

Ordinance No.: 17-13
Zoning Text Amendment No.: 12-01
Concerning: Commercial Zones -
Large Retail Uses
Draft No. & Date: 2 – 4/4/12
Introduced: January 31, 2012
Public Hearing: March 20, 2012
Adopted: April 10, 2012
Effective: April 30, 2012

**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: Council President Berliner and Councilmembers Ervin, Elrich, and Navarro

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish 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 provide 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.*

OPINION

Zoning Text Amendment No. 12-01, sponsored by Council President Berliner and Councilmembers Ervin, Elrich, and Navarro, was introduced on January 31, 2012.

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 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 uses that conform to the proposed standards.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved with revisions. Testimony was supportive of the ZTA with clarifying changes recommended by the Planning Board; however, the Montgomery Civic Federation recommended allowing single large retail stores only by special exception.

The County Council held a public hearing on March 20, 2012 (postponed from March 13) to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on March 26 to review the amendment; the Committee (3-0) recommended approval of ZTA 12-01 with a revision concerning the provision of small retail space and plain English changes recommended by the Planning Board. In the opinion of the Committee, the provision of retail space should be sufficient to satisfy the requirement for small business opportunities; the use of the space should not be required.

The District Council reviewed Zoning Text Amendment No. 12-01 at a worksession held on April 10, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

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. 12-01 will be approved as amended.

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
(a) Residential:												
* * *												
Dwellings.	P ⁶	P ⁶ /SE	P ^{2, 52}		SE	P ⁴⁰ /SE	SE	P ^{*/SE}		SE		P ⁴
* * *												
(d) Commercial:^{**}												

11 * * *

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

45 (2) ~~[Increases in the gross floor area of buildings, above a FAR of 0.25,~~
46 ~~may be permitted up to a]~~ A maximum FAR of 1.5 may be permitted
47 for a mixed-use project if:

48 (A) the project is within the scope of Section 59-C-4.379; and

49 (B) the Planning Board finds that the project is compatible with the
50 intensity of surrounding existing and planned land uses, will not
51 have an adverse impact on existing and planned public facilities
52 in the area, and will be consistent with the land use
53 recommendations of the applicable approved and adopted
54 master or sector plan and any design guidelines approved to
55 implement the master or sector plan.

56 (c) **Height Limit.**

- 57 (1) [No building shall exceed] The maximum building height is 3 stories
58 or 40 feet [in height].
- 59 (2) The maximum building height may be increased to 75 feet to
60 accommodate a mixed-use project within the scope of Section 59-C-
61 4.379 unless the Planning Board finds that an increased height would
62 be incompatible with the intensity of surrounding existing and
63 planned land uses, would have an adverse impact on existing and
64 planned public facilities in the area, [[and]] or would not be consistent
65 with the land use recommendations of the applicable approved and
66 adopted master or sector plan.

67 (d) **Maximum Lot Coverage.** The building coverage may be increased to a
68 maximum of 35 percent of the lot; however, the building coverage on a
69 project that satisfies Section 59-C-4.379 may be increased to a maximum of
70 45 percent of the lot.

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

76 * * *

77 **59-C-4.379. Large retail uses near a metro station.**

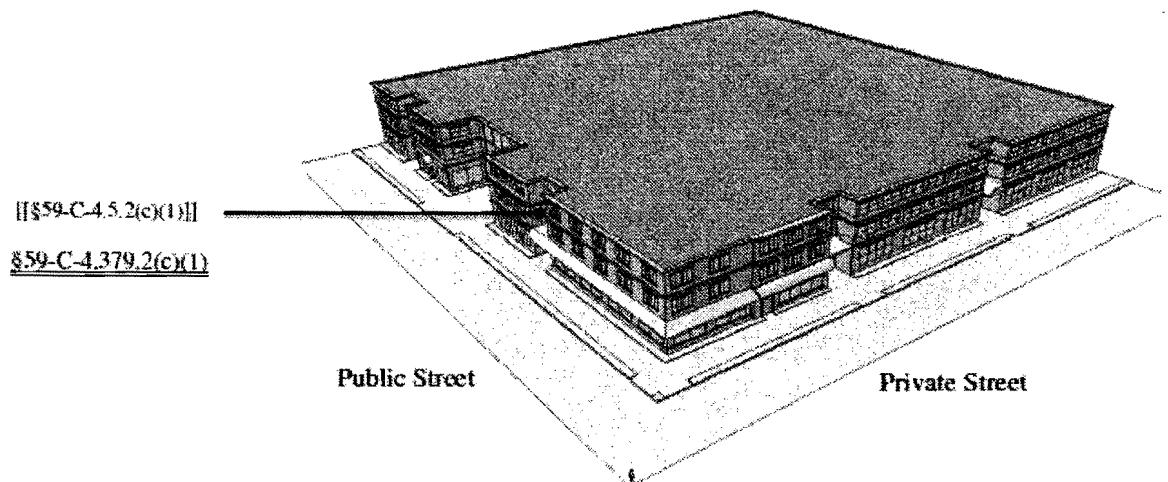
78 **59-C-4.379.1 Scope.**

79 This subsection applies to any project with:

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

85 **59-C-4.379.2 Requirements.**

- 86 (a) For any project within the scope of this subsection, notwithstanding any
87 other provision of this Chapter, the maximum building footprint of the area
88 designed for a single retail user is 80,000 square feet.
- 89 (b) In addition to the requirements of the C4 zone, for any project within the
90 scope of this Section:
- 91 (1) [[must get a]] site plan [[approved]] approval under Division 59-D-3
92 is required; and
- 93 (2) the following land uses are prohibited on the site:
- 94 (A) a drive-through service window or lane that is visible from a
95 public street, except for any drive-through existing on January
96 1, 2012]], any drive-through service window or lane that is
97 visible from a public street]];
- 98 (B) an automobile repair or service facility; and
- 99 (C) an automobile filling station.
- 100 (c) On or in each building designed for a large retail user:
- 101 (1) Any facade longer than 100 horizontal feet must incorporate wall
102 plane projections or recesses.

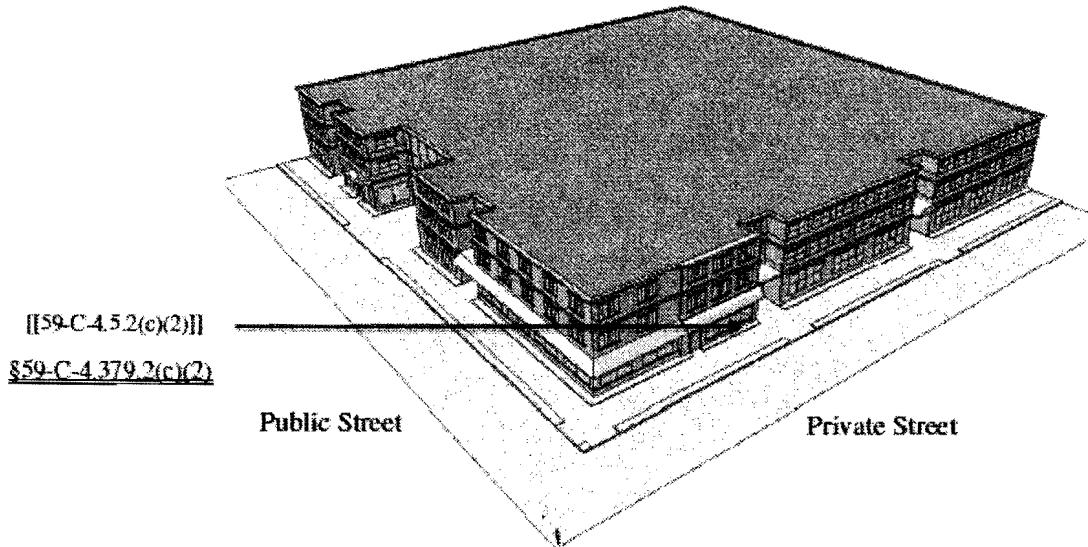


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105 (2) Street level retail facades that front public or private streets or parking
106 areas must provide transparent glazing (i.e., transparent windows,
107 unobstructed display windows, or transparent store doors) for at least
108 60 percent of the horizontal length of the building façade between the
109 height, at a minimum, of 3 feet and 8 feet above the walkway grade.
110 The Planning Board may waive this requirement if it finds that a
111 satisfactory site design can otherwise assist in activating pedestrian
112 traffic along the public or private street.

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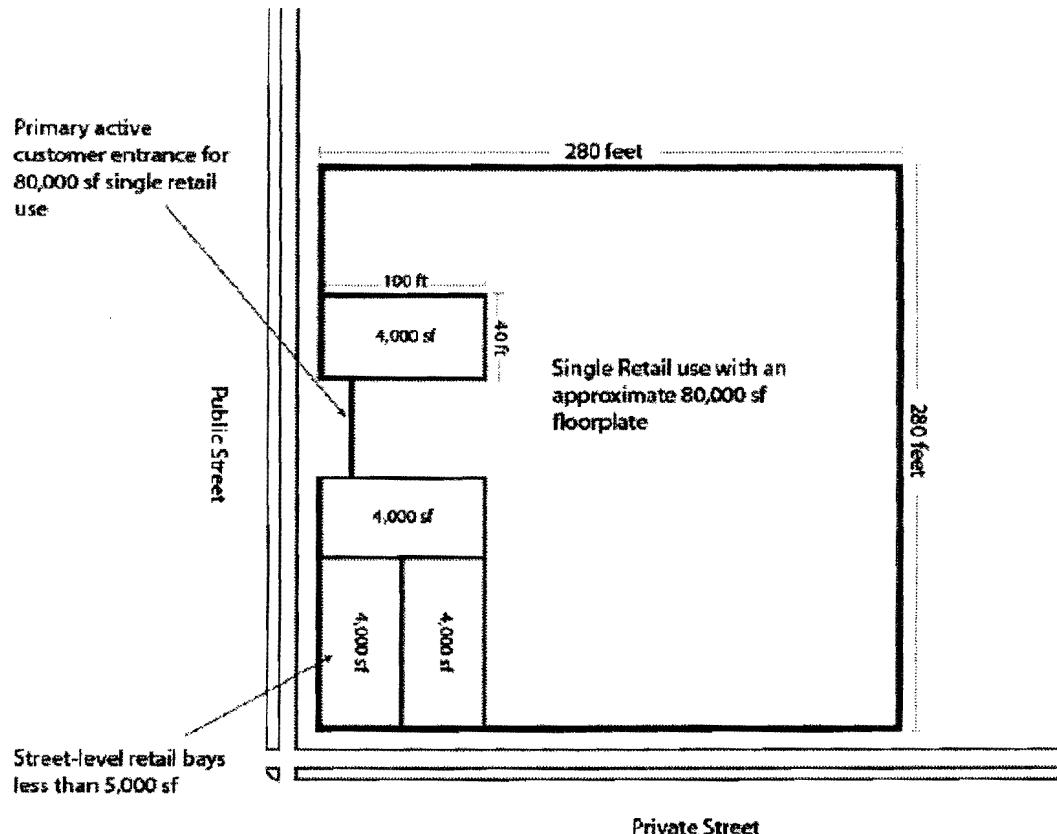


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- 116 (3) [(At least 20 percent additional street level retail (calculated on the
117 footprint area designed for the largest single retail user) must be used
118 for businesses)] Additional floor area equal to at least 20% of the
119 footprint designed for the largest single retail user must be provided as
120 street level retail spaces with less than 5,000 square feet of tenant
121 gross floor area each. [(The tenant space)] These spaces must be
122 located at street level, and the façade and customer entrance must
123 front a public or private street. A secondary entrance accessing the
124 primary retail use is prohibited. At least 50 percent of the additional
125 tenant space(s) must be located along the façade where the primary
126 active customer entrance for the largest single retail use is located.
127 The Planning Board may waive this requirement if it finds that a
128 satisfactory site design can otherwise assist in activating pedestrian
129 traffic along the public or private street.

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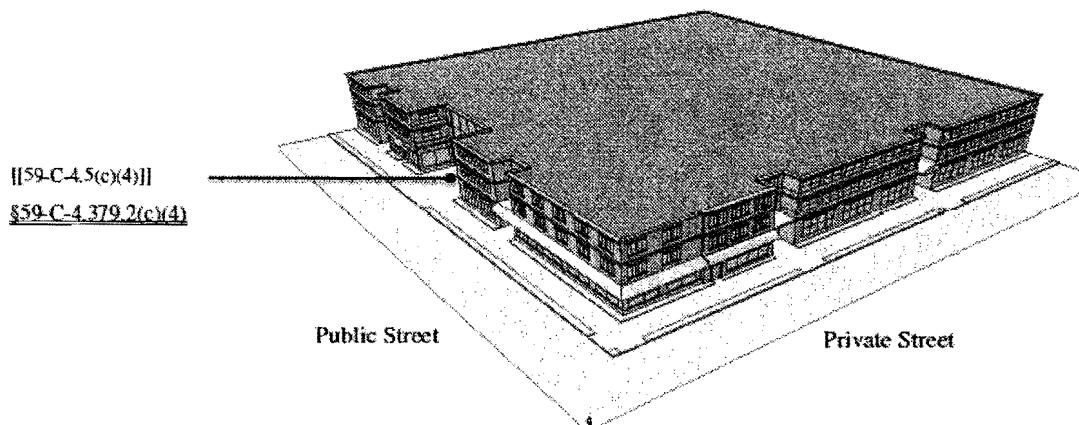


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133 (4) All sides of a building that front an abutting public right-of-way must
134 have at least one active retail, residential, or office entrance.

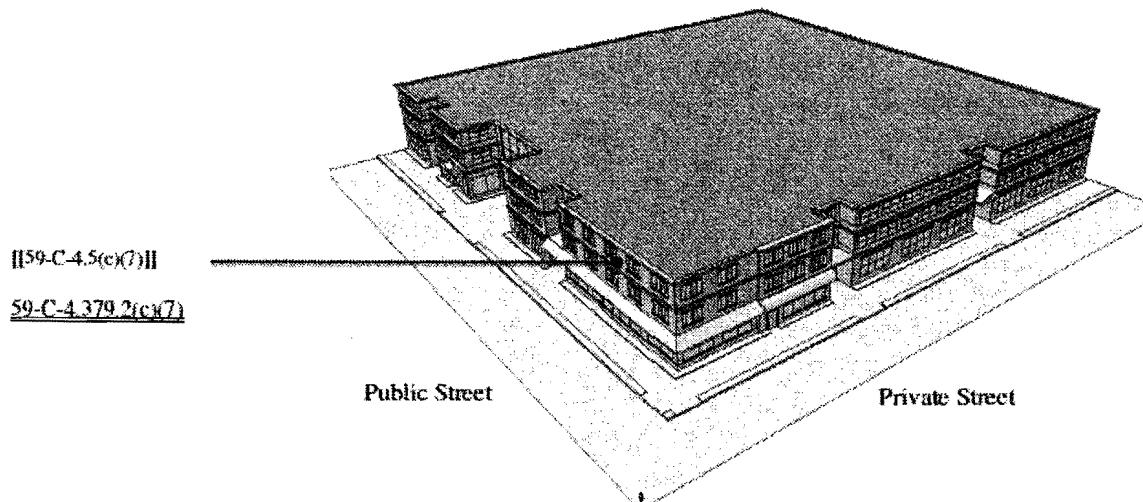
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- 138 (5) Areas for storage, truck parking, trash collection or compaction and
139 loading must be screened from public rights-of-way.
- 140 (6) Variations in rooflines must be used when possible. Full architectural
141 parapets or equivalent features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



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150 (8) Parking facilities designed for a large retail user, excluding access
151 driveways, must be located below-grade or in a structure behind or
152 within the primary building. The Planning Board may waive the
153 location requirement if it finds that a satisfactory site design can be
154 achieved to screen parked vehicles from view along any public or
155 private street.

156

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

159

160 This is a correct copy of Council action.

161

162 Linda M. Lauer

163 Linda M. Lauer, Clerk of the Council