



Zoning Text Amendment (ZTA) No. 14-09, Zoning Ordinance Rewrite – Updates, Clarifications, and Corrections



Greg Russ, Planner Coordinator, gregory.russ@montgomeryplanning.org, (301) 495-2174



Jennifer Wise, Research Associate, jennifer.wise@montgomeryplanning.org (301) 495-4623



Emily Tettelbaum, Research Associate, emily.tettelbaum@montgomeryplanning.org (301) 495-4569



Pamela Dunn, Acting Chief, Functional Planning and Policy, pamela.dunn@montgomeryplanning.org (301) 650-5649

Completed: 8/28/14

Description

ZTA 14-09 would amend the new zoning ordinance, which is effective October 30, 2014, and was approved by the County Council on March 4, 2014. The purpose of the ZTA is to:

1. clarify language and correct errors;
2. add the substance of text amendments approved by Council since March 11, 2014;
3. address issues raised in the course of approving District Map Amendment G-956;
4. and generally amend the Zoning Ordinance that will be in effect on October 30, 2014.

Summary

Staff recommends approval, with modifications, of ZTA 14-09. The modifications include clarifications and corrections based on further review of the new zoning code by staff, the Office of Zoning and Administrative Hearings, and the Board of Appeals. Staff also recommends plain language edits and updates to section references.

Background/Analysis

ZTA 13-04, the new zoning code, was adopted by the County Council on March 5, 2014. On October 30, 2014, ZTA 13-04 becomes effective and replaces the current zoning code. Several circumstances warrant changes to the new code before its effective date:

- Since March 5, six ZTAs¹ were adopted by the County Council in the format of the current zoning code. These ZTAs need to be modified to fit the format of the new code.
- During review and approval of DMA G-956, County Council directed staff to include language in the ZTA.

¹ ZTA 14-01, Parking Design - Charging Stations; ZTA 14-02, Exemptions - Solar Panels; ZTA 14-03, Overlay Zone – Clarksburg; ZTA 14-05, Health Clubs - C-1 Zone; ZTA 14-06, Rural Village Overlay zones - site plan requirements – exceptions; and ZTA 14-07 Accessory Commercial Kitchen – Standards.

- Further review of the new zoning code and its implications by Council staff, Planning staff, and other stakeholders.

Planning and Council staff worked cooperatively on most of the ZTA language, except as indicated below.

Addition of ZTAs Adopted After March 4, 2014

- Addition of Section 4.9.4. (Clarksburg East Environmental Overlay Zone) and Section 4.9.5. (Clarksburg West Environmental Overlay Zone) to add the substance of ZTA 14-03, adopted by the County Council on July 15, 2014. The addition of the two Overlay zones necessitates changes to the Table of Contents, additions to Section 2.1.3. (Establishment of Zones); and changes to section references in Section 4.2.1. (AR Zone), Section 4.7.3.F.6. (Transferable Development Right), and Division 4.9 (Overlay zones).
- Addition of language to Section 3.5.10.E (Health Clubs Facilities) to add the substance of ZTA 14-05, adopted by the County Council on July 22, 2014.
- Modification of Section 3.5.14.D (Commercial Kitchen) to add the substance of ZTA 14-07, adopted by the County Council on July 22, 2014.
- Modification of Section 3.7.2.B.2 (Solar Collection System), Section 4.1.7.B.5.c (Encroachment for Solar Panels), and Section 4.1.7.C (Height Encroachments) to add the substance of ZTA 14-02, adopted by the County Council on April 22, 2014.
- Addition of language to Section 4.9.12 (Rural Village Center (RVC) Overlay Zone) to add the substance of ZTA 14-06, adopted by the County Council on July 22, 2014.
- Addition of Section 6.2.3.E (Spaces for Charging Electric Vehicles) and Section 6.2.5.F (Spaces for Charging Electric Vehicles) to add the substance of ZTA 14-01, adopted by the County Council on April 22, 2014.

Language Clarification and Error Correction

- Change any reference to a ‘primary road’ to a ‘primary residential road’ for consistency with Chapter 49 (Section 3.2.10, Section 3.2.12, Section 3.4.2, Section 3.5.7, Section 3.5.10.G, and Section 3.5.10.H).
- Addition of Section 1.4.1.L (Use of “Section”) to clarify that the code uses “Section” to refer to subsections.
- Modifications to Section 1.4.2 (Specific Terms and Phrases Defined):
 - Changes to the definition of *Gross Floor Area* to clarify that:
 - floor space used for mechanical equipment is not included as gross floor area for the purposes of calculating FAR in the LSC and Industrial zones, and
 - gross floor area does not include any type of parking for the purposes of calculating FAR.
 - Changes to the definitions of *Impervious Surface* and *Permeable Area* for consistency with the definition of *Impervious Surface* in Chapter 19 of the County Code. The term “road shoulder” was removed from the definition because it is redundant with other

language in the definition; however, a “road shoulder” used by or for motor vehicles or heavy commercial equipment continues to be considered an impervious surface.

- Modification to Section 1.4.2 (Specific Terms and Phrases Defined), Section 4.5.3.C (CRN, CRT, CR Zones, Standard Method Development Standards), and Section 4.5.4.B.2.c (Optional Method Development Standards) that allow up to 10% of the floor area for an historic resource to not count as FAR in only the CR zone, which is consistent with the current code.
 - Staff recommends a further modification of language to Section 4.5.4.B.2.c. to clarify that this provision applies to a designated historic resource.
- Modification to Section 2.2.1.A (Adoption of Zoning Maps) and Section 2.2.1.C (Changes to be Recorded on Digital Zoning Layer), added by Council staff, to clarify that the Planning Department must file an offline digital copy of the digital map and must provide a digital copy of the District Council approved map to the Hearing Examiner, and the clerk of the Circuit Court when the new zoning code becomes effective and for any subsequent change to the zoning map. This change is consistent with State law.²
- Addition of Section 2.2.1.F (Zoning on October 29, 2014) to clarify that a property’s zoning on October 29, 2014 can be determined by a digital zoning map.
- Addition of language to Section 3.3.2.E.2 (Residential Care Facility) to clarify that a conditional use for a *Residential Care Facility* in a Residential Multi-Unit zone should use the development standards of the apartment building instead of the development standards of the “Detached House or ... a Conditional Use allowed in the zone” except when modified by 3.3.2.E.2.c. This change allows a *Residential Care Facility* to develop in the R-10, R-20, or R-30 zones in a manner consistent with the current zoning code.
- Modification of Section 3.5.11.B.2.a.v (Retail/Service Establishment) to remove certain words for consistency with similar language in other sections of the code.
- Modification of Section 3.6.8.E (Storage Facility) to allow outdoor storage, and storage facilities above 10,000 sf, to exist and expand in the EOF zone consistent with the current I-3 zone.
- Modification of Section 4.1.8.A.1 (Setback Compatibility) to clarify the minimum setback required for a building that is not subject to the Setback Compatibility standards of this section.
- Deletion of Section 4.1.8.B.2.c (Height Compatibility) as it is redundant.
- Correction of typos in the headers of Division 4.4 (Residential zones).
- Addition of Section 4.5.2.B.4, Section 4.6.2.B.4, and Section 4.8.2.B.4 (FAR Averaging) to clarify that an applicant must record density transfers in the Maryland Land Records. This addition makes the FAR Averaging provisions consistent with the recordation procedures required with density transfers in the CBD zones currently.
- Addition of Section 4.6.2.C.2.b (Special Provisions for “T” Zones Translated from Certain Zones) to allow a building in the LSC zone to increase height and density to provide workforce housing. This addition is consistent with a provision from the current code.
- Additions and modifications to Section 4.9.14. (Takoma Park/East Silver Spring Commercial Revitalization (TPSS) Overlay Zone) to more closely match the current code. After consultation

² Maryland Code, Land Use Article §22-115

with the city of Takoma Park, the County Council instructed staff to include this language during the adoption of DMA G-956.

- Addition of a Floating zone equivalency table to Section 5.1.3.B (Applicability of Floating Zones). This table provides a translation for floating zones available under the current code that can no longer be mapped to new property after October 30, 2014, but may be recommended in a master plan.
- Correction of typo in Section 6.2.3.1.2.c.i(a) (Adjustments to Vehicle Parking for Religious Assembly).
- Addition of language to Section 7.3.3.E (Necessary Findings for Sketch Plan) and Section 7.3.4.E (Necessary Findings for Site Plan) to clarify that a development on a property that was classified as a floating zone on October 29, 2014 must satisfy the binding elements and green area requirement of the floating zone in effect on October 29, 2014. Also, addition of language to Section 7.7.1.B.5 (Development with a Development Plan or Schematic Development Plan Approved before October 30, 2014) to clarify that a change in the binding elements or green area requirements is only allowed if the property is rezoned by SMA or LMA, or if a binding element is changed by a development plan amendment under the procedures of the zoning code in effect on October 29, 2014.³
- Modification of Section 7.4.1.C.3 (Review and Recommendation for Building Permit) to require that DPS submit a building permit application to the Planning Department if the application contains a request to expand a residential structure by more than 50% of the gross floor area. This modification reflects current practice.
- Addition of language to Section 7.7.1.A.1 (Site Design) that requires a structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 to be legal in order to be deemed conforming under the new zoning code. This addition was made by Council staff at the request of the County Attorney's office.
- A technical correction of the DMA number in Section 7.7.1.B.1.
- Addition of Section 7.7.1.D.6 (Exempted Lots and Parcels in the RE-2C Zone), Section 7.7.1.D.7 (Exempted Lots and Parcels in the Rural Zone), and Section 7.7.1.D.8 (Exempted Lots and Parcels in the Rural Cluster Zone). This language preserves the ability under the current code that allows a property owner to create a child lot under certain circumstances.
- Council staff added language to Section 7.7.2.B (Abandonment of Use) to explain that if a nonconforming use is abandoned it may not be reestablished unless it is a historic use.
- Modification of Section 8.1.2 (Modification of Zones) allows a development plan amendment or schematic development plan amendment for a property classified in one of the zones in Article 59-8 to follow the procedures of the code in effect on October 29, 2014.
- Addition of Section 8.3.6.C.2.a (Coverage and Public Open Space in the PCC zone) to limit the building coverage to 30% or 40%. This language was inadvertently left out of the adopted code.

Substantive Changes

³ Retaining the green area requirement of the current code is more than a clarification; however, the County Council requested this modification during the adoption of DMA G-956.

- Addition of language to Section 3.5.8.A (Life Sciences) that includes a *Hospital and its accessory uses* in the definition of *Life Sciences*. Also, removed language from Section 4.6.3.D.2.b (LSC Zone Standard Method Lot and Density) and Section 4.6.4.B.2.d.i.(a) that is not necessary if *Life Sciences* includes a *Hospital*.
- Modification of Section 3.6.5 (Mining and Excavation), added by Council staff, to address any potential for mining activities not solely related to mineral extraction.
- Addition of Section 4.9.11.C.4 (Ripley/South Silver Spring Overlay zone) to allow projects up to 1.0 FAR to develop under standard method if the property is within the RSS Overlay zone. The Fenton Village Overlay zone allows for a similar standard.
- A modification, by Council staff, of Sec. 7.7.1.A.2 to make a Registered Living Unit existing on October 29, 2014 nonconforming. Council staff also added language to Section 7.7.2 (Abandonment of Use) allowing a Registered Living Unit to be abandoned, removed, or terminated under the code in effect on October 29, 2014.
- Modification of Section 7.7.1.C (Expansion of Floor Area Existing on October 30, 2014) to allow Council to approve a development plan amendment under the zoning code in effect on October 29, 2014 for properties that were classified as floating zones on October 29, 2014, and not subject to any binding elements. This language was added by Council staff.
 - Planning Department Staff recommends allowing all property, whose zoning on October 29, 2014 was the result of a Local Map Amendment, to expand up to the limits of the zoning in effect on October 29, 2014, regardless of whether the development plan contains binding elements. This modification would provide the same process for expansion of development on all properties classified in floating zones prior to the DMA. This process would mirror how expansions/development plan amendments are allowed for floating zones under the current code.

Planning Department Staff Proposed Modifications to ZTA 14-09⁴

Substantive Changes

- Modification of Section 4.5.2.A.3 (Density and Height Allocation of the Commercial/Residential zones) to allow the CRT zone to be mapped at a density of 0.25 FAR, rather than requiring that the CRT zone be mapped at a density of at least 0.5 FAR. This modification is necessary because of the C-4 zone translation in DMA G-956. The C-4 zone translates to the CRT zone, and the C-4 zone limits density to 0.25 FAR (although it allows higher density under certain circumstances).

Language Clarification and Error Correction

- Plain English language edits and necessary updates to section references.
- Modification of Section 4.1.8.A.2 (Setback Compatibility Requirements) to clarify that the minimum setback required is as noted in the table.

⁴ Modifications proposed by Planning Department staff for Section 4.5.4.B.2.c and Section 7.7.1.C are discussed above.

- Modification of Section 4.1.8.B (Height Compatibility) to remove the angular plan requirement when abutting a Residential Multi-Unit zone since the height for apartment buildings in some of the Residential Multi-Unit zones can be as high as 80' or 100'.
- Addition to Section 4.4.2.A.4 (Optional Method MPDU Development) to allow developments of less than 20 units that voluntarily provide 12.5% MPDUs to not have to meet the minimum usable area requirement. This is consistent with Optional Method MPDU development in the current zoning code.
- Modification of Section 4.4.1.A (Established Building Line) to clarify how to proceed when a lot is subject to the requirements of the Established Building Line.
- Addition to Section 4.9.11.C.1.a (Ripley/South Silver Spring Overlay Zone) to clarify that a CR property mapped at 200 feet within the Ripley Street Overlay zone must provide ground floor retail, or the maximum building height is 145 feet.
- Addition to Section 6.2.3.E (Bicycle Parking), to clarify that the maximum for bicycle parking spaces is the maximum that can be required of an applicant, but that the applicant can choose to exceed it.
- Addition to Section 7.7.2.B (Nonconforming Use- Abandonment of Use) to clarify that a lawful nonconforming use and a use deemed to be conforming under 7.7.1.A.2 get the same treatment if the use is abandoned.

Recommendations from the Office of Zoning and Administrative Hearings for Modifications to ZTA 14-09

Planning staff agrees with the following recommendations and has included the applicable modifications:

- Modify the submittal requirements for a Local Map Amendment application to include a legal description of the property and a certified zoning map.
- Modify Section 7.3.1.K.2.b (Minor Amendment to a Conditional Use) to allow for the issuance of a resolution by the Board of Appeals, or the issuance of a decision by the Hearing Examiner, as applicable.
- Require an NRI/FSD with a Local Map Amendment application
 - Planning Staff agrees with clarifying what is meant by “existing site conditions and vicinity” but disagrees that a full NRI/FSD is needed at rezoning. The application requirements for a Local Map Amendment in the new code were intentionally modified to help streamline the review process. The September 13, 2013 staff memo for PHED Committee Worksession #8, Administration and Procedures noted: *It is the intent of these changes to not only streamline the process, but rationalize the review requirements. Every Local Map Amendment for a Floating zone is followed by a site plan(s), which provides a detailed review including separate findings on master plan and neighborhood compatibility, adequacy of open space and circulation, and conformance with environmental regulations among other topics.* To clarify this submittal

requirement, Planning staff recommends modifying the language to include certain components of an NRI.

Recommendations from the Board of Appeals for modifications to ZTA 14-09¹

Planning staff agrees with the following recommendations and has included the applicable modifications:

- Modify Section 7.3.1.F.2.a.i (Conditional Use-Board of Appeals Decision) to reflect that the Board members not present for oral argument should not have to read the transcripts of the hearing and review all exhibits introduced at the hearing, but rather should read and sign the transcript of the oral argument.
- Correct a typo in Section 7.3.1.F.2.b (Conditional Use-Board of Appeals Decision).
- Restructure Section 7.3.2.E (Necessary Findings- Variance) to indicate that to grant a variance, the Board has to find either that there is a taking, or that a property meets at least one of the criteria in Section 7.3.2.E.2 and meets 7.3.2.E.3 – 6 (inclusive).
 - Planning staff agrees with the intent of the restructuring, but not the exact method of restructuring proposed by the Board of Appeals. Planning staff has included language that meets the intent of this recommendation.
- Modify Section 7.3.2.H (Recording Procedures) to state that the Board of Appeals, not the applicant, must file an approved variance in the land records.
- Amend Section. 7.4.4.C.6 (Sign Variance) to include the Hearing Examiner as an entity that may have approved a sign in connection with a conditional use.
- Add a line for administrative appeals to the chart in Section 7.5.1 (Notice Requirements) and add DPS, SHA, and the Board of Education to the list of persons/entities that receive notice of a hearing in Section 7.5.2.E (Hearing Notice). These additions would be consistent with the current code, and the Board of Appeals has confirmed that these agencies wish to continue receiving such notice.
 - Planning staff agrees with the intent of the modification, but proposes to add relevant language instead to Section 7.6.1.C (Filing of Appeals to the Board of Appeals) to indicate that administrative appeals require this type of noticing.

Planning staff does not agree with the following recommendation:

- Amend Section 7.3.2.E.6 (Necessary Findings- Variance) to broaden the scope of properties whose use and enjoyment cannot be affected by the grant of the variance so that it parallels Section 59-G-3.1(d) of the current zoning ordinance.
 - Planning staff does not agree with this recommendation. The Board of Appeals' proposed language refers to "adjoining or neighboring," terms which Planning staff feels are overly broad and vague and are not defined in the new zoning code.

- Modify Sections 7.3.2.F.2 (Decision- Variance) and 7.3.2.G.1 (Duration of Approval- Variance) to relocate the sentence at the end of Section 7.3.2.F.2 to the end of Section 7.3.2.G.1. In light of current Section 59-A-4.53(d), the Board of Appeals believes this is a technical correction, indicating that the time for implementing a variance runs from the date of the final court order in any appeal.
 - Planning staff does not agree with this modification because it is inconsistent with the location of identical language in other approvals granted in Division 7.2 and Division 7.3.
- Add language to Section 7.6.1.C.1.a (Filing of Appeals to the Board of Appeals) to clarify that a person cannot bring an administrative appeal of a conditional use decision to the Board of Appeals under this section. Appeals under this section are de novo. The change reflects the Board of Appeals' understanding that the Council did not intend for the Board to hear appeals of Hearing Examiner decisions de novo.
 - Planning staff does not think the additional language is necessary; the appeal of a conditional use is not an "administrative appeal" because conditional uses are regulatory approvals. Appeals of conditional uses are covered under Section 7.3.1.F of the new zoning ordinance.

Attachments

1. ZTA 14-09, as modified by staff

Zoning Text Amendment No.: 14-09
Concerning: Zoning Ordinance
Rewrite – Updates,
Clarifications, and
Corrections
Draft No. & Date: 1 – 7/22/14
Introduced: July 29, 2014
Public Hearing:
Adopted:
Effective:

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

By: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance that is effective October 30, 2014 to:

- clarify language and correct errors;
- add the substance of text amendments approved by Council since March 11, 2014;
- address issues raised in the course of approving District Map Amendment G-956;
- and generally amend the Zoning Ordinance that will be in effect on October 30, 2014

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code effective October 30, 2014:

DIVISION 59-1.4.	“DEFINED TERMS”
Section 59-1.4.1.	“Rules of Interpretation”
Section 59-1.4.2.	“Specific Terms and Defined Phrases”
Division 59-2.1.	“Zones Established”
Section 59-2.1.3.	“Establishment of Zones”
DIVISION 59-2.2.	“Zoning Map”
Section 59-2.2.1.	“Zoning Maps”
DIVISION 59-3.1.	“USE TABLE”
Section 59-3.1.6.	“Use Table”
DIVISION 59-3.2.	“AGRICULTURAL USES”
Section 59-3.2.3.	“Community Garden”
Section 59-3.2.9.	“Urban Farming”
Section 59-3.2.10.	“Winery”
Section 59-3.2.12.	“Temporary Agricultural Uses”
DIVISION 59-3.3.	“RESIDENTIAL USES”

Section 59-3.3.1.	“Household Living”
Section 59-3.3.2.	“Group Living”
DIVISION 59-3.4.	“CIVIC AND INSTITUTIONAL USES”
Section 59-3.4.2.	“Charitable, Philanthropic Institution”
DIVISION 59-3.5.	“COMMERCIAL USES”
Section 59-3.5.7.	“Medical and Dental”
Section 59-3.5.8.	“Office and Professional”
Section 59-3.5.10.	“Recreation and Entertainment”
Section 59-3.5.11.	“Retail Sales and Service”
Section 59-3.5.14.	“Accessory Commercial Uses”
DIVISION 59-3.6.	“INDUSTRIAL USES”
Section 59-3.6.5.	“Mining, Excavation”
Section 59-3.6.8.	“Warehouse”
DIVISION 59-3.7.	“MISCELLANEOUS USES”
Section 59-3.7.2.	“Solar Collection Systems”
DIVISION 59-4.1.	“RULES FOR ALL ZONES”
Section 59-4.1.4.	“Building Types Allowed by Zone in the Agricultural, Rural Residential, and Residential Zones”
Section 59-4.1.7.	“Measurement and Exceptions”
Section 59-4.1.8.	“Compatibility Requirements”
DIVISION 59-4.2.	“Agricultural Zones”
Section 59-4.2.1.	“Agricultural Reserve Zone (AR) ”
DIVISION 59-4.4.	“RESIDENTIAL ZONES”
Section 59-4.4.1.	“Standard Method Development”
Section 59-4.4.2.	“Optional Method Development”
Section 59-4.4.7.	“Residential – 200 Zone (R-200)”
Section 59-4.4.8.	“Residential – 90 Zone (R-90)”
Section 59-4.4.9.	“Residential – 60 Zone (R-60)”
DIVISION 59-4.5.	“COMMERCIAL/RESIDENTIAL ZONES”
Section 59-4.5.2.	“Density and Height Allocation”
Section 59-4.5.3.	“Standard Method Development”
Section 59-4.5.4.	“Optional Method Development”
DIVISION 59-4.6.	“EMPLOYMENT ZONES”
Section 59-4.6.2.	“Density and Height Allocation”
Section 59-4.6.3.	“Standard Method Development”
Section 59-4.6.4.	“Optional Method Development”
DIVISION 59-4.7.	“Optional Method Public Benefits”
Section 59-4.7.3.	“Public Benefit Descriptions and Criteria”
DIVISION 59-4.8.	“INDUSTRIAL ZONES”
Section 59-4.8.2.	“Density and Height Allocation”
DIVISION 59-4.9.	“OVERLAY ZONES”
Section 59-4.9.4. to Section 59-4.9.18.	
DIVISION 59-5.1.	“IN GENERAL”
Section 59-5.1.3.	“Applicability”
DIVISION 59-6.2.	“PARKING, QUEUING, AND LOADING”
Section 59-6.2.3.	“Calculation of Required Parking”

Section 59-6.2.5.	“Vehicle Parking Design Standards”
DIVISION 59-6.4.	“GENERAL LANDSCAPING AND OUTDOOR LIGHTING”
Section 59-6.4.3.	“General Landscaping Requirements”
DIVISION 59-7.2.	“DISTRICT COUNCIL APPROVALS”
Section 59-7.2.1.	“Local Map Amendment”
DIVISION 59-7.3.	“REGULATORY APPROVALS”
Section 59-7.3.1.	“Conditional Use”
Section 59-7.3.2.	“Variance”
Section 59-7.3.3.	“Sketch Plan”
Section 59-7.3.4.	“Site Plan”
DIVISION 59-7.4.	“ADMINISTRATIVE APPROVALS”
Section 59-7.4.1.	“Building Permit”
Section 59-7.4.4.	“Sign Variance”
DIVISION 59-7.6.	“SPECIAL PROVISIONS”
Section 59-7.6.1.	“Board of Appeals”
DIVISION 59-7.7.	“EXEMPTIONS AND NONCONFORMITIES”
Section 59-7.7.1.	“Exemptions”
Section 59-7.7.2.	“Nonconforming Use”
DIVISION 59-8.1.	“IN GENERAL”
Section 59-8.1.2.	“Modification of Zones”
DIVISION 59-8.3.	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-8.3.6.	“Planned Cultural Center Zone”

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 that text 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

Sec. 1. TABLE OF CONTENTS is amended as follows:

Table of Contents

Article 59-4. Development Standards for Euclidean Zones

* * *

DIVISION 4.9. OVERLAY ZONES

SECTION 4.9.1. IN GENERAL

SECTION 4.9.2. BURTONSVILLE EMPLOYMENT AREA (BEA) OVERLAY ZONE

SECTION 4.9.3. CHEVY CHASE NEIGHBORHOOD RETAIL (CCNR) OVERLAY ZONE

SECTION 4.9.4. CLARKSBURG EAST ENVIRONMENTAL (CEE) OVERLAY ZONE

SECTION 4.9.5. CLARKSBURG WEST ENVIRONMENTAL (CWE) OVERLAY ZONE

SECTION [4.9.4] 4.9.6. COMMUNITY-SERVING RETAIL (CSR) OVERLAY ZONE

SECTION [4.9.5] 4.9.7. FENTON VILLAGE (FV) OVERLAY ZONE

SECTION [4.9.6] 4.9.8. GARRETT PARK (GP) OVERLAY ZONE

SECTION [4.9.7] 4.9.9. GERMANTOWN TRANSIT MIXED USE (GTMU) OVERLAY
ZONE

SECTION [4.9.8] 4.9.10. REGIONAL SHOPPING CENTER (RSC) OVERLAY ZONE

SECTION [4.9.9] 4.9.11. RIPLEY/SOUTH SILVER SPRING (RSS) OVERLAY ZONE

SECTION [4.9.10] 4.9.12. RURAL VILLAGE CENTER (RVC) OVERLAY ZONE

SECTION [4.9.11] 4.9.13. SANDY SPRING/ASHTON RURAL VILLAGE (SSA) OVERLAY
ZONE

SECTION [4.9.12] 4.9.14. TAKOMA PARK/EAST SILVER SPRING COMMERCIAL
REVITALIZATION (TPESS) OVERLAY ZONE

SECTION [4.9.13] 4.9.15. TRANSFERABLE DEVELOPMENT RIGHTS (TDR) OVERLAY
ZONE

SECTION [4.9.14] 4.9.16. TWINBROOK (TB) OVERLAY ZONE

SECTION [4.9.15] 4.9.17. UPPER PAINT BRANCH (UPB) OVERLAY ZONE

SECTION [4.9.16] 4.9.18. UPPER ROCK CREEK (URC) OVERLAY ZONE

* * *

Sec. 2. DIVISION 59-1.4 is amended as follows:

Division 59-1.4. Defined Terms

Section 59-1.4.1. Rules of Interpretation

The following rules of interpretation apply to this Chapter.

* * *

L. Use of “Section”

In this Chapter, [[where the word]] “Section” [[precedes a reference to a subsection, it may]] means section or subsection, as the context indicates [[may mean the subsection referenced]].

Section 59-1.4.2. Specific Terms and Phrases Defined

* * *

Coverage: See Section [4.1.7.B.5] 4.1.7.B.4

* * *

Gross Floor Area (GFA): The sum of the gross horizontal areas of all floors of all buildings on a tract, measured from exterior faces of exterior walls and from the center line of walls separating buildings. Gross floor area includes:

1. basements;
2. elevator shafts and stairwells at each floor;
3. floor space used for mechanical equipment with structural headroom of 6 feet, 6 inches or more, except as exempted in the LSC and Industrial zones;
4. floor space in an attic with structural headroom of 6 feet, 6 inches or more (regardless of whether a floor has been installed); and
5. interior balconies and mezzanines.

Gross floor area does not include:

1. mechanical equipment on rooftops;
2. cellars;
3. unenclosed steps, balconies, and porches;
4. [structured] parking;
5. floor area for publicly owned or operated uses or arts and entertainment uses provided as a public benefit under the optional method of development;
- [6. floor area for an historic resource recommended in the master plan to be preserved and reused, which does not occupy more than 10% of the gross floor area;]
- [7] 6. interior balconies and mezzanines for common, non-leasable area in a regional shopping center; and
- [8] 7. in the LSC and Industrial zones, floor space used for mechanical equipment.

* * *

Impervious Surface: Any [covering] surface that prevents or significantly impedes the infiltration of water into the underlying soil, including any structure, building, patio, [deck,] sidewalk, compacted gravel, pavement, asphalt, concrete, stone, brick, tile, swimming pool, or artificial turf. Impervious surface also includes any area used by or for motor vehicles or heavy commercial equipment regardless of surface type or material, any road, [road shoulder,] driveway, or parking area.

* * *

Permeable Area: Any surface that allows the infiltration of water into the underlying soil. Permeable area does not include any structure, building, patio, [deck,] sidewalk, compacted gravel, pavement, asphalt, concrete, stone, brick, tile, swimming pool, artificial turf, or any area used by or for motor vehicles or heavy commercial equipment, regardless of surface type or material, including any road, [road shoulder,] driveway, or parking area.

* * *

Road, [Residential] Primary Residential: See Chapter 49.

* * *

Sec. 3. DIVISION 59-2.1 is amended as follows:

Division 59-2.1. Zones Established

* * *

Section 2.1.3. Establishment of Zones

* * *

G. Overlay Zones

* * *

1. There are [15] 17 Overlay zone classifications:

- a. Burtonsville Employment Area (BEA),
- b. Chevy Chase Neighborhood Retail (CCNR),
- c. Clarksburg East Environmental (CEE),
- d. Clarksburg West Environmental (CWE),
- [c] e. Community-serving Retail (CSR),
- [d] f. Fenton Village (FV),
- [e] g. Garrett Park (GP),
- [f] h. Germantown Transit Mixed Use (GTMU),

- [g] i. Regional Shopping Center (RSC),
- [h] j. Ripley/South Silver Spring (RSS),
- [i] k. Rural Village Center (RVC),
- [j] l. Sandy Spring/Ashton Rural Village (SSA),
- [k] m. Takoma Park/East Silver Spring Commercial Revitalization
(TPESS)
- [l] n. Transferable Development Rights (TDR)
- [m] o. Twinbrook (TB),
- [n] p. Upper Paint Branch (UPB), and
- [o] q. Upper Rock Creek (URC).

- 2. Building types, uses, density, height, and other standards and requirements may be modified by the Overlay zones under Section 4.9.2 through Section [4.9.16] 4.9.18.

* * *

Sec 4. DIVISION 59-2.2 is amended as follows:

Division 2.2. Zoning Map

Section 2.2.1. Zoning Maps

A. Adoption of Zoning Map

* * *

- 4. The Planning Director must file an offline digital copy of the digital map and must provide a digital copy of the District Council approved map to the Director of DPS, the Hearing Examiner, the clerk of the Circuit Court, and the Executive Director of the Board of Appeals on October 30, 2014.

* * *

C. Changes to be Recorded on the Digital Zoning Layer

* * *

3. When the digital zoning layer is changed, the Planning Director must file an offline digital copy of the digital map and must provide a new digital copy of the map to the Director of DPS, the Hearing Examiner, the clerk of the Circuit Court, and the Executive Director of the Board of Appeals within 10 days of the District Council's action.

* * *

F. Zoning on October 29, 2014

A property's zoning on October 29, 2014 may be determined by the October 29, 2014 digital zoning map, which will be permanently kept and maintained by the Planning Department on their website.

* * *

Sec. 5. DIVISION 59-3.1 is amended as follows:**Division 59-3.1. Use Table**

* * *

Section 59-3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

* * *

USE OR USE GROUP	Definitions and Standards	Ag AR	Rural Residential R RC RNC		Residential												Commercial / Residential CRN CRT CR			Employment GR NR LSC EOF				Industrial IL IM IH					
					Residential Detached						Residential Townhouse			Residential Multi-Unit															
					RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10												
COMMERCIAL																													
RETAIL SALES AND SERVICE	3.5.11																												

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential												Commercial / Residential			Employment				Industrial			
						Residential Detached								Residential Townhouse			Residential Multi-Unit											
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LS	CE	OF	IL
Retail/Service Establishment (Up to 5,000 SF)	3.5.11.B																L	P	P	P	P	P	L	L		[P] L	[P] L	[P] L

147 * * *

148 **Sec. 6. DIVISION 59-3.2 is amended as follows:**

149 **Division 59-3.2. Agricultural Uses**

150 * * *

151 **Section 59-3.2.3. Community Garden**

152 * * *

153 **B. Use Standards**

154 Where a Community Garden is allowed as a limited use, it must satisfy the
155 following standards:

156 1. The [[total]] gross floor area of all structures, except greenhouses, is
157 limited to 10% of the lot or parcel used for the Community Garden.

158 * * *

159 **Section 59-3.2.9. Urban Farming**

160 * * *

161 **B. Use Standards**

162 * * *

163 4. The maximum [[total]] gross floor area of all structures, including
164 aquaculture tanks or pools but excluding greenhouses, is 10% of the lot or
165 parcel on any urban farm.

166 * * *

167 **Section 59-3.2.10. Winery**

168 * * *

169 **B. Use Standards**

170 * * *

171 2. Where a Winery is allowed as a conditional use, it may be permitted
172 by the Hearing Examiner under Section 7.3.1, Conditional Use, and
173 the following standards:

174 * * *

175 c. The lot must front on and have access to a road built to primary
176 residential or higher standards.

177 * * *

178 **Section 59-3.2.12. Temporary Agricultural Uses**

179 * * *

180 **B. Seasonal Outdoor Sales**

181 * * *

182 **2. Use Standards**

183 Where Seasonal Outdoor Sales is allowed as a limited use, it must
184 satisfy the following standards:

185 * * *

186 e. In the Agricultural, Rural Residential, Residential, LSC, and
187 EOF zones:

188 i. The property must be vacant or used for nonresidential
189 purposes.

190 ii. Except where Seasonal Outdoor Sales occur on the site of
191 a Religious Assembly use, the site must front on and

have access to a road built to primary residential or
higher standards.

Sec. 7. DIVISION 59-3.3 is amended as follows:

Division 59-3.3. Residential Uses

Section 59-3.3.1. Household Living

B. Single-Unit Living

2. Use Standards

Where Single-Unit Living is allowed as a limited use, it must satisfy
the following standards:

- a. In the GR, NR, and EOF zones, the gross floor area of all
Household Living uses [[on a site]] is limited to 30% of the
[[total]] gross floor area on the subject site.

C. Two-Unit Living

2. Use Standards

- d. In the GR, NR, and EOF zones, the gross floor area of all
Household Living uses [[on a site]] is limited to 30% of the
[[total]] gross floor area on the subject site.

D. Townhouse Living

2. Use Standards

219 * * *

220 d. In the GR, NR, and EOF zones, the gross floor area of all
 221 Household Living uses [[on a site]] is limited to 30% of the
 222 [[total]] gross floor area on the subject site.

223 * * *

224 **E. Multi-Unit Living**

225 * * *

226 **2. Use Standards**

227 Where Multi-Unit Living is allowed as a limited use, it must satisfy
 228 the following standards:

229 b. In the GR, NR, and EOF zones, the gross floor area of all
 230 Household Living uses [[on a site]] is limited to 30% of the
 231 [[total]] gross floor area on the subject site.

232 * * *

233 **Section 59-3.3.2. Group Living**

234 * * *

235 **E. Residential Care Facility**

236 * * *

237 **2. Use Standards**

238 * * *

239 c. Residential Care Facility (Over 16 Persons)

240 * * *

241 ii. Where a Residential Care Facility (Over 16 Persons) is
 242 allowed as a conditional use, it may be permitted by the
 243 Hearing Examiner under Section 7.3.1, Conditional Use,
 244 and the following standards:

245 * * *

246 (f) In the R-10 and R-20 zones, the development
 247 standards of the apartment building type apply,
 248 except as modified by Section 3.3.2.E.2.c.

249 [(f)] (g) Independent dwelling units must satisfy the
 250 MPDU provisions of Chapter 25 (Section 25.A-5).

251 [(g)] (h) In a continuing care retirement community,
 252 occupancy of any independent dwelling unit is
 253 restricted to persons 62 years of age or older, with
 254 the following exceptions:

255 * * *

256 [(h)] (i) Height, density, coverage, and parking
 257 standards must be compatible with surrounding
 258 uses [and]; the Hearing Examiner may modify any
 259 standards to maximize the compatibility of the
 260 building with the residential character of the
 261 surrounding neighborhood.

262 [(i)] (j) In the AR zone, this use may be prohibited
 263 under Section 3.1.5, Transferable Development
 264 Rights.

265 * * *

266 **Sec. 8. DIVISION 59-3.4 is amended as follows:**

267 **Division 59-3.4. Civic and Institutional Uses**

268 * * *

269 **Section 59-3.4.2. Charitable, Philanthropic Institution**

270 * * *

B. Use Standards

Where a Charitable, Philanthropic Institution is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

3. In the AR, R, RC, and RNC:

* * *

- b. The site fronts on and has direct access to a public road built to arterial or higher road standards. Frontage on and access to an arterial or higher standard is not required where the Hearing Examiner finds that road access by a primary residential or secondary residential road will be safe and adequate for the anticipated traffic to be generated.

* * *

7. In the RE-2, RE-2C, RE-1, R-200, R-90, and R-60 zones:

- a. The site fronts on and has direct access to a road built to primary residential road or higher standards. Access to a corner lot may be from an abutting primary street, constructed to primary residential standards, if the Hearing Examiner finds this access to be appropriate and not detrimental to existing residential uses on that primary residential street.

* * *

Sec. 9. DIVISION 59-3.5 is amended as follows:

Division 59-3.5. Commercial Uses

* * *

Section 59-3.5.7. Medical and Dental

A. Clinic (Up to 4 Medical Practitioners)

* * *

2. Use Standards

Where a Clinic (Up to 4 Medical Practitioners) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

- c. The site must front on and have direct access to a business district street or higher classification; however, access to a corner lot may be from an abutting [primary] street built to primary residential standards, if the Hearing Examiner finds the access to be appropriate and not detrimental to existing residential uses on the primary residential street.

* * *

Section 59-3.5.8. Office and Professional

A. Life Sciences

1. Defined

Life Sciences means the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. Life Sciences also includes a Hospital and uses accessory to a Hospital, other than medical/dental clinic.

* * *

B. Office

* * *

2. Use Standards

a. Where an Office is allowed as a limited use, it must satisfy the following standards:

i. In the LSC zone, an Office for a company that is not principally engaged in health services, research and development, or high technology industrial activities is limited to 40% of the [[total]] gross floor area on the subject site.

* * *

Section 59-3.5.10. Recreation and Entertainment

* * *

E. Health Clubs and Facilities

* * *

2. Use Standards

* * *

b. In the NR zone, the maximum size is [14,500 square feet of gross floor area] 40% of the floor area of the gross floor area in retail use. The gross floor area in retail use must be calculated after any reconstruction or enlargement.

* * *

G. Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)

* * *

2. Use Standard

Where a Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use and the following standards:

a. In the RE-2C zone:

* * *

v. The site must have direct access to a public road that is built to primary residential or higher standards.

b. In the R-200 zone:

* * *

v. The site must have direct access to a public road that is built to primary residential or higher standards.

* * *

H. Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)

* * *

2. Use Standards

Where a Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

a. In the RE-2C zone:

* * *

- v. The site must have direct access to a public road that is built to primary residential or higher standards.

Section 59-3.5.11 Retail Sales and Service

B. Retail/Service Establishment

1. Defined

2. Use Standards

- a. Where a Retail/Service Establishment is allowed as a limited use, it must satisfy the following standards:

- iv. In the CRT, CR, GR, and NR zones, where a development is located within ½ mile of a Metro station entrance and has a minimum 50,000 square foot footprint or a minimum of 100,000 square feet of all gross floor area designed for a single user it must satisfy the following standards:

- (h) For a project greater than 500,000 square feet of [[total]] gross floor area, the Planning Board may approve a development that does not satisfy Section 3.5.11.B.2.a.iv.(a) through Section 3.5.11.B.2.a.iv.(f) if it finds that the project, through an alternative design, results in a more appropriate configuration of the site.

* * *

- v. In the EOF zone, Retail/Service Establishment is limited to a maximum of 30% of the [[total]] gross floor area [of development approved under one application] on the subject site.

* * *

Section 59-3.5.14. Accessory Commercial Uses

* * *

D. Commercial Kitchen

* * *

2. Use Standards

Where a Commercial Kitchen is allowed as a limited use, it must satisfy the following standards:

- a. The Commercial Kitchen must occupy less than 5% of the floor area of [the building in] all buildings on the tract of land under common ownership on which it is located.

* * *

Sec. 10. DIVISION 59-3.6 is amended as follows:

Division 59-3.6. Industrial Uses

* * *

Section 59-3.6.5. Mining, Excavation

A. Defined

Mining, Excavation means any use that extracts rocks, minerals, and other natural resources from [[land]] the ground. Mining, Excavation includes

borrow pit [and], gravel mining, and all other methods [[to gather]] of
extracting natural resources.

* * *

B. Use Standards

* * *

2. Where Mining, Excavation is allowed as a conditional use, it may be
 allowed by the Hearing Examiner under Section 7.3.1, Conditional
 Use, if the use is recommended for the site by the applicable master
plan, and the following standards:

* * *

Section 59-3.6.8. Warehouse

* * *

E. Storage Facility

* * *

2. Use Standards

Where a Storage Facility is allowed as a limited use, it must satisfy
 the following standards:

- a. Outdoor storage is prohibited.
- b. In the CRT[,], and CR[, and EOF] zones, only a facility up to
 10,000 square feet of gross floor area is allowed.
- c. In the EOF zone, only a facility up to 10,000 square feet of
gross floor area is allowed; however, if the facility was legally
existing on October 29, 2014, the following are allowed:
 - i. a facility greater than 10,000 square feet of gross floor
area; and
 - ii. outdoor storage.

* * *

Sec. 11. DIVISION 59-3.7 is amended as follows:

Division 59-3.7. Miscellaneous Uses

* * *

Section 59-3.7.2. Solar Collection Systems

* * *

B. Use Standards

Where a Solar Collection System is allowed as a limited use, it must satisfy the following standards:

* * *

2. [In the Commercial/Residential, Employment, and Industrial zones, a roof-mounted system may exceed the maximum height by 8 feet under Section 4.1.7.C.3.] Solar panels may encroach into a setback as allowed under Section 4.1.7.B.5.C and may exceed the maximum height as allowed under Section 4.1.7.C.3.b.

* * *

Sec. 12 . DIVISION 59-4.1 is amended as follows:

Division 59-4.1. Rules for All Zones

* * *

Section 4.1.4. Building Types Allowed by Zone in the Agricultural, Rural Residential, and Residential Zones

* * *

Key: * * *

TDR = Allowed in a TDR Overlay zone as part of optional method TDR Development under Section [4.9.13.B] 4.9.15.B

* * *

Section 59-4.1.7. Measurement and Exceptions

* * *

B. Placement

* * *

5. Setback Encroachments

Any building or structure must be located at or behind the required building setback line, except:

* * *

c. Solar Panels

A solar panel may project a maximum of 3 feet into any side street or side setback and may project a maximum of 9 feet into any front or rear setback.

[c] d. Other Encroachments

* * *

C. Height

* * *

3. Height Encroachments

Any height encroachment not specifically listed is prohibited.

* * *

b. The maximum height does not apply to solar panels and any roof structure listed in Section 4.1.7.C.3.a, except that in the TLD, TMD, THD, and R-30 zones, an air conditioning unit or similar structure or mechanical appurtenance may exceed the established height limit by a maximum of 8 feet.

* * *

Section 4.1.8. Compatibility Requirements

A. Setback Compatibility

1. Applicability

a. Section 4.1.8.A applies to a property in a Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone that:

[a] i. abuts a property in an Agricultural, Rural Residential, or Residential zone that is vacant or improved with an agricultural or residential use; and

[b] ii. proposes development of an apartment, multi use, or general building type.

b. On a property in a Residential Multi-Unit, Commercial/Residential, Employment, or Industrial zone [[Where]] for which Section 4.1.8.A.1.a does not apply, the minimum side and rear setback is equal to the setback required for “Side setback, abutting all other zones” and “Rear setback, abutting all other zones” in the applicable standard method development standards tables in Division 4.4 through Division 4.8.

2. Setback Required along Side or Rear Lot Line

a. The minimum side and rear setbacks [[equal either 1.5 times the minimum side and rear setback required for a detached house on the abutting property or the minimum side and rear setback required for a detached house on the abutting property]] are as follows:

* * *

B. Height Compatibility

1. Applicability

Section 4.1.8.B applies to a property that:

- a. abuts or confronts a property in an Agricultural, Rural Residential, [[or]] Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use; and
- b. proposes any building type in a Commercial/Residential, Employment, Industrial, or Floating zone.

2. Height Restrictions

- a. When the subject property abuts a property in an Agricultural, Rural Residential, [[or]] Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the abutting zone at the setback line determined by Section 4.1.8.A.
- b. When the subject property confronts a property in an Agricultural, Rural Residential, [[or]] Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use, any structure may not protrude beyond a 45 degree angular plane projecting over the subject property, measured from a height equal to the height allowed for a detached house in the abutting zone at the setback line determined under Article 59-4.
- [c. If not applicable under Section 4.1.8.B.1, the maximum height in the zone is not modified by Section 4.1.8.B.2.]

* * *

Sec. 13. DIVISION 59-4.2 is amended as follows:

Division 59-4.2. Agricultural Zones

Section 4.2.1. Agricultural Reserve Zone (AR)

* * *

D. Special Requirements for the Transfer of Density

1. In General

Under Section ~~[4.9.13.B]~~ 4.9.15.B and in conformance with a general plan, master plan, or functional master plan, residential density may be transferred at the rate of one development right per 5 acres minus one development right for each existing dwelling unit, from the AR zone to a ~~[[duly designated]]~~ TDR Overlay zone.

* * *

2. Recording of Development Right

a. A development right may be created, transferred, and extinguished only by an easement and appropriate release, in a recordable form approved by the Planning Board. Any easement must limit the future construction of detached houses on land zoned AR to the total number of development rights allowed by zoning minus all development rights recorded prior to October 30, 2014 all development rights previously transferred under Section 4.2.1.D.1 and Section ~~[4.9.13.B]~~ 4.9.15.B the number of development rights to be transferred by the instant transaction, and the number of existing detached houses on the property.

* * *

Sec. 14. DIVISION 59-4.4 is amended as follows:

Division 59-4.4. Residential Zones

Section 59-4.4.1. Standard Method Development

A. Established Building Line

* * *

3. The established building line applies if at least 2 buildings described in Section 4.4.1.A.2 and more than 50% of the buildings described in Section 4.4.1.A.2 are set back more than the minimum required by the zone. The established building line is equal to the average front setback of all the buildings described in Section 4.4.1.A.2, excluding those buildings:

- a. in the R-200 zone that are or were ever served by well or septic;
- b. on the subject property;
- c. in a different zone than the subject property;
- d. on a through lot that fronts on a street different than the subject property;
- e. located on any pipestem, wedge-shaped, or flag-shaped lot; or
- f. approved by permit for demolition, except if a building permit was also approved with the same setback.

4. [[Instead of using the established building line,]] If the established building line applies, the applicant may choose to use as the front setback:

- a. the established building line;
- b. [[to calculate as a front setback]] the average front setback of the [[two]] 2 abutting lots~~[[,]]~~; or
- c. the front setback of the existing detached house that was established before demolition, excluding any approved variance, if the existing building meets the minimum front setback of the zone.

5. All calculations must be based on a survey that is signed and sealed by a Maryland licensed engineer or surveyor.

[[4.]] 6. If the established building line does not apply, the building must satisfy the minimum front setback of the zone.

[[5.]] 7. [[Corner lots have two]] A corner lot has 2 front setbacks and must satisfy established building line standards on both streets. At the option of the applicant, a corner lot may use front setbacks of the abutting buildings on both sides of the corner lot.

* * *

Section 59-4.4.2. Optional Method Development

A. Optional Method Development

* * *

4. Requirements for MPDU Projects with 20 or Fewer Dwelling Units

In a Residential Detached zone, an applicant who voluntarily provides at least 12.5% MPDUs in a development with 20 or fewer dwelling units may use the optional method MPDU Development standards, except that:

a. the minimum usable area requirement does not apply;

[[a.]] b. a perimeter lot that is adjacent, abutting, or confronting one or more existing detached house dwellings must satisfy the dimensional standards under the standard method of development;

[[b.]] c. the MPDU buildings must be similar in size and height to the market rate dwellings in that development; and

[[c.]] d. the maximum percentage of townhouses is 40% of the total residential dwellings in that development, unless a development in which up to 100% of the units consist of townhouses is approved by the

Planning Board upon a finding that the increased use of townhouses is more desirable for environmental reasons and the increased use of townhouses is compatible with adjacent development.

Section 59-4.4.7. Residential - 200 Zone (R-200)

* * *

B. [RE-200] R-200 Zone, Standard Method Development Standards

* * *

C. [RE-200] R-200 Zone, Optional Method Development Standards

* * *

Section 59-4.4.8. Residential - 90 Zone (R-90)

* * *

B. [RE-90] R-90 Zone, Standard Method Development Standards

* * *

C. [RE-90] R-90 Zone, Optional Method Development Standards

* * *

Section 59-4.4.9. Residential – 60 Zone (R-60)

* * *

C. [RE-60] R-60 Zone, Optional Method Development Standards

* * *

Sec. 15. DIVISION 59-4.5 is amended as follows:

Division 59-4.5. Commercial/Residential Zones

* * *

Section 59-4.5.2. Density and Height Allocation

A. Density and Height Limits

* * *

3. The following limits apply unless additional total FAR, residential FAR, or height is allowed under Section 4.5.2.C and Section 4.7.3.D.6.c:

Zone	Total FAR (max)	C FAR (max)	R FAR (max)	Height (max)
CRN	0.25 to 1.5	0.00 to 1.5	0.00 to 1.5	25' to 65'
CRT	[[0.5]] 0.25 to 4.0	0.25 to 3.5	0.25 to 3.5	35' to 150'
CR	0.5 to 8.0	0.25 to 7.5	0.25 to 7.5	35' to 300'

B. FAR Averaging

* * *

4. If the Planning Board approves a site plan for a development project using FAR averaging [[that covers]] across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the site plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan for such a project, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 59-4.5.3. Standard Method Development

* * *

C. CRN, CRT, and CR Zones, Standard Method Development Standards

* * *

2. Lot and Density							
Lot (min)							
Lot area	1,000 SF	1,000 SF	500 SF	800 SF	n/a	n/a	n/a
Lot width at front building line	25'	25'	12.5'	12'	n/a	n/a	n/a
Lot width at front lot line	10'	10'	10'	n/a	n/a	n/a	n/a
Density (max)							
CRN Density, FAR	mapped						
CRT Density, FAR	The lesser of: mapped FAR or the greater of 10,000 SF or 1.0 FAR						
CR Density, FAR	The lesser of: mapped FAR or the greater of 10,000 SF or 0.5 FAR						
Specification for Density							

2. Lot and Density							
a.	[An] In the CR zone, a historic resource recommended in the applicable master plan to be preserved and reused, which does not occupy more than 10% of the gross floor area, is excluded from the FAR calculation.						
Coverage (max)							
Lot	90%	90%	90%	90%	n/a	n/a	n/a

* * *

Section 59-4.5.4. Optional Method Development

* * *

B. Development Standards

2. Lot, Density, and Height

- a. Lot standards for detached house, duplex, and townhouse building types are determined by the site plan approval process under Section 7.3.4.
- b. The maximum total, nonresidential, and residential FARs and the maximum height are established by the mapped zone unless increased under Section 4.5.2.C and Section 4.7.3.D.6.c.
- c. In the CR zone, a designated historic resource [[recommended in the applicable master plan to be preserved and reused, which]] that does not occupy more than 10% of the gross floor area[.]] is excluded from the FAR calculation.

* * *

Sec. 16. DIVISION 59-4.6 is amended as follows:

Division 59-4.6. Employment Zones

* * *

Section 59-4.6.2. Density and Height Allocation

* * *

B. FAR Averaging

* * *

4. If the Planning Board approves a site plan for a development project using FAR averaging [[that covers]] across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the site plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan for such a project, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

C. Special Provisions for “T” Zones Translated from Certain Zones Existing Before October 30, 2014

* * *

2. For Employment-zoned properties designated with a T, the following provisions apply:

* * *

- b. In the LSC zone, to allow construction of all workforce housing units on-site, residential density may be increased by a maximum of 5% and building height may be increased up to a maximum building height of 200 feet. Density and building height may only be increased to the extent required for the number of workforce housing units that are constructed.
- c. In any case, to achieve a density bonus under Section 4.6.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.

[c] d. Any density increase under Section 4.6.2.C requires site plan
Approval under Section 7.3.4.

Section 59-4.6.3. Standard Method Development

C. GR and NR Zones, Standard Method Development Standards

2. Lot and Density

Specification for Density

a. Gross floor area of all Household Living uses [[on a site]] is limited to
30% of the [[total]] gross floor area on the subject site.

D. LSC Zone, Standard Method Development Standards

2. Lot and Density

Specification for Density

b. For a tract larger than 5 acres:

A) A minimum of 40% of the gross floor area proposed must be for Life
Sciences and related uses. The proposed gross floor area used for the
purpose of calculating the minimum percentage of Life Sciences uses

excludes[: (1) a Hospital and the Hospital’s accessory uses; and (2)]
educational facilities.

* * *

E. EOF Zone, Standard Method Development Standards

* * *

2. Lot and Density

* * *

Specification for Density

* * *

- a.** Gross floor area of all Household Living uses [[on a site]] is limited to
30% of the [[total]] gross floor area on the subject site.

* * *

Section 59-4.6.4. Optional Method Development

* * *

B. Development Standards

* * *

2. Lot, Density, and Height

* * *

- c.** In the GR, NR, and EOF zones, gross floor area of all
Household Living uses on a site is limited to 30% of the
[[total]] gross floor area on the subject site.

- d.** In the LSC zone:

- i.** For tracts larger than 5 acres:

(a) A minimum of 40% of gross floor area proposed must be for Life Sciences and related uses. The proposed gross floor area used for the purpose of calculating the minimum percentage of Life Sciences uses excludes[: (1) a Hospital and the Hospital's accessory uses; and (2)] educational facilities.

* * *

Sec. 17. DIVISION 59-4.7 is amended as follows:

Division 59-4.7. Optional Method Public Benefits

* * *

Section 4.7.3. Public Benefit Descriptions and Criteria

* * *

F. Protection and Enhancement of the Natural Environment

* * *

6. Transferable Development Right: For a property that is in a TDR Overlay zone, up to 20 points for the purchase of TDRs under Section [4.9.13.B] 4.9.15.B. Every TDR purchased is worth 1 point.

* * *

Sec. 18. DIVISION 59-4.8 is amended as follows:

Division 59-4.8. Industrial Zones

* * *

Section 59-4.8.2. Density and Height Allocation

* * *

B. FAR Averaging

* * *

4. If the Planning Board approves a site plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the site plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan for such a project, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

Sec. 19. DIVISION 59-4.9 is amended as follows:

Division 59-4.9. Overlay Zones

* * *

Section 59-4.9.4. Clarksburg East Environmental (CEE) Overlay Zone

A. Purpose

The purpose of the CEE Overlay zone is to:

1. Protect the water quantity, water quality, habitat, and biological diversity of the Ten Mile Creek watershed and its tributaries.
2. Regulate the amount and location of impervious surfaces to maintain levels of groundwater, control erosion and water temperature, and retain as many of the functions provided by natural land as possible.
3. Regulate development that could adversely affect this high quality stream system.
4. Implement the recommendations of the 2014 Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area.

B. Exemptions

1. Any impervious surface lawfully existing under a building permit or sediment control permit issued before August 4, 2014 that exceeds the applicable impervious surface restriction may continue or be reconstructed with the same or less impervious surface area under the development standards in effect when the building permit or sediment control permit was issued.
2. An impervious surface resulting from an addition to an existing detached house or an accessory structure to a detached house, not approved as part of a site plan under Section 7.3.4, is exempt from this Overlay zone's impervious surface restriction.
3. On any lot or parcel with an area less than 2 acres as of January 1, 2014, any development is exempt from this Overlay zone's impervious surface restriction.
4. Impervious surface for any publicly funded road or bikeway identified by the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area is exempt from this Overlay zone's impervious surface restriction.

C. Land Uses

The land uses and use standards of the underlying zone apply, except that if the underlying zone is R-90, Two-Unit Living, Townhouse Living, and Multi-Unit Living are also permitted.

D. Development Standards

1. Except as allowed under Section 4.9.4.B, the maximum total impervious surface area for any development after August 4, 2014

[[must be a maximum of]] is 15% of the total area under application for development.

2. All environmental buffer areas or natural resources recommended for protection in the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area must be regulated as environmentally sensitive areas, just as other areas identified environmentally sensitive in law, regulations, or in the Planning Board's Guidelines for the Environmental Management of Development, as amended.

3. All environmentally sensitive areas must be included in the required open space area.

4. The minimum area devoted to open space must be 80% of the total area under application for development. For the purpose of this Overlay zone, open space is defined as rural open space as described and managed under Section 6.3.4.A.2, Section 6.3.4.A.4.b, and Section 6.3.4.B.

5. If the underlying zone is R-90:

- a. the maximum density without MPDU bonus density is 3 dwelling units per acre;
- b. the maximum density with MPDU bonus density is 3.66 dwelling units per acre;
- c. any type of dwelling unit is permitted, up to the maximum number allowed;
- d. the maximum building height is:
 - i. 35 feet for a detached house;

ii. 50 feet for a duplex or townhouse; and

iii. 65 feet for an apartment building or any non-residential building; and

e. when site plan approval is required, the minimum lot area, lot dimensions, building coverage, and building setbacks of the R-90 zone do not apply. Such requirements are determined during the site plan approval process under Section 7.3.4. [[Any such requirements must be determined by the Planning Board during the site plan approval process.]]

E. Site Plan

1. Any development that must file a preliminary plan of subdivision under Chapter 50 requires approval of a site plan by the Planning Board under Section 7.3.4, unless excluded under Section 4.9.4.E.2.
2. A lot or parcel that is occupied by a detached house and that has not changed in size or shape since January 1, 2014 is excluded from the site plan approval requirement.

Section 59-4.9.5. Clarksburg West Environmental (CWE) Overlay Zone

A. Purpose

The purpose of the CWE Overlay zone is to:

1. Protect the water quantity, water quality, habitat, and biological diversity of the Ten Mile Creek watershed and its tributaries.
2. Regulate the amount and location of impervious surfaces to maintain levels of groundwater, control erosion and water temperature, and retain as many of the functions provided by natural land as possible.

3. Regulate development that could adversely affect this high quality stream system.
4. Implement the recommendations of the 2014 Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area.

B. Exemptions

1. Any impervious surface lawfully existing under a building permit or sediment control permit issued before August 4, 2014 that exceeds the applicable impervious surface restriction may continue or be reconstructed with the same or less impervious surface area under the development standards in effect when the building permit or sediment control permit was issued.
2. An impervious surface resulting from an addition to an existing detached house or an accessory structure to a detached house, not approved as part of a site plan under Section 7.3.4, is exempt from this Overlay zone's impervious surface restriction.
3. On any lot or parcel with an area less than 2 acres as of January 1, 2014, any development is exempt from this Overlay zone's impervious surface restriction.
4. Impervious surface for any publicly funded road or bikeway identified by the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area is exempt from this Overlay zone's impervious surface restriction.

C. Land Uses

The land uses and use standards of the underlying zone apply.

D. Development Standards

- 1.** Except for County owned land or land under a conservation easement granted to the benefit of the County and development exempted under Section 4.9.5.B, the maximum total impervious surface area for any development after August 4, 2014 [[must be a maximum of]] is 6% of the total area under application for development.
- 2.** County owned land or land under a conservation easement granted to the benefit of the County that is not managed as parkland by the Maryland-National Capital Park and Planning Commission may not add any impervious surface.
- 3.** [[Any number of lots may be of any size, without regard to varying lot]] Lot size requirements in the underlying zone do not apply.
- 4.** When site plan approval is required, the minimum lot area, lot dimensions, building coverage, and building setbacks of the underlying zone do not apply. Such requirements are determined during the site plan approval process under Section 7.3.4. [[Any such requirements must be determined by the Planning Board during the site plan approval process.]]
- 5.** All environmental buffer areas or natural resources recommended for protection in the Ten Mile Creek Area Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area must be regulated as environmentally sensitive areas, just as other areas identified environmentally sensitive in law, regulations, or in the Planning Board's Guidelines for the Environmental Management of Development, as amended.

6. All environmentally sensitive areas must be included in the required open space area.

7. The minimum area devoted to open space must be 80% of the total area under application for development. For the purpose of this Overlay zone, open space is defined as rural open space as described and managed under Section 6.3.4.A.2, Section 6.3.4.A.4.b, and Section 6.3.4.B.

E. Site Plan

1. Any development that must file a preliminary plan of subdivision under Chapter 50 requires approval of a site plan by the Planning Board under Section 7.3.4, unless excluded under Section 4.9.5.E.2 or Section 4.9.5.E.3.

2. A lot or parcel that is occupied by a detached house and that has not changed in size or shape since January 1, 2014 is excluded from the site plan approval requirement.

3. Any detached house that is served by a septic facility is excluded from the site plan approval requirement.

Section 59-[4.9.4] 4.9.6. Community-serving Retail (CSR) Overlay Zone

* * *

Section 59-[4.9.5] 4.9.7. Fenton Village (FV) Overlay Zone

* * *

C. Development Standards

1. Building Height

* * *

- b. Maximum building height is 60 feet along any street confronting any block that includes property in a Residential Detached zone and, when a building is allowed to be higher than 60 feet under Section [4.9.5.C.1.c] 4.9.7.C.1.c each additional foot in building height above 60 feet requires at least an additional one foot stepback from the front of the building along Fenton Street;

* * *

- e. For properties with frontage on both Wayne Avenue and Fenton Street, in spite of the height limitations in Section [4.9.5.C.1.b] 4.9.7.C.1.b through Section [4.9.5.C.1.d] 4.9.7.C.1.d, maximum building height may be increased by 15 feet for a building that includes residential uses or a mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan; however, any building using additional height must be set back from abutting Residentially zoned land no less than the setback required in the abutting Residential zone or the height of the building, whichever is greater.

- f. Building heights may be approved under the standards of Section [4.9.5.C.1] 4.9.7.C.1 without regard to the building height recommendations of the master plan.

* * *

Section 59-[4.9.6] 4.9.8. Garrett Park (GP) Overlay Zone

* * *

C. Land Uses

The land uses and use standards of the underlying zone are applicable unless the development standards in Section [4.9.6.D] 4.9.8.D are more restrictive, in which case, Section [4.9.6.D] 4.9.8.D must be followed.

Section 59-[4.9.7] 4.9.9. Germantown Transit Mixed Use (GTMU) Overlay Zone

Section 59-[4.9.8] 4.9.10. Regional Shopping Center (RSC) Overlay Zone

D. Site Plan

Site plan approval under Section 7.3.4 is required for any increase in building height under Section [4.9.8.C.1] 4.9.10.C.1.

E. Parking

2. Pedestrian Access

The major point of pedestrian access for an off-street parking facility that occupies contiguous land area integral to the regional shopping center property may extend more than 500 feet walking distance from an entrance to the center to satisfy the number of spaces required under Section [4.9.8.E.1.a] 4.9.10.E.1.a.

Section 59-[4.9.9] 4.9.11. Ripley/South Silver Spring (RSS) Overlay Zone

C. Development Standards

1. Building Height

* * *

- a. [The] For a property zoned CR and mapped at 200 feet, the Planning Board may approve a maximum building height of 200 feet only in [[any]] an [CR] optional method development project that provides ground floor retail. If no ground floor retail is provided the maximum building height is 145 feet. Any structure or device used to collect or radiate electromagnetic waves, including a satellite dish, must not be included in calculating building height under this paragraph.

* * *

4. In the CR zone, under the standard method of development the maximum FAR is 1.0 if approved by site plan under Section 7.3.4.

5. Under standard method development, the public open space requirement may be transferred to other properties within the Overlay zone if approved by a site plan under Section 7.3.4.

* * *

Section 59-[4.9.10] 4.9.12. Rural Village Center (RVC) Overlay Zone

* * *

C. Development Standards

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

* * *

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

1041 * * *

1042 iii. For any cumulative enlargement of a surface parking
1043 facility that is greater than 50% of the total parking area
1044 approved before November 4, 2002 the entire off-street
1045 parking facility must be brought into conformance with
1046 Section [4.9.10] 4.9.12.

1047 * * *

1048 **D. Site Plan**

1049 * * *

1050 2. Site plan approval is not required for a detached house exempt from
1051 subdivision or for a property that is exempt from platting requirements
1052 under Section 50-9(j).

1053

1054 **Section 59-[4.9.11] 4.9.13. Sandy Spring/Ashton Rural Village (SSA) Overlay**
1055 **Zone**

1056 * * *

1057 **Section 59-[4.9.12] 4.9.14. Takoma Park/East Silver Spring Commercial**
1058 **Revitalization (TPESS) Overlay Zone**

1059 * * *

1060 **B. Land Uses**

1061 1. [Multi-Unit Living is only allowed in a multi use building type unless
1062 this requirement is waived by the Planning Board.]
1063 Residential Uses

- 1064 a. In the CRT zone, residential density may be increased above
 1065 the number following the R on the zoning map, up to the
 1066 maximum total mapped density.
- 1067 b. In the NR zone, Household Living uses may exceed 30% of the
 1068 [[total]] gross floor area on the subject site up to the maximum
 1069 mapped density.
- 1070 c. Residential uses must be in a multi use building type with the
 1071 ground floor devoted to commercial uses, unless [[this
 1072 requirement is waived by]]the Planning Board waives this
 1073 requirement.
- 1074 2. In the CRT [zone] and NR zones, the following additional Recreation
 1075 and Entertainment Facility, Indoor (Capacity up to 1,000 Persons)
 1076 uses are permitted: bowling alley and theater.
- 1077 3. In the CRT [zone] and NR zones, the following uses, as allowed in the
 1078 underlying zone, are allowed in the Overlay zone only if the use does
 1079 not abut or confront land in a Residential Detached zone:
- 1080 a. Car Wash;
- 1081 b. Filling Station;
- 1082 c. Funeral Home, Undertaker;
- 1083 d. Light Vehicle Sales and Rental (Indoor);
- 1084 e. Light Vehicle Sales and Rental (Outdoor);
- 1085 f. Repair (Major); and
- 1086 g. Repair (Minor).
- 1087 4. In the NR zone, the following additional uses are permitted:
- 1088 a. Clinic (More than 4 Medical Practitioners);
- 1089 b. Cultural [[Institutions]] Institution;

c. Research and Development; and

d. Artisan Manufacturing and Production.

C. Development Standards

1. The maximum building height is 30 feet; however, the Planning Board may allow a building height:

[1] a. up to 42 feet for commercial development[,]; and

[2] b. up to 50 feet to accommodate residential development if the

Planning Board finds that such buildings are compatible with

the neighborhood and substantially conform with the intent of

the applicable master plan.

2. Household Living uses must meet the development standards of the underlying zone, but the required open space may be adjusted to assure compatibility of uses, or to provide adequate area to accommodate housing, if appropriate.

3. In the NR zone, surface parking must be behind the front building line.

D. Site Plan

* * *

2. During site plan review, the Planning Board may:

a. [where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the EOF or CRT zone; and] waive the requirements for parking setbacks and the number of spaces where it finds that such waivers will accomplish the goals of the master plan, including revitalization, enhancing the pedestrian environment, and encouraging the use of transit;

- b. waive the building setbacks in the NR zone;
- c. where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the EOF or CRT zone; and

[b] d. reduce building setbacks to accomplish master plan objectives.

- 3. For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet [[that]] and does not require site plan approval under Section [4.9.12.D.1.c] 4.9.14.D.1.c, [[there will be a review of the building permit by]] the Planning Board or its designee must review the building permit to determine compliance with master plan recommendations and the provisions of this Overlay zone. If an existing building is located on the site or on an adjacent property, the minimum setback of the zone may be reduced to conform to the existing setback on the site or on the adjacent property.

* * *

Section 59-[4.9.13] 4.9.15. Transferable Development Rights (TDR) Overlay Zone

* * *

B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development satisfies the requirements for optional method development using Transferable Development Rights under Section [4.9.13.B] 4.9.15.B.

a. Applicability

The procedures and requirements in Section [4.9.13.B] 4.9.15.B apply to the transfer of development rights from land in the AR zone to land in a Transferable Development Rights (TDR) Overlay zone.

* * *

c. Recording of Development Right

* * *

ii. A final record plat for a subdivision using transferred development rights must contain a statement including the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance as required by Section [4.9.13.B] 4.9.15.B.

d. Development with Moderately Priced Dwelling Units

- i. A property developed under Section [4.9.13.B] 4.9.15.B must satisfy Chapter 25A.
- ii. A density bonus allowed under Chapter 25A is calculated after the base density of the property has been increased under Section [4.9.13.B] 4.9.15.B through TDRs.
- iii. In a Rural Residential or Residential zone, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development.

e. Additional Findings

In addition to the findings required for approval of a site plan under Section 7.3.4, for projects developed under Section [4.9.13.B] 4.9.15.B the Planning Board must find that the proposed development provides an appropriate range of housing types that takes advantage of existing topography and environmental features and achieves a compatible relationship between the proposed development and adjoining land uses.

* * *

Section 59-[4.9.14] 4.9.16. Twinbrook (TB) Overlay Zone

* * *

Section 59-[4.9.15] 4.9.17. Upper Paint Branch (UPB) Overlay Zone

* * *

B. Exemptions

The following are exempt from Section [4.9.15] 4.9.17:

* * *

C. Land Uses

1. Except as listed in Section [4.9.15.C.2] 4.9.17.C.2 and Section [4.9.15.C.3] 4.9.17.C.3, the land uses of the underlying zone [[are applicable]] apply. The use standards of the underlying zone [[are applicable]] apply unless the development standards in Section [4.9.15.D] 4.9.17.D are more restrictive, in which case Section [4.9.15.D] 4.9.17.D must be followed.

* * *

3. If validly existing on July 1, 1997, the uses in Section [4.9.15.C.2] 4.9.17.C.2 may be continued under the requirements in effect at the

time the use was established. Any expansion requires compliance with the UPB Overlay zone.

* * *

E. Waiver

The applicable review body may grant a waiver of the development standards in Section ~~[4.9.15.D]~~ 4.9.17.D if it finds that:

1. The 8% impervious surface limit would cause an undue hardship on the applicant because of events or circumstances not caused or facilitated by the applicant;
2. The application otherwise complies with all applicable Federal, State, and County water quality provisions;
3. The relief sought is the minimum needed to prevent the undue hardship; and
4. Alternative water quality and control techniques are used to meet the purposes of Section ~~[4.9.15]~~ 4.9.17.

Section 59-~~[4.9.16.]~~ 4.9.18. Upper Rock Creek (URC) Overlay Zone

* * *

B. Exemptions

The following are exempt from Section ~~[4.9.16]~~ 4.9.18:

* * *

D. Waiver

The applicable review body may grant a waiver of the development standards in Section ~~[4.9.16.C]~~ 4.9.18.C if it finds that:

1. The 8% impervious surface limit would cause an undue hardship on the applicant because of events or circumstances not caused or facilitated by the applicant or the applicant can demonstrate that the impervious surface limit would prevent the applicant from building the maximum number of affordable housing units otherwise allowed by the zone. If the applicable review body grants a waiver from the 8% impervious surface limit for affordable housing, it must approve the minimum increase necessary to allow the affordable housing. In no event may the waiver result in development with more than 10% impervious surface area;
2. The application otherwise complies with all applicable Federal, State, and County water quality regulations;
3. The relief sought is the minimum needed to prevent the undue hardship; and
4. Alternative water quality and quantity control techniques are used to meet the purposes of Section [4.9.16] 4.9.18.

* * *

Sec. 20. DIVISION 59-5.1 is amended as follows:

Division 59-5.1. In General

* * *

Section 59-5.1.3. Applicability

- A.** A Floating zone must not be approved for property that is in an Agricultural or Rural Residential zone.
- B.** If a Floating zone is recommended in a master plan, there are no prerequisites for an application. For properties with a master plan

recommendation for a Floating zone that can no longer be applied for as of October 30, 2014, the following table identifies the equivalent Floating zones that can be applied for:

<u>Master Plan Recommended Floating Zone</u>	<u>Equivalent Floating Zone</u>
<u>C-Inn</u>	<u>None (See Use Table under Section 3.1.6)</u>
<u>R-MH</u>	<u>RDF</u>
<u>RT-6.0, RT-8.0, RT-10.0, RT-12.5, RT-15.0</u>	<u>TF</u>
<u>R-H, R-4plex</u>	<u>AF</u>
<u>P-D</u>	<u>AF or CRNF</u>
<u>C-T</u>	<u>CRNF</u>
<u>MXN, MXPd, PNZ, PRC, T-S</u>	<u>CRTF</u>
<u>H-M, TS-M, TS-R</u>	<u>CRF</u>
<u>C-3, PCC</u>	<u>GRF</u>
<u>C-P, I-3, O-M</u>	<u>EOFF</u>
<u>RS</u>	<u>IMF</u>

* * *

Sec. 21. DIVISION 59-6.2 is amended as follows:

Division 59-6.2. Parking, Queuing, and Loading

* * *

Section 59-6.2.3. Calculation of Required Parking

The minimum number of vehicle and bicycle parking spaces required in all zones is the sum of the number of spaces required for each applicable land use in the tables in Section 6.2.4.B and Section 6.2.4.C, unless the total number is reduced under Section [6.2.3.H] 6.2.3.I.

* * *

D. Car-Share Spaces

* * *

E. Spaces for Charging Electric Vehicles

Any parking facility constructed after May 12, 2014, containing 100 parking spaces or more, must have a minimum of one parking space ready to be converted to a station for charging electric vehicles[[. One additional charging station ready parking space is required for each additional 100 parking spaces in the facility]] for every 100 parking spaces.

[E] F. Bicycle Parking

* * *

3. The maximum number of bicycle parking spaces listed in the bicycle parking table under Section 6.2.4.C is the maximum required of the applicant; however, the applicant may choose to exceed the maximum.

[F] G. Off-Site Parking by Agreement

* * *

[G] H. Parking Minimums and Maximums

1. Parking Lot District

a. In a Parking Lot District, an applicant may provide fewer parking spaces than required, after all adjustments are made under Section [6.2.3.H] 6.2.3.I, if payment is made under Chapter 60.

* * *

2. Reduced Parking Area

a. In a Reduced Parking Area, an applicant may provide fewer parking spaces than required, after all adjustments are made under Section [6.2.3.H] 6.2.3.I, only under Alternative Compliance (see Division 6.8).

- b. In a Reduced Parking Area, an applicant may provide more parking spaces than allowed by the maximum if all of the parking spaces provided in excess of the maximum number allowed are made available to the public and are not reserved, or if approved under Alternative Compliance (see Division 6.8).

[H] I. Adjustments to Vehicle Parking

1. In General

- a. Reduced parking rates under Section [6.2.3.H] 6.2.3.I are not mandatory. The maximum number of parking spaces allowed in a Parking Lot District or Reduced Parking Area is based on the baseline maximum in the parking table under Section 6.2.4.B.
- b. Adjustments under Section [6.2.3.H] 6.2.3.I to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum.

2. Special Uses

- a. The parking minimum resulting from a Special Uses adjustment may not be further reduced by additional adjustments under Section [6.2.3.H] 6.2.3.I.

* * *

c. Religious Assembly

- i. The deciding body may reduce the required number of parking spaces:
- (a) to [0] 0.15 spaces per fixed seat for a Religious Assembly located within 500 feet of any

commercial or industrial parking lot where
sufficient spaces are available during the time of
services to make up the difference; or

* * *

3. Shared Parking

* * *

- b. The minimum number of required parking spaces under the shared parking model may be adjusted under Section [6.2.3.H.4] 6.2.3.I.4 through Section [6.2.3.H.6] 6.2.3.I.6.

* * *

Section 59-6.2.5. Vehicle Parking Design Standards

* * *

F. Spaces for Charging Electric Vehicles

An electric vehicle charging station ready parking space must be:

1. located in a preferential, highly visible area within the parking facility;
2. a minimum width of 9 feet;
3. designed so that the space and pathways for the future installation of at least a 120 volt charging station and associated infrastructure are provided; and
4. constructed such that all conduits leading to the electrical room, including electrical service conduit, service size, and the electrical room are appropriately sized to accommodate future electrical equipment necessary for the number of electric vehicle charging station ready parking spaces required.

1329 * * *

1330 **[F] G. Drive Aisles**

1331 * * *

1332 **[G] H. Parking Separation**

1333 * * *

1334 **[H] I. Walkways**

1335 * * *

1336 **[I] J. Drainage**

1337 * * *

1338 **[J] K. Facilities for Conditional Uses in Residential Detached Zones**

1339 * * *

1340 **[K] L. Commercial Vehicle Parking for Properties with a Residential Use**

1341 **1. In General**

- 1342 a. Vehicles and machinery used primarily for Farming may be
- 1343 parked without restriction.
- 1344 b. Parking of a tow truck with a vehicle attached is prohibited.
- 1345 c. A commercial vehicle under Section [6.2.5.K] 6.2.5.L must be
- 1346 owned or used by an occupant of the dwelling.

1347 * * *

1348 **3. RE-2, RE-2C, and RE-1 Zones**

1349 * * *

- 1350 b. Any property zoned RE-1 that does not have a minimum lot
- 1351 area of 40,000 square feet, must satisfy the requirements for

Surface Parking in R-200, R-90, and R-60 under Section
[6.2.5.L] 6.2.5.M.

[L] M. Surface Parking in R-200, R-90, R-60, and R-40 Zones

1. Parking for any vehicle or trailer in the area between the lot line and the front building line must be on a surfaced parking area.
2. Except as provided in Section [6.2.5.L.3] 6.2.5.M.3, the maximum surfaced parking area between the lot line and the front building line, excluding the surfaced parking area in a driveway on a pipestem or flag-shaped lot, is:
 - a. in the R-200 and R-90 zones, 30% or 320 square feet, whichever is greater; and
 - b. in the R-60 and R-40 zones, 35% or 320 square feet, whichever is greater.
3. A surfaced parking area may exceed the size limits in Section [6.2.5.L.2] 6.2.5.M.2 if:

Sec. 22 DIVISION 59-6.4 is amended as follows:

Division 59-6.4. General Landscaping and Outdoor Lighting

Section 6.4.3. General Landscaping Requirements

4. To satisfy Section 6.2.9, Division 6.3, and Division ~~[[6.6]]~~ 6.5, a property owner must not place plant material in any utility, stormwater management, or other easement that may result in

removal of the plantings, except as allowed under Section 6.2.9,
Division 6.3, and Division ~~[[6.6]]~~ 6.5.

* * *

Sec. 23. DIVISION 59-7.2 is amended as follows:

Division 59-7.2. District Council Approvals

Section 59-7.2.1. Local Map Amendment

* * *

B. Application Requirements

* * *

2. The applicant must submit the following for review:

- a. An application form and fees approved by the District Council.
- b. The identity of each person who has a substantial interest in the property under the application, including any person with a share in the property amounting to 5% or more (whether held in an individual or corporate capacity) of the full cash value of the property after subtracting all mortgages, deeds of trusts, liens, and encumbrances. The application must also contain the names of any contract purchaser or person holding a mortgage, deed of trust, or option to purchase the property.
- c. A statement disclosing political contributions to the treasurer or political committee of any candidate for County Council and County Executive or slate that contributes to candidates for County Council or County Executive, under State law. The applicant must submit the disclosure statement on a form approved by the District Council.
- d. A statement explaining how the proposed development satisfies the criteria to grant the application.

e. A certified zoning map.

f. A description by metes and bounds, courses and distances of land, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the County, then the lot, block, and subdivision designations with appropriate plat reference.

[[e.]] g. For a Floating zone, a floating zone plan depicting:

i. building location, density, massing, height, and anticipated use;

ii. locations of open spaces and preliminary stormwater management strategy;

iii. pedestrian, bicycle, and vehicular circulation, parking, and loading;

iv. any binding element on the application. An applicant who proposes a binding element must submit an unexecuted covenant suitable for filing in the land records reflecting any restriction on the development standards, development program, or use that will be applicable to the property if the District Council approves the application; and

v. the following additional information:

(a) current and proposed zone;

(b) existing site conditions and vicinity within 100 feet,

including total tract area; existing topography; watershed

that the site is located in; Special Protection or Primary

Management areas; any floodplain, wetland, or perennial

or intermittent stream, and any associated buffers; whether

or not rare, threatened, or endangered species were

observed on the property; whether or not the property is on

the Locational Atlas and Index of Historic Sites; the aerial extent of forest and tree cover on the property; and date(s) field work was conducted;

(c) existing or approved adjacent land uses, buildings, and rights-of-way;

(d) a Traffic Study under the Planning Board’s LATR Guidelines if the incremental increase in vehicular peak-hour trips between the density of the base zoning and the density of the requested floating zone meets the minimum applicability requirement in the LATR Guidelines; and

(e) general phasing of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications.

[[f.]] h. For a Euclidean zone application, exhibits showing:

i. the subject property and the proposed neighborhood, identifying uses and zoning; and

ii. an explanation of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning, or evidence of the alleged mistake made by the District Council in the previous Sectional or District Map Amendment, in support of the requested Euclidean zone.

* * *

Sec. 24. DIVISION 59-7.3 is amended as follows:

Division 59-7.3. Regulatory Approvals

Section 59-7.3.1 Conditional Use

* * *

F. Decision

1. Hearing Examiner

* * *

c. Any party of record or aggrieved party may[, no later than 10 days after the transmittal of notification that the Hearing Examiner's report and decision are available for review,] file a written request to present oral argument before the Board of Appeals within 10 days after the Office of Zoning and Administrative Hearings issues the Hearing Examiner's report and decision. The filing of such a request transfers jurisdiction over the matter from the Hearing Examiner to the Board of Appeals.

* * *

F. Decision

* * *

2. Board of Appeals

a. If the Board of Appeals is deciding the application, it must make the necessary findings under Section 7.3.1.E and must:

i. vote in public session to approve, approve with conditions, or deny the application, or to remand the application to the Hearing Examiner for additional evidence or clarification. An affirmative vote of 4 members of the Board of Appeals is required to approve a conditional use when 5 members are present, otherwise an affirmative vote of 3 members is required. Any Board of Appeals member who votes on a conditional use and was not present for any portion of the [[hearing]] oral argument must read and sign

the transcript of that portion of the [[testimony and must review
all exhibits introduced at the hearing]] oral argument; and

ii. issue a resolution reflecting the Board of Appeals' decision no
later than 30 days after voting on the matter, unless such time is
extended by the Board of Appeals.

b. All matters decided under Section 7.3.1.F.2 must be decided on the
basis of the evidence [[or]] of record, but the Board of Appeals may
decide any matter heard by the Hearing Examiner and presented to
the Board of Appeals for decision solely on the basis of the Hearing
Examiner's report and decision.

* * *

K. Amendments

* * *

2. Minor Amendment

* * *

b. When a minor amendment is granted, the Board of
Appeals or Hearing Examiner must send a copy of the
resolution or decision, as applicable, to the applicant, the
Board of Appeals or Hearing Examiner, as appropriate,
the Planning Board, DPS, the Department of Finance, all
parties entitled to notice at the time of the original filing,
and current abutting and confronting property owners.
The resolution or decision, as applicable, must state that
any party may[, within 15 days after the resolution is
sent,] request a public hearing on the Board of Appeals'
or Hearing Examiner's action within 15 days after the

[[Office of Zoning and Administrative Hearings issues the]] resolution or decision is issued.

* * *

Section 59-7.3.2. Variance

* * *

E. Necessary Findings

To approve a variance, the Board of Appeals must find that:

1. [[Denying]] denying the variance would result in no reasonable use of the property; or

2. that each of the following apply:

a. [[One]] one or more of the following unusual or extraordinary situations or conditions exist:

[[a.]] i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property

[[b.]] ii. the proposed development uses an existing legal nonconforming property or structure;

[[c.]] iii. the proposed development contains environmentally sensitive features or buffers;

[[d.]] iv. the proposed development contains a historically significant property or structure; or

[[e.]] v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood~~[[.]]~~;

b. [[The]] the special circumstances or conditions are not the result of actions by the applicant;

c. ~~[[The]]~~ the requested variance is the minimum necessary to

overcome the practical difficulties that full compliance with this

Chapter would impose due to the unusual or extraordinary

situations or conditions on the property;

d. ~~[[The]]~~ the variance can be granted without substantial impairment

to the intent and integrity of the general plan and the applicable

master plan; and

e. ~~[[Granting]]~~ granting the variance will not be adverse to the use and

enjoyment of abutting properties.

* * *

H. Recording Procedures

The Board of Appeals must maintain any resolution concerning a variance in its

permanent files~~[[. The applicant for a variance must]]~~, and must record an

approved variance in the land records within 30 days after approval.

Section 59-7.3.3. Sketch Plan

* * *

E. Necessary Findings

To approve a sketch plan, the Planning Board must find that the following

elements are appropriate in concept and appropriate for further detailed

review at site plan. The sketch plan must:

1. meet the objectives, general requirements, and standards of this

Chapter;

2. substantially conform with the recommendations of the applicable

master plan;

3. satisfy under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;
4. under Section 7.7.1.B.5, for [[properties]] a property whose zoning classification on October 29, 2014 was the result of a Local Map Amendment, satisfy any green area requirement in effect on October 29, 2014;
- [4] 5. achieve compatible internal and external relationships between existing and pending nearby development;
- [5] 6. provide satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;
- [6] 7. propose an outline of public benefits that supports the requested incentive density and is appropriate for the specific community; and
- [7] 8. establish a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

* * *

Section 59-7.3.4. Site Plan

* * *

E. Necessary Findings

1. When reviewing an application, the approval findings [[of approval only]] apply only to the [[area encompassed]] site covered by the application.
2. To approve a site plan, the Planning Board must find that the proposed development:

- a. satisfies any previous approval that applies to the site[, including any development plan or schematic development plan in effect on October 29, 2014];
- b. satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;
- c. satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29, 2014 for [[properties]] a property whose zoning classification on October 29, 2014 was the result of a Local Map Amendment;
- [b] d. satisfies applicable use standards, development standards, and general requirements under this Chapter;
- [c] e. satisfies the applicable requirements of:
 - i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
 - ii. Chapter 22A, Forest Conservation.
- [d] f. provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;
- [e] g. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;
- [f] h. will be served by adequate public services and facilities including ...

* * *

[g] i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and

[h] j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.

* * *

Sec. 25. DIVISION 59-7.4 is amended as follows:

Division 59-7.4. Administrative Approvals

Section 59-7.4.1. Building Permit

* * *

C. Review and Recommendation

DPS must submit the application to the Planning Director for review for any building permit that requests

* * *

3. construction that increases the gross floor area of any residential structure by more than [500 square feet] 50% of the existing gross floor area.

* * *

Section 59-7.4.4. Sign Variance

* * *

C. Necessary Findings

* * *

6. The Sign Review Board may approve a variance for a sign on property with a conditional use approval if the Hearing Examiner or Board of Appeals, as applicable, has approved the sign. Nothing in Section 7.4.4

prevents the Sign Review Board from imposing more restrictive conditions than the Hearing Examiner or Board of Appeals, but the Sign Review Board must not approve a sign variance which is less restrictive than any condition set by the Hearing Examiner or Board of Appeals.

* * *

Sec. 26. DIVISION 59-7.6 is amended as follows:

Division 59-7.6. Special provisions

Section 7.6.1. Board of Appeals

* * *

C. Filing of Appeals

* * *

5. When an administrative appeal is made, the Board of Appeals must send notice of the hearing within 5 days of the request for appeal to DPS, the State Highway Administration, the County Board of Education, all abutting and confronting property owners, civic and homeowners associations within 1/2 mile, any municipality within 1/2 mile, and pre-submittal attendees if applicable. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium.

* * *

Sec. 27. DIVISION 59-7.7 is amended as follows:

Division 59-7.7. Exemptions and Nonconformities

Section 59-7.7.1. Exemptions

A. Existing Structure, Site Design, or Use on October 30, 2014

1. Structure and Site Design

A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure is not increased, except as provided for in Section 7.7.1.C for structures in Commercial/Residential, Employment or Industrial zones, or Section 7.7.1.D.5 for structures in Residential Detached zones.

2. Use

[Any] Except for a Registered Living Unit, any use that was conforming or not nonconforming on October 29, 2014 and that would otherwise be made nonconforming by the application of zoning on October 30, 2014 is conforming, but may not expand.

B. Application Approved or Filed for Approval before October 30, 2014

1. Application in Progress before October 30, 2014

Any development plan, schematic development plan, diagrammatic plan, concept plan, project plan, sketch plan, preliminary plan, record plat, site plan, special exception, variance, or building permit filed or approved before October 30, 2014 must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. Any complete Local Map Amendment application submitted to the Hearing Examiner by May 1, 2014, must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. If the District Council approves such an

application after October 30, 2014 for a zone that is not retained in Chapter 59, then the zoning will automatically convert to the equivalent zone as translated under DMA [G-95] G-956 when the Local Map Amendment is approved. The approval of any of these applications or amendments to these applications [approved before October 30, 2014] will allow the applicant to proceed through any other required application or step in the process within the time allowed by law or plan approval, under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014.

* * *

5. Development with a Development Plan or Schematic Development Plan Approved before October 30, 2014

Any development allowed on property [subject to the binding elements of a District Council approved development plan or schematic development plan on October 30, 2014] whose zoning classification on October 29, 2014 was the result of a Local Map Amendment must satisfy [those binding elements] the green area requirements of the zone in effect on October 29, 2014 and any binding elements until [the property is]:

- a. the property is subject to a Sectional Map Amendment that implements a master plan approved after October 30, 2014;
- b. the property is rezoned by Local Map Amendment; or
- c. the binding element is revised by a [major] development plan amendment under the procedures in effect on October 29, 2014.

* * *

C. Expansion of Floor Area Existing on October 30, 2014

1. Limited Rights under Zoning before October 30, 2014

Until October 30, 2039, on land that is located in a Commercial/Residential, Employment, or Industrial zone, an applicant for an amendment to an application listed in Section 7.7.1.B.1 may increase the floor area on the site [by the lesser of 10% of the gross floor area approved for the site on October 30, 2014 or 30,000 square feet, except for properties with 2,000 square feet or less of floor area, which may expand up to 30% of the gross floor area approved for the site on October 30, 2014,] under Section 7.7.1.C.2 or 7.7.1.C.3 following the [[procedure]] procedures and standards of the property's zoning on October 29, 2014[, if]:

- a. [The] if the building does not exceed the height limits and density of the property's zoning in effect on October 29, 2014;
- b. [Any] if any building on the site is no closer to property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use than any existing structure on the site on October 30, 2014 or satisfies the setbacks of the current zoning; and
- c. [If] when a site plan or site plan amendment is required by the property's zoning on October 29, 2014, [then] a site plan or a site plan amendment is approved under the standards of site plan approval on October 29, 2014.

2. All prior zones

[[Any applicant]]Existing development in a Commercial/Residential, Employment, or Industrial zone may [[seek approval for]] expand by up to the lesser of 10% of the gross floor area approved for the site on

October 30, 2014 or 30,000 square feet, except for properties with 2,000 square feet or less of floor area, which may expand by up to 30% of the gross floor area approved for the site on October 30, 2014. Any expansion must satisfy Section 7.7.1.C.1.

3. Prior Floating Zones

a. [[Any applicant]] A property whose [[property]] zoning on October 29, 2014 was the result of a Local Map Amendment [[and the]] with an approved development plan [[lacks any binding elements,]] may [[seek approval for an increase in floor area of any amount]] expand as allowed under Section [[7.7.1.C.3.B.]] 7.7.1.C.3.b. Any expansion must satisfy Section 7.7.1.C.1.

b. If the District Council approves a development plan amendment larger than allowed under Section 7.7.1.C.2, the zoning of the property subject to the amendment will automatically convert and be remapped to the equivalent zone as translated under DMA G-956, with the density and height approved in the amendment.

[2] 4. Expansion above Section [7.7.1.C.1 or Amendment after Section 7.7.1.B.3.a] 7.7.1.C.2

Any portion of an enlargement that exceeds Section [7.7.1.C.1] 7.7.1.C.2 must satisfy the applicable standards and procedures for the current zoning. After October 30, 2039, any amendment to a previously approved application must satisfy the applicable standards and procedures for the current zoning to the extent of (a) any

expansion, and (b) any other portion of an approved development that the amendment changes.

D. Residential Lots and Parcels

* * *

6. Exempted Lots and Parcels in the RE-2C Zone

A lot or parcel in the RE-2C zone, in addition to other exemptions in this subsection, is exempt from the area and dimension requirements of the RE-2C zone, but must satisfy the requirements of the zone applicable to it before its classification to the RE-2C zone if:

- a. the property owner held title to the property before March 17, 1982;
- b. a reduced lot size is required for a lot created for a detached house;
- c. the child of the property owner or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot; and
- d. the overall density of the tract owned on March 17, 1982 is 1.1 units per acre or lower.

7. Exempted Lots and Parcels in the Rural Zone

A lot or parcel in the Rural zone, in addition to other exemptions in this subsection, is exempt from the area and dimension requirements of the Rural zone, but must satisfy the requirements of the zone applicable to it before its classification to the Rural zone if:

- a. the property owner can establish that the owner had legal title on or before June 4, 1974;

- b. the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot; and
- c. the overall density of the property does not exceed one dwelling unit per 5 acres in any subdivision.

8. Exempted Lots and Parcels in the Rural Cluster Zone

A lot or a parcel in the Rural Cluster (RC) zone, in addition to other exemptions in this subsection, is exempt from the minimum area requirements and dimension requirements of the Rural Cluster zone, but must satisfy the requirements of the zone applicable to it before its classification to the RC zone if:

- a. the property owner held title to the property before June 4, 1974;
- b. a reduced lot size is required for a lot created for a detached house; and
- c. the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot.

* * *

Section 59-7.7.2. Nonconforming Use

A lawful nonconforming use may be continued, under the following limits:

A. Expansion

A lawful nonconforming use of a structure or lot must not be expanded [in any way].

B. Abandonment of Use

[If a nonconforming use is abandoned, it must not be reestablished unless it is a historic resource and satisfies Section 7.7.2.C. A] Except for a Registered Living Unit allowed under the code in effect on October 29, 2014, which may be abandoned, removed, or terminated under the code in effect on October 29, 2014, a nonconforming use or a use deemed to be conforming under Section 7.7.1.A.2 is abandoned if [[the nonconforming use]] it ceases for at least 6 consecutive months. If a nonconforming use or a use deemed to be conforming under Section 7.7.1.A.2 is abandoned, it must not be reestablished unless it is a historic resource and satisfies Section 7.7.2.C.

* * *

Sec. 28. DIVISION 59-8.1 is amended as follows:

Division 59-8.1. In General

* * *

Section 59-8.1.2. Modification of Zones

A. Amending a Development Plan

An amendment to an approved development plan or schematic development plan in any zone in Article 59-8 must follow:

1. the procedures for [amending a floating zone plan under Section 7.2.1.1] amendment of a development plan under the zoning ordinance in effect on October 29, 2014;
2. the parking, queuing, and loading standards in Division 6.2; and
3. the signage standards in Division 6.7.

* * *

Sec. 29. DIVISION 59-8.3 is amended as follows:

Division 59-8.3. Planned Unit Development Zones

* * *

Section 59-8.3.6. Planned Cultural Center Zone

* * *

C. Development Standards

* * *

2. Coverage and Public Open Space

a. The maximum building coverage is 30%. The building coverage may be increased to a maximum of 40% if such additional building coverage is developed and used for above-ground, structured parking.

b. A minimum of 30% of the total site area included in the development plan must be maintained as public open space; however, the District Council may reduce this requirement if it finds that comparable amenities or facilities provided in lieu of open space are sufficient to accomplish the purposes of the zone and would be more beneficial to the proposed development than strict adherence to the specific public open space requirements.

* * *

Sec. 30. Effective date. This ordinance becomes effective October 30, 2014.

1858 This is a correct copy of Council action.

1859

1860 _____

1861 Linda M. Lauer, Clerk of the Council