

ATTACHMENT 1

Zoning Text Amendment No: 04-15
Concerning: Historic Preservation
PD Zone Waivers
Draft No. & Date: 1 - 6/30/04
Introduced: July 27, 2004
Public Hearing: 9/14/04 – 1:30 p.m.
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**

By: Councilmember Perez

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

- allowing a waiver of certain Planned Development (PD) zone standards to facilitate the preservation, reuse, or redevelopment of a historic district.

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

DIVISION 59-C-7 “PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.1 “P-D zone—Planned development zone”
Section 59-C-7.15 “Compatibility”

*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-C-7 is amended as follows:**

2 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

3 * * *

4 **59-C-7.1 P-D zone—Planned development zone.**

5 * * *

6 **59-C-7.15 Compatibility.**

7 * * *

8 (b) In order to assist in accomplishing compatibility for sites that are not within,
9 or in close proximity to a Central Business District or Transit Station
10 Development Area, the following requirements apply where a planned
11 development zone adjoins land for which the area master plan recommends a
12 one-family detached zone:

- 13 (1) No building other than a one-family detached residence can be
14 constructed within 100 feet of such adjoining land; and
15 (2) No building can be constructed to a height greater than its distance
16 from such adjoining land.

17 (c) A waiver of the requirement of paragraph (b)(1) [above] may be permitted
18 [upon a finding that] if:

- 19 (1) The area master plan recommends other than a one-family detached
20 [[zone]] use for the property immediately adjoining the area where the
21 waiver is to occur; and
22 (2) The immediately adjoining property will not be adversely affected by
23 the waiver for present or future use.

24 (d) A waiver of [the provisions of] subsection (b) [above] may be permitted if:

- 25 (1) A,[where] [t]The site is within or in close proximity to a central
26 business district or transit station development area and reduced
27 setbacks are recommended by the master or sector plan, and the

28 Planning Board finds that the reduced setbacks are compatible with
29 existing or proposed development in the adjoining or confronting one-
30 family detached zones[.][,]; or [The maximum building height
31 under the waiver will not exceed 50 feet.]

32 [(2)]B. The site is within or in close proximity to a historic district and the
33 Planning Board finds that reduced setbacks or increased building
34 height will facilitate the preservation, reuse, or redevelopment of a
35 designated historic district and the immediately adjoining
36 propert[[y]]ies will not be adversely affected by the waiver.

37 [(3)](2) The maximum building height under this waiver must not
38 exceed 50 feet.

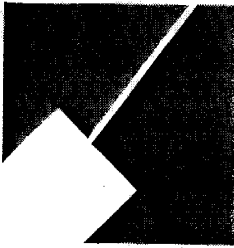
39 [(e)](f) Compliance with these requirements does not, by itself, create a
40 presumption of compatibility

41
42 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
43 date of Council adoption.

44
45 This is a correct copy of Council action.

46
47
48
49 _____
50 Mary A. Edgar, CMC
51 Clerk of the Council

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

August 11, 2004

MEMORANDUM

TO: Greg Russ, Zoning Coordinator
Development Review Division

VIA: John Carter, Chief *JAC*
Community-Based Planning Division

FROM: Glenn Kreger, Silver Spring/Takoma Park Team Leader *GK*
Community-Based Planning Division

Joel Gallihue, Community Planner
Community-Based Planning Division

SUBJECT: Zoning Text Amendment 04-15, Historic District Preservation- PD Zone

The Community-Based Planning Division has reviewed ZTA 04-15 with regard to its potential applications. There are a number of PD-zoned properties in Montgomery County but we have not identified any that adjoin or are located in close proximity to designated historic districts. In any case, property that is already zoned PD has an approved development plan* and would probably already have site plan approval from the Planning Board. Unless such prior approvals are amended, the provision for reduced setbacks in ZTA 04-15 would probably not apply to property already zoned PD.

ZTA 04-15 would apply mostly to property proposed for PD zoning in the future. This includes property recommended for PD zoning in approved master plans and properties where the owner might apply for PD zoning without the benefit of a master plan recommendation for such zoning. The PD zones are floating zones; a property may be approved for such zoning if the proposed development is consistent with the purposes and standards of the zone, and compatible with the surrounding uses. Property owners can apply for PD zoning for property not specifically recommended for PD in the approved master plan where 1) the approved master plan recommends residential

* PD zones are development plan floating zones that must be approved by the Council through a Local Map Amendment. A development plan must be submitted along with the rezoning application. The development plan describes the general location of uses on the site, the internal road network, public facilities, etc. Decisions about more specific concerns (e.g., setback reductions) are made by the Planning Board through the site plan approval process.

densities of at least two units per acre, and 2) there is sufficient property to meet the minimum area requirements (e.g., the requested zone will yield at least 50 dwelling units; it will extend an existing planned development; or it will result in the preservation of a historic structure or site).

Community-Based Planning has identified several properties that are recommended for PD zoning in approved master plans and located in close proximity to historic *sites*. These include the WTOP property in Wheaton; the Hanson Farm in Potomac; and the Old Derwood and Crown Farm properties in Shady Grove. Such properties would **not** be affected by the proposed ZTA because it relates only to designated historic *districts*—not individual historic sites. The proposed ZTA was crafted narrowly in order to provide the flexibility for the redevelopment associated with the National Park Seminary (NPS) historic district. At this time, we are not aware of other properties that would benefit from the proposed legislation (i.e., properties recommended for PD zoning in close proximity to historic districts).

Although the proposed text amendment is intended to facilitate redevelopment of the NPS property, ZTA 04-15 is not a single property ordinance because a) new historic districts could be designated at any time, possibly in close proximity to property proposed for PD zoning; and b) properties could be rezoned to PD through local map amendment at any time, possibly in close proximity to existing (or future) historic districts.

Council action would be required to designate future historic districts or rezone property to PD. Consequently, the Council will be in a position to evaluate the potential impact of the proposed ZTA should either situation occur. For example, if PD zoning were proposed elsewhere *in close proximity to a historic district*, the Council would be able to consider the potential impact of reduced setbacks (or increased building height) in the course of considering the rezoning application. Since waivers of the setback requirements and maximum building height would be approved at the discretion of the Planning Board, the Board will have the opportunity to consider the impacts of such waivers should they be requested in the future for properties other than the National Park Seminary.

With regard to the one known project that would be affected by the ZTA—the National Park Seminary redevelopment—the Community-Based Planning Division believes that the proposed ZTA will help to provide new housing opportunities in the urban ring. In doing so, it will also help to facilitate the preservation of the historic structures at the NPS because the new development underwrites the cost of the historic preservation.

Based on the plans that we have seen for the NPS redevelopment, we do not believe that the proposed reduction in setbacks or the height of the proposed townhouses presents a compatibility problem for the adjoining neighborhood. Much of the infill area is bordered by parkland. As described above, the Council will have an opportunity to evaluate the compatibility of the NPS project when they review the development plan for the proposed rezoning of the NPS to PD. Also as described above, the Planning Board





will assess the impact of reduced setbacks and increased building height at the NPS project before granting any waivers.

If reduced setbacks are requested for the NPS redevelopment or any similar project, the Board will be required to reach a finding that the reduction will not adversely affect the adjoining property. We recommend that the proposed language in Section 59-C-7.15(d)(2) be modified to refer to adjoining properties, rather than referring to a singular property. Furthermore, we recommend that proposed Section 59-C-7.15(d)(3) include similar language stating that the Planning Board must also make a "no adverse impact" finding for waivers of the limit on maximum building height. If these revisions are made, we feel that there will be adequate safeguards to ensure compatibility and the legislation authorizing the Planning Board to waive the normal setback and height requirements should be approved.

GK:tv: N:\divcp\kreger\ZTA 04-15A
cc: Gwen Wright

MONTGOMERY COUNTY HISTORIC DISTRICTS

LEGEND

	Historic Districts
	Metro Station
	Potomac River
	Montgomery County Boundary

