

Request to Introduce a Zoning Text Amendment, Germantown-Churchill Village Overlay Zone

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Completed: 3/5/2021

Staff Recommendation

Approval to submit a zoning text amendment (ZTA) to create the Germantown-Churchill Village (GCV) Overlay Zone in order to implement recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone*.

Summary

Staff recommends approval to transmit the proposed ZTA to the Montgomery County District Council requesting introduction. The proposed ZTA would create an overlay zone, as recommended in the approved and adopted 2020 *Germantown Plan for the Town Sector Zone*, and is mirrored on the Montgomery Village Overlay Zone established in 2015 for similar purposes of protecting properties originally developed under the now outdated Town Sector zoning.

Background

The purpose of the *Germantown Plan for the Town Sector Zone* is to replace the existing and outdated Town Sector (T-S) zoning with current zoning classifications for the Churchill Village community of Germantown. The master plan recommends appropriate zoning categories and policies to protect the community's open space and recreation areas, while maintaining the overall residential character of Churchill Village. Additionally, rezoning minimal areas of non-Town Sector zones (along the plan's boundary) is recommended to correct zoning inconsistencies caused mostly by right-of-way alignments and the creation of Little Seneca Lake. A Sectional Map Amendment is concurrently being reviewed to apply the recommended changes to the underlying zones.

The project was initiated in April 2018 followed by community engagement, analysis and by the approval of the Scope of Work in November 2018. The following recent milestone dates are noted below:

- On July 17, 2019, the Planning Board held a public hearing on the public hearing draft.
- On February 4, 2020, the County Council held a public hearing on the Planning Board draft.
- On February 25, 2020 the Planning, Housing, and Economic Development Committee (PHED) of the County Council held a work session to review the Planning Board draft.

- On July 21, 2020, the County Council adopted Resolution No. 19-543, which approved the plan with amendments.
- On July 30, 2020 the Planning Board adopted Resolution of Adoption No. 20-081, which adopted the plan as amended by the County Council.
- On September 19, 2020, the Maryland-National Capital Park and Planning Commission (M-NCPPC) approved and adopted the Germantown Plan for the Town Sector Zone by Resolution No. 20-019.

Recommended Overlay Zone

This recommended ZTA requests the creation of a new Overlay Zone to complement the Sectional Map Amendment implementing the recommended zoning changes. This Overlay Zone is necessary to fully implement the goals and recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone* to 1) maintain the residential core, 2) protect open spaces and recreation areas, and 3) support neighborhood-serving commercial uses.

The GCV Overlay Zone would cover approximately 1,272 acres of land. The purpose of the Overlay Zone is to facilitate the preservation of the unique residential character and open space system that exists in the Churchill Village community, and to ensure compatibility between new and existing development. The framework of this Overlay Zone is similar to the Montgomery Village Overlay Zone which was created in 2015 following the 2015 Montgomery Village Master Plan, which had a similar purpose to update the Town Sector zoning with new zones while protecting the unique development and open space characteristics that were created under the old zone.

Specifically, the GCV overlay zone will:

- Address irregularities with development standards that will occur as a result of the rezoning from the Town Sector Zone to the various updated zoning categories. Some properties that were built to development standards under the T-S Zone do not conform to the development standards (e.g., front or side setbacks) of their proposed new Euclidean zones. In effect, such properties will be “grandfathered” (legally non-conforming).
- Allow existing uses that were permitted by-right under the T-S Zone to be “grandfathered” under the newly proposed zones. If expansion of the use or redevelopment occurs and the proposed use is considered a limited or conditional use under the new zone, then the applicant must follow the review requirements for a limited or conditional use.
- Preserves the existing quasi-public open space and recreation areas owned and maintained by the various homeowner associations.
- Addresses compatibility between existing and anticipated development of vacant parcels.

ZTA Process

A change in the text of the zoning ordinance requires approval of a ZTA. Section 59.7.2.4 (Zoning Text Amendment) of the Montgomery County Zoning Ordinance enables the Planning Board to request the District Council or an individual District Council member to sponsor a zoning text amendment. After introduction of the ZTA, the District Council then transmits the official ZTA to the Planning Director with

Staff Report
ZTA for the Germantown Plan for the Town Sector Zone

notification of the District Council's public hearing date. The Planning Director must publish a report and recommendation at least seven days before the Planning Board officially reviews the introduced ZTA in a public meeting. The District Council must hold a public hearing within 60 days after introduction of the ZTA, unless extended. Upon approval, a ZTA takes effect 20 days after adoption, unless a different date is specified.

Conclusion

Staff recommends the Planning Board transmit the proposed ZTA to the District Council, to create the Germantown-Churchill Village Overlay Zone to implement recommendations contained in the 2020 *Germantown Plan for the Town Sector Zone*.

Attachment:

A - Proposed Germantown-Churchill Village Overlay Zone ZTA.

Zoning Text Amendment No.: 21-**
Concerning: Overlay Zone –
Germantown-Churchill
Village

Draft No. & Date:
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:

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> ”
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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 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 the
 - 73 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 reconstructed
86 if the floor area, height, and footprint of the structure are not increased,
87 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 be
90 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 that
95 was required when the lot was first created.

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

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

102

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 may be
111 continued. Expansion of any such use must satisfy the standards of the
112 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, but must
115 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) owned
117 and operated by a Charitable, Philanthropic Institution may expand by
118 up to the lesser of 10% or 30,000 square feet without conditional use
119 approval, but must satisfy Section [4.9.11.D] 4.9.12.D.

120

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

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

156 * * *

157 **D. Site Plan**

158 * * *

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

163 with master plan recommendations and the provisions of this Overlay
164 zone.

165 * * *

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

167 * * *

168 **B. Optional Method**

169 **1. In General**

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

174 **a. Applicability**

175 The procedures and requirements in Section [4.9.17.B] 4.9.18.B apply
176 to the transfer of development rights from land in the AR zone to land
177 in a Transferable Development Rights (TDR) Overlay zone.

178 * * *

179 **c. Recording of Development Right**

180 * * *

181 ii. A final record plat for a subdivision using transferred
182 development rights must contain a statement including the
183 development proposed, the zoning classification of the
184 property, the number of development rights used, and a notation
185 of the recordation of the conveyance as required by Section
186 [4.9.17.B] 4.9.18.B.

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

188 i. A property developed under Section [4.9.17.B] 4.9.18.B must
189 satisfy Chapter 25A.

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

201 * * *

202 **e. Additional Findings**

203 In addition to the findings required for approval of a site plan under

204 Section 7.3.4, for projects developed under Section [4.9.17.B]

205 4.9.18.B, the Planning Board must find that the proposed development

206 provides an appropriate range of housing types that takes advantage of

207 existing topography and environmental features and achieves a

208 compatible relationship between the proposed development and

209 adjoining land uses.

210 * * *

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

212 * * *

213

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

215 * * *

216 **B. Exemptions**

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

218 * * *

219 **C. Land Uses**

220 1. Except as listed in Section [4.9.19.C.2] 4.9.20.C.2 and Section
221 [4.9.19.C.3] 4.9.20.C.3, the land uses of the underlying zone apply.

222 The use standards of the underlying zone apply unless the
223 development standards in Section [4.9.19.D] 4.9.20.D are more
224 restrictive, in which case Section [4.9.19.D] 4.9.20.D must be
225 followed.

226 * * *

227 3. If validly existing on July 1, 1997, the uses in Section [4.9.19.C.2]
228 4.9.20.C.2 may be continued under the requirements in effect at the
229 time the use was established. Any expansion requires compliance with
230 the UPB Overlay zone.

231 * * *

232 **E. Waiver**

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

235 * * *

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

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

239 * * *

240 **B. Exemptions**

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

242 * * *

243 **D. Waiver**

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

246 * * *

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

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

250 * * *

251

252
253

**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

254

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

257

258 This is a correct copy of Council action.

259

260

261 _____
262 Selena Mendy Singleton, Esq.
Clerk of the Council