



**CITY OF ROCKVILLE
DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT SERVICES
STAFF REPORT**

TO: Planning Commission

VIA: Jim Wasilak, AICP, Chief of Planning
Deane Mellander, Zoning Administrator

FROM: Joe Thompson, Planner II

DATE: April 30, 2010

SUBJECT: Zoning Text Amendment (ZTA) TXT2010-00225

RECOMMENDATION: Recommend approval of the proposed Zoning Text Amendment to the Mayor and Council.

REQUEST: The ZTA proposes to (1) clarify the definition of a buildable lot; (2) to establish minimum lot frontage requirements in the larger lot Single Dwelling Unit Residential Zones, Mixed-Use (MX) Zones and Planned Development (PD) Zones; and (3) to allow fences up to six feet tall to be approved in Planned Development Zones under certain criteria (see Attachment A for text)

PREVIOUS RELATED ACTIONS: On March 15, 2010, the Mayor and Council unanimously voted to authorize the filing of the subject ZTA.

BACKGROUND:

Definition of Buildable Lot

The first component of the proposed ZTA seeks to modify the definition of "Lot, Buildable." The current definition of "Lot, Buildable" reads as follows:

"Any record lot meeting the minimum lot area and frontage requirements of the zone in which it is located."

The issue is that there are a number of properties in the City (see Attachment B for some examples) that either do not have any frontage on a public street, are smaller than the minimum lot size in the zone, or both. These sites were created prior to the adoption of the original Zoning Ordinance on August 3, 1932.

Under Section 25.21.03.b of the current Zoning Ordinance, the Planning Commission must approve a plat for any deeded lot that existed prior to October, 1957. The proposed ZTA would define a buildable lot as any record lot, except for any lot created prior to August 3, 1932 that contains less than 4,000 square feet in area or is less than 35 feet wide. Prior to the advent of zoning, it was common practice around the turn of the 20th Century to create subdivisions with numerous narrow lots, sometimes as small as 25 feet wide. The intent was for a prospective resident to purchase multiple lots and build a house. After the establishment of zoning, it became illegal to build across a lot line.

In addition, staff recommends modifying the language in the definition to clarify that the exception applies only to lots in Single Dwelling Unit Residential Zones. As currently filed, the definition would apply to all lots, notwithstanding the zoning designation. Historically, there has been no minimum lot size requirement in commercial and industrial zones.

Minimum Frontage

The second component of the ZTA proposes to add language to Section 25.21.03, "Recordation of an Existing Single Unit Detached Dwelling, Residential" which would require that such lots either have frontage or *public* access to a public street. Public access can be established by a public access easement or through formal dedication to the City. This component of the ZTA is related to the first component in so far as it proposes to establish a minimum frontage requirement for all Single Dwelling Unit Residential Zones. Historically, and presently, the R-90, R-150, R-200 and R-400 zones do not have a minimum frontage requirement width at the front lot line, which equates to the street line.

The presumption is that with these larger lots, the frontage would be whatever the minimum needed to be to gain access. With the prohibition on creating any new pipe stem lots, the staff believes that there should be a minimum frontage requirement of 25

feet for new lots in these zones. The pipe stem prohibition remains, but this will still allow for the pie-shaped lots that are common around cul-de-sacs with a width sufficient to accommodate a driveway.

The ZTA also proposes to add a requirement for a minimum street frontage in the MX Zones. Under the current regulations, lots are not required to have frontage on a public street. The ZTA proposes to require a minimum of 10 feet of street frontage for any lot. This would apply only to recorded lots. It would not affect the creation of ownership lots within a record lot under the provisions of Sec. 25.21.13. The ZTA also proposes to add a provision in the PD Zones to allow record lots to front on a public street, private street, or common open space. This provision is already in place for the RMD zones (Article 11), and is a carry-over from the prior Zoning Ordinance. It recognizes that many projects that contain townhouses, condominiums, or other forms of multi-dwelling development are not always located on lots with frontage on a public street. This is consistent with the proposed change that requires frontage or public access to a public street.

Fences

The third aspect of the ZTA proposes to revise the regulations associated with fences. Currently, in the residential zones, fences are limited to a height of four feet in the front yard. A front yard is defined as the area of the lot between the face of the building and street. In the case of corner lots, they have two front yards. There are a few instances (in certain PD zones) where lots have streets on three sides, and therefore are interpreted as having three front yards.

One of these areas is in New Mark Commons, where many of the lots have frontage on New Mark Esplanade, but the real "front yards" of the dwelling face on the side street (See Attachment C). In order to screen the yards from New Mark Esplanade, it appears that the developers erected five-foot wooden screen fences along the street. This would have been a technical violation of the Zoning Ordinance in effect in the late 1960s, which restricted fence heights in the front yards to 42 inches. In the intervening years, many of these fences have been replaced with six-foot tall fences.

The governing PD documents do not indicate whether these excess-height fences were approved as part of the detailed application review, or granted some type of variance. Under the Zoning Ordinance in effect at that time, New Mark Commons was developed through the Planned Residential Unit (PRU) option, which did not change the underlying R-90 zoning.

Staff proposes to amend the regulation of fences under Section 25.09.05 to allow fences up to six feet tall in instances where the fence is in a PD Zone that has been in existence prior to January 1, 1975 (the date of the earlier comprehensive revision of the Zoning Ordinance), or where such fences are approved by the homeowner's association.

Attachments:

- A. Proposed ZTA TXT2010-00225
- B. Map of sample properties with no frontage
- C. Map of sample properties with multiple front yards

March 15, 2010

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted in December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; [brackets] indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 3 – Definitions; Terms of Measurement and Calculations, as follows:

25.03.02 – Words and Terms Defined

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Lot - A parcel or quantity of land. Lots include the following:

1. *Lot, Buildable* – Any record lot [meeting the minimum lot area and frontage requirements of the zone in which it is located] except for lots created prior to August 3, 1932 that contain less than 4,000 square feet in area or are less than 35 feet wide at the building line.

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Amend Article 9 - Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities, as follows:

25.09.05 – Setback Encroachments

The following setback encroachments apply within all zones, except as otherwise provided herein:

* * *

2. *Fences*

- (a) *Fences – Residential Zones* – Fences are subject to the following limitations in residential zones:

- i. *Dangerous Fences Prohibited* - Fences on residential properties must comply with the provisions of Chapter 5, *Buildings and Building Regulations* of this Code regarding fences.
- ii. *Development Standards*
 - A. *Side and Rear Yards* – A fence not exceeding eight (8) feet in height is permitted in the side or rear yard of any lot.
 - B. *Front Yard* – A fence not exceeding four (4) feet in height is permitted in the front yard, except as provided below.
- iii. *Corner and Through Lots*
 - A. On a corner lot or through lot, the yards lying between the principal building and the streets are deemed front yards, and no fence exceeding four (4) feet in height can be erected in this area.
 - B. Notwithstanding Section 25.09.05.2.(a)(ii)B., above, where the street abutting is classified as an arterial highway or greater, a fence not exceeding six (6) feet in height is permitted in the front yard.
 - C. On a corner lot in a residential zone, a fence must not exceed four (4) feet above the curb level for a distance of 25 feet from the intersection of the street lines. Retaining walls made necessary by changes in street grade, width, or alignment are not subject to the limitations set forth in the preceding sentence.
- iv. *Fences Adjacent to Unimproved Right-of-Way* – Fences along an unimproved right-of-way must not exceed six (6) feet in height and must otherwise comply with the provisions for fences as set forth in Article 9. If the right-of-way is subsequently improved, any fence exceeding four (4) feet in height is deemed nonconforming and may be maintained and repaired. If replaced, the fence must comply with the provisions of this Section.
- v. *Fences in Planned Development Zones – In a Planned Development Zone approved prior to January 1, 1975, fences up to six (6) feet tall may be approved to replace an existing fence or where the location of the fence is approved by the homeowner’s association.*

* * *

Amend Article 10 – Single Dwelling Unit Residential Zones, as follows:

25.10.05 – Development Standards

a. Table of Development Standards

| Zone | Minimum Lot Dimensions | | | Building Envelope Requirements | | | | | Lot Coverage | | | Additional Regulations |
|------------------------------------|------------------------|-----------------------------|-------------------------|--|--------------------|------------------|------------------|--|---|---|--|------------------------|
| | Area | Width at Front Setback Line | Width at Front Lot Line | Minimum Setbacks | | | Max. Height | Max. Lot Coverage (All main and accessory buildings) (See Sec. 25.10.05.b) | Maximum Impervious Surface in Front Yard ¹ | | | |
| | | | | Front | Side | Rear | | | | | | |
| | | | Standard | Where established setback exceeds standard (See Sec. 25.10.05.e.2) | Where street abuts | Where land abuts | | | | | | |
| R-400 | 40,000 sq ft | 150' | 50' | Est. setback up to 100' | 30' | 20' | 40' | 15% | 10% | | | |
| R-200 | 20,000 sq ft. | 100' | 35' | Est. setback up to 100' | 25' | 13' | 40' [±] | 25% | 20% | | | |
| R-150 | 15,000 sq ft | 90' | 35' | Est. setback up to 60' | 30' | 13' | 40' | 25% | 25% | | | |
| R-90 | 9,000 sq ft. | 80' | 30' | Est. setback up to 60' | 20' | 11' | 35' | 25% | 30% | See Sec. 25.10.09 for limitations on building height in R-60, R-75 & R-90 zones | | |
| R-75 | 7,500 sq ft. | 70' | 25' | Est. setback up to 50' | 20' | 9' | 35' | 35% | 35% | | | |
| R-60 | 6,000 sq ft. | 60' | 25' | Est. setback up to 50' | 20' | 8' | 35' | 35% | 40% | | | |
| R-60 qualifying undersized lots | 5,000 sq ft. | 50' | 25' | Est. setback up to 50' | 20' | 7' | 35' | 35% | 40% | See Sec. 25.08.03 | | |
| R-40 | 4,000 sq. ft. | 40' | 25' | Est. setback up to 50' | 25' | 10' | 35' | 40% | 45% | Single unit detached dwellings: R-60 standards in lieu of R-40 standards | | |
| Lincoln Park Conservation District | 6,000 sq ft. | 60' | 35' | Est. setback up to 50' | 20' | 8' | 25' | 1,500 square feet | 40% | See Sec. 25.14.03 | | |

Amend Article 13 – Mixed-Use Zones, as follows:

25.13.05 –Development Standards

a. *Build-To Lines* – Where a build-to line established in the Plan is required, at least 70 percent of the length of the building wall facing that line must be set at the build-to line. Development must also comply with the building restriction line provisions set forth in Sec. 25.17.08

b. *Development Standards*

1. The following table sets forth the development standards for each of the Mixed-Use Zones:

| Zone | Maximum Height (in feet) ² | Minimum width at front lot line (in feet) | Public Use Space (min. %) | Public Right-of-way Abutting | Setbacks | | | | Special Regulations |
|------|---------------------------------------|---|---------------------------|-------------------------------------|---|--|---|-------------------------------------|---|
| | | | | | Side | | Rear | | |
| | | | | | Residential Land Abutting | Non-residential Land Abutting ¹ | Residential Land Abutting | Non-residential Land Abutting | |
| MXTD | 120 | 10' | 20 | None | 25' or height of building, whichever is greater | None. 10' min. if provided | 25' or height of building, whichever is greater | None. 10' min. if provided | See Secs. 25.13.05.b.2(a) and 25.13.05.b.2(d) |
| MXCD | 75 | 10' | 20 | None | 25' or height of building, whichever is greater | None required. 10' min. if provided | 25' or height of building, whichever is greater | None required. 10' min. if provided | See Secs. 25.13.05.b.2(b) and 25.13.05.b.2(d) |
| MXE | 120 | 10' | 20 | None required. 10' min. if provided | 25' or ½ height of building, whichever is greater | None required. 10' min. if provided | 25' or ½ height of building, whichever is greater | None required. 10' min. if provided | See Sec. 25.13.05.b.2(d) |
| MXB | 55 | 10' | 20 | None required. 10' min. if provided | 25' or height of building, whichever is greater | None required. 10' min. if provided | 25' or ½ height of building, whichever is greater | None required. 10' min. if provided | |
| MXNC | 45 | 10' | 20 | None required. 10' min. if provided | 25' or height of building, whichever is greater | None required. 10' min. if provided | 25' or height of building, whichever is greater | None required. 10' min. if provided | See Sec. 25.13.05.b.2(d) |
| MXC | 30 | 10' | 20 | 10' | 15' | None required. 10' min. if provided | 25' or height of building, whichever is greater | None required. 10' min. if provided | |
| MXT | 35 | 10' | 20 | 10' | 10' | None | 20' | None required. 10' min. if provided | |

¹Nonresidential Land Abutting Side Setback – This term also includes multi-unit residential uses with a height of 45 feet or greater.

²Height is subject to the provisions of Section 25.13.05.b.2, below.

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Amend Article 14 – Special Zones, as follows:

25.14.07 – Planned Development Zones

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d. *Development Standards*

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3. *Equivalent Zone Development Standards*

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(c) Street frontage - Record lots for each dwelling unit, if provided, must front on a public street, private street, or a common open space.

Amend Article 21 – Plats and Subdivision Regulations, as follows:

Sec. 25.21.03 – Recordation of an Existing Single Unit Detached Dwelling Residential

* * *

b. *Required Criteria* – The Planning Commission must approve a plat, only when one or more of the following conditions are met and the plat has frontage as required in the zone or public access to a public street:

1. The property being platted is a deeded lot that has existed in the same configuration since at least October, 1957;
2. The property being platted is a multiple-lot property that required a minimum of two (2) lots for development at the time the substandard lots were created and the plat seeks to consolidate the lots into a single record lot; or
3. The property being platted is a multiple-lot property that contains an existing house that straddles the common lot line and the plat seeks to consolidate the property into a single record lot.

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25.21.07 – Waivers; Modifications

- a. *Application* - Where a subdivider desires a waiver from, or modification to, any provision of this [Article] Chapter, an application must be submitted to the Planning Commission with a statement of reasons for such request and such information as may reasonably be required by the Planning Commission.
- b. *Findings* – If the Planning Commission finds that undue hardship will result from strict compliance with any requirement of this [Article] Chapter, it may grant a waiver or modification from such requirement so that substantial justice may be done if the public health, safety, aesthetics, [morals,] or general welfare will not be impaired and the waiver will not be contrary to the intent and purpose of the Plan or this Chapter.









