

MCPB
Item #1
10/25/05

DATE: October 19, 2005
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development review
 Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To create a special development procedure in the C-2 zone to encourage transit related development at sites within walking distance of a Metro Station; and generally to amend provisions related to a C-2 zone special development procedure

TEXT AMENDMENT: No. 05-12
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Leventhal
INTRODUCED DATE: September 20, 2005
PLANNING BOARD REVIEW: October 25, 2005
PUBLIC HEARING: October 25, 2005; 1:30 p.m.

STAFF RECOMMENDATION: APPROVAL TO TRANSMIT COMMENTS

PURPOSE OF THE TEXT AMENDMENT

To create a special development procedure in the C-2 zone to encourage transit related development at sites within walking distance of a Metro Station; and generally to amend provisions related to a C-2 zone special development procedure

BACKGROUND

The proposed zoning text amendment was initiated by consideration of property in the White Flint Transit Station Area. The text amendment will allow new development in the C-2 zone in keeping with current planning principles of providing housing close to transit

through creating incentives for housing in these areas. The subject amendment is limited to projects that are principally residential. In the particular case of one of the White Flint projects, allowing development using this procedure will also facilitate dedications of right-of-way in the area, as depicted in the sector plan. According to the development community, these dedications would be unlikely to be achieved through conventional development or redevelopment under the C-2 Zone because of the lack of incentive for redevelopment of these areas. The proposed text amendment attempts to provide incentive for redevelopment of underutilized C-2 property in a manner that is: (1) consistent with the rest of the proposed Transit Station Zone areas; (2) encourage residential development above ground level retail to help activate the pedestrian paths serving the transit station; and (3) require use of the site plan review procedure.

The text amendment is designed to establish criteria for eligibility that would limit its usage to principally residential projects and would require the provision of other specialized housing types (Workforce Housing) in addition to moderate priced dwelling units. The text amendment also provides the opportunity for additional FAR and building height to accommodate MPDUs and Workforce Housing units.

ANALYSIS

The zoning text amendment proposes to establish a special development procedure section within the C-2 Zone with the intent to *“facilitate the effective development of properties within walking distance of a transit station with residential and non-residential land uses that will promote and serve transit ridership”*.

The proposed eligibility requirements for these procedures are as follows:

59-C-4.358.2. Eligibility.

The following requirements must be satisfied:

- (a) The property must be classified in the C-2 Zone;*
- (b) The property must be adjacent to property recommended for the TS-M zone or separated from such property only by a road or other public right-of-way;*
- (c) At least 75 percent of the development must be for residential use;*
- (d) Moderately Priced Dwelling Units (MPDUs) must be provided in accordance with Chapter 25A; and*

(e) In addition to Moderately Priced Dwelling Units and market rate units, the development must include dwelling units that are sold or rented to households with incomes below 120 percent of the area-wide median income in an amount that is not less than 10 percent of the total number of dwelling units in the development, not counting any MPDUs or resulting bonus density units.

Staff believes that the minimum residential ratio of 75 percent should be changed to 60 percent, consistent with the minimum residential percentage included for C-2 zoned mixed-use projects located within 1,500 feet of a metro station in a Central Business District. In addition, staff believes that the ground floor of any building should be commercial, except for uses incidental to the residential use, such as lobbies and loading areas. This will ensure that some commercial component is maintained within any project. Subsection "e" above includes a requirement to provide "Workforce Housing" as defined in Bill 30-05 and Zoning Text Amendment No. 05-16, both of which are currently under review by the County.

Development Standards

Minimum Area/Density

The minimum area proposed under this special procedure is 40,000 square feet, the same as for the TS-M Zone. The proposed density of development is capped at 2.0 FAR (2.4 FAR with MPDUs), less than the maximum of 3.0 FAR allowed for the TS-M Zone. The FAR can be increased in proportion to the number of workforce housing units required. Staff has no objection to the density or minimum area proposals since they are consistent with the surrounding TS-M properties.

Public Use/Recreation Space

The subject text amendment proposes that 10 percent of the net lot area be devoted to public use space but provides no active or passive recreation space. **Staff recommends that the subject proposal include recreation space consistent with the TS-M Zone which requires 25 percent for projects that provide a residential component totaling 50 or more dwelling units,**

Building Height

The subject proposal depicts a maximum building height of 180 feet with a provision to require the Planning Board to increase the maximum building height in proportion to the number of MPDUs, density bonus and workforce housing units to be located on-site. The adjacent TS-M sites have no maximum building heights. **Staff does not believe**

that building height should be increased beyond that of the zone in order to accommodate MPDUs or Workforce Housing. This would be setting a negative precedent. Currently, MPDU law allows the building height established in the master plan to be exceeded to provide MPDUs on-site, but not to exceed the maximum establish in the Zoning Ordinance.

Setbacks from Residential

The subject text amendment does not provide a mechanism to address the setback of a 180-foot high building from a one-family residential zone. Staff recommends that a ratio be provide that is consistent with the hotel provisions for a regional shopping center located in the C-2 zone. **Staff therefore recommends that any building be set back from the nearest residential zone at least 3 feet for each 1 foot of building height.**

Policy Basis

The zoning text amendment seeks to encourage Transit Oriented Development (TOD) in C-2 zoned areas adjacent to properties recommended for the TS-M Zone. It's intent is to ensure compatibility with surrounding uses by requiring site plan approval, which includes findings by the Planning Board of compatibility, safety, efficiency and attractiveness with adjacent properties. As one particular case in the White Flint area stated, allowing development using this procedure will also facilitate dedications of right-of-way in the area, as depicted in the sector plan. **Staff believes that if the Council is going to change the zoning envelope for properties in the C-2 zone adjacent to recommended TS-M property by permitting FAR to increase from 1.5 to 2.0 (2.4 with MPDUs plus additional dwelling units for workforce housing), there should be some major public benefit provided in return. This could include dedications of right-of-way, parkland, etc. In any case, language to this effect should be included in the zoning text amendment.**

Purpose of C-2 Zone

The purpose of the C-2 zone is to provide locations for general commercial uses representing various types of retail trades, businesses and services for a regional or local area. Typical locations for such uses shall include: central urban commercial areas, regional shopping centers and clusters of commercial development. A further purpose of this zone is to promote the effective use of transit facilities in Central Business Districts by encouraging housing with commercial uses in close proximity to Metro stations located in Central Business Districts.

As stated above, the C-2 Zone encourages housing and commercial mixed-use development near metro stations located in Central Business Districts. In addition, the intent as stated in the proposed Section 59-C-4.358. C-2 zone—Special Development Procedure, encourages mixed-use development within walking distance of a transit station. **Staff believes that if the proposed changes to the C-2 zone are to be adopted, additional language should be added to the C-2 Purpose clause that**

also encourages mixed-use development adjacent to mixed use transit station areas.

Master Plan Guidance

The subject zoning text amendment impacts two Master Plans that include C-2 zoning adjacent to TS-M zoning and they are: the Bethesda CBD Master Plan (1994) and the North Bethesda-Garrett Park Master Plan (1992).

The C-2 zoned properties affected in the Bethesda CBD are shown on the attached map (Figure 4.37 on p. 133). This ZTA would impact the C-2 properties adjacent to Lot 31 on Bethesda Avenue (Bethesda Row). Currently the properties, owned by Federal Realty, are improved with retail, office, and residential.

In North Bethesda, the ZTA would impact parcels in the White Flint Sector Plan Area. The properties affected by this change would be: White Flint Mall, the Noland Property on Nicholson Lane, the commercial property at the northeast corner of MD 355 and Nicholson Lane, the Metrobus facility on Marinelli Road and Mid Pike Plaza on Old Georgetown Road and Rockville Pike.

After reviewing the master plans, Staff found that the proposed ZTA does not affect any properties in Silver Spring, Friendship Heights, Shady Grove or Glenmont.

Staff recommends the following:

- 1) Revise a floating zone (PD or MXPB) to encourage transit related development in C-2 properties located in transit station areas.
- 2) Increase public use space to equal the passive and active requirements in the TS-M zone.
- 3) Follow the residential percentage requirement to equal the requirement in the C-2 zone for mixed-used development near metro stations.
- 4) Follow the setback requirement from adjacent residential areas to equal the setback requirement in the C-2 zone as it pertains to regional commercial centers.

(These issues are being addressed throughout other sections of the staff report.)

OPTIONS

Staff believes that there are two possible approaches to addressing the subject proposal:

- Amend the Euclidean Zone (C-2)—as proposed herein (subject text amendment)
- Revise an existing mixed use floating zone to permit rezoning of C-2 that are adjacent to TS-M zones

Euclidean Approach

The staff is generally supportive of providing a method for allowing residential development in conjunction with commercial uses for those C-2 zones adjacent to a Mixed Use Transit Station (TS-M) Zone. However, amending the C-2 Zone to allow a special development procedure would permit an intensity of development similar to that of the TS-M Zone without the project going through the local map amendment (public review) process that property recommended in the master plan for TS-M would be required to do.

Floating Zone Approach

A floating zone is a more flexible approach to zoning. By amending a floating zone (Mixed Use Planned development (MXPDP) for example), to accomplish the intent and objectives of the proposed text amendment (to encourage Transit Oriented Development (TOD) in C-2 zoned areas adjacent to properties recommended for the TS-M Zone), would ensure a broader approach is used that will require each project to adhere to the same review process as a proposed rezoning to the TS-M Zone. This is staff's preferred approach.

RECOMMENDATION

The staff recommends that the Council modify an existing floating zone (PD or MXPDP) as opposed to amending the C-2 Euclidean Zone in order to encourage transit related development at sites within walking distance of a Metro Station. Within this modification, intent and eligibility requirements similar to those included in the subject text amendment could be applied. By taking this approach, the Council could better ensure that the public input process is adhered to (consistent with the local map amendment process of the TS-M Zone) and will allow a broader more comprehensive approach to providing mixed-use development in transit areas. Should the County Council decide to approve the approach as introduced, staff recommends that the suggestions for modifying the current language (as discussed within the staff report) be included.

Attachment 1 depicts the proposed text amendment as submitted. Staff's proposed modifications to the submitted text amendment, if it is to be adopted by the Council, are depicted throughout the staff report in bold typeface.

GR

Attachments

1. Proposed Text Amendment 05-12
2. Community-Based Planning Memorandum and Affected Master or Sector Plan Area Maps