



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MCPB
Item #4
10/07/04

DATE: October 1, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor *CG*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to regulate by special exception the development of large retail stores in the C-2, and C-6 zones and to define the term "Large Retail Store".

TEXT AMENDMENT: No. 04-19
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Silverman
INTRODUCED DATE: September 14, 2004
PLANNING BOARD REVIEW: October 7, 2004
PUBLIC HEARING: October 19, 2004; 7:00pm

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 large 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
- Possible loopholes and inconsistencies by excluding shopping centers from the large retail store definition

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to regulate by special exception the development of large retail stores in the C-2, and C-6 zones and to define the term "Large Retail Store".

BACKGROUND/DISCUSSION

- On February 24, 2004 ZTA 04-04 was introduced at the request of the County Executive that addressed 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 violate 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 were 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.
- The Planning Board strongly supported the goals of the proposed text amendment but believed that additional study was necessary to ensure that appropriate measures were taken to address the land use concerns excessive traffic, contribution to suburban sprawl, and compatibility with neighboring properties.
- The PHED Committee met on two occasions to review ZTA 04-04 but was not convinced that the ITE traffic data provided a rational basis for establishing a more restrictive review process for a combination retail store than for other similar sized retail stores that may not carry food and non-food items (See Attachment 2 for ITE table).

- It was the position of the PHED Committee (2-1) that a substitute ZTA should be introduced that regulates all retail uses over a certain size that directly corresponds to the first two ITE trip generation categories: "Free-Standing Discount Superstore" and "Free-Standing Discount Store" (Table was included as an attachment to the technical staff report for ZTA 04-04). Under the approach proposed by Councilmember Silverman, membership stores, home improvement stores, and shopping centers would be unaffected. The basis for the distinction is that the first two ITE categories have higher daily vehicular trip generation rates than membership stores, home improvement stores, and shopping centers. The types of stores most likely affected include Wal-Mart, Best Buy, Circuit City, Kohl's, and Target.

ANALYSIS

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

59-A-2.1. Definitions.

* * *

Large-Retail Store: A single business engaged in retail sales whose total floor area exceeds 120,000 square feet. A large retail store offers a variety of customer services, centralized cashiering, and a wide range of consumer products at discounted prices that may include both food and non-food items. A club or membership store that charges an access fee and sells primarily bulk merchandise, a home improvement store, and stores connected by common walls as part of a shopping center with shared parking facilities are not for purposes of this definition large retail stores.

* * *

The proposed definition for a large retail store establishes a floor area minimum that is over 120,000 square feet for a retail store that sells products at discounted prices. This definition is inclusive of freestanding discount stores and superstores. No rationale or documentation has been included to justify establishing the proposed threshold for this use. Examples of the most well known big-box retailers that fit this definition include Wal-Mart, Target, Kohl's, Best Buy and Circuit City. 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.

The third sentence excludes from the definition club membership stores that sell primarily bulk merchandise, a home improvement store, and stores connected by common walls as part of a shopping center with shared parking facilities. These exclusions were based on figures that state that these stores do not generate the same traffic impacts as the large 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.

Further, staff has concerns with the possibility of large retail stores locating in shopping centers (connected by common walls with other smaller uses) and therefore, not being subject to this text amendment. This appears to be a loophole that it created when exclusions to the definition of "large retail store" are provided based solely on traffic counts.

Large Retail Stores in the C-2 and C-6 Zones

As depicted in Attachment 1, the proposed new land use category for a large retail store would be allowed by special exception only in the C-2 and C-6 zones. Retail uses currently are permitted by-right in both zones. Should this text amendment be approved, staff believes that consideration should be given for permitting a large retail store by right in the C-6 zone since the zone requires site plan review thereby requiring a public forum to address the physical aspects of the site.

Section 59-G-2.30.00.1, New Special Exception Standards

The proposed special exception standards are as follows:

59-G-2.30.00.1. Large retail store.

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

- (a) The building must be designed in a way that reduces the buildings massive scale and contributes to its visual interest. Long building walls should be broken-up with projections or recessions or other effective treatments that improve building design.

- (b) Parking areas should provide safe, convenient, and efficient access, and landscaped to define vehicular drives and pedestrian areas.
- (c) The site must have direct vehicular access to an existing arterial or major highway and the streets and roads adjoining the site must be adequate to accommodate the increased traffic generated. The applicant must provide a traffic impact study to demonstrate that acceptable peak hour levels of service will result after taking into account existing and programmed roads, and any improvements to be provided by the applicant.
- (d) The site 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.
- (e) 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.
- (f) Lighting must not reflect, or cause glare, on any property located in a residential zone.

A number of the proposed standards (in particular, traffic impact, parking and lighting) appear generic in the sense that most of the proposed requirements would be expected of any special exception. Staff believes that the proposed development standards need additional study to address more specifically the concerns associated with the large retail store.

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 (as examples). 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 are included in the definition for large retail stores) 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.

RECOMMENDATION

Based on the analysis as discussed above, staff recommends that ZTA 04-19 be deferred/denied. Staff believes, as with ZTA 04-04, 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.

GR

Attachments

1. Proposed Text Amendment No. 04-19
2. ITE Trip Generation Tables

ATTACHMENT 1

Zoning Text Amendment No: 04-19
Concerning: Large Retail Store
Draft No. & Date: 1 – 8/12/04
Introduced: September 14, 2004
Public Hearing: October 19, 2004; 7:00 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**

By: Councilmember Silverman

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

- regulating by special exception the development of large retail stores in the C-2, and C-6 zones; and
- defining the term "Large Retail Store".

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 **Large-Retail Store:** A single business engaged in retail sales whose total floor
6 area exceeds 120,000 square feet. A large retail store offers a variety of customer
7 services, centralized cashiering, and a wide range of consumer products at
8 discounted prices that may include both food and non-food items. A club or
9 membership store that charges an access fee and sells primarily bulk merchandise,
10 a home improvement store, and stores connected by common walls as part of a
11 shopping center with shared parking facilities are not for purposes of this definition
12 large retail stores.

13 * * *

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

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

16 * * *

17 **59-C-4.2. Land uses.**

18 * * *

	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>Large retail store.</u>						<u>SE</u>				<u>SE</u>		

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20 **Sec. 3. Division 59-G-2 is amended as follows:**

21 **DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND**
22 **REQUIREMENTS.**

23 * * *

<u>USE</u>	<u>SECTION</u>
24 Landscape contractor	G-2.30.00
25 <u>Large retail store</u>	G-2.30.00.1
26 Life care (continuing care) facility	G-2.35.1

27 * * *

28 **59-G-2.30.00.1. Large retail store.**

29 A special exception for a large retail store may be granted, subject to the following
30 standards:

31 (a) The building must be designed in a way that reduces the buildings
32 massive scale and contributes to its visual interest. Long building
33 walls should be broken-up with projections or recessions or other
34 effective treatments that improve building design.

35 (b) Parking areas should provide safe, convenient, and efficient access,
36 and landscaped to define vehicular drives and pedestrian areas.

37 (c) The site must have direct vehicular access to an existing arterial or
38 major highway and the streets and roads adjoining the site must be
39 adequate to accommodate the increased traffic generated. The
40 applicant must provide a traffic impact study to demonstrate that
41 acceptable peak hour levels of service will result after taking into
42 account existing and programmed roads, and any improvements to be
43 provided by the applicant.

44 (d) The site must be screened from any abutting residentially zoned
45 property by the natural terrain or by a solid wall or fence, not less than
46

47 five feet in height, together with a three-foot wide planting strip on the
48 outside of the wall or fence, planted in shrubs and evergreens three
49 feet high at the time of the original planting.

50 (e) Product displays, parked vehicles and other obstructions that reduce
51 visibility at intersections or at entrances and exits to and from the site
52 are not permitted.

53 (f) Lighting must not reflect, or cause glare, on any property located in a
54 residential zone.

55 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
56 date of Council adoption.

57
58 This is a correct copy of Council action.

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60
61
62 _____
63 Mary A. Edgar, CMC
64 Clerk of the Council

Comparative Vehicular Trip Rates and Number of Trips for Retail Uses									
Type of Retail Land Use	Data Source	Land Use Code No.	Peak-Hour Trip Rates				Daily Vehicular Trip Rates		
			Weekday Morning	Weekday Evening	Saturday Generator	Weekday	Saturday	Sunday	
Free-Standing Discount Superstore*	ITE	813	1.84	3.87	5.01	49.21	57.50	46.98	
Free-Standing Discount Store **	ITE	815	0.84	5.06	7.58	56.02	71.19	54.90	
Discount (Membership) Store	ITE	861	0.56	4.24	6.85	41.80	53.75	33.67	
Home Improvement Store	ITE	862	1.20	2.45	5.40	29.80	45.67	(none)	
Shopping Center	ITE	820	1.03	3.75	4.97	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			Daily Vehicular Trips			
			Weekday Morning	Weekday Evening	Saturday Generator	Weekday	Saturday	Sunday	
Free-Standing Discount Superstore*	ITE	813	147	310	401	3,937	4,600	3,758	
Free-Standing Discount Store **	ITE	815	67	405	606	4,482	5,695	4,392	
Discount (Membership) Store	ITE	861	45	339	548	3,344	4,300	2,694	
Home Improvement Store	ITE	862	96	196	432	2,384	3,654	n/a	
Shopping Center	ITE	820	82	300	398	3,435	3,998	2,019	
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			Daily Vehicular Trips			
			Weekday Morning	Weekday Evening	Saturday Generator	Weekday	Saturday	Sunday	
Free-Standing Discount Superstore*	ITE	813	276	581	752	7,382	8,625	7,047	
Free-Standing Discount Store **	ITE	815	126	759	1,137	8,403	10,679	8,235	
Discount (Membership) Store	ITE	861	84	636	1,028	6,270	8,063	5,051	
Home Improvement Store	ITE	862	180	368	810	4,470	6,851	n/a	
Shopping Center	ITE	820	155	563	746	6,441	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

Note #3: For the three tables, the highest numbers in each row are bolded, underlines, & italicized

Note #4: and the second highest numbers in each row are only bolded!