

Introduction

MEMORANDUM

January 27, 2012

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 12-02,
Commercial Zones – Combined Retail Stores

Zoning Text Amendment (ZTA) 12-02, sponsored by Councilmembers Ervin, Navarro, and Elrich, is scheduled for introduction on January 31, 2012. A public hearing on ZTA 12-02 will be scheduled for March 13, 2012 at 7:30 p.m.

ZTA 12-02 would require combined retail stores larger than 50,000 square feet to be approved through the special exception process. Currently, combined retail uses are regulated when the store is 120,000 square feet of gross floor area or larger. In addition, ZTA 12-02 would amend the definition of a combined retail store and would allow the use in the C-4 zone, in addition to the C-2 and C-3 zones where it is currently allowed. It would revise the requirements for a combined retail store special exception. In the C-2, C-3, and C-4 zones, ZTA 12-02 would not apply to property more than one-half mile from a Metro station and would not apply to regional malls. Finally, any combination retail store existing before April 1, 2012 would not be affected unless it expands. ZTA 12-02 was drafted to complement ZTA 12-01.

The special exception process is designed to produce development that is compatible with neighboring property. The process can control hours of operation, setbacks, screening, use limits, pedestrian and bicycle circulation, the locations of passenger vehicle access and truck docks, lighting, and noise. The special exception process allows neighbor and community input. An application can be denied when the attributes of a particular location make the burdens of the use a detriment to surrounding properties.

Several nearby jurisdictions regulate large retail establishments, commonly known as big box stores, in a variety of ways that are different from other commercial uses. The most common regulation is to require the approval of a special exception. Big box stores are distinguished from other uses because they produce more vehicle trips, more truck trips, and more trips from further distances than other uses. Their large floor plates can create uninviting places for pedestrians because they generally form barriers to extending the urban character of some communities. Communities regulate large retail stores on the basis of their gross floor areas or their building footprints. Most regulations also govern the density allowed in the zone.

The following table of regulations in nearby jurisdictions goes from the most restrictive to the least restrictive.

Anne Arundel County	Retail establishments in some zones are limited to 25,000 square feet (SF) of gross floor area (GFA); in other zones, the store's gross floor area is only limited by the maximum floor area ratio.
Alexandria	Any retail establishment with 20,000 SF or more GFA must be approved by special exception.
Arlington County	Any retail establishment with 50,000 SF or more of floor area on any 1 level, or that requires 200 or more parking spaces, must be approved by special exception.
Rockville	No retail establishment may be more than 65,000 SF of GFA on any level. No absolute limit on the size of a retail establishment.
Loudoun County	Any retail establishment with 75,000 SF or more GFA must be approved by special exception.
Fairfax	Certain retail establishments with 80,000 SF or more GFA must be approved by special exception.
Prince George's County	Combination retail stores (department, grocery, and drugstores) with 125,000 SF or more GFA must be approved by special exception.

The sponsors of ZTA 12-02 believe that, if approved, it would put the County's regulations more in line with that of surrounding jurisdictions. ZTA 12-02 would retain the County's respect for approved master plans and would require space for small business if small businesses are demolished.

This Packet Contains
ZTA 12-02

© number
1 – 5

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Zoning Text Amendment No: 12-02
Concerning: Commercial Zones -
Combination Retail Stores
Draft No. & Date: 1 – 1/23/12
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**

By: Councilmembers Ervin, Navarro, and Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amending defining the term “combination retail store”;
- amending the required findings for a combination retail use special exception; and
- generally amending the provisions for a combination retail store.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1 “Definitions”
DIVISION 59-C-4. “COMMERCIAL ZONES”
Section 59-C-4.2 “Land uses”
DIVISION 59-G-2 “SPECIAL EXCEPTIONS—STANDARDS AND
REQUIREMENTS”
Section 59-C-2.15 “Combination Retail Store”

EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the 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-A-2 is amended as follows:**

2 DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.

3 **59-A-2.1 Definitions.**

4 * * *

5 **Combination retail store:** A department or retail store that exceeds [120,000]
6 50,000 square feet and that includes a pharmacy and a full line grocery store. [A
7 club or membership store that charges a membership or access fee and sells
8 primarily bulk merchandise is not a combination retail store.]

9 * * *

10 **Sec. 2. Division 59-C-4 is amended as follows:**

11 DIVISION 59-C-4. COMMERCIAL ZONES.

12 * * *

13 **59-C-4.2. Land uses.**

14 * * *

	C-T	O-M	C-O	C-P	C -1	C-2	C-3	C-4	C-5	C-6	H-M	Country Inn
(d) Commercial:												
* * *												
Combination retail store. ⁶¹						<u>P/SE*</u>	<u>P/SE*</u>	<u>P/SE*</u>				

15 * * *

16 ⁶¹ Any combination retail store in existence before [November 29, 2004] April 1,
17 2012 is a conforming use and may continue [in accordance with] under the
18 standards in effect before November 29, 2004. Any reconstruction or enlargement
19 of a combination retail store in existence before [November 29, 2004] April 1,
20 2012 must comply with the standards in effect after [November 29, 2004] April 1,
21 2012.

22 * Except in a regional mall as defined in Section 59-A-2.1, a combination retail
23 store that is located further than one half mile from a metro station must be
24 approved as a special exception under Section 59-G-2.15.

25 * * *

26 **Sec. 2. DIVISION 59-G-2 is amended as follows:**

27 DIVISION 59-G-2. SPECIAL EXEPTIONS – STANDARDS AND
28 REQUIREMENTS.

29 * * *

30 **USE** **SECTION**

31 * * *

32 **59-G-2.15. Combination Retail Store.**

33 A special exception for a combination retail store may be granted, subject to the
34 following requirements:

35 (a) The building must be designed in a way that reduces the [buildings]
36 building’s massive scale and contributes to its visual interest. Long building
37 walls should be [broken-up] broken up with projections or recessions or
38 other effective treatments that improve building design.

39 (b) Parking areas must provide safe, convenient, and efficient access, and must
40 be landscaped to define vehicular drives and pedestrian areas.

41 (c) The site must have direct vehicular access to an existing arterial or major
42 highway, and the streets and roads adjoining the site must be adequate to
43 accommodate the increased traffic generated. The applicant must provide a
44 traffic impact study to demonstrate that acceptable peak hour levels of
45 service will result after taking into account existing and programmed
46 roads[,] and any improvements to be provided by the applicant.

47 (d) The site must be screened from any abutting residentially zoned property by
48 the natural terrain or by a solid wall or fence, not less than five feet in

49 height, together with a three-foot wide planting strip on the outside of the
50 wall or fence, planted in shrubs and evergreens three feet high at the time of
51 the original planting.

52 (e) Product displays, parked vehicles, and other obstructions that reduce
53 visibility at intersections or at entrances and exits to and from the site are not
54 permitted.

55 (f) Lighting must not reflect, or cause glare, on any property located in a
56 residential zone. Any light source on the site may not increase the light on a
57 residentially zoned property by more than .1 footcandle.

58 (g) The proposed combined retail store must be consistent with land use
59 recommendations and the neighborhood vision in the applicable master plan
60 or sector plan.

61 (h) If the proposed combined retail store would require the demolition of
62 existing retail space, then 20 percent of the total gross floor area of the
63 proposed project must be used for businesses with less than 5,000 square
64 feet of tenant gross floor area each. The tenant space must be located at
65 street level, and the façade and customer entrance must front a public or
66 private street. A secondary entrance accessing the primary retail use is
67 prohibited.

68 * * *

69 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
70 date of Council adoption.

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72 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council