



Zoning Text Amendment (ZTA) No. 13-07, US 29 Overlay Zone – Land Use



Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174



Mary Dolan, Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552

Completed: 09/04/13

Description

ZTA No. 13-07 would revise the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to expand the opportunity for smaller retail uses. Specifically, the ZTA would allow retail uses to locate within a footprint of 15,000 square feet or less, without adherence to Section 59-C-18.132(b)(2)(A) of the overlay zone (50,000 square foot limitation per base zone, 15,000 square foot floor area limitation on any individual lot and 10,000 square foot limit for a single tenant retail use). The ZTA also recommends allowing retail uses under these parameters without site plan approval. ZTA 13-07 also reflects minor clarification changes to the overlay zone as recommended in ZTA No. 13-05 (transmitted to the County Council with a recommendation for approval by the Board on June 20, 2013) where the changes amend the same sections of the Zoning Ordinance. (ZTA No. 13-05 would allow multi-family residential and grocery stores where the underlying base zone is I-1 and the uses are part of a mixed-use development.)

Summary

Staff recommends approval, with modifications, of ZTA No. 13-07 to allow retail uses to locate within a footprint of 15,000 square feet or less, without adherence to the limitations of Section 59-C-18.132(b)(2)(A) as currently established in the US 29/Cherry Hill Road Employment Area Overlay Zone. The staff modifications include plain language clarifications and would allow retail uses established under the parameters set forth by the ZTA to be approved without requiring a site plan if the use is located in a building existing as of the effective date of the ZTA.

Background/Analysis

The US 29/Cherry Hill Road area (bounded by US 29, Cherry Hill Road, the Federal Research Center, and the Paint Branch stream valley park) has been home to light industrial and service uses, offices, public sector facilities, and heavy industrial. The area was identified as the Montgomery Industrial Park in the 1981 Master Plan for the *Eastern Montgomery County Planning Area: Cloverly, Fairland, White Oak*, with uses that included the International Fabricare Institute, Contee Sand and Gravel, and the Montgomery County Sludge Composting Facility (the latter two now known respectively as Percontee and Site 2). The 1981 Plan recommended continued industrial land use and zoning in this area.

In 1997, Council adopted the US 29 Cherry Hill Employment Area Overlay Zone to implement the recommendations of the *1997 Approved and Adopted Fairland Master Plan*. The overlay zone was applied to a 500-acre area with four different industrial classifications including: light (I-1 and I-4); heavy (I-2); and research/development (I-3) zoning. During the 1980s the area developed with light industrial uses and some commercial and service uses such as a hardware store (Home Depot), DarCars auto sales and repair and a hotel (Courtyard by Marriott). One hundred acres served as the Site 2 WSSC composting facility (I-2 zone) and 180 acres contained the Percontee gravel washing facility (I-2).

The idea of the overlay zone was to support the existing employment by allowing certain uses and limiting other uses permitted in the underlying base zones (I-1, I-2, I-3, & I-4) within the area. The Plan also recommended a new commercial zone (C-6 - low-density, regional commercial) for 42 acres of I-3 land on Cherry Hill Road that was subsequently developed as a retail center.

In 2004, the overlay was amended to allow restaurants and food services to be excluded from the calculation of retail square footage for the purpose of encouraging the development of restaurants in the area. The County Council believed that the changes were necessary to implement master plan recommendations for self-supporting employment and on-site retail and commercial services in the area.

In 2005, the overlay zone was amended to allow research, development and related activities where the underlying base zone is I-2 (59-C-18.132). This text change supported the County's interest in utilizing its Site 2 property as a life sciences, education, and research center.

The 1997 Overlay Zone along with the 2004 and 2005 text amendments were incremental steps in a gradual transition in land use from strictly industrial to a more diverse mix of commercial uses.

Recently, ZTA No. 13-05 was introduced by the County Council, also providing for incremental change in the land uses permitted in this area. Approval of ZTA 13-05 will allow property owners in the I-1 underlying zone that are interested in pursuing plans for a mixed-use residential/retail project to proceed in advance of the Sectional Map Amendment that will implement the proposed zoning recommendations in the draft White Oak Science Gateway Master Plan. The Planning Board considered and recommended approval of the ZTA on June 20, 2013, emphasizing that their recommendation in no way prejudices its upcoming review on the draft plan.

ZTA 13-07 further revises the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to expand the opportunity for smaller retail uses within a footprint of 15,000 square feet or less anywhere in the overlay zone, without adherence to the limitations of Section 59-C-18.132(b)(2)(A) of the overlay zone.

U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan

ZTA 13-07 proposes to include *retail trades, businesses, and services of a general commercial nature* as an additional permitted use in the overlay zone (Section 59-C-18.132(a)(1)(A)(i)).

Currently in the overlay zone, development of retail commercial use in the areas not zoned C-6 cannot exceed 15,000 square feet on any individual lot; and no single tenant, free-standing structure that devotes 50 percent or more of its gross floor area to a retail commercial use may exceed a total of

10,000 gross square feet. The exception to this requirement is limited to an eating and drinking establishment use without a drive-in (ZTA 13-05 proposes a grocery store as an additional exception). ZTA 13-07 further modifies this limitation by allowing retail trades, businesses, and services of a general commercial nature to locate anywhere in the overlay zone if the *footprint* of the use is 15,000 square feet or less. This proposed change is consistent with the recommendations of the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan*, as discussed in the “Master Plan Update” section below.

Any retail commercial development in the U.S. 29/Cherry Hill Road Employment Area overlay zone must be approved under the site plan review provisions of Division 59-D-3, where the cumulative redevelopment exceeds 20 percent of the existing gross floor area. ZTA 13-07 eliminates the site plan requirement if the floor area is used for retail trades, businesses, and services of a general commercial nature up to a footprint of 15,000 square feet. *Staff believes that this proposed exception should be modified to require site plan review unless the 15,000 square foot retail footprint is located in a building in existence as of the effective date of the ZTA.*

Master Plan Update (Attachments 2 & 3)

A Master Plan update is underway for the area covered by the US 29/Cherry Hill Road Employment Area Overlay Zone. Planning Board worksessions were held in June and July on the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan* and the final two worksessions are scheduled for September 4 and 19. The draft Master Plan encourages reinvestment and redevelopment in three activity centers. The largest of these centers is the North White Oak/Cherry Hill Road Center (referred to in the 1997 Plan as the “US 29/Cherry Hill Road Employment Area”), which is roughly the same area covered by the Overlay Zone. The draft Plan recommends that this entire area (with the exception of a property recommended for the LSC Zone) be rezoned from I-1, I-2, I-3, and I-4 to several CR zones, which allow mixed-use developments. This recommendation is based on stakeholders’ interest in seeing the area transform from industrial, office, and service uses to a more diverse mix that includes retail, housing, and additional employment opportunities in technology and, possibly, life sciences.

Conclusion

With the proposed changes to the ZTA language as depicted in Attachment 1 (plain language clarifications and a requirement that retail uses under these parameters be approved without requiring a site plan only if the use is located in a building existing as of the effective date of the ZTA), staff recommends approval of ZTA 13-07. Incremental modifications to the overlay zone as established in 1997 have gradually transitioned the area from strictly industrial to a more diverse mix of commercial uses. Approval of this ZTA will allow reuse of existing buildings and new buildings for a limited amount of retail. The recommendations in the draft White Oak Science Gateway Master Plan represent the next phase of land use planning and set the stage for a transformation of this area. The Plan’s recommendations for the area covered by the Overlay Zone are intended to spur reinvestment and support the County’s goals for its Site 2 property, the Percontee property, as well as the surrounding area.

Attachments

1. ZTA No. 13-07 as modified by staff
2. Area 2 Comments
3. Maps-Existing & Proposed Zoning

ATTACHMENT 1

Zoning Text Amendment No.: 13-07
Concerning: US 29 Overlay Zone –
Land Use
Draft No. & Date: 1 – 7/18/13
Introduced: July 30, 2013
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**

By: Councilmembers Ervin and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to revise the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to:

- allow retail sales and services under certain circumstances;
- reflect the changes proposed in ZTA 13-05 to allow for a grocery store in the overlay zone under certain circumstances;
- generally amend the text of the zone to make it more concise, precise, and decisive

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

DIVISION 59-C-18. “OVERLAY ZONES.”

Section 59-C-18.13. “US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.”

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 that text 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:

Sec. 1. DIVISION 59-C-18 is amended as follows:

DIVISION 59-C-18. OVERLAY ZONES.

* * *

Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.

* * *

59-C-18.132. Regulations.

(a) Land uses.

(1) The following uses are permitted in the U.S. 29/Cherry Hill Road Employment Area overlay zone:

(A) All permitted and special exception uses allowed in the underlying zones are allowed in the U.S. 29/Cherry Hill Road Employment Area overlay zone, except as specifically modified [[and set forth in]] by this overlay zone.

(i) The following additional retail commercial uses are permitted:

Beauty supply stores.

Computer and computer supply stores.

Electronics stores.

Express or mailing offices.

Food and beverage stores.

Music stores.

Office supply stores.

Pet supply stores.

Retail trades, businesses, and services of a general commercial nature.

Shoe stores.

28 Theaters, indoor.

29 * * *

30 (b) **Development standards.** Development will proceed under the standards of
31 the underlying zones except as modified by the provisions of this overlay
32 zone.

33 * * *

34 (2) **Retail commercial area.**

35 (A) Where the underlying base zone is not ~~[[other than the]]~~ C-6
36 ~~[[Zone]]~~:

- 37 (i) the cumulative square footage of retail commercial uses
38 permitted on land classified in each particular base zone
39 within the boundaries of the overlay zone must [not
40 exceed] be equal to or less than a total of 50,000¹ gross
41 square feet; ~~[[and]]~~
- 42 (ii) development of retail commercial use cannot exceed
43 15,000¹ square feet on any individual lot; and
- 44 (iii) ~~[no]~~ except for a grocery store, a single tenant free-
45 standing structure that devotes 50 percent or more of its
46 gross floor area to a retail commercial use [may exceed a
47 total of] must be equal to or less than 10,000 gross square
48 feet.

49 (B) Subsection (A) also applies where the underlying base zone is
50 C-6, and when development occurs [pursuant to] under Section
51 59-C-18.132(b)(6)(B).

52 (C) Anywhere in the overlay zone, the limitations in Subsection (A)
53 do not apply to the floor area used for retail trades, businesses,

54 and services of a general commercial nature if the footprint of
55 the use is 15,000 square feet or less.

56 * * *

57 (d) **Site plan.**

58 (1) Any retail commercial development in the U.S. 29/Cherry Hill Road
59 Employment Area overlay zone must be approved under the site plan
60 review provisions of Division 59-D-3, except where:

61 (A) the cumulative redevelopment [does not exceed] is 20 percent
62 or less of the existing gross floor area; or

63 (B) the floor area is used for retail trades, businesses, and services
64 of a general commercial nature up to a footprint of 15,000
65 square feet located within a building existing as of
66 {EFFECTIVE DATE OF THE ZTA} .

67 (2) For uses other than retail, site plan review is required only where it is
68 required in the [underlying] underlying zone.

69

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

72

73 This is a correct copy of Council action.

74

75 _____

76 Linda M. Lauer, Clerk of the Council



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

MEMORANDUM

TO: Greg Russ, Planner Coordinator, Functional Planning and Policy Division

VIA: Khalid Afzal, Master Planner Supervisor, Area 2 Planning Division
 Glenn Kreger, Chief, Area 2 Planning Division *AK*

FROM: Nancy Sturgeon, Master Planner, Area 2 Planning Division *NS*

DATE: August 26, 2013

SUBJECT: ZTA No. 13-07

Recommendation

Staff in the Area 2 Planning Division recommends approval of Zoning Text Amendment (ZTA) No. 13-07, which proposes revisions to the US 29/Cherry Hill Road Employment Area Overlay Zone that would expand the opportunity for smaller retail uses (with a footprint of 15,000 square feet or less).

Background

The US 29/Cherry Hill Road area (bounded by US 29, Cherry Hill Road, the Federal Research Center, and the Paint Branch stream valley park) has been home to light industrial and service uses, back offices, public sector facilities, and heavy industrial. The area was identified as the Montgomery Industrial Park in the 1981 Master Plan for the *Eastern Montgomery County Planning Area: Cloverly, Fairland, White Oak*, with uses that included the International Fabricare Institute, Contee Sand and Gravel, and the Montgomery County Sludge Composting Facility (the latter two now known respectively as Percontee and Site 2). The 1981 Plan recommended continued industrial land use and zoning in this area.

The 1997 *Fairland Master Plan* recommended the US 29/Cherry Hill Road Employment Area Overlay Zone (Section 59-C-18.13 of the Zoning Ordinance) for the purpose of supporting the existing employment by allowing certain uses and limiting other uses permitted in the underlying base zones (I-1, I-2, I-3, I-4) within the area. The Plan also recommended a new commercial zone (C-6 - low-density, regional commercial) for 42 acres of I-3 land on Cherry Hill Road that was subsequently developed as a retail center.

In 2005, the Overlay Zone was amended to allow research, development and related activities where the underlying base zone is I-2 (59-C-18.132). This text change supported the County's interest in utilizing its Site 2 property as a life sciences, education, and research center.

Recently, another amendment to the Overlay Zone was introduced; ZTA No. 13-05 proposes residential and retail uses (where the underlying zone is I-1) and was considered and recommended for approval by the Planning Board on June 20, 2013.

Master Plan Update

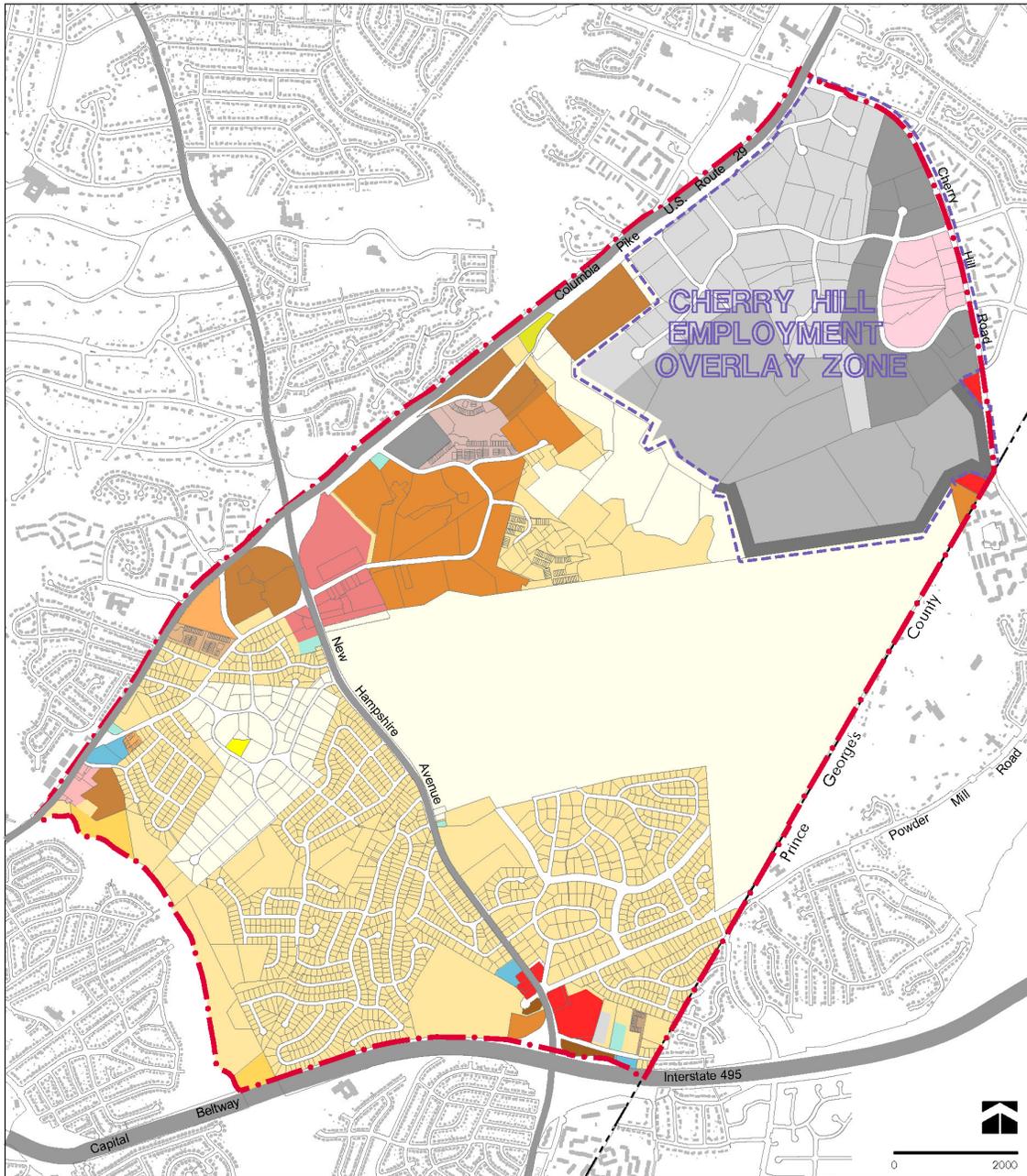
A Master Plan update is underway for the area covered by the US 29/Cherry Hill Road Employment Area Overlay Zone. Planning Board worksessions were held in June and July on the May 2013 Public Hearing Draft of the *White Oak Science Gateway Master Plan* and the final two worksessions are scheduled for September 4 and 19. The draft Master Plan encourages reinvestment and redevelopment in three activity centers. The largest of these centers is the North White Oak/Cherry Hill Road Center (referred to in the 1997 Plan as the "US 29/Cherry Hill Road Employment Area"), which is roughly the same area covered by the Overlay Zone. The draft Plan recommends that this entire area (with the exception of a property recommended for the LSC Zone) be rezoned from I-1, I-2, I-3, and I-4 to several CR zones, which allow mixed-use developments. This recommendation is based on stakeholders' interest in seeing the area transform from industrial, office, and service uses to a more diverse mix that includes retail, housing, and additional employment opportunities in technology and, possibly, life sciences.

Conclusion

This area is slowly evolving. Over thirty years ago, the 1981 Master Plan preserved this area for a variety of industrial uses, including the sludge composting facility. Fifteen years ago, the 1997 *Fairland Master Plan* recognized that the area had significant enough employment that supportive uses (such as restaurants and banks) should be permitted. The 1997 Overlay Zone (and the 2005 text amendment) was an incremental step in a gradual transition in land use from strictly industrial to a more diverse mix of commercial uses.

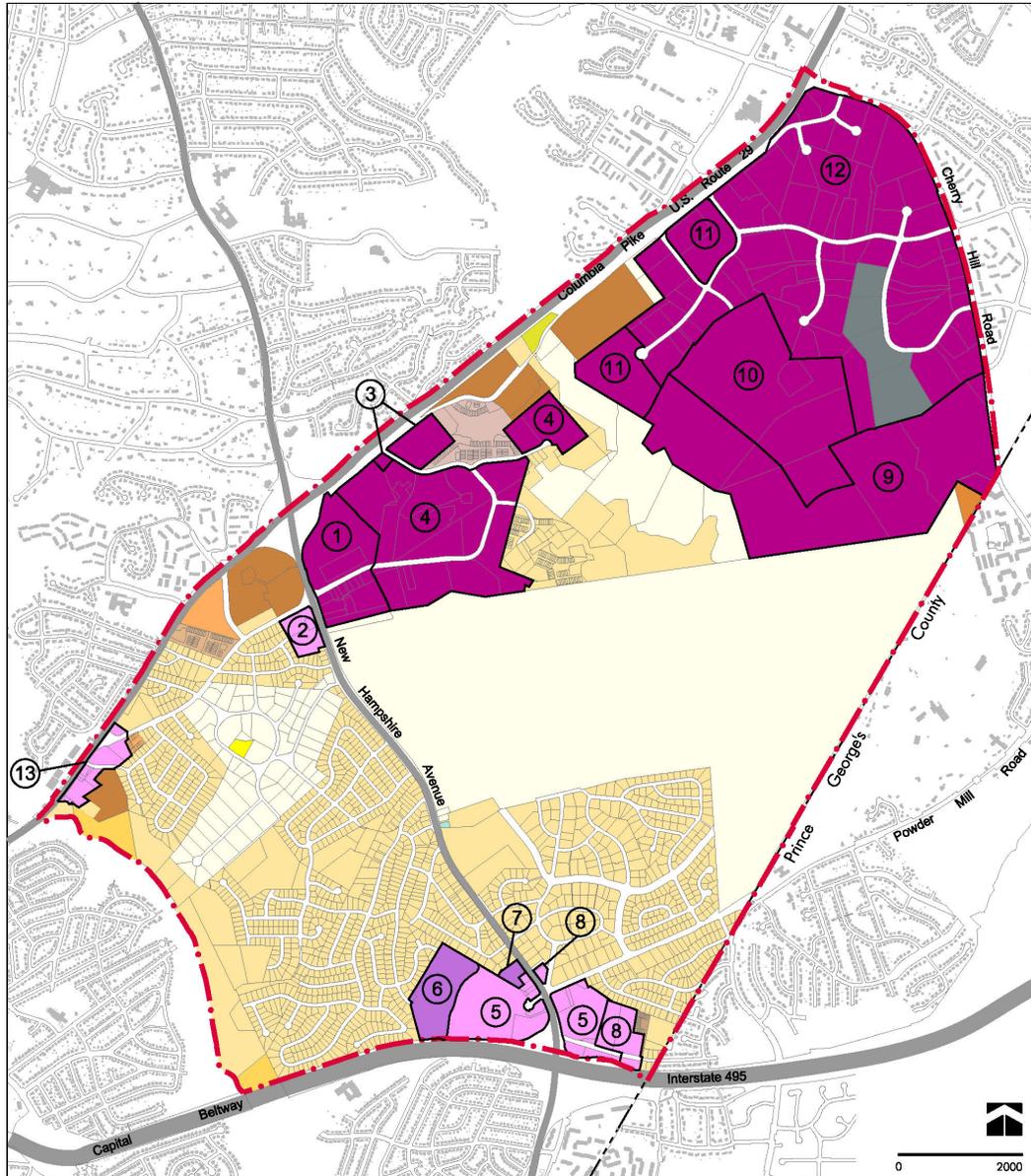
ZTA No. 13-07 provides for another incremental change in the land uses permitted in this area. Approval of this ZTA will allow reuse of existing buildings and new buildings for a limited amount of retail. The recommendations in the draft *White Oak Science Gateway Master Plan* represent the next phase of land use planning and set the stage for a transformation of this area. The Plan's recommendations for the area covered by the Overlay Zone are intended to spur reinvestment and support the County's goals for its Site 2 property, the Percontee property, as well as the surrounding area.

Existing Zoning



	Master Plan Area Boundary		O-M Office Building, Moderate Intensity
	County Boundary		C-O Commercial, Office Building
	Overlay Zone Boundary		C-T Commercial, Transitional
	RE-2 Residential Estate, 2 Acres		C-1 Convenience Commercial
	RE-1 Residential Estate, 1 Acre		C-2 General Commercial
	R-200 Residential Estate, 1 Acre		C-4 Limited Commercial
	R-90 One-Family Detached Restricted Residential		C-6 Low-Density, Regional Commercial
	R-60 One-Family Detached Residential		I-1 Light Industrial
	RT-6 Residential, Town House		I-2 Heavy Industrial
	RT-8 Residential, Town House		I-3 Technology and Business Park
	RT-10 Residential, Town House		I-4 Low Intensity, Light Industrial
	RT-12.5 Residential, Town House		
	R-20 Multiple-Family Medium-Density Residential		
	R-H Multiple-Family High-Rise Planned Residential		

Proposed Zoning



Master Plan Area Boundary	CRN Commercial Residential Neighborhood
County Boundary	6 CRN-0.25 C-0.0 R-0.25 H-45
RE-2 Residential Estate, 2 Acres	7 CRN-1.0 C-0.75 R-0.75 H-45
RE-1 Residential Estate, 1 Acre	CRT Commercial Residential Town
R-200 Residential Estate, 1 Acre	2 CRT-1.5 C-1.0 R-0.75 H-50
R-90 One-Family Detached Restricted Residential	8 CRT-1.0 C-0.75 R-0.75 H-45
R-60 One-Family Detached Residential	5 CRT-1.5 C-1.0 R-1.0 H-75
RT-6 Residential, Town House	13 CRT-0.75 C-0.5 R-0.25 H-45
RT-8 Residential, Town House	CR Commercial Residential
RT-10 Residential, Town House	1 CR-2.5 C-1.5 R-1.5 H-200
RT-12.5 Residential, Town House	3 CR-1.0 C-1.0 R-0.75 H-65
R-20 Multiple-Family Medium-Density Residential	4 CR-1.5 C-0.25 R-1.5 H-75
R-H Multiple-Family High-Rise Planned Residential	9 CR-0.75 C-0.50 R-0.50 H-120
LSC Life Sciences Center	10 CR-1.25 C-1.0 R-0.25 H-220
	11 CR-1.0 C-0.75 R-0.75 H-75
	12 CR-0.75 C-0.75 R-0.25 H-75