



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
12/20/07

December 17, 2007

MEMORANDUM

TO: Montgomery County Planning Board

VIA: John A. Carter, Chief, *JAC*
Community-Based Planning Division

FROM: Judy Daniel, Team Leader, Bethesda-Chase/North Bethesda Team
Community-Based Planning Division *JD*

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Community-Based Planning Division

SUBJECT: Twinbrook Sector Plan Worksession No. 2

INTRODUCTION

The second Work Session on the Twinbrook Sector Plan covers the remaining land use and zoning issues that were raised at the November Public Hearing and the recommended modifications to the TOMX Zone and the I-4 Zone. It will conclude with the Planning Board's decisions on the Sector Plan recommendations.

Those decisions will be reflected in the Plan document, which will become the Planning Board Draft for transmittal to the County Council. The schedule for review of the Twinbrook Sector Plan includes:

- Planning Board Public Hearing: November 15, 2007
- Work Session No. 1: December 10, 2007
Redevelopment Sites, Transportation, Public facilities, Environment
- Work Session No. 2: December 20, 2007
Land Use and Zoning Issues, Zoning Text Amendments

SUMMARY OF STAFF RECOMMENDATIONS

Public Hearing Testimony

- Do not include the Halpine Apartments in the Plan Area.
- Do not significantly reduce the amount of I-4 zoning recommended.
- Support the definition of public use space in the zoning ordinance.
- Support the use of TDRs for nonresidential purposes.
- Add language to the Plan to clarify the calculations of housing generation including the impact of bonus densities and TDR capacity, and include the detailed transportation analysis in the Plan's appendix.

I-4 Zone Amendments

Approve the proposed Zoning Text Amendment amending the I-4 Zone with the following modifications, for transmittal to the County Council with the Twinbrook Sector Plan.

- Allow accessory residential units under certain limiting criteria.
- Establish special development standards for sites in a Transit Station Development Area.

TOMX Zone Amendments

Approve the Zoning Text Amendment creating the TOMX-1 Zone and TOMX-1/TDR Zone, and amending the TOMX-2 Zone and TOMX-2/TDR Zone for transmittal to the County Council with the Twinbrook Sector Plan.

- Simplify the table of uses by consolidating use types and permit the same uses in all the TOMX and TOMX/TDR zones.
- Establish TOMX-1 Zone standards for net lot area, building coverage, public use space, building height, and setbacks that are the same as already established for the TOMX-2 Zone.
- Establish density standards for the new TOMX-1 Zone that are lower than in the existing TOMX-2 Zone.
- Establish Site Plan and Project Plan requirements for the TOMX-1 Zone, as already established for the TOMX-2 Zone.

TOMX/TDR Zone Amendments

- Methods of Development - Establish the TOMX-1/TDR Zone with the Standard and Optional Method of Development, as already established for the TOMX-2/TDR Zone.
- Standard Method - Establish a maximum density for the TOMX-1/TDR Zone that is lower than in the existing TOMX-2/TDR Zone (.3 vs. .5 FAR).

- Optional Method - Establish a maximum density without TDR use for the TOMX 1/TDR Zone lower than established for the TOMX 2/TDR Zone (.5 vs. 1.6 FAR).
- Optional Method - Establish a maximum density with TDR use for the TOMX 1/TDR Zone lower than established for the TOMX 2 TDR Zone (1 vs. 2).
- Optional Method - Relocate the 20 percent density bonus limitations (on FAR and dwelling units per acre) created for the Shady Grove Master Plan to a footnote applicable for that Master Plan.
- Special Regulations - Replace the dwelling unit standard for calculating TDRs with a standard that allows a set amount of additional square feet of any use allowed in the zone for each TDR. Modify the Plan language to reflect this change.

Planning Board December 10 Worksession Issues

- If the Planning Board wishes to consider added TDR receiving capacity, consider application of the TOMX-2/TDR Zone with a .5 FAR TDR potential on a portion of Site 4 (Site 4 without the USP Building or Fishers Place), Site 6, and Site 8.
- If the Planning Board wishes to guarantee of housing on all TDR receiving sites, consider a requirement of a minimum of 25 percent housing for the TOMX-2/TDR Zone sites, and 50 percent housing on the TOMX-1/TDR site, unless otherwise authorized by the Planning Board.
- Remove the existing conversion standard for Multi-Family TDRs in Metro Station Policy Areas of 3 dwelling units per TDR in the TOMX-2/TDR Zone and Multi-Family TDR zones.
- Consider shifting the TOMX zoning line south to include all JBG properties, but do not include any other additional properties in a TOMX Zone.

PUBLIC HEARING TESTIMONY (CONTINUED)

Halpine Apartments

Testimony

In a letter received on December 10, 2007, owners of the Halpine Apartments testified that this 564-unit property should be included in the Twinbrook Plan area because it is within a 15 minute walk of the Metro Station. He stated that the apartments are deteriorating and redevelopment could contribute to the desired pedestrian access and add to the stock of new multi-family units.

Plan Recommendation

The garden apartments located on the east side of Twinbrook Parkway were not included in the plan area, as they were considered to be an important resource of moderate density market rate affordable housing.

Discussion

These property owners did not approach the staff until the December 10, 2007 Worksession, and the property is outside the Plan area established several years ago. In response to the letter, these properties are in proximity to the Metro Station and redevelopment in Twinbrook. They could remain as an important market rate affordable housing resource, or they could be considered as an area that would continue the urban oriented development pattern. An evaluation of the area is too complex an undertaking at this stage of the planning process.

Recommendation

As noted for the "Pike Center" property on Rockville Pike discussed at the December 10 Worksession, the property should be examined in greater detail through a process that will allow an estimation of the community, traffic, school impacts of a zoning change, and allow for a public participation process.

I-4 Zone: Boundary***Plan Recommendation***

The Plan recommends continuing use of the I-4 Zone for 62 acres of the Plan area to protect the economic viability of the smaller light industrial, service commercial businesses that serve the residents and businesses in this part of the county. The recommended modifications to the I-4 Zone's development standards allow existing businesses to make best use of their small lots. These businesses provide diverse and skilled jobs, and they are well located to minimize land use conflicts, offer entrepreneurs an ownership opportunity, and make use of transit services. These modifications recognize that the county has a small amount of industrially zoned land that is often redeveloped for housing and office uses.

Testimony

Pam Lindstrom representing the Sierra Club testified that the Plan recommendations preserve too much land as I-4 and that instead, industrial uses should be allowed in the TOMX Zone.

Discussion

The traditional and advanced high technology industrial services in this area serve residents and businesses in a large portion of the central county. In this convenient, central location, they limit automobile trips out of the county.

Rezoning to TOMX is unlikely to preserve the industrial services. It would instead force out industrial uses in favor of office or residential development. As the area's character changed, land use conflicts might arise, and force out more industrial uses. Finally, rezoning would require assembling lots and would remove the option for small land owners. This pattern can be seen in the area north of Fishers Place, where I-1 zoned land has developed with offices.

Recommendation

The I-4 Zone boundaries as proposed, and with proposed amendments, should be retained.

TOMX Zone: Public Use Space Requirements

Plan Recommendation

The TOMX Zone has a 20 percent public use space requirement for the Optional Method of Development.

Testimony

Christina Ginsberg of the Twinbrook Citizens Association testified that the 20 percent public use space should not count sidewalks, and laboratories should not be built in mixed-use buildings.

Discussion

The calculations for public use space requirements (for TOMX, TS-R, TS-M, RMX, and CBD Zones) do not include portions of sidewalks within the public right-of-way. They do include portions of sidewalks dedicated for public use, plazas, and other improvements located outside the public right-of-way.

Recommendation

Support the definition of public use space in the Zoning Ordinance.

TOMX Zone: TDR Zone and Commercial Uses

Plan Recommendation

Establish TDR receiving capacity on three development sites in the Plan. Allow TDRs to be used for residential and commercial purposes in Site 5.

Testimony

- Pam Lindstrom Sierra Club stated that the Plan should require TDRs for commercial redevelopment.
- Gary Erenrich, representing the County Executive, stated that there are inconsistencies in the number of TDRs in differing sections of the Plan.

Discussion

The staff draft reflects the need to create TDR receiving capacity in all master and sector plans, and a directive for this Plan to create commercial TDR methodology.

Recommendation

The use of TDRs that allows commercial use is proposed in the Plan. Inconsistencies in the text will be resolved if the Planning Board accepts the concept.

TOMX Zone: Density Caps and Bonuses***Plan Recommendation***

The Plan recommends TOMX zoning at various densities. The zone is intended to encourage the emerging technology uses, complement them with housing, retail, and office uses, and create a pedestrian oriented public environment.

Testimony

Bob Dalrymple, representing the Somerset Company testified in support of the zone's flexibility, but requested a clarification as to whether the Plan's density caps for residential use reflect the additional units created by the density bonuses for affordable housing and if those units have been calculated into the capacity analysis for schools and transportation.

Discussion

The Plan estimates the number of housing units based on the zone's requirements, the Plan's density caps, and whether sites develop as single use residential sites or as mixed sites with commercial uses. The numbers reflect a realistic estimate of dwelling units that would be built, and not the full capacity of the zone.

This estimate of units is a moving target because it is hard to judge future market demand, and this is compounded in the flexible environment of a mixed-use zone. Transportation and school capacity calculations were always calculated using the highest likely number of units (including the potential density bonus units for affordable housing) and commercial square footage to ensure a fair estimate of future demand of public facilities.

Recommendation

The Plan text will be amended to include a clear explanation of the calculations of housing generation and a clarification of the bonus densities and TDR capacity that would be generated. The transportation analysis that will be included in the Plan's appendix will also include a clear explanation of the numbers.

AMENDMENTS TO THE I-4 ZONE

Plan Recommendation

The Sector Plan recommends amendments to the I-4 Zone that would modify the development standards, and allow a new use in Transit Station Development Areas. The zone as amended will establish development standards that make the best use of small urban lots and allow limited housing as an accessory use to a business. These changes will support the Plan's goal to maintain the area's existing light industrial and commercial service use character.

A correction to the Plan language, on page 83, is required because it incorrectly states that accessory residential uses would be allowed by Special Exception rather than through site plan approval.

Discussion

The changes allow development on properties smaller than one acre (reflecting the existing ownership patterns), and allows multiple buildings on a lot if authorized by the Planning Board. An accessory housing option will allow live/work structures, providing upper floor housing for business owners or employees – if clearly subordinate to the business. The accessory live/work units require site plan review, and they must meet standards to address compatibility, ownership, parking, and size.

The proposed changes are summarized below, and a copy of the proposed Zoning Text Amendment is attached.

- **Uses Allowed** – An accessory residential unit (defined in 59-A) is allowed under the Optional Method, and under Site Plan procedures, if it meets certain limiting requirements.
- **Development Standards** – Special standards for sites in a Transit Station Development Area are established, applicable under the Optional Method of Development, and requiring Site Plan approval. This would also be applicable for I-4 Zoned properties near Metro in White Flint and Silver Spring. These include:
 - (a) **Setbacks** – Less setback is required, as low as 10 feet from a roadway.
 - (b) **Area Requirements** – The I-4 Zone currently has a minimum one-acre lot size, geared to suburban locations, but unnecessary for urban sites near Metro stations and for those developed on smaller, previously residential lots. The proposed amendment would allow, for areas near Metro, development on smaller lots.
 - (c) **Green Area** – The amendment would allow reduction of the green area requirement for areas near Metro, from 20 percent to 10 percent recognizing

the area's industrial and urban – not suburban and residential - character. This reduction matches the public use space requirement in the CBD Zone.

- **Accessory Residential Use Standards** - The Sector Plan envisions the potential for limited use of live-work structures, providing upper floor housing for business owners, managers, or employees – if clearly subordinate to the main business. These structures will incorporate living and working space, provide locations where new businesses can start up, and provide opportunities for people to live near frequent public transit without disrupting the primary focus of the zone.

The Zone will provide limited housing potential. Because of transit access, the housing will not impact traffic to any measurable degree. The purpose is to support the primary economic function of the area, not to create significant housing resources.

Accessory residential units in the I-4 Zone, located in Transit Station Development Areas, would only be applicable for Twinbrook, White Flint, and a few sites in the Silver Spring CBD, which are appropriate locations for this type of limited housing potential. The use would be further limited to commercial or service use structures, protecting any potential residential use from incompatible industrial uses.

Accessory residential units would be permitted under the Site Plan review standards of the Optional Method with standards to include:

- (a) Dwelling units must be compatible with existing or potential uses in the zone.
- (b) Housing must not be located on the first floor, and the building must be used primarily for commercial purposes.
- (c) The commercial activity in the building must have a valid business license.
- (d) The housing is to be used only by the owner or employees of a business.
- (e) One, off-street, parking space must be provided for each unit.
- (f) They must meet county building requirements for residential uses.
- (g) Before receiving a building permit, all owners would have to submit a declaration of use, recorded on the Site Plan.
- (h) An affidavit must be submitted with any application for the use stating that the dwellings are for use only by the owner or employees of the business.

Recommendation

Approve the proposed Zoning Text Amendment for modifications to the I-4 Zone for transmittal to the County Council with the Twinbrook Sector Plan. Make technical modifications to the language in the Public Hearing Draft Sector Plan reflecting a mistake that identifies the Accessory Residential Use as permitted by Special Exception.

TOMX ZONE AMENDMENTS

Plan Recommendation

The Plan recommends the creation of the already anticipated TOMX-1 Zone and TOMX-1/TDR Zone, as discussed during the deliberations on the Shady Grove Master Plan. Modifications to the TOMX-2 and TOMX-2/TDR Zones are also proposed that broaden their application for urban areas. (*ZTA Lines 12-13*)

Other modifications to the TOMX/TDR zones incorporate the use of non-residential TDR receiving capacity. Also the calculation of TDRs for dwelling units in Metro Station Policy Areas is removed.

The Euclidean TOMX Zones are recommended rather than the floating TS-R and TS-M Zones used previously. These mapped zones provide more certainty in development patterns and require Site Plan approval in the standard method. The biggest problem with the prior use of recommended floating, mixed-use zones has been that they are an optional choice, not a requirement. Too often developers have chosen to develop under the existing mapped zone (I-1 and O-M Zones) resulting in development that does not reflect the vision of the Plan.

Therefore, a decision was made in Twinbrook to follow the pattern established in Shady Grove to map the intended mixed-use zone and establish more regulatory control over building design and context, for both Standard and Optional Method Development.

Discussion

The TOMX-1 and TOMX-1/TDR Zones are added to the existing TOMX-2 and TOMX-2/TDR zones, as anticipated. The staff is committed to the creation of this template of mixed-use zones to be used in transit accessible areas that can replace the patchwork of multiple, single purpose zones that unnecessarily complicate the development review process, and deflect attention from the important design aspects of project review. A third, higher density TOMX Zone is anticipated for the White Flint Sector Plan. (*ZTA Lines 13-13, 29-30*)

The changes proposed for the Twinbrook Plan are written so that the purpose and intentions for the Shady Grove Plan are not affected, but will allow a less complicated process more oriented to design and form elements for Twinbrook and subsequent urban area plans.

Uses Allowed – The table of uses is simplified in two ways: (*ZTA Line 102*)

- First, the number of uses listed is consolidated and reduced. The proposed use categories allow all uses that are in the existing TOMX-2 Zone, but the staff believes that in the mixed-use environment of this zone, continuing the “fine grained” differentiations in types of retail, institutional, or some other uses found in most other zones is not necessary. These broader and more inclusive categories better reflect the zone’s mixed-use intent, and move toward zoning that is more oriented to building *form* than building *uses*.
- Second, the same uses are allowed in all the TOMX and TOMX/TDR applications, again reflecting that the form standards and intensity separate the different TOMX Zones, not use categories.

Development Standards – Standards for the new TOMX-1 generally mirror the existing standards for the TOMX-2 Zone other than density, and include (*ZTA Line 116*):

- **Net lot area** – TOMX 1 is the same as the existing TOMX-2
- **Building coverage** - TOMX 1 is the same as the existing TOMX-2
- **Public use space** - TOMX 1 is the same as the existing TOMX-2
- **Setbacks** - TOMX 1 is the same as the existing TOMX-2
- **Density of development**
 - Standard Method TOMX 1 is the same as the existing TOMX-2
 - Optional Method TOMX 1 is 1 FAR, compared to 2 FAR for TOMX-2
(*also establishes ability of the Master Plan to limit density below the maximum*)
- **Building height** (*Standard Method, height not defined in the Optional Method*)
 - Standard Method TOMX 1 is 2 stories / 28 feet
 - Standard Method TOMX 2 is 3 stories (new standard) / 35 feet

Additional form-oriented standards could be proposed for these zones during the Zoning Rewrite project now underway.

All special standards and guidelines for Standard and Optional Method of Development for the TOMX Zones are unchanged, applicable for the TOMX-1 or TOMX-2 Zones.

Development Requirements - Site Plan and Project Plan requirements are added for the TOMX-1 Zone and the TOMX-1/TDR Zone. (*Line 132-228*)

TOMX/TDR ZONES AMENDMENTS

Plan Recommendation

The Zoning Text Amendment establishes the TOMX-1/TDR Zone, and modifies the TOMX-2/TDR Zone to permit a process that does not use a “dwelling units per acre”

type of restriction. The intended applications for the Shady Grove Master Plan are retained, but the overall intensity of the zone is not changed. In addition, a modification to the Plan, based on research developed since the introduction of the Staff Draft, is recommended. This process establishes a “square foot” density bonus for TDRs, applicable for any allowed use in a mixed-use structure, instead of “residential” vs. “commercial” use for TDRs.

Discussion

Method of Development - The zones use these two levels of development standards (*ZTA Lines 231-254*):

Development Standards - Standards are proposed for the TOMX-1/TDR Zone and some of the standards for the TOMX-2/TDR Zone are modified. (*ZTA Line 255*)

- **Land Uses** – The land uses categories for the TOMX-1/TDR Zone are the same as set for the TOMX-2/TDR Zone.
- **Standard Method of Development**
Maximum density without TDR use is set at very low thresholds:
 - TOMX 1/TDR .3 FAR (*new zone*)
 - TOMX 2/TDR .5 FAR (*existing zone standard*)

The 20 percent density bonus with the use of TDRs is used for the new TOMX-1/TDR Zone, as in the existing TOMX-2/TDR Zone.

- **Optional Method of Development**
 - Maximum density allowed without use of TDRs is somewhat higher than under the Standard Method. A provision is added clarifying that a lower level may be set in the master or sector plan, but not lower than the level established for the Standard Method.

TOMX 1/TDR	.5 FAR (<i>new zone</i>)
TOMX 2/TDR	1.6 FAR (<i>existing zone standard</i>)

- Maximum density of development with use of TDRs reflects that a lower maximum may be established in the master or sector plan.

TOMX-1/TDR	1 FAR (<i>new zone</i>)
TOMX-2/TDR	2 FAR (<i>existing zone standard</i>)

The dwelling unit per acre limitations, and the 20 percent limit on increased density and dwelling units per acre through TDR use that were established for the Shady Grove Master Plan are deleted from the table, but retained in a footnote as applicable for Shady Grove.

Special Regulations / Applicability

A calculation of TDRs allowing residential or commercial use is included. (*ZTA Line 258-263*)

- **Residential TDRs vs. Commercial TDRs** - The staff recommends amending the language of the TOMX/TDR Zone and the Plan language with regard to the use of TDRs in the TOMX Zones to incorporate a broader approach to the use of TDRs for this urban mixed-use zone. Rather than establishing TDR use for residential vs. commercial (or other) uses, the staff recommends the use of “gross square foot” density bonus for use of TDRs.

The commercial use of TDRs has long been considered, but as county land use policies have evolved into building mixed-use urban centers, a mixed-use approach for TDRs would provide the most flexible system. Through this approach the TDR program will provide a density bonus applicable for whatever uses are allowed in these zones. If certain types of uses (like housing) are desired, the Master or Sector Plan can require certain levels of that use.

The staff recommends that the TOMX/TDR Zone be modified to establish that TDRs in this zone be measured at 2,500 gross square feet, applicable for any use allowed in the zone. This calculation reflects the average size of a multi-family dwelling unit in Metro Station Policy areas (two multi-family dwelling units allowed per TDR – 2,500 square feet).

This could affect the anticipated number of dwelling units that could be expected in master plans where multi-family TDR Zones are recommended. For example, the change could have an impact on the Shady Grove Master Plan to the extent that some developers might choose to use TDRs for nonresidential purposes, but other language in that Plan and the retained dwelling unit per acre standard will serve as safeguards to the residential intent.

This change will also require a modification of the Plan language with respect to Site 5, changing the recommendation to “allowing commercial potential” for .3 to .5 FAR, and requiring residential use of TDRs up to 1 FAR.

- **BLT TDRs** - A specific calculation/recommendation for the use of “BLT” or “buildable” TDRs was not included in the zone or the Sector Plan. But this task is proceeding on a separate track. Staff is currently working on ways to provide receiving capacity and incentives for these TDRs, looking at the TDR program holistically. That work will be brought to the Planning Board in early 2008.
- **Development Requirements** – Site Plan and Project Plan requirements are added for the TOMX-1 Zone and the TOMX-1/TDR Zone, as already established for the TOMX-2 and TOMX-2/TDR Zones.

- **Limitations** - Language referencing dwelling unit per acre limitations and bonus density limitations is removed, as this is applicable only in Shady Grove and is already referenced elsewhere. (*ZTA Line 379*)

Recommendation

The recommended modifications to the TOMX zones are important steps that will allow this zone to be broadly used in transit oriented areas. They expand the potential for use in urbanizing Metro Station areas such as White Flint and the transit stations along the Corridor Cities Transitway, while protecting the carefully crafted intent for Shady Grove.

The modifications allow a wide range of flexibility for the applicant in uses, and important incentives that support the TDR program as it expands and evolves. And the modifications give substantial authority to the Master or Sector Plan to limit the full potential, and establish expectations of housing or commercial use, to reflect specific situations in a community.

Further, these changes work toward the goal of creating increasingly form-oriented development standards that can eventually be evolved into true form-based codes. The zones can be further modified as the County continues to explore the potential for form-oriented rather than use-oriented zoning.

These zones will support the redevelopment potential envisioned for Twinbrook and give structure to the redevelopment potential soon to be evaluated for White Flint. The staff recommends support for the Zoning Text Amendment creating the TOMX-1 and TOMX-1/TDR Zones and modifications to the TOMX-2 Zone and TOMX-2/TDR Zones for transmittal to the County Council with the Twinbrook Sector Plan.

PLANNING BOARD ISSUES FROM DECEMBER 10 WORKSESSION

Designated TOMX Zone vs. TOMX/TDR Zone Sites

At the December 10, 2007 Worksession the Planning Board requesting additional information on how the decisions were made regarding which sites should be designated as TDR receiving sites.

Discussion

The policy of the Planning Board and County Council since the inception of the TDR program has been to not “downzone” and require TDR’s to recoup density. For this reason the sites to receive TDR capacity were limited to those that did not already have substantial density in commercial or industrial zones, or existing large structures not likely to be replaced during the life of the Plan.

Since Planning Board discussions have included a desire to discuss this policy, the staff notes that the concept of downzoning has been established as legally admissible in a comprehensive rezoning stemming from a master plan, but requiring a “buy back” of

density through TDRs is less substantiated. The properties in question would, however, only be losing commercial potential, and they would be gaining residential potential.

Recommendation

If the Planning Board wishes to consider this option, the staff recommends that sites in the Technology Employment Area: Site 4 (Site 4 without the USP Building or Fishers Place), Site 6, and Site 8 could be considered for the TOMX-2/TDR Zone rather than the TOMX-2 Zone, as these are the properties most likely to redevelop over the life of the plan. Unlike the already recommended TDR sites, they are currently zoned for high density I-1 development.

Housing Incentives in the TOMX and TOMX/TDR Zones

At the December 10 Worksession the Planning Board questioned whether the Plan goes far enough to require housing in mixed-use developments.

Plan Recommendation

The Plan provides the following recommendations for housing in Twinbrook:

- **Sites 1 and 2:** No commercial development above 1.5 FAR, housing only from 1.5 to 2 FAR (with TDR use above 1.5 FAR).
- **Site 5:** No commercial development above .5 FAR (TDRs required from .3 to .5 FAR), and housing only from .5 to 1 FAR (with TDR use required for all FAR)
- **Sites 6 and 8:** No commercial development above 1.5 FAR, housing only from 1.5 to 2 FAR.
- **Sites 3, 4, and 7:** No specific housing incentives; but the recommended TOMX zoning allows a full range of mixed-use development, including housing.

Discussion

The Planning Board discussion on December 10, 2007 included thoughts on whether the housing incentives should be augmented, especially in the TDR Zones. The Draft Plan envisions housing as a “bonus” incentive for developers using TDRs. The Planning Board thoughts included the concept of making a certain level of housing a requirement in those zones, and making commercial development the “bonus incentive”.

The staff recommendations derived from the current amount of commercial potential in the existing zoning on these properties. Previously, the Planning Board policy was to not “downzone” existing properties unless they were in an area where growth was not anticipated. That is not the case in this location.

But these properties do not currently have residential potential, and the owners have expressed interest in having the option for residential potential. So while a housing base requirement may limit their options to a certain degree, it also gives them options not currently available.

If the Board wishes to consider a housing requirement for the TDR Zones, two options are suggested. All redevelopable sites could be required to provide a minimum amount of housing, either through a required level of FAR or as a required percent of development on the site. The Planning Board could be given the option of reducing the housing requirement for instances such as a technology company building a headquarters/laboratory structure that would not be an optimum location for housing.

Recommendation

If the Planning Board prefers to require a certain amount of housing for TDR receiving sites in Twinbrook, the staff suggests a minimum of 25 percent housing for the Metro Area TOMX-2/TDR sites, and a minimum of 50 percent housing for the TOMX-1/TDR site, without changing any other requirements.

This modification to the Plan provides a guaranteed base of housing on the TDR sites but still allows flexibility for developers. It would not significantly limit commercial potential, and would give property owners residential options not now available. And housing would also still be required to achieve full density potential.

TDR Calculation Methodology

Existing Zoning Language

The TOMX-2/TDR Zone and the Multi-Family TDR Zones establish a ratio of three multi-family dwelling units per TDR.

Discussion

The Planning Board discussion on December 10, 2007 indicated that Board members believe that this standard is an unnecessarily large density bonus. The concept of a higher TDR value for the Metro Station Policy Areas reflects a desire to make the use of TDRs more attractive for developers. To date, no TDRs using multi-family housing have been used. The additional commercial potential may hold more interest for developers in urban areas than additional residential units.

Recommendation

Remove the existing conversion standard for Multi-Family TDRs in Metro Station Policy Areas of 3 dwelling units per TDR. This language should also be removed from the Multi-Family TDR zones.

Adjust the TOMX Zoning Line to Include Sites South of Montgomery Avenue

Plan Recommendation

The Plan recommends drawing the zoning line between the TOMX-2 Zone and the I-4 Zone to focus redevelopment on Parklawn Drive, placing the southern line of the TOMX-2 Zone roughly along Montgomery Avenue. This zoning is referenced in Plan on page 30, as Area 8 and on page 33 as part of Area 9, and on maps and illustrations on pages 26, 27, 31, and 32.

Testimony

Greg Trimmer, representing JBG, the sites' owner requested that the zoning line be shifted south to include their sites across Montgomery Avenue, allowing a more cohesive development with their site north of Montgomery Avenue.

Mr. Tony Puglisi, representing his family who owns a piece of property at the corner of Montgomery and Carroll Avenues spoke in support of the Plan's recommended amended I-4 zoning on his site.

Mr. Neng-Hsiang Wang testified on behalf of the Taiwanese Presbyterian Church and the Bethesda Presbyterian Church which own property on Arundel Avenue. They would like the TOMX-2 Zoning line shifted south to include their property, which is close to Metro and should extend the vision of the Plan for high-technology and redevelopment.

Discussion

The sites represented by Mr. Puglisi and Mr. Wang would be allowed development at 0.5 FAR under Standard Method using the TOMX-2 Zone. They could not develop under the Optional Method TOMX-2 Zone because neither site is large enough. Under I-4, both zones would be allowed to develop up to 1 FAR.

Recommendation

The staff agrees that shifting the zoning line south to include the JBG properties will best serve the area. Since the Puglisi property is on the edge of the area, the I-4 Zone or the TOMX Zone is appropriate.

The staff does not support shifting the line farther south to include the church property. Even though it is within the one quarter mile radius of the Metro station, it is separated by a significant grade change and Twinbrook Parkway. Shifting the zoning line south would limit their industrial services operations of neighboring properties, contrary to the Plan's goal to maintain a light industrial district.

As noted above, the church site is too small to develop under the full TOMX-2 Zone density and it would be limited to 0.5 FAR, unless assembled with other sites. The proposed amended I-4 Zone would allow a 1 FAR.

CONCLUSION

The staff recommends approval of the Twinbrook Sector Plan, to modify the Public Hearing Draft of the Sector Plan, and transmittal as the Planning Board Draft to the County Council and Executive.

Attachments:

Letter: Linowes and Blocher

Letter: Pam Lindstrom

Proposed Zoning Text Amendment: TOMX Zone

Summary Land Use Table Changes

Proposed Zoning Text Amendment: I-4 Zone

JD:rb

G:\Judy\Twinbrook\12 20 staff report JD

LINOWES
AND | BLOCHER LLP
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December 10, 2007

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Silver Spring, Maryland 20910

Hand Delivered

Re: Halpine Apartments: 12813 Twinbrook Parkway, 13001 Twinbrook Parkway and 5508
Dowgate Court, Rockville (the "Property") – Twinbrook Sector Plan Amendment

Dear Chairman Hanson:

I am one of several owners of the referenced property, an existing 564 unit multi-family project currently classified in the County's R-30 Zone. The property fronts on the southeast side of Twinbrook Parkway and begins within approximately 2,000 feet of the Twinbrook Metro Station (10-15 minute walk radius). The purpose of this letter is to have the Planning Board instruct the staff to include the Property in further planning efforts relating to the Twinbrook Sector Plan and to provide the Property with suitable zoning to allow for redevelopment of the Property with new multi-family residential uses.

The owners of the Property gathered very recently to discuss the strategic plan for the Property, and given the age of the apartments and the deteriorating conditions of the dwelling units, it is the decision of the owners to redevelop the property as opposed to continuing to invest money in the units (the units are wood construction and not easily capable of meaningful rehabilitation). It is unclear to us why the Property would not have already been considered as part of the Twinbrook Sector Plan given the proximity of the Property and the relationship of it to other properties that are included. Rather, it would appear to be of good planning sense to comprehensively include the areas fronting on Twinbrook Parkway and that otherwise are not separated by any natural barriers or division lines that logically dictate exclusion. It is also already noted in the draft Sector Plan the importance of well-planned pedestrian, vehicular and bicycle access through the block of properties roughly defined by Parklawn Drive, Twinbrook Parkway and Parklawn Cemetery, and this is yet another reason to include these impacted properties in the comprehensive planning and zoning process.

The Honorable Royce Hanson
December 10, 2007
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While we understand that the draft Sector Plan has been the subject of several community and public meetings, this plan is intended to shape the area for many years to come; accordingly, it is appropriate for the Planning Board to include the properties necessary to allow a truly comprehensive look at the area to evolve. From this point forward, the owners do anticipate being active in this planning process through the Planning Board recommendation and ultimately County Council action. We appreciate your consideration.

Very truly yours,

LINOWES AND BLOCHER LLP


Joseph P. Blocher

cc: C. Robert Dalrymple, Esquire
Anne C. Martin, Esquire

To: Planning Board and Staff
From: Pam Lindstrom Via Email
Re: Twinbrook staff report, 10 Dec 2007

I dislike harping on what may seem an arbitrary point, but the issue reflects the moral standing of this plan. You can't keep using the wrong numbers for housing and job yield that give false hope of achieving a housing goal. I complained about the numbers in the draft plans, there are different numbers in this new staff report. But they are still incorrect. The staff report's housing number (p.5) of 3,082 is contradicted in the very paragraph above on the same page, which gives the same plan estimate as always: 500-1200.

The only way a plan capacity over 3000 can be achieved is by including all the housing in the JBG development that was annexed into the City of Rockville. But the plan capacity given as 9,084 jobs clearly includes only the area covered by the current draft plan. The following numbers are not some sort of estimate that I think of myself, but are the actual numbers in the Round 7.0 forecast which was produced by your own research staff. The numbers are given by traffic zone and by policy area.

Twinbrook policy area comprises only one traffic zone - 122. The current employment in TZ 122 in 2005 was 10,933, forecast for 2030 is 12,087. Coincidentally, this is the same job number as the staff report gives for the ultimate capacity of the OLD plan. Staff assumes that the NEW draft includes fewer jobs since it covers a smaller area. However, the new draft in no way reduces the job capacity of the plan; rather it is increased somewhat by the effort to intensify development in the I-4 area.

Yet the staff's table includes the housing for the larger area from the OLD plan! The JBG or Rockville part of the Twinbrook Metro station area is now divided between Traffic Zones 122 and 173, divided by the railroad. Thus over half the housing is in TZ 173. The correct 2030 estimates for the draft plan area only (not including JBG) would be as follows:

	OLD PLAN	CURRENT DRAFT PLAN
Housing	0	500-1200
Jobs	10,000	12,000*
Ratio	not defined	about 20 - 10

* This assumes that about half the JBG development is east of the tracks in TZ 122 and half is to the west in TZ 173. Assumes higher job capacity in the I-4 area.

If one assumes the 1992 Plan area that includes part of the JBG development east of the tracks, the 2030 estimate would be as follows:

	OLD PLAN	CURRENT DRAFT PLAN
Housing	1642	1300-2000
Jobs	12,087	14,000
Ratio	7.4	about 10 - 7

At the risk of belaboring the point, the only way to get to 3000 or more housing units is to include the whole JBG development, but in that case one must add still more jobs. Thus the ratio would stay about the same. I realize that this is tedious to sort out, due to the annexation of part of the planning area. But that is not a reason to put incorrect numbers in this plan that give the illusion that this plan is improving the job/housing balance in the Rockville/North Bethesda area. I also realize that figuring out the exact numbers for the current Twinbrook plan area is not the right issue to address. The right way to do this is by considering a larger area. But such a calculation leads to the same conclusion: more housing is needed relative to fewer jobs, if this plan is to achieve its stated goal of "improving the balance of jobs and housing in the I-270 Corridor".

Zoning Text Amendment No: 07-
Concerning: Modify Transit-Oriented Mixed
Use Zone
Draft No. & Date: 1 – 12/6/07
Introduced:
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**

By:

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

- modifying the Transit Oriented Mixed-Use Zone, including the transferable development rights provisions to allow three levels of development; and making plain language, stylistic and consistency modifications to Article D to accommodate the TOMX Zone

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

DIVISION 59-C-13 “TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)
ARTICLE 59-D “ZONING DISTRICTS—APPROVAL PROCEDURES”

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.*

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-13 is amended as follows:**

2
3 **DIVISION 59-C-13 TRANSIT ORIENTED, MIXED-USE ZONE[S] (TOMX)**

4
5 **Sec. 59-C-13.1. Zone[s] established.**

6
7 **59-C-13.11 Zone[s] permitted.**

8
9 These zones are permitted in transit station development areas as defined in Section 59-
10 A-2.1.

11
12 TOMX-1.0

13 TOMC-1.0/TDR

14 TOMX-2.0

15 TOMX-2.0/TDR

16
17 **Sec. 59-C-13.2. Provisions of the Transit Oriented, Mixed Use Zone[s].**

18
19 **59-C-13.21. Description, purpose, intent and general requirements**

20
21 **59-C-13.211. Description.**

22
23 Each Transit Oriented Mixed Use Zone is intended to be shown on a master or sector
24 plan. The TOMX Zones are a continuum of Euclidean zones with a range of increasing
25 densities permitted. The zones provide incentives to redevelop transit areas into distinct
26 and compact mixed-use centers for housing, retail, service, and employment
27 opportunities and include public use space and appropriate public facilities and amenities.

28
29 The TOMX-1.0 Zone is intended for moderate density development near transit station
30 development areas, as defined in Section 59-A-2.1.

31 The TOMX-2.0 Zone is intended for medium density development adjacent to transit
32 station development areas, as defined in Section 59-A-2.1.

59-C-13.212. Intent.

The intent of the TOMX Zones is to provide mixed use, transit and pedestrian oriented centers that include housing, commercial, biotechnology and research and development uses. These zones are intended to foster development by permitting an increase in density and height when such an increase conforms to master plan or sector plan recommendations. Land shall be classified in any transit oriented, mixed-use zone only if it is recommended in an approved and adopted master plan or sector plan. The TOMX zones are intended to accomplish the following:

- (a) To create mixed use transit oriented development with an interconnected street system defined by buildings, open spaces, public facilities and amenities that are arranged to create a setting for community life.
- (b) To provide incentives and flexible development standards for mixed-use, transit and pedestrian oriented development that create a compatible network of interconnecting streets, open squares, plazas, defined streetscapes, and civic and community oriented uses as recommended in applicable master and sector plans.
- (c) To encourage land assembly in a compact and efficient form that achieves a compatible mix of uses in accordance with the approved and adopted master plan and sector plan.
- (d) To provide housing, including affordable housing, near transit station development areas.
- (e) To encourage Leadership in Energy and Environmental Design (LEED) standards for sustainable and efficient design.
- (f) To improve access within the mixed use transit station development areas as well as from the surrounding communities.

59-C-13.213. Reserved.

59-C-13.214. Location.

Land classified in a [the] TOMX [2.0] Zone must be located in a transit station development area as defined in Section 59-A-2.1.

59-C-13.215. Methods of development and approval procedures. Two methods of development are available in this zoning category.

(a) **Standard Method of Development:** The standard method requires compliance with a specific set of development standards and permits a range of uses and a density compatible with these standards. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site. Site plans must be approved in accordance with section 59-D-3.

(b) **Optional Method of Development:** The Optional Method of Development promotes additional densities, and supports innovative design and building technologies to create a pedestrian-oriented and mixed-use development pattern. Approval of the Optional Method of Development is dependent on providing required public amenities and facilities. The public facilities and amenities are intended to support the additional densities permitted under the Optional Method of Development. The procedure for the approval of the Optional Method of Development is set forth in Section 59-D-2. Site plans must be approved in accordance with Section 59-D-3. If residential uses are included in a development, Moderately Priced Dwelling Units must be provided as required by Chapter 25A and workforce housing units must be provided as required by Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

59-C-13.22. Land uses.

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

* * *

	TOMX 1.0 and 2.0	
(a) Residential:	Standard	Optional
Dwellings	P	P
[Group home, small	P	P
Group home, large	P	P
Hotel or motel	P	P
Housing and related facilities for senior adults or persons with disabilities	P	P
Life care facility	P	P]
Personal living quarters	P	P
<u>Transient lodging facility</u>	<u>P</u>	<u>P</u>
(b) Transportation, communication and utilities:		
<u>Automobile parking facility</u>	<u>P</u>	<u>P</u>
Public utility buildings, structures and underground facilities	P	P
[Radio and television] broadcasting studio	P	P
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room	P	P
Taxicab stand, not including storage while not in use	P	P
(c) Commercial including office and retail, and service:		
[Antique shops, handicrafts or art sales and supplies	P	P]
<u>Animal boarding place</u>	<u>SE</u>	<u>SE</u>
<u>Automobile filling station</u>	<u>SE</u>	<u>SE</u>
<u>Automobile rental services</u>	<u>P</u>	<u>P</u>
<u>Automobile sales, retail showroom</u>	<u>P</u>	<u>P</u>
[Book store	P	P]
Eating and drinking establishment, excluding drive-in	P	P
[Drug store	P	P]
<u>Dry cleaning and laundry facility</u>	<u>SE</u>	<u>SE</u>
<u>Dry cleaning and laundry pickup station</u>	<u>P</u>	<u>P</u>
[Florist shop	P	P]
<u>Convenience [F] food and beverage store, without fuel sales</u>	P	P
[Furniture store, carpet or related furnishing sales or service	P	P
Gift shop	P	P]
Grocery store	P	P
<u>Hair and body care establishments</u>	<u>P</u>	<u>P</u>
<u>Home occupation, no impact or registered</u>	<u>P</u>	<u>P</u>
<u>Home occupation, major</u>	<u>SE</u>	<u>SE</u>
[Hardware store	P	P
Office supply store	P	P]
<u>Meeting center</u>	<u>P</u>	<u>P</u>
Office, general	P	P
<u>Recreational or entertainment establishments</u>	<u>P</u>	<u>P</u>
<u>Retail establishments</u>	<u>P</u>	<u>P</u>
<u>Theater, indoor</u>	<u>P</u>	<u>P</u>
<u>Theater, legitimate</u>	<u>P</u>	<u>P</u>
[Office, professional including banks and financial institutions (excluding check cashing stores)	P	P

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Offices for companies principally engaged in health services, research and development	P	P
Newsstand	P	P
Photographic supply store	P	P
Pet sales and supply store	P	P
Specialty shop	P	P
Wearing apparel store	P	P]
[(d) Services:		
Adult foster care homes	P	P
Ambulance or rescue squad, publicly supported	P	P
Animal boarding place	SE	SE
Art, music and photographic studios	P	P
Automobile filling station	SE	SE
Automobile rental services, excluding automobile storage and supplies	P	P
Barber and beauty shop	P	P
Charitable and philanthropic institutions	P	P
Clinic	P	P
Child daycare facility:		
- Family day care	P	P
- Group day care	P	P
- Child day care center	P	P
Daycare facility for not more than 4 senior adults and persons with disabilities	P	P
Domiciliary care for no more than 16 senior adults	P	P
Dry cleaning and laundry pick-up station	P	P
Duplicating services	P	P
Educational, private institution	P	P
Home occupation, no impact	P	P
Home occupation, registered	P	P
Home occupation, major	SE	SE
Hospice care facility	P	P
Hospitals, veterinary	SE	SE
International public organization	P	P
Place of religious worship	P	P
Publicly owned or publicly operated uses	P	P
Self storage		P ¹
Shoe repair shop	P	P
Tailoring or dressmaking shop	P	P
Universities and colleges providing teaching and research facilities	P	P]
<u>(d) [(e)Research and Development and Biotechnology]</u>		
<u>Industrial uses</u>		
Laboratories	P	P
Advanced Technology and Biotechnology	P	P
<u>Light [M]manufacturing</u> [, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals,	P	P

toiletries and products resulting from biotechnical and biogenetic research and development]		
[Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment	P	P]
Research, development and related activities	P	P
<u>Self storage facility</u>		<u>P</u> ¹
[(f) Cultural, entertainment and recreational:		
Auditoriums or convention halls	P	P
Billiard parlor	P	P
Bowling alley	P	P
Health clubs and gyms	P	P
Libraries and museums	P	P
Park and playgrounds	P	P
Private clubs and service organizations	SE	P
Recreational or entertainment establishments, commercial	P	P
Theaters, indoor	P	P]
(e) Institutional uses		
<u>Adult foster care homes</u>	<u>P</u>	<u>P</u>
<u>Auditoriums or convention halls</u>	<u>P</u>	<u>P</u>
<u>Charitable and philanthropic institutions</u>	<u>P</u>	<u>P</u>
<u>Clinic, medical or dental</u>	<u>P</u>	<u>P</u>
<u>Child day care facility</u>	<u>P</u>	<u>P</u>
<u>Adult day care facility</u>	<u>P</u>	<u>P</u>
<u>Domiciliary care home</u>	<u>P</u>	<u>P</u>
<u>Educational, private institution</u>	<u>P</u>	<u>P</u>
<u>Group home</u>	<u>P</u>	<u>P</u>
<u>Hospital, veterinary</u>	<u>SE</u>	<u>SE</u>
<u>Hospice care facility</u>	<u>P</u>	<u>P</u>
<u>Housing and related facilities for senior adults or persons with disabilities</u>	<u>P</u>	<u>P</u>
<u>International organization</u>	<u>P</u>	<u>P</u>
<u>Libraries and museums</u>	<u>P</u>	<u>P</u>
<u>Life care facility</u>	<u>P</u>	<u>P</u>
<u>Parks and playgrounds</u>	<u>P</u>	<u>P</u>
<u>Place of religious worship</u>	<u>P</u>	<u>P</u>
<u>Private clubs and service organizations</u>	<u>SE</u>	<u>P</u>
<u>Publicly owned and operated uses (includes ambulance or rescue squad)</u>	<u>P</u>	<u>P</u>

1 Only if recommended in the applicable master plan or sector plan and limited to a maximum FAR of .75.

59-C-13.23. Development standards.

The development standards applicable to the Standard Method and Optional Method of Development are set forth in this section. In addition to the requirements specified in this table, all Optional Method of Development projects must be consistent with the guidelines established in the applicable master plan or sector plan.

	TOMX-1.0		TOMX- 2.0	
	<u>Standard</u>	<u>Optional</u>	<u>Standard</u>	<u>Optional</u>
59-C-13.231. The minimum net lot area required for any development (in square feet): Provided, however, that a smaller lot may be approved for [the] a TOMX zone[s] where such lot is designated [for one of these] <u>the</u> zone[s] on an approved and adopted master plan or sector plan, the lot is located adjacent to or confronting another lot either classified in or under application for either zone, and the combined lots are subject to a single project plan subject to approved or approved by the Planning Board. The required minimum area does not prohibit a lot of less than 18,000 square feet for purposes of subdivision or record plat approval.		<u>18,000</u>	-	18,000
59-C-13.232. Maximum Building Coverage (percent of net lot area):	<u>75</u>		75	
59-C-13.233. Minimum Public Use Space (percent of net lot area):	<u>10</u>	<u>20</u>	10 ¹	20 ²
59-C-13.234. Maximum Density of Development³ (floor area ratio):	<u>0.5</u>	<u>1.0⁵</u>	[FAR] 0.5	[FAR] 2.0 ⁵
59-C-13.235. Maximum Building Heights:				
- in stories	<u>2</u>		<u>4</u>	
- in feet	<u>28</u>		50[feet]	
- If adjoining or directly across the street from land recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less				
- in stories	<u>2</u>		<u>3</u>	
- in feet	<u>28</u>		35 [feet]	

	Standard	Optional	Standard	Optional
59-C-13.236. Minimum Setbacks:				
- From an adjacent TOMX Zone ⁴	<u>15 feet</u>		15 feet	
- From an adjacent commercial or industrial zone	<u>20 feet</u>		20 feet	
- From an adjacent single family residential zone	<u>25 feet</u>		25 feet	
- From a public right-of-way	<u>10 feet</u>		10 feet	

- 1 The required standard method public use space may be reduced to 5% if the Planning Board finds that the reduction is necessary to accommodate the construction of MPDUs, including any bonus units, on-site.
- 2 The required optional method public use space may be reduced or eliminated to accommodate the construction of MPDUs, including any bonus density units, on-site, if an equivalent amount of public use space is provided off-site in the same transit station development area within a reasonable time.
- 3 The maximum dwelling unit density or residential (FAR) may be increased in proportion to any MPDU density bonus provided on-site.
- 4 If the proposed building or the adjacent building has windows or apertures facing the lot line that provide light, access or ventilation to a habitable space the setback shall be 15 feet. If the adjacent building does not have windows or apertures no setback is required.
- 5 Unless a lower standard is established in the applicable master or sector plan.

59-C-13.237. Special standards and guidelines for Standard Method and Optional Method of Development projects.

- (a) Public use space, amenities and facilities: The mixed-use character of the Transit Oriented, Mixed Use Zones requires significant public amenities to create a transit and pedestrian-oriented mixed-use environment.

Public amenities and facilities are not limited to the definition in Section 59-A, but also include: pocket and urban parks, town squares, public plazas and water features, wide sidewalk areas, bus shelters, benches, special street lighting and paving, construction and enhancement of pedestrian tunnels and bridges, public art, landscaping of public areas, and improvements to pedestrian access to transit stations. Public amenities do not include road improvements or other capital

projects that are required to provide adequate facilities in a timely basis to serve the property.

All public amenities must be in locations that are accessible to the public. The location, type and nature of the public amenities must be shown on any project plan and site plan as required by Section 59-D-3 and Section 59-D-2.

(b) Site Plan Guidelines for the Optional and Standard Method of Development:

- Orient all buildings to streets, which will encourage pedestrian-oriented development.
- Locate off-street parking to the side, rear or below grade if feasible.
- Create a continuous building line with varied facade setbacks to accentuate open space and building entrances. Blank building facades should be avoided.
- Increase public safety and activity at street level with activating uses such as storefront retail, residential entrances, office lobbies, and restaurants.
- Provide continuous, direct and convenient pedestrian and bicyclist pathways, and connections to transit stations.
- Promote pedestrian safety with clearly designated crosswalks and sidewalks, and include street trees and landscaping on all streets.
- Screen and locate service and loading areas to reduce visibility from any street.
- Locate mechanical equipment within buildings or within a mechanical equipment penthouse. If mechanical equipment is located on a roof or is freestanding, it must be effectively screened. The provisions of this guideline do not apply in the case of one-family residential development.

(c) Site Plan Streetscape Guidelines:

- Provide street lighting designed to avoid an adverse impact on surrounding uses, while also providing a sufficient level of illumination for access and security.
- Provide a canopy of closely spaced street trees along each street.
- Provide street furniture such as benches, trash receptacles and planters.
- Enhance crosswalk areas with accessible curb ramps unless prohibited by the Department of Public Works and Transportation.

59-C-13.2371. Off-street parking. Required off-street parking must be provided pursuant to Article 59-E and off-street parking spaces for mixed-use projects must be provided pursuant to Sec. 59-E-3.1.

59-C-13.238. Special standards for the Optional Method of Development.

(a) **Density and mix of uses:** In approving the mix of uses and the proposed densities, the Planning Board must consider the size of the parcel, and the relationship of the existing and proposed building or buildings to the surrounding uses. The mix of uses and the proposed densities must conform to the approved and adopted master plan or sector plan.

(b) **Building height and setbacks:** The maximum building height permitted for any building and the minimum building setback requirements must be determined in the process of project plan review. In approving height limits or setback requirements, the Planning Board must take into consideration the size of the lot or parcel, the relationship of existing and proposed buildings to surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height or setback of the building. The proposed building height and the proposed setbacks must conform to the approved and adopted master plan or sector plan.

(c) **Transfer of public use space, density and mix of uses:** The Planning Board may approve the transfer of public use space, density and any mix of uses between lots within the same transit station development area. The transfer of

density must be located away from the boundaries of the transit station development areas when the boundaries abut or confront either one-family residential development or properties recommended for one-family residential development in the approved and adopted master plan or sector plan. Any transfer of public use space and density and any mix of uses must be determined through the combined densities and use mixes of all properties involved in the density transfers, must conform to the approved and adopted master plan or sector plan and must be approved as part of a combined project plan for all relevant parcels in accordance with the provisions in Section 59-D-2 and Section 59-D-3.

59-C-13.239. Existing buildings and uses.

Any lawful structure, building or established use that existed before the applicable Sectional Map Amendment adoption date, is a conforming structure or use and may be continued, structurally altered, repaired, renovated or enlarged up to 10 percent of the gross building floor area or 7,500 square feet, whichever is less. However, any enlargement of the building that is more than 10 percent of the gross floor area or 7,500 square feet, whichever is less, or construction of a new building must comply with the standards of the TOMX zones.

59-C-13.24 Transferable development rights zones.

59-C-13.241. Method of development. The following [2] methods of development are possible in any TOMX/TDR zone:

- (a) **Standard method of development.** Development under the standard method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone, except that greater residential densities may be permitted pursuant to Section 59-C-13.242. Development must also conform to the special regulations for developments in a TOMX zone using transferable development rights contained in Section 59-C-13.243.
- (b) **Optional method of development.** Development under the optional method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone and must conform to any [the] numeric limits set in the applicable master or

sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks.

[In all other respects the d]Development must be consistent with the master or sector plan, however greater [residential] densities may be permitted pursuant to Section 59-C-13.242. Development must also conform to the special regulations for developments using transferable development rights contained in Section 59-C-13.243. These special regulations require conformance to any [the] numeric limits that may be set in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan.

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	<u>TOMX 1.0/TDR</u>	<u>TOMX 2.0/TDR</u>
59-C-13.242. Development Standards-Transferable Development Rights Zone(s):		
(a) Land uses. Uses allowed in the TOMX/TDR zones are those uses allowed in the following zone(s):	<u>TOMX 1.0</u>	TOMX-2.0
(b) Standard Method Development Standards [-Standard method must conform with each of the following]:		
1. Maximum density of development (FAR) without TDRs	<u>0.3</u>	0.5
2. <u>Allowed</u> [The Residential] FAR may be increased by a maximum of 20% <u>for residential uses</u> by the use of TDRs. ¹		
[Maximum dwelling units per acre without TDRs]		[20]
[Dwelling units per acre may be increased by a maximum of 20% by the use of TDRs.]		
3. All other development standards must be in accord with the development standards applicable to the following zones and as specified in the special regulation provisions of Section 59-C-13.243:	<u>TOMX 1.0</u>	TOMX 2.0
(c) Optional Method Development standards [-Optional method of development must conform to each of the following]:		
1. Maximum density of development (FAR) without TDRs (a lower standard, reflecting no less than the Standard Method requirement, may be established in applicable master or sector plan)	<u>.5</u>	1.6
2. Maximum density of development (FAR) with TDRs (a lower standard may be established in an applicable master or sector plan) ²	<u>1.0</u>	<u>2.0</u>
[The Residential FAR may be increased by a maximum of 20% by the use of TDRs]		
[- Maximum dwelling units per acre without TDRs]		[40]
[Dwelling Units per acre may be increased by a maximum of 20% by the use of TDRs]		
-All other development standards must comply with the development standards of the applicable zone and as specified in the special regulation provisions of Section 59-C-13.243.	<u>TOMX 1.0</u>	TOMX 2.0

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In the Shady Grove Master Plan, residential density limited to a maximum of 20 dwelling units per acre without TDRs that may be increased by a maximum of 20% by the use of TDRs.

In the Shady Grove Master Plan, residential FAR may be increased by a maximum of 20% by the use of TDRs; and a limit of no more than 40 dwelling units per acre without the use of TDRs may be increased by a maximum of 20% by the use of TDRs.

59-C-13.243. Special regulations for development using transferable development rights.

59-C-13.2431. Applicability. The following procedures and regulations apply to the transfer of development rights to land classified in a TOMX/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TOMX/TDR zone. The development must conform to any [the] numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the applicable master or sector plan.

The calculation of TDRs is established at 2,500 gross square feet for each TDR for any use authorized in the zone.

[Any increase in the residential FAR above the residential FAR and dwelling units per acre allowed under the standard and optional methods of development of 59-C-13.215 and 59-C-13.23 must not exceed 20% of the maximum dwelling units per acre or FAR permitted without TDRs and must be based on a ratio of one single-family dwelling unit for each TDR, and 2 multi-family dwelling units for each TDR; however, within a designated Metro Station Policy Area, a ratio of three multi-family dwelling units for each TDR and two one-family units for each TDR applies.]

59-C-2432. General provisions.

- (a) A development right must be created, transferred and extinguished only by means of documents in a recordable form approved by the Planning Board, including an easement and appropriate releases. The TDR easement must limit the future construction of one-family dwellings on a property in the RDT zone to the total

number of development rights established by the zoning of the property minus all development rights previously transferred in accordance with this section, the number of development rights to be transferred by the instant transaction, and the number of existing one-family detached dwellings on the property.

(b) The transfer of development rights must be recorded among the land records of Montgomery County, Maryland.

(c) A property developed under a TOMX/TDR zone must conform to the requirements of Chapter 25A requiring MPDUs.

(d) A property developed with transferable development rights must include MPDUs as required by Chapter 25A and workforce housing units as required by Section 59-A-6.18 and Chapter 25B. The number of MPDUs and any resulting bonus density must be calculated after the base density of a property has been increased by a transfer of development rights. The calculation of the number of workforce housing units must be based on the total number of market dwelling units in the development including any transfer of development rights, but not counting any MPDUs or resulting bonus density units. The MPDU density bonus does not require the acquisition of additional development rights.

59-C-2433. Development approval procedures under the standard and optional method of development.

(a) A request to utilize development rights on a property under the standard and optional method must be in the form of a preliminary subdivision plan submitted in accordance with Chapter 50.

(b) A site plan must be submitted and approved in accordance with the provisions of Division 59-D-3.

(c) The Planning Board must approve a request to use transferred development rights if the request:

- (1) is in accordance with provisions of this chapter;
- (2) is in accordance with Chapter 50, title "Subdivision of Land";
- (3) conforms to [the] any numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and setbacks; and is in all other respects the development is consistent with the applicable master or sector plan; and
- (4) achieves a desirable development compatible with [both] site conditions and surrounding existing development and with future development.

(d) Prior to Planning Board approval of a final record plat for a subdivision using transferred development rights, an easement to the County in the form required by Section 59-C-2432(a) above limiting future construction of dwellings on a property in the RDT zone by the number of development rights received must be recorded among the land records of Montgomery County, Maryland.

(e) A final record plat for a subdivision using transferred development rights must contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of this conveyance required by Section 59-C-2432(b).

59-C-2434. Development standards applicable to the standard and optional method of development.

(a) The final density achieved for any property located in a TDR receiving area developed under the procedures herein must be determined by the Planning Board and must conform to the site plan provisions (Division 59-D-3) and subdivision regulations (Chapter 50).

(b) In making the determination as to the final density, the Planning Board will consider the following factors to determine whether the development:

- (1) conforms to [the] any numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and

setbacks; in all other respects the development is consistent with the approved master or sector plan;

(2) preserves environmentally sensitive and priority forest areas, and mitigates unavoidable impacts on the natural environment;

(3) facilitates good transit serviceability and creates a desirable and safe pedestrian environment; and

(4) achieves compatibility with surrounding land uses.

Sec. 2. Article 59-D is amended as follows:

ARTICLE 59-D. ZONING DISTRICTS—APPROVAL PROCEDURES.

INTRODUCTION

* * *

The following table is provided for the convenience of the public, citing the appropriate sections of article 59-C and indicating the types of plans required in each zone. In the event of any conflict between this table and the provisions of article 59-C, the latter must govern.

Plan Approvals Required

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
* * *					
<i>Standard Method</i>					
* * *					
<u>TOMX 1.0</u>				<u>X</u>	
TOMX 2.0				X	
<i>Optional Method</i>					
* * *					
<u>TOMX 1.0</u>			<u>X</u>	<u>X</u>	
TOMX 2.0			X	X	

**DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT,
CBD ZONES, AND RMX ZONES.**

59-D-2.0 Zones enumerated.

The Planning Board is authorized to approve development under the optional method of development procedures described in Section 59-C-6.2 of the CBD zones, Section 59-C-10 of the RMX Zones, Section 59-C-13 of the TOMX Zones and the approval procedure set forth in this Division, for the following zones:

- * * *
- TOMX-1 -- Transit Oriented Mixed-Use, 1.0
- TOMX-2-- Transit Oriented Mixed-Use, 2.0

* * *

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

This is a correct copy of Council action.

Linda M. Lauer
Clerk of the Council

Use	Former Category	New Category	Change	Use Level	Defined
RESIDENTIAL USES					
<i>Dwellings</i>	<i>Residential</i>	<i>Residential</i>	<i>no change</i>	<i>P</i>	<i>Y</i>
<i>Personal living quarters</i>	<i>Residential</i>	<i>Residential</i>	<i>no change</i>	<i>P</i>	<i>Y</i>
Hotel or motel or other temporary lodging	Residential	Consolidated - Transient Lodging	now under Transient lodging facility, a broader term	P	Y
Transient lodging facility	Added Category (also defined in the ZO)	Residential	Added Use	P	Y
Transportation, Communications, Utility Uses					
<i>Broadcasting studio</i>	<i>TSP/COM/UTIL</i>	<i>TSP/COM/UTIL</i>	<i>no change</i>	<i>P</i>	<i>N</i>
<i>Public utility buildings</i>	<i>TSP/COM/UTIL</i>	<i>TSP/COM/UTIL</i>	<i>no change</i>	<i>P</i>	<i>N</i>
<i>Roof top antennas</i>	<i>TSP/COM/UTIL</i>	<i>TSP/COM/UTIL</i>	<i>no change</i>	<i>P</i>	<i>N</i>
<i>Toxicab stand</i>	<i>TSP/COM/UTIL</i>	<i>TSP/COM/UTIL</i>	<i>no change</i>	<i>P</i>	<i>N</i>
Automobile parking facility	Added Category (also defined in the ZO)	TSP/COM/UTIL	Added Use	P	Y
Commercial Uses					
Animal boarding place	Services	Commercial	moved	SE	Y
Antique shops, handicrafts, art sales	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Art, music, photographic studios	Services	Consolidated - Commercial	Now under retail shops	P	N
Auto filling station	Service	Commercial	moved	SE	Y
<i>Auto rental services</i>	<i>Service</i>	<i>Commercial</i>	<i>moved and modified language</i>	<i>P</i>	<i>N</i>
<i>Automobile sales, retail showroom</i>	<i>Added Category (also defined in the ZO)</i>	<i>Commercial</i>	<i>Use should be allowed</i>	<i>P</i>	<i>Y</i>
Barber and beauty shop	Service	Consolidated - Commercial	Now under Hair & body care establishment	P	N
Billiard parlor	Cul/Ent/Rec	Consolidated - Commercial	Now under recreational or entertainment establishment	P	N
Book store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Bowling alley	Cul/Ent/Rec	Consolidated - Commercial	Now under recreational or entertainment establishment	P	N
Drug store	Commercial	Consolidated - Commercial	Now under retail shops	P	N

Use	Former Category	New Category	Change	Use Level	Defind
Dry cleaning and laundry facility	Service Added Category (also defined in the ZO)	Commercial	moved and modified name to match definition	SE	Y
Drycleaning and laundry pickup station		Commercial	Use should be allowed	P	Y
Duplicating services	Service	Consolidated - Commercial	Now under retail shops	P	Y
<i>Eating and drinking establishment, not drivein</i>	Commercial	Commercial	<i>no change</i>	P	N
Florist shop	Commercial	Consolidated - Commercial	Now under retail shops	P	N
<u>Convenience food and beverage store, no fuel sales</u>	Commercial	Commercial	<i>modified name to match definition</i>	P	Y
Furniture store, carpeting	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Gift shop	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Grocery store	Commercial	Commercial	<i>no change</i>	P	N
Hair and body care establishment	New Category	Commercial	Incorporates and expands beauty or barber shop	P	N
Hardware store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Health clubs and gyms		Consolidated - Commercial	Now under recreational or entertainment establishment	P	Y
Home occupation, major	Cul/Ent/Rec Services	Commercial	moved	SE	Y
Home occupation, no impact or registered	Services	Commercial	moved	P	Y
Meeting center	Added Category (also defined in the ZO)	Commercial	Use should be allowed	P	Y
Newsstand	Commercial	Consolidated - Commercial	Now under retail shops	P	N
<i>Office general</i>	Commercial	Commercial	<i>no change</i>	P	Y
Office supply store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Office, professional including banks and financial institutions (excluding check cashing stores)	Commercial	Consolidated - Commercial	Now under office general	P	N

Use	Former Category	New Category	Change	Use Level	Define
Offices for companies principally engaged in health services, research and development	Commercial	Consolidated - Commercial	Now under office general	P	N
Pet sales and supply store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Photographic supply store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Recreational or entertainment establishment	Cul/Ent/Rec	Commercial	moved and name modified Replaces and incorporates all general retail	P	N
Retail shops	New Category	Commercial		P	N
Shoe repair shop	Services	Consolidated - Commercial	Now under retail shops	P	N
Specialty store	Commercial	Consolidated - Commercial	Now under retail shops	P	N
Tailoring or dressmaking shop	Services	Consolidated - Commercial	Now under retail shops	P	N
Theater, legitimate	Added Category (also defined in the ZO)	Commercial	Use should be allowed	P	Y
Theaters, indoor	Cul/Ent/Rec	Commercial	moved	P	Y
Industrial Uses					
Advanced Technology and Biotechnology uses	R&D	Industrial	moved	P	N
Laboratories and related uses	R&D	Industrial	moved	P	N
Light manufacturing	New Category	Industrial	Replaces and incorporates several industrial categories	P	N
Light manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development	R&D	Consolidated - Industrial	Now under Light manufacturing	P	N
Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment	R&D	Consolidated - Industrial	Now under Light manufacturing	P	N
Research, development, and related activities	R&D	Industrial	moved	SE	Y
Self Storage Facility	Services	Industrial	moved	SE	N

Use	Former Category	New Category	Change	Use Level	Defined
Institutional					
Adult foster care homes	Services	Institutional	moved	P	Y
Ambulance or rescue squad	Services	Institutional	incorporated into publicly owned and operated uses	P	N
Auditorium or convention hall	Cul/Ent/Rec	Institutional	moved	P	N
Charitable and philanthropic institution	Services	Institutional	moved	P	Y
Child daycare facility	Service	Institutional	Replaces and incorporates all daycare	P	N
Adult daycare facility	New Category	Institutional	Incorporates all adult daycare	P	N
Childcare - Child daycare center	Service	Consolidated - Institutional	Now under child or adult daycare	P	Y
Childcare - Family daycare facility	Services	Consolidated - Institutional	Now under child or adult daycare	P	Y
Childcare - Group daycare facility	Service	Consolidated - Institutional	Now under child or adult daycare	P	Y
Clinic, medical or dental	Services	Institutional	moved and modified name to match definition	P	Y
Daycare facility for no more than 4 senior adults and persons with disabilities	Services	Consolidated - Institutional	Included under child or adult daycare facility	P	Y
Domiciliary care for no more than 16 senior adults	Services	Consolidated - Institutional	Included under Domiciliary care home	P	Y
Domiciliary care home	Added Category (also defined in the ZO)	Institutional	Added more inclusive use	P	Y
Educational, institution private	Services	Institutional	moved and modified name to match definition	P	Y
Group home	New Category	Institutional	Consolidated all group home types	P	Y
Group home, large	Residential	Consolidated - Institutional	Now under group home		Y
Group home, small	Residential	Consolidated - Institutional	Now under group home	P	Y
Hospice care facility	Services	Institutional	moved	P	Y
Hospital, veterinary	Services	Institutional	moved	SE	Y

Use	Former Category	New Category	Change	Use Level	Defined
Housing and related facilities for senior adults or persons with disabilities	Residential	Institutional	moved	P	Y
International organization	Services	Institutional	Name modified to match definition	P	Y
Libraries and museums	Cul/Ent/Rec	Institutional	moved	P	N
Life care facility	Residential	Institutional	moved	P	Y
Parks and Playgrounds	Cul/Ent/Rec	Institutional	moved	P	N
Place of religious worship	Services	Institutional	moved	P	N
Private clubs and service organizations	Cul/Ent/Rec	Institutional	moved	SE Standard P Optional	Y
Publicly owned or operated uses, including ambulance or rescue squad	Services	Consolidated -	moved	P	N
Universities or colleges providing teaching and research facilities	Services	Institutional	Use covered under Private educational institutions	P	N

Zoning Text Amendment No: 07-
Concerning: Accessory Residential Units in
I-4 Zone within Transit Station
Development Areas
Draft No. & Date: 1– 12/7/07
Introduced:
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**

By: District Council at the request of the Planning Board

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

- establishing a new use “Accessory Residential Unit” as a permitted use in a I-4 zone that is located in a Transit Station Development Area; and
- modifying the special regulations in the I-4 zone to address uses located in a Transit Station Development Area.

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

DIVISION 59-A-2	DEFINITIONS AND INTERPRETATION.
DIVISION 59-C-5	“INDUSTRIAL ZONES”
Section 59-C-5.2	“Land uses”
Section 59-C-5.3	“Development standards.”
Section 59-C-5.44	“Special regulations-I-4 zone “

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.*

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:

Sec. 1. Division 59-A-2 is amended as follows:

DIVISION 59-A-2 DEFINITIONS AND INTERPRETATION.

Sec. 59-A-2.1. Definitions.

* * *

Accessory Residential Unit: A residential unit that is located in a non-residential structure for the use of business owners or employees who work in the structure.

Such unit must be located in a portion of a building above the first floor; and must be accessory to the primary use of the structure.

* * *

Sec. 2. Division 59-C-5 is amended as follows:

DIVISION 59-C-5 INDUSTRIAL ZONES.

* * *

59-C-5.2. Land uses.

* * *

59-C-5.21. Allowable uses.

* * *

	I-1	I-2	I-3	I-4	R&D	LSC
(a) Residential.						
<u>Accessory Residential Unit *</u>				<u>P</u>		
Dwellings.	SE		SE	SE		
Dwellings, for caretakers or watchkeepers and their families or for bona fide agricultural operations.	P	P	P	P	P	
Hotel or motel. ¹	SE		SE			
* * *						

* Limited to structures in I-4 Zones that are in a Transit Station Development Area and following the enumerated procedures in Section 59-C-5.44.

* * *

23 **Sec. 59-C-5.3. Development standards.**

	I-1	I-2	I-3	I-4	R&D	LSC
59-C-5.31 Building height.						
No building shall exceed the following height limits:						
(a) Normally:						
-In stories	3	5		3		
-In feet	42	70	100	42	50	100
* * *						
59-C-5.32. Coverage limitations. (Percent of gross tract area)						
-Green area shall be provided for not less than	10	10	35	20 [*]	20	25
* * *						

24
 25 * Except as modified in the Special Regulations for the I-4 Zone in Section
 26 59-C-5.44(e).

27 * * *

28 **59-C-5.35. Normal setbacks in the I-4 zone.**

29 All buildings shall be set back at least as follows:

30 (a) One hundred feet from any residential zone, except as modified in the
 31 Special Regulations for the I-4 Zone in Section 59-C-5.44(e). If the lot
 32 adjoins a residential zone which is recommended on an approved and
 33 adopted master or sector plan for commercial or industrial zoning, then the
 34 setback shall be not less than 10 feet.

35 (b) Ten feet from any commercial or industrial zone.

36 (c) Fifty feet from:

- 37 (1) A railroad or utility right-of-way or an arterial road that separates the
 38 industrial [park] area from a residential zone;
 39 (2) A limited-access freeway or parkway; or
 40 (3) A major highway.

(d) Twenty-five feet from:

- (1) An arterial road that separates the industrial [park] area from a commercial zone; or
- (2) An arterial road, local street or private right-of-way within the industrial [park] area.

* * *

59-C-5.44. Special regulations-I-4 zone.

(a) **Location.** It is intended that the I-4 zone be located in areas designated for low-intensity, light industrial uses on adopted and approved master or sector plans. The I-4 zone is also appropriate as a transitional industrial zone between residentially zoned areas and land classified in the I-1 and I-2 zones.

(b) **Area requirements.**

- (1) No tract of land shall be zoned I-4 unless it has an area of at least 10 acres; except that a tract with an area of not less than 2 acres may be permitted where such tract adjoins and has a common boundary with an I-1, I-2 or I-3 zone, or where such tract is recommended for I-4 zoning on an approved and adopted master or sector plan.
- (2) Within any I-4 zoned area, each main building hereafter erected, together with its accessory buildings, shall be located on a separate lot having an area of at least one acre.

(c) **Floor area.** The total floor area of buildings, not including parking areas, shall not exceed FAR 1.0.

(d) **Off-street parking.** The off-street parking required by article 59-E shall be provided on land that is classified in the I-4 zone. In the I-4 zone, all off-street parking areas shall be set back at least as follows unless development

occurs under the optional method of development, as specified in paragraph (e):

- (1) Fifty feet from any residential zone unless the adjoining residential property is recommended on an approved and adopted master or sector plan for commercial or industrial zoning or has an approved special exception for off-street parking in connection with a commercial use, then the setback shall be not less than 10 feet.
- (2) Ten feet from any commercial or industrial zone.
- (3) Twenty-five feet from a limited access freeway, a major highway, arterial road, a railroad or utility right-of-way, or a local street or private drive within the industrial park.

(e) Optional method of development. In order to encourage the orderly grouping and planned development of low-intensity, light industrial parks, and to generally enhance appearance of such planned industrial areas without requiring the extensive building and parking setbacks normally applicable, the following optional method of development may be permitted, provided that the site plan approval procedures, contained in division 59-D-3, are met. If the optional method of development is used, all of the normal requirements of the I-4 zone shall be in effect except as follows:

(1) Setbacks.

(A) Under the optional method of development all buildings shall be set back at least 50 feet from any residential zone except as follows:

- (i) If the lot adjoins a residential zone which is recommended on an approved and adopted master or sector plan for a land use other than residential, the

Planning Board may approve a lesser setback upon a finding that the resulting development would not have an adverse impact on such adjoining land.

(ii) If the lot adjoins a residentially zoned property which contains physical features that would permit a lesser setback or which is developed with or dedicated to a use other than residential, the Planning Board may approve a reduction in the amount of setback upon a finding that the resulting development would not have an adverse impact on the use of such adjoining land.

(B) In a Transit Station Development Area, buildings on existing lots may be setback not less than 10 feet from an arterial road separating the development from a commercial zone, from a public arterial road or local street, or from a private right-of-way within the I-4 zone, if authorized by the Planning Board.

(2) **Off-street parking.** Under the optional method of development, off-street parking shall be provided as required in article 59-E and the minimum setbacks enumerated in section 59-C-5.44(d), off-street parking, shall not apply.

(3) **Area requirements.** Under the optional method of development, the one-acre minimum lot size requirement of subsection 59-C-5.44(b)(2) may be waived by the Planning Board for: 1) lots recorded prior to February 4, 1986; and 2) lots recorded prior to February 4, 1986 that are assembled and resubdivided after February 4, 1986, and the Planning Board finds that the consolidation will result in a more desirable form of development than would occur without the waiver,

and 3) buildings located in a Transit Station Development Area located on an existing lot smaller than one acre. More than one main building and accessory buildings may be located on a lot provided that the lot has an area of at least one acre, except in a Transit Station Development Area where the Planning Board may allow accessory buildings on lots smaller than one acre.

(4) **Green Area.** In a Transit Station Development Area green area may be less than 20% but no less than 10%, if authorized by the Planning Board

(5) **Accessory Residential Unit.** In a Transit Station Development Area one or more accessory residential units in a commercial structure are allowed to provide living space for business owners or employees who work in the structure. As defined in Sec. 59-A-2.1, a unit may be approved if it is determined that:

- The use is compatible with existing uses in their immediate vicinity in design and use, and the building layout is compatible with the commercial uses in the building.
- The total floor area of accessory residential units may comprise no more than 40% of the total floor area of the structure, and the units may be located only above the first floor.
- The parking standards for multi-family dwelling units in 59-E-3.7 and the mixed use standards of 59-E-3.1 apply. No designated

parking space for the accessory residential use may be located
along the front of the building.

- Proposals must demonstrate compliance with county building code requirements for residential uses.
- Before building permit approval, all owners must sign a declaration of use, including all the conditions for the use as approved, to be included with the special exception approval, to serve as notice to future owners of the property of its status as a limited residential use subject to the conditions of this within an industrial zoning district.
- An affidavit must be submitted with the special exception application, stating that the dwelling units are for use only by the owner or employees of a business located in the structure. At least one resident of any accessory residential unit must own, manage, or be an employee of a permitted and licensed business in the structure.

(6) Development procedure. Under the optional method of development, the procedure for site plan approval shall be as set forth in division 59-D-3.

59-C-5.441. Special provisions for lots containing pre-existing uses.

Where land, improved by existing lawfully conforming structures and uses under the standards and special regulations of the immediately preceding

zone, is reclassified to the I-4 zone and the standards of the I-4 zone do not allow such structures and uses, such structures and uses may continue as conforming structures and uses as of the date of reclassification. However, additions or structural alterations cannot increase the amount of floor area devoted to such uses by more than 10 percent. Any such changes or additions must conform to the setback, height, floor area ratio, and green area regulations required in Section 59-C-5.35 or Section 59-C-5.44, as applicable.

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council