

Zoning Text Amendment No: 05-
Concerning: A new Transit-Oriented Mixed
Use Zone
Draft No. & Date: 1 – 01/20/05
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:

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

- establishing a new Transit Oriented Mixed-Use Zone

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

Add a new Section:

DIVISION 59-C-13

“TRANSIT ORIENTED, MIXED-USE ZONE (TOMX)

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-13 is amended as follows:**

2
3 **DIVISION 59-C-13 [RESERVED] TRANSIT ORIENTED, MIXED-USE**
4 **ZONE (TOMX)**

5
6 **Sec. 59-C-13.1. Zones established.**

7
8 **59-C-13.11 Zones permitted.**

9
10 These zones are permitted in transit station development areas as
11 defined in Section 59-A-2.1, along the Metro Rail Lines and other
12 transitways .

13
14 TOMX 2.0

15
16 **Sec. 59-C-13.2. Provisions of the Transit Oriented, Mixed Use Zones.**

17
18 **59-C-13.21. Description, purpose, intent and general requirements**

19 **59-C-13.211. Description.** Each Transit Oriented, Mixed Use Zone
20 is intended to be shown on a master plan or sector plan. The TOMX
21 2.0 Zone is intended for use adjacent to transit stations located outside
22 Central Business Districts.

23
24 **59-C-13.212. Intent.** The intent of the TOMX Zones is to promote
25 mixed use, transit and pedestrian oriented centers that include housing
26 and commercial uses. This zone is intended for use in transit station
27 development areas, as defined in Section 59-A-2.1, outside of the

1 Central Business Districts. Land shall be classified in any transit
2 oriented, mixed-use zone only if it is recommended in an approved
3 and adopted master plan or sector plan. The TOMX Zones should
4 achieve a development pattern that encourages pedestrian activity and
5 access, promotes use of transit, and creates a coherent arrangement of
6 buildings and uses that contribute to a sense of place. This zone will
7 foster development in accordance with an adopted and approved
8 master or sector plan, by permitting an increase in density, height, and
9 intensity where the increase conforms to the master plan or sector
10 plan. These zones are intended to accomplish the following:

- 11
- 12 (a) To promote mixed use, transit oriented development of
13 residential, office, commercial, advance technology and
14 research, and retail uses at various scales and designed in a
15 manner that defines streets and creates a strong sense of place.
- 16
- 17 (b) To achieve a compatible mix of uses that promotes street
18 activities, provides convenience for residents and employees.
- 19
- 20 (c) To create a pedestrian oriented environment with an
21 interconnected street system that is defined by buildings, open
22 spaces and community facilities, and improves access to transit
23 stations from surrounding communities.
- 24
- 25 (d) To provide incentives and flexible standards for mixed-use,
26 transit and pedestrian oriented development that fosters a sense
27 of community with a distinct character.

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(e) To encourage land assembly in a compact and efficient form in accordance with the approved and adopted master plan and sector plan.

(f) To provide housing including affordable housing near transit stations.

(g) To encourage Leadership in Energy and Environmental Design (LEED) standards for sustainable and efficient design.

59-C-13.213. Additional intent of the TOMX 2.0 Zone.

The intent of the TOMX 2.0 Zone is to provide a mixed use, transit-oriented center that includes housing and commercial uses. The intent of this zone is to promote medium density residential and commercial development at transit station development areas, as described in Section 59-A-2.1. This zone provides incentives to redevelop areas adjacent to transit and multi-modal stations into distinct and compact mixed-use development for employment, living opportunities, and appropriate public facilities and amenities. Development in this zone must create a network of interconnecting streets, open squares and plazas, defined streetscapes, and civic and community-oriented uses as recommended in applicable master and sector plans.

1 **59-C-13.214. Location.** Land classified in the TOMX 2.0 Zone must
2 be located adjacent to an existing or proposed transit station located
3 along the Metro Rail lines and other transitways.

4
5 **59-C-13.215. Methods of development and approval procedures.**
6 Two methods of development are available in this zoning category.

7
8 (a) **Standard Method of Development:** The standard method
9 requires compliance with a specific set of development
10 standards and permits a range of uses and a density compatible
11 with these standards. If residential uses are included in a
12 development, moderately priced dwelling units must be
13 provided in accordance with Chapter 25A. The maximum
14 dwelling unit density or residential FAR may be increased in
15 proportion to any MPDU density bonus provided on-site. Site
16 plans must be approved in accordance with section 59-D-3.

17
18 (b) **Optional Method of Development:** The Optional Method of
19 Development promotes additional densities, and supports
20 innovative design and building technologies to create a
21 pedestrian-oriented and mixed-use development pattern.
22 Approval of the Optional Method of Development is dependent
23 on providing sufficient public amenities and facilities. The
24 public facilities and amenities are intended to support the
25 additional densities permitted under the Optional Method of
26 Development. The procedure for the approval of the Optional
27 Method of Development is set forth in Section 59-D-2. Site

1 plans must be approved in accordance with Section 59-D-3. If
 2 residential uses are included in a development, moderately
 3 priced dwelling units must be provided in accordance with
 4 Chapter 25A. The maximum dwelling unit density or
 5 residential FAR may be increased in proportion to any MPDU
 6 density bonus provided on-site.

7
 8 **59-C-13.22. Land uses.**

9
 10 No use is allowed except as indicated in the following table:

11
 12 - **Permitted Uses.** The letter "P" in the appropriate column
 13 indicates the zones in which each use is permitted, subject to all
 14 applicable regulations under the Standard Method or the
 15 Optional Method of Development.

16
 17 - **Special Exception Uses.** The letters "SE" in the appropriate
 18 column indicate the zones in which each use may be authorized
 19 as a special exception, in accordance with Article 59-G, under
 20 the Standard or the Optional Method of Development
 21 respectively. Special exception uses in a development under the
 22 optional method are subject to approval by both the Planning
 23 Board and the Board of Appeals.

24
 25

| | <u>TOMX 2.0</u> | |
|--------------------------------|------------------------|------------------------|
| <u>(a) Residential:</u> | <u>Standard</u> | <u>Optional</u> |
| <u>Dwellings</u> | <u>P</u> | <u>P</u> |
| <u>Group home, small</u> | <u>P</u> | <u>P</u> |

| | | |
|--|-----------|-----------|
| <u>Group home, large</u> | <u>P</u> | <u>P</u> |
| <u>Housing and related facilities for senior adults and persons with disabilities</u> | <u>P</u> | <u>P</u> |
| <u>Life care facility</u> | <u>P</u> | <u>P</u> |
| <u>Personal living quarters</u> | <u>P</u> | <u>P</u> |
| (b) <u>Transportation, communication and utilities:</u> | | |
| <u>Public utility buildings, structures and underground facilities</u> | <u>P</u> | <u>P</u> |
| <u>Radio and television broadcasting studio</u> | <u>P</u> | <u>P</u> |
| <u>Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room</u> | <u>P</u> | <u>P</u> |
| <u>Taxicab stand, not including storage while not in use</u> | <u>P</u> | <u>P</u> |
| (c) <u>Commercial office and retail:</u> | | |
| <u>Antique stores, handicrafts or art sales and supplies</u> | <u>P</u> | <u>P</u> |
| <u>Book store</u> | <u>P</u> | <u>P</u> |
| <u>Eating and drinking establishment, excluding drive-in</u> | <u>P</u> | <u>P</u> |
| <u>Drug store</u> | <u>P</u> | <u>P</u> |
| <u>Florist shop</u> | <u>P</u> | <u>P</u> |
| <u>Furniture store, carpet or related furnishing sales or service</u> | <u>P</u> | <u>P</u> |
| <u>Gift shop</u> | <u>P</u> | <u>P</u> |
| <u>Grocery store</u> | <u>P</u> | <u>P</u> |
| <u>Hotel</u> | <u>P</u> | <u>P</u> |
| <u>Office supply store</u> | <u>P</u> | <u>P</u> |
| <u>Office, general</u> | <u>P</u> | <u>P</u> |
| <u>Office, professional including banks and financial institutions (excluding check cashing stores and drive-in banks)</u> | <u>P</u> | <u>P</u> |
| <u>Offices for companies principally engaged in health services, research and development</u> | <u>P</u> | <u>P</u> |
| <u>Newsstand</u> | <u>P</u> | <u>P</u> |
| <u>Photographic supply store</u> | <u>P</u> | <u>P</u> |
| <u>Pet sales and supply store</u> | <u>P</u> | <u>P</u> |
| <u>Specialty shop</u> | <u>P</u> | <u>P</u> |
| (d) <u>Services:</u> | | |
| <u>Adult foster care homes</u> | <u>P</u> | <u>P</u> |
| <u>Ambulance or rescue squad, publicly supported</u> | <u>P</u> | <u>P</u> |
| <u>Animal boarding place</u> | <u>SE</u> | <u>SE</u> |
| <u>Art, music and photographic studios</u> | <u>P</u> | <u>P</u> |
| <u>Automobile filling station</u> | <u>SE</u> | <u>SE</u> |
| <u>Automobile rental services, excluding automobile storage and supplies</u> | <u>P</u> | <u>P</u> |
| <u>Barber and beauty shops</u> | <u>P</u> | <u>P</u> |
| <u>Charitable and philanthropic institutions</u> | <u>P</u> | <u>P</u> |

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|--|-----------|-----------|
| <u>Clinic</u> | <u>P</u> | <u>P</u> |
| <u>Child daycare facility:</u> | | |
| - <u>Family day care</u> | <u>P</u> | <u>P</u> |
| - <u>Group day care</u> | <u>SE</u> | <u>SE</u> |
| - <u>Child day care center</u> | <u>SE</u> | <u>SE</u> |
| <u>Daycare facility for not more than 4 senior adults and persons with disabilities</u> | <u>P</u> | <u>P</u> |
| <u>Domiciliary care for no more than 16 senior adults</u> | <u>P</u> | <u>P</u> |
| <u>Dry cleaning and laundry pick-up station</u> | <u>P</u> | <u>P</u> |
| <u>Duplicating services</u> | <u>P</u> | <u>P</u> |
| <u>Educational, private institution</u> | <u>P</u> | <u>P</u> |
| <u>Home occupation, no impact</u> | <u>P</u> | <u>P</u> |
| <u>Home occupation, registered</u> | <u>P</u> | <u>P</u> |
| <u>Home occupation, major</u> | <u>SE</u> | <u>SE</u> |
| <u>Hospice care facility</u> | <u>P</u> | <u>P</u> |
| <u>Hospitals, veterinary</u> | <u>SE</u> | <u>SE</u> |
| <u>International public organization</u> | <u>P</u> | <u>P</u> |
| <u>Place of religious worship</u> | <u>P</u> | <u>P</u> |
| <u>Publicly owned or publicly operated uses</u> | <u>P</u> | <u>P</u> |
| <u>Shoe repair shop</u> | <u>P</u> | <u>P</u> |
| <u>Tailoring or dressmaking shops</u> | <u>P</u> | <u>P</u> |
| <u>Universities and colleges providing teaching and research facilities</u> | <u>P</u> | <u>P</u> |
| (e) <u>Advanced Technology and Biotechnology:</u> | | |
| <u>Laboratories</u> | <u>P</u> | <u>P</u> |
| <u>Nanotechnology research and development</u> | <u>P</u> | <u>P</u> |
| <u>Manufacturing, compounding, processing or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development</u> | <u>P</u> | <u>P</u> |
| <u>Manufacturing and assembly of medical, scientific or technical instruments, devices and equipment</u> | <u>P</u> | <u>P</u> |
| <u>Research, development and related activities</u> | <u>P</u> | <u>P</u> |
| (f) <u>Cultural, entertainment and recreational:</u> | | |
| <u>Auditoriums or convention halls</u> | <u>P</u> | <u>P</u> |
| <u>Billiard parlor</u> | <u>P</u> | <u>P</u> |
| <u>Bowling alley</u> | <u>P</u> | <u>P</u> |
| <u>Health clubs and gyms</u> | <u>P</u> | <u>P</u> |
| <u>Libraries and museums</u> | <u>P</u> | <u>P</u> |
| <u>Park and playgrounds</u> | <u>P</u> | <u>P</u> |
| <u>Private clubs and service organizations</u> | <u>SE</u> | <u>SE</u> |
| <u>Recreational or entertainment establishments, commercial</u> | <u>P</u> | <u>P</u> |
| <u>Theaters, indoor</u> | <u>P</u> | <u>P</u> |

59-C-13.23. Development standards.

The development standards applicable to the Standard Method and Optional Method of Development are set forth in this section. In addition to the requirements specified in this table, all Optional Method of Development projects must be consistent with the guidelines established in the applicable master plan or sector plan.

| | <u>TOMX 2.0</u> | |
|--|--|--|
| | <u>Standard</u> | <u>Optional</u> |
| <u>59-C-13.231.</u> <u>Minimum Net Lot Area:</u> | <u>NA</u> | <u>18,000</u> |
| <u>59-C-13.232.</u> <u>Maximum Building Coverage (percent of net lot area):</u> | <u>75</u> | <u>NA</u> |
| <u>59-C-13.233.</u> <u>Minimum Public Use Space (percent of net lot area):</u> - <u>If moderately priced dwelling units are included.</u> | <u>10</u> <u>5</u> | <u>20</u> <u>20</u> |
| <u>59-C-13.234.</u> <u>Maximum Density of Development*</u> | <u>FAR 0.5</u> | <u>FAR 2.0</u> |
| <u>59-C-11.235.</u> <u>Maximum Building Heights:</u> - <u>If adjoining or directly across the street from land which is recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less</u> | <u>50 feet</u> <u>35 feet</u> | <u>NA</u> <u>NA</u> |
| <u>59-C-13.236.</u> <u>Minimum Setbacks:</u> - <u>From an adjacent TOMX Zone**</u> - <u>From an adjacent commercial or industrial zone</u> - <u>From an adjacent single family residential zone</u> - <u>From a public right-of-way</u> | <u>15 feet</u> <u>20 feet</u> <u>25 feet</u> <u>10 feet</u> | <u>NA</u> <u>NA</u> <u>NA</u> <u>15 feet</u> <u>from curbs</u> |

* The maximum residential density (FAR) may be increased in proportion to the amount of the MPDU bonus permitted on-site.

** If the proposed building or the adjacent building has windows or apertures facing the lot line that provide light, access or

1 ventilation to a habitable space the setback shall be 15 feet. If
2 the adjacent building does not have windows or apertures no
3 setback is required.

4
5 **59-C-13.237. Special standards and guidelines for Standard**
6 **Method and Optional Method of Development projects.**

7
8 (a) Public use space, amenities and facilities: The mixed-use
9 character of the Transit Oriented, Mixed Use Zone requires
10 significant public amenities to create a transit and pedestrian-
11 oriented and mixed-use environment.

12
13 Public amenities and facilities are not limited to the definition
14 in Section 59-A, but also include: pocket and urban parks,
15 town squares, public plazas and water features, wide sidewalk
16 areas, bus shelters, benches, special street lighting and paving,
17 construction and enhancement of pedestrian tunnels and
18 bridges, public art, landscaping of public areas, and
19 improvements to pedestrian access to transit stations. Public
20 amenities do not include road improvements or other capital
21 projects that are required to provide adequate facilities in a
22 timely basis to serve the property.

23
24 All public amenities should be in locations that are accessible
25 and welcoming to the public. The location, type and nature of
26 the public amenities must be shown on any project plan and site
27 plan as required by Section 59-D-3 and Section 59-D-2.

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(b) Site Design Guidelines for the Optional and Standard Method of Development:

- Orient all buildings to streets, which will encourage pedestrian-oriented development.
- Locate off-street parking to the side, rear or below grade if feasible.
- Create a continuous building line with varied facade setbacks to accentuate open space and building entrances. Blank building facades should be avoided.
- Increase public safety and activity at street level with activating uses such as storefront retail, residential entrances, office lobbies, and restaurants.
- Provide continuous, direct and convenient pedestrian and bicyclist pathways, and connections to transit stations.
- Ensure pedestrian safety with clearly designated crosswalks and sidewalks, and include street trees and landscaping on all streets.
- Screen and locate service and loading areas to reduce visibility from any street.
- Locate mechanical equipment within buildings or within a mechanical equipment penthouse. If mechanical equipment is located on a roof or is freestanding, it must be effectively screened.

1 (c) Streetscape Guidelines:

- 2
- 3 - Provide street lighting designed to avoid an adverse
4 impact on surrounding uses, while also providing a
5 sufficient level of illumination for access and security.
- 6 - Provide a canopy of closely spaced street trees along
7 each street.
- 8 - Provide street furniture such as benches, trash receptacles
9 and planters.
- 10 - Enhance crosswalk areas with accessible curb ramps and
11 crossing signals unless prohibited by the Director.
- 12

13 **59-C-13.238. Special standards for the Optional Method of**
14 **Development.**

15

- 16 (a) **Density and mix of uses:** In approving the mix of uses and the
17 proposed densities, the Planning Board shall consider the size
18 of the parcel, and the relationship of the existing and proposed
19 building or buildings to the surrounding uses. The mix of uses
20 and the proposed densities must conform to the approved and
21 adopted master plan or sector plan.
- 22
- 23 (b) **Building height:** The maximum building height permitted for
24 any building shall be determined in the process of project plan
25 review. In approving height limits, the Planning Board shall
26 take into consideration the size of the lot or parcel, the
27 relationship of existing and proposed buildings to surrounding

1 uses, the need to preserve light and air for the residents of the
2 development and residents of surrounding properties, and any
3 other factors relevant to the height of the building. The
4 proposed building height must conform to the approved and
5 adopted master plan or sector plan.

- 6
- 7 (c) **Transfer of public use space and density:** The transfer of
8 public use space and density between lots within the same
9 transit station area is permitted. The transfer of density should
10 be located toward the transit station and away from the
11 boundaries of the transit station development areas. Any
12 transfer of public use space and density must be approved as
13 part of a combined project plan and site plan for all relevant
14 parcels in accordance with the provisions in Section 59-D-2 and
15 Section 59-D-3.

16

17 **59-C-13.239. Existing buildings and building permits.**

- 18
- 19 (a) Any existing structure or established use for which a building
20 permit was issued prior to the reclassification of land to the
21 TOMX Zone must not be regarded as a nonconforming
22 structure or use and will not be subject to the provisions of
23 Section 59-G-4.1, et. Seq. for a period of seven years.
- 24 (b) For seven years after the reclassification, such structure or use
25 may be altered, repaired, reconstructed or enlarged in
26 conformance with the development standards in the zone in
27 effect prior to the reclassification. Any enlargement in excess of

1 10% of the gross floor area will require approval of a site plan
2 in accordance with Section 59-D-3.

3 (c) After seven years, such a structure or use would be
4 nonconforming and any change in the structure or use thereafter
5 must be in conformance with the provisions of Section 59-G-
6 4.1, et. Seq.

7 (d) Notwithstanding any language in this subsection, any existing
8 structure or use may be altered, repaired, reconstructed or
9 enlarged in conformance with the development standards of the
10 TOMX Zone prior to expiration of the seven year period.

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12
13 **Sec. 2. Effective date.** This ordinance becomes effective 20 days
14 after the date of Council adoption.

15
16 This is a correct copy of Council action.

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20 _____
21 Mary A. Edgar, CMC
22 Clerk of the Council
23