

Ordinance No.: 18-07
Zoning Text Amendment No.: 15-07
Concerning: Filling Station – Use
Standards
Draft No. & Date: 1 – 3/18/15
Introduced: March 24, 2015
Public Hearing: May 12, 2015
Adopted: December 1, 2015
Effective: December 21, 2015

**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: Councilmember Elrich
Co-sponsors: Councilmembers Riemer, Navarro, Katz, Rice, Hucker, and Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Revise the use standards for large filling stations

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

DIVISION 59.3.5. “Commercial Uses”

Section 59.3.5.13. “Vehicle Service”

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

Zoning Text Amendment No. 15-07 was introduced on March 24, 2015 to increase the distance between large filling stations and sensitive land uses.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment not be approved. Planning Staff recommended the same. In their opinion, the existing conditional use process was adequate to avoid nuisances to neighbors and threats to the environment.

On May 12, 2015, the Council conducted a public hearing on ZTA 15-07. Twenty speakers were heard. The Planning Board recommended against the Council's approval of ZTA 15-07. In the Board's opinion, the conditional use process provides ample opportunity to address concerns unique to a particular site that might warrant increasing the setback beyond 300 feet. The Board did not believe that the increased setback was warranted based on potential adverse health effects. Planning Staff also recommended a setback requirement from residential properties (300 feet). Planning Staff did not recommend a setback from environmentally sensitive areas because the areas are protected from spills by State-required safety equipment and stormwater management.

All of the representatives from Costco opposed the ZTA. In particular, Costco representatives see the ZTA as prohibited special legislation with no basis for a 500 foot setback. Individuals who sought inexpensive gasoline also opposed the ZTA. Many of these individuals submitted identically worded emails.

The opposition to the Costco filling station supported the ZTA. Owners of existing filling stations supported ZTA 15-07, but wanted existing stations to be exempt from setback requirements triggered by the expansion of existing stations.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

On November 16, 2015, the Committee recommended approval of ZTA 15-07 as introduced. In the opinion of the Committee, the current buffer requirement creates an unreasonable burden on nearby residents. Large gas stations generate both numerous tanker trucks unloading fuel and idling cars waiting to fill up. The volume and proximity of these vehicles can be a nuisance to nearby residents and an environmental threat.

The District Council reviewed Zoning Text Amendment No. 15-07 at a worksession held on December 1, 2015. The Council agreed with the Committee recommendations.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 15-07 will be approved as introduced.

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 59.3 is amended as follows:

DIVISION 59.3.5. Commercial Uses

* * *

Section 3.5.13. Vehicle Service

* * *

C. Filling Station

* * *

2. Use Standards

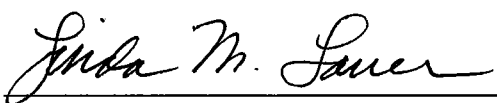
Where Filling Station is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

* * *

- c. Any Filling Station facility designed to dispense a minimum of 3.6 million gallons per year must be located at least [300] 500 feet from the lot line of any land with a dwelling unit; public or private school[, or any]; park[,]; playground[,]; day care center[,]; [or] any outdoor use categorized as a [civic and institutional] Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area.

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

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council