



**Zoning Text Amendment (ZTA) No. 16-13, Conditional Use – Screening**

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**Completed: 09/1/16**

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**Description**

Zoning Text Amendment (ZTA) No. 16-13 would amend the provisions for exempted parking design requirements for residential buildings and the applicability of landscaping, lighting and screening requirements for parking associated with residential zones and uses.

**Summary**

**Staff recommends approval of ZTA No. 16-13, as introduced, to amend the provisions for exempted parking design requirements for residential buildings and the applicability of landscaping, lighting and screening requirements for parking associated with residential zones and uses.**

**Background/Analysis**

Zoning Text Amendment (ZTA) 16-13, was introduced at the request of the Office of Zoning and Administrative Hearings. ZTA 16-13 would exempt single-family detached houses from most of the detailed screening standards for Conditional Uses, except for compatibility. The Hearing Examiner found that the detailed screening standards are never actually applied to applications for a conditional use in a detached house. In the opinion of the Hearing Examiner, it is misleading to the public to have statutory standards that are never appropriate to apply in a class of cases. The Planning Department routinely recommends common sense compatibility standards in applications concerning detached houses through the use of waivers or alternative compliance. Waivers of parking facility standards are permitted under §59.6.2.10. Alternative compliance is permitted under §59.6.8. The Hearing Examiner has authority under §7.1.3.E.1.b to apply Article 59-6 only "to the extent the Hearing Examiner finds necessary to ensure compatibility." The Hearing Examiner believes that the current code leads to much more work than necessary. Planning Department Staff must justify applications for waivers and alternative compliance. The Hearing Examiner then feels obliged to address all this analysis in his/her report.

Specifically, the recommended changes:

1. Eliminate the double side setback for the listed building types by amending **Section 59.6.2.5.A.** (*Lines 6-7*)
2. Limit the applicability of parking lot screening requirements by amending **Section 59.6.2.9** to make the section applicable to parking facilities for 5 to 9 vehicles, rather than 3 to 9 vehicles. (*Lines 13-34*)
3. Limit the applicability of general screening requirements by amending **Sections 59.6.5.2. and 59.6.5.3** to make the section's details inapplicable to conditional uses in single-family detached houses, while requiring compatibility and giving the Hearing Examiner authority to increase or decrease required screening. (*Lines 39-74*)

Staff is in agreement with the Hearing Examiner's Office that the detailed screening standards are rarely applied to applications for a conditional use in a detached house. The detailed screening requirements are mainly applied to conditional use applications where new non-residential structures are proposed. Attachment 2 of this staff report provides a table prepared by the Hearing Examiners' Office depicting conditional use applications that have requested waivers from the requirements of Article 6 in single-family detached houses.

#### **Attachments**

1. ZTA No. 16-13 as introduced
2. Table of Conditional Use Cases Requesting Screening Waivers

# ATTACHMENT 1

Zoning Text Amendment No.: 16-13  
Concerning: Conditional Use –  
Screening

Draft No. & Date:

Introduced: August 2, 2016

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**

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Lead Sponsor: Council President Floreen at the Request of the  
Office of Zoning and Administrative Hearings

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- amend the provisions for exempted parking design requirements for residential buildings;
- the applicability of landscaping, lighting and screening requirements for parking associated with residential zones and uses; and,
- generally amend design requirements for residential uses.

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

DIVISION 6.2.	“Parking, Queuing, and Loading”
Section 6.2.5.	“Vehicle Parking Design Standards”
Section 6.2.9.	“Parking Lot Landscaping and Outdoor Lighting”
DIVISION 6.5.	“Screening Requirements”
Section 6.5.2.	“Applicability”
Section 6.5.3.	“Screening Requirements”

**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*

1           **Sec. 1. DIVISION 59-6.2 is amended as follows:**

2   **Division 6.2. Parking, Queuing, and Loading**

3   \*   \*   \*

4   **Section 6.2.5. Vehicle Design and Parking Standards**

5   **A.    Building Type Exemptions**

6           The vehicle parking design standards under Section 6.2.5.D, [and] Section  
7           6.2.5.F through Section 6.2.5.H, and Section 6.2.5.K.2.b do not apply to a:

- 8           1.     detached house;
- 9           2.     duplex; or
- 10          3.     townhouse that provides parking on individual lots.

11   \*   \*   \*

12   **Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting**

13   **A.    Applicability**

14           Section 6.2.9. applies to any:

- 15          1.     surface parking lot with 10 or more spaces;
- 16          2.     structured parking facility; or
- 17          3.     property with a conditional use requiring [3] 5 to 9 spaces that abuts  
18                an Agricultural, Rural Residential, or Residential Detached zoned  
19                property that is vacant or improved with an agricultural or residential  
20                use.

21   **B.    Parking Lot Requirements for Conditional Uses Requiring [3] 5 to 9**  
22   **Spaces**

23           [1.] If a property with a conditional use requiring [3] 5 to 9 parking spaces  
24           is abutting Agricultural, Rural Residential, or Residential Detached  
25           zoned property that is vacant or improved with an agricultural or  
26           residential use, the parking lot must have a perimeter planting area  
27           that:

- 28 a. satisfies the minimum specified parking setback under Article
- 29 59-4 or, if not specified, is a minimum of 8 feet wide;
- 30 b. contains a hedge, fence, or wall a minimum of 4 feet high; and
- 31 c. has a minimum of 1 understory or evergreen tree planted every
- 32 30 feet on center.

33 [2. The Hearing Examiner may increase the perimeter planting  
 34 requirements for a conditional use application under Section 7.3.1.]

35 \* \* \*

36 **Sec. 2. DIVISION 59-6.5 is amended as follows:**

37 **Division 6.5. Screening Requirements**

38 \* \* \*

39 **Section 6.5.2. Applicability**

40 \* \* \*

41 **B. Agricultural, Rural Residential, and Residential Detached Zones**

42 In the Agricultural, Rural Residential, and Residential Detached zones, a  
 43 conditional use in any building type, except a single-family detached house,  
 44 must provide screening under Section 6.5.3 if the subject lot abuts property  
 45 in an Agricultural, Rural Residential, or Residential Detached zone that is  
 46 vacant or improved with an agricultural or residential use. All conditional  
 47 uses must have screening that ensures compatibility with the surrounding  
 48 neighborhood.

49 [1.] The conditional use standards under Article 59-3 may exempt the  
 50 development from this requirement.

51 [2. The Hearing Examiner may increase the amount of screening required  
 52 for conditional use approval under Section 7.3.1.]

53 **C. Residential Townhouse, Residential Multi-Unit,**  
 54 **Commercial/Residential, Employment, and Industrial Zones**

In the Residential Townhouse, Residential Multi-Unit,  
Commercial/Residential, Employment, and Industrial zones:

- 1. A conditional use in a [detached house or] duplex building type must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use.
  - a. The conditional use standards under Article 59-3 may exempt the development from this requirement.
  - b. The Hearing Examiner may increase or decrease the amount of screening required for conditional use approval under Section 7.3.1.

\* \* \*

**Section 6.5.3. Screening Requirements**

\* \* \*

**C. Screening Requirements by Building Type**

\* \* \*

**7. General Building with a Non-Industrial Use; Conditional Use in the Agricultural, Rural Residential, or Residential Detached Zones; and Conditional Use in a [Detached House or] Duplex in Any Other Zone**

\* \* \*

**Sec. 3. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

## ATTACHMENT 2

### WAIVERS FROM THE REQUIREMENTS OF ARTICLE 6 IN CONDITIONAL USE CASES LOCATED IN SINGLE-FAMILY DETACHED HOUSES

Conditional Use	Waiver from Article 6	Staff Recommendation	HE Action
<p>CU 16-07, Weiser  (Child Day Care)</p>	<p><u>Waiver of Parking Standards under §59.6.2.10</u></p> <p>1. Parking facility setback (§59.6.2.5.K.2): 9-foot waiver of side parking setback due to widening of driveway to accommodate required parking</p> <p>2. Parking lot perimeter landscaping and screening requirements (§59.6.2.9.B): Waiver of 8-foot depth of landscaping on three sides of parking area</p>	<p>Approval</p> <p>1. The full 16-foot setback could not be met without removing all the existing landscaping along northern property line and thereby changing the property's residential appearance.</p> <p>2. Front planting area is in public right-of-way that has existing landscaping and applicant has no authority to plant in that area; existing evergreens along southern property line provide sufficient screening for that boundary; existing hedge with some additional landscaping provides sufficient screening</p>	<p>Approval</p> <p>1. Approved for reasons stated by Staff</p> <p>2. Approved for reasons stated by Staff</p>

**ATTACHMENT 2**

Conditional Use	Waiver from Article 6	Staff Recommendation	HE Action
	<p><u>Alternative Compliance Under §59.6.8.1</u></p> <p>3. Site perimeter screening and landscaping (§59.6.5.2.B): Portions of northern and southern property lines do not meet requirement that landscaped strip be 8-feet in depth</p>	<p>3. Existing evergreens adequately screen southern property line; existing hedge screens northern property line. An 8-foot planting area on northern property line adversely impacts ability to provide sufficient parking.</p>	<p><u>Compliance under §79.7.3.1.E.1.b (compliance with Art. 6 to the “extent necessary to ensure compatibility)</u></p> <p>3. Approved. Analysis under alternative compliance (§59.6.8.1) is not necessary because §59.7.3.1.E permits the Hearing Examiner to require compliance with Article 6 only to the extent necessary to ensure compatibility of proposed use. Compatibility is obvious based on existing site conditions</p>
<p>CU 16-10, Lord Medical Clinic (Medical Clinic)</p>		<p>Approval</p> <p>1. Limitation on number of patients supports waiver of minimum number of spaces</p>	<p>Approval</p> <p>1. Approved for reasons stated by Staff.</p>

## ATTACHMENT 2

Conditional Use	Waiver from Article 6	Staff Recommendation	HE Action
		<p>2. 14.5-foot width of drive aisle meets the standards specified in The American Planning Association's (APA) Planning and Urban Design Standards, 2006, for the type of spaces provided in a parking lot with relatively low turnover.</p> <p>3.a. 25-foot setback from rear lot line would mandate tandem parking, which is less safe and efficient. Proposed fence and landscaping sufficiently screen parking.</p> <p>3.b. Layout of drive aisle and parking area is the safest and most efficient option given location of existing building. Property to the north is owned by utility and is unoccupied;</p>	<p>2. Approved for the reasons stated by Staff.</p> <p>3.a. Approved for reasons stated by Staff.</p>

**ATTACHMENT 2**

<b>Conditional Use</b>	<b>Waiver from Article 6</b>	<b>Staff Recommendation</b>	<b>HE Action</b>
<p>CU 16-10, Lord Medical Clinic (Cont'd)</p>		<p>installation of 6-foot fence provides additional screening.</p>	<p>3.b. Approved for reasons stated by Staff.</p>
		<p>4. Required island would compromise safety and efficiency of parking area.</p>	
		<p>5. Amount of canopy proposed is best compromise between efficiency and safety and canopy coverage</p>	
		<p>6. Board-on-board fence and landscaping within existing island necessary to retain safe and efficient parking circulation. Required depth would remove spaces/drive aisle.</p>	<p>4. Approved for reasons stated by Staff.</p>
		<p>7. Requiring full depth of landscaping would impair safe circulation or reduce number of parking spaces below</p>	<p>5. Approved for reasons stated by Staff.</p>

## ATTACHMENT 2

Conditional Use	Waiver from Article 6	Staff Recommendation	HE Action
<p>CU 16-03, A Mum's Touch (Childcare)</p>	<p><u>Alternative Compliance under 6.8.1</u></p> <p>1. Waiver of site perimeter planting requirement (§59.6.5.3.C)</p> <p>2. Waiver of one-sign limit in residential zone (§59.6.7.7.A.1)</p>	<p>Approval/Not Addressed</p> <p>1. Approval: board-on-board fence and mature trees already provide sufficient screening; landscaping would require removal of teaching garden.</p> <p>2. Not addressed</p>	<p>Approval</p> <p>1. Approved for reasons stated by Staff.</p> <p>2. Approved under 7.3.1.E because it was a corner lot and signs were necessary to direct traffic from both directions; signs were quite small and had existed for several years without complaint.</p>
<p>CU 15-02, Lily Pads Day Care (Child Day Care)</p>	<p><u>Alternative Compliance under 6.8.1</u></p> <p>1. Waiver of side and front parking setbacks (§6.2.9.B.)</p>	<p>Approval</p> <p>1. Existing and proposed fencing provide mitigation; removal of existing paving will improve compatibility.</p>	<p>Approval</p> <p>1. Approved for reasons stated by Staff.</p>

**ATTACHMENT 2**

<b>Conditional Use</b>	<b>Waiver from Article 6</b>	<b>Staff Recommendation</b>	<b>HE Action</b>
	2. Parking lot screening requirements (59.6.2.9.C)	2. Staff found there were no unique site constraints necessary to approve alternative compliance.	2. Applicant entitled to be evaluated under Alternative Compliance section. Existing 6-foot board-on-board fence sufficiently screens use.