



Zoning Text Amendment (ZTA) No. 13-01, Planned Development (PD) Zones-Procedures



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Description

ZTA No. 13-01 would allow the construction of a fence in a Planned Development (PD) zone on the property of a private educational institution without a site plan or an amendment to a site plan. Under this provision, a fence constructed without a site plan must not cross a public trail, path or roadway.

Summary

Staff recommends approval as introduced of ZTA No. 13-01 to allow fences under certain circumstances without a site plan or a site plan amendment in Planned Development (PD) zones.

Analysis

Under Section 59-D-7.19(b) of the PD zones, a site plan must be submitted and approved in accordance with the provisions of Division 59-D-3.

The sponsor’s intent for ZTA No. 13-01 is to permit private schools located in PD zones, some of which do not have site plan approvals because they pre-exist the rezoning of the property to the PD zone, to make security and safety improvements to their property (*fences being one part of the security program*) in as timely a manner as possible.

Prior to issuing a permit for a fence in the PD zones, the Department of Permitting Services (DPS) is required to check the certified site plan for the development to ensure that the proposed fence is shown on the plan. If the fence is not depicted on the certified site plan, a site plan amendment is required (Section 59-D-3.7—see Attachment 2). In the case of a private school that does not have an approved site plan, the process would require application for a site plan for the entire site, requiring a significant amount of time and money well in excess of that needed to install the fence (Section 59-D-3.2—see Attachment 2). Even for a private school with an existing certified site plan, the cost and time of amending the plan to identify a fence appears unnecessary when no site layout or design element amendments, other than placement of a fence, are being proposed.

Staff has no objection to the limited scope of ZTA No. 13-01 since under the ZTA, DPS would be required to ensure (as they currently do) that a fence is built to code and does not interfere with any public access element on the property (such as rights-of-way or easements).

Attachments

1. ZTA No. 13-01
2. Site Plan Contents requirements & Site Plan Amendment Process-Zoning Ordinance

ATTACHMENT 1

Zoning Text Amendment No.: 13-01
Concerning: Planned Development
Zones – Procedures
Draft No. & Date: 1 - 2/8/13
Introduced: March 12, 2013
Public Hearing:
Adopted:
Effective:
Ordinance No.:

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

By: Councilmember Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow fences under certain circumstances without a site plan or a site plan amendment in Planned Unit Development Zones; and
- generally amend the provisions concerning the application and approval procedures for Planned Unit Development Zones

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

DIVISION 59-C-7. “PLANNED UNIT DEVELOPMENT ZONES.”
Section 59-C-7.19. “Procedure for application and approval.”

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.*

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. DIVISION 59-C-7 is amended as follows:**

2 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

3 * * *

4 **59-C-7.19. Procedure for application and approval.**

5 (a) [Application] An application and a development plan [approval must be in
6 accordance with the provisions of division] must be submitted and approved
7 under Division 59-D-1.

8 (b) Site plans must be submitted and approved [in accordance with the
9 provisions of division] under Division 59-D-3; however, the installation of a
10 fence, not including a deer fence, on the property of a Private Educational
11 Institution is permitted without a site plan or a site plan amendment, if the
12 fence does not cross a public trail, path, or roadway.

13 * * *

14 **Sec. 2. Effective date.** This ordinance becomes effective one day after the
15 date of Council adoption.

16
17 This is a correct copy of Council action.

18
19 _____

20 Linda M. Lauer, Clerk of the Council

📖 Sec. 59-D-3.2. Contents of proposed site plan.

Each proposed site plan must include the following, with all maps drawn at a consistent scale:

59-D-3.21. Subdivision plan information.

The information required for the submission of a preliminary subdivision plan under Chapter 50.

59-D-3.22. Existing conditions.

Drawings of the site and adjacent area, including:

- (a) a natural resources inventory prepared in accordance with a technical manual adopted by the Planning Board;
- (b) other natural features, such as rock outcroppings and scenic views;
- (c) landfills;
- (d) existing buildings and structures;
- (e) the locations of highways and streets serving the site, noting center lines, widths of paving, grades and median break points; and
- (f) the locations of proposed highways and streets serving the site.

59-D-3.23. Proposed development.

A plan of the proposed development, including the following information unless the Planning Director waives any item at the time of application as unnecessary because of the limited scope of the proposal:

- (a) The location, height, ground coverage and use of all structures.
- (b) For each residential building, the number and type of dwelling units, classified by the number of bedrooms, and the total floor area, if any, to be used for commercial purposes.
- (c) The floor areas of all nonresidential buildings and the proposed use of each.
- (d) The locations of all green areas, including recreational areas, natural feature preservation areas, community open space areas, and other open spaces.
- (e) Calculations of building coverage, density, green area, numbers of parking spaces and areas of land use.
- (f) The location of all public schools, parks and other community recreational facilities, indicating the location and use of all land to be dedicated to public use.

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- (g) The location and dimensions of all roads, streets and driveways, parking facilities, loading areas, points of access to surrounding streets, and pedestrian walks.
- (h) A grading plan.
- (i) The location of all sewer, water and storm drainage lines, and all easements and rights-of-way, existing or proposed.
- (j) Storm water management drawings and calculations, and plans for siltation and erosion control, both during and after construction.
- (k) A landscaping plan, showing all man-made features and the location, height or caliper, and species of all plant materials.
- (l) An exterior lighting plan, including all parking areas, driveways and pedestrian ways, and including the height, number and type of fixtures and a diagram showing their light distribution characteristics.
- (m) A development program stating the sequence in which all structures, open spaces, vehicular and pedestrian circulation systems, landscaping and recreational facilities are to be developed. The applicant shall designate the point in the development program sequence when the applicant will notify the planning board to request inspection for compliance with the approved site plan.
- (n) A final forest conservation plan prepared in accordance with Chapter 22A.
- (o) A final water quality plan prepared in accordance with Chapter 19.
- (p) Verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public, as required by Planning Board regulations.

59-D-3.24.

Documents indicating in detail the manner in which any land intended for common or quasi-public use, but not proposed to be in public ownership, will be held, owned and maintained in perpetuity for the indicated purposes.

📖 Sec. 59-D-3.7. Amendment of a site plan.

(a) The owner of the property to which a certified site plan applies may apply at any time for an amendment to the plan. Each application must show every proposed amendment, in a format approved by the Planning Board, on a copy of the certified site plan. The amendment process required in this Section is the only way a certified site plan may be modified.

(b) The Planning Board may approve any proposed site plan amendment after holding a public hearing, except as provided in subsection (c) and (d).

(c) The applicant must post a conspicuous notice of each proposed amendment within 3 days after filing the application with the Planning Director at one or more places and in a form and content approved by the Planning Director. The applicant also must send written or electronic notice, in a form and content approved by the Planning Director, within 10 days after filing the application, to:

(1) each person who received notice of the hearing that the Planning Board held before the site plan was approved;

(2) the owner and (if known or reasonably identifiable by the applicant) any contract purchaser of each adjoining and confronting property; and

(3) each registered civic organization in the area of the property, as determined by the Planning Director.

If a person to whom notice was sent under this subsection, or any other affected person as defined by Planning Board regulations, has not filed a written or electronic request for a public hearing within 15 days after the notice is sent, the Planning Board may act on the amendment without holding a hearing.

(d) The Planning Director may approve in writing any application for an amendment to a site plan approved by the Planning Board, for which notice was provided under subsection (c), if the amendment:

(1) does not:

(A) increase the height of any building,

(B) increase the floor area of any non-residential building,

(C) increase the number of dwelling units, or

(D) prevent circulation on any street or path, and

(2) modifies one or more of the following elements of the approved site plan;

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(A) a parking or loading area;

(B) landscaping, a sidewalk, recreational facilities, recreational area, public use space, or green area in a manner that does not alter basic elements of the plan; or

(C) any other plan element that will have a minimal affect on the overall design, layout, quality, or intent of the plan.

(e) The Planning Board Chair or the Board's designee must sign any Board resolution that amends a certified site plan. The Chair must forward each approved amendment to the Department immediately after signing it.