



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 10
9/11/03

DATE: September 5, 2003
TO: Montgomery County Planning Board
FROM: Joseph R. Davis, Chief *JRD*
Development Review Division
301-495-4591

REVIEW TYPE: Zoning Text Amendment
PURPOSE: To permit certain commercial uses by right in the Transit Station-Residential (TS-R) Zone rather than by special exception and to allow grocery stores as a permitted use in the Zone

TEXT AMENDMENT: No. 03-20
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Floreen
DATE INTRODUCED: July 22, 2003

PLANNING BOARD REVIEW: September 11, 2003
PUBLIC HEARING: September 9, 2003

STAFF RECOMMENDATION

APPROVAL of the Text amendment with the following modifications:

- 1) Amend Sec. 59-C-8.3 entitled, "Land uses" to add existing footnote #3 to the proposed grocery store use in the TS-R Zone.
- 2) Amend proposed footnote * on Line 23 of the Text Amendment to read as follows:

* A grocery store is not permitted in a Development Plan that contains less than 500 dwelling units. A grocery store must not exceed 35,000 square feet of gross floor area if approved as part of a Development Plan containing between 500 and 1,000 dwelling units. A grocery store must not exceed 50,000 square feet of gross floor area if approved as part of a Development Plan containing more than 1,000 dwelling units. In order to minimize the amount of off-street parking required, the number of required parking spaces must include all parking credits and reductions allowed in Division 59-E of the Zoning Ordinance.

ISSUE TO BE RESOLVED BY TEXT AMENDMENT

To expand the types of commercial uses allowed in the TS-R Zone without requiring special exception approval.

BACKGROUND

This text amendment was introduced at the request of owners of a large-scale residential/commercial project that is being planned for development in the TS-R Zone. The project, located in the Twinbrook Metro Station Area, is proposed to contain over 1,100 dwelling units, over 160,000 square feet of retail space and over 616,000 square feet of office space. Several hundred additional dwelling units, about 40,000 square feet of the retail component and the entire office component are located within the city of Rockville. The project is also proposing to construct over 3,880 parking spaces with about 1,100 of the spaces devoted to WMATA use.

ANALYSIS

The TS-R Zone currently allows a limited number of commercial uses as permitted and special exceptions. Permitted commercial activities include such uses as antique shops, handicrafts or art sales; book stores; florists; gift shops; and newsstands. Special exception uses include drug stores, eating and drinking establishments, food and beverage stores and pet shops. Most of the permitted and special exception commercial uses in the TS-R Zone are restricted in that they are allowed only as ancillary commercial uses, in accordance with the requirements of Sec. 59-C-8.54 of the TS-R Zone. This section requires that the amount of floor area devoted to commercial uses cannot exceed the amount or substantially alter the configuration specified for the site in the applicable master or sector plan. If the master plan or sector plan does not make a specific recommendation as to the amount of floor area allowed, then commercial uses are limited to street level only.

Staff believes that allowing drug stores, eating and drinking establishments and food and beverage stores as permitted uses rather than special exception uses is appropriate. The text amendment proposes to retain application of the requirements of Sec. 59-C-8.54 to these uses. While not part of this text amendment, staff generally supports changing all of the special exception uses in both the TS-R and the TS-M Zones to permitted uses because requirements for development plan approval, subdivision approval and site plan approval provide more than sufficient public review and approval of proposed uses. This issue will be studied as part of the comprehensive review of the commercial, industrial and mixed-use zones, which is Phase 2 of the Zoning Ordinance Comprehensive Rewrite Project.

Staff supports allowing grocery stores in the Zone provided that the size of a store is related to the number of dwelling units proposed. Staff is concerned that grocery stores should not be permitted in developments containing fewer than 500 dwelling units

because the intensity of such use could alter the planned residential character of the Zone. Allowing grocery stores in TS-R zoned sites can provide an important commercial use for the convenience of residents. In the staff's opinion, however, there could be a problem if larger stores are allowed to locate in TS-R zoned areas where a large portion of the market to be served resides outside of the Zone. By restricting the larger grocery stores to the larger residential projects, this problem can be averted or minimized.

Staff is also concerned that a grocery store located in transit station areas or central business districts should be urban in character and parking should reflect the pedestrian and transit oriented nature of these zones. If off-street parking is provided at the normal rate of 5 spaces per 1,000 square feet required at suburban shopping centers, then any economy of parking that is normally associated with the urban location is lost. Staff strongly recommends that grocery stores only be allowed if all parking credits and reductions currently allowed in the Parking Regulations (Division 59-E) are utilized. The grocery store approved as part of the Hecht's project in Friendship Heights took full advantage of parking credits and reductions to reduce the required number of parking spaces for the project.

With the modifications recommended in this Report, staff recommends approval of the text amendment.

Attachments

Zoning Text Amendment No: 03-20
Concerning: Permitted uses – TS-R Zone
Draft No. & Date: 1 – 7/16/03
Introduced: July 22, 2003
Public Hearing: 9/9/03; 1:30 p.m.
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: Councilmember Floreen

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

- permitting certain commercial uses by right, rather than by special exception, in the Transit Station-Residential (TS-R) zone.

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

DIVISION 59-C-8 “TRANSIT STATION DEVELOPMENT AREA ZONES”
Section 59-C-8.3 “Land uses”

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-8 is amended as follows:**

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

4 * * *

5 **59-C-8.3 Land uses.**

	TS-R	TS-M
* * *		
(c) Commercial.		
* * *		
Drug stores.	[SE] <u>P</u> ³	P
Eating and drinking establishments, excluding drive-ins.	[SE] <u>P</u> ³	P
Florists.	<u>P</u> ³	P
Food and beverage stores.	[SE] <u>P</u> ³	P
Gift shops.	<u>P</u> ³	P
Grocery store.	<u>P</u> ³	P
* * *		
(d) Services.		
* * *		
Health clubs.	<u>P</u>	P

6 * * *

7 **59-C-8.5 Special requirements in the TS-R zone.**

8 * * *

9 **59-C-8.54. Ancillary commercial uses.**

10 Ancillary commercial uses, as a permitted use or by special exception as set forth
 11 in section 59-C-8.3, may be permitted as follows:

12 (a) The amount of floor area devoted to commercial uses cannot exceed the
 13 amount or substantially alter the configuration specified for the site in the
 14 applicable master or sector plan.

15 (b) If the master or sector plan does not make a specific recommendation as to
 16 the amount of floor area allowed, then commercial uses are limited to the
 17 street level only.

18 In addition, a restaurant may be permitted on the top or penthouse floor. All
19 commercial uses must be so located and constructed to protect tenants of the
20 building from noise, traffic, odors and interference with privacy.

21 _____
22 3 In accordance with section 59-C-8.54.
23 * Grocery store density may not exceed 50,000 square feet of gross
24 floor area.

25
26 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
27 date of Council adoption.

28
29 This is a correct copy of Council action.

30
31
32
33 _____
34 Mary A. Edgar, CMC
35 Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 14, 2003

MEMORANDUM

TO: Joe Davis, Chief
Development Review Division

FROM: John Carter, Chief *JJC*
Community-Based Planning Division

Kristin O'Connor, B-CC/North Bethesda Planner
Community-Based Planning Division

SUBJECT: ZTA 03-20, Permitted Uses – TS-R Zone

MASTER PLANS: North Bethesda/Garrett Park (1992); Bethesda CBD (1994);
Friendship Heights (1998)

Recommendation: Support the proposed Zoning Text Amendment (ZTA). The uses are consistent with the intent of the Transit Station Zones and the vision in the Twinbrook Sector Plan for “transit serviceable”, mixed-use centers. Staff supports ancillary uses, including a 50,000 square foot grocery store in the TS-R zone, and an overall reduction in required parking as a result of the mixed-use, shared parking in transit station areas.

Discussion: Under the ZTA, certain retail commercial uses in the TS-R zone would be converted from a special exception to permitted uses. Existing restrictions that require certain commercial uses to conform to the amount of floor area recommended in the applicable master plan and to be restricted to the street level, unless otherwise recommended in the applicable master plan, would continue to apply. The following ZTA would allow special exception commercial uses, grocery stores, restaurants, health clubs, eating and drinking establishments, and other ancillary commercial uses in the TS-R zone.

Analysis: Staff supports approval of the ZTA and notes that all TS-R sites require development plans. During the review of the site plan, the parking requirements for all proposed commercial uses should be reduced to the number of spaces appropriate for a Metro station.

The proposed ZTA is consistent with the North Bethesda/Garrett Park Master Plan (1992) for the Twinbrook TS-R zone. The Plan calls for “combined activity and transit nodes by locating new development and a variety of activities at or near transit stops” (page 109). The Plan confirms the TS-R zoning for the Twinbrook Metro site at the CSX/Metrorail line and Fisher’s Lane, west of Twinbrook Parkway. The Plan calls for the introduction of a “transit serviceable residential component” into the Twinbrook Sector Plan area (page 41). The proposed uses are compatible with the existing and proposed “transit serviceable” residential development in the Twinbrook TS-R zone.

Comparison of Grocery Stores

Grocery Store, Location	Square Footage
Whole Foods, Silver Spring	35,000
Whole Foods, Rockville	24,900
Safeway, Bethesda, Wisconsin Ave & Old Georgetown	41,300
Wisconsin Place, Friendship Heights	50,000 (includes 10,000 café)
New Giant, Columbia Heights, DC	55,000
New Giant, Arlington Road, Bethesda	65,000 (2 levels)