



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

**MCPB  
Item # 4  
3/25/04**

**DATE:** March 19, 2004  
**TO:** Montgomery County Planning Board  
**VIA:** Carlton Gilbert, Zoning Supervisor *CG*  
**FROM:** Greg Russ, Zoning Coordinator  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To amend the Zoning Ordinance to define the term "combination retail store"; to require any combination retail store established after a certain date to obtain special exception approval; and to allow any combination retail store established before a certain date to continue as a conforming use.

**TEXT AMENDMENT:** No. 04-04  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Council President Silverman  
**INTRODUCED DATE:** February 24, 2004  
**PLANNING BOARD REVIEW:** March 25, 2004  
**PUBLIC HEARING:** April 1, 2004; 7:30pm

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**STAFF RECOMMENDATION: DEFERRAL/DENIAL**

Staff recommends deferral/denial of the proposed Zoning Text Amendment (ZTA) for the following reasons:

- New land use definition for a combination retail store establishes threshold floor area calculations that provide no quantifiable rationale
- Staff has concerns that the proposed new definition specifically excludes club or membership stores from the proposed limitations
- Traffic analyses needs further examination
- Other applicable zones for the inclusion of a combination retail store should be explored

## PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to define the term "combination retail store"; to require any combination retail store established after a certain date to obtain special exception approval; and to allow any combination retail store established before a certain date to continue as a conforming use.

## BACKGROUND/DISCUSSION

The County Executive has requested that a Zoning Text Amendment (ZTA) be introduced that addresses issues associated with combination retail stores more commonly referred to as "freestanding discount stores" or "big box stores". According to a memorandum from the County Executive to the County Council President, these types of establishments create unique land-use burdens and violates principles of smart growth by generating excessive vehicular traffic, contributing to suburban sprawl, and are otherwise incompatible with neighboring properties. The memorandum further states that traffic data confirms the direct correlation between combination retail stores and increased traffic. This information further states that club or membership stores that sell primarily bulk merchandise do not generate the same traffic impacts as the large, combination retail stores. As such, club or membership stores that sell primarily bulk merchandise are excluded from the proposed text amendment.

Under ZTA 04-04, a combination retail store is defined, with reference to the exclusion of club membership stores selling primarily bulk merchandise. The ZTA further proposes limiting this use to the C-2 and C-3 zones, with approval granted only through the issuance of a special exception by the Board of Appeals. Existing combination retail stores would be grandfathered. Special exception development standards for this use are also proposed.

## ANALYSIS

The proposed definition for a combination retail store is depicted below.

### **59-A-2.1. Definitions.**

\* \* \*

**Combination retail store: A department or retail store that exceeds 120,000 square feet and that devotes 10 percent or more of its gross floor area or combination of its gross floor area to a food and beverage store, a drug store, or a grocery store. A club or membership store that charges a membership or access fee and sells primarily bulk merchandise is not a combination retail store.**

\* \* \*

The proposed definition for a combination retail store establishes a floor area minimum of 120,000 square feet for a department or retail store in combination with a minimum of 10% of the building being devoted to a food and beverage, a drug store, or a grocery store. No rationale or documentation has been included to justify establishing the proposed threshold for these "superstores". Examples of the most well known big-box retailers include Wal-Mart, Target, Home Depot, Lowe's, Kohl's, and Costco. These stores typically range from 80,000 to 250,000 square feet. Staff believes that additional analysis is necessary to assess the threshold square footage and the minimum percent of floor area typical for food and beverage, drug store or grocery store areas of a combination retail store. The analysis should further address the necessity for treating differently those big box retailers that include grocery, drug and food and beverage stores from those that do not provide these services.

The second sentence excludes from the definition club membership stores that sell primarily bulk merchandise. This exclusion was based on figures that state that these stores do not generate the same traffic impacts as the large, combination retail stores. Staff has some concerns about excluding club membership stores from this definition. Although the Institute of Transportation Engineer's (ITE) *Trip Generation Report* (Attachment 2) confirms that daily vehicular trip rates are less for club membership stores than for freestanding discount stores (with or without a full service supermarket), the weekday evening and Saturday peak-hour trip rates are greater for the club membership stores than for the freestanding discount superstore (discount store with full service supermarket). Staff believes that, at a minimum, this issue should be further reviewed.

#### Combination Retail Stores in the C-2 and C-3 Zones

As depicted in Attachment 1, the proposed new land use category for a combination retail store would be allowed by special exception only in the C-2 and C-3 zones. Examination of the separate components of the combination retail use indicates that department stores, food and beverage stores and drug stores currently are permitted by-right in the C-2. Only a drug store is currently permitted in the C-3 zone. The aforementioned uses also are permitted in the C-6 zone. Should this text amendment be approved, staff believes that consideration should be given for also permitting a combination retail store in the C-6 zone.

#### Section 59-G-2.15, New Special Exception Standards

The proposed special exception standards are as follows:

##### **59-G-2.15. [Reserved] Combination Retail Store.**

A special exception for a combination retail store may be granted, subject to the following requirements:

- (a) The use must not constitute a nuisance because of noise, illumination, fumes, odors or physical activity at the proposed site.
- (b) The site must have direct vehicular access to an existing arterial or major highway.
- (c) The use must not create a traffic hazard.
- (d) The streets and roads adjoining the site must be adequate to accommodate the increased traffic generated.
- (e) The use must be screened from any abutting residentially zoned property by the natural terrain or by a solid wall or fence, not less than five feet in height, together with a three-foot wide planting strip on the outside of the wall or fence, planted in shrubs and evergreens three feet high at the time of the original planting.
- (f) Parking must be provided as required by Article 59-E.
- (g) Product displays, parked vehicles and other obstructions that reduce visibility at intersections or at entrances and exits to and from the site are not permitted.
- (h) Lighting must not reflect, or cause glare, on any property located in a residential zone.

The proposed standards appear generic in the sense that most of the proposed requirements would be expected of any development, whether permitted by right or requiring a special exception. Staff believes that the proposed development standards need additional study to address more specifically the concerns associated with the combination retail store. This is an issue that could be more extensively reviewed by a working group (established by County Council) studying the possible impacts of big box stores in Montgomery County and establishing some potential regulatory strategies to address those impacts.

#### ITE Trip Generation for Big-Box Stores & Shopping Centers

Attachment 2 provides tables that compare the number of vehicular trips generated by different types of large retail stores using trip-generation rates from the Institute of Transportation Engineer's *Trip Generation Report*. The different types of large-scale retail uses were compared using trip-generation rates that

calculate the number of vehicular trips for a store of 80,000 square feet of gross floor area and for a store of 150,000 square feet of gross floor area. The types of retail land uses included: freestanding discount superstores with or without a full-service supermarket; discount membership clubs; home improvement stores; and shopping centers.

The analysis showed that, except during the weekday morning peak-hour, the highest values were for large freestanding discount stores (such as Walmart, Target, and K-Mart) that did not include a full-service supermarket. During the weekday morning peak-hour, the highest values were for large freestanding discount superstores that did include a full-service supermarket. In addition, large stores that sold bulk merchandise and charged customers' membership fees (such as Sam's Club and Costco) had the second or third highest values. The lowest values were for large home improvement stores (such as Home Depot and Lowes) and shopping centers with at least one large anchor store and a mixture of different types of smaller retail stores.

#### General Issues and Some Possible Solutions to Big Box Retail Development

While retail superstores are popular with customers, they sometimes have hidden concerns. They sometimes create more retail space than a local economy can absorb and displace existing businesses. Traffic congestion, environmental impact, visual pollution, abandoned stores, and loss of open space are often cited as problems associated with big-box retailers.

We have found that most jurisdictions address these issues by enacting limits on the size of retail stores. In some cases, these limits apply to the over-all square footage of a superstore; in others, limits are placed on the footprint of the building. The latter was the case in *Gaithersburg*, which limits the footprint of commercial stores to 80,000 square feet. This is intended to promote two-level stores, rather than the typical, one-story building. In *Rockville*, a 65,000 square-foot limit was placed on retail stores, and any retail store over 25,000 square feet must comply with certain design guidelines. In *Prince Georges County*, the gross floor area of a department or variety store is limited to a maximum of 125,000 square feet. If a department or variety store exceeds 125,000 square feet, a special exception is required.

#### **RECOMMENDATION**

Based on the analysis as discussed above, staff recommends that ZTA 04-04 be deferred/denied. In lieu of the proposed text amendment, staff believes that a new text amendment should be introduced only after a working group has been established and has analyzed the numerous impacts typically associated with big box development.

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## Attachments

1. Proposed Text Amendment No. 04-04
2. ITE Trip Generation Tables

# ATTACHMENT 1

Zoning Text Amendment No: 04-04  
Concerning: Special Exception for  
Combination Retail Establishments  
Draft No. & Date: 1 – 2/17/04  
Introduced: February 24, 2004  
Public Hearing: April 1, 2004; 7:30 PM  
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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By: Council President at the request of the County Executive

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AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- defining the term “combination retail store”;
- requiring any combination retail store established after a certain date to obtain special exception approval; and
- allowing any combination retail store established before a certain date to continue as a conforming use.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”  
Section 59-A-2.1 “Definitions”  
DIVISION 59-C-4 “COMMERCIAL ZONES”  
Section 59-C-4.2 “Land uses”  
DIVISION 59-G-2 “SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS”

**EXPLANATION:** ***Boldface** indicates a heading or a defined term.*  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the 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-A-2 is amended as follows:**

2   **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3   **59-A-2.1 Definitions.**

4   \* \* \*

5   **Combination retail store:** A department or retail store that exceeds 120,000  
 6   square feet and that devotes 10 percent or more of its gross floor area or  
 7   combination of its gross floor area to a food and beverage store, a drug store, or a  
 8   grocery store. A club or membership store that charges a membership or access  
 9   fee and sells primarily bulk merchandise is not a combination retail store.

10 \* \* \*

11           **Sec. 2. Division 59-C-4 is amended as follows:**

12   **DIVISION 59-C-4. COMMERCIAL ZONES.**

13 \* \* \*

14   **59-C-4.2. Land uses.**

15 \* \* \*

	C-T	O-M	C-O	C-P	C-1	C-2	C-3	C-4	C-5	C-6	H-M	Country Inn
(d) Commercial:												
* * *												
<u>Combination retail store.*</u>						<u>SE</u>	<u>SE</u>					

16 \* \* \*

17   \*Any combination retail store in existence before (ZTA Effective Date) is a  
 18   conforming use and may continue in accordance with the standards in effect before  
 19   (ZTA Effective Date). Any reconstruction or enlargement of a combination retail  
 20   store in existence before (ZTA Effective Date) must comply with the standards in  
 21   effect after (ZTA Effective Date).

22           **Sec. 2. DIVISION 59-G-2 is amended as follows:**

23   **DIVISION 59-G-2. SPECIAL EXEPTIONS – STANDARDS AND**  
24   **REQUIREMENTS.**

25   \* \* \*

<u>USE</u>	<u>SECTION</u>
Clinic.....	G-2.14
<u>Combination retail store .....</u>	<u>G-2.15</u>
Conference center with lodging .....	G-2.15.1

30   \* \* \*

31   **59-G-2.15. [Reserved] Combination Retail Store.**

32   A special exception for a combination retail store may be granted, subject to the  
33   following requirements:

- 34           (a)   The use must not constitute a nuisance because of noise, illumination,  
35                   fumes, odors or physical activity at the proposed site.
- 36           (b)   The site must have direct vehicular access to an existing arterial or  
37                   major highway.
- 38           (c)   The use must not create a traffic hazard.
- 39           (d)   The streets and roads adjoining the site must be adequate to  
40                   accommodate the increased traffic generated.
- 41           (e)   The use must be screened from any abutting residentially zoned  
42                   property by the natural terrain or by a solid wall or fence, not less than  
43                   five feet in height, together with a three-foot wide planting strip on the  
44                   outside of the wall or fence, planted in shrubs and evergreens three  
45                   feet high at the time of the original planting.
- 46           (f)   Parking must be provided as required by Article 59-E.

47 (g) Product displays, parked vehicles and other obstructions that reduce  
48 visibility at intersections or at entrances and exits to and from the site  
49 are not permitted.

50 (h) Lighting must not reflect, or cause glare, on any property located in a  
51 residential zone.

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

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55 This is a correct copy of Council action.

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60 Mary A. Edgar, CMC

61 Clerk of the Council

ZTA-04-4: Comparative Vehicular Trip Rates and Number of Trips for Retail Uses											
Type of Retail Land Use	Data Source	Land Use Code No.	Analyses Assuming a Store of 80,000 Square Feet of Gross Floor Area			Analyses Assuming a Store of 150,000 Square Feet of Gross Floor Area			Daily Vehicular Trip Rates		
			Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Weekday	Saturday	Sunday
Free-Standing Discount Superstore*	ITE	813	184	310	401	276	581	752	49.21	57.50	46.98
Free-Standing Discount Store**	ITE	815	0.84	405	606	126	759	1,137	56.02	71.19	54.90
Discount (Membership) Store	ITE	861	0.56	339	548	84	636	1,028	41.80	53.75	33.67
Home Improvement Store	ITE	862	1.20	196	432	180	368	810	29.80	45.67	(none)
Shopping Center	ITE	820	1.03	300	398	155	563	746	42.94	49.97	25.24
Analyses Assuming a Store of 80,000 Square Feet of Gross Floor Area											
Type of Retail Land Use	Data Source	Land Use Code No.	Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Sunday Vehicular Trips		
Free-Standing Discount Superstore*	ITE	813	147	310	401	276	581	752	49.21	57.50	
Free-Standing Discount Store**	ITE	815	67	405	606	126	759	1,137	56.02	71.19	
Discount (Membership) Store	ITE	861	45	339	548	84	636	1,028	41.80	53.75	
Home Improvement Store	ITE	862	96	196	432	180	368	810	29.80	45.67	
Shopping Center	ITE	820	82	300	398	155	563	746	42.94	49.97	
Analyses Assuming a Store of 150,000 Square Feet of Gross Floor Area											
Type of Retail Land Use	Data Source	Land Use Code No.	Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Peak Hour Vehicular Trips	Weekday Vehicular Trips	Saturday Vehicular Trips	Sunday Vehicular Trips		
Free-Standing Discount Superstore*	ITE	813	276	581	752	126	759	1,137	8,625	7,047	
Free-Standing Discount Store**	ITE	815	126	759	1,137	84	636	1,028	10,679	8,235	
Discount (Membership) Store	ITE	861	84	636	1,028	180	368	810	8,063	5,051	
Home Improvement Store	ITE	862	180	368	810	155	563	746	6,851	n/a	
Shopping Center	ITE	820	155	563	746	155	563	746	7,496	3,786	
Note #1: * Superstore (ITE Land Use Code 813)= Free-standing discount "business" With a full-service supermarket											
Note #2: ** Store (ITE Land Use Code 815= Free-standing discount "business" without a full-service supermarket											
<b>Note #3: For the three tables, the highest numbers in each row are bolded, underlines, &amp; italicized</b>											
Note #4: and the second highest numbers in each row are only bolded!											