

M E M O R A N D U M

January 24, 2019

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz, Senior Legislative Analyst
SUBJECT: Zoning Text Amendment 18-13, Setback Exemptions – Fences
PURPOSE: Worksessions – develop recommendations for Council’s consideration

Expected to Attend:

Jason Sartori, Acting Chief, Functional Planning and Policy, M-NCPPC
Greg Russ, Planner Coordinator, M-NCPPC
Ehsan Motazedi, Chief, Zoning and Enforcement, Department of Permitting Services

Zoning Text Amendment (ZTA) 18-13, lead sponsor Councilmember Riemer, was introduced on December 11, 2018. ZTA 18-13 would amend the Regional Shopping Center Overlay zone. It would allow for free-standing buildings used for Retail Sales and Service, Structured Parking, or Health Clubs and Facilities to have a maximum height of 90 feet.¹

The Regional Shopping Center Overlay zone applies to Montgomery Mall (Westfield Montgomery) and Wheaton Mall (Westfield Wheaton). The general building height limit in the zone is 45 feet. The Overlay zone has exceptions to that height limit for a building that includes a theater complex (90 feet), a Hotel, Motel (150 feet), and an apartment building or a multi-use building with residential use (150 feet). ZTA 18-13 would add to those exceptions to the general building height limit.²

The Council conducted a public hearing concerning ZTA 18-13 on January 15, 2019. The Planning Board and Planning staff recommended the approval of ZTA 18-13. They both noted that any impact of the additional height to surrounding neighborhoods would be mitigated by the current setback provisions for buildings above 45 feet (a minimum setback of 3 feet for each 1 foot of building height over 45 feet when the structure is adjacent to vacant or residentially-improved property in an Agricultural, Rural Residential, or Residential zone). The representative for the two regional shopping centers subject to County zoning, Pat Harris, recommended approval of ZTA 18-13. There has been no testimony in opposition to ZTA 18-13.

¹ Key words: #WestfieldMallHeight, #RegionalMall, #buildingheight, #RetailUses, #HealthClubs.

² “A lot of people are afraid of heights. Not me, I’m afraid of widths.” Steven Wright

Staff recommends approval of ZTA 18-13 as introduced.

Issues

How were regional malls handled in the 2014 Zoning Rewrite?

In 2014, both regional malls were in the C2 zone. This zone generally allowed new buildings to be a maximum of 42 feet tall (but would allow a building height of 65 feet under some circumstances) but had special provisions for some regional malls:

To accommodate development at a regional shopping center with a gross leaseable area that exceeds or will exceed subject to site plan approval 1,200,000 square feet, building height may be increased to (1) 90 feet for a building that includes a theater complex, and (2) 130 feet for a hotel. Any increase in building height under this provision must receive site plan approval in accordance with Division 59-D-3 and be set back from the nearest residential zone at least 3 feet for each 1 foot of building height.³

The Zoning Rewrite deleted the C2 zone. The regional malls were placed in the GR zone (General Retail). To allow the previously-available building height and land use flexibility, an Overlay zone (Regional Shopping Center (RSC)) was created.

What is the purpose of the RSC Overlay zone?

The purpose of the RSC Overlay zone is to provide flexible development standards to facilitate certain uses compatible with a regional shopping center and provide parking design standards and requirements compatible with the function and circulation needs of regional shopping centers. The Overlay zone outlines certain uses (in addition to those allowed in the underlying General Retail zone) that may be permitted as part of a regional shopping center and includes development standards.

The standards of any Overlay zone may be more permissive or less permissive than the underlying zone's provisions. The Overlay zone must state how it is different from the underlying zone.

What are the current building height standards for regional malls?

To accommodate development at a regional shopping center with a gross leasable area that is greater than or will be greater than (if approved by site plan) 1,200,000 square feet, building height may be increased to:

- a. 90 feet for a building that includes a theater complex;
- b. 150 feet for a Hotel, Motel;
- c. 150 feet for an apartment building or a multi-use building with residential use.

In the absence of these provisions, building height would be limited to 45 feet.

³ Section 59 -C 4.350.

How would ZTA 18-13 change those standards?

ZTA 18-13 would allow a free-standing building 90 feet high for: 1) Retail Sales and Service, 2) Structured Parking; or 3) Health Clubs and Facilities.

Why should the standards be changed?

The height allowances for these uses would allow for the construction of vibrant mixed-used centers. The project would be the subject of site plan review to ensure compatibility with any neighbors. Any impact of the additional height to surrounding neighborhoods would be mitigated by the current setback provisions for buildings above 45 feet (a minimum setback of 3 feet for each 1 foot of building height over 45 feet when the structure is adjacent to vacant or residentially-improved property in an Agricultural, Rural Residential, or Residential zone).

This packet contains
ZTA 18-13

© number
1 – 4

Zoning Text Amendment No.: 18-13
Concerning: Regional Shopping
Center Overlay Zone –
Standards
Draft No. & Date: 2 – 12/13/18
Introduced: December 11, 2018
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: Councilmember Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise the standard for the allowed height of certain free-standing uses in the Regional Shopping Center Overlay zone

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

Division 4.9. “Overlay Zones”
Section 4.9.12. “Regional Shopping Center (RSC) Overlay Zone”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by 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 59-4.9 is amended as follows:**

2 **Division 4.9. Overlay Zones**

3 * * *

4 **Section 4.9.12. Regional Shopping Center (RSC) Overlay Zone**

5 A. Purpose

6 The purpose of the RSC Overlay zone is to:

- 7 1. Provide flexibility of development standards to facilitate certain uses
8 compatible with a regional shopping center.
9 2. Provide parking design standards and requirements compatible with
10 the function and circulation needs of regional shopping centers.

11 * * *

12 C. Development Standards

- 13 1. To accommodate development at a regional shopping center with a
14 gross leasable area that is greater than or will be greater than (if
15 approved by site plan) 1,200,000 square feet, building height may be
16 increased to:

- 17 a. 90 feet for a building that includes a theater complex;
18 b. 150 feet for a Hotel, Motel; [and]
19 c. 150 feet for an apartment building or a multi-use building with
20 residential use[.]; and

- 21 d. 90 feet for a free-standing building for any of the following
22 uses or uses within the following use categories:

- 23 i. Retail Sales and Service;
24 ii. Structured Parking; or
25 [[ii]] iii. Health Clubs and Facilities.

- 26 2. Any portion of a building over 45 feet in height must be set back from
27 an abutting property in an Agricultural, Rural Residential, or

28 Residential zone a minimum of 3 feet for each 1 foot of building
29 height over 45 feet.

30 * * *

31 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
32 date of Council adoption.

33

34 This is a correct copy of Council action.

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36 _____

37 Megan Davey Limarzi, Esq.
38 Clerk of the Council