

ATTACHMENT 1

Zoning Text Amendment No: 04-26
Concerning: A new Mixed-use Zone
Draft No. & Date: 1 – 12/09/04
Introduced: December 14, 2004
Public Hearing: 1/18/05; 1:30 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 at the request of the Planning Board

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

- establishing a new Mixed-Use Town Center Zone.

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

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION
Section 59-A-2.1	“Definitions”

Add a new section:

<u>DIVISION 59-C-11</u>	<u>“MIXED-USE TOWN CENTER ZONE (MXTC)</u>
ARTICLE 59-D	“ZONING DISTRICTS—APPROVAL PROCEDURES “

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:

24 **59-C-11.2. New construction, re-use of existing building, remodeling**
25 **and reconstruction.**

26 Where an otherwise lawful structure or building existed in a zone other than
27 this zone prior to (date of adoption of this zone), such existing structure or
28 building is a conforming structure and may be continued, structurally altered
29 for compliance with the health and building codes, repaired, renovated or
30 enlarged for up to 10 percent of the gross building floor area or 10,000 sf,
31 whichever is less. Any new construction, reconstruction of more than 10
32 percent of the gross floor area or 10, 000 sf square feet, or complete
33 demolition and replacement with new construction, of a lot will be subject to
34 the controls of this zone.

35 **59-C-11.3. Development procedures.**

36 Developments in this zone can be approved under either the standard method
37 or the optional method of development.

38 **(a) Standard Method.**

39 Standard method projects in this zone must comply with the Standard
40 method development requirements as specified in this chapter. Standard
41 method developments under this zone must be in compliance with the
42 maximum density, maximum building height and required street wall
43 recommendations of an applicable master or sector plan.

44
45 Standard method developments with a lot area of five acres or more, or
46 developments including certain uses with more than 20,000 sf per
47 establishment as specified in Sec 59-C.11.4. Permitted Uses, require
48 approval of a site plan pursuant to Division 59-D-3. Site plan is also
49 required for any modification of street wall requirements pursuant to Section
50 59-C-11.5.2 (4)

51 **(b) Optional Method**

52 Developments seeking densities higher than those permitted under standard
 53 method of development pursuant to Section 59-C-11.5 of this chapter must
 54 be approved under the optional method of development including a project
 55 plan under Division 59-D-2 and a site plan under Division 59-D-3.

56 Developments under the optional method of development must provide
 57 public use space and/or public facilities and amenities in accordance with the
 58 development standards of Sec 59-C-11.5. Optional method developments
 59 under this zone must also be in conformance with the recommendations of
 60 the local area master or sector plan.

61
 62 **59-C-11.4. Permitted uses**

63 No use is allowed except as indicated in the following table:

64
 65 **-Permitted Uses.** Uses designated by the letter "P" are permitted on any
 66 lot in the zones indicated, subject to all applicable regulations.

67
 68 **-Special Exception Uses.** Uses designated by the letters "SE" may be
 69 authorized as special exceptions, in accordance with the provisions of
 70 Article 59-G.

71
 72 **-Site Plan Review.** Uses designated by the letters "SP" may be permitted
 73 only with site plan review in accordance with Division 59-D-3

74

Use Group	
(a) Residential:	
<u>Single-family, multiple-family, group homes, live/work units, housing and related facilities for senior adults or persons with disabilities</u>	<u>P</u>
<u>Hotel or motel</u>	<u>P</u>

<u>Use Group</u>	
<u>(b) General Retail and Commercial:</u>	
<u>Retail stores, offices and professional services:</u>	
<u>Up to 20,000 gsf per establishment</u>	<u>P</u>
<u>More than 20,000 gsf per establishment</u>	<u>SP</u>
<u>Eating and drinking establishment, excluding a drive-in</u>	<u>P</u>
<u>(c) Services</u>	
<u>Places of worship.</u>	<u>P</u>
<u>Educational institutions, non-profit service providers</u>	<u>P</u>
<u>Clinics, hospitals, child and adult day care, animal boarding places</u>	<u>P</u>
<u>(d) Cultural, Entertainment and Recreational:</u>	
<u>Indoor entertainment and recreation establishments such as private recreation centers, health clubs, theaters, and skating rinks:</u>	
<u>Up to 20,000 gsf per establishment</u>	<u>P</u>
<u>More than 20,000 gsf per establishment</u>	<u>SP</u>
<u>(e) Uses permitted by special exception</u>	
<u>Cable communications systems, Utility buildings and structures, and telecommunication towers and related facilities</u>	<u>SE</u>
<u>Gas stations, car wash, auto and truck rental, auto repair and service workshops, outdoor automobile sales</u>	<u>SE</u>
<u>Eating and drinking establishment, including drive-in restaurants</u>	<u>SE</u>
<u>Dry cleaning establishments with on-site processing</u>	<u>SE</u>
<u>Outdoor recreation (driving ranges, miniature golf, skating rinks)</u>	<u>SE</u>

75

76 **59-C-11.5. Development standards**

77 Development standards applicable to the standard and optional method
 78 developments in this zone are indicated by the letters “S” and “O” as set
 79 forth in this section. Residential developments under both methods may
 80 increase the number of maximum permitted units to accommodate
 81 Moderately Priced Dwelling Units in accordance with the provisions of
 82 Chapter 25 A.

83

		<u>S</u>	<u>O</u>
<u>1</u>	<u>Maximum residential density (units/acre)</u>	<u>8</u>	<u>15</u>
<u>2</u>	<u>Maximum non-residential FAR</u>	<u>0.35</u>	<u>1.0</u>
<u>3</u>	<u>Maximum Building height (stories)</u>	<u>3</u>	<u>5¹</u>
<u>4</u>	<u>Minimum public use space</u>		
	<u>For lots of less than 20,000 sf , residential, non-residential, or mixed-use developments (percent of net lot area)</u>	<u>10%</u>	<u>10 %</u>
	<u>For lots of more than 20,000 sf:</u>		
	<u>Residential (lot area per unit)</u>	<u>200 sf</u>	<u>200 sf</u>
	<u>Non-residential (percent of net lot area)</u>	<u>10 %</u>	<u>20 %</u>
<u>5</u>	<u>Minimum required street wall</u>	<u>75 %</u>	<u>75 %</u>
<u>6</u>	<u>Building setbacks:</u>		
	<u>Minimum front setback (feet)</u>	<u>0</u>	<u>0</u>
	<u>Maximum front setback (feet)</u>	<u>10²</u>	<u>10²</u>
	<u>From an adjacent residential zone (feet)</u>	<u>20</u>	<u>20</u>

84

85 ¹ Must not exceed any limitations in the master or sector plan.

86 ² The Planning Board may allow a maximum front setback of larger than 10 feet if
 87 it finds that such front setback is needed for public use space or the development
 88 has more than one street frontage, and that such front setback would not disrupt
 89 the continuity of street walls on adjacent properties on the same street frontage.
 90 For corner lots or lots comprising entire block, the Planning Board may establish
 91 which sides would be subject to street wall requirements during the site plan
 92 review based on a layout that best achieves the objective of creating pedestrian
 93 oriented streets.

94 **59-C-11.5.1. Street wall requirements.**

- 95 1. Developments in this zone must provide at least one street wall
 96 for a minimum of 75 percent of the lot frontage. The street wall
 97 must be located within 10 feet of: 1) the front lot line or; 2) the
 98 public use space along a street. If the local area master plan

99 recommends a location and a minimum height for such street
100 wall, the required street wall should be provided in accordance
101 with those recommendations subject to paragraph 4 and 5
102 below.

103
104 2. The ground floor portion of any street wall in a non-residential
105 development must have display windows and principal
106 entrances to stores and retail establishments from the adjoining
107 sidewalk or public use space. Off-street parking structures, if
108 located along required street walls, must have retail or other
109 pedestrian-oriented uses at the ground floor level fronting the
110 street with direct access to the sidewalk or a public use space.

111
112 3. The Director of the Department of Permitting Services may
113 reduce the minimum 75 percent street wall requirement for
114 smaller lots if it can be demonstrated that no other street
115 frontage or feasible alternative is available to the subject lot, or
116 that a strict application of street wall requirement will preclude
117 the development from having a driveway access to the street.
118 The reduction should be minimum needed to allow one
119 driveway access to the lot. Any other reduction or change in the
120 street wall requirement must be subject to a site plan review and
121 approval by the Planning Board.

122
123 4. The Planning Board may modify street wall requirements
124 including the location or the minimum length of a required
125 street wall, as specified in this zone or as recommended in the

126 local area master plan or sector plan through the site plan
127 review process pursuant to Division 59-D-3 if deemed
128 appropriate and desirable to achieve the objectives of the master
129 or sector plan.

130

131 **59-C-11.6. Off-Street Parking.**

132 (a) Except as modified in this section, required off-street parking must be
133 provided pursuant to Article 59-E. and off-street parking spaces for
134 mixed-use projects must be provided pursuant to Sec. 59-E 3.1.

135 (b) Off-street parking for two or more properties may be grouped to serve
136 more than one lot or establishment pursuant to Section 59-E-3.4 and
137 may be eligible for reduction in required number of spaces pursuant to
138 Section 59-E. 3.1.

139 **59-C-11.6.1. Internal connection between parking lots.**

140 All new developments pursuant to this zone must provide for a
141 pedestrian and vehicular connection to existing and proposed parking
142 areas on at least one adjoining lot. The Director or the Planning Board
143 may grant a waiver if the applicant demonstrates that compliance with
144 this requirement would preclude the subject lot from meeting the off-
145 street parking requirements on site.

146 * * *

147 **Sec. 3. Article 59-D is amended as follows:**

148 **ARTICLE 59-D. ZONING DISTRICTS—APPROVAL**
149 **PROCEDURES.**

150 **INTRODUCTION**

151
152 * * *

153 (a) In certain zones, the developer must submit plans for approval, and
 154 development must be consistent with the approved plans. Article 59-
 155 C indicates under each zone which, if any, of these plans are required.
 156 These plans are of 4 kinds, as follows:

157 * * *

158 (2) **Project plan for optional method of development.** This type
 159 of plan applies [only] in the 6 “CBD” zones, the RMX zones
 160 and the MXTC zone. It is similar to a development plan,
 161 except that it is not a requirement for the approval of a rezoning
 162 application but a precondition for the use of the optional
 163 method of development. (See [d]Division 59-D-2.)

164 * * *

165 The following table is provided for the convenience of the public,
 166 citing the appropriate sections of Article 59-C and indicating the type
 167 of plans required in each zone. In the event of any conflict between
 168 this table and the provisions of Article 59-C, the latter must govern.

169
 170 Plan Approvals Required

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
R-200	59-C-1.63			M	
R-150				M	
R-90				M	
R-60				M	
R-40				M	

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
R-T 6.0				X	
R-T 8.0				X	
R-T 10.0				X	
R-T 12.5				X	
R-T 15.0				X	
R-4 plex		X		X	
R-30				M	
R-20				M	
R-10				M	
R-H				X	
R-MH		X		X	
C-T				X	
O-M				X	
C-O				H	
C-P				X	
C-2				E	
C-3				X	
C-4				O	
C-6				X	
H-M				X	
C-Inn		X		X	

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
I-1				H	
I-3				X	
I-4				O	
LSC				X	
R&D				O	
RS				X	
RNC				O	
LDRCDZ				X	
<i>Standard Method</i>					
- CBD-0.5				M	
- CBD-R1				M	
- CBD-R2				M	
- CBD-1				M	
- CBD-2				M	
- CBD-3				M	
- RE-2/TDR				M	
- RE-2C/TDR				M	
- RE-1/TDR				M	
- R-200/TDR				M	
- R-150/TDR				M	
- R-90/TDR				M	

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
- R-60/TDR				M	
- RMX-1				M	
- RMX1/TDR				M	
- RMX-2				M	
- RMX-2/TDR				M	
- RMX-3				M	
<u>MXTC</u>	<u>Sec 59-C. 11.3 (a)</u>			<u>Required for certain uses and developments of more than 5 acres</u>	
<i>Optional Method</i>					
- RMX-3/TDR				M	
- CBD-0.5			X	X	
- CBD-R1			X	X	
- CBD-R2			X	X	
- CBD-1			X	X	
- CBD-2			X	X	
- CBD-3			X	X	
- RE-2/TDR				X	
- RE-2C/TDR				X	
- RE-1/TDR				X	
- R-200/TDR				X	

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
- R-150/TDR				X	
- R-90/TDR				X	
- R-60/TDR				X	
- RMX-1			X	X	
- RMX-1/TDR			X	X	
- RMX-2			X	X	
- RMX2/TDR			X	X	
- RMX-2C			X	X	
- RMX-3			X	X	
- RMX-3/TDR			X	X	
- RMX-3C			X	X	
<u>MXTC</u>			<u>X</u>	<u>X</u>	
P-D	59-C-7.19	X		X	
MXN	59-C-7.79			X	X
MXPD		X		X	
Town Sector		X		X	
Planned Neighborhood		X		X	
P-R-C		X		X	
PCC		X		X	
TS-R		X		X	
TS-M		X		X	

Zone	Section Number	Development Plan (Division 59-D-1)	Project Plan Optional Method (Division 59-D-2)	Site Plan (Division 59-D-3)	Diagrammatic Plan (Division 59-D-4)
M-R-Rec.		X		X	

171

172 X- Required.

173 M- Required only if optional regulations for MPDUs are used.

174 H- Required only if over 3 stories or 42 feet in height.

175 N- Required only if development exceeds FAR 0.25.

176 O- Required only for optional method of development.

177 E- Required only for additional height in accordance with subsection 59-C-4.351.

178

179 * * *

180

181 **DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF**
 182 **DEVELOPMENT, CBD ZONES, [AND] RMX ZONES AND MXTC**
 183 **ZONE.**

184 **59-D-2.0 Zones enumerated.**

185

186 The Planning Board is authorized to approve development under the
 187 optional method of development procedures described in Section 59-C-6.2
 188 of the CBD zones, Section 59-C-10 of the RMX Zones, and Section 59-C-11
 189 of the MXTC Zone and the approval procedure set forth in this Division, for
 190 the following zones:

191 * * *

192 MXTC-Mixed-Use Town Center

193