

Zoning Text Amendment (ZTA) No. 12-12, Transfer of Density from C-2 Zone to a Density Transfer Area in CBD



Gregory Russ, Planner Coordinator, Functional Planning & Policy Division, gregory.russ@montgomeryplanning.org, 301-495-2174



Mary Dolan, Chief, Functional Planning & Policy Division, mary.dolan@montgomeryplanning.org 301-495-4552

Completed: 09/6/12

Description

ZTA No. 12-12 allows the transfer of development density from C-2 zoned lots that adjoin or confront one-family residential zoning to Density Transfer Areas located in CBD zones. This provision for density transfer could assist in allowing greater development density in areas where higher density is deemed appropriate while ensuring in perpetuity that a residential neighborhood is buffered by lower commercial density than otherwise permitted.

Summary/Analysis

Staff recommends approval of ZTA No. 12-12 as introduced to allow the transfer of development density from C-2 zoned lots located in a block confronting a Density Transfer Area and adjoining or confronting one-family residential zoning to Density Transfer Areas in CBD zones. Density Transfer Areas are specifically designated in the master or sector plan. They are not synonymous with TDR receiving areas (*areas designated for receiving development capacity that is purchased from RDT zoned properties*). The proposed ZTA does not allow density to be transferred to the C-2 zoned properties, only from them.

In the CBD zones, the Planning Board may approve an optional method of development project for more than one non-adjacent lot located in the same Density Transfer Area. When combined, the lots must total a minimum of 18,000 square feet, or less if recommended in a master or sector plan. ZTA 12-12 would allow for the transfer of FAR from certain sending properties zoned C-2 that are located in a block that adjoins or confronts both a Density Transfer Area located in a CBD zone and one-family zoned properties. The maximum density for a C-2 zoned property that adjoins or confronts a one-family residential zone is a 1.5 FAR. Under ZTA 12-12 the density transferred from a C-2 zoned lot can be no greater than the gross square feet of development equal to a 1.2 FAR on the C-2 zoned lot, thereby ensuring that, at a minimum, the development capacity that remains on the C-2 zoned property is comparable to that of other transitional commercial zones. The requirements of Section 59-C-6.2355(a) must also be satisfied for the CBD zoned property that is receiving development density. These requirements:

- ensure that development is not transferred to a lot that abuts or confronts a one-family residential zone; and
- limit the density capacity of the combined lots to that which would otherwise be allowed on the separate lots under the optional method of development procedure or any density limit recommended in a master or sector plan.

Master/Sector Plan Impacts (Area 1)

Attachment 2 includes a map depicting the C-2 zoned properties that fit the applicable criteria. All relevant properties are located along the southwest side of Old Georgetown Road adjacent to or confronting the Woodmont Triangle- the only Density Transfer Area currently designated by master or sector plan. A Density Transfer Area is not the same as a TDR receiving area. The C-2 zoned properties located along the southwest side of Old Georgetown Road also abut or confront R-60 zoned lots. The attached chart and map (Attachment 2) indicate potentially 16 properties within the Old Georgetown Road Corridor affected by ZTA 12-12. Most of these properties are one and two story buildings with underutilized FAR. The properties include a mix of office and service retail, point-of-sale retail, and restaurants. These low-scale buildings and their uses provide a buffer between the CBD and the residential neighborhoods.

Applicable sections from the 1994 Bethesda Central Business District Sector Plan

3.2 – Urban Design Objectives

B. Urban Form

2. Step down building heights from the Bethesda Metro Center properties to achieve desirable and compatible transitions to adjacent areas. Buildings that are located at the edge of a district where taller heights are allowed should step down with intermediate heights toward the adjacent district with lower allowable heights. For height limits for development under the standard method, see the zoning ordinance.

4.3 - The Old Georgetown Road Corridor

B. Objectives

1. Preserve the predominantly low-density, low-scale commercial character of the corridor.

C. Recommendations

- *The Plan recommends continuing small-scale standard method infill development as the predominant pattern along Old Georgetown Road. Construction of larger, bulky buildings will be avoided in great part because of the many small properties and separate ownerships.*
- *The Plan recommends that the only optional method projects allowed be mixed-use with a residential component.*
- *The Plan recommends that low-density commercial uses continue along the south side of Old Georgetown Road. Properties should retain the existing zoning.*

Applicable sections from the 2006 Woodmont Triangle Amendment To The Sector Plan For the Bethesda CBD

Retail Preservation

Density Transfer

In order to encourage retention of existing small-scale retail, incentives are needed to encourage businesses to remain. Density transfer between properties is one way to achieve that goal. This Amendment designates a Density Transfer Area that would be appropriate for this transfer. Owners of small commercial properties that wish to remain can offer unrealized density to other properties to amass enough square footage or FAR to develop a mixed-use project.

Conclusion

In staff's opinion, approval of ZTA No. 12-12 would allow the transfer of development density from C-2 zoned lots that adjoin or confront one-family zoning to Density Transfer Areas located in CBD zones consistent with both the 1994 Bethesda CBD Sector Plan and the 2006 Woodmont Triangle Amendment to the Sector Plan. Specifically, the allowance for and the participation in this density transfer could ensure in perpetuity the low-scale, low-density commercial character that currently exists on the southwest side of Old Georgetown Road, providing a transitional stepping down to the adjacent residential neighborhoods. It could also help to preserve the existing small-scale, commercial uses that exist on these properties today. Also, transferring FAR to a mixed use project in the Woodmont Triangle assists the receiving site in amassing the necessary FAR for providing more residential development.

GR/MD/am

ATTACHMENTS

1. ZTA 12-12 as introduced
2. GIS & Sector Plan Maps/Chart of C-2 Properties

ATTACHMENT 1

Zoning Text Amendment No.: 12-12

Concerning: Density Transfer –
C-2 to CBD Zones

Draft No. & Date: 1 – 7/26/12

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: Council President Berliner and Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow the transfer of development density from C-2 zoned lots adjoining or confronting one-family zoning to Density Transfer Areas in CBD zones; and
- generally amend the provisions concerning the transfer of density in CBD zones.

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

DIVISION 59-C-6 “CENTRAL BUSINESS DISTRICT ZONES”

Section 59-C-6.2 “Provisions of CBD zones”

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 text that 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:

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

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

* * *

Sec. 59-C-6.2. Provisions of CBD zones.

* * *

59-C-6.2355. Special regulations for Optional Method of development projects [for more than lot] involving a density transfer. This section includes special regulations for optional method of development projects involving [more than one lot within] the transfer of density to a lot in a Density Transfer Area designated in a master or sector plan.

(a) The Planning Board may approve an optional method of development project for more than one non-adjacent lot in the same Density Transfer Area [that are not adjacent to each other], but when combined, the lots must total a minimum of 18,000 square feet, or less if recommended in a master or sector plan. The optional method of development project must comply with the project plan approval requirements of Section 59-D-2.42(g) and the following provisions:

[(i)](1) The [Density] density transferred [is] must be measured in terms of gross square feet of development.

[(ii)](2) The lot that receives a density transfer must not abut or confront a one-family residential zone.

[(iii)](3) The development capacity of the combined lots may be transferred among lots as shown on the project plan approved by the Planning Board; however, the development capacity of the combined lots must not exceed the total development capacity otherwise permitted on the separate lots under the optional method of

27 development procedure or any density limit recommended in a master
28 or sector plan.

29 [(iv)](4) Public use space must be provided based on the total area of the
30 lots included in the optional method of development project and may
31 be distributed among lots as shown on the project plan approved by
32 the Planning Board, in consideration of any master plan public use
33 space recommendation. Public use space may be located off-site in the
34 same [density transfer area] Density Transfer Area if the Planning
35 Board finds that an off-site location implements a master or sector
36 plan recommendation.

37 (b) The Planning Board also may approve an optional method of development
38 project for a lot in a Density Transfer Area that includes the transfer of
39 density to that lot from a lot zoned C-2 if:

40 (1) the C-2 lot from which density is being transferred is in a block
41 confronting the Density Transfer Area and adjoins or confronts a lot
42 in a one-family residential zone;

43 (2) the density transferred from a C-2 zoned lot is equal to or less than the
44 gross square feet of development equal to a 1.2 FAR on the C-2 zoned
45 lot; and

46 (3) the requirements of Section 59-C-6.2355(a) are satisfied.

47 (c) A density transfer must be established, transferred, and attached to a
48 [property] lot only by means of documents, including an easement and
49 appropriate releases, in a recordable form approved by the Planning Board.
50 Any easement must:

51 [(i)](1) limit future construction of the [property] lot that transfers the
52 density to the amount of gross square feet of the building minus all
53 development transferred[:];

54 [(ii)](2) indicate the amount of development, in gross square feet to be
55 transferred;

56 [(iii)](3) for density transferred from a lot classified in a CBD zone,
57 indicate the maximum gross square feet of future development for the
58 [property] lot that transfers the development credit, but no less than
59 the amount that could be constructed on the [property] lot under the
60 standard method of development;

61 (4) for density transferred from a lot classified in a C-2 zone, indicate the
62 maximum gross square feet of future development for the lot that
63 transfers the development credit, but no less than the floor area equal
64 to a .3 FAR; and

65 [(iv)](5) be recorded in the land records of Montgomery County.

66 * * *

67

68 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
69 date of Council adoption.

70

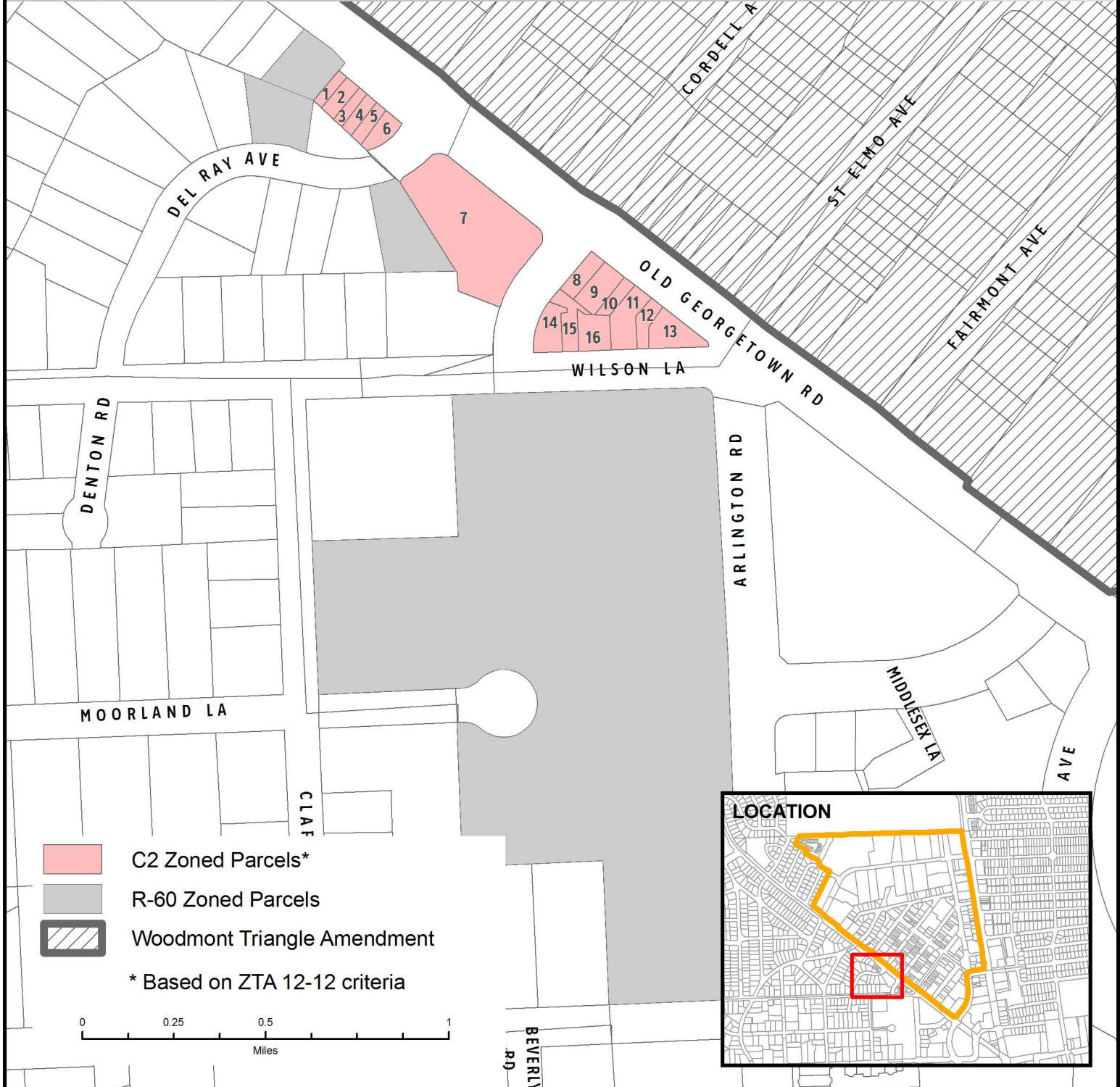
71 This is a correct copy of Council action.

72

73 _____

74 Linda M. Lauer, Clerk of the Council

ID	ACCT	OWNER NAME	PREMISE ADDRESS	LAND USE
1	00441445	GATTI RICHARD S 3RD ET AL	7910 OLD GEORGETOWN RD BETHESDA 20814	Retail
2	00441444	GATTI RICHARD S JR ET AL	7908 OLD GEORGETOWN RD BETHESDA 20814	Retail
3	00441438	SIZDAHKHANI L P	7906 OLD GEORGETOWN RD BETHESDA 20814	Office
4	00441439	KEAN PROPERTIES LLC	7904 OLD GEORGETOWN RD BETHESDA 20814	Retail
5	00441437	BREDICE LLC	7902 OLD GEORGETOWN RD BETHESDA 20814	Retail
6	00441442	BREDICE LLC	7900 OLD GEORGETOWN RD BETHESDA 20814	Retail
7	00441434	7830 BETHESDA LLC	7830 OLD GEORGETOWN RD BETHESDA 20814	Office
8	00441436	7818 OLD GEORGETOWN ROAD LLC	7818 OLD GEORGETOWN RD BETHESDA 20814	Retail
9	00441435	DDC 7814 LLC	7816 OLD GEORGETOWN RD BETHESDA 20814	Retail
10	00441441	NADIMI MOSTAFA &	7812 OLD GEORGETOWN RD BETHESDA 20814	Retail
11	00441443	EHRlich BERNARD ET AL TR	7810 OLD GEORGETOWN RD BETHESDA 20814	Retail
12	00441440	THE LAMS GROUP L L C	7806 OLD GEORGETOWN RD BETHESDA 20814	Retail
13	00441433	SLEEPING GYPSY LLC	5001 WILSON LN BETHESDA 20814	Retail
14	00440941	KOLIUS WILLAIM S TRUSTEE	5027 WILSON LN BETHESDA 20814	Retail
15	00440952	KOLIUS WILLIAM S TRUSTEE	5004 CORDELL AVE BETHESDA 20814	Retail
16	00441034	BPS-II LLC	5019 WILSON LN BETHESDA 20814	Retail



4.3 THE OLD GEORGETOWN ROAD CORRIDOR

A. DESCRIPTION

The Old Georgetown Road Corridor serves as an entry and commercial area for Bethesda. Low-scale buildings predominate and only scattered possibilities for small-scale infill development remain. The corridor extends from Woodmont Avenue to Glenbrook Road and includes properties with buildings that generally face onto Old Georgetown Road.

Land use is primarily retail, including restaurants and comparison retail. The uses and activities common to the Woodmont Triangle are also found along Old Georgetown Road.

B. OBJECTIVES

1. * Preserve the predominantly low-density, low-scale commercial character of the corridor.
2. Continue the "greening" of Bethesda by planting street trees and extending other streetscape improvements.

C. RECOMMENDATIONS

The Plan recommends continuing smallscale standard method infill development as the predominant pattern along Old Georgetown Road. (See Figure 4.17.) Construction of larger, bulky buildings will be avoided in great part because of the many small properties and separate ownerships.

The Plan recommends that the only optional method projects allowed be mixed-use with a residential component. Few, if any, such projects will occur due to the difficulty of achieving the minimum parcel size of 22,000 square feet.

Residential use above 1 FAR is recommended on small sites developed under the standard method, with retail uses allowed only on the ground floor. The CBD-1 Zone allows the addition of up to 1 FAR for residential use.

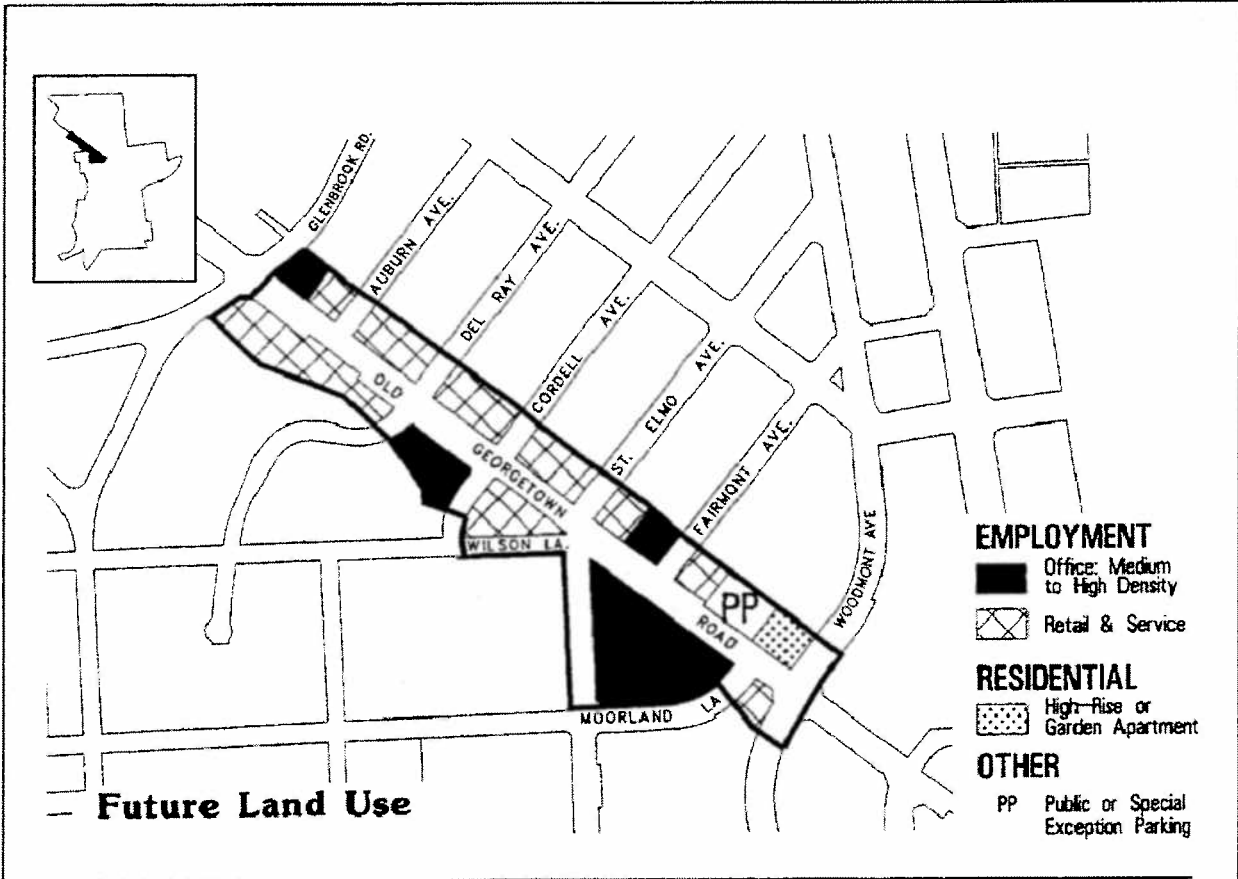
The Plan recommends that low-density commercial uses continue along the south side of Old Georgetown Road. Properties should retain the existing zoning. The one property that is zoned R-60, 7920 Old Georgetown Road, is suitable for the C-T Zone.

D. URBAN DESIGN GUIDELINES

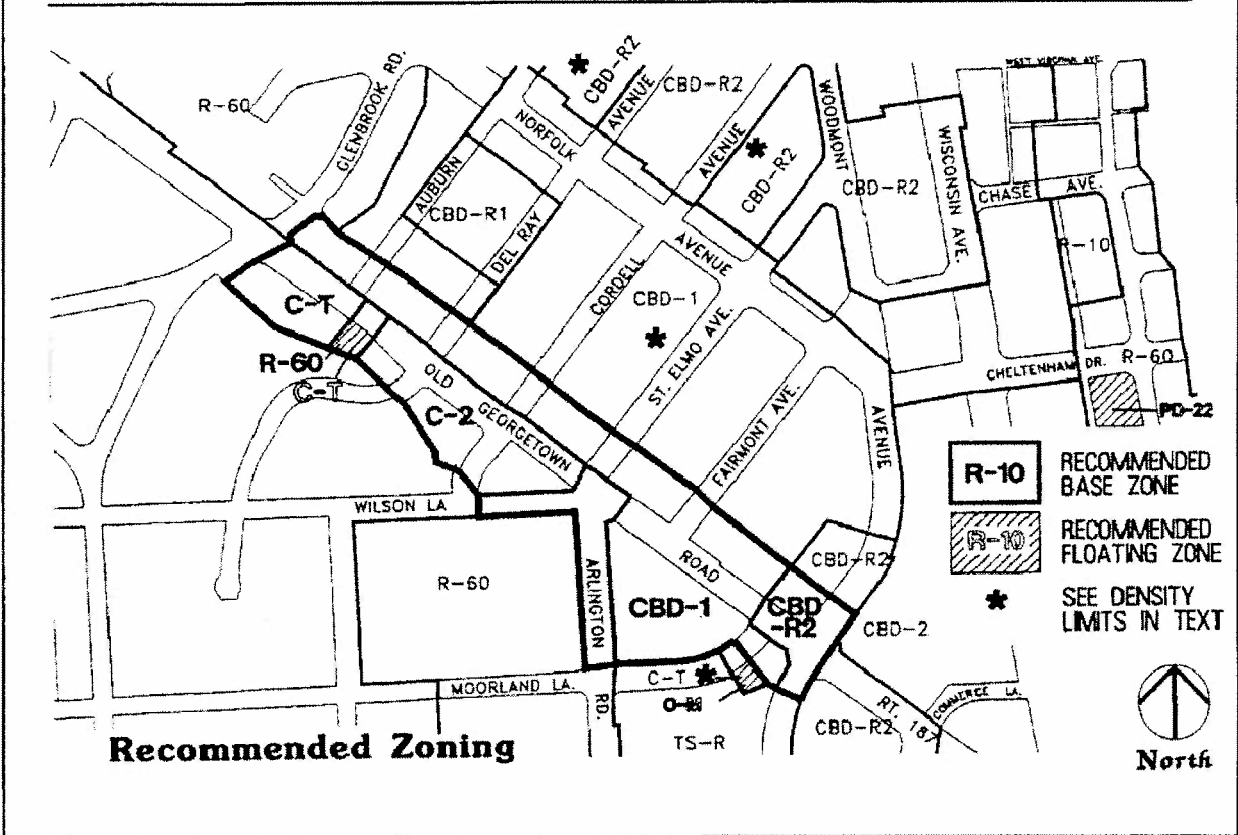
In addition to the general objectives and principles in Section 3.2, new buildings should be placed to locate front entrances, store windows, and activating uses along the corridor. (See Figure 4.18.)

OLD GEORGETOWN ROAD CORRIDOR

FIGURE 4.17



page 88



ZONING PLAN

FIGURE 4.3

