

MEMORANDUM

September 8, 2016

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff. Zyontz, Senior Legislative Analyst

SUBJECT: Zoning Text Amendment 16-08, Commercial/Residential “T” Zones – Workforce Housing

Zoning Text Amendment (ZTA) 16-08, introduced on June 21, 2016, would reinstitute provisions for pre-1958 lots and parts of lots that existed before the Zoning Ordinance Rewrite. Council President Floreen is the lead sponsor of ZTA 16-08.

The Zoning Ordinance Rewrite was implemented by a District Map Amendment that rezoned all properties within the Council’s jurisdiction. Commercial/Residential (CR) “T” Zones were applied to properties in Central Business District (CBD) zones. CR zones were intended to have absolute height and density limits. CBD zones had some flexibility to exceed height and density limits. The Council used the “T” designation to distinguish properties formerly in the CBD family of zones and allowed them to retain height and density flexibility under certain circumstances. Height flexibility is allowed for the provision of workforce housing; density flexibility is not currently allowed.

In 2005, workforce housing was required in large projects.¹ The workforce housing units were not counted against density limits and in CBD zones. Workforce housing units could also increase the allowable building height.² In 2010, the provision of workforce housing was made voluntary.³ In 2014, the Zoning Ordinance Rewrite did not recognize the past density allowances for the voluntary provision of workforce housing. ZTA 16-08 would allow density flexibility for the provision of workforce housing. ZTA 16-08 would also exclude the floor area devoted to a publicly owned or operated facility from height limits in Commercial/Residential (CR) “T” Zones.

¹ As approved in ZTA 05-16:
59-A-6.18.2. Requirements

(a) Any subdivision that would contain 35 or more market dwelling units, and that would be located in a zone with a maximum permitted residential density at or above 40 dwelling units per acre and in a Metro Station Policy Area, must include an amount of workforce housing units that is not less than 10 percent of the total number of proposed market dwelling units, not including any MPDUs or resulting bonus density units, or dwelling units excluded under Chapter 25B.

² 59-C-6.2. (Footnote 11)

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet, if: (i) the additional height is necessary for the project to comply with the workforce housing requirements of Section 59-A-6.187; however, the additional height must not be more than required for the number of workforce housing units that are constructed....

³ ZTA 10-01.

Issues

Should publicly owned or operated facilities be added to building height area?

The Council has treated projects with publicly owned or operated facilities favorably in other zoning provisions. Such facilities are defined as an amenity to an optional method project. The gross floor area excludes the floor area for publicly owned or operated uses or arts and entertainment uses provided as a public benefit under the optional method of development. ZTA 16-08 would continue with incentives for such facilities.

Should major public facilities be given increased building height dispensation?

Major public facilities include, but are not limited to, such facilities as a school, library, recreation center, park, County service center, bike share station, public transportation or utility upgrade, or other resource delineated in an applicable master plan. Major public facilities provide public services at a convenient location where increased density creates a greater need for civic uses and greater demands on public infrastructure. Due to their significance in placemaking, the Planning Board may approve incentive FAR for the conveyance of a site or floor area for a public facility that is accepted for use or operation by an appropriate public agency, community association, or nonprofit organization.

As noted above, the gross floor area excludes the floor area for publicly owned or operated uses. Height is a separate standard. Providing major public facilities makes the accommodation of on-site parking more difficult. Projects may be incentivized to provide major public facilities if there is height dispensation for above grade parking. If the Council wants to go in this direction, Staff would recommend the following additional text:

With Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility, under Section 4.7.3.A, may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed when the major public facility diminishes the ability of the applicant to provide parking at or below grade.

The planned new Apex Building in Bethesda will house a Purple Line Station and will include 4 floors with above grade parking. The Apex Building is allowed a height of 250 feet. The recommended change would allow an additional 40 feet of height with no change in density.⁴ This revision would allow increased height for this project and any other similarly situated projects. The Council may wish to introduce this as a separate ZTA if it determines that a new public hearing is necessary on this matter.

This Packet Contains
ZTA 16-08 as revised by Staff

© number
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⁴ The Planning Board recommended master plan, which has not been the subject of Council deliberations, recommends a 290 foot height limit.

Zoning Text Amendment No.: 16-08
Concerning: Commercial/Residential
“T” Zones – Workforce
Housing
Draft No. & Date: 2 – 8/16/16
Introduced: June 21, 2016
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**

Lead Sponsor: Council President Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow additional building density in certain Commercial/Residential T Zones under when workforce housing is provided;
- allow additional building height in certain Commercial/Residential T Zones under when workforce housing and public facilities are provided; and
- generally amend the provisions concerning allowable building density and height in certain Commercial/Residential zones.

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

DIVISION 59-4.5. “Commercial/Residential Zones”
Section 4.5.2. “Density and Height Allocation”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment or by ZTA 14-09.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment or text added by this amendment in addition to ZTA 14-09.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment or indicates a change from ZTA 14-09.
** * * 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 59-4.5 is amended as follows:**

2 **DIVISION 4.5. Commercial/Residential Zones**

3 **SECTION 4.5.2. Density and Height Allocation**

4 * * *

5 **A. Density and Height Limits**

6 * * *

7 d. The number following the H is the maximum building height in
8 feet allowed unless additional height is allowed under Section
9 4.5.2.C, Section 4.7.3.D.6.c, or Section 4.5.2.A.2.e.

10 e. With Planning Board approval, any Optional Method project in
11 a CR zone that includes the provision of a major public facility,
12 under Section 4.7.3.A, may add the height of any floor mostly
13 used for above grade parking to the maximum height otherwise
14 allowed when the major public facility diminishes the ability of
15 the applicant to provide parking at or below grade.

16 3. The following limits apply unless additional total FAR, residential
17 FAR, or height is allowed under Section 4.5.2.C, Section 4.7.3.D.6.c,
18 or Section 4.5.2.A.2.e:

19 * * *

20 **B. FAR Averaging**

21 * * *

22 **C. Special Provisions for “T” Zones Translated from Certain Zones**
23 **Existing Before October 30, 2014**

24 1. These special provisions apply to certain properties rezoned by
25 District Map Amendment to implement this Chapter and are indicated
26 on the zoning map as the zoning classification followed by a T, such
27 as “CR2.0 C1.5 R1.5 H75 T”.

- 28 2. For Commercial/Residential-zoned properties designated with a T, the
29 following provisions apply:
- 30 a. Residential density may be increased above the number
31 following the R on the zoning map in proportion to:
- 32 i. any MPDU density bonus achieved under Chapter 25A
33 for providing more than 12.5% of the residential units as
34 Moderately Priced Dwelling Units (MPDUs); or
- 35 ii. any workforce housing floor area that satisfies Chapter
36 25B; however, the increased residential density under
37 this provision is limited to 10% of the floor area
38 indicated on the zoning map.
- 39 b. Total density may be increased above the number following the
40 zoning classification on the zoning map by an amount equal to
41 the residential density bonus achieved.
- 42 * * *
- 43 d. On a property within a designated central business district
44 mapped at a height up to 145 feet, height may be increased
45 above the number following the H on the zoning map by up to
46 1.5 times if:
- 47 i. the height is the minimum necessary for [any] both:
- 48 (A) the floor area devoted to a publicly owned or
49 operated facility; plus
- 50 (B) [workforce housing units provided based on] the
51 floor area provided for workforce housing units,
52 divided by the average residential floor plate area,
53 where each whole number and each remaining
54 fraction allows an increase of 12 feet[,]; or

55 * * *

56 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after
57 approval.

58

59 This is a correct copy of Council action.

60

61

62 Linda M. Lauer, Clerk of the Council