



**Committee PHED**  
**Staff:** Jeffrey L. Zyontz, Senior Legislative Analyst  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #Surface Parking, #Special Exception

AGENDA ITEM 13B  
November 10, 2020  
**Introduction**

## **SUBJECT**

ZTA 20-06, Surface Parking – Residential Zones

## **EXPECTED ATTENDEES**

NA

## **COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

NA

## **DESCRIPTION/ISSUE**

The proposed amendment to the Montgomery County Zoning Ordinance would allow the Planning Board approval of a site plan to supersede a special exception for surface parking in a residential zone at the option of the site plan applicant.

## **SUMMARY OF KEY DISCUSSION POINTS**

In the absence of ZTA 20-06, a project involving a change to the commercial use that originally used special exception parking is subject to both site plan and special exception approval.

### **This report contains:**

Staff Memorandum  
ZTA 20-06

### **Pages**

1-2  
©1-4

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**Introduction**

**M E M O R A N D U M**

November 5, 2020

TO: County Council

FROM: Jeffrey L. Zyontz, Senior Legislative Analyst

SUBJECT: Zoning Text Amendment 20-06, Surface Parking – Residential Zones

PURPOSE: Introduction of ZTA 20-06

Zoning Text Amendment (ZTA) 20-06, lead sponsor Councilmember Hucker, is scheduled for introduction on November 10, 2020. ZTA 20-06 would allow the Planning Board approval of a site plan to supersede a special exception for surface parking in a residential zone.

Before the Zoning Ordinance rewrite in 2014, in residential zones, a special exception for surface parking in a residential zone “in connection with a commercial use” in a commercial zone was permitted. This could occur with separate properties, one zoned commercial and one residential, or could be a single, split-zoned property.

The current code does not allow a conditional use for surface parking in a residential zone for a commercial use. Under the current code, conditional use approval for surface parking in a residential zone is allowed for uses allowed in the residential zone.<sup>1</sup> Special exceptions approved under the old code are still valid and are grandfathered under the new code.<sup>2</sup> In the absence of ZTA 20-06, a project involving a change to the commercial use that originally used special exception parking would be subject to both site plan and special exception approval, each from a different body. Planning staff

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<sup>1</sup> Section 3.5.9.C

Surface parking for Use Allowed in the Zone means surface parking in connection with any permitted or limited use allowed in the zone where no building or other use requiring parking is on the same lot.

<sup>2</sup> Section 7.7.1.A.1

A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure are not increased ....

Section 7.7.1.B.1

Any development plan, schematic development plan, diagrammatic plan, concept plan, project plan, sketch plan, preliminary plan, record plat, site plan, special exception, variance, or building permit filed or approved before October 30, 2014 must be reviewed under the standards and procedures of the property’s zoning on October 29, 2014, unless an applicant elects to be reviewed under the property’s current zoning.

could be required to review/comment on two separate applications for one project in two zones that would entail review by two separate bodies with two separate procedural requirements.

Councilmember Hucker believes the current situation is overly burdensome and does not promote administrative economy to commercial use site plan applicants. It requires a back-and-forth process between the Planning Board and the Board of Appeals before mutually-agreeable conditions can be established. Under the ZTA, the Planning Board is in a position to have jurisdiction over the entire project. The Board of Appeals would only have jurisdiction on the surface parking.

A public hearing concerning ZTA 20-06 will be scheduled at a later date.

This packet contains  
ZTA 20-06

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Zoning Text Amendment No.: 20-06  
Concerning: Surface Parking –  
Residential Zones  
Draft No. & Date: 1– 10/26/2020  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**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 Sponsor: Councilmember Hucker

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

- amend the definition of “Surface Parking for Use Allowed in the Zone”;
- allow site plan approval to supersede a special exception for parking in a residential detached zone under certain circumstances; and
- generally amend the provisions for Surface Parking for Use Allowed in the Zone

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

Division 3.5. “Commercial Uses”  
Section 3.5.9. “Parking”

**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.*

*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 3.5. Commercial Uses**

2       \*   \*   \*

3       **Section 3.5.9. Parking**

4       A.     Defined, In General

5           Parking means a lot or structure that provides parking for motor vehicles  
6           where the facility is the principal use and a fee may be charged.

7       B.     Structured Parking

8           Defined

9           Structured Parking means a one or more level free-standing structure for  
10          parking or storing motor vehicles that does not share a common floor or  
11          ceiling with another use allowed in the zone. Structured Parking does not  
12          include Surface Parking.

13      C.     Surface Parking for Use Allowed in the Zone

14          1.     Defined

15           Surface parking for Use Allowed in the Zone means surface parking  
16           in connection with any permitted or limited use allowed in the zone  
17           where no building or other use requiring parking is on the same lot, or  
18           surface parking allowed in a detached residential zone by a special  
19           exception approved before October 30, 2014.

20          2.     Use Standards

21           Where Surface Parking for Use Allowed in the Zone is allowed as a  
22           limited use, it must satisfy the following standards:

23           a.     Where a sketch plan is required, the surface parking is only  
24           allowed as part of an approved phasing plan and the Planning  
25           Board finds that the layout is safe, efficient, and compatible  
26           with adjacent development.

27           b.     Where a sketch plan is not required[,];

- 28 i. the parking setbacks must accommodate the landscaping  
29 required under Section 6.2.9[,] and  
30 ii. [In] in the CRT, CR, LSC, and EOF zones:  
31 (a) the surface parking must be providing parking for  
32 a use on an abutting lot or be a municipal public  
33 parking lot; and  
34 (b) for properties on a business district street, site plan  
35 approval is required under Section 7.3.4. The  
36 Planning Board must find that the surface parking  
37 supports commercial or residential uses that  
38 substantially conform with the recommendations  
39 of the applicable master plan.  
40 iii. Where parking located in a residential detached zone was  
41 approved as a special exception in connection with a  
42 commercial use, site plan approval under Section 7.3.4  
43 may supersede the previously approved special exception  
44 at the option of the applicant.  
45

46 **Sec. 2. Effective date.** This ordinance becomes effective immediately upon  
47 the Council's adoption.  
48

49 This is a correct copy of Council action.  
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51 \_\_\_\_\_  
52 Selena Mendy Singleton, Esq.  
53 Clerk of the Council