

Ordinance No: 16-23  
Zoning Text Amendment No: 08-13  
Concerning: . Transit Oriented Mixed-Use -  
General Commercial (C-2) Zone  
Development  
Draft No. & Date: 2- 7/21/2008  
Introduced: June 10, 2008  
Public Hearing: July 15, 2008  
Adopted: July 29, 2008  
Effective: August 18, 2008

**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: Councilmember Berliner

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

- define a Bus Transit Center;
- amend the commercial zone land use table to allow transit oriented mixed-use development use in the C-2 zone that is close to a Bus Transit Center;
- amend the purpose of the C-2 zone to allow transit oriented mixed-use development use in close proximity to Bus Transit Centers; and
- generally amend the provisions of the C-2 to allow transit oriented mixed-use development near transit stations.

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-4    COMMERCIAL ZONES  
Section 59-C-4.2    Land uses  
Section 59-C-4.35    Purpose  
[[Section 59-C-4.358 C-2 zone – Purpose and development standards  
Section 59-C-4.358.1 Intent  
Section 59-C-4.358.2 Eligibility]]

**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

ZTA 08-13 would define a bus transit center. It would also make encouraging housing within 500 feet of any bus transit center part of the C-2 zone's purpose. It would allow residential uses in the C-2 under ZTA 08-13 would be an expansion of the current flexibility in the C-2 zone to allow mixed-use projects near metro stations. It would create the opportunity for housing in commercial areas. In that regard, it would increase the supply of housing and increase the opportunity for people to live near their workplaces.

The Planning Board did not reach a majority recommendation on ZTA 08-13. Two members were in favor of adopting the ZTA; two members were opposed to adopting the ZTA. The two members supporting the ZTA believed that the mixed-use concept for the sites that meet the ZTA's conditions would be in the public interest. The two members who opposed the adoption of the ZTA thought that the ZTA left too many questions unresolved. Chairman Hanson described the Board's position as a warm "maybe".

The Council held a public hearing on July 15, 2008 to receive testimony concerning the proposed amendment. Jim Humphrey, representing the Montgomery County Civic Federation, testified in opposition to ZTA 08-13. Mr. Humphrey supported a master plan amendment procedure rather than a text amendment. In his view, the master plan process provides added public scrutiny for any potential site. All other testimony was in support of ZTA 08-13. The Council referred ZTA 08-13 to the Planning, Housing, and Economic Development Committee for review and recommendation.

On July 21, 2008 the Committee held a work session on ZTA 08-13. After a careful review of all of the materials of record, the Committee recommended approval of ZTA 08-13 with amendments. The Committee recommended amendments to restrict the definition of a transit center and to apply the same standards of the C-2 zone used in Central Business District locations instead of the standards for Metro Station Policy Area locations.

The District Council reviewed Zoning Text Amendment No. 08-13 at a worksession held on July 29, 2008, 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. 08-13 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           **Sec. 59-A-2.1. Definitions.**

4           In this Chapter, the following words and phrases have the meanings indicated.

5           \*    \*    \*

6           Bus Transit Center: [[A]] An off-street bus only station with facilities for bus  
7           drivers constructed or funded for construction under the county or state capital  
8           improvement program that: 1) accommodates for a minimum of 3 public bus  
9           routes, and 2) is used by or is forecast in the Capital Improvements Program by the  
10           Department of Transportation to be used by more than 150 [[passengers]]  
11           boardings per day.

12           \*    \*    \*

13           **Sec. 2. DIVISION 59-C-4 is amended as follows:**

14           **DIVISION 59-C-4. COMMERCIAL ZONES.**

15           \*    \*    \*

16           **Sec. 59-C-4.2 Land uses.**

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

- 18           -    **Permitted Uses.** Uses designated by the letter “P” are permitted on any  
19           lot in the zones indicated, subjected to all applicable regulations.  
20           -    **Special Exception Uses.** Uses designated by the letter “SE” may be  
21           authorized as special exceptions under article 59-G.

22  
23  
24

	C-T	O-M	C-O	C-P	C-1	C-2	C-3	C-4	C-5	C-6	H-M	Country Inn
(a) Residential:												
Apartment Hotels <sup>1</sup>												
Boarding houses			P			P						
Dwellings.	P <sup>6</sup>	P <sup>6</sup> /SE	P <sup>2,52</sup>		SE	P <sup>40</sup> /SE	SE	SE		SE		P <sup>4</sup>

25

26 \* \* \*

27 <sup>40</sup> [[In]] Dwellings are permitted in the C-2 zone: (1) in a hotel or motel lawfully  
 28 existing in the C-2 zone on October 24, 1972, [[or]] (2) on a site larger than 1.5  
 29 acres within 1,500 feet of a Metro station located in a Central Business District  
 30 provided: [(1)] (a) the sector plan district in which the property is located is  
 31 recommended for residential development, [(2)] (b) the site adjoins a public  
 32 parking garage which exceeds 50 feet in height as measured from the ground  
 33 surface along the side [[of the]] facing the development, and [(3)] (c) the  
 34 development complies with the Section 59-D-3 site plan review requirements[.],  
 35 or (3) on a site within 500 feet of a Bus Transit Center, provided the development  
 36 complies with the Section 59-D-3 site plan review requirements.

37 \* \* \*

38 **59-C-4.35. C-2 zone – Purpose and development standards.**

39 **59-C-4.350. Purpose**

40 It is the purpose of this zone to provide locations for general commercial uses  
 41 representing various types of retail trades, businesses and services for a regional or  
 42 local area. Typical locations for such uses shall include: central urban commercial  
 43 areas, regional shopping centers and clusters of commercial development. A  
 44 further purpose of this zone is to [[promote the effective use of Transit Centers

45 and transit facilities in Central Business Districts by encouraging]] encourage  
 46 housing with commercial uses: (1) within 500 feet of a Bus Transit Center [[or]] ;  
 47 (2) in Metro Station Policy Areas; and (3) in close proximity to Metro stations  
 48 located in Central Business Districts.

49 \* \* \*

50 **59-C-4.358. C-2 zone—Special Development Procedure for Transit-Oriented**  
 51 **Mixed Use Development.**

52 **59-C-4.358.1. Intent.**

53 The Special Development Procedure is intended to facilitate the effective  
 54 development of properties located within a Metro Station Policy Area [[or within  
 55 500 feet of a Transit Center,]] with residential and non-residential land uses that  
 56 will promote and serve transit ridership. It is intended that the special development  
 57 procedure provide a significant public benefit, including such features as active  
 58 and passive recreational use, parkland, or public right-of-way dedications.

59 **59-C-4.358.2. Eligibility.**

60 The following requirements must be satisfied:

- 61 (a) The property must be classified in the C-2 zone and not recommended  
 62 for the TS-M zone in an approved and adopted master or sector plan;
- 63 (b) The property must abut property recommended for the TS-M zone or  
 64 separated from such property only by a road or other public right-of-  
 65 way;
- 66 (c) The property must be located in a Metro Station Policy Area that is  
 67 not within a Central Business District [[or within 500 feet of a Transit  
 68 Center]];
- 69 (d) At least 60 percent of the development must be for residential use and  
 70 the ground floor must be for commercial use; however, certain

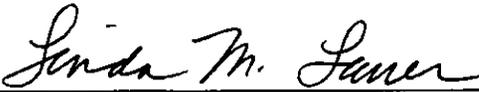
71 incidental non-commercial uses, such as lobbies, loading areas, and  
72 parking access may be at the ground floor level;

73 (e) Moderately Priced Dwelling Units (MPDUs) must be provided as  
74 required by Chapter 25A.

75 \* \* \*

76 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the  
77 date of Council adoption.

78 This is a correct copy of Council action.

79   
80 \_\_\_\_\_

81 Linda M. Lauer, Clerk of the Council