



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

**Staff Memorandum**

**Date:** May 17, 2013

**To:** Montgomery County Planning Board

**Via:** Rose Krasnow, Interim Planning Director *RK*

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**Zoning Text Amendment (ZTA) 13-04, Zoning Ordinance – Revised  
District Map Amendment (DMA) G-956**

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**Executive Summary**

This memorandum is divided into three sections:

- Staff Recommendation
- ZTA 13-04 and DMA G-956 Overview
- Staff Recommended Revisions

Section 1 is a brief statement recommending the transmittal of comments to the County Council.

Section 2 is a summary of ZTA 13-04 and DMA G-956, highlighting significant aspects of the ZTA and impacts of the DMA.

Section 3 outlines several changes to the introduced text based on additional stakeholder input and another round of thorough reading. These changes are primarily for clarity, consistency, and minor corrections; no substantive policy changes are effectuated or intended.

**§1. Staff Recommendation**

Staff recommends approval of ZTA 13-04, Zoning Ordinance – Revised, and DMA G-956, adopting the zoning maps implementing the new ordinance and making the GIS layer the official zoning maps of the County, with the revisions specified in Section 3, Staff Recommended Revisions.

## §2. ZTA 13-04 and DMA G-956 Overview

### §2.1. ZTA 13-04, Zoning Ordinance - Revised

ZTA 13-04 embodies a complete revision of the existing zoning ordinance, Chapter 59 of the Montgomery County Code. This Ordinance regulates land development in the County, primarily in concert with Chapter 50, Subdivision Regulations.

Chapter 59 specifically establishes the zoning districts that regulate:

- Allowed uses,
- Allowed densities and heights,
- Lot standards, such as setbacks and coverage,
- Parking, landscaping, open space, and sign regulations, and

Chapter 59 also establishes the review process for rezonings, text amendments, and regulatory applications.

Several departments and governmental bodies use the zoning ordinance on a daily basis to review and approve land development, including the Planning Department, the Planning Board, the Department of Permitting Services, the Hearing Examiner, the Board of Appeals, and the County Council. Revision of the zoning ordinance was initiated at the behest of many of these bodies with several basic goals in mind:

- Simplify and consolidate;
- Improve clarity and consistency;
- Accommodate changing markets and demographics, while protecting established neighborhoods;
- Reflect more sustainable policy goals; and
- Provide the tools necessary to shift from greenfield development to infill, mixed-use development.

To these ends, the revised ordinance contains significant changes in layout, presentation, and organization and makes significant modifications to mixed-use and industrial zoning regulations, while minimizing impacts to agricultural and residential regulations. The most significant changes are outlined below.

#### Organization

Whereas the existing zoning ordinance is difficult to navigate, has information in dispersed and counterintuitive locations, and does not provide a systematic arrangement for various topics, the revised zoning ordinance has a vastly improved organization, providing separate articles on:

1. General Zoning Code Provisions
2. Zones
3. Uses and Use Standards
4. Euclidean Zone Regulations
5. Floating Zone Regulations
6. Optional Method Regulations

*Other chapters also impact land development:*

Chapter 2B – Agricultural Land Preservation; Chapter 8 – Buildings; Chapter 19 – Erosion, Sediment Control, and Stormwater Management; Chapter 22A – Forest Conservation; Chapter 25A – Moderately Priced Housing; Chapter 49 – Streets and Roads,



not by zone. This allows greater protections to be provided in residentially-zoned areas that allow non-residential uses (museums, medical clinics, funeral homes, care facilities) because the setbacks, buffering, and other standards are more restrictive if a building is not a detached house. It also allows for variable treatment of apartment buildings, multi-use buildings, and general buildings in mixed use zones – some buildings, for example, may be required to meet certain additional design standards, such as minimum glazing, entrance spacing, or blank wall restrictions.

**Sec. 4.1.4. Building Types Allowed by Zone**

Building types are allowed by zone as follows:

|   |  |  |  |  |  |  |
|---|---|---|---|---|---|---|
|   | Detached House  | Duplex  | Townhouse   | Apartment/Condo   | Multi Use Building  | General Building  |
| <b>Agricultural Zone</b>                          |   |   |   |   |   |   |
| Agricultural Reserve (AR)                         | A   | —   | —   | —   | —   | A   |
| <b>Rural Residential Zones</b>                    |   |   |   |   |   |   |
| Rural (R)   | A   | —   | —   | —   | —   | A   |
| Rural Cluster (RC)                                | A   | —   | —   | —   | —   | A   |
| Rural Neighborhood Cluster (RNC)                  | A   | A   | A   | —   | —   | A   |
| <b>Residential Detached Zones</b>                 |   |   |   |   |   |   |
| Residential Estate - 2 (RE-2)                     | A   | —   | —   | —   | —   | A   |
| Residential Estate - 2C (RE-2C)                   | A   | MPDU  | MPDU  | —   | —   | A   |
| Residential Estate - 1 (RE-1)                     | A   | MPDU  | MPDU  | —   | —   | A   |
| Residential - 200 (R-200)                         | A   | MPDU  | MPDU  | —   | —   | A   |
| Residential - 90 (R-90)                           | A   | MPDU, CD  | MPDU, CD  | —   | —   | A   |
| Residential - 60 (R-60)                           | A   | MPDU, CD  | MPDU, CD  | —   | —   | A   |
| Residential - 40 (R-40)                           | A   | A   | MPDU  | —   | —   | A   |
| <b>Residential Townhouse Zones</b>                |   |   |   |   |   |   |
| Townhouse Low Density (TLD)                       | A   | A   | A   | —   | —   | A   |
| Townhouse Medium Density (TMD)                    | A   | A   | A   | —   | —   | A   |
| Townhouse High Density (THD)                      | A   | A   | A   | —   | —   | A   |
| <b>Residential Multi-Unit Zones</b>               |   |   |   |   |   |   |
| Residential Multi-Unit Low Density - 30 (R-30)    | A   | A   | A   | A   | —   | A   |
| Residential Multi-Unit Medium Density - 20 (R-20) | A   | A   | A   | A   | —   | A   |
| Residential Multi-Unit High Density - 10 (R-10)   | A   | A   | A   | A   | —   | A   |
| <b>Commercial/Residential Zones</b>               |   |   |   |   |   |   |
| CR Neighborhood (CRN)                             | A   | A   | A   | A   | A   | A   |
| CR Town (CRT)                                     | A   | A   | A   | A   | A   | A   |
| CR (CR)   | A   | A   | A   | A   | A   | A   |
| <b>Employment Zones</b>                           |   |   |   |   |   |   |
| General Retail (GR)                               | A   | A   | A   | A   | A   | A   |
| Neighborhood Retail (NR)                          | A   | A   | A   | A   | A   | A   |
| Life Science Center (LSC)                         | A   | A   | A   | A   | A   | A   |
| Employment Office (EOF)                           | A   | A   | A   | A   | A   | A   |
| <b>Industrial Zones</b>                           |   |   |   |   |   |   |
| Light Industrial (LI)                             | —   | —   | —   | —   | A   | A   |
| Moderate Industrial (MI)                          | —   | —   | —   | —   | A   | A   |
| Heavy Industrial (HI)                             | —   | —   | —   | —   | A   | A   |
| <b>Overlay Zone</b>                               |   |   |   |   |   |   |
| Transferable Development Rights (TDR)             | TDR   | TDR   | TDR   | TDR   | —   | —   |

Chapter 55: Zoning Code KEY: A = Allowed to accommodate permitted, limited, and conditional uses; MPDU = Allowed as part of an Optional Method MPDU Development; TDR = Allowed as part of Optional Method TDR Development; — = Not allowed; CD = Allowed as part of an Optional Method Outer Development  
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**Development Methods**

Standard method development standards have been separated from optional method development standards for clarity. Also, optional method development applies to more properties under the revised zoning ordinance: CR, CRT, EOF, and LSC. Importantly, optional method development (MPDU, TDR, and Cluster) in the residential zones is only allowed in the same zones, with the same building types, and at the same densities as allowed in the existing zoning ordinance. In the mixed use zones, the public benefit points have been modified slightly – lowering the amount of points that may be awarded in many cases – and new requirements for very large or high-density

**B. Public Benefit Points and Categories**

- Public benefits under Div. 6.6 must be provided according to zone and to the tract size or maximum total mapped FAR, whichever requires fewer public benefit points:

| Zone | Tract Size OR Max Total FAR                          | Public Benefit Points (min) | Number of Benefit Categories (min) |
|------|--|-----------------------------|------------------------------------|
| CRT  | < 10,000 SF OR < 1.5 max FAR                         | 25                          | 2                                  |
|      | 10,000 SF to < 1,250,000 SF OR 1.5 to < 3.25 max FAR | 50                          | 3                                  |
|      | ≥ 1,250,000 SF OR ≥ 3.5 max FAR                      | 75                          | 4                                  |
| CR   | < 10,000 SF OR < 1.5 max FAR                         | 50                          | 3                                  |
|      | 10,000 SF to < 1,250,000 SF OR 1.5 to < 3.25 max FAR | 100                         | 4                                  |
|      | ≥ 1,250,000 SF OR ≥ 3.5 max FAR                      | 125                         | 5                                  |

- In the CR zone, the purchase of BLTs is required under Sec. 6.6.3.F.1.a.

projects have been proposed. This is a significant change that was discussed but not highlighted during Planning Board worksessions.

**Floating Zones**

In the existing zoning ordinance, Euclidean zones (those established by master plan) and floating zones (those that may be requested by individual property owners) are indistinguishable. In the revised zoning ordinance they have been separated into distinct articles. Further, the proposed floating zones are fundamentally different in applicability, format, and organization.

There are four families of floating zones mirroring the Euclidean zones: Residential, Commercial-Residential, Employment, and Industrial. Within these four families, a wide range of uses and densities are allowed, but both are restricted by the zone that that is being replaced in the current code and by the amount of land that is assembled. As with the existing ordinance, development standards are quite flexible and determined through a lengthy public review process requiring at least two – and up to three – approvals.

As in the existing ordinance, floating zones may be recommended by a master plan but do not have to be. When not recommended in a master plan, a property owner may request a floating zone but there are significantly more “hurdles” that must be cleared to qualify for rezoning:

- A rezoning application must satisfy nine different purpose clauses focused on comprehensive planning objectives, appropriate use of land, and protection of established neighborhoods;
- When not recommended in a master plan, a rezoning application must meet at least 4 prerequisites based on location and the circulation network;
- The density that may be requested is limited by the zoning of the site that would be replaced by a floating zone and the amount of land that is assembled;
- Allowed uses are established by the density approved (for example, commercial uses are not allowed in the Residential Floating Zone unless the approval is for more than 250 total units);
- Commercial uses are further restricted by density and location within the proposed development; and
- Public benefits may be required (at the same threshold and in an equivalent quantity as Euclidean C/R and Employment zones).

**A. Density**

**1. Residential Density**

- a. If a Floating zone is recommended in a master plan, residential density must not exceed the specific recommendation, except where MPDUs above the minimum required or TDRs are provided.
- b. If a Floating zone is not recommended in a master plan the following residential density limits apply, calculated on site area:

| Pre-Existing Euclidean Zone | Base Lot/ Site Size | Base Density in Units per Acre | Maximum Allowed Density in Units per Acre |                                       |   |
|-----------------------------|---------------------|--------------------------------|---|---------------------------------------|---|
|                             |                     |                                | Less than 3 times the base lot/site size  | 3 to <6 times the base lot/ site size | At least 6 times the base lot/site size |
| RE-1, RE-2C                 | 1 acres             | 0.50                           | 0.50                                      | 0.75                                  | 1.00                                    |
| RE-1                        | 40,000 SF           | 1.09                           | 1.09                                      | 1.63                                  | 2.18                                    |
| R-200                       | 30,000 SF           | 2.18                           | 2.18                                      | 3.27                                  | 4.36                                    |
| R-90                        | 9,000 SF            | 4.84                           | 4.84                                      | 7.26                                  | 9.68                                    |
| R-60                        | 6,000 SF            | 7.26                           | 7.26                                      | 10.89                                 | 14.52                                   |
| R-40                        | 4,000 SF            | 10.89                          | 10.89                                     | 16.33                                 | 21.78                                   |
| TLD                         | 20,000 SF           | 9.00                           | 9.00                                      | 13.50                                 | 18.00                                   |
| TMD                         | 30,000 SF           | 12.00                          | 12.00                                     | 18.00                                 | 24.00                                   |
| THD                         | 40,000 SF           | 15.00                          | 15.00                                     | 22.50                                 | 30.00                                   |
| R-30                        | 12,000 SF           | 14.50                          | 14.50                                     | 21.75                                 | 29.00                                   |
| R-20                        | 16,000 SF           | 21.70                          | 21.70                                     | 32.55                                 | 43.40                                   |
| R-10                        | 20,000 SF           | 43.50                          | 43.50                                     | 65.25                                 | 87.00                                   |

**General Regulations**

Those regulations that apply across zones: site access, parking/queuing/loading, open space and recreation, compatibility standards, general landscaping and outdoor lighting, outdoor display and storage, and signs are regulated in their own respective divisions in Article 59-7, General

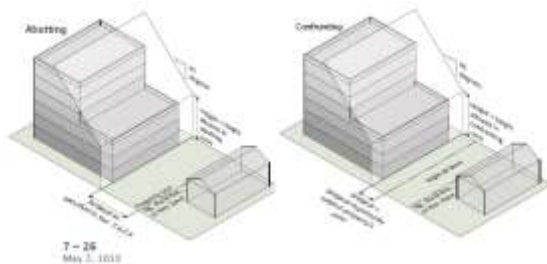
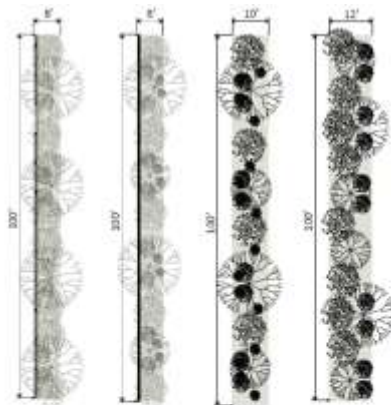
Development Regulations. The parking section, in particular, has been clarified and now matches the land use table.

| USE or USE GROUP   | Metric   | AGRICULTURAL, RURAL, ESSENTIAL, RESIDENTIAL, AND INDUSTRIAL ZONES |   |                  |                  |
|--|--|---|---|------------------|------------------|
|  |  | Baseline Minimum  | COMMERCIAL/RESIDENTIAL AND EMPLOYMENT ZONES |                  | Baseline Minimum |
|  |  |   | Within a Parking Benefit District           |                  |                  |
|  |  | Baseline Minimum  | Baseline Maximum                            | Baseline Maximum | Baseline Minimum |
| Home Health Practitioner (Low Impact)<br>Home Health Practitioner (Major Impact) | Home Health Practitioner   | 1.00  | 1.00  | 1.00             | 1.00             |
|  | Non-Resident Employee plus, Each Client Allowed per Hour (In addition to residential spaces)                 | 2.00  | 2.00  | 2.00             | 2.00             |
|  | Accessory Dwelling Unit  | 1.00  | 1.00  | 1.00             | 1.00             |
| <b>CIVIC AND INSTITUTIONAL</b>   |  |   |   |                  |                  |
| Ambulance, Rescue Squad (Private)  | Employee plus, Each Vehicle Operated in Connection with the Use (adequately sized space)                     | 1.00  | 0.50  | 1.00             | 1.00             |
|  | Resident and Employee  | 1.00  | 1.00  | 1.00             | 1.00             |
| Charitable, Philanthropic Institution  | OR: 1,000 SF of Recreational GFA   | 3.00  | 1.00  | 3.50             | 3.50             |
|  | OR: 1,000 SF of Office GFA   | 4.00  | 2.00  | 4.00             | 4.00             |
| Cultural Institution<br>Day Care Facility  | 1,000 SF of GFA  | 1.25  | 0.50  | 2.00             | 1.25             |
| Family Day Care  | Non-Resident Employee (In addition to residential spaces)  | 1.00  | 0.50  | 1.50             | 1.00             |
|  | Group Day Care<br>Day Care Center  | 1,000 SF of GFA   | 3.00  | 3.00             | 4.00             |
| Educational Institution (Private)  | Student (Grades 9-12)  | 0.25  | 0.15  | 0.25             | 0.25             |
|  | Employee   | 1.00  | 0.25  | 0.50             | 0.50             |
| Hospital   | 1,000 SF of GFA  | 2.50  | 2.50  | 5.00             | 2.50             |
|  | Private Club, Service Organization   | 1,000 SF of GFA   | 2.50  | 1.50             | 2.25             |
| Religious Assembly   | Fixed Seat   | 0.25  | 0.15  | 0.25             | 0.25             |
|  | OR: 1,000 SF of Assembly Area  | 20.00   | 10.00                                       | 14.00            | 14.00            |
| Swimming Pool (Community)  | Every 7 Persons Legally Permitted to Occupy Pool   | 1.00  | 0.50  | 1.00             | 1.00             |
| <b>COMMERCIAL</b>  |  |   |   |                  |                  |
| <b>ANIMAL SERVICES</b>   |  |   |   |                  |                  |
| Animal Boarding and Care   | Employee   | 2.50  | 1.00  | 2.50             | 2.50             |
|  | plus, 1  | 2.50  | 1.00  | 2.50             | 2.50             |
| Veterinary Office/Hospital   | Employee plus, Each Doctor Practicing Simultaneously   | 2.50  | 2.00  | 3.50             | 2.50             |
|  |  | (Minimum of 5)  | (Minimum of 5)                              | —                | (Minimum of 5)   |
| <b>EATING AND DRINKING</b>   |  |   |   |                  |                  |
| Coffee Bar<br>Restaurant   | 1,000 SF per Patron Use, (excluding outdoor seating area in the Commercial/Residential and Employment zones) | 10.00   | 4.00  | 13.00            | 4.00             |

There are some significant changes in the revised zoning ordinance related to how the general regulations are implemented; most are based on achieving greater sustainability relating to issues such as impervious area, tree canopy, air and water quality, and public health. To this end:

- Parking requirements are generally lower and surface parking lots require more landscaping;
- Open space has minimum permeable and tree canopy requirements; and
- Landscape and lighting standards have been codified.

To protect established neighborhoods, the general regulations have been modified to include compatibility standards – establishing setback, height, and screening standards based on the adjacent uses, further requirements for outdoor storage and display, and lighting restrictions.



5. Apartment/Condo Up to 60 Feet in Height or Multi Use Building Up to 40 Feet in Height

| Dimensions (min)                           | Option A         | Option B         | Option C | Option D |
|--|------------------|------------------|----------|----------|
| Depth                                      | 8'               | 8'               | 10'      | 12'      |
| <b>Planting and Screening Requirements</b> |                  |                  |          |          |
| Trees (minimum per 100')                   |                  |                  |          |          |
| Canopy                                     | 4                | 2                | 2        | 2        |
| Understory or Evergreen                    | —                | 2                | 2        | 4        |
| Shrubs (minimum per 100')                  |                  |                  |          |          |
| Large                                      | 8                | 6                | 4        | 8        |
| Medium                                     | 8                | 8                | 8        | 12       |
| Small                                      | —                | 8                | 8        | —        |
| Wall, Fence or Barrier (min)               | 4' fence or wall | 4' fence or wall | —        | —        |

### **Administration and Procedures**

Many have bemoaned the difficult regulatory review process in Montgomery County; others laud the fact that such a process ensures thoroughness and provides greater protections for current residents. In the spirit of William F. Buckley, Jr.'s quote, "A conservative is someone who stands athwart history yelling 'Stop!'....", we are a conservative county. Thus, although this section has been greatly improved organizationally, there are fewer changes to the process than originally hoped for by many. That said, there are several improvements:

- The grouping of all approvals under applicable approving bodies,
- Consistent organization step-by-step under each approval section,
- Revised submittal requirements to ensure that proper information (and not too much) is given at each approval step,
- Revised findings in line with approval purpose and the iterative nature of many procedures,
- Standardized notice requirements, and
- Incorporation of internet-based noticing.

### **§2.2. DMA G-956, Adoption of District-Wide Zoning Maps Implementing the Revised Zoning Ordinance**

DMA G-956 will adopt digital zoning maps implementing the new zoning ordinance. As discussed over several months of "implementation" worksessions with the Planning Board, this will have the following impacts:

- The RDT (Rural Density Transfer) zone will be renamed the AR (Agricultural Reserve) zone;
- The R, RC, RNC, RE-2, RE-2C, RE-1, R-200, R-90, R-60, R-40, R-30, R-20, R-10 and LSC zones will not be changed;
- All commercial and mixed uses zones (except those noted below) will be classified as one of the following zones: CR, CRT, CRN, NR, GR, or EOF zones;
- The industrial zones will become an IL, IM, or IH zone; and
- The R-H, PCC, PD, PNZ, PRC, TS, and various R-T zones will not be changed.

## **§3. Staff Recommended Revisions**

### **§3.1. Generally**

Staff recommends continuing work on illustrations and diagrams to be included in the code for clarity. These would include illustrations of measurement methods, building type form requirements, flow charts for each approval procedure, and other expository means to enhance understanding of the ordinance. It is expected that these will be provided during worksessions with the County Council, but – as explained in the revised zoning ordinance – are illustrative and do not change the intent or applicability of written requirements.

### §3.2. Specific Recommendations

| Page | Recommendation  |
|------|---|
| ii   | The title of the Article 59-4 should be “Article 59-4. Euclidean Zone <del>[Regulations]</del> <u>Requirements</u> : General and Standard Method”.  |
| iv   | The title of Article 59-5 should be “Article 59-5. Floating Zone <del>[Regulations]</del> <u>Requirements</u> ”.  |
| iv   | The title of Article 59-6 should be “Article 59-6. Optional Method <del>[Regulations]</del> <u>Requirements</u> ”.  |
| v    | The title of Article 59-7 should be “Article 59-7. General Development <del>[Regulations]</del> <u>Requirements</u> ”.  |
| 1-10 | The definition of Cultural Institution should read “Any <del>[private]</del> <u>privately owned or operated</u> facility where works of art or other objects are kept and displayed, or where books, periodicals, and other reading material is offered for reading, viewing, listening, study, or reference, but not typically offered for sale. Cultural Institution includes a museum, cultural or art gallery, and library.”                                      |
| 1-17 | The definition of Lawn Maintenance Service should be modified to read, “The business of cutting grass, raking leaves, snow removal, and other activities associated with maintaining a yard; <u>regulated as a low impact home occupation</u> ”.  |
| 3-8  | The use Playground, Outdoor Area (Private), should be removed from the rural zone. The use is intended for development that requires common open space such as Optional Method MPDU or Cluster Development, neither of which is allowed under the rural zone.   |
| 3-43 | Under Sec. 3.5.1.B.2.b use standards (f) and (h) should be combined. Modify (f) to read “The sound <u>level</u> at the nearest property line <del>[cannot exceed 60 dBA]</del> <u>must satisfy Chapter 31B.</u> ”, and strike (h), <del>[For all building in which animals will be contained, sound levels emanating from the interior of the building must satisfy Chapter 31B as measured at the property line.]</del> .  |
| 3-44 | Under Sec. 3.5.1.C.2.b use standards v. and vii. should be combined. Modify v. to read “The sound <u>level</u> at the nearest property line <del>[cannot exceed 60 dBA]</del> <u>must satisfy Chapter 31B.</u> ”, and strike vii., <del>[For all building in which animals will be contained, sound levels emanating from the interior of the building must satisfy Chapter 31B as measured at the property line.]</del> .  |
| 4-64 | Sec. 4.8.2.D.3.b should read “[ <del>For any increase in building height]</del> <u>Any portion of a building over 45 feet,</u> <del>[that portion of the building]</del> <u>must be set back from [the nearest] an abutting property in a Residential zone a minimum of 3 feet for each one foot of building height over 45 feet.</u> ”   |
| 4-67 | Under Sec. 4.8.3.3 development standards a. through e. should be deleted. The modified development standards for the IL zone and the overlay standards a. through e. are redundant. Development standard f. should read “[ <del>The Planning Board may approve a reduction in the amenity open space requirement to a minimum of 10% of the site.]</del> A maximum of 50% of the required amenity open space may be located off-site within the IMU-TB Overlay zone.” |
| 6-23 | Under Sec. 6.6.3.D.2 the heading should read “[ <del>Affordable Housing]</del> <u>Moderately Priced Dwelling Units</u> ” as there is a separate public benefit for Workforce Housing. It will follow Live/Work in alphabetical order.   |
| 7-3  | Under Sec. 7.1.4.A. IM needs to be added to the Driveway Dimensions table in the same row and column as the IL and IH zones.  |