



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
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MCPB
Item # 16
9/09/04

DATE: September 3, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to allow a waiver of certain Planned Development (PD) zone standards to facilitate the preservation, reuse, or redevelopment of a historic district.

TEXT AMENDMENT: No. 04-15
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Perez
INTRODUCED DATE: July 27, 2004

PLANNING BOARD REVIEW: September 9, 2004
PUBLIC HEARING: September 14, 2004; 1:30pm

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to allow a waiver of certain Planned Development (PD) zone standards to facilitate the preservation, reuse, or redevelopment of a historic district.

BACKGROUND/DISCUSSION

Sites classified in the Planned Development (PD) Zone that are not within or in close proximity to a CBD or Transit Station zone, must comply with certain setback requirements if the site adjoins land recommended in a master plan for one-family residential development. ZTA 04-15 would allow a waiver of the setback requirements if development of a site in the PD zone would facilitate the preservation, reuse, or redevelopment of property in a historic district. The

proposed text amendment was initiated to address a potential development issue for the National Park Seminary property located in Forest Glen.

ANALYSIS

Planning/Zoning Process

ZTA 04-15 would apply mostly to property proposed for PD zoning in the future. This includes property recommended for PD zoning in approved master plans and properties where the owner might apply for PD zoning without the benefit of a master plan recommendation for such zoning. The PD zone is a floating zone; a property may be approved for such zoning if the proposed development is consistent with the purposes and standards of the zone, and compatible with the surrounding uses. Property owners can apply for PD zoning for property not specifically recommended for PD in the approved master plan where 1) the approved master plan recommends residential densities of at least two units per acre, and 2) there is sufficient property to meet the minimum area requirements (e.g., the requested zone will yield at least 50 dwelling units; it will extend an existing planned development; or it will result in the preservation of a historic structure or site).

The proposed ZTA language is as follows:

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

* * *

59-C-7.15 Compatibility.

* * *

- (b) *In order to assist in accomplishing compatibility for sites that are not within, or in close proximity to a Central Business District or Transit Station Development Area, the following requirements apply where a planned development zone adjoins land for which the area master plan recommends a one-family detached zone:*
- (1) *No building other than a one-family detached residence can be constructed within 100 feet of such adjoining land; and*
 - (2) *No building can be constructed to a height greater than its distance from such adjoining land.*
- (c) *A waiver of the requirement of paragraph (b)(1) [above] may be permitted [upon a finding that] if:*

- (1) *The area master plan recommends other than a one-family detached zone for the property immediately adjoining the area where the waiver is to occur; and*
 - (2) *The immediately adjoining property will not be adversely affected by the waiver for present or future use.*
- (d) *A waiver of [the provisions of] subsection (b) [above] may be permitted if:*
- (1) [where] [t]The site is within or in close proximity to a central business district or transit station development area and reduced setbacks are recommended by the master or sector plan, and the Planning Board finds that the reduced setbacks are compatible with existing or proposed development in the adjoining or confronting one-family detached zones[.], or [The maximum building height under the waiver will not exceed 50 feet.]
 - (2) The site is within or in close proximity to a historic district and the Planning Board finds that reduced setbacks will facilitate the preservation, reuse, or redevelopment of a designated historic district and the immediately adjoining property will not be adversely affected by the waiver.
 - (3) The maximum building height under this waiver must not exceed 50 feet.

Staff has no objection to the proposed text amendment to allow a waiver of certain Planned Development (PD) zone standards (setbacks and building height) to facilitate the preservation, reuse, or redevelopment of a historic district, since the Planning Board will be required to reach a finding that the reduction will not adversely affect the adjoining property. Staff recommends that the proposed language in Section 59-C-7.15(d)(2) be modified to refer to adjoining properties, rather than referring to a singular property. Furthermore, staff recommends that proposed Section 59-C-7.15(d)(2) include language stating that for waivers of the limit on maximum building height the Planning Board must also make a “no adverse impact” finding and a finding that the waiver will facilitate historic preservation.

In addition to the modifications as stated above, staff believes that clarification of Section 59-C-7.15(c)(1) is necessary. The requirements of subsection (b)(1) above apply where a planned development zone adjoins land for which the area master plan recommends a one-family detached zone. Under subsection (c)(1), a waiver of paragraph (b)(1) may be permitted if the area master plan recommends other than a one-family detached zone for the adjoining property. Staff believes that subsection 59-C-7.15(c)(1) does not make sense when read in conjunction

with 59-C-7.15(b). It is believed that the word “use” was intended instead of the word “zone” under 59-C-7.15(c)(1). As such, staff is recommending that this plain language change be made.

Conformance with the Applicable Sector Plans

The Community-Based Planning Division has reviewed ZTA 04-15 with regard to its potential applications. There are a number of PD-zoned properties in Montgomery County but staff has not identified any that adjoin or are located in close proximity to designated historic districts. In any case, property that is already zoned PD has an approved development plan* and would probably already have site plan approval from the Planning Board. Unless such prior approvals are amended, the provision for reduced setbacks in ZTA 04-15 would probably not apply to property already zoned PD.

Community-Based Planning has identified several properties that are recommended for PD zoning in approved master plans and located in close proximity to historic *sites*. These include the WTOP property in Wheaton; the Hanson Farm in Potomac; and the Old Derwood and Crown Farm properties in Shady Grove. Such properties would not be affected by the proposed ZTA because the amendment relates only to designated historic *districts*—not individual historic sites. The proposed ZTA was crafted narrowly in order to provide the flexibility for the redevelopment associated with the National Park Seminary (NPS) historic district. At this time, staff is not aware of other properties that would benefit from the proposed legislation (i.e., properties recommended for PD zoning in close proximity to historic districts).

Although the proposed text amendment is intended to facilitate redevelopment of the NPS property, ZTA 04-15 is not a single property ordinance because a) new historic districts could be designated at any time, possibly in close proximity to property proposed for PD zoning; and b) properties could be rezoned to PD through local map amendment at any time, possibly in close proximity to existing (or future) historic districts.

Council action would be required to designate future historic districts or rezone property to PD. Consequently, the Council will be in a position to evaluate the potential impact of the proposed ZTA should either situation occur. For example, if PD zoning were proposed elsewhere *in close proximity to a historic district*, the Council would be able to consider the potential impact of reduced setbacks (or increased building height) in the course of considering the rezoning application. Since waivers of the setback requirements and maximum building height would

* PD zones are development plan floating zones that must be approved by the Council through a Local Map Amendment. A development plan must be submitted along with the rezoning application. The development plan describes the general location of uses on the site, the internal road network, public facilities, etc. Decisions about more specific concerns (e.g., setback reductions) are made by the Planning Board through the site plan approval process.

be approved at the discretion of the Planning Board, the Board will have the opportunity to consider the impacts of such waivers should they be requested in the future for properties other than the National Park Seminary.

With regard to the one known project that would be affected by the ZTA—the National Park Seminary redevelopment—the Community-Based Planning Division believes that the proposed ZTA will help to provide new housing opportunities (including affordable housing units) in the urban ring. In doing so, it will also help to facilitate the preservation of the historic structures at the NPS because the new development would underwrite the cost of the historic preservation.

Based on the plans that we have seen for the NPS redevelopment, staff does not believe that the proposed reduction in setbacks or the height of the proposed townhouses presents a compatibility problem for the adjoining neighborhood. Much of the infill area is bordered by parkland. As described above, the Council will have an opportunity to evaluate the compatibility of the NPS project when they review the development plan for the proposed rezoning of the NPS to PD. Also as described above, the Planning Board will assess the impact of reduced setbacks and increased building height at the NPS project before granting any waivers.

RECOMMENDATION

Staff recommends approval, with modifications, of ZTA 04-15 to allow a waiver of certain Planned Development (PD) zone standards to facilitate the preservation, reuse, or redevelopment of a historic district. If reduced setbacks are requested for the NPS redevelopment or any similar project, the Board will be required to reach a finding that the reduction will not adversely affect the adjoining property. Staff recommends that the proposed language in Section 59-C-7.15(d)(2) be modified to refer to adjoining properties, rather than referring to a singular property. Furthermore, we recommend that proposed Section 59-C-7.15(d)(2) also include language stating that for waivers of the limit on maximum building height the Planning Board must make a “no adverse impact” finding and a finding that the waiver will facilitate historic preservation. With these revisions, including plain language changes, staff believes that there will be adequate safeguards to ensure compatibility and that the legislation authorizing the Planning Board to waive the normal setback and height requirements could be approved.

GR

Attachments

1. Proposed Text Amendment No. 04-15 (as modified by staff)
2. Memorandum to Greg Russ from Community-Based Planning
3. Map depicting Existing County Historic Districts