

Ordinance No.: 17-05
Zoning Text Amendment No: 11-04
Concerning: Central Business District
(CBD) Zones - Public
Facilities
Draft No. & Date: 2 - 6/21/11
Introduced: May 10, 2011
Public Hearing: June 14, 2011
Adopted: June 28, 2011
Effective: June 28, 2011

**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: Council President at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the definitions of “Public facilities and amenities” and “Public use space”;
- amend the development standards for an optional method project to allow the provision of a building or land for a publicly owned and operated government facility to meet the public facility and amenity requirements;
- amend the development standards for an optional method project to allow the publicly owned and operated government facility to satisfy the public use space requirement for the optional method project and exclude the floor area in the calculation of gross floor area; and
- generally amend the development standards for optional method projects in the CBD zones.

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-6 “CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.233 “Minimum Public Use Space”
Section 59-C-6.234 “Maximum Density of Development”

And by adding the following section to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Section 59-C-6.2357 “Special standards for optional method development projects that include a building or land for a publicly owned or operated government facility”

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) 11-04, sponsored by Council President Ervin at the request of the County Executive, was introduced on May 10, 2011. ZTA 11-04 would allow government facilities to be offered in satisfaction of the requirements for public facilities and amenities and public use space in optional method of development projects. The County Executive believes that the proposed amendment is consistent with the Council approach taken in the adopted CR zones; in CR zones, public facilities are currently considered a public benefit.

On June 14, 2011, the Council conducted a public hearing on ZTA 11-04. Testimony from the Executive, the Greater Bethesda-Chevy Chase Chamber of Commerce, and JBG Associates recommended approval of ZTA 11-04 as submitted.

The Montgomery County Civic Federation recommends revisions to require a relationship between the amount of land or building floor area conveyed and the amount of public use space. Only if the conveyance is more than 20 percent would the Federation recommend waiving both public use space and public facilities requirements. The Federation also objected to excluding the floor area from the floor area ratio limits of the zone.

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 on June 23, 2011 to review the amendment and the memorandum prepared by Council staff. The Committee substantially agreed with the testimony of the Civic Federation and would require the floor area in the public facility building or the land dedicated to be at 20 percent of the project's net lot area. In addition, the Committee agreed with revisions recommended by the Planning Board to clarify the following:

- “a publicly owned or operated government facility” refers to a facility that supports State or County programs or services, consistent with the intent of public facilities and amenities;
- public facilities and amenities do not include road improvements or other capital projects that are required to satisfy the requirements of the Adequate Public Facilities Ordinance (APFO) to serve the property; and
- public facilities space includes non-public areas of the facility.

The District Council reviewed Zoning Text Amendment No. 11-04 at a worksession held on June 28, 2011 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. 11-04 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 **59-A-2.1. Definitions**

4 * * *

5 **Public facilities and amenities:** Those facilities and amenities of a type and scale
6 necessary to provide an appropriate environment or to satisfy public needs
7 resulting from, or related to, the development of a particular project, or to support
8 County or State government programs or services. Facilities and amenities may
9 include, but are not limited to:

- 10 (a) green area or open space which exceeds the minimum required, with
11 appropriate landscaping and pedestrian circulation;
- 12 (b) streetscaping that includes elements such as plantings, special pavers, bus
13 shelters, benches, and decorative lighting;
- 14 (c) public space designed for performances, events, vending, or recreation;
- 15 (d) new or improved pedestrian walkways, tunnels, or bridges;
- 16 (e) features that improve pedestrian access to transit stations;
- 17 (f) dedicated spaces open to the public, such as museums, art galleries, cultural
18 arts centers, community rooms, recreation areas;
- 19 (g) day care for children or senior adults and persons with disabilities; [and]
- 20 (h) public art[.]; and
- 21 (i) a publicly owned or operated government facility.

22 Public facilities and amenities may be recommended or identified in an approved
23 and adopted master or sector plan. Public amenities do not include road
24 improvements or other capital projects that are required ~~[[to provide adequate~~
25 ~~facilities]]~~ under the Adequate Public Facilities Ordinance (APFO) to serve the
26 property.

27 **Public use space:** Space devoted to public enjoyment, such as, but not limited to,
 28 green areas, gardens, plazas, walks, pathways, promenades, arcades, urban parks,
 29 town squares, public plazas with elements such as water features, and passive and
 30 active recreational areas including outdoor recreation areas for a child day care
 31 facility. Public use space may include land or building space for a publicly owned
 32 or operated government facility that supports County or State government
 33 programs or services. Public use space may also consist of space and/or amenities
 34 recommended by an approved urban renewal plan. Public use space must not
 35 include parking or maneuvering areas for vehicles. Except for an outdoor
 36 recreation area for a child day care facility or non-public areas of a publicly owned
 37 or operated government facility, public use space must be easily and readily
 38 accessible to the public and be identified by a sign placed in public view. If public
 39 pedestrian walkways are recommended in an approved and adopted master [[plan]]
 40 or sector plan, it may be counted as public use space.

41 * * *

42 **Sec. 2. DIVISION 59-C-6 is amended as follows:**

43 **DIVISION 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.**

44 * * *

45 **59-C-6.23. Development Standards.**

46

	* * *	CBD-1		CBD-2		CBD-3		* * *
		S	O	S	O	S	O	
59-C-6.233. Minimum Public Use Space (percent of net lot area):		10	20 ^{20, 22,*}	10	20 ^{22,*}	10	20 ^{22,*}	
* * *								
59-C-6.234. Maximum Density of [Development] Development.								
* * *								
(b) [Option] Optional method								

	* * *	CBD-1	CBD-2	CBD-3	* * *
of development (see section 59-C-6.215(b)):					
* * *					
(ii)(A) Non-residential, including transient lodging[,]; however, the maximum excludes a site that satisfies subsection (ii)(B) (FAR):		2.0 ^{19, 23, **}	4.0 ^{23, **}	6.0 ^{23, **}	
* * *					
(iii) Mixed-use (non-residential and residential uses).					
(A) Maximum permitted non-residential, including transient lodging; however, the maximum excludes a site that satisfies subsection (iii)(B)[:] (FAR) limited to:		2.0 ^{4, 23, **}	3.0 ^{5, 23, **}	5.0 ^{6, 23, **}	
* * *					
-- Total FAR ^{13, 15}		3.0 ^{23, **}	5.0 ^{23, **}	8.0 ^{23, **}	

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²² The entire optional method public use space requirement is satisfied if the applicant has provided to the County, by conveyance or dedication, land or building space to accommodate an arts or entertainment use under Section 59-C-6.2356.

²³ The gross floor area of the arts or entertainment use that satisfies the public use space and the public facility and amenity requirements for the optional method of development under Section 59-C-6.2356 must not be counted in the gross floor area of the optional method project.

* The entire optional method public use space requirement is satisfied if the applicant conveys, to the County or other governmental body, land or building space within the same central business district for a publicly owned or operated government facility under Section 59-C-6.2357.

** The gross floor area of the publicly owned or operated government facility that is provided in satisfaction of the public facility and amenity requirements for the optional method of development under Section 59-C-6.2357 must not be counted in the gross floor area of the optional method project.

* * *

48 **59-C-6.2357. Special standards for optional method of development projects**
49 **that include a building or land for a publicly owned or operated government**
50 **facility.**

51 (a) The public facility and amenity requirement ~~[[is]]~~ and the public use space
52 requirement are satisfied when:

53 (1) the Planning Board finds that the project plan application warrants
54 approval with a publicly owned or operated facility satisfying the
55 amenity and the public use space requirements; ~~[[and]]~~

56 (2) the applicant conveys in fee simple, to the County or other
57 government body, the identified land or building space, and the
58 County accepts the land or building space for a publicly owned or
59 operated government facility within the same central business
60 district~~[[.]]~~ ; and

61 (3) the proposed total interior area for all floors of the building space
62 conveyed for a publicly owned or operated government facility or the
63 land dedicated for that purpose is at least 20 percent of the net lot
64 area.

65 (b) Once the County or other government body has accepted the fee simple
66 conveyance of the land or building space for the publicly owned or operated
67 government facility:

68 (1) the public facility and amenity requirement also is satisfied for any
69 amendment to the original optional method of development project
70 plan that does not increase the floor area of the project;

71 (2) the land area that is conveyed to the County for the publicly owned or
72 operated government facility also is treated as public use space for
73 any amendment to the original project plan that does not increase
74 floor area; and

75 (3) any transfer or lease of the building, [[or]] land, or any portion
76 thereof, by the County will not affect the approval of the optional
77 method of development project plan or [[the]] site plan.

78 (c) Standard streetscaping improvements along the frontage of the phase of the
79 project that is intended to accommodate the publicly owned or operated
80 government facility use must be provided during the phase of the project that
81 contains the facility.

82 * * *

83 **Sec. 3. Effective date.** This ordinance takes effect immediately upon
84 Council adoption.

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86 This is a correct copy of Council action.

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Linda M. Lauer

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Linda M. Lauer, Clerk of the Council