

**MEMORANDUM**

June 21, 2011

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney *JLZ*

SUBJECT: Zoning Text Amendment 11-04,  
Central Business District (CBD) Zones – Public Facilities

**Background**

Zoning Text Amendment (ZTA) 11-04, sponsored by Council President Ervin at the request of the County Executive, was introduced on May 10, 2011. ZTA 11-04 would allow government facilities to be offered in satisfaction of the requirements for public facilities and amenities and public use space in optional method of development projects. The County Executive believes that the proposed amendment is consistent with the Council approach taken in the adopted CR zones; in CR zones, public facilities are currently considered a public benefit.

On June 14, 2011, the Council conducted a public hearing on ZTA 11-04. Testimony from the Executive, the Greater Bethesda-Chevy Chase Chamber of Commerce, and JBG Associates recommended approval of ZTA 11-04 as submitted.

The Montgomery Civic Federation recommends revisions to require a relationship between the amount of land or building floor area conveyed and the amount of public use space. Only if the conveyance is more than 20 percent would the Federation recommend waiving both public use space and public facilities requirements. The Federation also objected to excluding the floor area from the floor area ratio limits of the zone.

**Legislative record (past actions and current proposals)**

On October 7, 2008, the Council approved ZTA 08-15. The ZTA allowed the conveyance or dedication of public arts and entertainment space, acceptable to the Executive and the Council, to satisfy the public use space and public amenities in CBD zones. The proposed total interior area for all floors of the arts or entertainment building space conveyed or dedicated is required to be at least 20 percent of the net lot area. The gross floor area of the arts or entertainment use that satisfies the public use space and the public facility and amenity requirements for the optional method of development are not counted in the

gross floor area of the optional method project. The role of the Planning Board is preempted in this process.

ZTA 11-01, currently under consideration by the PHED Committee, includes a similar but different approach from ZTA 11-04. As proposed, any public facility would be considered a major public benefit, at the discretion of the Planning Board. The public facility would have to be accepted by a public agency, but the Council would not have a role until it involved a Capital Improvements Project. The major facility would not replace all of the public benefits required. It would not relate the size of the facility or the land to the size of the project.<sup>1</sup>

## Issues

*Should the amount of public benefit required be at least 20 percent of the parcel's land area?*

There is a requirement in the CBD zones for Arts and Entertainment facilities to be at least 20 percent of the net lot area. The percentage is not accidental; there is a minimum public use space requirement of 20 percent of the net lot area in CBD zones. The Executive criticized the fact that major public facilities do not require a relationship between the benefit proposed and the incentive density allowed in ZTA 11-01.

Staff agrees with the testimony from the Civic Federation on this point, and recommends the following double underlined revisions to ZTA 11-04:

**59-C-6.2357 Special standards for optional method of development projects that include a building or land for a publicly owned or operated government facility.**

- (a) The public facility and amenity requirement [[is]] and the public use space requirement are satisfied when:
- (1) the Planning Board finds that the project plan application warrants approval with a publicly owned or operated facility satisfying the amenity and the public use space requirements; [[and]]
  - (2) the applicant conveys in fee simple, to the County or other government body, the identified land or building space, and the County accepts the land or building space for a publicly owned or operated government facility within the same central business district[.]; and

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<sup>1</sup> The major facility provision in the CR zones as proposed in ZTA 11-01 is: 59-C-15.851. Major public facilities.

- (a) Major public facilities include, but are not limited to, such facilities as schools, libraries, recreation centers, parks, county service centers, public transportation or utility upgrades, or other resources delineated in an applicable master or sector plan.
- (b) If a major public facility is not recommended in the applicable master or sector plan, the Planning Board must find that the facility or improvement provides the community with a resource that is at least as beneficial as other major facilities recommended in the applicable master or sector plan. Additionally, any infrastructure upgrade may only receive incentive density for improvements beyond those required by any applicable adequate public facilities requirement to complete the proposed development.
- (c) Because of their significance in place-making, the Planning Board may approve incentive density of up to 40 points in the CRT zones and 70 points in the CR zones for the conveyance of a site or floor area, for construction of, and/or making a payment for a major public facility that is accepted for use and/or operation by an appropriate public agency, community association, or nonprofit organization.

- (3) the proposed total interior area for all floors of the building space conveyed for a publicly owned or operated government facility, or the land dedicated for that purpose, is at least 20 percent of the net lot area.

*Should the land or facility given be counted in the FAR calculation?*

Public facilities save taxpayer money and provide needed serves. Excluding the floor area from these uses from the FAR calculation increases the incentive for private developers to provide these facilities. Staff does not recommend amending ZTA 11-04 to include the floor area in the calculation of FAR.

*Should there be a restriction on the transfer of a public facility?*

Although this was recommended by the Planning Staff to assure that the public facility would remain in the vicinity of the project, the Planning Board rejected this idea. Any sale of a public facility would be subject to a mandatory referral to the Planning Board and the disposition procedures in the County code. On this issue, staff recommends ZTA 11-04 as introduced.

*Should ZTA 11-04 include additional clarifications?*

The Planning Board and the Planning Staff recommended clarification on 2 points:

- “a publicly owned or operated government facility” refers to a facility that supports State and County programs or services, consistent with the intent of public facilities and amenities;
- public facilities and amenities do not include road improvements or other capital projects that are required to satisfy the requirements of the Adequate Public Facilities Ordinance (APFO) to serve the property; and
- public facilities space includes non-public areas of the facility.

Staff recommends these clarifications.

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Zoning Text Amendment No: 11-04  
Concerning: Central Business District  
(CBD) Zones – Public  
Facilities

Draft No. & Date: 2 - 6/21/11

Introduced: May 10, 2011

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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By: Council President at the Request of the County Executive

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

- amend the definitions of “Public facilities and amenities” and “Public use space”;
- amend the development standards for an optional method project to allow the provision of a building or land for a publicly owned and operated government facility to meet the public facility and amenity requirements;
- amend the development standards for an optional method project to allow the publicly owned and operated government facility to satisfy the public use space requirement for the optional method project and exclude the floor area in the calculation of gross floor area; and
- generally amend the development standards for optional method projects in the CBD zones.

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

DIVISION 59-A-2 “DEFINITIONS AND INTERPRETATION”  
Section 59-A-2.1 “Definitions”  
DIVISION 59-C-6 “CENTRAL BUSINESS DISTRICT ZONES”  
Section 59-C-6.233 “Minimum Public Use Space”  
Section 59-C-6.234 “Maximum Density of Development”

And by adding the following section to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Section 59-C-6.2357 “Special standards for optional method development projects that include a building or land for a publicly owned or operated government facility”

**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:

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**Sec. 1. DIVISION 59-A-2 is amended as follows:  
DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

**59-A-2.1. Definitions**

\* \* \*

**Public facilities and amenities:** Those facilities and amenities of a type and scale necessary to provide an appropriate environment to satisfy public needs resulting from, or related to, the development of a particular project or to support County or State government programs or services. Facilities and amenities may include, but are not limited to:

- (a) green area or open space which exceeds the minimum required, with appropriate landscaping and pedestrian circulation;
- (b) streetscaping that includes elements such as plantings, special pavers, bus shelters, benches, and decorative lighting;
- (c) public space designed for performances, events, vending, or recreation;

- 17 (d) new or improved pedestrian walkways, tunnels, or bridges;
- 18 (e) features that improve pedestrian access to transit stations;
- 19 (f) dedicated spaces open to the public such as museums, art galleries, cultural
- 20 arts centers, community rooms, recreation areas;
- 21 (g) day care for children or senior adults and persons with disabilities; [and]
- 22 (h) public art[.]; and
- 23 (i) a publicly owned or operated government facility.

24 Public facilities and amenities may be recommended or identified in an approved  
 25 and adopted master or sector plan. Public amenities do not include road  
 26 improvements or other capital projects that are required [[to provide adequate  
 27 facilities]] under the Adequate Public Facilities Ordinance (APFO) to serve the  
 28 property.

29 **Public use space:** Space devoted to public enjoyment, such as, but not limited to,  
 30 green areas, gardens, plazas, walks, pathways, promenades, arcades, urban parks,  
 31 town squares, public plazas with elements such as water features, and passive and  
 32 active recreational areas including outdoor recreation areas for a child day care  
 33 facility. Public use space may include land or building space for a publicly owned  
 34 or operated government facility that supports County or State government  
 35 programs or services. Public use space may also consist of space and/or amenities  
 36 recommended by an approved urban renewal plan. Public use space must not  
 37 include parking or maneuvering areas for vehicles. Except for an outdoor  
 38 recreation area for a child day care facility or non-public areas of a publicly owned  
 39 or operated government facility, public use space must be easily and readily  
 40 accessible to the public and be identified by a sign placed in public view. If public  
 41 pedestrian walkways are recommended in an approved and adopted master plan or  
 42 sector plan, it may be counted as public use space.

43 \* \* \*

44 **Sec. 2. DIVISION 59-C-6 is amended as follows:**  
 45 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**  
 46 \* \* \*  
 47 **59-C-6.23. Development Standards.**  
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	* * *	CBD-1		CBD-2		CBD-3		* * *
		S	O	S	O	S	O	
<b>59-C-6.233. Minimum Public Use Space (percent of net lot area):</b>		10	20 <sup>20, 22,*</sup>	10	20 <sup>22,*</sup>	10	20 <sup>22,*</sup>	
* * *								
<b>59-C-6.234. Maximum Density of [Development] Development.</b>								
* * *								
(b) [Option] <u>Optional</u> Method of development (see section 59-C-6.215(b)):								
* * *								
(ii)(A) Non-residential, including transient lodging[,]; however, the maximum excludes a site that satisfies subsection (ii)(B) (FAR):			2.0 <sup>19, 23,**</sup>		4.0 <sup>23,**</sup>		6.0 <sup>23,**</sup>	
* * *								
(iii) Mixed-use (non-residential and residential uses).								
(A) Maximum permitted non-residential, including transient lodging; however, the maximum excludes a site that satisfies subsection (iii)(B)[:] (FAR) limited to:			2.0 <sup>4, 23,**</sup>		3.0 <sup>5, 23,**</sup>		5.0 <sup>6, 23,**</sup>	
* * *								
-- Total FAR <sup>13, 15</sup>			3.0 <sup>23,**</sup>		5.0 <sup>23,**</sup>		8.0 <sup>23,**</sup>	

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<sup>22</sup> The entire optional method public use space requirement is satisfied if the applicant has provided to the County, by conveyance or dedication, land or building space to accommodate an arts or entertainment use under Section 59-C-6.2356.

<sup>23</sup> The gross floor area of the arts or entertainment use that satisfies the public use space and the public facility and amenity requirements for the optional method of development under Section 59-C-6.2356 must not be counted in the gross floor area of the optional method project.

\* The entire optional method public use space requirement is satisfied if the applicant conveys, to the County or other governmental body, land or building space within the same central business district for a publicly owned or operated government facility under Section 59-C-6.2357.

\*\* The gross floor area of the publicly owned or operated government facility that is provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section 59-C-6.2357 must not be counted in the gross floor area of the optional method project.

\* \* \*

50 **59-C-6.2357. Special standards for optional method of development projects**  
51 **that include a building or land for a publicly owned or operated government**  
52 **facility.**

53 (a) The public facility and amenity requirement [[is]] and the public use space  
54 requirement are satisfied when:

55 1) the Planning Board finds that the project plan application warrants  
56 approval with a publicly owned or operated facility satisfying the  
57 amenity and the public use space requirements; [[and]]

58 2) the applicant conveys in fee simple, to the County or other  
59 government body, the identified land or building space, and the  
60 County accepts the land or building space for a publicly owned or  
61 operated government facility within the same central business  
62 district[[]] ; and

63 3) the proposed total interior area for all floors of the building space  
64 conveyed for a publicly owned or operated government facility or the

65 land dedicated for that purpose is at least 20 percent of the net lot  
66 area.

67 (b) Once the County or other government body has accepted the fee simple  
68 conveyance of the land or building space for the publicly owned or operated  
69 government facility:

70 (1) the public facility and amenity requirement also is satisfied for any  
71 amendment to the original optional method of development project  
72 plan that does not increase the floor area of the project;

73 (2) the land area that is conveyed to the County for the publicly owned or  
74 operated government facility also is treated as public use space for  
75 any amendment to the original project plan that does not increase  
76 floor area; and

77 (3) any transfer or lease of the building, [[or]] land, or any portion  
78 thereof, by the County will not affect the approval of the optional  
79 method of development project plan or [[the]] site plan.

80 (c) Standard streetscaping improvements along the frontage of the phase of the  
81 project that is intended to accommodate the publicly owned or operated  
82 government facility use must be provided during the phase of the project that  
83 contains the facility.

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85 **Sec. 3. Effective date.** This ordinance takes effect immediately upon  
86 Council adoption.

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88 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

May 2, 2011

TO: Valerie Ervin, President  
County Council

FROM: Isiah Leggett   
County Executive

SUBJECT: Public Facilities and Amenities and Public Use Space – Government Facilities

I am asking that the attached zoning text amendment be introduced for District Council adoption to allow government facilities to be offered in satisfaction of requirements for public facilities and amenities and public use space in optional method development projects. This zoning text amendment is consistent with the approach that was recently adopted in connection with the CR zone which allows a development density award for a project that includes a public facility offered as a public benefit.

This zoning text amendment is a creative approach to public/private partnerships in our central business districts to allow for the proffer of public facilities in connection with development projects. Such public/private partnerships can facilitate delivering services to the project and the central business district.

I appreciate your introduction of this zoning text amendment on my behalf and urge the Council to adopt it as expeditiously as possible. Executive staff is available to provide additional information you may need.

cc: Tim Firestine, Chief Administrative Officer  
Kathleen Boucher, Assistant Chief Administrative Officer  
Diane Jones, Assistant Chief Administrative Officer  
David Dise, Department of General Services



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

**MONTGOMERY COUNTY PLANNING BOARD**

The Maryland-National Capital Park and Planning Commission

June 16, 2011

**TO:** The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

**FROM:** Montgomery County Planning Board

**SUBJECT:** Zoning Text Amendment No. 11-04

**BOARD RECOMMENDATION**

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Zoning Text Amendment No. 11-04 at its regular meeting on June 16, 2011. By a vote of 4:0, the Board recommends approval with modifications of the text amendment to allow a publicly owned and operated government facility to satisfy the public use space requirement and public facility and amenity requirement for an optional method project in a CBD zone and to exclude the floor area of the facility in the calculation of the gross floor area of the project. Along with several plain language clarifications, the Board recommends the following modifications, included in a separate attachment to the technical staff report.

- Clarification that "a publicly owned or operated government facility" refers to a facility that supports *State and County* programs or services, consistent with the intent of public facilities and amenities;
- Clarification in the definition of public facilities and amenities that public facilities and amenities do not include road improvements or other capital projects that are required *under of the Adequate Public Facilities Ordinance (APFO) to serve the property*. The existing language uses the phrase "*required to provide adequate facilities to serve the property*"; and
- Clarification that the "non-public" areas of a publicly owned or operated government facility are not required to be easily and readily accessible to the public.

The Board did not include a provision recommended by technical staff aimed at ensuring that the value of an amenity stays within the CBD where it was initially required should the County no longer need the facility/property and decide to sell it. The Board believes that this provision is not necessary citing that safeguards typically put in place for private development are generally not necessary for government projects. In addition, the County has measures in place that provide the Planning Board an opportunity to comment and make recommendations on proposed government facilities.

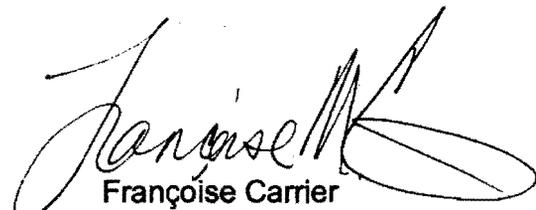
Traditionally in the CBD zones, developers have provided more typical amenities and public use space such as parks, open space, public art, etc. to address public use space and public amenities and facilities requirements. Alternatively, in more recent years, the Amenity Fund concept was established to allow a developer to make payment to the Planning Board to address off-site improvements in the same CBD area of the proposed development. ZTA 11-04 allows the Planning Board to consider government facilities (such as police stations, fire stations and libraries), traditionally provided as capital projects paid for by public funds, as public benefits funded by private developers as part of an optional method of development project.

With the modifications as described above, the Board believes that ZTA 11-04 provides an additional planning tool that can be used by the Planning Board to help bring about more comprehensive service delivery in Central Business Districts.

The proposed language also provides assurances, through the Planning Board's regulatory process, that each request to allow a publicly owned and operated government facility to satisfy the public use space requirement and public facility and amenity requirements for an optional method project will be judged on its own merits. As with all project and site plans, the Board would be able to analyze the overall development with respect to good design and applicable sector plan consistency with timely input from area residents.

#### CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Silver Spring, Maryland, on Thursday, June 16, 2011.

  
Françoise Carrier  
Chair

FC: GR



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

**MCPB**  
**Item #7**  
**06/09/11**

**DATE:** May 30, 2011  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Area 1 *RK*  
**FROM:** Greg Russ, Zoning Coordinator, Functional Planning & Policy *GR*  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To amend the definitions of "Public facilities and amenities" and "Public use space"; amend the development standards for an optional method project to allow the provision of a building or land for a publicly owned and operated government facility to meet the public facility and amenity requirements and to satisfy the public use space requirement; and to exclude the floor area of the publicly owned and operated government facility in the calculation of gross floor area.

**TEXT AMENDMENT:** No. 11-04  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** Council President at the Request of the County Executive  
**INTRODUCED DATE:** May 10, 2011

**PLANNING BOARD REVIEW:** June 9, 2011  
**PUBLIC HEARING:** June 14, 2011; 1:30 p.m.,

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**STAFF RECOMMENDATION:** **APPROVAL with modifications** to allow a publicly owned and operated government facility to satisfy the public use space requirement and public facility and amenity requirement for an optional method project in a CBD zone and to exclude the floor area in the calculation of the gross floor area of the project. Staff's modifications include:

- Clarification that a "a publicly owned or operated government facility" refers to a facility that supports State and County programs or services, consistent with the intent of public facilities and amenities
- Clarification in the definition of public facilities and amenities that public facilities and amenities do not include road improvements or other capital projects that are required to *satisfy the requirements of the Adequate Public Facilities Ordinance (APFO) to serve the property*. The existing language uses the phrase "*required to provide adequate facilities to serve the property*"; and

- Include an additional provision in the ZTA in the section beginning on line 51 concerning Section 59-C-6.2357 to ensure that the value of an amenity stays within the CBD where it was initially required (should the County no longer need the facility/property and decide to sell it)

In staff's view, with these modifications, ZTA 11-04 provides an additional planning tool that can be used by the Planning Board to help bring about more comprehensive service delivery in Central Business Districts.

## **BACKGROUND/ANALYSIS**

The County Executive requested the introduction of ZTA 11-04 to allow developers to offer to provide governmental facilities in satisfaction of requirements for amenities and public use space in CBD projects using the optional method of development. The County Executive believes that the proposed text amendment is consistent with the approach taken by Council in adopting the CR zones in which public facilities are considered a public benefit.

Traditionally in the CBD zones, developers have provided more typical amenities and public use space such as parks, open space, public art, etc. to address public use space and public amenities and facilities requirements. Alternatively, in more recent years, the Amenity Fund concept was established to allow a developer to make payment to the Planning Board to address off-site improvements in the same CBD area of the proposed development. ZTA 11-04 allows the Planning Board to consider government facilities (such as police stations, fire stations and libraries), traditionally provided as capital projects paid for by public funds, as public benefits funded by private developers as part of an optional method of development project.

### **ZTA Modifications**

#### Definition of Public facilities and amenities

The ZTA as proposed modifies the definition of public facilities and amenities by expanding their scope to include publicly owned or operated government facilities that support government programs or services. Staff believes that such an expansion of the definition could be appropriate but recommends modification of the language to clarify that government facilities should only include those uses that support state or local programs or services (*lines 9-10*).

Staff further recommends a clarification to make it clear that public facilities and amenities may not include road improvements or other capital projects that are required to *satisfy the requirements of the Adequate Public Facilities Ordinance (APFO)*. We believe that this change more clearly expresses the intent of the proposed ZTA (*lines 26-28*).

#### Definition of Public use space (*lines 30-42*)

ZTA 11-04 proposes expansion of the definition of public use space to include land or space within a building for a publicly owned or operated government facility. As with the definition of public facilities and amenities, staff recommends modification of the language to clarify that government facilities are limited to those that support State or County programs or services (*lines 34-36*)

#### Footnotes to the Development Standards Table of the CBD Zones

ZTA 11-04 proposes two new footnotes to the development standards table of the CBD zones. The first footnote pertains to the public use space requirement under the optional method of development in the CBD 1, 2 and 3 zones. Specifically, the text allows the public use space requirement to be satisfied if the applicant conveys, to the County or other governmental body, land or building space within the same central business district for a publicly owned or operated government facility under Section 59-C-6.2357. The second footnote establishes that the gross floor area of such a publicly owned or operated government facility provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section 59-C-6.2357 shall not be counted in the gross floor area of the optional method project. No changes are proposed to this section.

#### New Section 59-C-6.2357 Special standards for optional method of development projects that include a building or land for a publicly owned or operated government facility. (*lines 51-86*)

This section provides the specific elements proposed to implement the intent of the ZTA. They include:

- *A finding by the Planning Board at the time of project plan review deeming it appropriate to allow a governmental facility to be offered in satisfaction of requirements for public facilities and amenities and public use space*
- *A conveyance by the applicant to the County or other governmental body and acceptance by the County of land or building space for a publicly owned or operated government facility within the same central business district*
- *Once conveyance has occurred, the public facility and amenity requirement and public use space requirement remain satisfied in the event of an amendment to the original optional method of development project plan that does not increase the floor area of the project*
- *Any transfer or lease of the building or land by the County will not affect the approval of the optional method of development project plan or the site plan*

- *Streetscaping improvements will be required along the frontage of that phase of the project that is intended to accommodate the publicly owned or operated government facility*

Overall, staff believes that this section provides assurances, through the Planning Board's regulatory process, that each request to allow a publicly owned and operated government facility to satisfy the public use space requirement and public facility and amenity requirements for an optional method project will be judged on its own merits. As with all project and site plans, the Board would be able to analyze the overall development with respect to good design and applicable sector plan consistency with timely input from area residents.

Staff does have a concern pertaining to any potential loss of a government facility at some point in the future, should the County decide it no longer needs a government facility that had been accepted to satisfy the public facility and amenity or public use space requirement. Staff recommends including an additional standard that ensures that the value of an amenity stays within the CBD where it was initially required. The language that addresses this concern is included in the ZTA (Attachment 1) and as follows:

*Should the County no longer want or need a government facility and/or needs to dispose of, transfer, swap or sell a property that has been accepted to satisfy the CBD Zones Optional Method of Development requirement for Public Use Space or Public Facilities and Amenities, the land value or proceeds of a sale are to be deposited into the Amenity Fund for the same CBD. Any land swap must result in the replacement of the amenity within the same CBD or equivalent value deposited in the Amenity Fund for the same CBD.*

**Attachments:**

1. Zoning Text Amendment 11-04 (as modified by staff)