



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #5
2/28/08

DATE: February 20, 2008
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor *RW*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to exclude any building roof area from the definition of green area; and generally amend the definition of green area

TEXT AMENDMENT: No. 08-1
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Elrich
INTRODUCED DATE: January 15, 2008

PLANNING BOARD REVIEW: February 28, 2008
PUBLIC HEARING: February 26, 2008; 1:30pm (PHED Worksession, 3/6/08; 9:30am)

STAFF RECOMMENDATION: Approval with modifications to allow the green area requirement to be met by green roofs located at street level and by green roofs that implement the commercial revitalization objectives of the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone.

PURPOSE AND BACKGROUND OF THE TEXT AMENDMENT

The text amendment proposes to amend the Zoning Ordinance to exclude any building roof area from the definition of green area; and generally amend the definition of green area.

The green area definition has been interpreted in a way that allows the inclusion of rooftops (green roofs) and other areas in a building's footprint. Councilmember Elrich proposes to redefine green area to conform to the most common understanding of the phrase associated with ground level open space, which does not include rooftops. County Council staff states that a building's roof is not "an area of land"—the phrase that starts the definition of green area. The ZTA would assure that green area may only be provided at ground level.

ANALYSIS

I. GREEN AREA DEFINITION

On February 13, 1962, the definition of “green area” was established in the Zoning Ordinance as part of a larger application (No. C-681 and Ordinance No. 4-124) that created a new apartment (multi-family) zoning classification. Of particular note, was a discussion on “inadequate yard areas for recreation for apartment tenants” and “the lack of recreational ground area”—all pertaining to “areas of land”. The discussion further expressed concern that green areas had been divided into small segments that “were unusable for the benefit and enjoyment of the apartment dwellers”. Addressing these core issues was the main focus of the Council in defining the term “green area”.

II. GREEN AREA REQUIREMENTS

The attached table (Attachment 2) depicts the zones where green area is required. Currently, green area is required in all townhouse, single-family attached, multi-family, commercial, industrial, PD, PRC, MXPD, PCC, and MXN zones. The required minimum percentage of green area ranges from 10% (in several commercial and industrial zones) to 65% (in the PRC zone where the development site is 750 acres or more and in the standard method of development of the R-30 zone). As such, the proposed text amendment could impact a wide range of development-types.

III. GREEN ROOF DEFINITION

In several recent zoning cases, staff and the Board have permitted green roofs to count towards the green area requirement. In these cases, the green area requirement could not have been met entirely at ground level.

The term “green roof is defined in the Wikipedia as:

*A **green roof** is a roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. This does not refer to roofs which are merely colored green, as with green shingles. It may also include additional layers such as a root barrier and drainage and irrigation systems. Container gardens on roofs, where plants are maintained in pots, are not generally considered to be true green roofs, although this is an area of debate. The term "green roof" may also be used to indicate roofs that utilize some form of "green" technology, such as solar panels or a photovoltaic module. Green roofs are also referred to as eco-roofs, vegetated roofs, living roofs, and greenroofs.*

IV. PROPOSED CHANGES TO GREEN AREA DEFINITION

The text amendment proposes to redefine “green area” to exclude the footprint of a building. The current and proposed definition of “green area” allows concrete sidewalks, swimming pools, playgrounds, paved plazas, fountains and watercourses to count

towards the green area calculation. The area of any parking lot, including landscaped islands and walkways within a parking lot is excluded from the green area calculation.

The overall intent of the text amendment is to prevent the inclusion of green roofs, rooftop gardens, interior courtyards and other areas in a building's footprint in the calculation of "green area". The resulting impact could assure more ground level open space as part of new developments.

Staff has no objection to the overall intent of the ZTA. Although green roofs provide a number of environmental benefits (reduction of heating and cooling loads on a building, reduction of storm-water run-off, increasing roof life span, etc), with certain exceptions, green roofs have not been included in the green area calculation. However, a number of projects are providing green roof/ green building technology in response to the County's Green Buildings Law that was adopted in 2006. Achievement of Leadership in Energy and Environmental Design (LEED) certification under the law helps mitigate the energy and environmental impacts of the building so that it is energy efficient, sustainable, secure, safe, cost-effective, accessible, functional, and productive. Overall, staff believes that the incentives associated with providing LEED certification of a building are more appropriate than allowing green roofs to be included in the green area calculation.

Staff would like to point out, that open space trends around the country are very different than what existed in 1962. The layering of uses in mixed use buildings is providing excellent opportunities for green space on roofs.

Also, open space requirements at grade in commercial areas frequently are excessive, resulting in design contrary to public space amenities. "Holes" in commercial streetscapes create a disconnected inactive streetscape, frequently disjointed, underutilized space results.

Our recommendations for Takoma Park/East Silver Spring reflects a "current" approach to higher density, urban areas where the interpretation of green space can result in creative, more usable space that provides continuity and greater "informal" security for public space.

Staff Recommended Changes

Staff is recommending two modifications to the exclusion of green roofs from the green area requirement.

1. The first modification to the exclusion of a green roof from the green area requirement is to allow rooftop green area located at street level to count toward the green area requirement. In instances where a green roof or other building top landscape features are located at street level, the area can provide visual appeal including openness, light, air, recreation or other similar amenity to neighboring areas, as typically associated with "an area of land" as defined in the green area definition.

2. The second modification is to allow green roofs that implement the commercial revitalization objectives of the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone to count towards the green area requirement. The City of Takoma Park currently has a commercial revitalization overlay zone (CROZ). Within the overlay zone, the City works to create more environmentally sound and sustainable residential and shopping choices by redeveloping underutilized car-oriented properties with greener and more pedestrian-oriented buildings with a consistent street wall. The City believes that the proposed text amendment inhibits opportunities to redevelop the small commercial sites typical of Takoma Park. In Takoma Park, maintaining the flexibility to use green roofs, build public areas over underground parking, or other creative means, will better enable property owners to develop in a manner that meets Master Plan goals.

RECOMMENDATION

Based on the analysis as discussed above, staff recommends that ZTA 08-01 be approved as modified by staff to allow the green area requirement to be met by green roofs located at street level and by green roofs that implement the commercial revitalization objectives of the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone. Staff believes that these roof top green area exceptions are consistent with the sponsor's objectives. Staff's proposed modifications, including plain language revisions, are on lines 30-43 of ZTA 08-01.

GR

Attachments

1. Proposed Text Amendment No. 08-01 (as modified by staff)
2. Table of Green Area Requirements

ATTACHMENT 1

Ordinance No:
Zoning Text Amendment No: 08-01
Concerning: Green Area - Definition
Draft No. & Date: 2 - 1/9/08
Introduced: 1/15/08
Public Hearing: 2/26/08
Adopted:
Effective:

**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 Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- exclude any building roof area from the definition of green area; and
- generally amend the definition of green area.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATIONS”
Section 59-A-2.1 “Definitions”

*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:

Sec. 1. Division 59-A-2 is amended as follows:

Division 59-A-2. DEFINITIONS AND INTERPRETATIONS.

Sec. 59-A-2.1. Definitions.

In this Chapter, the following words and phrases have the meanings indicated:

* * *

[[Green area: An area of land [associated with and located on the same tract of land as a major building or group of buildings, or a prescribed portion of the land area] that provides light and air, or scenic, recreational, or similar amenity [encompassed by a development plan, diagrammatic plan, or site plan, to which it provides light and air, or scenic, recreational or similar amenities]. This [space] area must generally be available for entry and use by the occupants of the site [building or area involved], but may include a limited [proportion of space so located and treated as to enhance the amenity of the development by providing] area that provides [landscaping features or for] landscape screening [for the benefit of the occupants or those in neighboring areas, or] a general appearance of openness or a scenic, recreational, or similar amenity for the visual benefit of anyone using a neighboring tract of land. Green area may include [but is not limited to] a feature such as a [lawns] lawn, decorative [plantings] planting, [sidewalks] sidewalk, [and walkways] walkway, active and passive recreational [areas] area including a children's [playgrounds] playground, public [plazas] plaza, [fountains] fountain, swimming [pools] pool, wooded [areas] area, and [watercourses] watercourse. Green area [does] must not include the area of any:

(1) [parking lots or vehicular surfaces] surface used by any motor vehicle ,
including any parking lot;

(2) building footprint; or

27 (3) [accessory buildings other than any swimming pools; or
28 areas of open space so located,] small open space[, or] circumscribed by
29 buildings, parking, or drainage areas [as to] that [have] has no substantial
30 value for the purposes stated in this [paragraph] definition.]]

31 Green area: An area of land that provides light and air, or scenic, recreational,
32 or similar amenity. This area must generally be available for entry and use by
33 the occupants of the site, and may include landscaping features, that convey a
34 general appearance of openness or a scenic, recreational, or similar amenity for
35 the benefit of anyone using neighboring areas. Green area may include a feature
36 such as a planted area, sidewalk, walkway, active and passive recreational area
37 including an outdoor play area, a public plaza, fountain, swimming pool,
38 wooded area, and watercourse. Green area must not include the area of any:

- 39 (1) surface used by any motor vehicle , including any parking lot;
40 (2) building footprint, except that : a) the green area requirement may be met
41 by green roofs located at street level; and b) in the Takoma Park/East
42 Silver Spring Commercial Revitalization Overlay Zone, the footprint may
43 be included to implement the commercial revitalization objectives; or
44 (3) small open space circumscribed by buildings, parking, or drainage areas
45 that has no substantial value for the purposes stated in this definition.

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49 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of
50 Council adoption.

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52 This is a correct copy of Council action.

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55 Linda M. Lauer, Clerk of the Council

GREEN AREA REQUIREMENTS

Sec. 59-C-1.6. Development including moderately priced dwelling units.					
	R-200	R-150	R-90	R-60	R-40
59-C-1.627. Green area. Green area must be provided for each townhouse or one-family attached dwelling unit erected in the subdivision, at the rate, in square feet per unit, of	2000	2000	2000	2000	1500

	R-T 6.0	R-T 8.0	R-T 10.0	R-T 12.5	R-T 15.0
Minimum percentage of tract that must be devoted to green area.	50	50	50	50	30
59-C-1.74. Development including moderately priced dwelling units.					
The percentage of the tract devoted to green area may be reduced to not less than:	45	45	45	45	30

	R-30	R-20	R-10	R-H
-Green area must be provided for not less than (Percent of Area of Lot):	65	60	50	55
59-C-2.42. Special regulations for development including moderately priced dwelling units.				
Green area may be reduced, to not less than(Percent of Area of Lot):	35	35	35 ⁴	35 ⁴
⁴ Workforce housing units must be provided				

R-MH Zone-Mobile Home Development.
At least 30 percent of the tract, excluding the rights-of-way referred to in section 59-C-1.523, shall be devoted to green area.

	C-T	O-M	C-O	C-P	C-1	C-2	C-3	C-4	C-5	C-6	H-M	Country Inn
Minimum Green Area (Percentage)	10	10		40	10	10	10	10	25	20	45	50

	I-1	I-2	I-3	I-4	R&D	LSC
(Percent of gross tract area)						
Green area shall be provided for not less than	10*	10	35	20	30	25**
* additional requirement under special regulations of Sec. 59-C-5.41						
** Roofs of below grade parking may be counted as green space if developed for passive or recreational use.						

	PD-2 & 3	PD-4 thru 9	PD-11 thru 44	PD-60 thru 100	PRC	MXPD	PCC	MXN
Min. green area (Percent of Gross Area)	30	40	50*	30**	65 (750 acres or more; 50 (<750 acres	50 (in residential area); 40 (in non-residential area)	30 (may be reduced by District Council)	50 (may be reduced by Planning Board)
* In medium & high density categories, may be reduced to 35% to provide workforce housing on-site.								
** May be reduced to 20% to provide workforce housing on-site.								