

Ordinance No: 15-56
Zoning Text Amendment No: 05-02
Concerning: A new Transit-Oriented Mixed
Use Zone
Draft No. & Date: 6 – 08/31/05
Introduced: January 25, 2005
Public Hearing: March 1, 2005; 7:30 p.m.
Adopted: January 17, 2006
Effective: February 6, 2006

**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 Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- establishing **[[a]]** new Transit Oriented Mixed-Use Zones; amending
- the definition of “transit station development area”; and making plain language, stylistic and consistency modifications to Articles D and E to accommodate the TOMX Zones

By amending the following section 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”

Add a new Section:

DIVISION 59-C-13 “TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)
ARTICLE 59-D “ZONING DISTRICTS—APPROVAL
PROCEDURES “
ARTICLE 59-E “OFF-STREET PARKING AND LOADING.”

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.*

OPINION

Zoning Text Amendment No. 05-02 was introduced on January 25, 2005, to establish new Transit Oriented Mixed-Use (TOMX) Zone. The proposed amendment would establish certain density and other development standards for residential and commercial development with the intent of providing incentives to redevelop transit areas into distinct and compact mixed-use centers for housing and employment opportunities. The proposed amendment would also include public use space and appropriate public facilities and amenities in the zone.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved with modifications.

The County Council held a public hearing on March 1, 2005, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on February 15, and March 15, 2005 to review the amendment. The Committee considered all the testimony on the zone and recommended that ZTA 05-02 be approved with amendments. The Committee supported the Planning Board recommendation that the minimum net lot area apply to the Project Plan application area and that a subdivision consistent with an approved Project Plan be allowed to create smaller lots. To make public use space requirements consistent with recent amendments to Central Business District zones, the Committee recommended giving the Planning Board the authority to reduce the public use space under the standard method to 5% if the reduction is necessary to accommodate the construction of moderately priced dwelling units (MPDUs). The Committee further recommended allowing a reduction or elimination of public use space under the optional method of development to accommodate MPDUs if an equivalent amount of public use space is provided off-site within the same transit station development area. The Committee also recommended allowing property owners to transfer commercial and residential capacity to other properties within the same transit station development area; allowing existing structures and uses to continue to conform indefinitely and enlarge up to the lesser of 10% of the gross building area or 7,500 square feet; not requiring crosswalk areas to be enhanced with accessible crossing signals since this is an operational issue that is not normally addressed in the Zoning Ordinance; exempting single-family homes from the requirement to locate mechanical equipment within a building or within a mechanical equipment penthouse; and various modifications to the permitted use tables, including allowing public storage companies in the TOMX zone only when in accordance with a master or sector plan recommendation.

The District Council reviewed Zoning Text Amendment No. 05-02 at worksessions held on September 13, November 15, 2005 and January 17, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-02 will be approved as amended.

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-A-2 is amended as follows:**

2 **DIVISION 59-A.2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Transit station development area:** An area near a metro transit station, or
6 along an existing or proposed transit right-of-way, which is not located
7 within a central business district, which has been designated as a transit
8 station development area by an approved and adopted master plan or sector
9 plan.

10
11 **Sec. ~~[[1]]2~~ DIVISION 59-C-13 is amended as follows:**

12
13 **DIVISION 59-C-13 [RESERVED] TRANSIT ORIENTED, MIXED-USE**
14 **ZONES (TOMX)**

15
16 **Sec. 59-C-13.1. Zones established.**

17
18 **59-C-13.11 Zones permitted.**

19
20 These zones are permitted in transit station development areas as
21 defined in Section 59-A-2.1~~[[~~, along the Metro Rail Lines and other
22 transitways ~~]]~~.

23
24 TOMX-2.0

25

26 **Sec. 59-C-13.2. Provisions of the Transit Oriented, Mixed Use Zones.**

27
28 **59-C-13.21. Description, purpose, intent and general requirements**

29 **59-C-13.211. Description.** Each Transit Oriented, Mixed Use Zone
30 is intended to be shown on a master plan or sector plan. The TOMX
31 Zones [[is]] are a continuum of euclidean zones with increasing
32 densities permitted. The zones provide[[s]] incentives to redevelop
33 transit areas into distinct and compact mixed-use centers for housing
34 and employment opportunities and include[[s]] public use space and
35 appropriate public facilities and amenities.

36
37 The TOMX 2.0 Zone is intended for medium density development
38 adjacent to transit station development areas, as defined in Section 59-
39 A-2.1. [[use adjacent to transit stations located outside Central
40 Business Districts.]]

41
42 **59-C-13.212. Intent.** The intent of the TOMX Zones is to
43 [[promote]] provide mixed use, transit and pedestrian oriented centers
44 that include housing, [[and]] commercial, biotechnology and research
45 and development uses. [[This]] These zones [[is]] are intended to
46 foster development by permitting an increase in density and height
47 when such an increase conforms to master plan or sector plan
48 recommendations. [[for use in transit station development areas, as
49 defined in Section 59-A-2.1, outside of the Central Business
50 Districts.]] Land shall be classified in any transit oriented, mixed-use
51 zone only if it is recommended in an approved and adopted master
52 plan or sector plan. [[The TOMX Zones should achieve a

53 development pattern that encourages pedestrian activity and access,
54 promotes use of transit, and creates a coherent arrangement of
55 buildings and uses that contribute to a sense of place. This zone will
56 foster development in accordance with an adopted and approved
57 master or sector plan, by permitting an increase in density, height, and
58 intensity where the increase conforms to the master plan or sector
59 plan. These]] The TOMX zones are intended to accomplish the
60 following:

- 61
- 62 (a) [[To promote mixed use, transit oriented development of
63 residential, office, commercial, advance technology and
64 research, and retail uses at various scales and designed in a
65 manner that defines streets and creates a strong sense of place.]]
66 To create mixed use transit oriented development with an
67 interconnected street system defined by buildings, open spaces,
68 public facilities and amenities that are arranged to create a
69 setting for community life.
- 70
- 71 (b) [[To achieve a compatible mix of uses that promotes street
72 activities, provides convenience for residents and employees.]]
73 To provide incentives and flexible development standards for
74 mixed-use, transit and pedestrian oriented development that
75 create a compatible network of interconnecting streets, open
76 squares, plazas, defined streetscapes, and civic and community
77 oriented uses as recommended in applicable master and sector
78 plans.
- 79

80 (c) [[To create a pedestrian oriented environment with an
81 interconnected street system that is defined by buildings, open
82 spaces and community facilities, and improves access to transit
83 stations from surrounding communities.]] To encourage land
84 assembly in a compact and efficient form that achieves a
85 compatible mix of uses in accordance with the approved and
86 adopted master plan and sector plan.

87
88 [[(d) To provide incentives and flexible standards for mixed-use,
89 transit and pedestrian oriented development that fosters a sense
90 of community with a distinct character.]]

91
92 [[(e) To encourage land assembly in a compact and efficient form in
93 accordance with the approved and adopted master plan and
94 sector plan.]]

95
96 (((f))d) To provide housing, including affordable housing, near
97 transit station[[s]]development areas.

98
99 (((g))e) To encourage Leadership in Energy and Environmental
100 Design (LEED) standards for sustainable and efficient design.

101
102 (f) To improve access within the mixed use transit station
103 development areas as well as from the surrounding
104 communities.

105

106 **[[59-C-13.213. Additional intent of the TOMX 2.0 Zone.**

107

108 The intent of the TOMX 2.0 Zone is to provide a mixed use, transit-
 109 oriented center that includes housing and commercial uses. The intent
 110 of this zone is to promote medium density residential and commercial
 111 development at transit station development areas, as described in
 112 Section 59-A-2.1. This zone provides incentives to redevelop areas
 113 adjacent to transit and multi-modal stations into distinct and compact
 114 mixed-use development for employment, living opportunities, and
 115 appropriate public facilities and amenities. Development in this zone
 116 must create a network of interconnecting streets, open squares and
 117 plazas, defined streetscapes, and civic and community-oriented uses
 118 as recommended in applicable master and sector plans.]]

119

120 **59-C-13.214. Location.** Land classified in the TOMX 2.0 Zone must
 121 be located in transit station development areas as defined in Section
 122 59-A-2.1.]]adjacent to an existing or proposed transit station located
 123 along the Metro Rail lines and other transitways.]]

124

125 **59-C-13.215. Methods of development and approval procedures.**

126 Two methods of development are available in this zoning category.

127

- 128 (a) **Standard Method of Development:** The standard method
 129 requires compliance with a specific set of development
 130 standards and permits a range of uses and a density compatible
 131 with these standards. If residential uses are included in a
 132 development, moderately priced dwelling units must be

133 provided in accordance with Chapter 25A. The maximum
134 dwelling unit density or residential FAR may be increased in
135 proportion to any MPDU density bonus provided on-site. Site
136 plans must be approved in accordance with section 59-D-3.

137

138 (b) **Optional Method of Development:** The Optional Method of
139 Development promotes additional densities, and supports
140 innovative design and building technologies to create a
141 pedestrian-oriented and mixed-use development pattern.
142 Approval of the Optional Method of Development is dependent
143 on providing [[sufficient]] required public amenities and
144 facilities. The public facilities and amenities are intended to
145 support the additional densities permitted under the Optional
146 Method of Development. The procedure for the approval of the
147 Optional Method of Development is set forth in Section 59-D-
148 2. Site plans must be approved in accordance with Section 59-
149 D-3. If residential uses are included in a development,
150 moderately priced dwelling units must be provided in
151 accordance with Chapter 25A. The maximum dwelling unit
152 density or residential FAR may be increased in proportion to
153 any MPDU density bonus provided on-site.

154

155 **59-C-13.22. Land uses.**

156

157 No use is allowed except as indicated in the following table:

158

- 159 - **Permitted Uses.** The letter "P" in the appropriate column
 160 indicates the zones in which each use is permitted, subject to all
 161 applicable regulations under the Standard Method or the
 162 Optional Method of Development.
- 163
- 164 - **Special Exception Uses.** The letters "SE" in the appropriate
 165 column indicate the zones in which each use may be authorized
 166 as a special exception, in accordance with Article 59-G, under
 167 the Standard or the Optional Method of Development
 168 respectively. Special exception uses in a development under the
 169 optional method are subject to approval by both the Planning
 170 Board and the Board of Appeals.
- 171
- 172

	TOMX 2.0	
	Standard	Optional
(a) Residential:		
<u>Dwellings</u>	<u>P</u>	<u>P</u>
<u>Group home, small</u>	<u>P</u>	<u>P</u>
<u>Group home, large</u>	<u>P</u>	<u>P</u>
<u>Hotel or motel</u>	<u>P</u>	<u>P</u>
<u>Housing and related facilities for senior adults [[and]] or persons with disabilities</u>	<u>P</u>	<u>P</u>
<u>Life care facility</u>	<u>P</u>	<u>P</u>
<u>Personal living quarters</u>	<u>P</u>	<u>P</u>
(b) Transportation, communication and utilities:		
<u>Public utility buildings, structures and underground facilities</u>	<u>P</u>	<u>P</u>
<u>Radio and television broadcasting studio</u>	<u>P</u>	<u>P</u>
<u>Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room</u>	<u>P</u>	<u>P</u>
<u>Taxicab stand, not including storage while not in use</u>	<u>P</u>	<u>P</u>
(c) Commercial office and retail:		
<u>Antique [[stores]] shops, handicrafts or art sales and supplies</u>	<u>P</u>	<u>P</u>
<u>Book store</u>	<u>P</u>	<u>P</u>

<u>Eating and drinking establishment, excluding drive-in</u>	<u>P</u>	<u>P</u>
<u>Drug store</u>	<u>P</u>	<u>P</u>
<u>Florist shop</u>	<u>P</u>	<u>P</u>
<u>Food and beverage store</u>	<u>P</u>	<u>P</u>
<u>Furniture store, carpet or related furnishing sales or service</u>	<u>P</u>	<u>P</u>
<u>Gift shop</u>	<u>P</u>	<u>P</u>
<u>Grocery store</u>	<u>P</u>	<u>P</u>
<u>[[Hotel]]Hardware store</u>	<u>P</u>	<u>P</u>
<u>Office supply store</u>	<u>P</u>	<u>P</u>
<u>Office, general</u>	<u>P</u>	<u>P</u>
<u>Office, professional including banks and financial institutions (excluding check cashing stores [[and drive-in banks]])</u>	<u>P</u>	<u>P</u>
<u>Offices for companies principally engaged in health services, research and development</u>	<u>P</u>	<u>P</u>
<u>Newsstand</u>	<u>P</u>	<u>P</u>
<u>Photographic supply store</u>	<u>P</u>	<u>P</u>
<u>Pet sales and supply store</u>	<u>P</u>	<u>P</u>
<u>Specialty shop</u>	<u>P</u>	<u>P</u>
(d) Services:		
<u>Adult foster care homes</u>	<u>P</u>	<u>P</u>
<u>Ambulance or rescue squad, publicly supported</u>	<u>P</u>	<u>P</u>
<u>Animal boarding place</u>	<u>SE</u>	<u>SE</u>
<u>Art, music and photographic studios</u>	<u>P</u>	<u>P</u>
<u>Automobile filling station</u>	<u>SE</u>	<u>SE</u>
<u>Automobile rental services, excluding automobile storage and supplies</u>	<u>P</u>	<u>P</u>
<u>Barber and beauty shops</u>	<u>P</u>	<u>P</u>
<u>Charitable and philanthropic institutions</u>	<u>P</u>	<u>P</u>
<u>Clinic</u>	<u>P</u>	<u>P</u>
<u>Child daycare facility:</u>		
- <u>Family day care</u>	<u>P</u>	<u>P</u>
- <u>Group day care</u>	<u>[[SE]]P</u>	<u>[[SE]]P</u>
- <u>Child day care center</u>	<u>[[SE]]P</u>	<u>[[SE]]P</u>
<u>Daycare facility for not more than 4 senior adults and persons with disabilities</u>	<u>P</u>	<u>P</u>
<u>Domiciliary care for no more than 16 senior adults</u>	<u>P</u>	<u>P</u>
<u>Dry cleaning and laundry pick-up station</u>	<u>P</u>	<u>P</u>
<u>Duplicating services</u>	<u>P</u>	<u>P</u>
<u>Educational, private institution</u>	<u>P</u>	<u>P</u>
<u>Home occupation, no impact</u>	<u>P</u>	<u>P</u>
<u>Home occupation, registered</u>	<u>P</u>	<u>P</u>
<u>Home occupation, major</u>	<u>SE</u>	<u>SE</u>
<u>Hospice care facility</u>	<u>P</u>	<u>P</u>

<u>Hospitals, veterinary</u>	<u>SE</u>	<u>SE</u>
<u>International public organization</u>	<u>P</u>	<u>P</u>
<u>Place of religious worship</u>	<u>P</u>	<u>P</u>
<u>Publicly owned or publicly operated uses</u>	<u>P</u>	<u>P</u>
<u>Self storage</u>		<u>P¹</u>
<u>Shoe repair shop</u>	<u>P</u>	<u>P</u>
<u>Tailoring or dressmaking shops</u>	<u>P</u>	<u>P</u>
<u>Universities and colleges providing teaching and research facilities</u>	<u>P</u>	<u>P</u>
(e) <u>[[Advanced Technology]] Research and Development and Biotechnology:</u>		
<u>Laboratories</u>	<u>P</u>	<u>P</u>
<u>[[Nanotechnology research and development]] Advanced Technology and Biotechnology</u>	<u>P</u>	<u>P</u>
<u>Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development</u>	<u>P</u>	<u>P</u>
<u>Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment</u>	<u>P</u>	<u>P</u>
<u>Research, development and related activities</u>	<u>P</u>	<u>P</u>
(f) <u>Cultural, entertainment and recreational:</u>		
<u>Auditoriums or convention halls</u>	<u>P</u>	<u>P</u>
<u>Billiard parlor</u>	<u>P</u>	<u>P</u>
<u>Bowling alley</u>	<u>P</u>	<u>P</u>
<u>Health clubs and gyms</u>	<u>P</u>	<u>P</u>
<u>Libraries and museums</u>	<u>P</u>	<u>P</u>
<u>Park and playgrounds</u>	<u>P</u>	<u>P</u>
<u>Private clubs and service organizations</u>	<u>SE</u>	<u>[[SE]] P</u>
<u>Recreational or entertainment establishments, commercial</u>	<u>P</u>	<u>P</u>
<u>Theaters, indoor</u>	<u>P</u>	<u>P</u>

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174

1 Only if recommended in the applicable master plan or sector plan and limited to a maximum FAR of .75.

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177

59-C-13.23. Development standards.

178

179

The development standards applicable to the Standard Method and Optional Method of Development are set forth in this section. In addition to the

180

181 requirements specified in this table, all Optional Method of Development
 182 projects must be consistent with the guidelines established in the applicable
 183 master plan or sector plan.
 184

	<u>TOMX 2.0</u>	
	<u>Standard</u>	<u>Optional</u>
<p><u>59-C-13.231.</u> <u>[[Minimum Net Lot Area]] The minimum net lot area required for any development (in square feet):</u> <u>Provided, however, that a smaller lot may be approved for the TOMX zones where such lot is designated for one of these zones on an approved and adopted master plan or sector plan, the lot is located adjacent to or confronting another lot either classified in or under application for either zone, and the combined lots are subject to a single project plan subject to approval or approved by the Planning Board. The required minimum area does not prohibit a lot of less than 18,000 square feet for purposes of subdivision or record plat approval.</u></p>	<u>[[NA]]</u>	<u>18,000</u>
<p><u>59-C-13.232.</u> <u>Maximum Building Coverage (percent of net lot area):</u></p>	<u>75</u>	<u>[[NA]]</u>
<p><u>59-C-13.233.</u> <u>Minimum Public Use Space (percent of net lot area):</u> <u>[[- If moderately priced dwelling units are included.</u></p>	<u>10^{***}</u> <u>5</u>	<u>20^{****}</u> <u>20]]</u>
<p><u>59-C-13.234.</u> <u>Maximum Density of Development*</u></p>	<u>FAR 0.5</u>	<u>FAR 2.0</u>
<p><u>59-C-11.235.</u> <u>Maximum Building Heights:</u> <u>- If adjoining or directly across the street from land which is recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less</u></p>	<u>50 feet</u> <u>35 feet</u>	<u>[[NA]]</u> <u>[[NA]]</u>
<p><u>59-C-13.236.</u> <u>Minimum Setbacks:</u> <u>- From an adjacent TOMX Zone**</u> <u>- From an adjacent commercial or industrial zone</u> <u>- From an adjacent single family residential zone</u> <u>- From a public right-of-way</u></p>	<u>15 feet</u> <u>20 feet</u> <u>25 feet</u> <u>10 feet</u>	<u>[[NA]]</u> <u>[[NA]]</u> <u>[[NA]]</u> <u>[[15 feet from curbs]]</u>

185
 186 * The maximum [[residential]] dwelling unit density or residential
 187 (FAR) may be increased in proportion to [[the amount of the]]
 188 any MPDU density bonus [[permitted]] provided on-site.

189

190 ** If the proposed building or the adjacent building has windows
191 or apertures facing the lot line that provide light, access or
192 ventilation to a habitable space the setback shall be 15 feet. If
193 the adjacent building does not have windows or apertures no
194 setback is required.

195

196 *** The required standard method public use space may be reduced
197 to 5% if the Planning Board finds that the reduction is
198 necessary to accommodate the construction of MPDUs,
199 including any bonus density units, on-site.

200

201 **** The required optional method public use space may be reduced
202 or eliminated to accommodate the construction of MPDUs,
203 including any bonus density units, on-site, if an equivalent
204 amount of public use space is provided off-site in the same
205 transit station development area within a reasonable time.

206

207 **59-C-13.237. Special standards and guidelines for Standard**
208 **Method and Optional Method of Development projects.**

209

210 (a) Public use space, amenities and facilities: The mixed-use
211 character of the Transit Oriented, Mixed Use Zones requires
212 significant public amenities to create a transit and pedestrian-
213 oriented [[and]] mixed-use environment.

214

215 Public amenities and facilities are not limited to the definition
 216 in Section 59-A, but also include: pocket and urban parks,
 217 town squares, public plazas and water features, wide sidewalk
 218 areas, bus shelters, benches, special street lighting and paving,
 219 construction and enhancement of pedestrian tunnels and
 220 bridges, public art, landscaping of public areas, and
 221 improvements to pedestrian access to transit stations. Public
 222 amenities do not include road improvements or other capital
 223 projects that are required to provide adequate facilities in a
 224 timely basis to serve the property.

225
 226 All public amenities [[should]] must be in locations that are
 227 accessible [[and welcoming]] to the public. The location, type
 228 and nature of the public amenities must be shown on any
 229 project plan and site plan as required by Section 59-D-3 and
 230 Section 59-D-2.

231
 232 (b) Site [[Design]] Plan Guidelines for the Optional and Standard
 233 Method of Development:

- 234
 235 - Orient all buildings to streets, which will encourage
 236 pedestrian-oriented development.
 237 - Locate off-street parking to the side, rear or below grade
 238 if feasible.
 239 - Create a continuous building line with varied facade
 240 setbacks to accentuate open space and building entrances.
 241 Blank building facades should be avoided.

- 242 - Increase public safety and activity at street level with
243 activating uses such as storefront retail, residential
244 entrances, office lobbies, and restaurants.
- 245 - Provide continuous, direct and convenient pedestrian and
246 bicyclist pathways, and connections to transit stations.
- 247 - [[Ensure]] Promote pedestrian safety with clearly
248 designated crosswalks and sidewalks, and include street
249 trees and landscaping on all streets.
- 250 - Screen and locate service and loading areas to reduce
251 visibility from any street.
- 252 - Locate mechanical equipment within buildings or within
253 a mechanical equipment penthouse. If mechanical
254 equipment is located on a roof or is freestanding, it must
255 be effectively screened. The provisions of this guideline
256 do not apply in the case of one-family residential
257 development.

259 (c) Site Plan Streetscape Guidelines:

- 260
- 261 - Provide street lighting designed to avoid an adverse
262 impact on surrounding uses, while also providing a
263 sufficient level of illumination for access and security.
- 264 - Provide a canopy of closely spaced street trees along
265 each street.
- 266 - Provide street furniture such as benches, trash receptacles
267 and planters.

268 = Enhance crosswalk areas with accessible curb ramps
269 [[and crossing signals]] unless prohibited by the
270 [[Director]] Department of Public Works and
271 Transportation.

272

273 **59-C-13.2371. Off-street parking.** Required off-street parking must
274 be provided pursuant to Article 59-E and off-street parking spaces for
275 mixed-use projects must be provided pursuant to Sec. 59-E-3.1.

276

277 **59-C-13.238. Special standards for the Optional Method of**
278 **Development.**

279

280 (a) **Density and mix of uses:** In approving the mix of uses and the
281 proposed densities, the Planning Board [[shall]] must consider
282 the size of the parcel, and the relationship of the existing and
283 proposed building or buildings to the surrounding uses. The
284 mix of uses and the proposed densities must conform to the
285 approved and adopted master plan or sector plan.

286

287 (b) **Building height and setbacks:** The maximum building height
288 permitted for any building [[shall]] and the minimum building
289 setback requirements must be determined in the process of
290 project plan review. In approving height limits or setback
291 requirements, the Planning Board [[shall]] must take into
292 consideration the size of the lot or parcel, the relationship of
293 existing and proposed buildings to surrounding uses, the need
294 to preserve light and air for the residents of the development

295 and residents of surrounding properties, and any other factors
 296 relevant to the height or setback of the building. The proposed
 297 building height and the proposed setbacks must conform to the
 298 approved and adopted master plan or sector plan.

299

300 (c) **Transfer of public use space, [[and]] density and mix of**
 301 **uses: The Planning Board may approve [[T]]the transfer of**
 302 **public use space, [[and]] density and any mix of uses between**
 303 **lots within the same transit station development area [[is**
 304 **permitted]]. The transfer of density [[should]] must be located**
 305 **[[toward the transit station and]] away from the boundaries of**
 306 **the transit station development areas when the boundaries abut**
 307 **or confront either one-family residential development or**
 308 **properties recommended for one-family residential**
 309 **development in the approved and adopted master plan or sector**
 310 **plan. Any transfer of public use space and density and any mix**
 311 **of uses must be determined through the combined densities and**
 312 **use mixes of all properties involved in the density transfers,**
 313 **must conform to the approved and adopted master plan or**
 314 **sector plan and must be approved as part of a combined project**
 315 **plan [[and site plan]] for all relevant parcels in accordance with**
 316 **the provisions in Section 59-D-2 and Section 59-D-3.**

317

318 **59-C-13.239. Existing buildings and uses [[and building permits.**

319

320 (a) **Any existing structure or established use for which a building**
 321 **permit was issued prior to the reclassification of land to the**

322 TOMX Zone must not be regarded as a nonconforming
323 structure or use and will not be subject to the provisions of
324 Section 59-G-4.1, et. Seq. for a period of seven years.

325 (b) For seven years after the reclassification, such structure or use
326 may be altered, repaired, reconstructed or enlarged in
327 conformance with the development standards in the zone in
328 effect prior to the reclassification. Any enlargement in excess of
329 10% of the gross floor area will require approval of a site plan
330 in accordance with Section 59-D-3.

331 (c) After seven years, such a structure or use would be
332 nonconforming and any change in the structure or use thereafter
333 must be in conformance with the provisions of Section 59-G-
334 4.1, et. Seq.

335 (d) Notwithstanding any language in this subsection, any existing
336 structure or use may be altered, repaired, reconstructed or
337 enlarged in conformance with the development standards of the
338 TOMX Zone prior to expiration of the seven year period.]]

339
340 Any lawful structure, [[or]] building or established use that existed
341 before the applicable Sectional Map Amendment adoption date, is a
342 conforming structure or use and may be continued, structurally
343 altered, repaired, renovated or enlarged up to 10 percent of the gross
344 building floor area or 7,500 square feet, whichever is less. However,
345 any enlargement of the building that is more than 10 percent of the
346 gross floor area or 7,500 square feet, whichever is less, or construction
347 of a new building must comply with the standards of the TOMX
348 zones.

349

Sec. 3. Article 59-D is amended as follows:

350

ARTICLE 59-D. ZONING DISTRICTS—APPROVAL PROCEDURES.

351

352

INTRODUCTION

353

354

(a) In certain zones, the developer must submit plans for approval, and development must be consistent with the approved plans. Article 59-C indicates under each zone which, if any, of these plans are required. These plans are of 4 kinds, as follows:

355

356

357

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359

* * *

(2) **Project plan for optional method of development.** This type of plan applies ~~[[only]]~~ in the 6 “CBD” zones, the RMX zones and the TOMX zones. It is similar to a development plan, except that it is not a requirement for the approval of a rezoning application but a precondition for the use of the optional method of development. (See [d]Division 59-D-2.)

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* * *

The following table is provided for the convenience of the public, citing the appropriate sections of Article 59-C and indicating the type of plans required in each zone. In the event of any conflict between this table and the provisions of Article 59-C, the latter must govern.

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Plan Approvals Required

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
* * *					
<i>Standard Method</i>					
* * *					
<u>TOMX 2.0</u>				<u>X</u>	
<i>Optional Method</i>					
* * *					
<u>TOMX 2.0</u>			<u>X</u>	<u>X</u>	

374
375
376
377

DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT, CBD ZONES, [[AND]] RMX ZONES AND TOMX ZONES.

378

59-D-2.0 Zones enumerated.

380

The Planning Board is authorized to approve development under the optional method of development procedures described in Section 59-C-6.2 of the CBD zones, Section 59-C-10 of the RMX Zones, [[and]] Section 59-C-13 of the TOMX Zones and the approval procedure set forth in this Division, for the following zones:

386

* * *

387

TOMX-2--Transit Oriented Mixed-Use, 2.0

388

* * *

389 **DIVISION 59-D-3. SITE PLAN.**

390 * * *

391 **Sec. 59-D-3.1. Requirements.**

392 The site plan must be filed with the Planning Board; it may cover all or any
393 part of a lot or tract, and must meet the following requirements:

394 * * *

395 (c) If the site plan is for the optional method of development in a
396 CBD Zone, RMX Zone or TOMX Zone, it must be consistent
397 with a project plan approved under Division 59-D-2.

398 * * *

399

400 **Sec. 4. Article 59-E is amended as follows:**

401

402 **ARTICLE 59-E. OFF-STREET PARKING AND LOADING.**

403 * * *

404 **Sec. 59-E-3.7. Schedule of requirements.**

405

406 Off-street parking must be provided as follows:

407 * * *

408 **Dwelling, multiple-family.** For each dwelling unit with no separate
409 bedroom, one space; for each dwelling unit with one separate bedroom, 1
410 1/4 spaces; for each dwelling unit with 2 separate bedrooms, 1 1/2 spaces;
411 for each dwelling unit with 3 or more separate bedrooms, 2 spaces. The
412 base requirement may be reduced in accordance with the credit provisions of
413 Section 59-E-3.33. Not more than 50 percent of the total area of the
414 minimum required side and rear yards shall be occupied by parking spaces,

415 drives, access roads to, from and between such spaces, turn-arounds or other
416 surfaces designed for vehicular use, and no parking spaces or vehicular uses,
417 except entrance drives, shall be located within the minimum required front
418 yard. (See R-H zone for controlling provisions in that zone on parking in
419 yards.) In the R-10 and R-H zones, TOMX Zones, the TSM and TSR zones,
420 and the CBD zones in Section 59-C-6.2, the requirement for each
421 moderately priced dwelling unit, as defined in Chapter 25A of this Code,
422 shall be one-half the number of spaces indicated above.

423

424 **Sec. ~~[[2]]5~~. Effective date.** This ordinance becomes effective 20
425 days after the date of Council adoption.

426

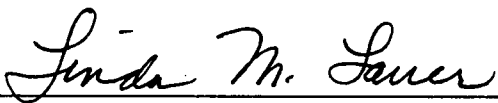
427 This is a correct copy of Council action.

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431



432

Linda M. Lauer, Clerk of the Council