

Ordinance No: 15-35
Zoning Text Amendment No: 04-12
Concerning: MPDUs Public Space
Requirement-CBD, Transit
Station Zones
Draft No. & Date: 2 – 11/30/04
Introduced: July 20, 2004
Public Hearing: 9/23/04; 7:30 p.m.
Adopted: November 30, 2004
Effective: April 1, 2005

**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 Floreen, Silverman, Subin, Knapp and Leventhal

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

- allowing a reduction in the public use space requirement for a standard method project in a CBD zone that includes MPDUs, including any bonus density units, on-site;
- allowing the public use space requirement for ~~[[a CBD zone]]~~ an optional method project in a CBD zone that includes MPDUs, including any bonus density units, on-site to be reduced or eliminated if located off-site in the same CBD; and
- ~~[[Allowing a residential density bonus over the base density where MPDUs are provided in accordance with Chapter 25A; and]]~~
- clarifying that the number of ~~[[residential]]~~ dwelling units ~~[[and]]~~ or residential FAR may be increased over the base density in proportion to any MPDU density bonus provided for ~~[[a project]]~~ any development in a CBD or Transit Station zone that includes MPDUs on-site.

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

DIVISION 59-C-6	“CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.215	“Methods of development and approval procedures”
Section 59-C-6.23	“Development standards”
DIVISION 59-C-8	“TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.4	“Development standards”

<i>EXPLANATION: Boldface indicates a heading or a defined term. <u>Underlining</u> indicates text that is added to existing laws</i>
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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. 04-12 was introduced on July 20, 2004, to allow a reduction in the public use space requirement for a standard method project in a CBD zone that includes MPDUs on-site; allow the public use space requirement for a CBD zone optional method project that includes MPDUs on-site to be reduced or located off-site in the same CBD; and clarify that the maximum number of residential units or residential FAR may be increased for a project in a CBD or Transit Station zone that includes an MPDU density bonus on-site.

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

The County Council held a public hearing on September 23, 2004, 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 October 20, November 15, and November 23 to review the amendment. The Committee carefully reviewed the comments of the Planning Board and the public hearing testimony. It was noted by the Committee that the CBD and Transit Station zones do not now have language that expressly allows the maximum residential density or residential FAR of either zone to be increased to accommodate the MPDU density bonus provided under Chapter 25A. The Committee supported the need to clarify that the maximum residential density in the CBD and Transit Station zones may be increased in proportion to any MPDU density bonus provided on site. Under the Committee language, an increase in the maximum residential density would not be applicable if only the required number of MPDUs were being provided.

The Committee supported the recommendation of the Planning Board to allow the public use space requirement under the optional method of development process to be reduced to accommodate the construction of MPDUs on site, if the amount of reduced public use space is replaced off-site in the same CBD within a reasonable period of time.

The question was raised at the Committee worksession as to how the TS-M zone public facility and amenity requirement would be affected by the MPDU proposals. The Committee indicated that it knows of no provision in any of the Zoning Text Amendments that would allow MPDUs to take priority over the public facility and amenity requirement of the TS-M zone. Development in the TS-M zone is required to conform substantially to the public facilities and amenities recommended in the applicable sector plan. The Committee recommended language be added in ZTA 04-12 to clarify that any public facility or amenity recommended in a master or sector plan may not be reduced or eliminated to achieve the construction of MPDUs.

The District Council reviewed Zoning Text Amendment No. 04-12 at a worksession held on November 30, 2004, 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. 04-12 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-6.215. Methods of development and approval procedures.** Two methods
5 of development are possible in each of these zones. [[Under both methods of
6 development the maximum dwelling unit density or residential FAR [allowed by
7 Section 59-C-6.23] may be increased up to the maximum density or FAR allowed
8 in the zone for any development that contains an MPDU density bonus under [to
9 accommodate the construction of Moderately Priced Dwelling Units in accordance
10 with] Chapter 25A.]]

11 (a) **Standard method of development.** The standard method requires
12 compliance with a specific set of development standards and permits a
13 range of uses and a density compatible with these standards. If
14 residential uses are included in a development, [the number of]
15 moderately priced dwelling units must be [at least 12.5 percent of the
16 total number of dwelling units] provided in accordance with Chapter
17 25A. [[If an MPDU density bonus is allowed under Chapter 25A, the
18 number of dwelling units or residential FAR may be increased as
19 necessary to achieve any applicable density bonus on-site.]] The
20 maximum dwelling unit density or residential FAR may be increased in
21 proportion to any MPDU density bonus provided on-site.

22 (b) **Optional method.** Under the optional method greater densities may be
23 permitted and there are fewer specific standards, but certain public
24 facilities and amenities must be provided by the developer. The presence
25 of these facilities and amenities is intended to make possible the creation
26 of an environment capable of supporting the greater densities and
27 intensities of development permitted. If residential uses are included in a

development, [the number of] moderately priced dwelling units must be [at least 12.5 percent of the total number of dwelling units] provided in accordance with Chapter 25A. [[If an MPDU density bonus is allowed under Chapter 25A, the number of dwelling units or residential FAR may be increased as necessary to achieve any applicable density bonus on site.]] The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. The procedure for [the] approval of [the use of the] an optional method project is [set forth] specified in Division 59-D-2, and the procedure for approval of a site plan[s must be submitted and approved in accordance with] is specified in Division 59-D-3.

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59-C-6.23. Development standards.

The development standards applicable to the standard and optional methods of development, indicated by the letters "S" and "O" in each [of the zones] zone, are [set forth] specified in this section.⁸

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S	O	S ⁹	O	S	O
* * *												
59-C-6.233. Minimum Public Use Space (percent of net lot area):¹⁵	10	20	10	20 ¹⁶	10	20 ²⁰	10	20	10	20	10	20
-[If special regulations concerning moderately priced dwelling units set forth in section 59-C-6.215(a) are used this may be reduced to:] <u>The required standard method public use space may be reduced</u> <u>[[for any project as necessary to achieve</u>												

<u>any applicable]] to accommodate the construction of MPDUs, including any bonus density units, provided [[Chapter 25A]] on-site to:</u> <u>[[The required optional method public use space may be located off-site in the same CBD or reduced for any project as necessary to achieve any applicable MPDUs under Chapter 25A on site.]] The required optional method public use space may be reduced or eliminated to accommodate the construction of MPDUs, including any bonus density units, provided on site, if an equivalent amount of public use space is provided off-site in the same CBD within a reasonable time.</u>	<u>5</u>		<u>5</u>		5		5		5		<u>5</u>	
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46 **Sec. 2. Division 59-C-8 is amended as follows:**

47 **DIVISION 59-C-8. TRANSIT STATION DEVELOPMENT AREA ZONES.**

48 * * *

49 **59-C-8.25. Public facilities and amenities.**

50 A development must conform substantially to the facilities and amenities
51 recommended by the approved and adopted master or sector plan, including and
52 granting such easements or making such dedications to the public as may be shown
53 thereon or are deemed necessary by the Planning Board to provide for safe and
54 efficient circulation, adequate public open space and recreation, and insure
55 compatibility of the development with the surrounding area, and assure the ability

of the area to accommodate the uses proposed by the application. The provision of MPDUs does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.

* * *

59-C-8.4. Development standards.

	TS-R	TS-M
59-C-8.42. Density of development.		
The density of development [shall] <u>must</u> not exceed any of the following:		
(a) Floor area ratio	2.5	3.0
(b) Dwelling units per acre, however, in the TS-R zone, FAR and density must be calculated on the basis of the area of the zoned land within the approved development plan and not individual lots.	150	
(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units in accordance with Chapter 25A. <u>[[The number of dwelling units or residential FAR may be increased as necessary to achieve any applicable MPDUs under Chapter 25A on-site.]] The maximum number of dwelling units or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. The provision of MPDUs does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.</u>		
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Sec. 3. Effective date. This ordinance becomes effective April 1, 2005.

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council