



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #4
4/24/03

DATE: April 18, 2003
TO: Montgomery County Planning Board
VIA: Joseph Davis, Chief, Development Review *JRD*
FROM: Greg Russ, Zoning Coordinator *GR*
Ronald C. Welke, Supervisor, Transportation Planning *RW*
Karl Moritz, Research Manager *KM*
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To provide a process for an applicant for reclassification of property located in a Metro Station Policy Area to satisfy the applicant's burden of proof on certain traffic impact issues

TEXT AMENDMENT: No. 03-06
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: District Council
INTRODUCED DATE: February 25, 2003
PLANNING BOARD REVIEW: April 24, 2003
PUBLIC HEARING: April 21, 2003 @ 7:00 pm (Record to remain open for Planning Board Opinion)

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

To provide a process for an applicant for reclassification of property located in a Metro Station Policy Area to satisfy the applicant's burden of proof on certain traffic impact issues by meeting applicable requirements of the Alternative Review Procedure for Metro Station Policy Areas in the Annual Growth Policy (AGP).

BACKGROUND

Alternative Review Procedure for Metro Station Policy Areas

In planning for the growth of Montgomery County, staff has recognized that while concentrating development near Metro stations is a more efficient use of the transportation network than dispersed development, these benefits come at the cost of increased roadway congestion in the vicinity of the stations. In other words, concentrations of development at Metro stations are not achievable unless higher levels of roadway congestion are allowed. The Annual Growth Policy's Policy Area Transportation Review (staging ceilings) and Local Area Transportation Review do allow higher levels of congestion in Metro Station Policy Areas for this reason.

Beginning in the early 1990s, concern was raised that the AGP's less-stringent congestion standards were not enough to keep the AGP and the adequate public facilities ordinance from being too great an impediment to concentrated development near Metro stations. In 1994, the County Council adopted the first "Alternative Review Procedure for Metro Station Policy Areas" which offered developers relief from Local Area Transportation Review upon agreement to make a "development approval payment." The procedure was used, perhaps most notably by the Conference Center, but by the late 1990s it had become clear that Policy Area Transportation Review was also a major barrier to development near Metro stations.

During the 2001-2003 AGP Policy Element review, the Planning Board proposed a new "Alternative Review Procedure for Metro Station Policy Areas" that would allow a developer to meet the requirements for both AGP transportation tests by making a payment and by providing an added component of affordable housing. The County Council agreed with the Planning Board's goal but not the means: the Council substituted a requirement for a 50 percent reduction in weekday peak hour trips for the requirement for added affordable housing. The new procedure went into effect on November 1, 2001.

ANALYSIS

Requirements for a Traffic Study

For applicants using the alternative review procedures, staff does not believe that a traffic study should be required at the time of local map amendment. Instead, the applicant should show that their satisfaction of the requirements of the AGP procedure they are using has a "reasonable probability of fruition." In the case of the Alternative Review Procedure for Metro Station Policy Areas, those requirements are to:

- (a) show that the applicant will satisfy the applicable trip reduction requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy; and

- (b) include in the applicant's certified development or diagrammatic plan a binding element that commits the applicant to comply with all relevant requirements of the Alternative Review Procedure for Metro Station Policy Areas in the Annual Growth Policy.

A traffic study is required of Metro Station Policy Area development projects using the "Alternative Review Procedure for Metro Station Policy Areas" as part of the review of the application for a preliminary plan. The purpose of this traffic study is to help public officials identify transportation improvements needed to support area development.

Text Amendment Language

The proposed text amendment language is as follows:

DIVISION 59-H-2. MAP AMENDMENTS - APPLICATIONS.

* * *

59-H-2.6. Local Map Amendments– Metro Station Policy Areas.

An applicant for a local map amendment for property located completely in a Metro station policy area, that will be subject to the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy, may satisfy the applicant's burden of proof on any traffic impact issue by:

- (a) showing that the applicant will satisfy the applicable trip reduction requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy; and*
- (b) including in the applicant's certified development or diagrammatic plan a binding element that commits the applicant to comply with all relevant requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy.*

Staff believes that the purpose of the Alternative Review Procedure in the AGP is to define the test for transportation adequacy in Metro Station Policy Areas in a way that strikes a balance between local and regional congestion concerns. In this case, it means that approved development will have to achieve a 50 percent trip reduction and make a payment to the County that will be used toward capacity-creating transportation infrastructure.

We believe the purpose of the Alternative Review Procedure for Metro Station Policy Areas would be undermined if additional transportation test requirements are layered over top of that required by the AGP at preliminary plan.

Staff supports Zoning Text Amendment 03-06 because it correctly clarifies how a development project in a Metro Station Policy Area will be reviewed for traffic impact. The text amendment makes it clear that traffic impact reviews will be done in accordance with the procedures in the Annual Growth Policy.

However, staff further recommends striking the references to “Metro Station Policy Areas” so that the text amendment applies to the other alternative review procedures in the Annual Growth Policy. Although our suggested change will probably affect only a modest number of subdivisions, the very good arguments for the zoning text amendment as proposed are equally applicable to the AGP’s other alternative review procedures. We recommend that Zoning Text Amendment 03-06 be revised to apply to all of the AGP’s Alternative Review Procedures. These procedures would include:

- The Special Ceiling Allocation for Affordable Housing
- The Special Provisions for Corporate Support and Headquarters Facilities and Certain Hospitals
- Strategic Economic Development Projects

(The Alternative Review Procedure for Limited Residential Development and the Alternative Review Procedure for Expedited Non-Residential Development Approval are no longer in effect.)

The purpose of all of these procedures is to provide certain desired development projects with an alternative and/or reduced requirement for meeting transportation adequacy tests. Just as in the case of the Alternative Review Procedure for Metro Station Policy Areas, it does not make sense to reduce transportation requirements in the AGP only to impose standard transportation requirements at zoning.

As stated above, the number of subdivisions that might seek approval under the three procedures is modest. In the case of the Special Ceiling Allocation for Affordable Housing, there have been three approvals under the provision since 1994: two projects totaling 54 units in Aspen Hill and one project of 106 units in Montgomery Village. There have been no approvals as yet under the alternative review procedures labeled “special provisions” or the Strategic Economic Development Projects provision.

Master and Sector Plan Conformance

The Community-Based Planning Division reports that the proposed text amendment would not affect the goals and objectives of any master and sectors plans.

RECOMMENDATION

The staff recommends approval of the proposed text amendment to provide a process for an applicant for reclassification of property located in a Metro Station Policy Area to satisfy the applicant’s burden of proof on certain traffic impact issues by meeting applicable requirements of the Alternative Review Procedure for Metro Station Policy Areas in the Annual Growth

Policy (AGP). Staff further recommends that the text language should be modified to provide a broader application of the proposed language, thereby also applying to the other alternative review procedures in the Annual Growth Policy. Should the County Council determine that staff's recommended modifications are beyond the scope of the proposed zoning text amendment, as introduced, then staff would have no objection to the existing text amendment language but would recommend that a second text amendment be introduced providing a broader scope to address all AGP alternative review procedures.

Attachment 1 depicts the proposed text amendment as modified by staff. 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 (staff's changes). [[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment (staff's changes).

GR

Attachments

1. Proposed Text Amendment 03-06 (as amended by staff)
2. Memorandum to Gregory Russ from Ronald Welke and Karl Moritz

ATTACHMENT 1

Zoning Text Amendment No: 03-06
Concerning: Local Map Amendments -
Metro Station Policy Area
Draft No. & Date: 1 – 3/12/03
Introduced: 3/18/03
Public Hearing: April 21, 2003; 7:00 PM
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

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

- providing a process for an applicant for reclassification of property located in a Metro Station Policy Area to satisfy the applicant's burden of proof on certain traffic impact issues.

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

DIVISION 59-H-2 "MAP AMENDMENTS—APPLICATIONS"

Add a new section

59-H-2.6 Local Map Amendments – Metro Station Policy Areas

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-H-2 is amended as follows:

DIVISION 59-H-2. MAP AMENDMENTS - APPLICATIONS.

* * *

**59-H-2.6. Local Map Amendments– [[Metro Station Policy Areas]]
Alternative Review Procedures.**

An applicant for a local map amendment [[for property located completely in a Metro station policy area,]] that will be subject to [[the]] any [[A]]alternative [[R]]review [[P]]procedure [[for Metro Station Policy Areas]] contained in the Annual Growth Policy, may satisfy the applicant’s burden of proof on any traffic impact issue by:

- (a) showing that the applicant will satisfy the applicable [[trip reduction]] requirements of the [[A]]alternative [[R]]review [[P]]procedure [[for Metro Station Policy Areas]] contained in the Annual Growth Policy;
- and
- (b) including in the applicant’s certified development or diagrammatic plan a binding element that commits the applicant to comply with all relevant requirements of the [[A]]alternative [[R]]review [[P]]procedure [[for Metro Station Policy Areas]] contained in the Annual Growth Policy.

The Annual Growth Policy’s alternative review procedures include the Alternative Review Procedure for Metro Station Policy Areas, the Special Ceiling Allocation for Affordable Housing, the Special Provisions for Corporate Support and Headquarters Facilities and Certain Hospitals, and Strategic Economic Development Projects.

28 **[59-H-2.6] 59-H-2.7 Sectional and district map amendments.**

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30 **Sec. 2. Effective date.** This ordinance becomes effective immediately upon
31 Council adoption.

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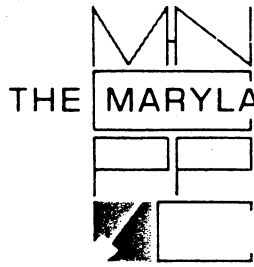
33 This is a correct copy of Council action.

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36 Mary A. Edgar, CMC

37 Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

April 14, 2003

Memorandum

To: Gregory Russ, Zoning Planner Coordinator, Development Review Division
From: Ronald C. Welke, Supervisor, Transportation Planning 301-495-4533
Karl Moritz, Research Manager, 301-495-1312 *Karl*
Re: Zoning Text Amendment No. 03-06: Local Map Amendments – Metro Station Policy Areas

Summary

We support Zoning Text Amendment 03-06 because it correctly clarifies how a development project in a Metro Station Policy Area will be reviewed for traffic impact. The text amendment makes it clear that traffic impact reviews will be done in accordance with the procedures in the Annual Growth Policy. The procedures were adopted by the County Council in October 2001 to balance the regional traffic benefit of locating development near Metro stations against the same development's impact on local traffic. We believe that if the traffic review at local map amendment were more stringent, or required additional information than the AGP test, it would upset this carefully considered balance.

However, we recommend striking the references to "Metro Station Policy Areas" so that the text amendment applies to the other alternative review procedures in the Annual Growth Policy. Although our suggested change will probably affect only a modest number of subdivisions, the very good arguments for the zoning text amendment as proposed are equally applicable to AGP's other alternative review procedures. For example, staff would very much like to avoid a situation where a subdivision that will produce affordable housing under the AGP's "Special Ceiling Allocation for Affordable Housing" becomes infeasible due to transportation requirements at zoning.

We also recommend striking the phrase "trip reduction" in the phrase "showing that the applicant will satisfy the applicable *trip reduction* requirements of the alternative review procedure...contained in the Annual Growth Policy."

Requirements for a Traffic Study

For applicants using the alternative review procedures, we do not believe that a traffic study should be required at the time of local map amendment. Instead, the applicant should show that their satisfaction of the requirements of the AGP procedure they are using has a "reasonable probability of fruition." In the case of the Alternative Review Procedure for Metro Station Policy Areas, those requirements are to:

- (a) show that the applicant will satisfy the applicable trip reduction requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy; and
- (b) include in the applicant's certified development or diagrammatic plan a binding element that commits the applicant to comply with all relevant requirements of the Alternative Review Procedure for Metro Station Policy Areas in the Annual Growth Policy.

A traffic study is required of Metro Station Policy Area development projects using the "Alternative Review Procedure for Metro Station Policy Areas" as part of the review of the application for a preliminary plan. The purpose of this traffic study is to help public officials identify transportation improvements needed to support area development.

Alternative Review Procedure for Metro Station Policy Areas

In planning for the growth of Montgomery County, we have recognized that while concentrating development near Metro stations is a more efficient use of the transportation network than dispersed development, these benefits come at the cost of increased roadway congestion in the vicinity of the stations. In other words, concentrations of development at Metro stations are not achievable unless higher levels of roadway congestion are allowed. The Annual Growth Policy's Policy Area Transportation Review (staging ceilings) and Local Area Transportation Review do allow higher levels of congestion in Metro Station Policy Areas for this reason.

Beginning in the early 1990s, concern was raised that the AGP's less-stringent congestion standards were not enough to keep the AGP and the adequate public facilities ordinance from being too great an impediment to concentrated development near Metro stations. In 1994, the County Council adopted the first "Alternative Review Procedure for Metro Station Policy Areas" which offered developers relief from Local Area Transportation Review upon agreement to make a "development approval payment." The procedure was used, perhaps most notably by the Conference Center, but by the late 1990s it had become clear that Policy Area Transportation Review was also a major barrier to development near Metro stations.

During the *2001-2003 AGP Policy Element* review, the Planning Board proposed a new "Alternative Review Procedure for Metro Station Policy Areas" that would allow a

developer to meet the requirements for both AGP transportation tests by making a payment and by providing an added component of affordable housing. The County Council agreed with the Planning Board's goal but not the means: the Council substituted a requirement for a 50 percent reduction in weekday peak hour trips for the requirement for added affordable housing. The new procedure went into effect on November 1, 2001.

Purpose and Intent

We believe the purpose of the Alternative Review Procedure in the AGP is to define the test for transportation adequacy in Metro Station Policy Areas in a way that strikes a balance between local and regional congestion concerns. In this case, it means that approved development will have to achieve a 50 percent trip reduction and make a payment to the County that will be used toward capacity-creating transportation infrastructure.

We believe the purpose of the Alternative Review Procedure for Metro Station Policy Areas would be undermined if additional transportation test requirements are layered over top of that required by the AGP at preliminary plan.

Recommendation: Apply to All "Alternative Review Procedures"

We recommend that ZTA 03-6 be revised to apply to all of the AGP's Alternative Review Procedures. These would include:

- The Special Ceiling Allocation for Affordable Housing
- The Special Provisions for Corporate Support and Headquarters Facilities and Certain Hospitals
- Strategic Economic Development Projects

(The Alternative Review Procedure for Limited Residential Development and the Alternative Review Procedure for Expedited Non-Residential Development Approval are no longer in effect.)

The purpose of all of these procedures is to provide certain desired development projects with an alternative and/or reduced requirement for meeting transportation adequacy tests. Just as in the case of the Alternative Review Procedure for Metro Station Policy Areas, it does not make sense to reduce transportation requirements in the AGP only to impose standard transportation requirements at zoning.

The number of subdivisions that might seek approval under the three procedures is modest. In the case of the Special Ceiling Allocation for Affordable Housing, there have been three approvals under the provision since 1994: two projects totaling 54 units in Aspen Hill and one project of 106 units in Montgomery Village. There have been no approvals as yet under the alternative review procedures labeled "special provisions" or the Strategic Economic Development Projects provision.

Suggested Text

59-H-2.6 Local Map Amendments – Metro Station Policy Areas Alternative Review Procedures

An applicant for a local map amendment for property located completely in a Metro station policy area, that will be subject to the any Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy, may satisfy the applicant's burden of proof on any traffic impact issue by:

- (a) showing that the applicant will satisfy the applicable trip reduction requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy; and
- (b) including in the applicant's certified development or diagrammatic plan a binding element that commits the applicant to comply with all relevant requirements of the Alternative Review Procedure for Metro Station Policy Areas contained in the Annual Growth Policy.

The Annual Growth Policy's alternative review procedures include the Alternative Review Procedure for Metro Station Policy Areas, the Special Ceiling Allocation for Affordable Housing, the Special Provisions for Corporate Support and Headquarters Facilities and Certain Hospitals, and Strategic Economic Development Projects.