


**Introduction**

**MEMORANDUM**

January 27, 2012

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: Introduction – Zoning Text Amendment 12-01, Commercial Zones - Large Retail Uses

Zoning Text Amendment (ZTA) 12-01, sponsored by Council President Berliner and Councilmember Ervin, 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.

The purpose of ZTA 12-01 is to limit any potential adverse impact of large retail footprints and provide opportunities to create mixed-use environments. ZTA 12-01 would regulate C-4 zoned property located within one-half mile of a Metro Station if the ground area footprint of a single large retail user was designed to be larger than 50,000 square feet. Under these circumstances, ZTA 12-01 would 1) limit the maximum ground area footprint to 80,000 square feet; 2) require space for small retailers; 3) require other uses in addition to retail uses; and 4) require conformance to design elements. ZTA 12-01 would also allow increased floor area and building height for projects with large single retail users that conform to the proposed standards.

The sponsors believe that ZTA 12-01 should be approved for the following reasons. Large retail uses should be integrated into mixed-use projects to promote complete communities near metro stations. The compatible integration of small businesses is important for the business opportunities it allows and the retail choices it provides for consumers. The integration of housing and retail would allow for more housing choice in the County. The orientation of buildings, their height, massing, façade treatments, and the locations of parking facilities should be designed in a manner to invite pedestrian activity. ZTA 12-01 would promote a pattern of development consistent with the County's vision for the area near a Metro station, on property in the C-4 zone.

This Packet Contains  
ZTA 12-01

© number  
1 – 10

Zoning Text Amendment No.: 12-01  
Concerning: Commercial zones- Large  
Retail Uses  
Draft No. & Date: 1 – 1/11/12  
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**

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By: Council President Berliner and Councilmember Ervin

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

- Establishing additional requirements in the C-4 zone for retail uses of a certain size, located within one-half mile of a metro station; and
- generally providing standards for the development of certain size retail uses.

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

DIVISION 59-C-4    “COMMERCIAL ZONES”  
Section 59-C-4.2    “Land uses”  
Section 59-C-4.378. “Special regulations—C-4 zone

And adding

Section 59-C4.379    “Large retail uses near metro stations”

**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

1           **Sec. 1. Division 59-C-4 is amended as follows:**

2

3           **DIVISION 59-C-4. COMMERCIAL ZONES.**

4           \*       \*       \*

5           **Sec. 59-C-4.2. Land uses.**

6           No use is allowed except as indicated in the following table:

7           **-Permitted Uses.** Uses designated by the letter "P" are permitted on any lot in the  
8           zones indicated, subject to all applicable regulations.

9           **-Special Exception Uses.** Uses designated by the letters "SE" may be authorized  
10          as special exceptions under article 59-G.

	C-T	O-M	C-O	C-P	C-1	C-2	C-3	C-4	C-5	C-6	H-M	Country Inn
<b>(a) Residential:</b>												
* * *												
Dwellings.	P <sup>6</sup>	P <sup>6</sup> /SE	P <sup>2, 52</sup>		SE	P <sup>40</sup> /SE	SE	P <sup>*</sup> /SE		SE		P <sup>4</sup>
* * *												
<b>(d) Commercial:**</b>												

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12           \*       \*       \*

13           \*       As part of a mixed-use project designed for a large retail user that complies  
14           with the standards and requirements of Section 59-C-4.379.

15           \*\*       In the C-4 zone, if project is within the scope of Section 59-C-4.379, the  
16           project must satisfy the requirements of Section 59-C-4.379.

17           \*       \*       \*

18           **59-C-4.378. Special regulations—C-4 zone.**

19 **Development above FAR 0.25.** In order to encourage the orderly grouping and  
20 planned development of low-intensity, highway commercial centers, to limit the  
21 number and to control the location of access points to C-4 zoned sites, to  
22 encourage an appropriate scale of development near metro stations, and to  
23 generally enhance the appearance of small commercial centers located along major  
24 roadways, the following optional method of development may be permitted,  
25 provided that the applicable approved and adopted master plan does not indicate  
26 that higher intensity commercial development above FAR 0.25 would be  
27 unsuitable for the applicable site; and provided further that the following site  
28 development standards and site plan review procedures shall be in effect. If this  
29 method is used, all of the above requirements of the C-4 zone [shall] must be met  
30 except as follows:

31 (a) **Minimum Area of Lot.** The optional method of development shall not be  
32 permitted on a lot or parcel of land which has a total area of less than 2  
33 acres.

34 (b) **Development Density.**

35 (1) Increases in the gross floor area of buildings, above a FAR of 0.25,  
36 may be permitted[, ] up to a maximum FAR of 0.75 for projects[, upon  
37 a finding by the planning board] if the Planning Board finds that an  
38 increased amount of gross floor area, above a FAR of 0.25, would be  
39 compatible with the intensity of surrounding existing and planned  
40 land uses, would not have an adverse impact on existing and planned  
41 public facilities in the area, and would be [in accord] consistent with  
42 the land use recommendations and guidelines of the applicable  
43 approved and adopted master or sector plan.

- 44 (2) Increases in the gross floor area of buildings, above a FAR of 0.25,  
45 may be permitted up to a maximum FAR of 1.5 for a mixed-use  
46 project if:
- 47 (A) the project is within the scope of Section 59-C-4.379; and  
48 (B) the Planning Board finds that the project is compatible with the  
49 intensity of surrounding existing and planned land uses, will not  
50 have an adverse impact on existing and planned public facilities  
51 in the area, and will be consistent with the land use  
52 recommendations of the applicable approved and adopted  
53 master or sector plan and any design guidelines approved to  
54 implement the master or sector plan.
- 55 (c) **Height Limit.**
- 56 (1) [No building shall exceed] The maximum building height is 3 stories  
57 or 40 feet [in height].
- 58 (2) The maximum building height may be increased to 75 feet to  
59 accommodate a mixed-use project within the scope of Section 59-C-  
60 4.379 unless the Planning Board finds that an increased height would  
61 be incompatible with the intensity of surrounding existing and  
62 planned land uses, would have an adverse impact on existing and  
63 planned public facilities in the area, and would not be consistent with  
64 the land use recommendations of the applicable approved and adopted  
65 master or sector plan.
- 66 (d) **Maximum Lot Coverage.** The building coverage may be increased to a  
67 maximum of 35 percent of the lot; however, the building coverage on a  
68 project that satisfies Section 59-C-4.379 may be increased to a maximum of  
69 45 percent of the lot.

70 (e) **Setbacks.** The setback from adjoining residentially zoned land, not  
71 recommended for commercial or industrial zoning on an approved and  
72 adopted master or sector plan, [shall] must not be less than either the setback  
73 required in the adjacent residential zone or the height of the building,  
74 whichever is greater.

75 \* \* \*

76 **59-C-4.379. Large retail uses near a metro station.**

77 **59-C-4.379.1 Scope.**

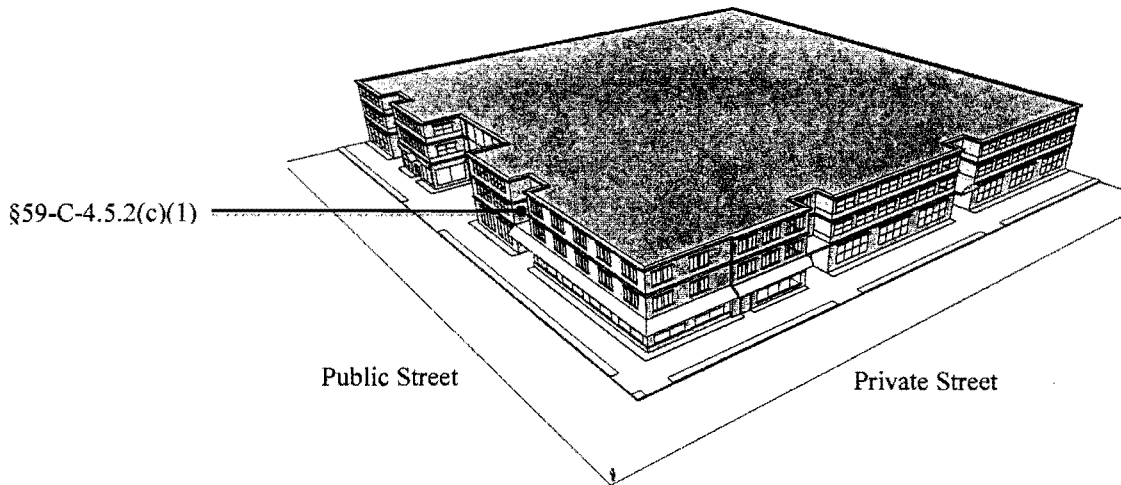
78 This subsection applies to any project with:

- 79 (a) a retail use designed for a single retailer that uses at least 50,000 square feet  
80 of gross floor area on the ground area of a building (footprint), or more than  
81 100,000 square feet of all floor area designed for a single retail user; and  
82 (b) a pedestrian entrance designed for a single large retail user defined in  
83 Subsection (a), located within one-half mile of a metro station entrance.

84 **59-C-4.379.2 Requirements.**

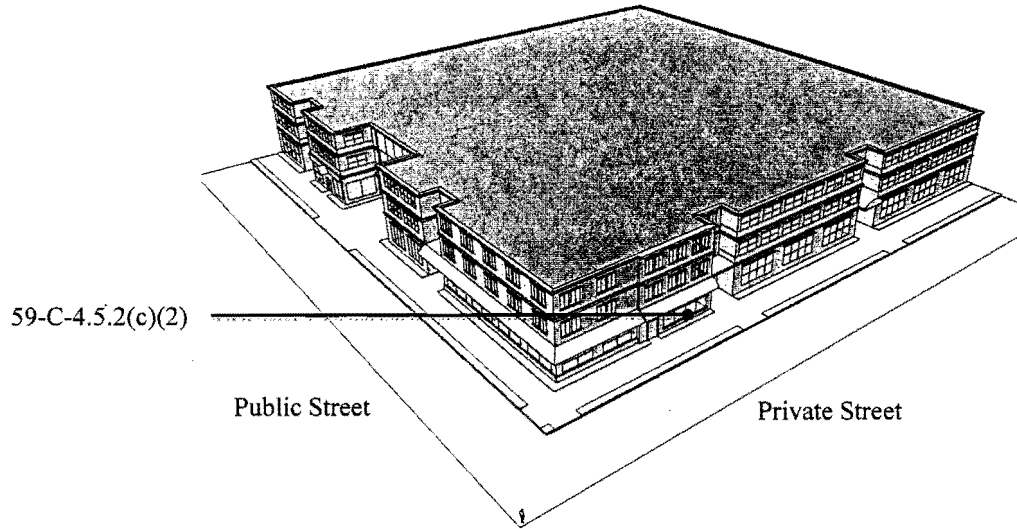
- 85 (a) For any project within the scope of this subsection, notwithstanding any  
86 other provision of this Chapter, the maximum building footprint of the area  
87 designed for a single retail user is 80,000 square feet.  
88 (b) In addition to the requirements of the C4 zone, any project within the scope  
89 of this Section:  
90 (1) must get a site plan approved under Division 59-D-3; and  
91 (2) the following land uses are prohibited on the site:  
92 (A) except for any drive-through existing on January 1, 2012, any  
93 drive-through service window or lane that is visible from a  
94 public street;  
95 (B) automobile repair or service facility; and  
96 (C) automobile filling station.

- 97 (c) On or in each building designed for a large retail user:  
98 (1) Any facade longer than 100 horizontal feet must incorporate wall  
99 plane projections or recesses.



- 111 (2) Street level retail facades that front public or private streets or parking  
112 areas must provide transparent glazing (i.e., transparent windows,  
113 unobstructed display windows, or transparent store doors) for at least  
114 60 percent of the horizontal length of the building façade between the  
115 height, at a minimum, of 3 feet and 8 feet above the walkway grade.  
116 The Planning Board may waive this requirement if it finds that a  
117 satisfactory site design can otherwise assist in activating pedestrian  
118 traffic along the public or private street.

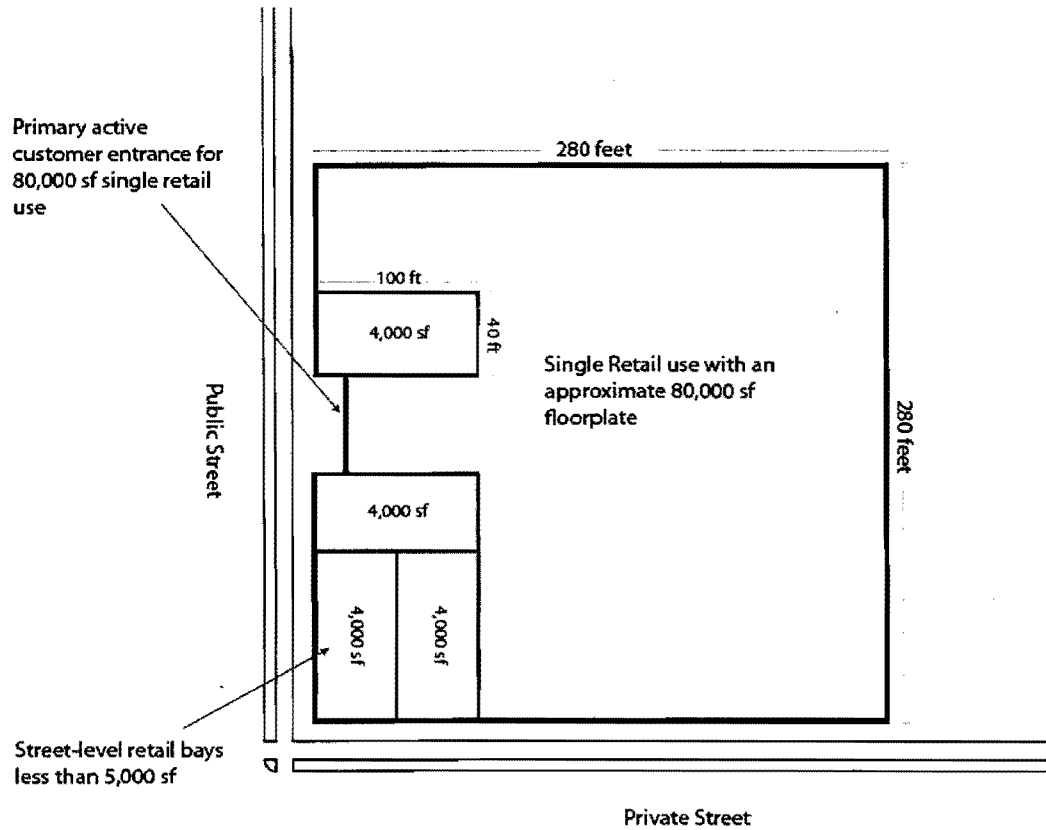
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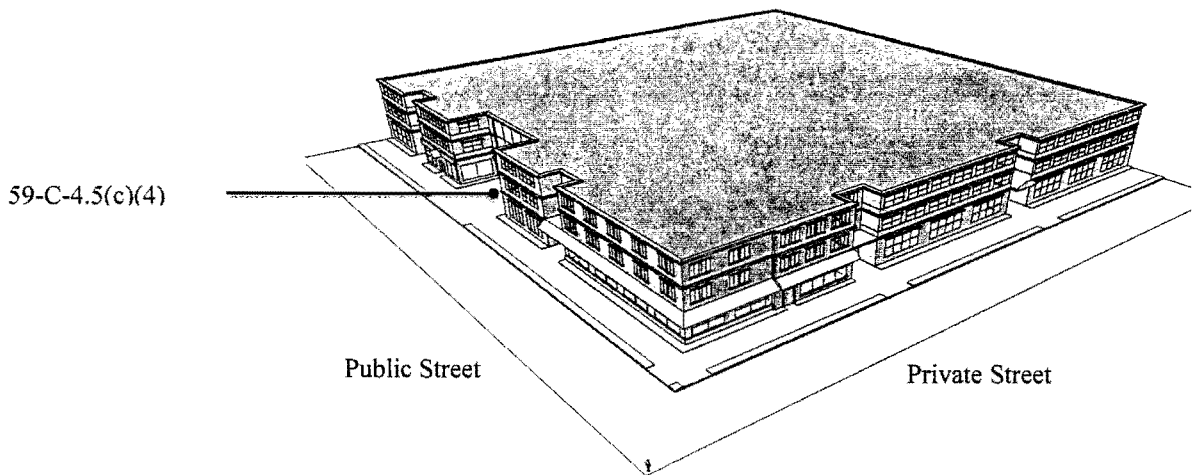
- (3) At least 20 percent additional street level retail (calculated on the footprint area designed for the largest single retail user) must be used for businesses with less than 5,000 square feet of tenant gross floor area each. The tenant space must be located at street level, and the façade and customer entrance must front a public or private street. A secondary entrance accessing the primary retail use is prohibited. At least 50 percent of the additional tenant space(s) must be located along the façade where the primary active customer entrance for the largest single retail use is located. The Planning Board may waive this requirement if it finds that a satisfactory site design can otherwise assist in activating pedestrian traffic along the public or private street.



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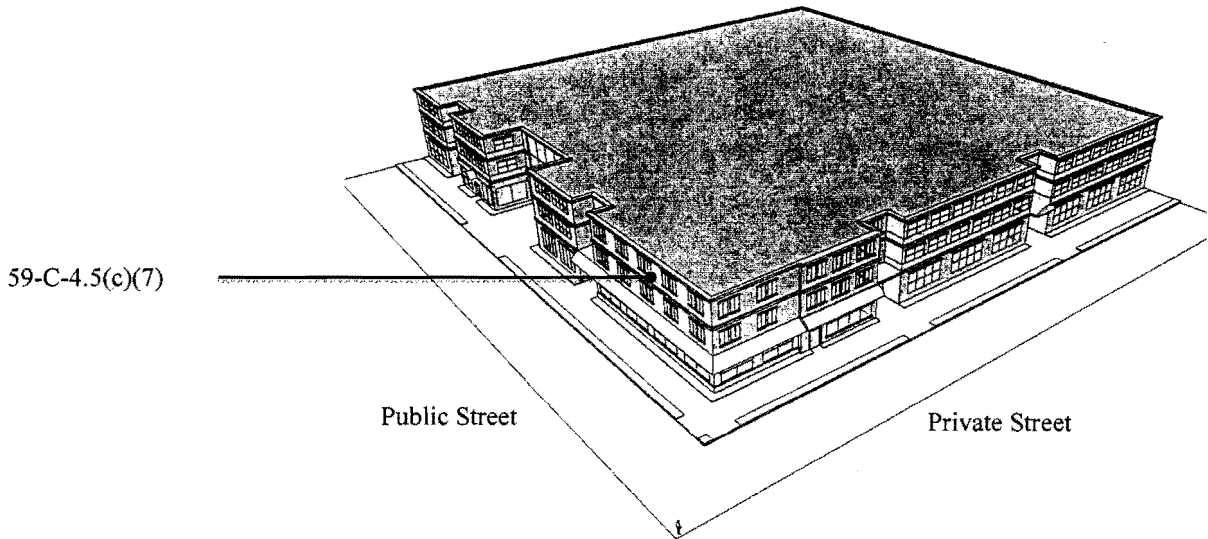


(4) All sides of a building that front an abutting public right-of-way must have at least one active retail, residential, or office entrance.



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- (5) Areas for storage, truck parking, trash collection or compaction and loading must be screened from public rights-of-way.
- (6) Variations in rooflines must be used when possible. Full architectural parapets or equivalent features must be used around the entire building to conceal rooftop mechanical equipment.
- (7) The total of any residential floor area and any office floor area must be equal to or greater than the gross floor area designed for a single large retail user. At least 50 percent of the gross floor area of the non-retail component must be located above the street level retail footprint.



- (8) Parking facilities designed for a large retail user, excluding access driveways, must be located below-grade or in a structure behind or within the primary building. The Planning Board may waive the location requirement if it finds that a satisfactory site design can be

200                   achieved to screen parked vehicles from view along any public or  
201                   private street.

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

206

207                   This is a correct copy of Council action.

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210                   \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

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