



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

MCPB
Item #6
1/14/10

DATE: January 6, 2010
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Zoning Supervisor, Development Review *RDW*
FROM: Greg Russ, Zoning Coordinator *GR*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To expand grandfather provisions for sites reclassified to the TMX zone.

TEXT AMENDMENT: No. 09-13
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Planning, Housing and Economic Development Committee
INTRODUCED DATE: December 1, 2009

PLANNING BOARD REVIEW: January 14, 2010
PUBLIC HEARING: January 19, 2010; 1:30 PM

STAFF RECOMMENDATION: Approve. Staff supports the ZTA 09-13 grandfathering revisions to: (1) clarify that any development shown on a development plan or supplementary plan for a site approved before reclassification of the site to the TMX zone may be built out under the standards of the previous zone, and (2) clarify that any development under a preliminary plan or site plan may be built out under the standards of the previous zone or the TMX zone and that enlargement may occur up to a certain level.

BACKGROUND/ANALYSIS

ZTA 09-13 was sponsored by the PHED Committee to clarify the grandfather provisions for sites recommended for reclassification to the TMX zone by the Germantown Employment Area Sector Plan. The ZTA proposes changes to the existing grandfather provisions for the TMX zone. Some revisions were needed to clarify that development approved under a pre approved development plan may proceed under the standards of the site's previous zone. For sites reclassified to the TMX zone that did not require a development plan, the ZTA would allow proposed buildings to be enlarged by 10 percent or 7,500 square feet. Staff is proposing including the phrase, "whichever is less", to this provision as a reasonable limit on expansion opportunities. Building and uses existing before reclassification to the TMX zone are currently grandfathered and allowed to

enlarge up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less.

The proposed ZTA as modified by staff is depicted below.

Sec. 59-C-14.2. Transit Mixed-use (TMX) Zone

* * *

59-C-14.26. Existing buildings [and], uses and approvals.

- (a) Any lawful structure, building, or established use that existed before the applicable Sectional Map Amendment adoption date is a conforming structure or use, and may be continued, structurally altered, repaired, renovated, or enlarged up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less. However, any enlargement of [the] a building that is more than 10 percent of the gross floor area or 7,500 square feet **[[of construction of a new building]]** must comply with the standards of the TMX Zone.
- (b) [In the TS-R and TS-M zones, development under a] A development plan or a supplementary plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. Any increase in density above the approved development plan or supplementary plan limit must be subject to the standards of the TMX zone.
- (c) Development under a preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. A preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment may, at the option of the applicant, be amended after the adoption of the applicable Sectional Map Amendment under the standards of the previous zone or under the TMX zone standards. However, any enlargement of a proposed building that is more than 10 percent of the approved gross floor area or 7,500 square feet, whichever is less, [[of construction of a new building]] must comply with the standards of the TMX Zone.

Attachment 1 depicts the proposed text amendment as modified by staff.

GR

Attachments

- 1. Proposed Text Amendment 09-13

ATTACHMENT 1

Zoning Text Amendment No: 09-13
Concerning: Transit Mixed-Use
(TMX) Zone - Prior Approvals
Draft No. & Date:
Introduced: December 1, 2009
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**

By: The Planning, Housing, and Economic Development Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow any approved development plan, supplementary plan, or site plan to construct subject to the applicable approval
- allow amendments to preliminary plans and site plans approved under any prior zone under certain circumstances; and
- generally amend the provisions related to regulatory approval before the application of a TMX zone.

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

DIVISION 59-C-14 "TRANSIT MIXED-USE ZONES (TMX)"
Section 59-C-14.2 "Transit Mixed-Use (TMX) Zone"

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 that text 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:

Sec. 1. DIVISION 59-C-14 is amended as follows:

Sec. 59-C-14.2. Transit Mixed-use (TMX) Zone

* * *

59-C-14.26. Existing buildings [and], uses and approvals.

- (a) Any lawful structure, building, or established use that existed before the applicable Sectional Map Amendment adoption date is a conforming structure or use, and may be continued, structurally altered, repaired, renovated, or enlarged up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less. However, any enlargement of [the] a building that is more than 10 percent of the gross floor area or 7,500 square feet **[[of construction of a new building]]** must comply with the standards of the TMX Zone.
- (b) [In the TS-R and TS-M zones, development under a] A development plan or a supplementary plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. Any increase in density above the approved development plan or supplementary plan limit must be subject to the standards of the TMX zone.
- (c) Development under a preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment remains valid, and construction may proceed subject to applicable approvals under the standards of the previous zone. A preliminary plan or site plan approved before adoption of the applicable Sectional Map Amendment may, at the option of the applicant, be amended after the adoption of the applicable Sectional Map Amendment under the standards of the previous zone or under the TMX zone standards. However, any enlargement of a proposed building that is more than 10 percent of the approved gross floor area or 7,500 square feet, whichever is less, [[of construction of a new building]] must comply with the standards of the TMX Zone.

* * *

29 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
30 Council adoption.

31 This is a correct copy of Council action.

32

33 _____

34 Linda M. Lauer, Clerk of the Council