



Committee: PHED
Staff: Livhu Ndou, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #Overlay Zone, #Germantown-Churchill Village

AGENDA ITEM #10
September 14, 2021
Public Hearing

SUBJECT

Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village

Lead Sponsor: Council President Hucker at the request of the Planning Board

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

ZTA 21-04 will establish the Germantown-Churchill Village Overlay Zone.

SUMMARY OF KEY DISCUSSION POINTS

- This Overlay zone supports the implementation of new zoning recommended by the recently adopted and approved Germantown Plan for the Town Sector Zone by offering protections to the existing development character of Churchill Village.
- The Overlay zone addresses irregularities between existing development and new zoning standards due to prior rezoning; grandfathers existing by-right uses from the old Town Sector (T-S) zone; and protects quasi-public open spaces from future development.
- ZTA 21-04 makes multiple technical corrections to the Zoning Ordinance, such as changing the subsection number for the existing Overlay zones that alphabetically come after the Germantown-Churchill Village and changing references to these renumbered subsections throughout the Ordinance.

This report contains:

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ZTA 21-04	© 1-13
Planning Board Request for Introduction	© 14-15

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MEMORANDUM

September 9, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village

PURPOSE: Public Hearing

Zoning Text Amendment (ZTA) 21-04, Overlay Zone – Germantown-Churchill Village, lead sponsor Council President Hucker at the request of the Planning Board, was introduced on July 20, 2021.

The County Council approved and adopted the Germantown Plan for the Town Sector Zone in July 2020. As part of this master plan, the Planning Board has transmitted both this ZTA and a Sectional Map Amendment (SMA) to amend the zoning map and Zoning Ordinance as recommended by the master plan.¹

ZTA 21-04 will establish the Germantown-Churchill Village Overlay zone. This Overlay zone supports the implementation of new zoning recommended by the recently adopted master plan by offering protections to the existing development character of Churchill Village. When the Zoning Ordinance was updated in 2014, it removed the Town Sector (T-S) zone. The Overlay zone addresses irregularities between existing development and new zoning standards due to the rezoning; grandfathers existing by-right uses from the old T-S zone; and protects quasi-public open spaces from future development. According to the Planning Board, this proposed Overlay zone is “necessary to preserve the unique residential character and open spaces within the Churchill Village community, and to ensure a compatible relationship between new and existing development.”

ZTA 21-04 also makes multiple technical corrections to the Zoning Ordinance, such as changing the subsection number for the existing Overlay zones that alphabetically come after the

¹ Sectional Map Amendment (SMA) H-139 to implement the Approved and Adopted Germantown Plan for the Town Sector Zone is scheduled for public hearing on July 27, 2021. That SMA and this ZTA will be scheduled for PHED Committee worksessions at a later date.

Germantown-Churchill Village and changing references to these renumbered subsections throughout the Ordinance.

A Planning, Housing, and Economic Development (PHED) Committee worksession will be scheduled at a later date.

This packet contains:

ZTA 21-04

© 1-13

Planning Board Request for Introduction

© 14-15

Zoning Text Amendment No.: 21-04
Concerning: Overlay Zone –
Germantown-Churchill
Village
Draft No. & Date: 1 – 7/13/2021
Introduced:
Public Hearing:
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**

Lead Sponsor: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Germantown-Churchill Village Overlay zone

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

- | | |
|-----------------|---|
| ARTICLE 59-2. | “Zones and Zoning Map” |
| Section 2.1.2. | “Zoning Categories” |
| ARTICLE 59-4. | “Development Standards for Euclidean Zones” |
| Section 4.9.10. | “Germantown Transit Mixed Use (GTMU) Overlay Zone” |
| Section 4.9.11. | “Montgomery Village (MV) Overlay Zone” |
| Section 4.9.12. | “Regional Shopping Center (RSC) Overlay Zone” |
| Section 4.9.13. | “Ripley/South Silver Spring (RSS) Overlay Zone” |
| Section 4.9.14. | “Rural Village Center (RVC) Overlay Zone” |
| Section 4.9.15. | “Sandy Spring/Ashton Rural Village (SSA) Overlay Zone” |
| Section 4.9.16. | “Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone” |
| Section 4.9.17. | “Transferable Development Rights (TDR) Overlay Zone” |
| Section 4.9.18. | “Twinbrook (TB) Overlay Zone” |
| Section 4.9.19. | “Upper Paint Branch (UPB) Overlay Zone” |
| Section 4.9.20. | “Upper Rock Creek (URC) Overlay Zone” |
| Section 4.9.21. | “White Flint 2-Parklawn (WF-P) Overlay Zone” |

And adding

- | | |
|-----------------|--|
| Section 4.9.10. | “ <u>Germantown-Churchill Village (GCV) Overlay Zone</u> ” |
|-----------------|--|

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.

OPINION

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. ARTICLE 59-2 is amended as follows:**

2 **DIVISION 2.1. Zones Established**

3 * * *

4 **Section 2.1.3. Establishment of Zones**

5 * * *

6 **G. Overlay Zones**

7 1. There are [20] 21 Overlay zone classifications:

- 8 a. Bethesda (B),
- 9 b. Burtonsville Employment Area (BEA),
- 10 c. Chevy Chase Neighborhood Retail (CCNR),
- 11 d. Clarksburg East Environmental (CEE),
- 12 e. Clarksburg West Environmental (CWE),
- 13 f. Community-serving Retail (CSR),
- 14 g. Fenton Village (FV),
- 15 h. Garrett Park (GP),
- 16 i. Germantown-Churchill Village (GCV)
- 17 [i]j. Germantown Transit Mixed Use (GTMU),
- 18 [j]k. Montgomery Village (MV),
- 19 [k]l. Regional Shopping Center (RSC),
- 20 [l]m. Ripley/South Silver Spring (RSS),
- 21 [m]n. Rural Village Center (RVC),
- 22 [n]o. Sandy Spring/Ashton Rural Village (SSA),
- 23 [o]p. Takoma Park/East Silver Spring Commercial Revitalization
- 24 (TPESS),
- 25 [p]q. Transferable Development Rights (TDR),
- 26 [q]r. Twinbrook (TB),
- 27 [r]s. Upper Paint Branch (UPB),

28 [s]t. Upper Rock Creek (URC), and
29 [t]u. White Flint 2-Parklawn (WF-P).

30 2. Building types, uses, density, height, and other standards and
31 requirements may be modified by the Overlay zones under Section
32 4.9.2 through Section [4.9.20] 4.9.21.

33 * * *

34 **Sec. 2. ARTICLE 59-4 is amended as follows:**

35 **DIVISION 4.9. Overlay Zones**

36 * * *

37 **Section 4.9.10. Germantown-Churchill Village (GCV) Overlay Zone**

38 **A. Purpose**

39 The purpose of the GCV Overlay zone is to:

- 40 1. preserve the unique character of Churchill Village;
- 41 2. protect existing open space and conservation areas; and
- 42 3. ensure a compatible relationship between new and existing
- 43 development.

44 **B. Land Uses**

45 1. On properties in the RE-1 zone, all uses are prohibited except the
46 following, which are permitted:

- 47 a. Agricultural Vending;
- 48 b. Recreation and Entertainment Facility, Outdoor (Capacity up to
49 1,000 Persons);
- 50 c. Recreation and Entertainment Facility, Indoor (Capacity up to
51 1,000 persons);
- 52 d. Distribution Line (Below Ground);
- 53 e. Pipeline (Below Ground);
- 54 f. Playground, Outdoor (Private);

- 55 g. Seasonal Outdoor Sales;
- 56 h. Solar Collection System;
- 57 i. Day Care and Health Clubs in Community Centers; and
- 58 j. An Accessory Use associated with any of the above uses.
- 59 2. On properties in the RE-1 zone, any of the allowed features in open
- 60 space under Section 6.3.3.A are permitted, except for above-ground
- 61 utility rights-of-way.

62 **C. Development Standards**

63 In addition to any other requirements of Division 6.3 and Chapter 50,

64 common and public open space in Churchill Village must be recorded within

65 a separate lot or parcel with a protective easement or covenant in the land

66 records, in a form approved by the Planning Board, unless the parcel is

67 exempted from recordation under Chapter 50.

68 **D. Development Procedures**

- 69 1. Site plan approval under Section 7.3.4 is required for all development
- 70 in the GCV Overlay zone, except for:
 - 71 a. construction of an accessory structure;
 - 72 b. construction of a structure less than 5,000 square feet in size in
 - 73 the RE-1 zone;
 - 74 c. the modification or expansion of an existing detached house,
 - 75 duplex, townhouse, or accessory structure; or
 - 76 d. a conditional use.
- 77 2. Record plats must show all land designated for open space and have a
- 78 statement on the plat granting public access to those lands.
- 79 3. A certified site plan must show all land designated for open space.
- 80 4. Applications for a Floating zone on land classified in the RE-1 zone
- 81 are prohibited.

82 **E. Existing Buildings and Uses**

83 1. A legal structure or site design existing on {DAY BEFORE
84 EFFECTIVE DATE} that does not meet its current zoning is
85 conforming and may be continued, renovated, repaired, or
86 reconstructed if the floor area, height, and footprint of the structure
87 are not increased, except as provided below.

88 2. On a lot that has not changed in size or shape since {INSERT THE
89 EFFECTIVE DATE}, a detached house, duplex, or townhouse may
90 be constructed, reconstructed, or expanded:

- 91 a. without regard to the minimum lot size or lot width at the front
- 92 building line; and
- 93 b. in a manner that satisfies the maximum building height and lot
- 94 coverage of its current zone and the side, front, and rear setback
- 95 that was required when the lot was first created.

96 3. a. A legal use existing on {DAY BEFORE EFFECTIVE DATE}
97 is conforming and may be continued. Expansion of any such
98 use must satisfy the standards of the current zone under Article
99 59-3.

100 b. An existing Charitable, Philanthropic Institution (as defined by
101 Section 3.4.2) may expand without conditional use approval but
102 must satisfy Section 4.9.10.D.

103 **Section [4.9.10] 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay**

104 **Zone**

105 * * *

106 **Section [4.9.11] 4.9.12. Montgomery Village (MV) Overlay Zone**

107 * * *

108 **E. Existing Buildings and Uses**

109 * * *

- 110 3. a. A legal use existing on February 28, 2016 is conforming and
- 111 may be continued. Expansion of any such use must satisfy the
- 112 standards of the current zone under Article 59-3.
- 113 b. An existing Charitable, Philanthropic Institution (as defined by
- 114 Section 3.4.2) may expand without conditional use approval,
- 115 but must satisfy Section [4.9.11.D] 4.9.12.D.
- 116 c. An existing Storage Facility (as defined by Section 3.6.8.e.1)
- 117 owned and operated by a Charitable, Philanthropic Institution
- 118 may expand by up to the lesser of 10% or 30,000 square feet
- 119 without conditional use approval, but must satisfy Section
- 120 [4.9.11.D] 4.9.12.D.

121 **Section [4.9.12] 4.9.13. Regional Shopping Center (RSC) Overlay Zone**

122 * * *

123 **D. Site Plan**

124 Site plan approval under Section 7.3.4 is required for any increase in
125 building height under Section [4.9.12.C.1] 4.9.13.C.1.

126 **E. Parking**

127 * * *

128 **2. Pedestrian Access**

129 The major point of pedestrian access for an off-street parking facility
130 that occupies contiguous land area integral to the regional shopping
131 center property may extend more than 500 feet walking distance from
132 an entrance to the center to satisfy the number of spaces required
133 under Section [4.9.12.E.1.a] 4.9.13.E.1.a.

134 **Section [4.9.13] 4.9.14. Ripley/South Silver Spring (RSS) Overlay Zone**

135 * * *

136 **Section [4.9.14] 4.9.15. Rural Village Center (RVC) Overlay Zone**

137 * * *

138 **C. Development Standards**

139 1. Where a lot is either partially or totally in a Commercial/Residential
140 zone:

141 * * *

142 e. In addition to the parking requirements in Division 6.2:

143 * * *

144 iii. For any cumulative enlargement of a surface parking
145 facility that is greater than 50% of the total parking area
146 approved before November 4, 2002, the entire off-street
147 parking facility must be brought into conformance with
148 Section [4.9.14] 4.9.15.

149 * * *

150 **Section [4.9.15] 4.9.16. Sandy Spring/Ashton Rural Village (SSA) Overlay
151 Zone**

152 * * *

153 **Section [4.9.16] 4.9.17. Takoma Park/East Silver Spring Commercial
154 Revitalization (TPESS) Overlay Zone**

155 * * *

156 **D. Site Plan**

157 * * *

158 3. For any addition, reconstruction, or alteration that changes a building
159 by less than 1,000 square feet and does not require site plan approval
160 under Section [4.9.16.D.1.c] 4.9.17.D.1.c, the Planning Board or its
161 designee must review the building permit to determine compliance
162 with master plan recommendations and the provisions of this Overlay

163 zone. If an existing building is located on the site or on an adjacent
164 property, the minimum setback of the zone may be reduced to
165 conform to the existing setback on the site or on the adjacent property.

166 * * *

167 **Section [4.9.17] 4.9.18. Transferable Development Rights (TDR) Overlay Zone**

168 * * *

169 **B. Optional Method**

170 **1. In General**

171 The TDR Overlay optional method of development permits an
172 increase in the maximum residential density[,] if the development
173 satisfies the requirements for optional method development using
174 Transferable Development Rights under Section [4.9.17.B] 4.9.18.B.

175 **a. Applicability**

176 The procedures and requirements in Section [4.9.17.B] 4.9.18.B
177 apply to the transfer of development rights from land in the AR
178 zone to land in a Transferable Development Rights (TDR)
179 Overlay zone. The Planning Board may approve subdivision of
180 such land at densities up to the maximum density allowed in the
181 applicable TDR Overlay zone and substantially conforming to
182 the recommendations in the applicable master plan.

183 * * *

184 **c. Recording of Development Right**

185 * * *

186 ii. A final record plat for a subdivision using transferred
187 development rights must contain a statement including
188 the development proposed, the zoning classification of
189 the property, the number of development rights used, and

190 a notation of the recordation of the conveyance as
191 required by Section [4.9.17.B] 4.9.18.B.

192 **d. Development with Moderately Priced Dwelling Units**

- 193 i. A property developed under Section [4.9.17.B] 4.9.18.B
194 must satisfy Chapter 25A.
- 195 ii. Any increase in density allowed under the optional
196 method of development for the provision of MPDUs is
197 calculated after the base density of the property has been
198 increased under Section [4.9.17.B] 4.9.18.B through
199 TDRs.
- 200 iii. In a Rural Residential or Residential zone with a TDR
201 density designation of less than three units per acre,
202 development using TDRs and providing MPDUs above
203 12.5% must follow the requirements under optional
204 method MPDU Development. Any other optional method
205 development in a Rural Residential or Residential zone
206 must satisfy the requirements of Section [4.9.17.B]
207 4.9.18.B.

208 **e. Additional Findings**

209 In addition to the findings required for approval of a site plan
210 under Section 7.3.4, for projects developed under Section
211 [4.9.17.B] 4.9.18.B, the Planning Board must find that the
212 proposed development provides an appropriate range of
213 housing types that takes advantage of existing topography and
214 environmental features and achieves a compatible relationship
215 between the proposed development and adjoining land uses.

216 * * *

217 **Section [4.9.18] 4.9.19. Twinbrook (TB) Overlay Zone**

218 * * *

219 **Section [4.9.19] 4.9.20. Upper Paint Branch (UPB) Overlay Zone**

220 * * *

221 **B. Exemptions**

222 The following are exempt from Section [4.9.19] 4.9.20:

223 * * *

224 **C. Land Uses**

225 1. Except as listed in Section [4.9.19.C.2] 4.9.20.C.2 and Section
226 [4.9.19.C.3] 4.9.20.C.3, the land uses of the underlying zone apply.

227 The use standards of the underlying zone apply unless the
228 development standards in Section [4.9.19.D] 4.9.20.D are more
229 restrictive, in which case Section [4.9.19.D] 4.9.20.D must be
230 followed.

231 * * *

232 3. If validly existing on July 1, 1997, the uses in Section [4.9.19.C.2]
233 4.9.20.C.2 may be continued under the requirements in effect at the
234 time the use was established. Any expansion requires compliance with
235 the UPB Overlay zone.

236 * * *

237 **E. Waiver**

238 The applicable review body may grant a waiver of the development
239 standards in Section [4.9.19.D] 4.9.20.D if it finds that:

240 * * *

241 4. Alternative water quality and control techniques are used to meet the
242 purposes of Section [4.9.19] 4.9.20.

243 **Section [4.9.20] 4.9.21. Upper Rock Creek (URC) Overlay Zone**

244 * * *

245 **B. Exemptions**

246 1. The following are exempt from Section [4.9.20] 4.9.21:

247 * * *

248 **D. Waiver**

249 The applicable review body may grant a waiver of the development
250 standards in Section [4.9.20.C] 4.9.21.C if it finds that:

251 * * *

252 4. Alternative water quality and quantity control techniques are used to
253 meet the purposes of Section [4.9.20] 4.9.21.

254 **Section [4.9.21] 4.9.22. White Flint 2-Parklawn (WF-P) Overlay Zone**

255 * * *

256
257

Sec. 3. OLD ZONING ORDINANCE TO NEW ZONING ORDINANCE SECTION CROSS REFERENCE is amended as follows:

Old ZONING ORDINANCE	New ZONING ORDINANCE
Article 59-C: Zoning Districts; Regulations.	
* * *	
Division 59-C-18. Overlay Zones.	
* * *	
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.19] <u>4.9.20</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.15] <u>4.9.16</u> . Sandy Spring/Ashton Rural Village (SSA) Overlay Zone
* * *	
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.13] <u>4.9.14</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.16] <u>4.9.17</u> . Takoma Park/East Silver Spring Commercial Revitalizations (TPSS) Overlay Zone
* * *	
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.14] <u>4.9.15</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.20] <u>4.9.21</u> . Upper Rock Creek (URC) Overlay Zone

258

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

261

262 This is a correct copy of Council action.

263

264

265 _____
266 Selena Mendy Singleton, Esq.
Clerk of the Council



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

OFFICE OF THE CHAIR

March 15, 2021

TO: The Honorable Tom Hucker, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

FROM: Montgomery County Planning Board

SUBJECT: Planning Board Recommendation to County Council for introduction of a Zoning Text Amendment to amend the Zoning Ordinance (Chapter 59) to establish a new Germantown-Churchill Village Overlay Zone.

The Montgomery County Planning Board of The Maryland–National Capital Park and Planning Commission met on March 11, 2021 and by a vote of 5:0 recommended transmitting the attached draft Zoning Text Amendment (ZTA) to establish a new Germantown–Churchill Village Overlay Zone (GCVOZ). This overlay zone is a critical part of implementing the new zoning recommended by the recently adopted and approved *Germantown Plan for the Town Sector Zone* by offering protections to the existing development character of Churchill Village.

The *Germantown Plan for the Town Sector Zone* is primarily a technical plan that analyzes the different villages within the old Town Sector (T-S) zone areas of Germantown, recommending new zones that are in the Ordinance. This is necessary because the Zoning Ordinance update in 2014 removed the T-S zone. This recommended ZTA is being transmitted to the Council concurrently with the Board’s recommended approval of Sectional Map Amendment H-139, which maps the recommended underlying zoning changes.

The proposed overlay zone is necessary to preserve the unique residential character and open spaces within the Churchill Village community, and to ensure a compatible relationship between new and existing development. Specifically, the overlay addresses irregularities between existing development and new zoning standards as a result of the rezoning, it grandfathers existing by-right uses from the old T-S zone, and protects the quasi-public open spaces from future development. The uniqueness of the T-S zone allowed different types of uses and structures in arrangements not often seen with standard residential zones and created a substantial amount of open space, which should be protected from future development pressure. The proposed ZTA also makes multiple technical corrections to the Zoning Ordinance specifically changing the subsection number for the existing overlay zones that alphabetically come after Germantown-Churchill Village, and changes references to these renumbered subsections throughout the Ordinance.

The Honorable Tom Hucker

March 15, 2021

Page Two

The framework of the GCVOZ is nearly identical to the Montgomery Village Overlay Zone which was approved in conjunction with the Montgomery Village Master Plan in 2016 for the same purpose of rezoning properties from the T-S zone to new residential and mixed-use zones.

The Board appreciates the Council's consideration of the attached draft ZTA to create the GCVOZ and Planning Staff is able and willing to assist the Council as needed in the review of the proposed revisions.



Casey Anderson
Chair