

Ordinance No: 15-43
Zoning Text Amendment No: 04-24
Concerning: U.S. 29/Cherry Hill Road
Employment Area Overlay Zone-Revisions
Draft No. & Date: 1 – 10/10/04
Introduced: October 19, 2004
Public Hearing: 11/23/04; 1:30 p.m.
Adopted: December 14, 2004
Effective: January 3, 2005

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

By: Councilmembers Praisner and Perez

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- allowing reduced building setbacks in the Cherry Hill Employment Area Overlay Zone where the overlay zone adjoins residentially zoned land not recommended for residential use; and
- permitting certain commercial uses by right.

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

DIVISION 59-C-18	“OVERLAY ZONES”
Section 59-C-18.132	“Regulations”

EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the 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. 04-23 was introduced on October 19, 2004 to allow revise certain development standards of the U.S. 29/Cherry Hill Employment Area Overlay Zone. Under the ZTA restaurants and food services would be excluded from the calculation of retail square footage for the purpose of encouraging the development of restaurants in the area. The ZTA would also allow a reduced setback from the overlay zone boundary where the overlay zone adjoins land not recommended for residential use in the master plan.

The Montgomery County Planning Board in its report to the Council recommended that ZTA 04-23 be approved.

The County Council held a public hearing on November 23, 2004 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on December 6, 2004 to review the amendment. After careful consideration of the issues involved, the Committee recommends that ZTA 04-24 be approved, with a minor editorial revision. The Committee believes that the ZTA is needed to implement master plan recommendations for self-supporting employment and on-site retail and commercial services in the Cherry Hill Employment area.

The District Council reviewed Zoning Text Amendment No. 04-24 at a worksession held on December 6, 2004, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee majority.

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. 03-01 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-C-18 is amended as follows:

DIVISION 59-C-18. OVERLAY ZONES.

*** * ***

59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.

*** * ***

59-C-18.132. Regulations.

(a) Land uses.

(1) The following uses are permitted in the U.S. 29/Cherry Hill Road Employment Area overlay zone:

(A) All permitted [or] and special exception uses allowed in the underlying zones are allowed in the U.S. 29/Cherry Hill Road Employment Area overlay zone, except as specifically modified and set forth in this overlay zone.

(i) The following additional retail commercial uses are permitted:

Beauty supply stores.

Computer and computer supply stores.

[Eating and drinking establishment, excluding a drive-in.]

Electronics stores.

Express or mailing offices.

Food and beverage stores.

Music stores.

Office supply stores.

Pet supply stores.

Shoe stores.

Theaters, indoor.

(ii) The following additional commercial uses are permitted:

Eating and drinking establishment, excluding a drive-in

Delicatessen

Cafeteria

Snack Bar

Ice Cream Parlor

[(ii)](iii) * * *

[(iii)] (iv)* * *

* * *

(b) **Development standards.** Development will proceed under the standards of the underlying zones except as modified by the provisions of this overlay zone.

(1) **Setbacks.**

(A) Where the overlay zone adjoins, or is separated only by a public road from residentially zoned land that is recommended for residential use and development in the Fairland Master Plan, all buildings must be set back at least 100 feet from such residential land. All parking and maneuvering areas must be set back at least 50 feet from such residential land and be appropriately screened from such adjoining uses.

(B) [A] Any building that devotes 50 percent or more of its gross floor area to a [containing principally] retail commercial use [(i.e., 50 percent or more of the gross floor area)] must be located at least 200 feet from the boundary of the overlay zone, unless a waiver is granted by the Planning Board. The 200 foot building setback requirement must not be reduced below 150

feet. The parking and maneuvering areas for such a building must be located at least 100 feet from the boundary of the overlay zone. A [No] setback is not required from lot lines, zoning lines, utility rights-of-way or road rights-of-way within this overlay zone.

(C) Where the overlay zone adjoins residentially zoned land that adjoins US 29 or a service road that adjoins US 29, and the residentially zoned land is not used or recommended for residential use and development in the Fairland Master Plan, [[then,]] the following setback and screening requirements apply:

(i) A setback is not required from the overlay zone boundary; however, notwithstanding the preceding subparagraph (B) above, buildings and parking areas must be setback at least 50 feet from US 29 or a service road that adjoins US 29, and

(ii) Screening and landscaping requirements must be established by the Planning Board through site plan review. The parking facility setback and screening requirements of Sections 59-E2.81 and 59-E-2.9 do not apply.

(2) **Retail commercial area.**

(A) Where the underlying base zone is other than the C-6 Zone:

(i) the cumulative square footage of retail commercial uses permitted on land classified in each particular base zone within the boundaries of the overlay zone must not exceed a total of 50,000¹ gross square feet[,]; and

(ii) development of retail commercial use cannot exceed
[5,000] 15,000¹ square feet on any individual lot [.]; and

(iii) no single tenant free-standing structure that devotes 50
percent or more of its gross floor area to a retail
commercial use may exceed a total of 10,000 gross
square feet.

(B) Subsection (A) also applies where the underlying
base zone is C-6, and when development occurs
pursuant to Section 59-C-18.132(b)(6)(B).

¹ Any square footage devoted to an eating and drinking establishment use,
excluding a drive-in, is in addition to this amount.

Sec. 2. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council