

Ordinance No: 16-39
Zoning Text Amendment No: 09-06
Concerning: Town Sector Zone - Minimum
Size
Draft No. & Date: 1 - 7/21/09
Introduced: July 28, 2009
Public Hearing: September 15, 2009
Adopted: October 6, 2009
Effective: October 6, 2009

**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: Councilmembers Knapp, Elrich, and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Allow, under certain circumstances, a reduction in the land area required for land currently zoned TS.

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

DIVISION 59-C-7. "PLANNED UNIT DEVELOPMENT ZONES"
Section 59-C-7.2 "Town sector zone"

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. 09-06 was introduced on July 28, 2009. Councilmembers Knapp, Elrich, and Floreen sponsored the ZTA to implement the Germantown Sector Plan. The ZTA would amend the Town Sector (TS) Zone to allow a TS zoned area to be reduced below 1,500 acres. Such a reduction would only be allowed by the Council's approval of a sectional map amendment. A sectional map amendment may only be filed by the District Council to implement the zoning recommendations of a master plan or to correct inaccurate depictions of zoning boundaries.

On September 15, 2009 the Council held a public hearing to receive testimony concerning the proposed text amendment.

The Planning Board expressed concern about the consequences of ZTA 09-06. In the Board's opinion:

- 1) it appears to conflict with a provision of the TS zone that prohibits any application for zoning reclassification until 50 years after the grant of the TS zone;
- 2) undeveloped TS zoned parcels may need lengthy grandfathering provisions;
- 3) there is more flexibility in the TS zone than in the TMX-2 zone because it does not have an FAR limit.

The Planning Board's concerns did not result in a specific recommendation to deny, amend, or approve ZTA 09-06.

The Planning Staff report gave the concerns of Montgomery Village as a reason to not adopt ZTA 09-06. Testimony from Montgomery Village cited the "debate between Council staff regarding the impact ZTA 09-06 may have on Montgomery Village" as a reason for their concern. The Planning Staff report's only reference to any possible implication for Montgomery Village was stated as follows:

An important issue is whether the intended purpose of ZTA 09-06 can be achieved without also amending the provision of the Town Sector zone that ties Town Sector zoned land to a 50-year time period.

After the public hearing, the Council referred the text amendment to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the amendment on September 21, 2009. The Committee (3-0) recommended approval of ZTA 09-06 as introduced. In the Committee's opinion, ZTA 09-06 would help implement the recommendations of the recently adopted Germantown Sector Plan. The Committee noted that ZTA 09-06 would not affect Montgomery Village, and the Committee had no intent to affect Montgomery Village.

The District Council reviewed Zoning Text Amendment No. 09-06 at a worksession held on October 6, 2009 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. 09-06 will be approved as introduced.

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-7 is amended as follows:**

2 **Division 59-C-7. Planned Unit Development Zones.**

3 * * *

4 **Sec. 59-C-7.2 Town sector zone.**

5 * * *

6 **59-C-7.24. Area requirements.**

7 59-C-7.241. Minimum area of tract. Each application for the town sector
8 zone shall be for a tract of land which has an area of 1,500 acres or more; except[,
9 that];

10 a) an application for a tract of any size adjoining a tract in the town sector zone
11 may be filed by the original applicant or a successor in title [.] or

12 b) a sectional map amendment may reduce the area zoned TS to less than 1,500
13 acres.

14 * * *

15 **Sec. 2. Effective date.** This ordinance takes effect immediately after the
16 date of Council adoption.

17

18 This is a correct copy of Council action.

19

20 *Linda M. Lauer*

21 Linda M. Lauer, Clerk of the Council