



Zoning Text Amendment (ZTA) No. 15-13, Takoma Park Overlay – Cannabis Dispensing

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Completed: 12/31/15

Description

Zoning Text Amendment (ZTA) No. 15-13 would establish standards for the location of medical cannabis dispensing facilities in the Takoma Park Overlay Zone. Specifically, ZTA No. 15-13 would allow Cannabis Dispensing in the CRT and NR zones of the Takoma Park/East Silver Spring (TPESS) Commercial Revitalization Overlay Zone only if the facility is located at least 500 feet from the property line of any lot on which any elementary school, middle school, or high school is located. Cannabis Dispensing is a facility where medical marijuana, in any form or formulation, is sold or otherwise legally distributed to individual consumers under Maryland law.

Summary

Staff provides the following comments on ZTA No. 15-13. Staff does not believe that it is necessary to place a 500-foot distance between a medical cannabis dispensary and any elementary school, middle school, or high school since the use would fall within the same category as other legal medicinal substances monitored and regulated by the State of Maryland. The Zoning Ordinance provides adequate setback compatibility requirements for retail uses in Commercial/Residential, Employment, or Industrial zones that abut property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.

GIS data depicts no CRT or NR zoned properties within the Overlay Zone and within 500 feet of a school.

Background/Analysis

A facility in the Overlay Zone, where medical marijuana is dispensed to individual consumers under Maryland law, would be allowed in the CRT and NR zones if the facility is located at least 500 feet from any school. The sponsor of ZTA No. 15-13 believes that cannabis dispensing facilities should not be located near schools in Takoma Park. The idea of keeping adult vices away from impressionable school age children is consistent with federal drug laws, zoning regulations on the location of adult

entertainment facilities, and state provisions governing permissible locations for the issuance of alcohol licenses. The sponsor believes that this regulation leaves an ample number of locations in the County and in Takoma Park where medical marijuana can be dispensed appropriately. In the absence of this ZTA, state licensed medical cannabis dispensing would be allowed in Takoma Park anywhere retail uses are allowed.

Natalie M. LaPrade Maryland Medical Cannabis Commission

The State of Maryland, Department of Health and Mental Hygiene Natalie M. LaPrade Maryland Medical Cannabis Commission (“The Commission”) develops policies, procedures and regulations to implement programs that ensure medical cannabis is available to qualifying patients in a safe and effective manner. The Commission oversees all licensing, registration, inspection and testing measures pertaining to Maryland’s medical cannabis program and provides relevant program information to patients, physicians, growers, *dispensers*, processors, testing laboratories and caregivers. ***The Commission intends to award licenses to Applicants that most efficiently and effectively ensure public safety and safe access to medical cannabis.***

A *licensed grower* is an entity licensed by the Commission that cultivates, manufactures, packages or distributes medical cannabis to licensed processors, licensed dispensaries or registered independent testing laboratories.

A *licensed processor* is one who manufactures usable medical cannabis into a medical cannabis concentrate, or a medical cannabis-infused product.

A ***licensed dispensary*** is an entity licensed by the Commission that acquires, possesses, repackages, transfers, transports, sells, distributes, or dispenses, products containing medical cannabis, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials ***for use by a qualifying patient or caregiver***. ZTA No. 15-13 pertains to the location of licensed dispensaries in the Takoma Park/East Silver Spring (TPESS) Commercial Revitalization Overlay Zone.

Number of Dispensary Licenses and Timeline for Licensing

The Commission may issue pre-approvals of up to two licensed dispensaries per Senatorial district (47 Legislative Districts), other than the number of licensed grower dispensary facilities located in the Senatorial district.

Under the updated timeline, the Commission anticipates issuing Stage One approvals for grower and processor applicants by ***Summer 2016***. The schedule for Stage One approval of dispensary applicants is anticipated to occur in January. According to the Commission’s Executive Director, before medicine can be dispensed, it has to be grown, processed, tested and packaged. Therefore, Stage One approvals will be first issued for grower and processor licenses, with Stage One approval for dispensary licenses to

follow, mirroring the operational needs of the program and representing the most efficient means of processing each category of application.

Zoning Regulations

An entity seeking licensure with the Commission as a grower, processor, or a dispensary is required to meet all local zoning and planning requirements. In the case of a dispensary in Montgomery County, it must follow the zoning requirements of a Retail/Service Establishment (similar to that of a pharmacy). Based on the building size and zone where proposed, a retail use (including a dispensary) can be permitted, limited, require conditional use approval or not be allowed. In some instances, uses may be modified in Overlay zones. Such is the case in ZTA No. 15-13 where the sponsor proposes to modify the allowed locations of licensed dispensaries within the Takoma Park/East Silver Spring Overlay Zone.

Staff, however, does not believe that it is necessary to place a 500-foot distance between a medical cannabis dispensary and any elementary school, middle school, or high school since the use would fall within the same category as other legal medicinal substances monitored and regulated by the State of Maryland. The Zoning Ordinance provides adequate setback compatibility requirements for retail uses in Commercial/Residential, Employment, or Industrial zones that abut property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.

GIS Data of 500-foot Buffer

ZTA 15-13 would allow a medical cannabis dispensing facility within in the CRT and NR zones of the Takoma Park/East Silver Spring Overlay Zone only if the facility is located at least 500 feet from the property line of any lot on which any elementary school, middle school, or high school is located. The GIS map in Attachment 2 depicts no CRT or NR zoned properties within the Overlay Zone and within 500 feet of a school. It has been further determined that the closest distance of a school to a property zoned CRT or NR within the Overlay Zone is over 1300 feet. As such, the proposed legislation would be applicable only if an application for a Local Map Amendment is approved for the CRT or NR zone.

Attachments

1. ZTA No. 15-13 as introduced
2. GIS Map Depicting CRT and NR zones within Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone

ATTACHMENT 1

Zoning Text Amendment No.: 15-13
Concerning: Takoma Park Overlay –
Cannabis Dispensing
Draft No. & Date: 1 - 12/1/15
Introduced: December 8, 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: Councilmember Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Establish standards for the location of cannabis dispensing facilities in the Takoma Park Overlay Zone

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

DIVISION 59-4.9. “Overlay Zones”
Section 59-4.9.14. “Takoma Park/East Silver Spring Commercial Revitalization (TPESS) 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. DIVISION 59-4.9 is amended as follows:**

2 **DIVISION 4.9. Overlay Zones**

3 * * *

4 **Section 4.9.14. Takoma Park/East Silver Spring Commercial**
5 **Revitalization (TPESS) Overlay Zone**

6 **A. Purpose**

7 The purpose of the TPESS Overlay zone is to:

- 8 1. Foster economic vitality and attractive community character in areas
9 needing revitalization.
- 10 2. Promote an enhanced pedestrian environment and an improved
11 circulation system to pedestrians and bicycles as well as motor
12 vehicles.
- 13 3. Substantially conform with the master plan vision for specific existing
14 commercial areas.
- 15 4. Provide for the combination of residential with commercial uses.

16 **B. Land Uses**

17 * * *

- 18 2. In the CRT and NR zones, the following additional Recreation and
19 Entertainment Facility, Indoor (Capacity up to 1,000 Persons) uses are
20 permitted: bowling alley and theater.
- 21 3. In the CRT and NR zones, the following uses, as allowed in the
22 underlying zone, are allowed in the Overlay zone only if the use does
23 not abut or confront land in a Residential Detached zone:
 - 24 a. Car Wash;
 - 25 b. Filling Station;
 - 26 c. Funeral Home, Undertaker;
 - 27 d. Light Vehicle Sales and Rental (Indoor);

- 28 e. Light Vehicle Sales and Rental (Outdoor);
- 29 f. Repair (Major); and
- 30 g. Repair (Minor).
- 31 4. In the NR zone, the following additional uses are permitted:
 - 32 a. Clinic (More than 4 Medical Practitioners);
 - 33 b. Cultural Institution;
 - 34 c. Research and Development; and
 - 35 d. Artisan Manufacturing and Production.
- 36 5. In CRT and NR zones, Cannabis Dispensing, a facility where
- 37 marijuana, in any form or formulation, is sold or otherwise legally
- 38 distributed to individual consumers under Maryland law, is allowed if
- 39 the facility is located at least 500 feet from the property line of any lot
- 40 on which any elementary school, middle school, or high school is
- 41 located.

42 * * *

43 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
44 date of Council adoption.

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46 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

ZTA- 15-13 Cannabis Dispensing

