



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

**MCPB**  
**Item #4**  
**02/25/10**

**DATE:** February 16, 2010  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review *RK*  
 Ralph Wilson, Zoning Supervisor  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Zoning Text Amendment and Subdivision Regulation  
 Amendment  
**PURPOSE:** To amend the Zoning Ordinance and Chapter 25B to  
 change the workforce housing program and requirement to  
 a voluntary program.

**TEXT AMENDMENT:** 10-02  
**COUNTY BILL:** 4-10  
**REVIEW BASIS:** Advisory to the County Council sitting as the District  
 Council, Chapter 59, the Zoning Ordinance and  
 Chapter 25B, Housing Policy  
**INTRODUCED BY:** The Planning, Housing & Economic Development  
 (PHED) Committee  
**INTRODUCED DATE:** January 26, 2010 (ZTA) February 2, 2010 (Bill)  
**PLANNING BOARD REVIEW:** February 25, 2010  
**PUBLIC HEARING:** March 2, 2010, 1:30 PM

**STAFF RECOMMENDATION:** Approve ZTA 10-01 and Bill 4-10, as  
 introduced. Changing the workforce housing requirement from a mandatory to a  
 voluntary program seems to be appropriate as a temporary measure given the  
 current economic situation. However, Staff recommends that a working group  
 be established to address overall affordable housing goals, including potential  
 provisions that would work more effectively to encourage private developer  
 construction of both additional workforce housing and moderately-priced  
 dwelling units.

Workforce Housing Program

On July 11, 2006 (Effective date of December 1, 2006), the District Council  
 adopted Zoning Text Amendment (ZTA) 05-16 and Bill 30-05. The purpose of  
 the ZTA and Bill was to establish a new affordable housing program geared

towards families with incomes near the area median. The program only applied in higher density areas near metro stations. Under the ZTA, any subdivision of 35 or more dwelling units, in a zone that allows 40 or more dwelling units per acre, and within a Metro Station Policy Area, would be required to provide workforce housing units equal to no less than 10 percent of the market rate dwelling units. Workforce housing was defined in the bill as housing available to families earning below 120 percent of the area median income level. In order for the workforce units to be constructed on site, the residential density or residential FAR of the applicable zone may be exceeded to accommodate workforce housing; however, the density increase could not exceed the maximum residential density of the zone by more than 10 percent. The legislation further exempted from the workforce housing requirements applications for local map amendment, development plan, project plan, preliminary plan and subdivision filed before December 1, 2006.

It was the position of the County Council that residents of all incomes have the opportunity to live near Metro stations. The hope was that with the strengthening of the County's MPDU law (changes became effective April 1, 2005) and the inclusion of a workforce housing requirement, up to one-quarter of the new apartments, condominiums and townhouses in these smart growth areas would be affordable to residents of moderate incomes.

#### ZTA 10-01 and Bill 4-10

ZTA 10-01 and Bill 4-10 were introduced by the PHED Committee. The amendments would change the workforce housing requirement in metro station policy areas from mandatory to voluntary. Since the inception of the workforce housing program in December 2006, only three project plans and one site plan have been approved with workforce housing units. Two of the project plans were public/private partnerships with the County (Lot 31 in the Bethesda Central Business District Metro Station Policy area and the Studio Plaza project in the Silver Spring Central Business District Metro Station Policy area.) The only private project that has received approval is the Woodmont Central project in the Bethesda Central Business District Metro Station Policy area. To date, none of these projects have been constructed. According to the development community, providing workforce housing is cost prohibitive.

#### Master Plan Comments

Most Master Plans state the County's desire to provide a range of housing options throughout the County. Therefore, two of the Plans that were approved around the same time as the County Council considered the workforce housing program, the Shady Grove Sector Plan (2006) and the Germantown Employment Area Sector Plan (2009), included workforce housing in their land use recommendations. The Shady Grove planning area has both land use recommendations and a Metro Station Policy area. Therefore, workforce

housing is required for high density residential development in the Shady Grove area and a part of the Plan's vision for the area. As for Germantown, it has the strongest workforce housing recommendation out of all the County Master Plans but since Germantown is not in a Metro Station Policy area the program is voluntary. However, despite the workforce housing recommendations in both Germantown and Shady Grove, to date no private workforce housing project has been attempted in either of these planning areas. Instead, only public workforce housing projects have moved forward in these areas. The one example of a workforce housing project that has progressed is the County's Police/Fire station project. The project, which is in the early stage of the planning process, is recommended in the Germantown Plan.

Though workforce housing is supported by the County's Master Plans, few workforce housing projects have been proposed in the County. Furthermore, in Germantown the need for workforce housing is great enough that the Plan recommends the program even though the program is not mandatory in the planning area. There is a need for workforce housing and a program that can achieve a workforce housing supply in the County.

### Issues

A key Housing Policy goal in the County encourages that steps be taken each year to increase the supply of affordable housing in those areas where the proportion of affordable housing in the entire housing stock is below the County-wide average proportion of affordable housing. In order to achieve this goal, the Council, the Executive, the Planning Board, and other appropriate agencies must give the policy of locating a fair share of affordable housing units in each area of the County high priority in all planning, zoning, and land use decisions. As stated previously, the position of the County Council is that residents of all incomes should have the opportunity to live near metro stations. An argument can be made that the workforce housing requirement has actually reduced the construction of new moderately-priced dwelling units in metro station areas as well because new projects are deemed to be financially infeasible altogether.

In staff's view, the goal of providing housing for the County's workforce is currently not being met by the workforce housing program. Changing the workforce housing requirement from a mandatory to voluntary program could make sense as a temporary measure while the County takes a fresh look at the overall affordable housing initiative. ***Establishing a working group to address overall affordable housing goals, including potential new provisions to encourage private developer construction of workforce housing and moderately-priced dwelling units, would be a good first step in this process.***

## **RECOMMENDATION**

Staff recommends approval of ZTA 10-1 and Bill 4-10, as introduced.

## **Attachments**

1. Zoning Text Amendment No. 10-1 and Bill 4-10
2. Memorandum from the Vision Division

# ATTACHMENT 1

Zoning Text Amendment No: 10-01  
Concerning: Workforce Housing -  
Voluntary  
Draft No. & Date: 1 – 1/21/10  
Introduced: 1/26/10  
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**

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By: Planning, Housing, and Economic Development Committee

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

- defining the term “workforce housing unit”;
- requiring any residential development at or above a certain density, located in a metro station policy area, to include a certain percentage of workforce housing units; and
- generally providing standards for the development of workforce housing units.

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

DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.18	“Workforce Housing”
DIVISION 59-C-2	“RESIDENTIAL ZONES, MULTIPLE-FAMILY”
Section 59-C-2.4	“Development standards”
Section 59-C-2.418.	“Maximum Density of Development (Dwelling Units per Acre of Net Lot Area)”
Section 59-C-2.442	“General provisions”
DIVISION 59-C-4	“COMMERCIAL ZONES”
Section 59-C-4.357	“C-2 zone—purpose and development standards”
DIVISION 59-C-6	“CENTRAL BUSINESS DISTRICT ZONES”
Section 59-C-6.215	“Method of development and approval procedures”
Section 59-C-6.23	“Development standards”
DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.14	“Density of residential development”
DIVISION 59-C-8	“TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.4	“Development standards”
DIVISION 59-C-13	“TRANSIT ORIENTED, MIXED-USE ZONES (TOMX)”
Section 59-C-13.215	“Methods of development and approval procedures”
DIVISION 59-C-14	“TRANSIT MIXED-USE (TMX) ZONE”
Section 59-C-14.213	“General Requirements”

Section 59-C-14.27 “Special regulations for use of a Building Lot Termination (BLT) Development Right”

DIVISION 59-D-1 “DEVELOPMENT PLAN”

Section 59-D-1.6 “Approval by district council”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

### ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-A-6 is amended as follows:**

2   **DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**  
3   **ZONE.**

4   \*       \*       \*

5   **59-A-6.18. Workforce housing.**

6   **59-A-6.18.1. Generally.**

7   The workforce housing program complements the Moderately Priced Dwelling Unit  
8   [(MPDUs)] MPDU Program, the Productivity Housing Program, and other County  
9   programs designed to promote affordable housing. Under Chapter 25B, a developer  
10   [must] may build the number of workforce housing units [required] allowed in any zone  
11   under this Chapter. All workforce housing units must be constructed on the site that uses  
12   the FAR and building height flexibility under this Section.

13   **59-A-6.18.2. [Requirements] Allowances.**

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

21   (b) A site plan is required under Division 59-D-3 for any project that includes a  
22       workforce housing unit.

23   (c) To allow the construction of [all] workforce housing units on site, the Planning  
24       Board must permit:

- 25       (1) any residential density or residential FAR limit of the applicable zone to be  
26           exceeded to the extent required for the number of workforce housing units  
27           that are constructed, but not by more than 10 percent of the total FAR or  
28           number of dwelling units;

- 29 (2) any residential density or residential FAR limit established in a master or
- 30 sector plan to be exceeded to the extent required for the number of
- 31 workforce housing units that are constructed, but not to more than the
- 32 maximum density and FAR of the zone, except as provided in paragraph
- 33 (1)[,] ; and
- 34 (3) any building height limit established in a master or sector plan to be
- 35 exceeded to the extent required for the number of workforce housing units
- 36 that are constructed, but not to more than the maximum height of the zone.

37 \* \* \*

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

**DIVISION 59-C-2. RESIDENTIAL ZONES, MULTIPLE-FAMILY.**

40 \* \* \*

**59-C-2.4. Development standards.**

**59-C-2.41. Standard method of development.**

43 \* \* \*

	R-30	R-20	R-10	R-H
<b>59-C-2.418. Maximum Density of Development (Dwelling Units per Acre of Net Lot Area):</b>	14.5	21.7	43.5 <sup>3</sup>	<sup>3</sup>
* * *				

44

45 <sup>3</sup> Workforce housing units [must] may be provided [as required by] under Section

46 59-A-6.18 and Chapter 25B.

47 \* \* \*

**59-C-2.44 Special regulations for optional method development using transferable development rights.**

50 \* \* \*

**59-C-2.442. General provisions.**

52 \* \* \*

- 53 (d) A property developed with development rights must include Moderately Priced
- 54 Dwelling Units (MPDUs) [as required by] under Chapter 25A and may include



55 workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
56 25B. The number of MPDUs and any resulting bonus density must be calculated  
57 after the base density of a property has been increased by a transfer of development  
58 rights. The calculation of the number of workforce housing units must be based on  
59 the total number of market dwelling units in the development, including any  
60 transfer of development rights[,] but not counting any MPDUs or resulting bonus  
61 density units. The MPDU density bonus does not require the acquisition of  
62 additional development rights.

63 \* \* \*

64 **Sec. 3. Division 59-C-4 is amended as follows:**

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

66 \* \* \*

67 **Sec. 59-C-4.357. C-2 zone-purpose and development standards.**

68 Residential development in the C-2 zone under Section 59-C-4.351(b) must include  
69 Moderately Priced Dwelling Units (MPDUs) as required by Chapter 25A and may  
70 include workforce housing units [as required by] under Section 59-A-6.18 and Chapter  
71 25B.

72 \* \* \*

73 **Sec. 4. DIVISION 59-C-6 is amended as follows:**

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

75 \* \* \*

76 **59-C-6.2. Provisions of CBD zones.**

77 \* \* \*

78 **59-C-6.215. Methods of development and approval procedures.** Two methods of  
79 development are possible in each of these zones.

- 80 (a) **Standard method of development.** The standard method requires compliance  
81 with a specific set of development standards and permits a range of uses and a  
82 density compatible with these standards. If residential uses are included in a

83 development, Moderately Priced Dwelling Units (MPDUs) must be provided as  
84 required by Chapter 25A and workforce housing units [must] may be provided [as  
85 required by] under Section 59-A-6.18 and Chapter 25B. The maximum dwelling  
86 unit density or residential FAR may be increased in proportion to any MPDU  
87 density bonus provided on-site and under Section 59-A-6.18.2.

88 (b) **Optional method.** Under the optional method, greater densities may be permitted  
89 and there are fewer specific standards, but the developer must provide certain  
90 public facilities and amenities. The presence of these facilities and amenities is  
91 intended to make possible the creation of an environment capable of supporting the  
92 greater densities and intensities of development permitted. The Planning Board  
93 may, under Division 59-D-2: (1) authorize a payment instead of all or some of the  
94 required public facilities and amenities, or any required public use space; or (2)  
95 permit any required public use space to be provided off-site on private or public  
96 property in the same CBD. If residential uses are included in a development,  
97 Moderately Priced Dwelling Units must be provided under Chapter 25A and  
98 [Workforce Housing Units must] workforce housing units may be provided under  
99 Section 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or  
100 residential FAR may be increased in proportion to any MPDU density bonus  
101 provided on-site and under Section 59-A-6.18.2. The procedure for approval of an  
102 optional method project is specified in Division 59-D-2, and the procedure for  
103 approval of a site plan is specified in Division 59-D-3.

104 \* \* \*

105 **59-C-6.23. Development standards.**

106 \* \* \*

	CBD-0.5		CBD-R1 <sup>2</sup>		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
* * *												
<b>59-C-6.233. Minimum Public Use Space (percent of net lot area):</b>	10	20	10	20 <sup>16</sup>	10	20 <sup>20,22</sup>	10	20 <sup>22</sup>	10	20 <sup>22</sup>	10	20
(a) Standard Method — The public use space requirement may be reduced to accommodate the construction of MPDUs, including any resulting bonus density units, and workforce housing units, provided on-site to:	5		5		5		5		5		5	
* * *												
<b>59-C-6.235. Maximum Building Heights (in feet).</b>												
* * *												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased to:		60 <sup>12</sup>		143		90 <sup>1</sup>		200 <sup>11</sup>		200		200

107 <sup>1</sup> For projects using the optional method of development, the Planning Board may  
 108 approve height over 90 feet, but not more than 143 feet, if the additional height is  
 109 necessary for the project to [comply with the] accommodate workforce housing  
 110 [requirements of] under Section 59-A-6.18; however, the additional height must  
 111 not be more than required for the number of workforce housing units that are  
 112 constructed. For projects using the optional method of development involving  
 113 more than one lot under Section 59-C-6.2351, the Planning Board may approve

114 height over 90 feet, but not more than 143 feet, if the additional height is  
 115 specifically recommended for the property in the applicable sector plan or urban  
 116 renewal plan. In order to approve additional height for property where the  
 117 additional height is specifically recommended for the property in a sector plan or  
 118 urban renewal plan, the Planning Board must find that: [(1) The] (i) the additional  
 119 height is consistent with the criteria and guidelines for the property as contained in  
 120 the applicable sector plan or urban renewal plan; [(2) Except] (ii) except as  
 121 recommended in an urban renewal plan, the portion of the property upon which the  
 122 additional height is to be used is on all sides abutted by or adjacent to property  
 123 recommended in the applicable sector plan or urban renewal plan for classification  
 124 in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zones; [(3) The] (iii) the proposed  
 125 development is compatible with the surrounding development, considering but not  
 126 limited to the relationship of the building or buildings to the surrounding uses, the  
 127 need to preserve light and air for the residents of the development and residents of  
 128 surrounding properties, and any other factors relevant to the height of the building;  
 129 and [(4) The] (iv) the proposed development will produce a substantial amount of  
 130 consolidated public open space in excess of that which would be required if this  
 131 process were not used. The public open space must be designated as public  
 132 amenity space and be accessible to and usable by the public in accordance with the  
 133 applicable sector or master plan, or urban renewal plan.

134 \* \* \*

135 <sup>11</sup> Under the optional method of development process, the Planning Board may  
 136 approve height over 143 feet, but not more than 200 feet, if: (i) the additional  
 137 height is necessary for the project to [comply with the] accommodate workforce  
 138 housing [requirements of] under Section 59-A-6.18[;], however, the additional  
 139 height must not be more than required for the number of workforce housing units  
 140 that are constructed[,]; or (ii) the additional height is specifically recommended for  
 141 the property in the applicable sector plan or urban renewal plan, or the property is

142 within a revitalization area designated in the applicable sector plan and is located  
 143 fully or partially within 800 feet of an entrance to a metro station. In order to  
 144 approve additional height for property recommended in a sector plan or urban  
 145 renewal plan or within a designated revitalization area, the Planning Board must  
 146 find that: [(1) The] (i) the additional height is consistent with the criteria and  
 147 guidelines for the property as contained in the applicable sector plan or an urban  
 148 renewal plan approved by the County Council under Chapter 56, or in the case of a  
 149 site outside an urban renewal area, accomplishing the objectives of incorporating  
 150 residential development with commercial development in a mixed use project in  
 151 close proximity to a metro station otherwise unobtainable due to site conditions,  
 152 proximity of adjacent non-residential buildings, or other physical constraints  
 153 [which] that prevent the achievement of sector plan objectives; [(2) The] (ii) the  
 154 proposed development is compatible with the surrounding development,  
 155 considering but not limited to the relationship of the building or buildings to the  
 156 surrounding uses, the need to preserve light and air for the residents of the  
 157 development and residents of surrounding properties, and any other factors  
 158 relevant to the height of the building; and [(3) The] (iii) the proposed development  
 159 will provide additional public facilities and amenities beyond what could otherwise  
 160 have been provided if the excess height were not approved. Such facilities must be  
 161 accessible to and usable by the public in accordance with the applicable sector or  
 162 master plan or urban renewal plan.

163 <sup>12</sup> The Planning Board may approve height over 60 feet, but not more than 90 feet, if:  
 164 (i) [if] the additional height is consistent with an applicable sector plan or an  
 165 approved urban renewal plan; or (ii) the additional height is needed to [comply  
 166 with the] accommodate workforce housing [requirement of] under Section 59-A-  
 167 6.18; however, the additional height must not be more than required for the number  
 168 of workforce housing units that are constructed.

169 \* \* \*

170 **Sec. 5. DIVISION 59-C-7 is amended as follows:**

171 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

172 \* \* \*

173 **59-C-7.1. P-D zone—Planned development zone.**

174 \* \* \*

175 **59-C-7.14. Density of residential development.**

176 \* \* \*

177 (c) The density of development is based on the area shown for residential use on the  
178 master plan and must not exceed the density permitted by the density category  
179 granted. However, the maximum density allowed under subsection (a) may be  
180 increased to accommodate the construction of Moderately Priced Dwelling [units]  
181 Units and workforce housing units as follows:

182 (1) For projects with a residential density of less than 28 dwelling units per acre,  
183 the number of Moderately Priced Dwelling Units must not be less than either  
184 the number of [density] bonus density units or 12.5 percent of the total  
185 number of dwelling units, whichever is greater.

186 (2) For projects with a residential density of more than 28 dwelling units per  
187 acre, the number of Moderately Priced Dwelling Units must be at least 12.5  
188 percent of the total number of dwelling units [in accordance with] under  
189 Chapter 25A.

190 (3) Any project with a residential density at or above 40 dwelling units per acre  
191 [must] may provide workforce housing units [as required by] under Section  
192 59-A-6.18 and Chapter 25B.

193 \* \* \*

194 **Sec. 6. DIVISION 59-C-8 is amended as follows:**

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

196 \* \* \*

197 **59-C-8.4. Development standards.**

	TS-R	TS-M
<b>59-C-8.42. Density of Development.</b>		
The density of development must not exceed any of the following:		
* * *		
(c) The density of development must not exceed the FAR or the dwelling units per acre allowed by the zone, except that the maximum density permitted may be increased to accommodate the construction of moderately priced dwelling units as required by Chapter 25A and the construction of workforce housing units [as required by] <u>under</u> Section 59-A-6.18 and Chapter 25B. The maximum number of dwelling units or residential FAR may be increased as needed for any MPDU density bonus and any workforce housing units provided on-site. The provision of MPDUs or workforce housing units does not authorize a reduction in any public facility and amenity or active or passive recreation space recommended in a master plan or sector plan.		

198 \* \* \*

199 **Sec. 7. Division 59-C-10 is amended as follows:**

200 **DIVISION 59-C-10. RMX ZONES –RESIDENTIAL MIXED-USE**  
 201 **DEVELOPMENT**

202 \* \* \*

203 **59-C10.3.7. Maximum Residential Density.**

204 (a) The maximum residential density in an RMX zone must not exceed 30 dwelling  
 205 units per acre for residential areas shown on the project plan. The density  
 206 approved by the Planning Board must not exceed the density shown on the  
 207 approved and adopted master plan, which must be no greater than the density  
 208 permitted by the RMX zone. Where residential development is proposed to be  
 209 located within a proposed commercial area, the maximum residential density for  
 210 such areas must not exceed 40 dwelling units per acre. Any residential  
 211 development must include Moderately Priced Dwelling units (MPDUs) as required  
 212 by Chapter 25A and may include workforce housing units [as required by] under  
 213 Section 59-A-6.18 and Chapter 25B.

214 \* \* \*

215 (c) The density of residential development must comply with the density  
 216 recommended on the approved and adopted master plan; however, the number of  
 217 residential dwellings must be increased to accommodate the construction of

218 Moderately Priced Dwelling [units] Units (MPDUs) as required by Chapter 25A  
219 and the construction of workforce housing units [as required by] under Section 59-  
220 A-6.18 and Chapter 25B.

221 \* \* \*

222 **Sec. 8. Division 59-C-13 is amended as follows:**

223 **DIVISION 59-C-13. TRANSIT ORIENTED, MIXED-USE ZONES (TOMX).**

224 \* \* \*

225 **59-C-13.2. Provisions of the Transit Oriented, Mixed-Use Zones.**

226 **59-C-13.21. Description, purpose, intent and general requirements.**

227 \* \* \*

228 **59-C-13.215. Methods of development and approval procedures.**

229 \* \* \*

230 (b) **Optional Method of Development:** The Optional Method of Development  
231 promotes additional densities[,] and supports innovative design and building  
232 technologies to create a pedestrian-oriented and mixed-use development pattern.  
233 Approval of the Optional Method of Development is dependent on providing  
234 required public amenities and facilities. The public facilities and amenities are  
235 intended to support the additional densities permitted under the Optional Method of  
236 Development. The procedure for the approval of the Optional Method of  
237 Development is set forth in Section 59-D-2. Site plans must be approved in  
238 accordance with Section 59-D-3. If residential uses are included in a development,  
239 Moderately Priced Dwelling Units must be provided as required by Chapter 25A,  
240 and workforce housing units [must] may be provided [as required by] under Section  
241 59-A-6.18 and Chapter 25B. The maximum dwelling unit density or residential  
242 FAR may be increased in proportion to any MPDU density bonus provided on-site.

243 \* \* \*

244 **Sec. 9. Division 59-C-14 is amended as follows:**

245 **DIVISION 59-C-14[,]. TRANSIT MIXED-USE (TMX) ZONE**



246 \* \* \*

247 **59-C-14.213. General requirements.**

248 \* \* \*

249 (b) **MPDUs and workforce housing.** If residential uses are included in a  
250 development, Moderately Priced Dwelling Units must be provided under Chapter  
251 25A, and workforce housing units [must] may be provided under Section 59-A-  
252 6.18 and Chapter 25B. The maximum residential FAR may be increased in  
253 proportion to any MPDU [density] bonus density [and workforce]. Workforce  
254 housing units [provided on-site] may increase the maximum residential FAR under  
255 Section 59-A-6.18.2. Site plan review under [section] Section 59-D-3 is required.

256 \* \* \*

257 **59-C-14.27. Special regulations for use of a Building Lot Termination (BLT)**  
258 **Development Right.**

259 [Except for residential development subject to the requirement of workforce housing  
260 under Section 59-A-6.18, the] The approval of an application for any gross floor area in  
261 an optional method of development project must be subject to the following  
262 requirements:

263 \* \* \*

264 **Sec. 10. Division 59-D-1 is amended as follows:**

265 **Sec. 59-D-1.6. Approval by [district council] District Council.**

266 **59-D-1.61. Findings.**

267 Before approving an application for classification in any of these zones, the District  
268 Council must consider whether the application, including the development plan, fulfills  
269 the purposes and requirements in Article 59-C for the zone. In so doing, the District  
270 Council must make the following specific findings, in addition to any other findings  
271 which may be necessary and appropriate to evaluate the proposed reclassification:

272 (a) The proposed development plan substantially complies with the use and density  
273 indicated by the master plan or sector plan, and does not conflict with the general  
274 plan, the county capital improvements program, or other applicable county plans  
275 and policies. However:

276 \* \* \*

277 (2) To permit the construction of [all] workforce housing units [required] under  
278 § 59-A-6.18 and Chapter 25B on site, the District Council may permit:

279 (A) any residential density or residential FAR limit of the applicable zone  
280 to be exceeded to the extent required for the number of workforce  
281 housing units that are constructed, but not by more than 10 percent.

282 (B) any residential density or residential FAR limit recommended in a  
283 master or sector plan to be exceeded to the extent required for the  
284 number of workforce housing units that are constructed, but not to  
285 more than the maximum density and FAR of the zone, except as  
286 provided in paragraph (1); and

287 (C) any building height limit recommended in a master or sector plan to  
288 be exceeded to the extent required for the number of workforce  
289 housing units that are constructed, but not to more than the maximum  
290 height of the zone.

291 \* \* \*

292 **Sec. 11. Effective date.** This ordinance becomes effective 20 days after the date  
293 of Council adoption.

294

295 This is a correct copy of Council action.

296

297

298 

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Linda M. Lauer, Clerk of the Council

303

Bill No. 4-10  
Concerning: Workforce Housing -  
Voluntary  
Revised: 1-29-10 Draft No. 2  
Introduced: February 2, 2010  
Expires: August 2, 2011  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Planning, Housing, and Economic Development Committee

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**AN ACT** to:

- (1) modify the requirement for workforce housing to make the provision of workforce housing voluntary; and
- (2) generally amend the law governing the workforce housing program.

By amending

Montgomery County Code  
Chapter 25A, Housing, Moderately Priced  
Section 25A-5

Chapter 25B, Housing Policy  
Sections 25B-23 through 25B-28

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



28 Chapter 59.

29 (e) *Exclusions.* In calculating the number of dwelling units in any  
30 subdivision to determine the number of workforce housing units  
31 [required] built under this Article, the Department must not count:

- 32 (1) any moderately priced dwelling units (MPDUs) and any resulting  
33 bonus density market-rate units;
- 34 (2) any Personal Living Quarters unit built under Section 59-A-6.15,  
35 which meets the price or rent eligibility standards for a  
36 moderately priced dwelling unit under Chapter 25A;
- 37 (3) any dwelling unit in an Opportunity Housing Project built under  
38 Sections 56-28 through 56-32, which meets the price or rent  
39 eligibility standards for a moderately priced dwelling unit under  
40 Chapter 25A; and
- 41 (4) any other dwelling unit built under a government regulation or  
42 binding agreement that limits for at least 15 years the price or rent  
43 charged for the unit in order to make the unit affordable to  
44 households earning less than 60% of the area median income,  
45 adjusted for family size.

46 [(f) *Exemption.* If the total number of units in a subdivision that are not  
47 counted under subsection (e)(4) is sufficient to qualify the entire  
48 subdivision to receive federal low-income housing tax credits, then no  
49 workforce housing units are required in that subdivision.]

50 [(g)] (f) *Regulations.* The County Executive must adopt regulations  
51 under method (1) to administer this program. These regulations:

- 52 (1) must set maximum sale prices and annual rent limits, sale price  
53 and rent ranges (which must promote a variety of different prices  
54 or rents at each workforce housing location), minimum unit type

- 55 and bedroom requirements, and income eligibility standards;
- 56 (2) must govern notice to the Department of sales and rentals,
- 57 foreclosures, and other relevant procedural matters; and
- 58 (3) should, wherever possible, be similar to or at least consistent with
- 59 the regulations that govern the MPDU program.

60 The regulations governing eligibility must include some preference for  
 61 applicants who either reside in the County or work or have received a  
 62 job offer in the County.

63 \* \* \*

64 **25B-25. Execution of agreement; building permit issuance.**

65 (a) *Agreement.*

- 66 (1) After the developer of a housing project has obtained approval
- 67 from the Planning Board of a site plan that includes the number
- 68 of workforce housing units [required] approved under any
- 69 applicable provision of Chapter 59 and all other necessary
- 70 regulatory approvals, the Director and the developer must execute
- 71 an agreement assuring compliance with this Article by the
- 72 developer and any successor in interest. The Director must attach
- 73 a copy of the approved site plan to this agreement.
- 74 (2) The agreement must incorporate a staging plan for the
- 75 construction of workforce housing units, the mix of dwelling unit
- 76 sizes and types, and the maximum selling price or annual rent for
- 77 each unit. The staging plan must require all workforce housing
- 78 units to be built before or at the same time as the other dwelling
- 79 units. Where appropriate, the agreement must reflect conditions
- 80 required as part of other regulatory approvals.
- 81 (3) The agreement must require that the number of efficiency and

82 one- bedroom workforce housing units each must not exceed the  
 83 ratio that market-rate efficiency and one-bedroom units  
 84 respectively bear to the total number of market-rate units in the  
 85 subdivision. The Director must not approve an agreement that  
 86 reduces the number of bedrooms required by this subsection in  
 87 any workforce housing unit.

88 (b) *Issuance of building permit.* The Director of Permitting Services must  
 89 not issue a building permit for any development where workforce  
 90 housing units are [required] approved under Chapter 59 until the  
 91 agreement required by subsection (a) is executed. After an agreement is  
 92 executed under subsection (a), the Director must certify to the Director  
 93 of Permitting Services before a building permit is issued that all  
 94 applicable requirements of this Article have been met. If all workforce  
 95 housing units are not built before or at the same time as other dwelling  
 96 units as required in the staging plan, the Director of Permitting Services  
 97 may:

- 98 (1) withhold any later building permit for any part of the same  
 99 development until all workforce housing units designated in the  
 100 staging plan are built;
- 101 (2) issue a stop work order, effective until all workforce housing  
 102 units designated in the staging plan are built; or
- 103 (3) withhold any use and occupancy permit for other units in the  
 104 development until all workforce housing units designated in the  
 105 staging plan are built.

106 **[25B-26. Alternative location agreement.]**

107 [(a) The Director may approve a workforce housing agreement, in addition  
 108 to the agreement required by Section 25B-25, that allows an applicant,

109 instead of building some or all of the required number of workforce  
110 housing units on-site, to provide at least the same number of units at  
111 another location in the same planning policy area (as defined in the  
112 County Growth Policy), only if the Director finds that:

113 (1) either:

114 (A) the public benefit of locating at the proposed alternative  
115 location is equivalent to the value of locating workforce  
116 housing units in each applicable development; or

117 (B) building a sufficient number of workforce housing units at  
118 the original site would require the applicant to change the  
119 type of building construction used; and

120 (2) building the workforce housing units at the proposed alternative  
121 location will further the objective of providing a broad range of  
122 housing opportunities throughout the County.

123 (b) To satisfy the requirements of this Section, an applicant may:

124 (1) build, or convert from non-residential use, the required number of  
125 new workforce housing units at a site approved by the Director;  
126 or

127 (2) return to workforce housing unit use, and rehabilitate as  
128 necessary, existing workforce housing units for which price  
129 controls have expired.

130 (c) Each agreement under this Section must include a schedule, binding on  
131 the applicant, for timely completion or acquisition of the required  
132 number of workforce housing units. Each agreement under this Section  
133 must also require that each workforce housing unit provided at an  
134 alternative location under this Section must be identical in type of unit  
135 and number of bedrooms to the workforce housing units that the



136 applicant would have built on site.]

137 [25B-27] **25B-26. Control of sale prices; rent limits; income eligibility;**  
138 **foreclosures.**

139 \* \* \*

140 [25B-28] **25B-27. Compliance.**

141 \* \* \*

142 **Sec. 3. Expiration.**

143 Subsection (c) of Section 3 of Chapter 23, Laws of Montgomery County, 2006  
144 is hereby repealed:

145 **Sec. 3. Effective date; Applicability; Expiration.**

146 \* \* \*

147 [(c) Article V of Chapter 25B, as inserted by Section 1 of this Act, does not  
148 apply to any development for which an application for a local map  
149 amendment, development plan, project plan, site plan, or preliminary  
150 plan of subdivision is filed after December 1, 2014.]

151 *Approved:*

152

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Nancy Floreen, President, County Council Date

154 *Approved:*

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156

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Isiah Leggett, County Executive Date

157 *This is a correct copy of Council action.*

158

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Linda M. Lauer, Clerk of the Council Date



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

**MEMORANDUM**

**DATE:** February 18, 2010

**TO:** Gregory Russ,  
Build Division

**VIA:** Bill Barron, South Central Team Leader  
Vision Division

**FROM:** Crystal Myers  
Vision Division

**SUBJECT:** ZTA 10-01

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The Planning, Housing and Economic Development Committee is sponsoring Zoning Text Amendment 10-01 to convert the Workforce Housing program from a mandatory program to a voluntary program. The program, which is only mandatory in Metro Station Policy Areas, requires that projects proposing 35 or more market rate dwelling units in zones with a maximum density of at least 40 units per acre include at least 10 percent workforce housing units. This program attempts to address the housing need of those who make just under average median income in the County.

Most of the Master Plans state the County's desire to provide a range of housing options throughout the County. Therefore, two of the Plans that were approved around the same time as the County Council considered the workforce housing program, the Shady Grove Sector Plan (2006) and the Germantown Employment Area Sector Plan (2009), included workforce housing in their land use recommendations. The Shady Grove planning area has both land use recommendations and a Metro Station Policy area. Therefore, workforce housing is required for high density residential development in the Shady Grove area and a part of the Plan's vision for the area. As for Germantown, it has the strongest workforce housing recommendation out of all the County Master Plans but since Germantown is not in a Metro Station Policy area the program is voluntary. However, despite the workforce housing recommendations in both Germantown and Shady Grove so far no private workforce housing project has been attempted in either of these planning areas. Instead, only public workforce housing projects have moved forward in these areas. The one example of a workforce housing project that has progressed is the County's Police/Fire station project. The project, which is in the early stage of the planning process, is recommended in the Germantown Plan.

Few private workforce housing projects have been submitted anywhere in the County. The only private projects that have emerged are the Woodmont Central project in Bethesda Central Business District Metro Station Policy area and the Studio Plaza project in the Silver Spring Central Business District Metro Station Policy area.

Though workforce housing is supported by the County's Master Plans, few workforce housing projects have been proposed in the County. Furthermore, in Germantown the need for workforce housing is great enough that the Plan recommends the program even though the program is not mandatory in the planning area. There is a need for workforce housing and a program that can achieve a workforce housing supply in the County.