



Zoning Text Amendment (ZTA) No. 15-12, Overlay Zone - Montgomery Village



Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174



Pamela Dunn, Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed: 12/31/15

Description

ZTA No. 15-12 would establish the Montgomery Village Overlay Zone to implement recommendations of the Planning Board Draft of the Montgomery Village Master Plan.

Summary

Staff recommends approval, as introduced, of ZTA No. 15-12 to create an overlay zone to implement the recommendations of the *Planning Board Draft of the Montgomery Village Master Plan*.

Background/Analysis

On October 22, 2015, the Planning Board unanimously voted to transmit to the County Council the *Planning Board Draft Montgomery Village Master Plan*. In addition to the Master Plan, the Planning Board transmitted an accompanying zoning text amendment for the proposed Montgomery Village Overlay Zone (the subject of ZTA No. 15-12).

The Plan focuses on four themes: preserving the Village’s character, maintaining its open spaces, encouraging reinvestment and enhancing connectivity. The Plan made recommendations regarding land use, zoning, transportation, and environment and natural resources. When the new County Zoning Ordinance was adopted in 2014, certain zones, including the Village’s Town Sector (TS) Zone, were retained from the previous ordinance, but are to be phased out and replaced through the master plan process. (See Article 59-8, Section 8.1.1.) In accordance with the 2014 Zoning Ordinance, the Montgomery Village Master Plan recommends 15 new zoning categories to replace the Town Sector Zone that currently covers the entire 2,435 acres of Montgomery Village.

In order to preserve and maintain the unique aspects of the Village that are most important to its residents – the residential character and open space system – the Master Plan recommended the

creation of the Montgomery Village Overlay Zone, which would be coterminous with the areas formerly covered by the Town Sector Zone.

The Montgomery Village Overlay Zone (ZTA No. 15-12):

- Addresses anomalies on some properties that will occur as a result of rezoning from the Town Sector Zone to the new zoning categories. Some properties that were built to development standards established during site plan (under the T-S zone) do not exactly match development standards (e.g., front or side setbacks) of their proposed new Euclidean zones. Such properties will be grandfathered since the existing, as-built development standards do not conform to the development standards in the proposed new zones (*Section 4.9.10.E*).
- Allows existing uses that were permitted by right when constructed under the T-S Zone to be grandfathered under the newly proposed zones. If expansion of the use or redevelopment occurs and the particular use is considered a limited or conditional use under the new zone, then the property owner must follow the review requirements for limited or conditional uses allowed (*Section 4.9.10.E*).
- Preserves the existing quasi-public open space and recreation areas owned and maintained by the Montgomery Village Foundation and other Montgomery Village homeowner associations (*Section 4.9.10.C & Section 4.9.10.D*).
- Addresses compatibility between existing and anticipated redevelopment of vacant parcels (*Section 4.9.10*).

Overall, staff believes that the proposed overlay zone consistently implements the recommendations of *Planning Board Draft Montgomery Village Master Plan* which intends to preserve the unique Village character; protect existing open space and conservation areas; and ensure a compatible relationship between new and existing development. Minor modifications to the draft overlay zone text by the County Council staff prior to introduction of ZTA 15-12 reflect plain language clarifications necessary to implement the numbering system of the Code.

Attachments

1. ZTA No. 15-12 as introduced
2. Map-Proposed Overlay Zone Boundary

ATTACHMENT 1

Zoning Text Amendment No.: 15-12
Concerning: Overlay Zone –
Montgomery Village
Draft No. & Date: 1-11/16/15
Introduced: December 1, 2015
Public Hearing:
Adopted:
Effective:
Ordinance No.:

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

Lead Sponsor: The Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Montgomery Village Overlay Zone

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

ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Section 59.4.9.	“Overlay Zones”
Section 4.9.10.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.11.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.12.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.13.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”
Section 4.9.14.	“Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
Section 4.9.15.	“Transferable Development Rights (TDR) Overlay Zone”
Section 4.9.16.	Twinbrook (TB) Overlay Zone
Section 4.9.17.	Upper Paint Branch (UPB) Overlay Zone
Section 4.9.18.	Upper Rock Creek (URC) Overlay Zone

And adding

Section 59.4.9.10.	“Montgomery Village (MV) Overlay 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 text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. ARTICLE 59-2 is amended as follows:**

2 **DIVISION 2.1. Zones Established**

3 * * *

4 **Section 2.1.2. Zoning Categories**

5 * * *

6 **G. Overlay Zones**

7 1. There are [17] 18 Overlay zone classifications:

- 8 a. Burtonsville Employment Area (BEA),
- 9 b. Chevy Chase Neighborhood Retail (CCNR),
- 10 c. Clarksburg East Environmental (CEE),
- 11 d. Clarksburg West Environmental (CWE),
- 12 e. Community-serving Retail (CSR),
- 13 f. Fenton Village (FV),
- 14 g. Garrett Park (GP),
- 15 h. Germantown Transit Mixed Use (GTMU),
- 16 i. Montgomery Village
- 17 [i] j. Regional Shopping Center (RSC),
- 18 [j] k. Ripley/South Silver Spring (RSS),
- 19 [k] l. Rural Village Center (RVC),
- 20 [l] m. Sandy Spring/Ashton Rural Village (SSA),
- 21 [m] n. Takoma Park/East Silver Spring Commercial Revitalization
- 22 (TPESS),
- 23 [n] o. Transferable Development Rights (TDR),
- 24 [o] p. Twinbrook (TB),
- 25 [p] q. Upper Paint Branch (UPB), and
- 26 [q] r. Upper Rock Creek (URC).

27 2. Building types, uses, density, height, and other standards and
28 requirements may be modified by the Overlay zones under Section
29 4.9.2 through Section [4.9.18] 4.9.19.

30 * * *

31 **Sec. 2. ARTICLE 59-4 is amended as follows:**

32 **DIVISION 4.9. Overlay Zones**

33 * * *

34 **Section 4.9.10. Montgomery Village (MV) Overlay Zone**

35 **A. Purpose**

36 The purpose of the MV Overlay zone is to:

- 37 1. Preserve the unique character of Montgomery Village.
- 38 2. Protect existing open space and conservation areas.
- 39 3. Ensure a compatible relationship between new and existing
40 development.

41 **B. Land Uses**

- 42 1. In the RE-1 zone, all uses are prohibited except the following, which
43 are permitted:
 - 44 a. Agricultural Vending;
 - 45 b. Recreation and Entertainment Facility, Outdoor (Capacity up to
46 1,000 Persons), such as an amphitheater or a swimming pool;
 - 47 c. Recreation and Entertainment Facility, Indoor (Capacity up to
48 1,000 persons), such as an indoor swimming pool;
 - 49 d. Distribution Line (Below Ground);
 - 50 e. Pipeline (Below Ground);
 - 51 f. Playground, Outdoor (Private);
 - 52 g. Seasonal Outdoor Sales;
 - 53 h. Solar Collection System;

- 54 i. Child Day Care in Community Centers; and
- 55 j. An Accessory Use associated with any of the above uses.
- 56 2. In the RE-1 zone, any of the allowed features in open space under
- 57 Section 6.3.3.A are permitted, except for above-ground utility rights-
- 58 of-way.
- 59 3. Applications for a Floating zone on land classified in the RE-1 zone
- 60 are prohibited.

61 **C. Development Standards**

62 In addition to any other requirements of Division 6.3 and Chapter 50,

63 common and public open space in Montgomery Village must be recorded

64 within a separate lot or parcel with a protective easement or covenant in the

65 land records, in a form approved by the Planning Board.

66 **D. Site Plan and Record Plat**

- 67 1. Site plan approval under Section 7.3.4 is required for all development
- 68 in the MV Overlay zone, except for:
 - 69 a. construction of an accessory structure;
 - 70 b. construction of a structure less than 5,000 square feet in size in
 - 71 the RE-1 zone;
 - 72 c. the modification or expansion of an existing detached house,
 - 73 duplex, townhouse, or accessory structure; or
 - 74 d. a conditional use.
- 75 2. Record plats must show all land designated for open space and have a
- 76 statement on the plat granting public access to those lands.
- 77 3. A certified site plan must show all land designated for open space.

78 **E. Existing Buildings and Uses**

- 79 1. A legal structure or site design existing on {DAY BEFORE
- 80 EFFECTIVE DATE} that does not meet its current zoning is

81 conforming and may be continued, renovated, repaired, or
82 reconstructed if the floor area, height, and footprint of the structure is
83 not increased, except as provided below.

84 2. On a lot that has not changed in size or shape since {INSERT THE
85 EFFECTIVE DATE}, a detached house, duplex, or townhouse may
86 be constructed, reconstructed, or expanded:

87 a. without regard to the minimum lot size or lot width at the front
88 building line; and

89 b. in a manner that satisfies the maximum building height and lot
90 coverage of its current zone and the side, front, and rear setback
91 that was required when the lot was first created.

92 3. A legal use existing on {DAY BEFORE EFFECTIVE DATE} is
93 conforming and may be continued. Expansion of any such use must
94 satisfy the use standards of the current zone under Article 59-3, except
95 the following:

96 a. An existing Charitable, Philanthropic Institution (as defined by
97 Section 3.4.2); or

98 b. an existing Storage Facility (as defined by Section 3.6.8.e.1)
99 owned and operated by a Charitable, Philanthropic Institution
100 may expand by up to the lesser of 10% or 30,000 square feet.

101 Any expansion is exempt from the conditional use process, but must
102 satisfy Section 4.9.10.D.

103 **Section [4.9.10] 4.9.11. Regional Shopping Center (RSC) Overlay Zone**

104 * * *

105 **Section [4.9.11] 4.9.12. Ripley/South Silver Spring (RSS) Overlay Zone**

106 * * *

107 **Section [4.9.12] 4.9.13. Rural Village Center (RVC) Overlay Zone**

108 * * *

109 **C. Development Standards**

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

112 * * *

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

114 * * *

115 iii. For any cumulative enlargement of a surface parking
116 facility that is greater than 50% of the total parking area
117 approved before November 4, 2002, the entire off-street
118 parking facility must be brought into conformance with
119 Section [4.9.12] 4.9.13.

120 * * *

121 **Section [4.9.13] 4.9.14. Sandy Spring/Ashton Rural Village (SSA) Overlay**
122 **Zone**

123 * * *

124 **Section [4.9.14] 4.9.15. Takoma Park/East Silver Spring Commercial**
125 **Revitalization (TPESS) Overlay Zone**

126 * * *

127 **Section [4.9.15] 4.9.16. Transferable Development Rights (TDR) Overlay Zone**

128 * * *

129 **Section [4.9.16] 4.9.17. Twinbrook (TB) Overlay Zone**

130 * * *

131 **Section [4.9.17] 4.9.18. Upper Paint Branch (UPB) Overlay Zone**

132 * * *

133 **B. Exemptions**

134 The following are exempt from Section [4.9.17] 4.9.18:

135 * * *

136 **C. Land Uses**

137 1. Except as listed in Section [4.9.17.C.2] 4.9.18.C.2 and Section
138 [4.9.17.C.3] 4.9.18.C.3, the land uses of the underlying zone apply.
139 The use standards of the underlying zone apply unless the
140 development standards in Section [4.9.17.D] 4.9.18.D are more
141 restrictive, in which case Section [4.9.17.D] 4.9.18.D must be
142 followed.

143 * * *

144 3. If validly existing on July 1, 1997, the uses in Section [4.9.17.C.2]
145 4.9.18.C.2 may be continued under the requirements in effect at the
146 time the use was established. Any expansion requires compliance with
147 the UPB Overlay zone.

148 * * *

149 **E. Waiver**

150 The applicable review body may grant a waiver of the development
151 standards in Section [4.9.17.D] 4.9.18.D if it finds that:

152 * * *

153 4. Alternative water quality and control techniques are used to meet the
154 purposes of Section [4.9.17] 4.9.18.

155 **Section [4.9.18] 4.9.19. Upper Rock Creek (URC) Overlay Zone**

156 * * *

157 **B. Exemptions**

158 1. The following are exempt from Section [4.9.18] 4.9.19:

159 * * *

160 **D. Waiver**

161 The applicable review body may grant a waiver of the development
 162 standards in Section [4.9.18.C] 4.9.19.C if it finds that:

163 * * *

164 4. Alternative water quality and quantity control techniques are used to
 165 meet the purposes of Section [4.9.18] 4.9.19.

166 * * *

167 **Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING**
 168 **ORDINANCE SECTION CROSS REFERENCE is amended as follows:**

Old ZONING ORDINANCE	New ZONING ORDINANCE
Article 59-C: Zoning Districts; Regulations.	
* * *	
Division 59-C-18. Overlay Zones.	
* * *	
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.17] <u>4.9.18</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Sandy Spring/ Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.11] <u>4.9.12</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Takoma Park/ East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
* * *	
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.12] <u>4.9.13</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.18] <u>4.9.19</u> . Upper Rock Creek (URC) Overlay Zone

169

170 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
171 date of Council adoption.

172

173 This is a correct copy of Council action.

174

175 _____

176 Linda M. Lauer, Clerk of the Council

ATTACHMENT 2

Figure 2: Master Plan Boundaries

