



**Zoning Text Amendment (ZTA) No. 20-06, Surface Parking – Residential Zones**

---

BB

Benjamin Berbert, Planner Coordinator, CP&P, [Benjamin.berbert@montgomeryplanning.org](mailto:Benjamin.berbert@montgomeryplanning.org), 301-495-4644

JS

Jason Sartori, Chief, CP&P, [jason.sartori@montgomeryplanning.org](mailto:jason.sartori@montgomeryplanning.org), 301-495-2172

---

**Completed: 01/07/21**

**Description**

ZTA 20-06 would amend the definition of “Surface Parking for Use Allowed in the Zone” to include parking on residentially zoned property that was approved by a special exception prior to October 30, 2014, and would move the regulatory authority of such parking from the conditional use process to the site plan process.

**Summary**

Staff recommends approval of ZTA No. 20-06, as introduced, to amend the definition of “Surface Parking for Use Allowed in the Zone” under Section 3.5.9 to include parking on residentially zoned property that is approved by a special exception prior to October 30, 2014, and to allow property owners the option to reduce the regulatory burden and potential for conflicting decisions on development approvals.

**Background/Analysis**

Rationale for ZTA Introduction

This ZTA is intended to provide property owners with split zoned property, or who own development over multiple properties located in different zones, the option to streamline the process for amending development approvals. Specifically, this ZTA provides relief for properties with a commercial use in a commercial zone, and the associated parking for that commercial use approved through special exception in a residential zone. The old Zoning Ordinance before October 30, 2014 permitted “Parking of automobiles, off-street, in connection with commercial uses” as a special exception in the R-60 and R-40 zones. According to records from the Board of Appeals, there have been 25 properties where a special exception for parking in a residential zone was granted, mostly in the 1970s and 1980s. At the time, it was more common to either create a split zone property, or to only rezone one of multiple properties as a means of limiting the size of the commercial development. Many of the old commercial zones didn’t have explicit limits on density, just on coverage and/or green area, therefore limiting the area of commercial zoning or limiting the parking was a way to limit the total development size. Most of these developments would not have required a site plan when developed, which further explains why it was beneficial to require a Special Exception for parking on a residential zone rather than provide the whole development with a commercial zone.

Upon reviewing these 25 properties, about half are still in use today and are still in a split between the commercially zoned primary structure, and the residentially zoned parking. The other half of the

properties have since been rezoned through a Sectional Map Amendment to fully cover the parking within the same CR or Employment zone as the commercial use. Of the sites where the parking in a residential zone is still active, about half are a single split-zoned lot, and the other half are two separate but adjacent lots with one fully zoned commercial and one fully zoned residential.

The new Zoning Ordinance that took effect on October 30, 2014 removed “Parking of automobiles, off-street, in connection with commercial uses” as a conditional use, but the grandfathering of Section 7.7.1 allows these unique parking approvals to continue. The new Zoning Ordinance is better able to control compatibility and density through the density, form, and master plan requirements of CR and Employment Zones.

Developments split-zoned between residential and commercial zoning can amend their uses and the associated parking through the grandfathering provisions, however the current process would potentially require the Planning Board to take action on a site plan for the commercially zoned portion of the development project, and the Board of Appeals to take action on a special exception amendment for the parking on the residentially zoned portion. The changes proposed by this ZTA would provide an alternative to this cumbersome process that would allow all regulatory authority over the commercial use and its associated parking to fall under the Planning Board through the site plan process.

#### ZTA 20-06 as introduced

ZTA 20-06 makes two modifications to the Zoning Ordinance. The first amends the definition of Surface Parking for Use Allowed in the Zone under Section 3.5.9.C. The proposed language is as follows:

#### Surface Parking for Use Allowed in the Zone

1. Defined

Surface parking for Use Allowed in the Zone means surface parking in connection with any permitted or limited use allowed in the zone where no building or other use requiring parking is on the same lot, or surface parking allowed in a detached residential zone by a special exception approved before October 30, 2014.

The original definition in this section was specific to parking allowed by right as a primary use on a lot, located adjacent to an allowed use on a separate lot. This expanded definition would include parking that has been allowed by special exception in a residential zone associated with a commercial use in a commercial zone, either on the same lot or an adjacent lot.

The second modification is intended to reduce the burden and possibility of conflicting recommendations that come from having to amend both a special exception and site plan through different regulatory bodies. The ZTA proposes a new use standard iii be added to Section 3.5.9.C as follows:

2. Use Standards

Where Surface Parking for Use Allowed in the Zone is allowed as a limited use, it must satisfy the following standards:

- a. Where a sketch plan is required, the surface parking is only allowed as part of an approved phasing plan and the Planning Board finds that the layout is safe, efficient, and compatible with adjacent development.
- b. Where a sketch plan is not required[,];
  - i. the parking setbacks must accommodate the landscaping required under Section 6.2.9[.]; and
  - ii. [In] in the CRT, CR, LSC, and EOF zones:
    - (a) the surface parking must be providing parking for a use on an abutting lot or be a municipal public parking lot; and
    - (b) for properties on a business district street, site plan approval is required under Section 7.3.4. The Planning Board must find that the surface parking supports commercial or residential uses that substantially conform with the recommendations of the applicable master plan.
  - iii. Where parking located in a residential detached zone was approved as a special exception in connection with a commercial use, site plan approval under Section 7.3.4 may supersede the previously approved special exception at the option of the applicant.

This modification would remove review authority from the Board of Appeals if a property owner chooses to amend the associated parking via a site plan, but the site plan process itself should continue to ensure the parking is adequate and compatible with surrounding uses. The proposed language includes “at the option of the applicant” because it may not always be to a property owner’s benefit to end the special exception process, especially if the associated commercial use does not have or require a site plan.

## Conclusion

Staff believes that ZTA 20-06 provides more flexibility to these remaining commercial developments that have their approved associated parking within a residential zone without sacrificing the original intent of the code or weakening any review requirements. Approval of this language does not imply the ability for any of these properties to drastically change in size or character as the size of the commercially zoned area would not increase. This ZTA merely simplifies the process going forward for amendments or redevelopments of properties by providing the option to shift the entire review authority to the site plan process at the Planning Board. Staff recommends approval as introduced.

## Attachments

1. ZTA No. 20-06 as introduced.

Zoning Text Amendment No.: 20-06  
Concerning: Surface Parking –  
Residential Zones  
Draft No. & Date: 2– 11/7/2020  
Introduced:  
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: Councilmembers Huckler and Riemer

---

**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- amend the definition of “Surface Parking for Use Allowed in the Zone”;
- allow site plan approval to supersede a special exception for parking in a residential detached zone under certain circumstances; and
- generally amend the provisions for Surface Parking for Use Allowed in the Zone

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

Division 3.5. “Commercial Uses”  
Section 3.5.9. “Parking”

**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 3.5. Commercial Uses**

2       \*   \*   \*

3       **Section 3.5.9. Parking**

4       A.     Defined, In General

5           Parking means a lot or structure that provides parking for motor vehicles  
6           where the facility is the principal use and a fee may be charged.

7       B.     Structured Parking

8           Defined

9           Structured Parking means a one or more level free-standing structure for  
10          parking or storing motor vehicles that does not share a common floor or  
11          ceiling with another use allowed in the zone. Structured Parking does not  
12          include Surface Parking.

13      C.     Surface Parking for Use Allowed in the Zone

14          1.     Defined

15           Surface parking for Use Allowed in the Zone means surface parking  
16           in connection with any permitted or limited use allowed in the zone  
17           where no building or other use requiring parking is on the same lot, or  
18           surface parking allowed in a detached residential zone by a special  
19           exception approved before October 30, 2014.

20          2.     Use Standards

21           Where Surface Parking for Use Allowed in the Zone is allowed as a  
22           limited use, it must satisfy the following standards:

23           a.     Where a sketch plan is required, the surface parking is only  
24           allowed as part of an approved phasing plan and the Planning  
25           Board finds that the layout is safe, efficient, and compatible  
26           with adjacent development.

27           b.     Where a sketch plan is not required[,];

- 28 i. the parking setbacks must accommodate the landscaping  
29 required under Section 6.2.9[,] and  
30 ii. [In] in the CRT, CR, LSC, and EOF zones:  
31 (a) the surface parking must be providing parking for  
32 a use on an abutting lot or be a municipal public  
33 parking lot; and  
34 (b) for properties on a business district street, site plan  
35 approval is required under Section 7.3.4. The  
36 Planning Board must find that the surface parking  
37 supports commercial or residential uses that  
38 substantially conform with the recommendations  
39 of the applicable master plan.  
40 iii. Where parking located in a residential detached zone was  
41 approved as a special exception in connection with a  
42 commercial use, site plan approval under Section 7.3.4  
43 may supersede the previously approved special exception  
44 at the option of the applicant.  
45

46 **Sec. 2. Effective date.** This ordinance becomes effective immediately upon  
47 the Council's adoption.  
48

49 This is a correct copy of Council action.  
50

51 \_\_\_\_\_  
52 Selena Mendy Singleton, Esq.  
53 Clerk of the Council