Council, to create the Germantown-Churchill Village Overlay Zone to implement recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone*.

Attachment:

A - Proposed Germantown-Churchill Village Overlay Zone ZTA.

Zoning Text Amendment No.: 21-**
Concerning: Overlay Zone –
Germantown-Churchill
Village
Draft No. & Date:
Introduced:
Public Hearing:
Adopted:
Effective:

**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:

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Germantown-Churchill Village Overlay Zone

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

ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Section 4.9.10.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.11.	“Montgomery Village (MV) Overlay Zone”
Section 4.9.12.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.13.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.14.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.15.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”
Section 4.9.16.	“Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
Section 4.9.17.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.18.	“Twinbrook (TB) Overlay Zone”
Section 4.9.19.	“Upper Paint Branch (UPB) Overlay Zone”
Section 4.9.20.	“Upper Rock Creek (URC) Overlay Zone”
Section 4.9.21.	“White Flint 2-Parklawn (WF-P) Overlay Zone”

And adding

Section 4.9.10.	“ <u>Germantown-Churchill Village (GCV) Overlay Zone</u> ”
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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

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. ARTICLE 59-2 is amended as follows:**

2 **DIVISION 2.1. Zones Established**

3 * * *

4 **Section 2.1.3. Establishment of Zones**

5 * * *

6 **G. Overlay Zones**

7 1. There are [20] 21 Overlay zone classifications:

- 8 a. Bethesda (B),
- 9 b. Burtonsville Employment Area (BEA),
- 10 c. Chevy Chase Neighborhood Retail (CCNR),
- 11 d. Clarksburg East Environmental (CEE),
- 12 e. Clarksburg West Environmental (CWE),
- 13 f. Community-serving Retail (CSR),
- 14 g. Fenton Village (FV),
- 15 h. Garrett Park (GP),
- 16 i. Germantown-Churchill Village (GCV)
- 17 [i]j. Germantown Transit Mixed Use (GTMU),
- 18 [j]k. Montgomery Village (MV),
- 19 [k]l. Regional Shopping Center (RSC),
- 20 [l]m. Ripley/South Silver Spring (RSS),
- 21 [m]n. Rural Village Center (RVC),
- 22 [n]o. Sandy Spring/Ashton Rural Village (SSA),
- 23 [o]p. Takoma Park/East Silver Spring Commercial Revitalization
- 24 (TPESS),
- 25 [p]q. Transferable Development Rights (TDR),
- 26 [q]r. Twinbrook (TB),
- 27 [r]s. Upper Paint Branch (UPB),

[s]t. Upper Rock Creek (URC), and
[t]u. White Flint 2-Parklawn (WF-P).

2. Building types, uses, density, height, and other standards and requirements may be modified by the Overlay zones under Section 4.9.2 through Section [4.9.20] 4.9.21.

* * *

Sec. 2. ARTICLE 59-4 is amended as follows:

DIVISION 4.9. Overlay Zones

* * *

Section 4.9.10. Germantown-Churchill Village (GCV) Overlay Zone

A. Purpose

The purpose of the GCV Overlay zone is to:

1. preserve the unique character of Churchill Village;
2. protect existing open space and conservation areas; and
3. ensure a compatible relationship between new and existing development.

B. Land Uses

1. On properties in the RE-1 zone, all uses prohibited except the following, which are permitted:
 - a. Agricultural Vending;
 - b. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons);
 - c. Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 persons);
 - d. Distribution Line (Below Ground);
 - e. Pipeline (Below Ground);
 - f. Playground, Outdoor (Private);

- g. Seasonal Outdoor Sales;
- h. Solar Collection System;
- i. Day Care and Health Clubs in Community Centers; and
- j. An Accessory Use associated with any of the above uses.

- 2. On properties in the RE-1 zone, any of the allowed features in open space under Section 6.3.3.A are permitted, except for above-ground utility rights-of-way.

C. Development Standards

In addition to any other requirements of Division 6.3 and Chapter 50, common and public open space in Churchill Village must be recorded within a separate lot or parcel with a protective easement or covenant in the land records, in a form approved by the Planning Board, unless the parcel is exempted from recordation under Chapter 50.

D. Development Procedures

- 1. Site plan approval under Section 7.3.4 is required for all development in the GCV Overlay zone, except for:
 - a. construction of an accessory structure;
 - b. construction of a structure less than 5,000 square feet in size in the RE-1 zone;
 - c. the modification or expansion of an existing detached house, duplex, townhouse, or accessory structure; or
 - d. a conditional use.
- 2. Record plats must show all land designated for open space and have a statement on the plat granting public access to those lands.
- 3. A certified site plan must show all land designated for open space.
- 4. Applications for a Floating zone on land classified in the RE-1 zone are prohibited.

E. Existing Buildings and Uses

1. A legal structure or site design existing on {DAY BEFORE EFFECTIVE DATE} that does not meet its current zoning is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased, except as provided below.
2. On a lot that has not changed in size or shape since {INSERT THE EFFECTIVE DATE}, a detached house, duplex, or townhouse may be constructed, reconstructed, or expanded:
 - a. without regard to the minimum lot size or lot width at the front building line; and
 - b. in a manner that satisfies the maximum building height and lot coverage of its current zone and the side, front and rear setback that was required when the lot was first created.
3. a. A legal use existing on {DAY BEFORE EFFECTIVE DATE} is conforming and may be continued. Expansion of any such use must satisfy the standards of the current zone under Article 59-3.
b. An existing Charitable, Philanthropic Institution (as defined by Section 3.4.2) may expand without conditional use approval but must satisfy Section 4.9.10.D.

Section [4.9.10] 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay

Zone

* * *

Section [4.9.11] 4.9.12. Montgomery Village (MV) Overlay Zone

E. Existing Buildings and Uses

* * *

3. a. A legal use existing on February 28, 2016 is conforming and may be continued. Expansion of any such use must satisfy the standards of the current zone under Article 59-3.
- b. An existing Charitable, Philanthropic Institution (as defined by Section 3.4.2) may expand without conditional use approval, but must satisfy Section [4.9.11.D] 4.9.12.D.
- c. An existing Storage Facility (as defined by Section 3.6.8.e.1) owned and operated by a Charitable, Philanthropic Institution may expand by up to the lesser of 10% or 30,000 square feet without conditional use approval, but must satisfy Section [4.9.11.D] 4.9.12.D.

Section [4.9.12] 4.9.13. Regional Shopping Center (RSC) Overlay Zone

* * *

D. Site Plan

Site plan approval under Section 7.3.4 is required for any increase in building height under Section [[4.9.12.C.1]] 4.9.13.C.1.

E. Parking

* * *

2. Pedestrian Access

The major point of pedestrian access for an off-street parking facility that occupies contiguous land area integral to the regional shopping center property may extend more than 500 feet walking distance from an entrance to the center to satisfy the number of spaces required under Section [[4.9.12.E.1.a]] 4.9.13.E.1.a.

Section [4.9.13] 4.9.14. Ripley/South Silver Spring (RSS) Overlay Zone

* * *

136 **Section [4.9.14] 4.9.15. Rural Village Center (RVC) Overlay Zone**

137 * * *

138 **C. Development Standards**

- 139 1. Where a lot is either partially or totally in a Commercial/Residential
140 zone:

141 * * *

- 142 e. In addition to the parking requirements in Division 6.2:

143 * * *

- 144 iii. For any cumulative enlargement of a surface parking
145 facility that is greater than 50% of the total parking area
146 approved before November 4, 2002, the entire off-street
147 parking facility must be brought into conformance with
148 Section [4.9.14] 4.9.15.

149 * * *

150 **Section [4.9.15] 4.9.16. Sandy Spring/Ashton Rural Village (SSA) Overlay**
151 **Zone**

152 * * *

154 **Section [4.9.16] 4.9.17. Takoma Park/East Silver Spring Commercial**
155 **Revitalization (TPESS) Overlay Zone**

156 * * *

157 **D. Site Plan**

158 * * *

- 159 3. For any addition, reconstruction, or alteration that changes a building
160 by less than 1,000 square feet and does not require site plan approval
161 under Section [4.9.16.D.1.c] 4.9.17.D.1.c, the Planning Board or its
162 designee must review the building permit to determine compliance

with master plan recommendations and the provisions of this Overlay zone.

Section [4.9.17] 4.9.18. Transferable Development Rights (TDR) Overlay Zone

B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development satisfies the requirements for optional method development using Transferable Development Rights under Section [4.9.17.B] 4.9.18.B.

a. Applicability

The procedures and requirements in Section [4.9.17.B] 4.9.18.B apply to the transfer of development rights from land in the AR zone to land in a Transferable Development Rights (TDR) Overlay zone.

c. Recording of Development Right

ii. A final record plat for a subdivision using transferred development rights must contain a statement including the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance as required by Section [4.9.17.B] 4.9.18.B.

d. Development with Moderately Priced Dwelling Units

i. A property developed under Section [4.9.17.B] 4.9.18.B must satisfy Chapter 25A.

- 190 ii. Any increase in density allowed under the optional method of
191 development for the provision of MPDUs is calculated after the
192 base density of the property has been increased under Section
193 [4.9.17.B] 4.9.18.B through TDRs.
- 194 iii. In a Rural Residential or Residential zone with a TDR density
195 designation of less than three units per acre, development using
196 TDRs and providing MPDUs above 12.5% must follow the
197 requirements under optional method MPDU Development. Any
198 other optional method development in a Rural Residential or
199 Residential zone must satisfy the requirements of Section
200 [4.9.17.B] 4.9.18.B.

201 * * *

202 **e. Additional Findings**

203 In addition to the findings required for approval of a site plan under
204 Section 7.3.4, for projects developed under Section [4.9.17.B]
205 4.9.18.B, the Planning Board must find that the proposed development
206 provides an appropriate range of housing types that takes advantage of
207 existing topography and environmental features and achieves a
208 compatible relationship between the proposed development and
209 adjoining land uses.

210 * * *

211 **Section [4.9.18] 4.9.19. Twinbrook (TB) Overlay Zone**

212 * * *

213
214 **Section [4.9.19] 4.9.20. Upper Paint Branch (UPB) Overlay Zone**

215 * * *

216 **B. Exemptions**

The following are exempt from Section [4.9.19] 4.9.20:

* * *

C. Land Uses

1. Except as listed in Section [4.9.19.C.2] 4.9.20.C.2 and Section [4.9.19.C.3] 4.9.20.C.3, the land uses of the underlying zone apply.

The use standards of the underlying zone apply unless the development standards in Section [4.9.19.D] 4.9.20.D are more restrictive, in which case Section [4.9.19.D] 4.9.20.D must be followed.

* * *

3. If validly existing on July 1, 1997, the uses in Section [4.9.19.C.2] 4.9.20.C.2 may be continued under the requirements in effect at the time the use was established. Any expansion requires compliance with the UPB Overlay zone.

* * *

E. Waiver

The applicable review body may grant a waiver of the development standards in Section [4.9.19.D] 4.9.20.D if it finds that:

* * *

4. Alternative water quality and control techniques are used to meet the purposes of Section [4.9.19] 4.9.20.

Section [4.9.20] 4.9.21. Upper Rock Creek (URC) Overlay Zone

* * *

B. Exemptions

1. The following are exempt from Section [4.9.20] 4.9.21:

* * *

D. Waiver

244 The applicable review body may grant a waiver of the development
245 standards in Section [4.9.20.C] 4.9.21.C if it finds that:

246 * * *

247 4. Alternative water quality and quantity control techniques are used to
248 meet the purposes of Section [4.9.20] 4.9.21.

249 **Section [4.9.21.] 4.9.22. White Flint 2-Parklawn (WF-P) Overlay Zone**

250 * * *

251

**Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING
ORDINANCE SECTION CROSS REFERENCE is amended as follows:**

Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.	New ZONING ORDINANCE
* * *	
Division 59-C-18. Overlay Zones.	
* * *	
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.19] <u>4.9.20</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.15] <u>4.9.16</u> . Sandy Spring/Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.16] <u>4.9.17</u> . Takoma Park/East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
* * *	
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.20] <u>4.9.21</u> . Upper Rock Creek (URC) Overlay Zone

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council