

MEMORANDUM

September 30, 2010

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz,  Legislative Attorney

SUBJECT: Zoning Text Amendment 10-09, Central Business District (CBD) Standards – Transient Lodging

Background

ZTA 10-09

Zoning Text Amendment (ZTA) 10-09, sponsored by the District Council at the request of the County Executive, was introduced on June 22, 2010. The ZTA would allow greater density for optional method of development projects with transient lodging if the site:

- 1) confronts a major highway;
- 2) is located at least 250 feet from single family residentially zoned land; and
- 3) is classified in CBD-1, CBD-2, or CBD-3 zones.

The allowed density would be the same density currently allowed for mixed-use optional method of development projects that build dwelling units.

On July 27, 2010 the Council held a public hearing on ZTA 10-09. The Planning Board and Planning Staff recommended (3-2) against the adoption of ZTA 10-09. A majority of the Board questioned the rational basis for treating the density for a hotel the same as if it were providing dwelling units. The Board recommended a comprehensive review of densities in the CBD zones. The Planning Board members who were in favor of ZTA 10-09 found that additional density flexibility was desirable, given the current economic climate. The Planning Staff recommended disapproval because it would diminish the incentive for housing in CBDs.

The Executive supported ZTA 10-09, as did representatives of the Bernstein Companies, the Greater Bethesda-Chevy Chase Chamber of Commerce, and Baywood Hotels. The Civic Federation would prefer no changes to the density in CBD zones, but would find a change to the non-residential provisions acceptable if it did not change the provisions for mixed-use development. The Citizens Coordinating Committee for Friendship Heights urged disapproval of ZTA 10-09 because of its broad scope. The Committee for Friendship Heights saw no need to give a special benefit for hotels.

Current Code

The maximum density in CBD zones can only be achieved by mixed-use projects that include a residential component. When this “bonus” provision was adopted, projects in the CBD zones were for office uses; mixed-use projects were office projects with ground floor retail. A square foot of housing provided the developer with less profit than a square foot of residential. The bonus was to provide incentive to build housing. Staff cannot recall a single private optional method of development project for housing before the provision for a housing bonus density was added to the ordinance.

Why is housing a highly valued use in CBDs ? It provides a nighttime and weekend population that is absent in office development. Residents are anticipated as customers to retail and restaurant establishments. Eyes on the street make CBDs safer for everyone. It reduces vehicle trips by providing dwelling units where residents could walk or take transit to work.

Hotels and motels are allowable uses in CBD zones; a special exception is not required. For the purpose of determining allowable density, non-residential use includes transient lodging, even though it is categorized in the listing of land uses as a residential use.

Issues

Should a hotel be treated the same as residential for the purpose of determining allowable density in CDB zones?

A hotel is different than housing. It has: 1) more people per square foot when occupied; 2) more employees; 3) no requirement for moderately priced housing; 4) fewer occupants on weekends than weekdays; 5) different trip making characteristics (number and direction); and 6) different costs and revenues. It is a compatible use in CBD zones, as are many other non-residential uses. There have been a few optional method projects approved with hotel uses. The Planning Staff emphasized reducing the potential for residential development and the loss of the MPDU requirement. The Board’s majority argued for a more comprehensive approach.

The advisability of ZTA 10-09 rests on how much a hotel contributes to urban vitality compared to dwelling units. The Planning Staff admitted that a hotel, like housing, would activate the street and that higher density near metro stations is a goal of sector plans. In the final analysis, the Planning Staff weighed the attributes of housing higher than the attributes of a hotel. Planning Staff did not find that increased density and economic benefits of a hotel outweighed their interest in houses, particularly affordable houses. Planning Staff did not find comfort in the limited applicability of ZTA 10-09 (at least 250 from residential zoning and confronting a major highway).

Past Councils have valued residential uses higher than other uses; however, this Council could reasonably conclude that ZTA 10-09 is sound policy.

The issues below are predicated on the Committee’s finding that ZTA 10-09 should be approved in some manner.

Should the scope of the amendment be narrowed?

The Citizens Coordinating Committee for Friendship Heights was particularly concerned about the possible increased density from ZTA 10-09. Much of Friendship Heights would qualify for the bonus density. Most of Friendship Heights is zoned CBD-1. The proposed 1 FAR bonus would amount to a 50% bonus for CBD-1 properties.

Part of the problem of density in Friendship Heights is that many urban services are not provided. Urban districts have been established in other CBD zones, but not in Friendship Heights. Making the increase in density allowable only in urban districts would not change allowable density in Friendship Heights. ***Staff recommends restricting the increase in allowable density to areas in urban districts.***

Should a 100% hotel project be avoided?

A single use project does not help the vitality of a CBD as much a mixed-use project. The more uses in a project, the greater the possibility that it will be useful to more people. As introduced, ZTA 10-09 would allow the possibility that a project with 100% hotel use would satisfy the requirements for additional density. ***Staff recommends requiring a hotel project using the additional density at least have a ground floor retail use in addition to the hotel.*** In projects with multiple buildings, this requirement could be satisfied anywhere on the site.

Should the provisions for increased density for a hotel be included in the non-residential category?

The CBD zones classify projects with all non-residential uses differently from all residential projects and “mixed-use” projects (projects with residential and non-residential uses). As introduced, ZTA 10-09 would only allow hotels to satisfy the requirements for additional density in the mixed-use category even though it would allow hotels to be 100% of the project. This flexibility is more appropriately in the non-residential category. ***Staff recommends amending the non-residential provisions to accomplish the goals of ZTA 10-09.***

The Civic Federation cautions against allowing the flexibility to increase density for hotels in the mixed-use category. Mixed-use development density was limited in the Woodmont Triangle Sector Plan. The Federation does not want any liberalization of density in the mixed-use category. Staff notes that ZTA 10-09 would not change the density limits in the Woodmont Triangle Sector Plan.

Should the increased density come with an obligation for MPDUs or the purchase of BLTs?

At its core, ZTA 10-09 would allow a project with a hotel the same density currently allowed for projects that include dwelling units. New housing projects are required to provide MPDUs. Hotels are not required to provide MPDUs. Optional method of development projects in CBD zones are required to provide facilities and amenities sufficient to allow a Planning Board finding that those benefits offset the burdens of additional density. Under ZTA 10-09, it would be left to the Planning Board to determine the acceptable facilities and amenities and whether MPDUs or payments to the housing initiative fund would be included. ***Unless the Council is prepared to apply MPDUs to hotels more broadly, staff would not recommend an MPDU requirement in the Zoning Ordinance for only those hotels that satisfy the unique standards of ZTA 10-09.*** This recommendation is not intended to exclude MPDUs or a payment to the housing initiative fund from the possible mix of facilities and amenities that may be provided.

The purchase of Building Lot Termination (BLT) easements is required in the TMX and CR zones. It is not currently required in CBD zones. ***Unless the Council is prepared to apply a BLT requirement to the CBD zones, staff would not recommend adding a requirement for the purchase of BLTs in ZTA 10-09.***

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Zoning Text Amendment No.: 10-09
Concerning: CBD Standards –
 Transient Lodging
Draft No. & Date: 1 – 6/18/10
Introduced: June 22, 2010
Public Hearing: July 27, 2010
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: District Council at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the allowable FAR for optional method of development projects with transient lodging located in certain CBD zones under certain circumstances.

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

Division 59-C-6 “CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.2 “Provisions of CBD zones”

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:

1 Sec. 1. Division 59-C-6 is amended as follows:

2 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES**

3 * * *

4 **59-C-6.2 Provisions of CBD zones.**

5 * * *

6 **59-C-6.23 Development standards.**

7 The development standards applicable to the standard and optional methods of
 8 development, indicated by the letters “S” and “O” in each zone, are specified in
 9 this section.⁸

10 * * *

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
59-C-6.234. Maximum Density of Development.												
* * *												
(b) Optional method of development (see Section 59- C-6.215(b)):												
The density allowed must not exceed either the following densities or the density recommended by the applicable master plan or sector plan.												
* * *												
(ii) Non- residential, including transient lodging (FAR):		1.0				2.0 ^{19,23}		4.0 ²³		6.0 ²³		

(iii) Mixed-use											
— Maximum permitted non-residential, including transient lodging (FAR); however, the maximum excludes sites with transient lodging confronting a major highway and located at least 250 feet from single family zoned land, limited to:	1.0 ⁴		0.6 ^{7,17}		2.0 ^{4,23}		3.0 ^{5,23}		5.0 ^{6,23}		1.0 ^{3,18}
— Maximum permitted non-residential that includes transient lodging on sites confronting a major highway and located at least 250 feet from single-family zoned land (FAR)					3.0		5.0		8.0		
-Total FAR ^{13,15}	1.5		3.0		3.0 ²³		5.0 ²³		8.0 ²³		5.0 ³
* * *											

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14 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of
 15 Council adoption.

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17 This is a correct copy of Council action.

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 Linda M. Lauer, Clerk of the Council

Zoning Text Amendment No.: 10-09
Concerning: CBD Standards –
 Transient Lodging
Draft No. & Date: 2 – 8/12/10
Introduced: June 22, 2010
Public Hearing: July 27, 2010
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: District Council at the request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow transient lodging in CBD zones the same maximum FAR under the optional method of development as a residential project under certain circumstances.

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

Division 59-C-6.2	“Provisions of CBD zones”
Section 59-C-6.23	“Development standards”

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.
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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-6 is amended as follows:

2 DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES

3 * * *

4 59-C-6.2 Provisions of the CBD zones.

5 * * *

6 59-C-6.23 Development standards.

7 The development standards applicable to the standard and optional
8 methods of development indicated by the letters “S” and “O” in each zone, are
9 specified in this section.⁸

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	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
59-C-6.234. Maximum Density of Development. * * *												
(b) Optional method of development (see Section 59- C-6.215(b));												
The density allowed must not exceed either the following densities or the density recommended by the applicable master or sector plan.												
(i) For projects that are 100 percent residential (dwelling units per acre)		100		125		125		200		200		200
(ii)(A) Non-residential, including transient lodging, <u>however,</u> <u>the maximum excludes a site</u> <u>that satisfies subsection</u> <u>(ii)(B) (FAR)</u>		1.0				2.0 ¹ _{9,23}		4.0 ²³		6.0 ² ₃		

<u>(ii)(B) Maximum permitted non residential on a site that: (1) includes transient lodging, (2) confronts a major highway, (3) is located at least 250 feet from single-family zoned land, (4) is in an urban district defined in Chapter 68A, and (5) includes a ground floor retail use (FAR)</u>					<u>3.0</u>		<u>5.0</u>		<u>8.0</u>		
<u>(iii) Mixed-use (non-residential and residential uses)</u>											
<u>{[-]} (A) Maximum permitted non- residential, including transient lodging; however, the maximum excludes [sites with confronting, (B) confronts a major highway, (C) is located at least 250 feet from single-family zoned land, (D) is in an urban district defined in Chapter 68A, and (E) includes a ground floor retail use limited to] a site that satisfies subsection (iii)(B): (FAR)</u>		1.0 ⁴		.6 ^{7,17}	2.0 ⁴		3.0 ^{3, 23}		5 ^{6,23}		1.0 ^{3,18}
<u>{[-]} (B) Maximum permitted non residential on a site that: (1) includes transient lodging, [on sites confronting] (2) confronts a major highway [[and]], (3) is located at least 250 feet from single-family zoned land, (4) is in an urban district defined in Chapter 68A, and (5) includes a ground floor retail use (FAR)</u>					<u>3.0</u>		<u>5.0</u>		<u>8.0</u>		
-Total FAR ^{13,15}		1.5		3.0	3.0 ² ₃		5.0 ²³		8.0 ² ₃		5.0 ³
* * *											

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15 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the
16 date of Council adoption.

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18 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

