

Worksession

Agenda Item #	4
Meeting Date	February 17, 2008
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Approved By	Barbara B. Matthews City Manager

Discussion Item	Discussion of Commercial Revitalization Overlay Zone - Clarification of the procedure for expansion of nonconforming uses in the zone
Background	<p>Recently, a Takoma Park business that is a non-conforming use requested clarification on the procedure for building additional square footage under the Commercial Revitalization Overlay Zone - a zone that overlays all commercial properties in Takoma Park with the exception of Maple Avenue at Sherman.</p> <p>This portion of the County zoning code is particularly unclear. It concerns the expansion of uses that are specifically limited by the zone. Specifically, under the portion of the ordinance titled Special Provisions, 59-C-18.216 (b) existing buildings and uses, the overlay zone appears to intend to limit the expansion of nonconforming uses to 1,000 square feet and subject this expansion to site plan review. However, another portion of the ordinance, 59-C-18.214 Procedure for application and approval, appears to require only non-conforming buildings and not non-conforming uses to go through site plan for any expansion regardless of size.</p> <p>If the City has an interest in the interpretation of the overlay zone and a concern regarding the County's interpretation, now would be an appropriate time to communicate this to the County.</p> <p>A local garage - R & S Automotive in Old Takoma - would like to add a working bay and office space. This means that the cars will no longer be fixed in the open on the lot, but in a covered, concealed space. It is a nonconforming use because it confronts land in a residential zone. As this property is in a Montgomery County zoned Historic District, it is also required to go through a historic preservation review.</p> <p>If R & S Automotive builds an addition using a permit process (administrative review) and without site plan process (public review), this will set a precedent that will affect existing auto-related business that adjoin or confront residential properties on Carroll Avenue, New Hampshire Avenue, Flower Avenue, and other streets.</p> <p>Site plan review provides greater neighborhood design control over expansion. Due to costs associated with the process, it can effectively limit businesses from expanding when considering a small addition.</p> <p>This has no impact on auto-related uses that are not adjoining or confronting residential property.</p>

Policy	<p>The zoning regulations set out in this chapter for that portion of the Maryland-Washington Regional District in the county are hereby adopted for the purpose of protecting and promoting the health, safety, morals, comfort and welfare of the present and future inhabitants of the district and shall constitute the zoning ordinance text.</p> <p>- Montgomery County Zoning Ordinance</p>
Fiscal Impact	TBD
Attachments	<ul style="list-style-type: none"> • Sec. 59-C-18.21. Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone • Partial List of Auto-Related Businesses in Takoma Park
Recommendation	Review options for interpretation of Zoning Ordinance and appropriate City response
Special Consideration	

List of Auto-Related Businesses Operating in Takoma Park

Only businesses adjoining or confronting residential would be affected.

General Auto Repair - 925 University Blvd E, Takoma Park, MD20912
Healey Surgeons - 7211 Carroll Ave, Takoma Park, MD20912
Jiffy Lube- 6510 New Hampshire Ave, Takoma Park, MD20912
Langley Auto Sales & Service - 6860 New Hampshire Ave, Takoma Park, MD20912
RS Automotive - 7224 Carroll Ave, Takoma Park, MD20912
Takoma Old Town Auto Service - 7060 Carroll Ave, Takoma Park, MD20912
Takoma Park Auto Clinic - 7221 Carroll Ave, Takoma Park, MD20912
Tire Town - 7553 New Hampshire Ave, Takoma Park, MD20912
Sunoco - 6907 New Hampshire Ave, Takoma Park, MD20912
Takoma Park Texaco/RT Automotive - 6400 New Hampshire Ave, Takoma Park,
MD20912
New Hampshire Sunoco - 6360 New Hampshire Ave, Takoma Park, MD20912
Takoma Park Liberty Gas - 920 East West Highway, Takoma Park, MD20912
United Globe Autobody, 8640 Flower Avenue, Takoma Park, MD 20912
Glass Xperts (Operating Illegally) -8435 Piney Branch Road

Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.

59-C-18.211. Purpose.

(a) The purpose of the Takoma Park/East Silver Spring commercial revitalization overlay zone is to:

(1) Foster economic vitality and attractive community character in areas needing revitalization;

(2) Promote an enhanced pedestrian environment and an improved circulation system to pedestrians and bicycles as well as motor vehicles;

(3) Ensure consistency with the master plan vision for specific existing commercial areas;

(4) Provide for the combination of residential with commercial uses.

(b) This overlay zone will accomplish this by:

(1) Providing for flexibility of certain development standards which may allow for more commercial development and better design than would otherwise be achieved;

(2) Providing for design review either through site plan review, or administrative review for minor changes;

(3) Allowing or limiting uses consistent with the master plan vision for specific commercial areas;

(4) Enabling the master plan to modify the development standards of the base zones.

Editor's note—The outline of subsection 59-C-18.211 is provided for the convenience of the reader and was not in the original text of the Ordinance.

59-C-18.212. Regulations.

(a) Land uses. All permitted or special exception uses allowed in the underlying commercial zones are allowed in the overlay zone as regulated below:

(1) In areas zoned C-1, the following additional uses are allowed by right:

Bowling alley

Clinic

Delicatessen

Educational institution, private

Express or mailing office

Fire station, publicly supported

Hospital, veterinary, except that there must not be any runs, exercise yards, or other facilities for the keeping of animals in any exterior space, and all interior spaces must be soundproofed.

International organizations, public¹

Libraries and museums

Offices, general

Pet shop

Parking lots, automobile

Retail trades, businesses, and services of a general commercial nature

Theater, indoor

Tourist home

(2) In areas zoned C-1, the following additional use is allowed by special exception:

Nursing home

(3) In areas zoned C-1, C-2, or O-M, dwellings are allowed by right

(4) In areas zoned C-1 or C-2, the following uses, as allowed in the underlying zones, are allowed in the overlay zone only if the use does not adjoin or confront land in a residential zone:

Automobile sales, indoor

Automobile filling station

Automobile fluid maintenance station

Automobile, light truck and trailer rentals

Automobile repair and services

Automobile storage lot

Automobile truck and trailer rentals, outdoors

Car wash

Funeral parlors or undertaking establishments²

¹ Must comply with all County building and related codes. Application for a building permit must be accompanied by a letter or other communication indicating that the State Department has been notified of the proposed location.

² If the operation includes a crematorium as an accessory use.

59-C-18.213. Development standards.

All development must comply with the standards and requirements of the underlying zone, except as modified by this overlay zone.

(a) The Planning Board may, in the course of site plan review:

1. Waive the requirements for parking setbacks and numbers of spaces where it finds that such waivers will accomplish the goals of the master plan including revitalization, enhancing the pedestrian environment and encouraging the use of transit;

2. Where recommended in the master plan, allow direct pedestrian access for all uses from the exterior of a structure in the O-M zone, and

3. Reduce building setbacks to accomplish master plan objectives.

(b) Dwellings

1. Dwellings in the overlay zone must comply with the following standards and requirements:

(A) Dwellings must be compatible with existing or planned development on the same lot or tract and be compatible with the surrounding area.

(B) Dwellings must meet the development standards of the applicable underlying zone for minimum setbacks, green area, and lot coverage. The required green area may be adjusted to assure compatibility of uses, or to provide adequate area to accommodate housing, if appropriate.

(C) Access must be provided by one or more direct driveways to a public street. The entrance must be located and appropriately lighted to assure safe access for residents, whether or not commercial uses on the same lot are in operation.

(D) The ground entry floor for a project that includes residential uses must be devoted to commercial use unless this requirement is waived by the Planning Board.

(c) Building Height

1. Within the overlay zone, building height is limited to 30 feet. However, the Board may allow a building height: (i) up to 42 feet for commercial development, and (ii) up to 50 feet to accommodate residential development if the Planning Board finds that such buildings are compatible with the neighborhood and consistent with the intent of the applicable master plan.

59-C-18.214. Procedure for application and approval.

(a) A site plan, in accordance with the provisions of Division 59-D-3, for development in the overlay zone is required for:

- (1) New construction,
- (2) Any addition, reconstruction, or exterior alteration to a building that changes the gross floor area by more than 1,000 square feet,
- (3) An expansion of a building by 1,000 square feet or less, that is subject to the provision of 59-C-18.216(b)(i),
- (4) A waiver of more than 50 percent of the off-street parking requirements set forth in Division 59-E-3.7, and
- (5) Conversion of an existing structure to residential use.

(b) For any addition, reconstruction, or alteration that changes a building by less than 1,000 square feet that is not subject to site plan review under 59-C-18.214(a)(3), there will be a review of the building permit by the Planning Board or its designee to determine compliance with master plan recommendations and the provisions of this overlay zone. If existing buildings are located on the site or on an adjacent property, then the minimum setback of the zone may be reduced by the applicant to conform to the existing setback on the site or on the adjacent property.

59-C-18.215. Planning Board approval.

The procedures for Planning Board approval under Section 59-D-3.4 are modified for this overlay zone to require the following additional findings:

(a) the site plan is consistent with the recommendations in the applicable master or sector plan for the area.

(b) the site plan meets all of the purposes and requirements of this overlay zone as well as the applicable requirements of the underlying zone; and

(c) each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

59-C-18.216. Special provisions.

(a) Building Permits:

(i) Construction pursuant to a building permit applied for as of the effective date of Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone may proceed under the provisions of the underlying zone. If a building permit expires, then the provisions of the overlay zone must be met.

(ii) A building permit for construction within the City of Takoma must be referred by the Department of Permitting Services to the City for use in initiating certain municipal review processes.

(b) Existing Buildings and Uses:

(i) Any building existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming building on that date, but that does not conform to the standards of the overlay zone, may continue as a conforming building and may be rebuilt, repaired, or reconstructed.

(ii) Any use existing on the effective date of the Sectional Map Amendment implementing the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone that was a conforming use on that date, but does not conform to the standards of the overlay zone, may continue as a conforming use.

(iii) Any building or use as identified in (i) or (ii) may expand up to 1,000 square feet, subject to site plan review in accordance with 59-C-18.214.

(Legislative History: Ord. No. 14-33, § 1.)