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.
[[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 (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 Montgomery County Planning Board and Planning Staff, in its report to the Council, 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 County Council held a public hearing on July 27, 2010 to receive testimony concerning the proposed text amendment. 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. 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 a worksession to review the amendment on October 4, 2010. The Committee recommended approval of ZTA 10-09 with amendments and came to the conclusion that the contribution of transient lodging uses added to the vitality of urban areas and should be allowed additional density. The Committee believed that changed circumstances call for a change in zoning provisions. When the additional density for housing was approved, no housing was being constructed under the optional method of development. That unique preference is no longer required.

The Committee recommended an amendment to ZTA 10-09 to limit its application to areas in an urban district. This will limit the additional density to areas with more urban services (Silver Spring, Bethesda, and Wheaton) and exclude its application where those services are not available (Friendship Heights).

The Committee (2-1, Council President Floreen opposed) also recommended an amendment to only allow a transient lodging use with ground floor retail in the project to get additional density. This is intended to require an element of mixed-use and add to urban vitality.

Finally, the Committee recommended an amendment to allow transient lodging to get a bonus in both the non-resident and the mixed-use classifications of the CBD zones. This would increase the flexibility for potential projects.

The District Council reviewed Zoning Text Amendment No. 10-09 at a worksession held on October 26, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee, with an amendment to restrict the provisions to sites over 22,000 square feet in land area. The Council believes that a hotel at higher density requires more land to accommodate its special needs for drop-offs and entrance amenities.

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. 10-09 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-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, however, the maximum excludes a site that satisfies subsection (ii)(B) (FAR)		1.0				$2.0^{19,23}$		4.0^{23}		6.0^{23}		
(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, (5) has a minimum lot area of 22,000 square feet, and (6) includes a ground floor retail use (FAR)						3.0		5.0		8.0		
(iii)Mixed-use (non-residential and residential uses)												

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		1.0[4]		.6[7,17]		2.0[4]		3.0[5,23]		5[6,23]		1.0[3,18]
[[—]] (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)												

[[--]] (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, (5) has a minimum lot area of 22,000 square feet, and (6) includes a ground floor retail use (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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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.

19

20 *Linda M. Lauer*

21 Linda M. Lauer, Clerk of the Council