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

**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

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

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”
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 59-6.2 is amended as follows:

Division 6.2. Parking, Queuing, and Loading

* * *

Section 6.2.5. Vehicle Design and Parking Standards

A. Building Type Exemptions

The vehicle parking design standards under Section 6.2.5.D, [and] Section 6.2.5.F through Section 6.2.5.H, and Section 6.2.5.K.2.b do not apply to a:
1. detached house;
2. duplex; or
3. townhouse that provides parking on individual lots.

* * *

Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting

A. Applicability

Section 6.2.9. applies to any:
1. surface parking lot with 10 or more spaces;
2. structured parking facility; or
3. property with a conditional use requiring [3] 5 to 9 spaces that abuts an Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use.

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

[1.] If a property with a conditional use requiring [3] 5 to 9 parking spaces is abutting Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use, the parking lot must have a perimeter planting area that:
a. satisfies the minimum specified parking setback under Article 59-4 or, if not specified, is a minimum of 8 feet wide;
b. contains a hedge, fence, or wall a minimum of 4 feet high; and
c. has a minimum of 1 understory or evergreen tree planted every 30 feet on center.

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

* * *

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

Division 6.5. Screening Requirements

* * *

Section 6.5.2. Applicability

* * *

B. Agricultural, Rural Residential, and Residential Detached Zones

In the Agricultural, Rural Residential, and Residential Detached zones, a conditional use in any building type, except a single-family detached house, 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. All conditional uses must have screening that ensures compatibility with the surrounding neighborhood.

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

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

C. Residential Townhouse, Residential Multi-Unit, 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.

___________________________
Linda M. Lauer, Clerk of the Council
# Waivers from the Requirements of Article 6 in Conditional Use Cases Located in Single-Family Detached Houses

<table>
<thead>
<tr>
<th>Conditional Use</th>
<th>Waiver from Article 6</th>
<th>Staff Recommendation</th>
<th>HE Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>CU 16-07, Weiser (Child Day Care)</td>
<td>Waiver of Parking Standards under §59.6.2.10</td>
<td>Approval</td>
<td>Approval</td>
</tr>
<tr>
<td></td>
<td>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</td>
<td></td>
<td>1. Approved for reasons stated by Staff</td>
</tr>
<tr>
<td></td>
<td>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</td>
<td></td>
<td>2. Approved for reasons stated by Staff</td>
</tr>
<tr>
<td></td>
<td>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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>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</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conditional Use</td>
<td>Waiver from Article 6</td>
<td>Staff Recommendation</td>
<td>HE Action</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td>Alternative Compliance Under §59.6.8.1</td>
<td>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.</td>
<td>Compliance under §79.7.3.1.E.1.b (compliance with Art. 6 to the “extent necessary to ensure compatibility”)</td>
</tr>
<tr>
<td></td>
<td>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</td>
<td>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</td>
<td></td>
</tr>
</tbody>
</table>

CU 16-10, Lord Medical Clinic (Medical Clinic) | Approval | Approval |
<p>| 1. Limitation on number of patients supports waiver of minimum number of spaces | 1. Approved for reasons stated by Staff. |</p>
<table>
<thead>
<tr>
<th>Conditional Use</th>
<th>Waiver from Article 6</th>
<th>Staff Recommendation</th>
<th>HE Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>2. Approved for the reasons stated by Staff.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td>3.a. Approved for reasons stated by Staff.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conditional Use</td>
<td>Waiver from Article 6</td>
<td>Staff Recommendation</td>
<td>HE Action</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>CU 16-10, Lord Medical Clinic (Cont’d)</td>
<td></td>
<td>installation of 6-foot fence provides additional screening.</td>
<td>3.b. Approved for reasons stated by Staff.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Required island would compromise safety and efficiency of parking area.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Amount of canopy proposed is best compromise between efficiency and safety and canopy coverage</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>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.</td>
<td>4. Approved for reasons stated by Staff.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7. Requiring full depth of landscaping would impair safe circulation or reduce number of parking spaces below what is necessary to support the use.</td>
<td>5. Approved for reasons stated by Staff.</td>
</tr>
<tr>
<td>Conditional Use</td>
<td>Waiver from Article 6</td>
<td>Staff Recommendation</td>
<td>HE Action</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>CU 16-03, A Mum’s Touch (Childcare)</td>
<td>Alternative Compliance under 6.8.1</td>
<td>Approval/Not Addressed</td>
<td>Approval</td>
</tr>
<tr>
<td></td>
<td>1. Waiver of site perimeter planting requirement (§59.6.5.3.C)</td>
<td>1. Approval: board-on-board fence and mature trees already provide sufficient screening; landscaping would require removal of teaching garden.</td>
<td>1. Approved for reasons stated by Staff.</td>
</tr>
<tr>
<td></td>
<td>2. Waiver of one-sign limit in residential zone (§59.6.7.7.A.1)</td>
<td>2. Not addressed</td>
<td></td>
</tr>
<tr>
<td>CU 15-02, Lily Pads Day Care (Child Day Care)</td>
<td>Alternative Compliance under 6.8.1</td>
<td>Approval</td>
<td>Approval</td>
</tr>
<tr>
<td></td>
<td>1. Waiver of side and front parking setbacks (§6.2.9.B.)</td>
<td>1. Existing and proposed fencing provide mitigation; removal of existing paving will improve compatibility.</td>
<td>1. Approved for reasons stated by Staff.</td>
</tr>
<tr>
<td>Conditional Use</td>
<td>Waiver from Article 6</td>
<td>Staff Recommendation</td>
<td>HE Action</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td>2. Parking lot screening requirements (59.6.2.9.C)</td>
<td>2. Staff found there were no unique site constraints necessary to approve alternative compliance.</td>
<td>2. Applicant entitled to be evaluated under Alternative Compliance section. Existing 6-foot board-on-board fence sufficiently screens use.</td>
</tr>
</tbody>
</table>