






Introduction to the Draft Rewritten Zoning Ordinance & Overview of Fall 2012 Planning Board Review

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Description

The following report provides an overview of the information to be presented at the two initial worksessions on the Draft Rewritten Zoning Ordinance. These sessions are designed to answer the “why” before we begin discussing the “how”. They should also give the Board and general public a sense of how the Ordinance –and parts of the Ordinance – relate to the larger regulatory framework.

Summary:

This memorandum is divided into seven sections:

- Planning Board Review Schedule
- The Big Picture
- How the Pieces Fit Together
- How We Got Here
- Document Organization
- Tools
- Outreach

Section 1 provides a detailed overview of the proposed Planning Board review schedule including dates, topics, and information on whether the session will be a public session at which testimony will be taken or a worksession entailing detailed discussion between the Board and Staff only.

Section 2, “The Big Picture”, provides an overview of the themes and objectives of the rewritten zoning ordinance. Topics include how Staff envisions the rewritten code as an interconnected, balanced, and context-sensitive set of regulations. It highlights where the policy goals outlined in supporting publications were implemented and the areas where Staff endeavored to make only minimal changes.

Section 3, “How the Pieces Fit Together”, explores the ways the interconnections between zones, uses, standards, development methods, general regulations, and process work together to allow flexibility while still ensuring appropriate oversight and review.

Section 4, “How We Got Here”, is a detailed look at the steps taken over the better part of 4 years. These steps include the publication of early analysis and research documents, such as the *Zoning Discovery*, the *Technical Appendix*, and the *Approach and Annotated Outline*; an overview of our Zoning Advisory Panel process; and information about our outreach to stakeholders, agencies, and the public at large.

Section 5, “Organization” is basically the table of contents for the new code with a few sections highlighted to bring attention to particularly interesting and important new ideas.

Section 6, “Tools” describes the documents Staff has published to help describe and analyze various topics, such as fact sheets on selected issues, comparison charts, and conversion tables.

Section 7, “Outreach” provides an overview of activities conducted to inform and engage the public in the rewrite project.

These subjects will be presented at two initial worksessions during which we expect discussion about larger process and policy matters; these sessions should answer the “why” before we begin discussing the “how”. They should also give the Board and general public a sense of how the Ordinance –and parts of the Ordinance – relate to the larger regulatory framework. Because each section is so interrelated to all other sections, an understanding of the context and organization of the Ordinance is of paramount importance. Therefore, we will be presenting topics in a broader sense before a detailed analysis can be undertaken. In sum, this document should provide the basic background that will guide the next few months of discussion about each division, section, paragraph, table, and word in the rewritten Zoning Ordinance.



§1. Planning Board Review Schedule

The following schedule reflects staff’s recommendation as to how and when each section of the rewritten Zoning Ordinance can be presented and discussed. It is hoped – and requested – that specific technical, grammatical, and verbal suggestions and corrections be provided to Staff on an ongoing basis so that the public sessions can be reserved for discussions of substantive changes contained in the proposed rewrite. We also hope that this schedule allows the Board, stakeholders, and the public at large to focus on the key aspects of the revised Ordinance without being overwhelmed. We will readily accept interim meetings with anyone who has particular concerns or questions that may not be covered in the schedule being proposed so that we can try to address these throughout the process.

§1.1. Review Phases



§1.2. Planning Board Sessions

Sessions 1. & 2.

Session 1. Schedule & Overview	Monday, September 10	Worksession
Schedule, The Big Picture, How the Pieces Fit Together		
Session 2. Organization & Process	Thursday, September 13	Worksession
Organization of the Zoning Ordinance, Brief History of Project, Research & Drafting Issues, Public Outreach, Inter-/Intra-Agency Collaboration		

Sessions 3-5. Commercial/ Residential (C/R) and Employment (E) Zoning Districts

Session 3. Overview & Public Comment	Thursday, September 20	Public Session
Session 4. Intent Statements & Uses	Thursday, September 27	Worksession
Session 5. Development Standards & Optional Method	Monday, October 1	Worksession

Sessions 6-10. Agricultural, Rural Residential, Residential, & Industrial Zoning Districts

Session 6. Overview & Public Comment	Thursday, October 4	Public Session
Session 7. Intent Statements; Agricultural & Residential Uses	Thursday, October 11	Worksession
Session 8. Civic, Commercial, Industrial, & Miscellaneous Uses	Thursday, October 18	Worksession
Session 9. Development Standards	Thursday, October 25	Worksession
Session 10. Optional Method	Monday, October 29	Worksession

Sessions 11-13. Overlay & Floating Zoning Districts

Session 11. Overview & Public Comment	Thursday, November 1	Worksession
Session 12. Overlay Zones	Thursday, November 8	Worksession
Session 13. Floating Zones	Tuesday, November 13	Worksession

Sessions 14-17. General Development Regulations; Administration & Procedures

Session 14. Overview & Public Comment	Thursday, November 15	Public Session
Session 15. General Development Regulations	Thursday, November 29	Worksession
Session 16. District Council Approvals; Hearing Examiner & Board of Appeals Approvals	Monday, December 3	Worksession
Session 17. Planning Board Approvals; Permitting Services Approvals; Existing Approvals & Nonconformities	Thursday, December 6	Worksession

It is our intent to be able to provide County Council Staff with a revised "Planning Board Draft" before the 2012 holiday season so that a Zoning Text Amendment (ZTA) can be introduced, a public hearing scheduled, and Council committee worksessions can begin in early 2013. If necessary, Staff will be available for interim worksessions with the Planning Board to

accommodate this schedule. Also, drafts of each section will be revised and posted on an ongoing basis to allow us to publish the “Planning Board Draft” on time.

Following delivery of the “Planning Board Draft” to the County Council, Staff will begin discussions with the Planning Board on implementation of the Ordinance and the potential for a comprehensive rezoning of the County to apply the new zoning districts and regulations.

§2. The Big Picture

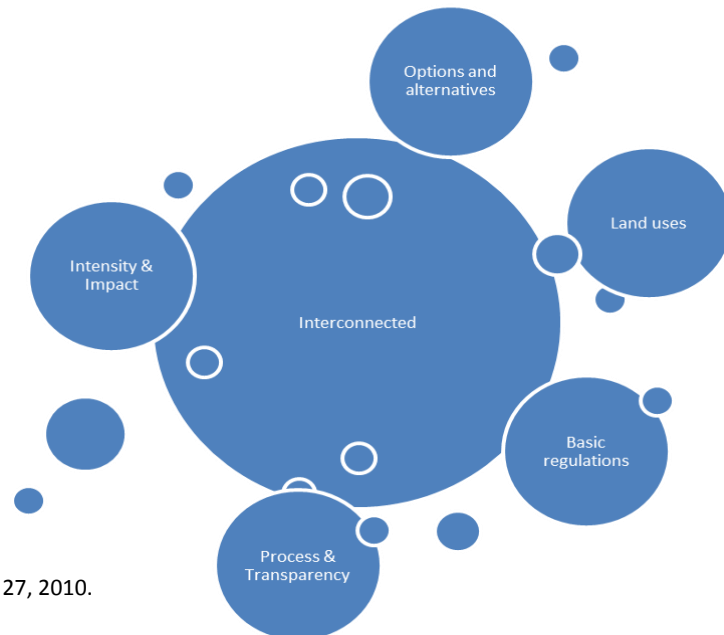
“What if design could be the opposite of conflict? Not by ignoring it, but by feeding off it. A way to incorporate and integrate differences – not through compromise or by choosing sides, but by tying conflicting interests into a Gordian knot of new ideas.”¹ – Bjarke Ingles

§2.1. Interconnections

The current Zoning Ordinance is a severely fragmented document. Piecemeal text amendments are responsible for much of this problem, but equally so is the structure of the document. Admittedly, the Ordinance is quite interconnected – in the manner of a Gordian knot. In order for the interconnected parts to work well together, they have to be understandable. It is a fundamental objective of this project that the Ordinance become more readily usable by property owners and stakeholders rather than just technical experts and lawyers. That said, like any law, there are complicated issues and, as Einstein remarked, “Everything should be made as simple as possible, but not simpler”.

In this vein, Staff has separated topics so they can be understood individually (see the section on organization, below), but maintained connections between sections to ensure the basic functions of zoning: balancing use, intensity, and review. Many aspects of the rewritten Ordinance are grounded in the policy of creating a more flexible Ordinance that has built-in thresholds to trigger additional protections based on sensitive uses, intensity of development, or area plan intents. Thus, we have focused on several key topics:

- When does intensity impact compatibility between uses and forms and can we build in requirements, standards, and/or review that mitigate incompatibility?
- When should there be options and alternatives to basic regulations – might there be better ideas that we haven’t thought of and should we allow a way to accommodate them?
- How is land use changing and will our traditional development standards that focus on exclusion be appropriate in the future?
- Are there some basic “ground rules” – fundamental regulations that we can agree on to allow development of small projects to proceed relatively unhindered?
- Can we ensure a level of transparency that is necessary to our political and social context, whether it is through agreement on the ground rules or through additional public process for those who want to think – and build – differently?



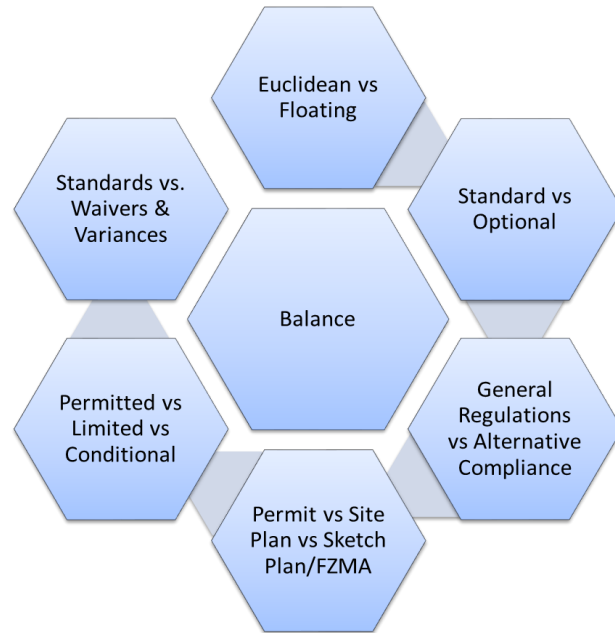
¹ The Value Web | Design, Quotes, January 27, 2010.

§2.2. Balance

In Donald Elliott's concise and persuasive book, *A Better Way to Zone*, he provides ten principles that offer a contemporary, more balanced approach to zoning². These principles, which are provided in contrast to the historical reason zoning was implemented, are as follows:

- more flexible uses,
- the mixed-use middle,
- attainable housing,
- mature areas standards,
- living with nonconformities,
- dynamic development standards,
- negotiated large developments,
- depoliticized final approvals,
- better webbing, and
- scheduled maintenance.

Most of these issues are dealt with in the rewritten Zoning Ordinance (or will be during the implementation phase). While change may be difficult; balance is necessary during the transition. Staff has endeavored to make very few changes to the code with respect to mature residential areas other than modernization, improving clarity, and instituting some rationalization of building standards. Further, these mature areas are subject to infill compatibility standards that have recently been adopted by the Council.



One basic objective of the rewrite is to establish a balance between basic land use allowances and requirements, and alternatives for flexibility. The foundation for development is set by standards we can all agree on – one can work within these standards and get approval with little bureaucratic difficulty. Yet, the ultimate outcome may vary from the standard as long as additional requirements and/or process have been followed. The system that allows for variations from the standard is based on a discretionary system entrusted to the District Council, the Planning Board, or the Board of Appeals. This system is comprised of six interconnected guides: zones, development standards, allowed uses, general regulations, development methods, and approval processes.

In short, Euclidean zones are set by comprehensive plans, floating zones allow for interim change. Standard method allows development within the ground rules with little process; optional method development allows flexibility and density with greater process. General regulations establish basic criteria but alternative compliance allows the Ordinance to keep up with new technologies, techniques, and professional paradigms. Process ranges from basic applications for building permits to full re-zonings that have numerous public hearings and stages of approval. Uses are separated into multiple levels of allowance: permitted, limited, and conditional to impose either basic or additional standards, as well as simple or more intense

² Elliott, Donald, *A Better Way to Zone: Ten Principles to Create Better American Cities*, Island Press, Washington, DC, 2008, page 137.

review. Development standards are generally imposed as the minimum to achieve compatibility, but waivers of some standards are allowed and variances – under very strict findings – are also allowed.

§2.3. Intensity

Under the current Ordinance, development of uses allowed within a zone is generally an either/or proposition. In many cases, however, it is not the use, but the intensity or form that is the problem.

Intensity³



Anthem, AZ 4.5 units / acre



New Orleans, LA 38.9 units / acre

Form⁴



Bridgeport, CT 16.9 units / acre

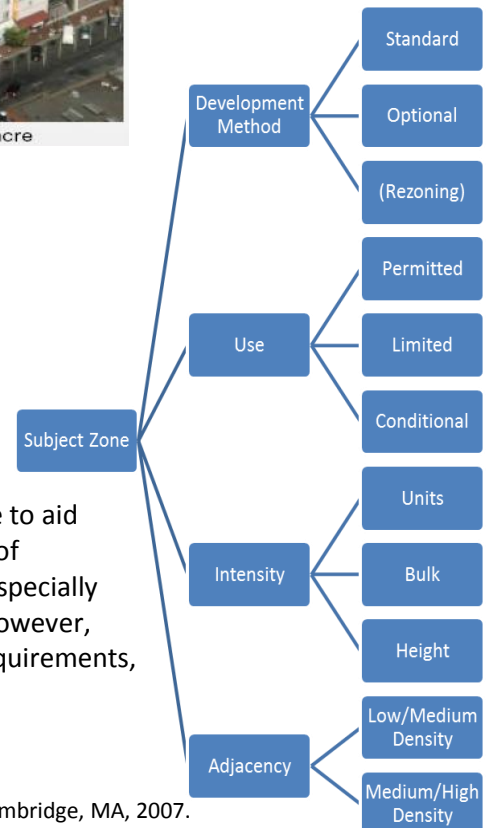


Oakland, CA 17.0 units / acre

The rewritten Zoning Ordinance proposes a system that considers:

- The zoning established by the Council;
- The development method;
- The use proposed;
- The intensity of development; and
- The zoning of adjacent properties.

It is the connection between each of these elements that determines what regulations are imposed and under which process the application must be reviewed. Tables and overviews are provided wherever possible to aid the reader's use of the Ordinance. In many cases, a minimum threshold of development (intensity) or type of use will require additional process – especially when adjacent to low density residential development. In other cases, however, the institution of limited use standards, basic landscaping and lighting requirements, and neighborhood compatibility restrictions allow for simpler processes.



³ Campoli, Julie and Alex MacLean, Visualizing Density, Lincoln Institute of Land Policy, Cambridge, MA, 2007.

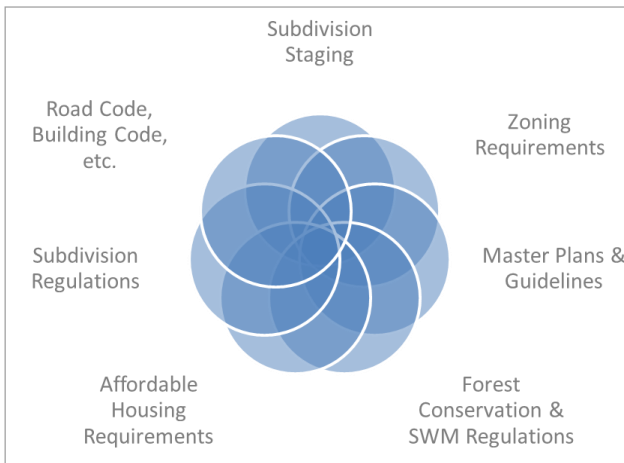
⁴ Ibid.

§3. How the Pieces Fit Together

“Like all those possessing a library,
Aurelian was aware that he was guilty of not knowing his in its entirety.”⁵

§3.1. Regulatory Framework

Imagine a situation where you are thrust into the middle of a process as complicated as our regulatory framework without any guidance. Which way are things running and where do I turn (see image)?⁶ The simplest preliminary or site plan approved by the Planning Board requires submittal of 40 copies of an application for review by various departments, divisions, and agencies. It’s hard to get one’s head around. All of the regulatory bodies – as well as the applicant – rely on the Zoning Ordinance in some way. In addition to the Ordinance, several other chapters of the County Code must also be considered: subdivision regulations (Chapter 50), Subdivision Staging Policy (APFO, Chapter 33A), the road code (Chapter 49), the building code (Chapter 8), affordable housing requirements (Chapter 25A), forest conservation (Chapter 22A), stormwater management (Chapter 19), and various master plans and design guidelines. Somewhere within those regulations developments are built. The Zoning Ordinance must complement, negotiate, and – especially – not contradict those rules.



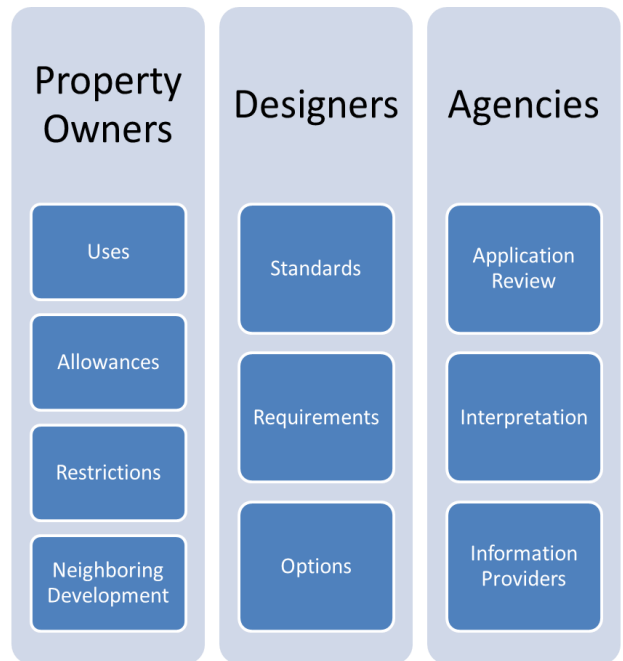
⁵ Borges, Jorge Luis, *The Theologians*, in *Labyrinths*, New Directions, New York, 1964, page 120.

⁶ “Waterfall”, M.C. Escher, lithograph, 1961.

§3.2. Various Users

Information design, in this context, is the basic ability to provide standards, requirements, and allowances effectively and efficiently to various users. The rewritten Ordinance uses short sentences, tables, graphics, and a hierarchical structure to present information. The intent of this format is to provide a useful and easily understood presentation of the zoning regulations for the county. We have endeavored to make the zoning ordinance, at the very least, readable. More importantly, we want to provide a zoning ordinance that is functional, well-formed, integral to the legal and political framework and relevant to our changing times.

According to responses from our numerous outreach events, the typical property owner or neighbor has a hard time understanding the current Ordinance. Since basic legal information is contained in the Zoning Ordinance, access to this information is important. This entails both useful access to information about property rights as well as practical information on the procedures for development approvals, including facts about noticing, review processes, and how recommendations are issued. For designers, the Ordinance should be clear about what is allowed and required and how to submit alternative ideas. Agencies, on the other hand, need the Ordinance to be comprehensible and logical so they can review applications and provide interpretations consistently, as well as provide information to users in as straightforward a fashion as possible.



§3.3. Area Plans

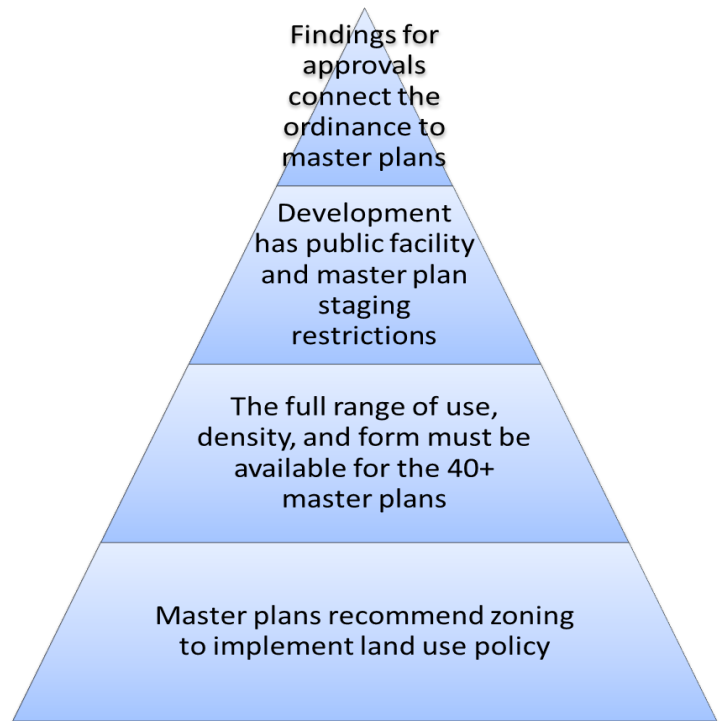
There are few things more important to Montgomery County’s vision of itself than its master and sector plans. The current Ordinance has a haphazard approach to connections between area plans and zoning regulations. Under recent state law and as set forth in several judicial decisions, the established tie between zoning laws and master plans is paramount regarding the decision as to whether area plans are merely “guidelines” or have the weight of law.⁷ Staff has ventured a rewritten Zoning Ordinance that is more consistently aligned with area plans than the current Ordinance. This is accomplished primarily through the findings any deciding body must make on an application.

The County has over 40 area plans, some of which have not been updated for more than 20 years. Thus, we have plans that Staff does its best to implement regardless of changes in demographics, markets, or social trends.

The rewritten Ordinance sets out a zoning toolkit for the area plans that can be used in two ways: first, to accommodate existing zoning parameters; second, to provide flexibility for future planning endeavors, hopefully with fewer ZTAs. Some examples of this approach are:

⁷ For some basic information, see the Maryland Department of Planning’s website on the legal basis for planning at www.planning.maryland.gov/ourwork/complans/legal. For specific information on the “enabling” legislation of Montgomery County, see Article 28 of the Annotated Code.

- The use of inclusive zones, i.e. what is allowed in zones of lower intensity (lower density, fewer building types) is allowed in zones with higher densities or intensities;
- Allowing floating zone requests even if an area plan does not specifically recommend them. In the current Ordinance this is equivalent to floating zones that require a development plan in addition to a rezoning application. We have few tools to deal with random and unforeseen changes. Providing property owners with an option to make a case for development that could not have been anticipated by area plans should be paired with adequate review, done with an open, public process. This trade-off lets all parties weigh-in and decide whether a proposal is in the best interest of the community.
- “Alternative compliance” is a term used for a proposal that meets the purposes of an applicable section under General Development Regulations but in a different manner than had been envisioned. Two examples of this would be establishing parking requirements for something that doesn’t quite “fit” under the uses listed or proposing a better screening system than the specific one listed. These alternatives would be analyzed by the deciding body under each approval.



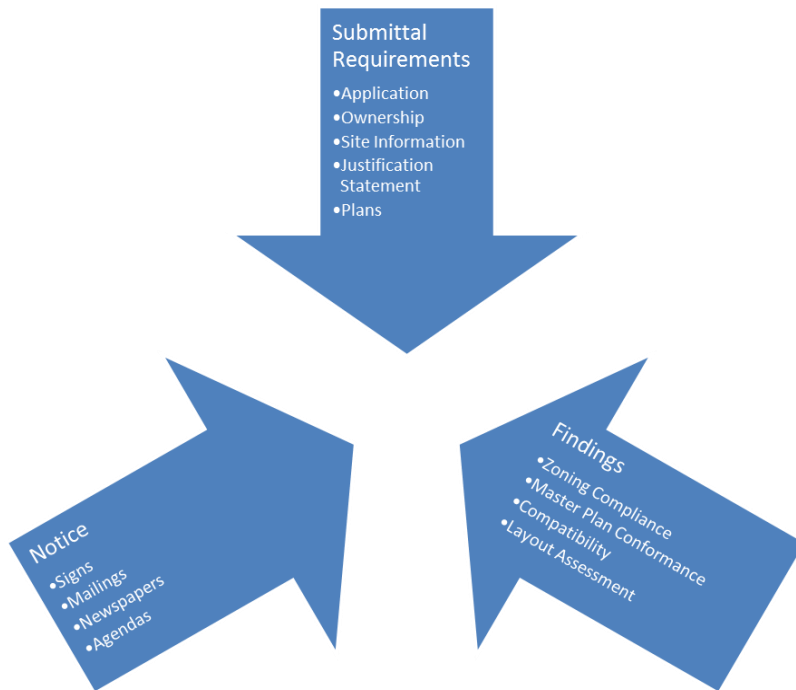
§3.4. Applications

Under current provisions, application submittal requirements provide either more or less information than is needed (see comic).⁸ Application and hearing notice requirements are not quite standardized and findings are sometimes contradictory from application to application for the same development. The rewritten Zoning Ordinance tries to fix this problem.

Generally, submittal requirements are set to obtain the minimum information needed to analyze an application and make the necessary findings. Noticing, in turn, is based on the impact thresholds set for application review to ensure that intensity and impact are balanced and appropriate public review is allowed.



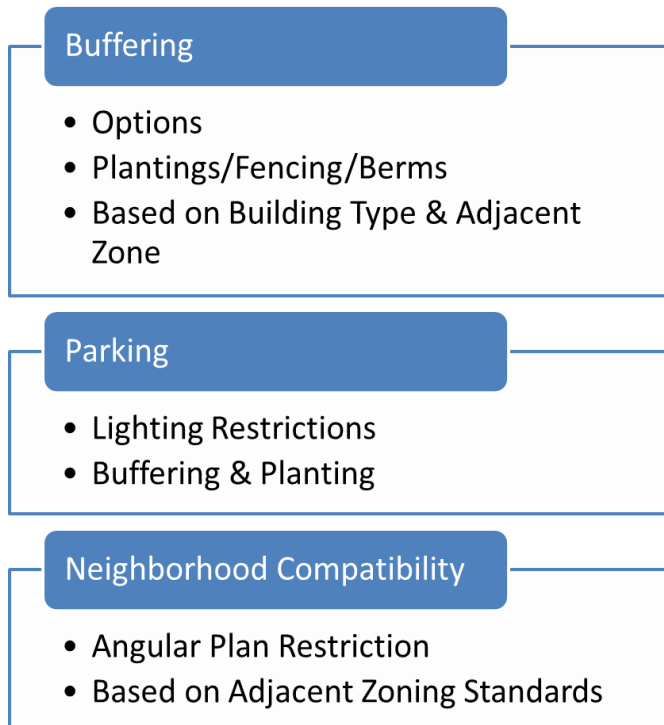
⁸ Credited to “Julie”, from “Data Mining vs Data Sorting” on infolytics.wordpress.com/category/data-analysis/, February 01.



§3.5. Protections

Basic “protections” have been built into the rewritten Zoning Ordinance. These protections are built into the new system based on use, intensity, and context. Standard buffering and screening is provided based on proposed building types and adjacent uses. Parking requirements now include lighting and updated landscaping requirements. The neighborhood compatibility standard approved with the original C/R zones (that restricts height next to residential houses) has been updated to be more context sensitive – basing setback and height restrictions on the adjacent zones.

Further protections are built into the limited use standards, into the new findings required for compatibility, into new floating zone restrictions.



§Section 4. So, how did we get here?

“The real voyage of discovery consists not in seeking new landscapes, but in having new eyes.”⁹

County Council envisioned a rewrite of the zoning code as early as the late 90’s but specifically directed the Planning Department to undertake a comprehensive zoning ordinance rewrite through its approval of the Department’s FY2008 work program. The Semi-Annual Report proposed,

“a much-needed reform of the Zoning Ordinance and Subdivision Regulations. This is a multi-year project that is driven by the objectives of the General Plan and other County policies. The initial phase includes technical review of the structure and organization of the ordinance, zoning districts and standards, applicability, definitions, purposes, findings, correspondence between desired development and existing standards, user-friendliness, streamlined review processes, and internal consistency.”



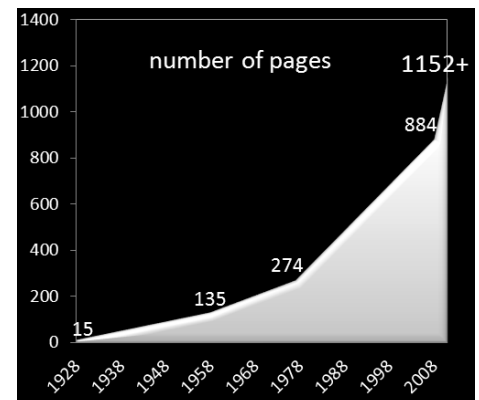
§4.1. Motivation for the Rewrite

The current Ordinance has been updated and revised piecemeal over the years in order to address emerging problems or opportunities. The result is an often incoherent document that is very difficult to use and understand. Related provisions are scattered throughout the Ordinance and often substantive provisions and procedures are conflicting. The Ordinance does not clearly reflect other county land-use policies, including concepts expressed in master plans, creating further confusion and – ultimately -- uncertainty in the development review process.

The complexity and obsolescence of the Zoning Ordinance is a continuing source of problems, absorbing unreasonable amounts of Staff, Board, and Council time, adding unnecessary costs to the development process and frustrating all who deal with it.

The last comprehensive revision to the Zoning Ordinance occurred in 1977. The current Ordinance:

- Contains over 1,200 pages;
- Has 123 zones (three times the number of zones in 1977);
- Specifies over 400 land uses; and
- Contains more than 480 footnotes.



⁹ Proust, Marcel, in *Volume 5: The Captive, Remembrance of Things Past*, Random House, NY, 1970.

§4.2. Project Background

2008

Approximately one year after the budget approval for the zoning rewrite, an in-house diagnosis was completed based on Staff analysis of the Ordinance and feedback from a series of stakeholder meetings. The results of this diagnosis were published in the *Zoning Discovery*, dated January 2009. The *Zoning Discovery* lays out the strengths and weaknesses of the Ordinance, and provides direction and goals for a revised ordinance.

2009

Following the release of the *Zoning Discovery*, the Planning Board appointed a 23-member Zoning Advisory Panel (ZAP) in March 2009. The panel was appointed to provide feedback and advice on each stage of the rewrite project. The panel has been actively meeting on a monthly basis for over three years.

A consultant team, led by Code Studio, began working with Staff in July 2009, touring the county and meeting with several stakeholder groups in an effort to familiarize the team with key aspects of zoning issues in the County. The *Approach & Annotated Outline* report was produced by Code Studio in April 2010.



2010

The *Approach & Annotated Outline* built on the framework provided by the *Zoning Discovery*. The report provides a detailed outline of the proposed Ordinance, addressing many of the issues raised in the *Discovery*, and offering a roadmap for the drafting phase.

General objectives provided in the *Outline* include:

1. Shift emphasis from Greenfield to infill.
2. Re-think the planning and zoning framework.
3. Match regulations to impacts.
4. Improve the quality of development.
5. Incentivize public benefits.

The *Approach & Annotated Outline* also suggests several coding objectives:

6. Simplify and streamline standards and process.
7. Match land use and development patterns.
8. Provide easy access and use of the code.
9. Modernize and consolidate.
10. Create and efficient and effective implementation strategy.

Put more simply, the goal of the rewrite is to transform the Ordinance into one that is clear, understandable, efficient and rational. The goal is neither to incentivize redevelopment nor to rezone residential property for commercial development. On the other hand, in order to accommodate growth without reshaping the outlines of the wedges and corridors concept in the General Plan, we need the right toolkit for future master plans.

The first draft sections of the Ordinance were released in October and December 2010. Early in the project, initial sections of the new Ordinance were drafted by Code Studio. Staff provided guidance and feedback on initial drafts before revised versions were released to the Zoning Advisory Panel (ZAP).

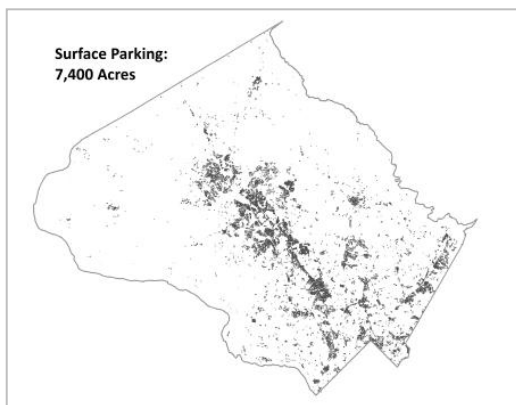
In the first draft, Code Studio challenged the ZAP to think about where development patterns, such as “conservation subdivisions”, “cottage courts”, and “corner stores”, may be allowed to diversify development options and bring enhanced public benefits along with a slight increase in density in some areas.

The Planning Department advocated a more conservative approach, limiting these development patterns to sites with minimum areas and to lots abutting large arterial roads with frequent transit service. The discussions at ZAP ranged from outright opposition to encouragement of the development patterns. The development patterns, however, proved to be fairly controversial due to the potential for increased density and commercial development in established residential neighborhoods, so this section was eliminated in its entirety.

Thinking specifically about smart growth options meant limiting significant changes to the commercial zones and minimizing any changes with respect to the agricultural, rural residential, and residential zones.

Smart growth options:

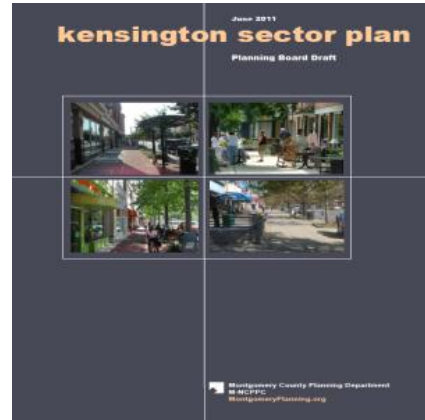
- Surface parking areas;
- Single-use commercial sites; and
- Within office parks.



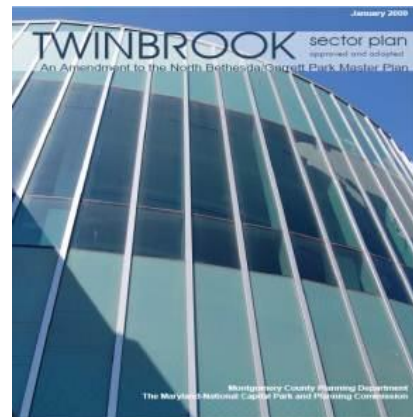
2011

In 2011, Ordinance drafting continued. The original schedule was altered to allow the Planning Board and Council to undertake a thorough review of the proposed CRN and CRT zones. In lieu of the original schedule, work began on drafting Article 59-8, Administration & Procedures. An annotated outline of the article was released in May 2011, followed by several meetings with the Board of Appeals and the Office of Zoning and Administrative Hearings.

As work continued, Staff solicited comments on the existing ZAP drafts. The first of several Zoning Advisory Panel working groups was formed. The working groups were developed to provide a more in depth review of specific topic areas related to the draft text including special exceptions, footnotes, development standards and care facilities. ZAP members volunteered to participate in weekly worksessions with Staff providing valuable comments and feedback. After several meetings with the working groups, Staff, county agency representatives and other stakeholder groups, a redline version of the initial ZAP drafts addressing the agricultural, rural residential, and residential zones was released in September 2011.



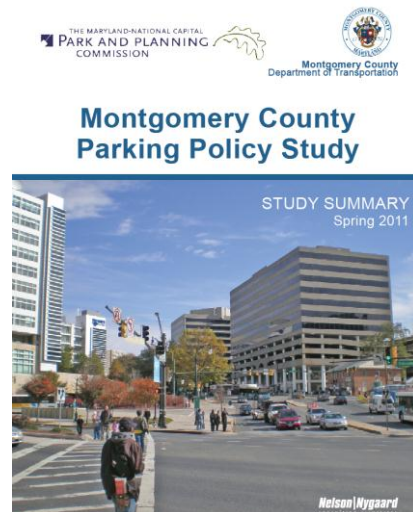
Following the Council adoption of the CRN and CRT zones and slight modification of the CR zone, Articles 59-3 and 59-4 were completed to include all zones. In addition, Article 59-2 Intent Statements, Article 59-6 Optional Method, and Article 59-9 Definitions, were completed and released in November.



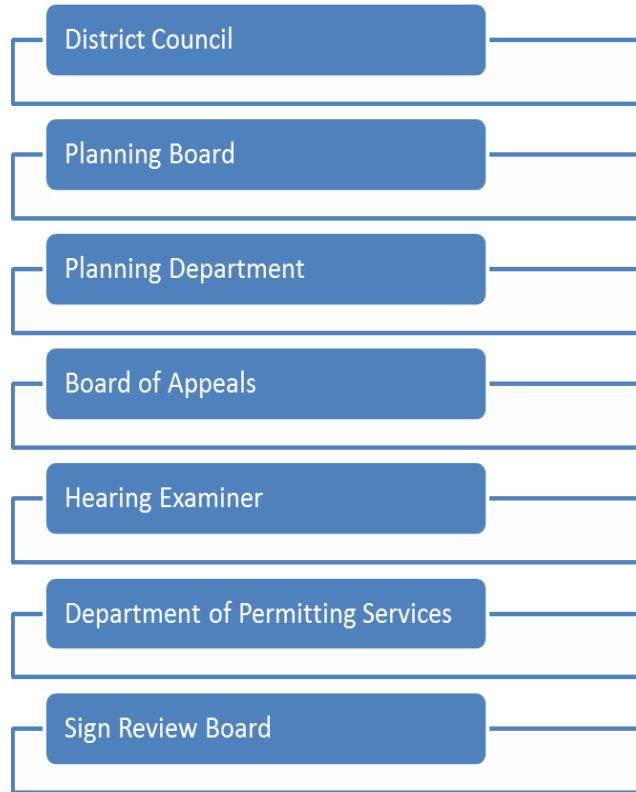
2012

In January 2012 a preliminary zone conversion methodology was presented to the Zoning Advisory Panel for review and comment. Planning Staff spent approximately six months evaluating all 36 non-active master plans, reviewing all recommendations related to commercial parcels. Zone conversion is still a work in progress with re-review of master plans and further adjustments ongoing.

Also in January, Article 59-7 General Development Regulations was released. This article includes parking standards, lighting, landscaping, recreational facilities, and signage regulations. It incorporates recommendations on parking provided by Nelson Nygaard following a 2 year parking study of Montgomery County.



In March, a draft of Article 59-8 Administration & Procedures was released. Article 59-8 has proven to be the most challenging draft to write. Staff has received valuable advice and input from Council staff, the Zoning Text Advisors group, the Board of Appeals, the Hearing Examiners, their staff.



Finally, in preparation for the consolidated draft, floating zones and overlay zones were presented to the Zoning Advisory Panel in June. In July, the Consolidated Draft was released. It contains all nine articles proposed for the new zoning Ordinance.

Over the last four years, planners working on the rewrite project have provided several briefings to the Planning Board, County Council and members of the public. The Planning, Housing, and Economic Development Committee has been briefed on the progress of the project three times since 2008. The Council received a presentation and discussion of the *Approach & Annotated Outline* prepared by Code Studio, in April 2010. Since then, a progress report on the project has been provided annually to the Council as part of the Planning Department's Semi-Annual Report.

§Section 5. Organization

The rewritten Zoning Ordinance, Chapter 59 of the Montgomery County Code, is split into nine Articles.

Article 59-1. Purpose, Applicability, and Use of the Code

Establishes the purpose of the Ordinance; describes what properties and land use elements are controlled by the Ordinance; sets forth how annexed properties are treated, how coordination with other regulations is governed, and how tables, illustrations, and examples are to be interpreted. Article 59-1 also establishes the definitions used for specific meanings in this Ordinance.

Article 59-2. Zoning Districts

Establishes the various zoning districts used by the County to implement land use policy; the intent of each zoning district; and how zoning maps are completed and to be interpreted.

Article 59-3. Uses and Use Standards

Provides an allowed Use Table for all zoning districts; defines the use; and provides any use-specific standards that must be complied with in addition to the zoning district and general regulations.

Article 59-4. Euclidean Zoning District Regulations

Establishes the types of development methods; defines how standards are measured and what exceptions are allowed; and establishes the development regulations and standards for all buildings, structures, and land for each allowed building type in each Euclidean zoning district.

Article 59-5. Floating Zoning District Regulations

Establishes the development regulations and standards for all buildings, structures, and land for each allowed building type in each Floating zoning district.

Article 59-6. Optional Method Regulations

Establishes the development regulations and standards for all optional method development, including development with Moderately Priced Dwelling Units, Cluster Development, and development requiring public amenities and benefits in the Commercial/Residential, Employment, and Industrial Zones.

Article 59-7. General Development Regulations

Establishes the applicability, standards, and regulations for site access; parking, queuing, and loading; open space; recreation facilities; landscaping and lighting; signs; and outdoor storage and display.

Article 59-8. Administration and Procedures

Establishes the necessary applications and review and approval authorities to administer this Ordinance; the specific rules and requirements required to submit applications and make decisions on them; how nonconforming sites, uses, and structures are treated; and how enforcement is provided.

§Section 6. Tools

Staff has produced several documents to aid in the analysis and tracking of elements from the current to the proposed Ordinance.

§6.1. Use Comparison Charts

Three use comparison documents have been created. Two of the three are large spreadsheets that list each of the current uses (and whether it is a permitted use or special exception), where it appears in the proposed Ordinance and how it is permitted – by-right, under limited standards, or conditioned upon approval of the Board or Appeals or Hearing Examiner. One spreadsheet is for the agricultural, rural residential, and residential zones. The second spreadsheet compares the CBD, commercial, mixed-use and industrial zones to the proposed C/R, employment or industrial zones.

In addition to the comprehensive use comparison charts (spreadsheets), a 99 page document has been created as a companion to the Consolidated Draft. This document lists all uses changes by current zone. The document notes specific uses that are still under review.

^ = Has at least 1 footnote attached "O" = Allowed under Cluster or MPDU optional method			AR	RR	RC	RNC	RE-2	RE-2C	RE-1	RLD-20			RMD-9	RMD-6	RMD-4
NEW USE/USE GROUP	CURRENT USE	CURRENT CATEGORY	RDT	RURAL	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-150	RMH-200	R-90	R-60	R-40
AGRICULTURAL USES															
Agricultural Auction Facility	Auction facility	Commercial	SE^												
			C												
Agricultural Processing	Agricultural processing, primary	Agricultural				P									
	Agricultural processing	Agricultural-Industrial	SE^	SE^	SE^^										
	Grain elevator	Agricultural-Industrial	SE^	SE^	SE^^										
	Manufacture of mulch and composting	Agricultural-Industrial	SE	SE	SE^										
	Milk plant	Agricultural-Industrial	SE^	SE^	SE^^										
	Sawmill	Agricultural Industrial	SE	SE	SE^										
			C	C	C										
Community Garden	Agricultural uses	Resource production extraction and agriculture					P	P	P	P	P	P	P	P	P
			L	L	L	L	L	L	L	L	L	L	L	L	L
Equestrian Facility	Equestrian facility	Agricultural/Resource Production and Extraction	P/SE^	P/SE^	P/SE^	P^/SE^^	SE^	SE^	SE^	SE^	SE^	SE^			
	Riding stable, private	Cultural, entertainment and recreational				P^									
			L	L	L	L	C	C	C						

§6.2. Fact Sheets

Following the release of the ZAP drafts, staff prepared fact sheets for many of the current zones, focusing on the residential zones to start. Each fact sheet contains a map of the county showing the amount of land under the current zone, an aerial view of a typical block under the zone, a rendering of a house under the current and proposed dimensional standards, and a chart that compares current and proposed dimensional standards.

R-60 to RMD-6 Zoning Comparison

The intent of the Residential Medium Density (RMD) zone is to provide designated areas of the county for moderate density residential purposes. The dominant use is residential in a detached house.

Land zoned R-60, approximately 6% of the County

Existing development in the R-60 Zone

ZONING MONTGOMERY a project of the Montgomery County Planning Department ZoningMontgomery.org

Illustrative Depiction of Standards for Detached House Building Type

Side Section of Structure (Main Building)
Height is proposed to be measured from the average grade to the mean height level between eaves and ridge of a gable, hip, mansard, or gambrel roof or to the highest point of roof surface of a flat roof.

Max Height

Standard Method of Development		
A. Lot	R-60	RMD-6
Lot Area (min)	6,000 sf	6,000 sf
Lot Width (min)		
At front building line	60'	60'
At front property line	25'	25'
B. Placement		
Principal Building (min)		
Front setback (min)	25'^	25'^
Side street setback	15'	15'
Side setback, interior	8'	8'
Sum of side setbacks, Interior	18'	N/A
Rear setback, interior	20'	20'
Coverage (max)		
All roofed buildings and structures	35%*	35%*
C. Height		
Principal Building (max)		
Overall building height	35'***	35'***

^ Subject to Established Building Line (current) or Residential Infill Compatibility standards (proposed Sec. 4.1.5)
 * ZTA 08-11 (current) or Residential Infill Compatibility standards (proposed Sec. 4.1.5) apply
 *** 35' to highest point or 30' to mean height between eaves and ridge; 40' if approved by Planning Board through site plan (current) or 35' to the mean height between eaves and ridge or to the highest point of a flat roof (proposed)

Rationale for Changes Marked in Red
Sum of Side Setbacks, Interior
 The proposed zoning code removes the Sum of Side Setbacks requirement since it is redundant.

Overall Building Height
 The proposed zoning code applies Residential Infill Compatibility standards to the height, limiting the bulk and massing of buildings, to insure infill development is compatible with the surrounding properties.

Accessory Structures
 For development standards regarding accessory structures, see Accessory Structures (R-60 & R-40) Fact Sheet

Based on November 22, 2011 Article 59-4. Zoning District Regulations ZAP Draft

Several issue-based fact sheets have also been prepared addressing topics such as accessory apartments, agriculture, zone conversion, and building types. In all, approximately 36 fact sheets have been posted to our website.

The fact sheets and comments generated by them aided staff in making revisions to the ZAP draft in order to complete the Consolidated Draft, thus some elements included in the posted fact sheets have changed. Staff is in the process of updating the information online.

§6.3. Video

Following release of the first ZAP drafts, outreach to community groups accelerated. Staff quickly learned was that, for many residents, zoning is a confusing and often misunderstood subject. To help remedy this problem staff created a zoning video aptly titled, "What Is Zoning?" The video is posted on the zoning website and was featured at 6 open house events held this past spring. Below is a link to the video.

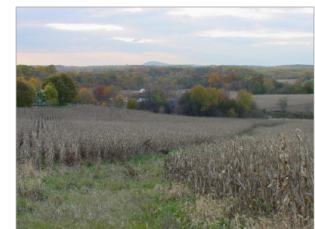
<http://vimeo.com/montgomeryplanning/wh-at-is-zoning>

ZONING MONTGOMERY

Agriculture

Montgomery County has a strong agricultural heritage and farming continues to be an important part of the County's physical and cultural landscape. In 1980, the County Council made one of the most significant land-use decisions in County history by creating the Agricultural Reserve, which encompasses 93,000 acres - almost a full third of the County's land resources - along the county's northern and western borders.

The Agricultural Reserve and its accompanying Master Plan and zoning elements were designed to protect farmland and agriculture. The new zoning code will maintain the existing zoning protections afforded to the Agricultural Reserve in addition to creating opportunities for urban agriculture in down county areas.



Current Code

Agricultural Reserve Zone: RDT (Rural Density Transfer). Any type of farming is allowed in this zone.

Uses: The broad, vague category of "agricultural uses" are allowed in all agricultural and single family residential zones. This use allows for most types of farming activity, including the keeping of any type of farm animals in any of these zones. However, in single family zones, a structure to house farm animals must be 25' from a lot line and 100' from a dwelling on another lot or parcel, making it impossible for many residents to have a chicken coop.

Proposed Code

Agricultural Reserve Zone: AC (Agricultural Conservation) is substantively the same as RDT.

Uses: New uses are designed to provide clarity and to encourage the appropriate scale of agriculture in each zone.

- Crop Farm: Growing and harvesting of produce and other plant-based agricultural products. Allowed in agricultural, rural and certain residential zones.
- Livestock Farm: Keeping and raising of livestock. Allowed in agricultural and rural zones.
- Urban Farm: Cultivation of plants and limited raising of fowl or bees. Allowed in C/R, employment and certain residential zones.
- Community Garden: Land gardened by a group of people for personal use or limited distribution. Allowed in most zones.
- Animal Husbandry: Accessory practice of breeding and raising small animals, fowl and bees. Accessory structures for housing animals or fowl must be behind rear building line and 25' from rear and side property line. Allowed in most zones.

Proposal based on November 22, 2011 ZAP Review Draft



§6.4. Taped Zoning Advisory Panel Meetings and PowerPoint Presentations

Almost all of the monthly Zoning Advisory Panel meetings are taped and posted to our website. A few exceptions occurred due to technical difficulties with the recording equipment. Posted alongside the meeting video is any PowerPoint presentation or handout that was provided as part of the ZAP meeting.

§6.5. Proposed Zone Conversion Table and Master Plan Analyses

In January 2012 a proposed zone conversion table was presented to the Zoning Advisory Panel. This proposal was the result of several months of review and analysis involving all master plans not currently being revised. This resulted in 36 master plan packets containing detailed information on zone conversion specific to each master plan area. All of the packets are posted to the website.

Simplified Zone Conversion Table

Current Zone		Proposed Zone	
Symbol	Name	Symbol	Name
Agricultural and Rural			
RDT	Rural Density Transfer	AR	Agricultural Reserve
R	Rural	RR	Rural Residential
RC	Rural Cluster	RC	Rural Cluster
LDRC	Low Density Rural Cluster	None Zoned; Not Retained	
RNC	Rural Neighborhood Cluster	RNC	Rural Neighborhood Cluster
Residential, Detached			
RE-2	Residential Estate - 2	RE-2	Residential Estate - 2
RE-2C	Residential Estate - 2C	RE-2C	Residential Estate - 2C
RE-1	Residential Estate -1	RE-1	Residential Estate - 1
R-200	Residential - 20,000 sf lot	RLD-20	Residential Low Density - 20,000 sf lot
RMH-200	Residential - 20,000 sf lot		
R-150	Residential - 20,000 sf lot		
R-90	Residential - 9,000 sf lot	RMD-9	Residential Medium Density - 9,000 sf lot
R-60	Residential - 6,000 sf lot	RMD-6	Residential Medium Density - 6,000 sf lot
R-40	Residential - 6,000 sf lot	RMD-4	Residential Medium Density - 6,000 sf lot
R-MH	Residential Mobile Home	RDF	Residential Detached Floating
Residential, Townhouse			
RT-6	Residential, Townhouse	TF-6	Residential, Townhouse (Floating)
RT-8	Residential, Townhouse	TF-8	Residential, Townhouse (Floating)
RT-10	Residential, Townhouse	TF-10	Residential, Townhouse (Floating)
RT-12.5	Residential, Townhouse	TF-12.5	Residential, Townhouse (Floating)
RT-15	Residential, Townhouse	TF-15	Residential, Townhouse (Floating)

§6.6. Companion Documents to Consolidated Draft

Three companion documents were created to assist readers in reviewing the Consolidated Draft. The first document is a summary of some of the substantive changes between the current Ordinance and the Consolidated Draft, organized by Article. The second document, noted above, is a 99 page listing of all use changes by current zone. And the third document is a comparison of parking requirements in the current Ordinance to those proposed in the Consolidated Draft.

Use or Use Group	Current Code	Proposed Code			Use or Use Group
	Min. Number of Parking Spaces	Min. Number of Parking Spaces			
	All Zones	Ag, Rural, Residential, and Industrial Zones	Primary or Secondary Parking Benefit Districts	All other C/R or Employment Zones	
Airport, airpark, airfield	50 spaces	--	--	--	--
Ambulance service or rescue squad	Adequate number of spaces to accommodate the use and 2 additional spaces per vehicle	1 space for each employee	0.5 spaces for each employee	1 space for each employee	Fire/EMS (private)
Apartment, accessory	2 spaces per dwelling unit	1 space in addition to parking requirement for principal dwelling	1 space in addition to parking requirement for principal dwelling	1 space in addition to parking requirement for principal dwelling	Accessory Apartment, Attached or Detached
Apartment hotel	1 space for each transient bedroom or transient suite with no separate bedroom; 1.25 spaces for each apt for transient suite w/one bedroom; 1.5 spaces for each apartment or transient suite with 2 bedrooms; 2 spaces for each apartment or transient suite with 3 or more bedrooms; and one space for every two employees on the major shift; and 2.5 spaces for each 1,000 square feet of floor area for places of assembly	0.25 spaces per bed; plus 0.5 spaces per employee; or 1 space for each dwelling unit or PLQ	0.25 spaces per bed; plus 0.5 spaces per employee; or 0.5 space for each dwelling unit or PLQ	0.25 spaces per bed; plus 0.5 spaces per employee; or 1 space for each dwelling unit or PLQ	Group Living

§6.7. Code Text Disposition

Following the release of each ZAP draft, staff began comparing the proposed zoning text to text in the current Ordinance – noting where each provision did or did not appear in the proposed draft. This document, titled “Where did it go?” is currently being revised because some of the text disposition has changed during the revision process creating the Consolidated Draft. Staff expects to release this document in sections that correspond to the material being presented in each worksession group.

<p>Division 59-A-6. Uses Permitted In More Than One Class of Zone. [Note]</p> <p>Sec. 59-A-6.1. A no-impact home occupation, registered home occupation, or home health practitioner's office. Sec 3.3.3.E (home health practitioner) & Sec 3.3.3.F (home occupation)</p> <p>(a) The following provisions apply to a no-impact home occupation, a registered home occupation, and a home health practitioner's office:</p> <p>(1) Each home occupation operator or home health practitioner must show proof of home address. Sec 3.3.3.E.2 b.xii: Use standard for all home health practitioners & Sec 3.3.3.F.4 b.vii: Limited use standard for Home Occupation (Low Impact) & Sec 3.3.3.F.5 b.x: Limited use standard for Home Occupation (Major Impact)</p> <p>(2) The amount of floor area used for the home occupation or home health practitioner's office must not exceed 33 percent of the eligible area of any existing building on the same lot or parcel. Sec 3.3.3.E.2 b.iv: Use standard for all home health practitioners & Sec 3.3.3.F.2 b.iv: Use standards for all Home Occupations</p> <p>(3) Any equipment or process that creates a nuisance or violates any law is not allowed in connection with the operation of a home occupation or home health practitioner's office, nor is this operation allowed to involve use, storage, or disposal of:</p> <p>(A) A quantity of a petroleum product sufficient to require a special license or permit from the Fire Chief; or Sec 3.3.3.F.2 b.viii(a): Use standards for all Home Occupations</p>
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§Section 7. Outreach

The Zoning Rewrite team has made public outreach and input a priority since the beginning of the project.

§7.1. Meetings

Over the past 3 ½ years, Staff has participated in more than 150 meetings with a variety of stakeholders.

§7.1.1 Monthly ZAP

Starting in March 2009, the Zoning Advisory Panel has met almost monthly to review and discuss zoning here have been 37 ZAP meetings since the beginning of the project.

§7.1.2 ZAP Working Groups

Zoning Advisory Panel members have been exceedingly generous with their time and commitment to the rewrite project. Following the release of the first two drafts addressing the agricultural, rural residential, and residential zones, the ZAP proposed the formation of working groups whose task would be a more in depth review of specific aspects of the code. Most of the working groups met weekly for several months; the groups included Special Exceptions, Footnotes, Care Facilities, Development Standards, Uses and Process (Administration & Procedures). In total, approximately 43 working group meetings were held.


§7.1.3 Open House Events

Open house events have been held throughout the project. Early on these meetings were termed 'listening sessions' and were organized to solicit community input. Several open house events were held in 2010, and 2012, providing informative displays accompanied by staff members who could help guide attendees through the information and answer questions.





§7.1.4 Civic/Community Groups

In late 2010, as interest in the project grew, the rewrite team began publicizing the opportunity for residents to request small group meetings or presentations to community and interest groups. At the request of interested groups and stakeholders, the project team, Planning Board Chair and Planning Director have participated in more than 60 such meetings.




ZONING MONTGOMERY 

**Welcome to the
Zoning Code Rewrite
Open House
5-8pm**



Visit us on the web at www.zoningmontgomery.org



§7.1.5 Planning Board, Council, County Agencies

Over the last 3 ½ years, the rewrite team has provided several briefings to the Planning Board and County Council. The Planning, Housing, and Economic Development Committee has been briefed on the progress of the project three times since 2008. The Council received a presentation and discussion of the *Approach & Annotated Outline* prepared by Code Studio, in April 2010, and has received an annual progress report on the rewrite as part of the Planning Department’s Semi-Annual Report.

§7.2. Website

In 2009 the www.zoningmontgomery.org website was launched. Since then, the site has grown to include 11 drop down pages under 4 headings: About, Participate, Resources and Advisors. The About menu includes a tab on project Basics and another on Frequently Asked Questions.

The Participate menu includes tabs titled Get Involved, Comments, and Public Outreach. Get Involved provides a link to sign up for email updates, another link to the comments page and a third link to the information on public outreach events.

The Resources menu includes tabs to access Documents, Fact Sheets, Master Plans, and Other information. This is where the bulk of information is stored. All of the drafts can be found under the Documents tab, along with companion documents to assist in reviewing the drafts. The Other tab provides a link to the recently released newsletter, as well as the Zoning Montgomery Conference presentations, and the Director’s Blog.

And last, the Advisors menu includes a link to information on the Zoning Advisory Panel members and another link to information on the ZAP meetings, videos and presentations.

§7.3. Listserv, Newsletter, and Announcements

Staff developed a listserv to which the team regularly sends email blasts about meetings and project milestones. That list now numbers over 400 recipients. Monthly ZAP meetings are publicized in the weekly e-newsletter InfoShare. And a Zoning Montgomery newsletter was recently created to provide more detailed project information to all listserv members.



§7.4. Comments

Since the start of the project, Staff has catalogued over 800 comments regarding the rewrite. The majority of these comments have come from Zoning Advisory Panel members, totaling over 450 comments. Over 100 comments have been received from the general public, more than half of them requesting the elimination of the development patterns contained in the first ZAP draft of Article 59-4.

Approximately 150 comments have been received from Planning Staff who were not directly involved in the project. As stated earlier, upon receipt of each initial draft prepared by Code Studio, Planning Staff would review the draft, providing comments necessary for revision.

And finally, approximately 100 comments have been recorded from meetings with various county agency representatives.