

<b>Subject:</b> ZTA 19-05, Industrial Zones – Landscape Contractors	
<b>Purpose:</b> Final action – vote expected	
<b>Analyst:</b> Jeffrey L. Zyontz, Senior Legislative Analyst Pamela Dunn, Senior Legislative Analyst	<b>Committee:</b> PHED
<b>Keywords:</b> #Landscape Contractor, Industrial Zones, Zoning Text Amendment	

## EXPECTED ATTENDEES

Casey Anderson, Chair, Planning Board  
Greg Russ, Planner Coordinator, Planning Department  
Ehsan Motazedi, Chief, Zoning and Enforcement, Department of Permitting Services (DPS)  
Jason Sartori, Division Chief, Planning Department

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATIONS

As introduced, ZTA 19-05 would allow Landscape Contractor as a permitted use (P) in the Heavy Industrial (IH) and Light Industrial (IL) zones.

The Committee unanimously recommends allowing Landscape Contractor as a permitted use (P) in the Heavy Industrial (IH) zone; however, with respect to the Light Industrial (IL) zone, the Committee recommends allowing Landscape Contractor as a limited use (L) with a requirement to provide screening under Division 6.5, Section 6.5.3.C.7, Option B, where the use abuts a property in a Residential detached zone.

## DESCRIPTION/ISSUE

Approve, disapprove, or amend and approve the recommendations of the PHED Committee.

## SUMMARY OF KEY DISCUSSION POINTS

*Should there be greater protection for IL-zoned property that abuts a residential zone?*

**The Committee recommends amending the land use table in ZTA 19-05 to make Landscape Contractor a limited use.** If the Council disagrees with this recommendation, there is no need to discuss the following issue.

*What standards should apply if the Landscape Contractor Use is made a limited use in the IL zone?*

Division 6.5 of the code provides alternatives for screening. The depth of screening in that provision ranges from 30 feet (with landscaping) to 5 feet for townhouses with a short fence. The Landscape Contractor use is in the Commercial category of uses. To be consistent with that classification, **the Committee recommends requiring landscaping on lots or parcels that abut residential zones to a depth of 12 feet, consistent with Section 6.5.3.C.7, Option B.**

**This report contains:**

Staff Report to the PHED Committee  
ZTA 19-05 as amended by the PHED Committee

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**MEMORANDUM**

July 10, 2019

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Senior Legislative Analyst *JZ*  
Pamela Dunn, Senior Legislative Analyst *P.D. & J.*

SUBJECT: Zoning Text Amendment 19-05, Industrial Zones – Landscape Contractors

PURPOSE: Worksession – develop recommendations for Council's consideration

Expected to Attend:

Casey Anderson, Chair, Montgomery County Planning Board  
Jason Sartori, Acting Chief, Functional Planning and Policy, M-NCPPC  
Greg Russ, Planner Coordinator, M-NCPPC  
Ehsan Motazed, Chief, Zoning and Enforcement, Department of Permitting Services

**Staff Recommendation:** Approve with amendments to require screening when abutting a small lot residential zone.

**Background**

ZTA 19-05, lead sponsors Councilmember Hucker and Council Vice President Katz and co-sponsors Councilmember Jawando and Council President Navarro, was introduced on May 23, 2019. Landscape Contractor is a defined land use that is currently only allowed as a permitted use in the IM (Moderate Industrial) zone. ZTA 19-05 would allow the Landscape Contractor use in the IL (Light Industrial) and IH (Heavy Industrial) zones as a permitted use.

Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes tree installation, maintenance, or removal.

The IH zone is intended to provide land for industrial activities that usually need major transportation links to highways or rail and may create significant noise, dust, vibration, glare, odors, and other adverse environmental impacts.

The IL zone is intended to provide land for industrial activities where major transportation links are not typically necessary and noise, dust, vibration, glare, odors, and other adverse environmental impacts are usually minimal. The IL zone is appropriate as a transitional Industrial zone between a Residentially-zoned area and land classified in the IM and IH zones.

Of the universe of parcels and lots in the IH and IL zones, 75% of those properties do not abut a residentially-zoned property.<sup>1</sup> The percentage holds true for both zones individually.

### Planning Board and Planning Staff Recommendation

Both the Planning Board and Planning staff recommended approval of ZTA 19-05 with 2 amendments:

- 1) Require a 50-foot setback between a lot line of a residentially-zoned property and a building or parking, including loading areas and other site operations; and
- 2) Prohibit access to a street classified as residential.

Implementing the Planning Board's recommendation would require allowing the Landscaping Contractor use as a limited use.

### Public Hearing

The Council conducted a public hearing on July 9, 2019. There were 3 speakers, including the Planning Board Chair. The representative for the Council Executive recommended allowing Landscape Contractor as a limited use in the IL zone, with requirements (when the parcel abuts a residential use) for screening, limited hours of operation, building height, and increased setbacks. One owner of a landscaping contracting firm testified in favor of the ZTA as introduced to expand the land available for her business and similar businesses.

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<sup>1</sup>

#	Abutting Residential Zone							Grand Total
	Does not Abut Residential Zone	R-20	R-200	R-60	R-90	RE-1	RE-2	
IH	49		16				1	66
IL	308	13	71	7	7	4		410
<b>Grand Total</b>	<b>357</b>	<b>13</b>	<b>87</b>	<b>7</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>476</b>

## Issues

*Should there be greater protection for IL zoned property that abuts a residential zone?*

The testimony from the Executive and the Planning Board focused on the IL zone. There are far more IL zoned properties than IH zoned properties. Numerically, more IL zoned properties abut residential zones (102) than IH zoned properties abut residential zones (17). One might expect noise, high activity, and unsightly uses in the IH zone, but that is not expected in the IL zone.

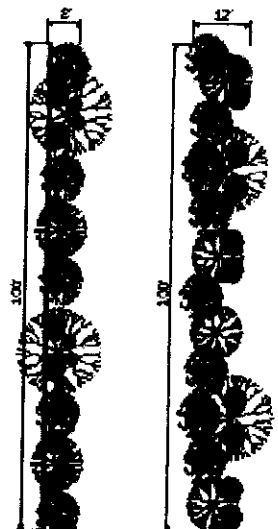
**Staff recommends amending the land use table in ZTA 19-05 to make the Landscape Contractor use a limited use.** If the Committee disagrees with that recommendation, there is no need to discuss the following issue.

*What standards should apply if the Landscape Contracting Use is made a limited use in the IL zone?*

Staff believes that the 50-foot setback recommended by the Planning Board is excessive. A landscape contractor does not produce the noise, activity, or unsightliness of a concrete batching plant. Restricting the hours of operation as suggested by the Executive would create enforcement problems. Restricting the height is unnecessary. The economics of building a 50-foot-tall building for a landscape contractor will prevent its construction. Requiring screening is an idea worth pursuing.

Division 6.5 of the code provides alternatives for screening. The depth of screening in that provision goes from 30 feet (with landscaping) to 5 feet for townhouses with a short fence. The Landscape Contractor use is in the Commercial category of uses. If the Council were to be consistent with that classification, landscaping to a depth of 12 feet would be required.

**7. General Building with a Non-Industrial Use; Conditional Use in the Agricultural, Rural Residential, or Residential Detached Zones; and Conditional Use in a Duplex in Any Other Zone**

		
	<b>Option A</b>	<b>Option B</b>
<b>Dimensions (min)</b>		
Depth	8'	12'
<b>Planting and Screening Requirements</b>		
Trees (minimum per 100')		
Canopy	2	2
Understory or Evergreen	2	4
Shrubs (minimum per 100')		
Large	6	8
Medium	8	12
Small	8	—
Wall, Fence or Berm (min)	4' fence or wall	—

Staff recommends requiring landscaping on lots or parcels that abut residential zones to a depth of 12 feet, consistent with Section 6.5.3.C.7, Option B.

This packet contains

ZTA 19-05  
 Planning Board Recommendation  
 Planning Staff recommendation

© number

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Zoning Text Amendment No.: 19-05  
Concerning: Industrial Zones –  
Landscape Contractors  
Draft No. & Date: 1 - 5/15/19  
Introduced: May 23, 2019  
Public Hearing:  
Adopted:  
Effective:

**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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Lead Sponsors: Councilmember Hucker and Council Vice President Katz  
Co-Sponsors: Councilmember Jawando and Council President Navarro

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

- allow Landscape Contractor as a permitted use in all Industrial zones; and
- generally amend the standards for allowing Landscape Contractors in Industrial zones

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

Division 3.1. "Use Table"  
Section 3.1.6. "Use Table"  
Division 3.5. "Commercial Uses"  
Section 3.5.5. "Landscape Contractor"

**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 (ZTA) 19-05, lead sponsors Councilmember Hucker and Council Vice President Katz, co-sponsors Councilmember Jawando and Council President Navarro, was introduced on May 23, 2019. ZTA 19-05 as introduced would allow Landscape Contractor as a permitted use in the IL and IH zones.

Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes tree installation, maintenance, or removal. Currently, Landscape Contractors are permitted in the IM zone. The use is not allowed in the IL or IH zone, even as a conditional use.

In its report to the Council, the Montgomery County Planning Board and Planning staff recommended approval of ZTA 19-05 with 2 amendments:

- 1) Require a 50-foot setback between a lot line of a residentially-zoned property and a building or parking, including loading areas and other site operations; and
- 2) Prohibit access to a street classified as residential.

Implementing the Planning Board's recommendation would require allowing Landscape Contractor use as a limited use.

The Council's public hearing was conducted on July 9, 2019. There were 3 speakers, including the Planning Board Chair. The representative for the Council Executive recommended allowing Landscape Contractor as a limited use in the IL zone, with requirements (when the parcel abuts a residential use) for screening, limited hours of operation, building height, and increased setbacks. One owner of a landscape contracting firm testified in favor of the ZTA as introduced to expand the land available for her business and similar businesses.

The Council referred the text amendment to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation.

The PHED Committee held a worksession on July 15, 2019. The Committee recommended approving ZTA 19-05 with amendments to allow Landscape Contractor as a permitted use in the IH and as a limited use in the IL zone. The Committee recommended that, in the IL zone, a parcel with a Landscape Contractor use that abuts a Residential Detached zone should be required to provide screening under Section 6.5.3.C.7, Option B.

The Council agreed with the recommendation of the 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. 19-05 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 3.1 is amended as follows:**

2       **Division 3.1. Use Table**

3       \*    \*    \*

4       **Section 3.1.6. Use Table**

5       The following Use Table identifies uses allowed in each zone. Uses may be  
6       modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential												Commercial/ Residential			Employment					Industrial									
					Residential Detached						Residential Townhouse			Residential Multi-Unit																				
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TL	DT	MD	THD	R-30	R-20	R-10	CR	NC	RT	CR	GR	N	RL	S	C	E	O	F	IL	IM
* * *																																		
COMMERCIAL																																		
* * *																																		
Landscape Contractor	3.5.5	C	C	C	C	C	C	C	C																							[[P]] L	P	P
* * *																																		
Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed																																		

7       \*    \*    \*

8           **Sec. 2. DIVISION 3.5 is amended as follows:**

9       **Division 3.5. Commercial Uses**

10       \*    \*    \*

11       Section 3.5.5. Landscape Contractor

12       \*    \*    \*

13       B.    Use Standards

14           a.    Where Landscape Contractor is allowed as a limited use and the lot or  
15           parcel on which the use is located abuts a residential detached zone,  
16           screening under Section 6.5.3.C.7, Option B is required, without  
17           regard to applicability under Section 6.5.2.B.

18        b.        Where ~~[[a]]~~ Landscape Contractor is allowed as a conditional use, it  
19                    may be permitted by the Hearing Examiner under Section 7.3.1,  
20                    Conditional Use, and the following standards:

21        \*        \*        \*

22                **Sec. 2. Effective date.** This ordinance becomes effective on the date of  
23        Council adoption.

24

25        This is a correct copy of Council action.

26

27

28        \_\_\_\_\_  
29        Megan Davey Limarzi, Esq.  
          Clerk of the Council