



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #5
10/11/07

DATE: October 3, 2007
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *JAC*
Ralph Wilson, Acting Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to allow Planned Development zones on certain commercially zoned sites in or adjoining a central business district; to provide a standard for commercial density in Planned Development zones; to remove the requirement in the Planned Development zones that development in or adjoining a central business district must comply with the use recommended in a master plan or sector plan

TEXT AMENDMENT: No. 07-13
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Council President Praisner at the request of the County Executive
INTRODUCED DATE: September 11, 2007
PLANNING BOARD REVIEW: October 11, 2007
PUBLIC HEARING: October 16, 2007; 1:30pm

STAFF RECOMMENDATION: Approval with modifications to do the following:

- Clarify that the applicability of the subject proposal is limited to commercial zones that permit as a matter of right residential density of 2 dwelling units per acre or higher that are within, adjoining or confronting a CBD
- Eliminate the possibility of applicability for the C-2 zone
- To permit a FAR no greater than the FAR of the zone prior to rezoning to PD, including a finding that the development be compatible with other existing or proposed uses adjacent to or in the vicinity of the area covered by the proposed planned development

PURPOSE AND BACKGROUND OF THE TEXT AMENDMENT

The text amendment proposes to amend the Zoning Ordinance to allow Planned Development zones on certain commercially zoned sites in or adjoining a central business district; to provide a standard for commercial density in Planned Development zones; to remove the requirement in the Planned Development zones that development in or adjoining a central business district must comply with the use recommended in a master plan or sector plan.

In order for a rezoning application to be approved for a number of floating zones, a finding is required that the Development Plan be in substantial compliance with the use and density recommended in the applicable master or sector plan. The “substantial compliance” standard is now uniformly applied to all properties subject to Development Plan review. The intent of ZTA 07-13 is to modify this requirement within the Planned Development (PD) Zone by not requiring a finding of substantial compliance with the use recommended by the relevant master plan or sector plan for commercially-zoned properties that permit as a matter of right a residential density of 2 dwelling units per acre or higher (same requirement currently in place for the PD zone) and are located within or adjoins a central business district. Adherence to density recommendations would continue to be required.

ANALYSIS

Analyses of the aforementioned text amendment are discussed below.

I. WHERE APPLICABLE

59-C-7.12. Where Applicable.

59-C-7.121. Master plan. *No land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which [shows] recommends such land for:*

- (a) a density of 2 dwelling units per acre or higher; or*
- (b) a commercial zoning classification that permits as a matter of right a residential density of 2 dwelling units per acre or higher and such land is located either within, ~~[[or]]~~ adjoins or confronts a central business district.*

* * *

Currently, in order to request a rezoning to the Planned Development Zone, the land capacity must have a minimum density of 2 dwelling units per acre. The intent of the subject proposal is to include a second option that allows a commercially-zoned property that already permits residential density of at least 2 dwelling units per acre to apply for PD reclassification if it is located within or adjoins a central business district. The proposed language does not clearly delineate the intent to allow this option only on commercial properties that permit residential density as a matter of right. As introduced, the language could be read to allow commercial properties that permit residential densities by special exception approval or as a matter of right. Staff recommends adding the clarification to narrow the scope. Staff also recommends that the language include the word "confronting" to encompass properties across the street from the CBD. Currently the Zoning Ordinance includes two zones that either completely or partially fit these criteria; the C-O Zone and the C-2 Zone.

C-O Zone: The land use table in the Zoning Ordinance depicts dwellings as a permitted use in the C-O Zone with the inclusion of Footnote 2 which states that permitted uses are subject to the regulations of the R-60 zone, which allows a density greater than 2 dwelling units per acre.

C-2 Zone: The land use table in the Zoning Ordinance depicts dwellings as a permitted use in the C-2 Zone under Footnote 40 if the property is within 1,500 feet of a Metro station located in a Central Business District; provided: (1) the sector plan district in which the property is located is recommended for residential development, and (2) the development complies with the Section 59-D-3 site plan review requirements.

It is unclear whether the language would apply to those C-2 parcels that adhere to the criteria stated above (Footnote 40) or whether it would apply to all C-2 zoned parcels within or adjoining a Central Business District. In order to maintain the integrity of master plans and sector plans, staff believes that the applicability should pertain only to those parcels that are within 1,500 feet of a Metro station, located in a Central Business District and where the property is recommended for residential development in the applicable sector plan district (Footnote 40). With this in mind, it would appear superfluous to apply the proposed PD zone criteria to the C-2 zone since the applicable parcels already have the ability to develop as mixed residential and commercial projects without rezoning the parcels. Staff recommends that language be provided that prohibits the C-2 zone from reclassifying to the PD zone.

II. COMMERCIAL AND INDUSTRIAL USES

59-C-7.13. Uses permitted.

* * *

59-C-7.132. Commercial.

* * *

- (b) *Commercial and industrial uses may be permitted in addition to the local commercial facilities permitted under paragraph (a) above, if any, subject to the following conditions:*
- (1) *That such uses are proposed by the appropriate master plan to be located within the area covered by the planned development zone.*
 - (2) *That such uses are so designed and located as to achieve the purposes of the planned development zone and to be compatible with other uses within or adjacent to the development.*
 - (3) *That in a development that satisfies Section 59-C-7.121(b), commercial and industrial uses must not exceed 40 percent of the gross floor area of the development.*

Staff believes that the proposed provision is consistent with the premise to permit mixed residential and commercial development within or adjoining the Central Business Districts while also maintaining the predominately residential emphasis of the PD zone.

III. DENSITY OF DEVELOPMENT

59-C-7.14. *Density of [residential] development.*

* * *

- (f) *For a development that satisfies Section 59-C-7.121(b), the maximum density must not exceed the density of the highest density zone recommended in the relevant master plan or sector plan.*

* * *

As stated above, the text amendment proposes that the PD zone permit the highest density of the applicable master or sector plan for a project satisfying Section 59-C-7.121(b) when applying for PD zoning. In any case, the highest density would be either that of the Optional Method of a CBD-2 Zone or a CBD-3 Zone (a FAR of 5 or 8, respectively). This language does not reflect the intent of the proposed legislation in terms of maintaining the applicable master plan or sector plan density as depicted for a development site. The existing sector plans for central business districts were developed according to a principle of “stepping down” density and building height from the core to the adjacent residential neighborhoods. The proposed text amendment is not consistent with the

“stepping down” principle because it allows properties located on the edge of central business districts to develop at the maximum density in a central business district. **Staff recommends that the language be amended to permit a FAR no greater than the FAR of the zone prior to rezoning to PD, and that the development be compatible with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development.**

IV. PROCEDURE FOR APPLICATION AND APPROVAL

59-C-7.19. Procedure for application and approval.

- (a) *Application and development plan approval must be in accordance with the provisions of division 59-D-1. But a finding of substantial compliance with the use recommended by the relevant master plan or sector plan is not required if the development satisfies Section 59-C-7.121(b).*
- (b) *Site plans must be submitted and approved in accordance with the provisions of division 59-D-3.*

The text amendment eliminates the development plan finding of substantial compliance with the use recommended by the master plan or sector plan for those commercial zones that satisfy Section 59-C-7.121(b). However, as stated in the purpose clause of the Planned Development zone, one purpose of this zone is to implement the general plan for the Maryland-Washington Regional District and the area master plans by permitting unified development consistent with densities proposed by master plans. Staff believes that: by limiting the applicability of this text amendment to commercial zones that permit as a matter of right residential density of at least 2 dwelling units per acre adjoining, confronting or within a CBD; the modification to the text to limit the FAR to that of the existing zone and that the development be compatible with other uses existing or proposed adjacent to or in the vicinity of the area covered by the proposed planned development, minimizes any possible inconsistencies with the master or sector plan.

V. MASTER PLAN IMPACTS

The following section provides the general locations where the subject text amendment could be applied. The maps included as Attachment 2 of the staff report further depict the impacts within the four Central Business Districts. The maps indicate existing C-O and C-2 zones along with other zones located within, confronting or adjoining the Central Business Districts. The emphasis of the analysis pertains mainly to the C-O zone.

Friendship Heights: There are no C-O or C-2 zones within or adjoining the CBD.

Silver Spring: There are three pockets of C-O zoned properties (all developed with office buildings) located along the northeast side of Spring Street, east of Georgia Avenue and north of Ellsworth. These properties are considered confronting and not adjoining (not adjacent) to the CBD because they are separated from the central business district by a street. There are no C-2 properties located within 1,500 feet of a metro station within the CBD.

Wheaton: There are two locations of C-O zoned properties located along Blueridge Avenue. One is located east of Georgia Avenue (BB&T office building) while the second area is located in the northeast quadrant of the intersection of Blueridge Avenue and Grandview Avenue and on the west side of Georgia Avenue (office building). There are a number of C-2 zoned properties within 1,500 feet of a Metro station within the CBD including Westfields Shoppingtown along Veirs Mill Road and University Boulevard, an auto dealership and Best Buy electronics south of Prichard Road along the east side Georgia Avenue and a bank located in the northeast area of the intersection of University Boulevard and Veirs Mill Road.

Bethesda: There are three locations along the eastside of Pearl Street (between East-West Highway and Montgomery Avenue) where C-O zoned properties are located and developed with office buildings. There are a number of C-2 properties within 1,500 feet of a metro station in the CBD located between Arlington Road and Woodmont Avenue, between Hampden Lane and Elm Street.

VI. POLICY BASIS FOR THE SUBJECT TEXT AMENDMENT

The intent of the PD zone is to provide a means for regulating flexibility in development standards in order to allow more innovative development patterns that provide desirable relationships between the buildings and circulation systems within these areas and the adjacent surrounding properties, with all being consistent with the densities of the approved and adopted master or sector plans. Staff believes that the proposed modifications to the text amendment will assist in maintaining an appropriate density, taking into consideration the area master or sector plan, purposes of the planned development zone and the fact that only those commercial zones that allow as a matter of right a residential density of at least 2 dwelling units per acre that adjoin, confront or are within a CBD can apply for reclassification to the PD zone.

RECOMMENDATION

Based on the analysis as discussed above, staff recommends that ZTA 07-13 be approved as modified by staff to limit the scope and impact by: clarifying that the

applicability of the subject proposal is limited to commercial zones that permit as a matter of right residential density of 2 dwelling units per acre or higher; eliminating the possibility of applicability for the C-2 zone; and permitting a FAR no greater than the FAR of the zone prior to rezoning to PD, including a finding that the development be compatible with other proposed and existing uses adjacent to or in the vicinity of the area covered by the proposed planned development.

GR

Attachments

1. Proposed Text Amendment No. 07-13 (as modified by staff)
2. Central Business District Maps

ATTACHMENT 1

Zoning Text Amendment No: 07-13
Concerning: Planned Development Zones –
Requirements
Draft No. & Date: 1 – 8/14/07
Introduced: 9/11/07
Public Hearing: 10/16/07
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**

By:
Council President Praisner at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow Planned Development zones on certain commercially zoned sites in or adjoining a central business district;
- provide a standard for commercial density in Planned Development zones;
- remove the requirement in the Planned Development zones that development in or adjoining a central business district must comply with the use recommended in a master or sector plan; and
- generally amend Planned Development zones.

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

DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.12	“Where Applicable”
Section 59-C-7.121	“Master plan”
Section 59-C-7.13	“Uses Permitted”
Section 59-C-7.132	“Commercial”
Section 59-C-7.14	“Density of residential development”
Section 59-C-7.19	“ Procedure for application and approval”

*EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the 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 59-C-7 is amended as follows:**

2 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES**

3 * * *

4 **59-C-7.12. Where Applicable.**

5 **59-C-7.121. Master plan.** No land can be classified in the planned
6 development zone unless such land is within an area for which there is an
7 existing, duly adopted master plan which [shows] recommends such land
8 for;

- 9 (a) a density of 2 dwelling units per acre or higher; or
- 10 (b) a commercial zoning classification, excluding the C-2 zone, that
11 permits as a matter of right a residential density of 2 dwelling units
12 per acre or higher and such land is located either within, [[or]] adjoins,
13 or confronts a central business district.

14 * * *

15 **59-C-7.13. Uses permitted.**

16 * * *

17 **59-C-7.132. Commercial.**

18 * * *

- 19 (b) Commercial and industrial uses may be permitted in addition to the
20 local commercial facilities permitted under paragraph (a) above, if
21 any, subject to the following conditions:
- 22 (1) That such uses are proposed by the appropriate master plan to
23 be located within the area covered by the planned development
24 zone.
- 25 (2) That such uses are so designed and located as to achieve the
26 purposes of the planned development zone and to be compatible
27 with other uses within or adjacent to the development.

28 (3) That in a development that satisfies Section 59-C-7.121(b),
29 commercial and industrial uses must not exceed 40 percent of
30 the gross floor area of the development.

31 **59-C-7.14. Density of [residential] development.**

32 * * *

33 (f) For a development that satisfies Section 59-C-7.121(b), the maximum
34 density must not exceed the [[density of the highest density]] FAR of the zone
35 prior to rezoning to the PD zone and the development must be compatible with
36 other existing or proposed uses adjacent to or in the vicinity of the area covered by
37 the proposed planned development.]] recommended in the relevant master plan or
38 sector plan.]]

39 * * *

40 **59-C-7.19. Procedure for application and approval.**

41 (a) Application and development plan approval must be in accordance
42 with the provisions of division 59-D-1. But a finding of substantial
43 compliance with the use recommended by the relevant master plan or
44 sector plan is not required if the development satisfies Section 59-C-
45 7.121(b).

46 (b) Site plans must be submitted and approved in accordance with the
47 provisions of division 59-D-3.

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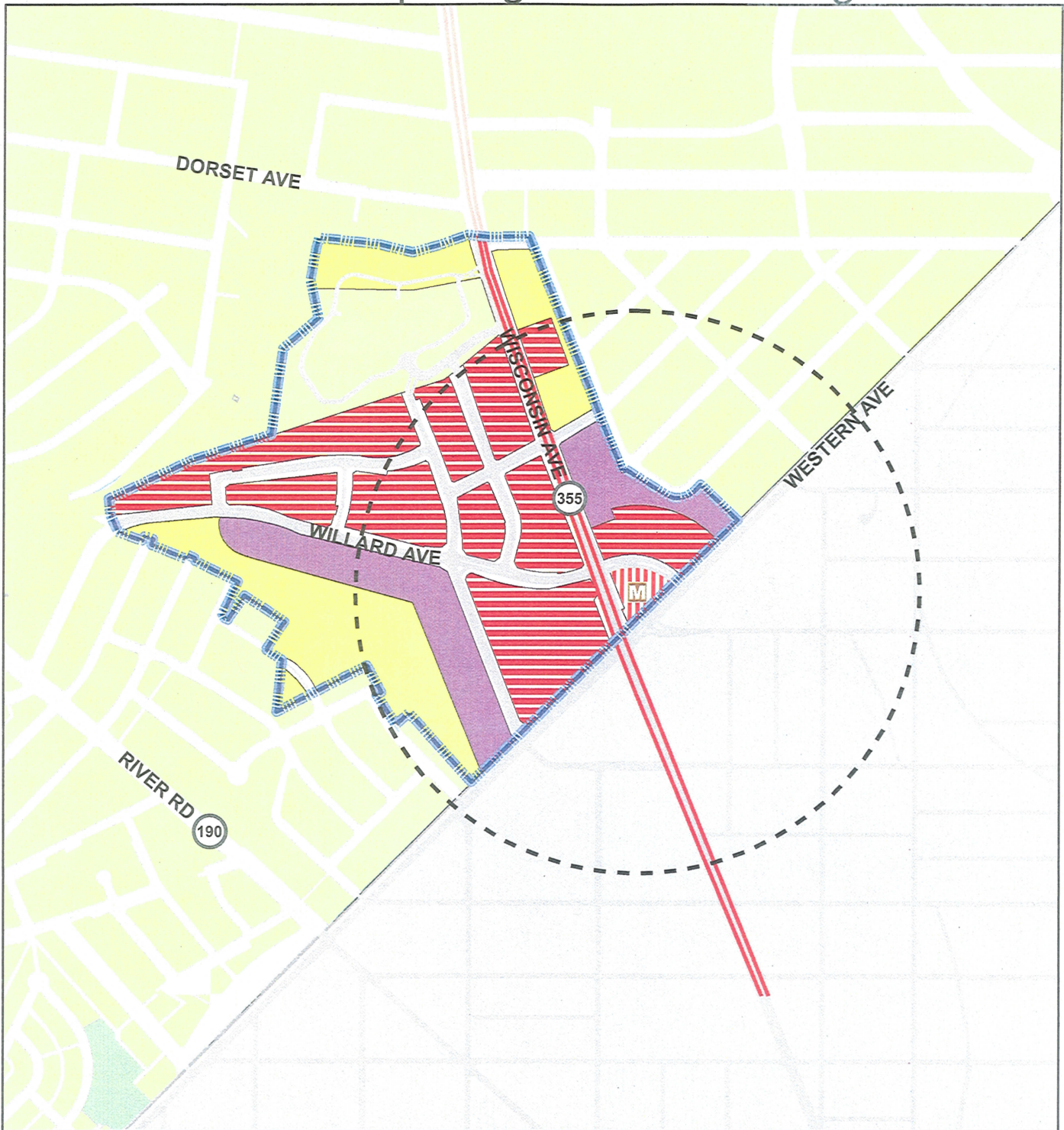
49 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
50 date of Council adoption.

51 This is a correct copy of Council action.

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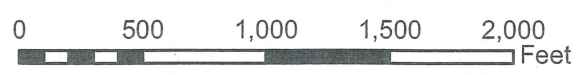
56 Linda M. Lauer, Clerk of the Council

Friendship Heights CBD: Zoning



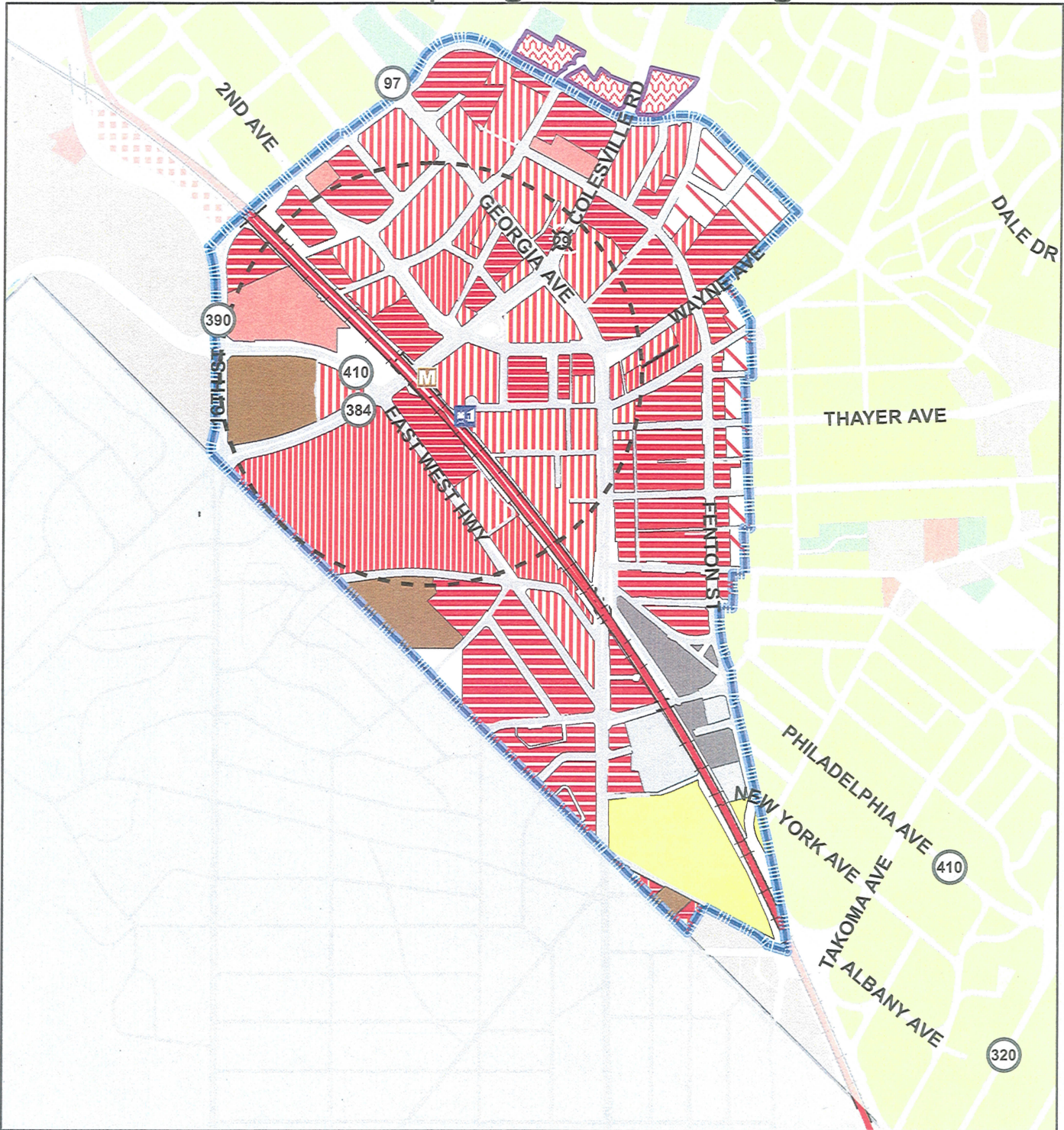
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|------------------------------|--------------------|-------------------------|---------|--------|
| C-2 & C-O Adjacent to CBD | METRO STATIONS | Comm./CBD Zoning | C-4 | CBD-2 |
| 1500 feet from Metro Station | MARC TRAIN STATION | C-1 | C-O | CBD-3 |
| CBD Boundaries | Railroad | C-2 & C-2/OVERLAY | CBD-0.5 | CBD-R1 |
| Road Polygons | Metrorail | C-3 | CBD-1 | CBD-R2 |

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Sources: M-NCPPC, 2007
October 3, 2007

Silver Spring CBD: Zoning



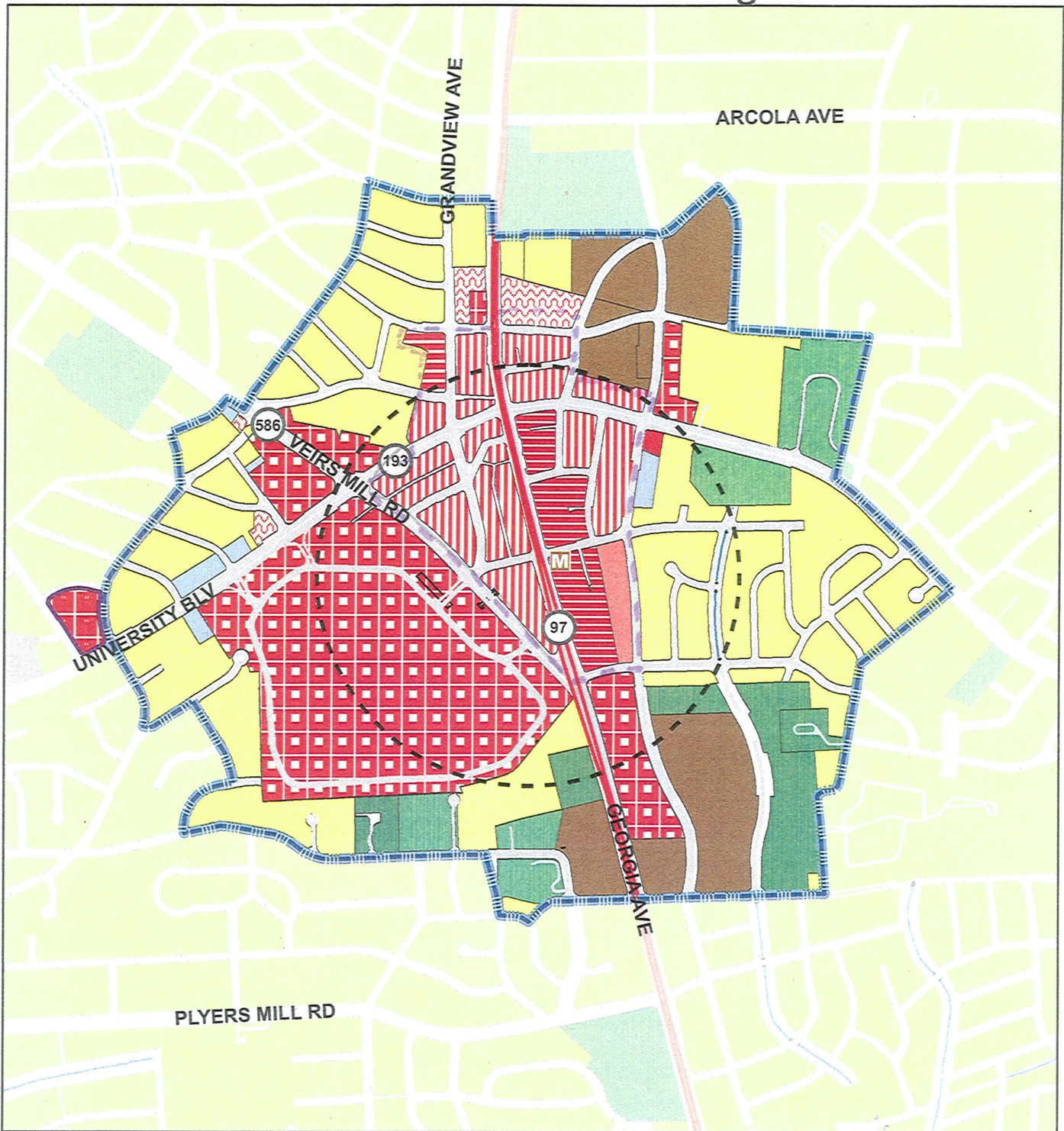
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|--|------------------------------|--|--------------------|-------------------------|-------------------|-----|---------|-------|--------|
| | C-2 & C-O Adjacent to CBD | | METRO STATIONS | Comm./CBD Zoning | | C-4 | | CBD-2 | |
| | 1500 feet from Metro Station | | MARC TRAIN STATION | | C-1 | | C-O | | CBD-3 |
| | CBD Boundaries | | Railroad | | C-2 & C-2/OVERLAY | | CBD-0.5 | | CBD-R1 |
| | Road Polygons | | Metrorail | | C-3 | | CBD-1 | | CBD-R2 |

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Sources: M-NCPPC, 2007
October 3, 2007

Wheaton CBD: Zoning



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|------------------------------|--------------------|-------------------------|---------|--------|
| C-2 & C-O Adjacent to CBD | METRO STATIONS | Comm./CBD Zoning | C-4 | CBD-2 |
| 1500 feet from Metro Station | MARC TRAIN STATION | C-1 | C-O | CBD-3 |
| CBD-Boundaries | Railroad | C-2 & C-2/OVERLAY | CBD-0.5 | CBD-R1 |
| Road Polygons | Metrorail | C-3 | CBD-1 | CBD-R2 |

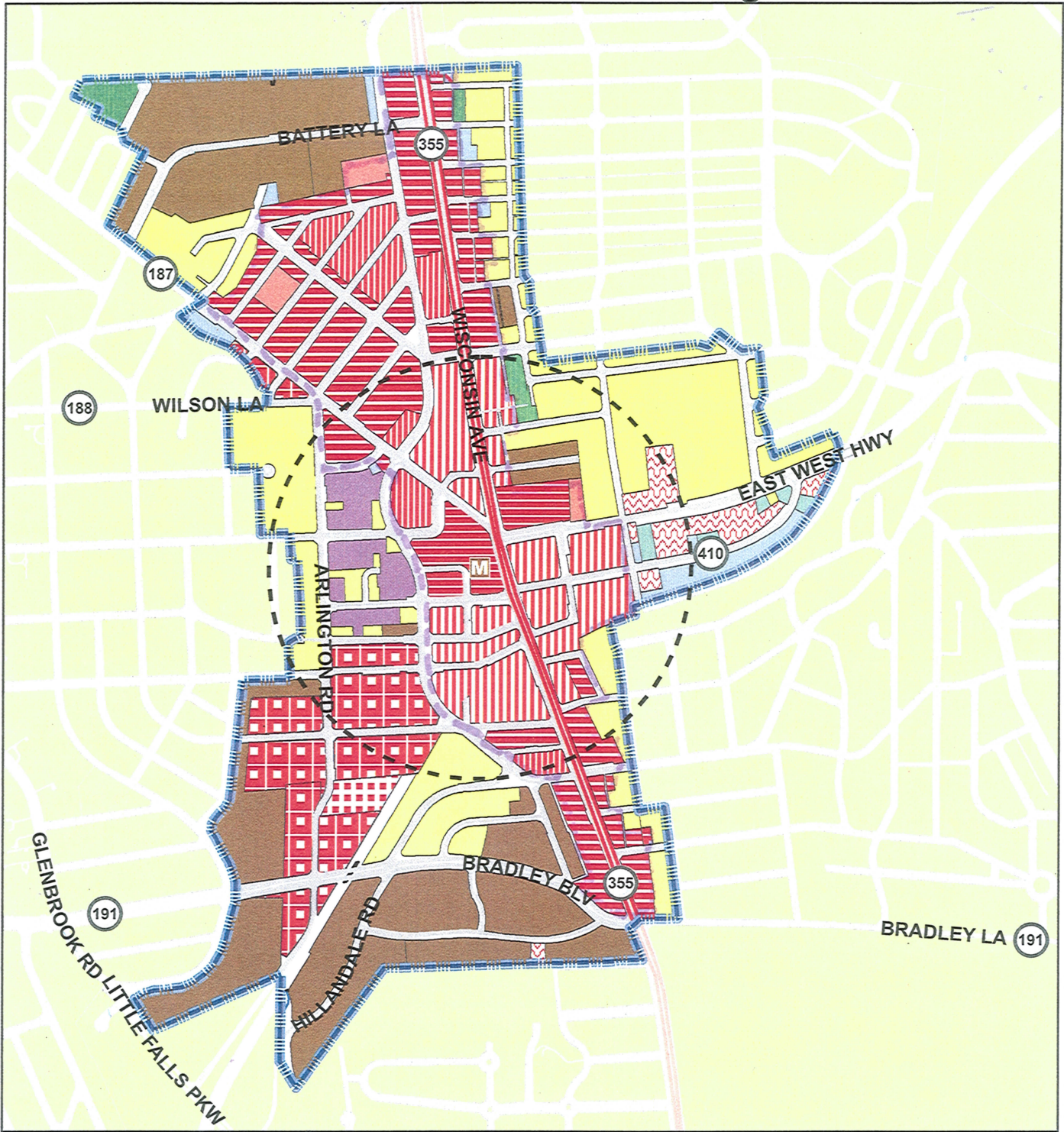
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Sector Plan



Sources: M-NCPPC, 2007
October 3, 2007

CBD Boundary

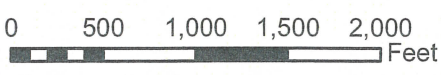
Bethesda CBD: Zoning



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|------------------------------|--------------------|-------------------------|---------|--------|
| C-2 & C-O Adjacent to CBD | METRO STATIONS | Comm./CBD Zoning | C-4 | CBD-2 |
| 1500 feet from Metro Station | MARC TRAIN STATION | C-1 | C-O | CBD-3 |
| Sector Plan CBD Boundaries | Railroad | C-2 & C-2/OVERLAY | CBD-0.5 | CBD-R1 |
| Road Polygons | Metrorail | C-3 | CBD-1 | CBD-R2 |

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CBD Boundary



Sources: M-NCPPC, 2007
October 3, 2007