

ATTACHMENT 2

Zoning Text Amendment No: 06-02
Concerning: Modifications to
MXTC Zone
Draft No. & Date: 1 – 1/20/06
Introduced: January 24, 2006
Public Hearing: 2/28/06; 1:30 p.m.
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:

- amending the Mixed-Use Town Center Zone; and
- generally amending the 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-C-11	“MIXED-USE TOWN CENTER ZONE (MXTC)
Section 59-C-11.3.1	“Site Plan Approval”
Section 59-C-11.4	“Permitted uses”
Section 59-C-11.5	“Development standards”
Section 59-C-11.5.1	“Street façade requirements”

*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-11 is amended as follows:**

2 **DIVISION 59-C-11. MIXED-USE TOWN CENTER ZONE**
3 **(MXTC).**

4 **59-C-11.1 Where Applicable.**

5 No land may be classified in the MXTC zone unless recommended in an
6 approved and adopted master or sector plan.

7

8 **59-C-11.2. New construction, re-use of existing building, remodeling**
9 **and reconstruction.**

10 Any lawful structure or building that existed before the applicable Sectional
11 Map Amendment adoption date, is a conforming structure and may be
12 continued, structurally altered, repaired, renovated or enlarged up to 10
13 percent of the gross building floor area or 10,000 square feet, whichever is
14 less. However, any enlargement of the building that is more than 10 percent
15 of the gross floor area or 10,000 square feet, or construction of a new
16 building must comply with the standards of the MXTC zone.

17

18 **59-C-11.3. Methods of Development.**

19 Two methods of development are available under the MXTC zone.

20 **(a) Standard Method.**

21 A standard method project must comply with the applicable
22 development requirements of 59-C-11.5 and the recommendations of
23 the applicable master or sector plan. If residential uses are included in
24 a development, moderately priced dwelling units must be provided in
25 accordance with Chapter 25A. The maximum dwelling unit density
26 or residential FAR may be increased in proportion to any MPDU
27 density bonus provided on-site.

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

(b) Optional Method.

Under the optional method of development, building height, and density levels greater than allowed under the standard method of development may be achieved for increased public use space. An optional method development must comply with the applicable development requirements of 59-C-11.5 and the recommendations of the applicable master or sector plan. If residential uses are included in a development, moderately priced dwelling units must be provided in accordance with Chapter 25A. The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on site.

59-C-11.3.1. Site Plan Approval.

Site plan approval is required for:

- [1. A standard method development with a lot area of five acres or more;
- 2. A standard method development that has certain uses with more than 20,000 square feet for each establishment as specified in Sec. 59-C-11.4.;
- 3. A standard method development proposal for any modification of the maximum front setback or the street facade requirements; or]

- 1. A standard method development:
 - a. for a net lot area of five acres or more;
 - b. for certain uses with more than 20,000 square feet for each establishment as specified in Sec. 59-C-11.4;
 - c. for any modification or reduction of the maximum front setback or the street facade requirements; or

d. if required in the applicable master or sector plan.

[4.]2.[An optional method development project.] All optional method development projects. For an optional method development project, the Board must find that the proposed development:

- e. conforms to recommendations of the applicable approved and adopted master or sector plan;
- f. is not detrimental to any existing development due to the size, intensity, design, scale and operational characteristics of its uses;
- g. satisfies the public use space requirements of the zone;
- h. takes maximum advantage of the topography, vistas, façade articulation, and other urban design elements to create an attractive physical environment;
- i. provides adequate linkages among different functions or structures, open areas, public amenities, parking, and adjoining properties and streets, and
- j. provides adequate parking and loading service areas with appropriate landscaping, screening, and lighting that will not adversely affect adjoining neighborhoods.

59-C-11.4. Permitted uses.

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

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

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

(a) Residential ²:	
Dwellings	P
Group home, small	P
Group home, large	P
Hotel or Motel	P
Housing and related facilities for the elderly or handicapped	P
Life care facility	P
Personal living quarters	P
(b) Transportation, Communication and Utilities:	
Parking of motor vehicles, off-street, in connection with any use permitted	P
Public utility buildings and structures, telecommunications facilities	SE
Radio and television broadcasting studio	SE
Rooftop mounted antennas and related unmanned equipment building, equipment cabinet or equipment room	P ⁶
Taxicab stand	P
(c) Commercial ²:	
Antique stores, handicrafts or art sales	P ¹
Book store	P ¹
Delicatessen	P
Drug store	P ¹
Eating and drinking establishment, excluding drive-in	P
Eating and drinking establishment, drive-in	SE
Florist shop	P
Furniture store, carpet or related furnishing sales or service	P ¹
Garden supply shop	P ¹
Gift shop	P
Grocery store	P ¹
Hardware store	P ¹
Jewelry store	P
Newsstand	P
Office supply store	P ¹
Photographic supply store	P
Pet sales and supply store	P ¹
Specialty shop	P ¹
Variety and dry goods store	P ¹
(d) Services:	
Adult foster care home	P
Ambulance or rescue squad	P
Animal boarding place	SE
Appliance repair shop	P ¹
Art, music and photographic studio	P ¹
Automobile filling station	SE ³
Automobile fluid maintenance station	SE ⁴
Automobile rental services, excluding automobile storage	P/SE ⁵
* Automobile repair and service	SE ⁴
Barber and beauty shop	P

Car wash	SE
(d) Services: (cont)	
Charitable and philanthropic institution	P
Clinic	P
Child daycare facilities: Family day care home	P
Group day care home	P
Child day care center	P
Daycare facility for not more than 4 senior adults and persons with disabilities	P
Domiciliary care home for more than 16 residents	P
Dry cleaning and laundry establishment, consisting of no more than 3,000 square feet of gross floor area	P
Dry cleaning and laundry pick-up station	P ¹
Duplicating services	P ¹
Educational institution	SE
Home occupation, no impact	P
Home occupation, registered	P
Home occupation, major	SE
Hospice care facility	P
Hospitals, veterinary	SE
Laundromat, self-service	P ¹
Office, general	P ¹
Office, professional	P ¹
Place of worship	P
Publicly owned or publicly operated uses	P
Shoe repair shop	P
Tailoring or dressmaking shop	P
Research, development and related activities	P ¹
(e) Cultural, Entertainment and Recreational:	
Billiard parlor	P ¹
Bowling alley	P ¹
Health clubs and gyms	P ¹
Libraries and museums	P
Private clubs and service organizations	SE
Recreational or entertainment establishments, commercial	P ¹
Theaters, indoor	P ¹
(f) Miscellaneous Uses	
Accessory buildings and uses	P ¹
Signs in accordance with Article 59-F	P
(g) Uses of a light industrial nature⁷	
<u>Warehouse</u>	<u>P</u>
<u>Manufacturing of electronic components, instruments and devices</u>	<u>P</u>
<u>Manufacturing of medical, scientific or technical instruments, devices and equipment.</u>	<u>P</u>
<u>Manufacturing and assembly of semi-conductors, microchips, circuits and circuit boards.</u>	<u>P</u>

<u>Printing and publishing.</u>	<u>P</u>
<u>Research, development and related activities.</u>	<u>P</u>
<u>Sign making shop.</u>	<u>P</u>
* <u>Warehousing and storage services:</u>	
<u>- Industrial and commercial users.</u>	<u>P</u>
<u>- Self-storage facilities.</u>	<u>P</u>

83

84

1. Any non-residential use with more than 20,000 square feet per floor requires approval of a site plan under Division 59-D-3

85

86

2. A commercial use other than a grocery store, is limited to a maximum of 40,000 square feet of gross floor area.

87

88

3. A car wash with up to 2 bays may be allowed as an accessory use to an automobile filling station.

89

90

4. Not abutting or confronting any lot which is in a residential zone and is not recommended for commercial or industrial use on a master plan; and not within 300 feet of an entrance to a school, park, playground, or hospital.

91

92

93

5. Up to 10 cars may be stored on site.

94

95

6. Refer to section 59-A-6.14.

96

7. Industrial Uses allowed only if authorized in a master or sector plan.

97

98

59-C-11.5. Development standards.

99

Development standards applicable to the standard and optional method development are indicated by the letters “S” and “O”.

100

		S	O
1	Maximum residential density (units/acre)	8	20 ¹
2	Maximum non-residential FAR	0.35	1.0 ¹
3	Maximum Building height	42 <u>feet</u>	70 <u>feet</u> ¹
4	Minimum public use space		

	For lots of up to 40,000 sf:	10% ³	10 % ³
	For lots of more than 40,000 sf:	10% ³	20% ³
5	Building setbacks:		
	Minimum front setback (feet)	0 ⁴	0 ⁴
	Maximum front setback (feet)	10 ²	10 ²
	Minimum side or rear setback from another lot in the same zone, or from an adjacent commercial zone (feet)	0	0
	Minimum side or rear setback from an adjacent residential zone (feet)	20	20

101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120

1. A master or sector plan may establish a building height or density limit up to the maximum of the zone, and the appropriate mix of commercial [and], residential [development], and light industrial uses. Notwithstanding any building height limitation established in a master plan or sector plan, the Planning Board may further limit the maximum allowable building height to achieve compatibility with surrounding land uses.
2. The Planning Board may allow a maximum front setback greater than 10 feet subject to site plan review and the street façade controls of the MXTC zone.
3. Public use space may be provided indoors or outdoors, and must be in conformance with the guidance in the master or sector plan. Development on lots of up to 40,000 square feet may provide a portion or all of the required public use space as green area. Development on lots of more than 40,000 square feet may not provide all of the required public use space as green area.
4. Setbacks shall be no less than fifteen (15) feet measured from the curb, unless authorized by the Planning Board.

121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147

59-C-11.5.1. Street façade requirements.

- 1. Any development under the MXTC zone must provide at least one street facade for a minimum of 75 percent of the lot frontage along a street or other publicly accessible sidewalk, way or space. The street façade must be located within 10 feet of: 1) the front lot line or; 2) the public use space along a street or other publicly accessible sidewalk, way or space.

- 2. The ground floor portion of any street facade in a non-residential development must have [display] windows or other street activating elements and principal entrances to stores and retail establishments from the adjoining sidewalk or public use space. Off-street parking structures, if located along required street facades, must have retail or other pedestrian-oriented uses at the ground floor level fronting the street with direct access to the sidewalk or a public use space.

- 3. The Planning Board may modify a street facade requirement, including the location or the minimum length of a required street facade as specified in this zone or as recommended in the local area master plan or sector plan, during site plan review to achieve the objectives of the applicable master or sector plan. For lots with more than one street frontage, the Planning Board may establish which side would be subject to the street façade requirements during site plan review based on a layout that best achieves pedestrian oriented streets.

148 **59-C-11.6. Off-Street Parking.**

149 (a) Required off-street parking must be provided pursuant to Article 59-E.
150 and off-street parking spaces for mixed-use projects must be provided
151 pursuant to Sec. 59-E 3.1.

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

156

157 **59-C-11.6.1. Internal connection between parking lots.**

158 Any new developments pursuant to this zone must provide for
159 pedestrian and vehicular connection to existing and proposed parking
160 areas on at least one adjoining lot where feasible. The Planning Board
161 may modify this requirement during site plan review if the applicant
162 demonstrates that compliance with this requirement is not feasible or
163 that compliance with the requirement would preclude the lot from
164 meeting the off-street parking requirements on site. The Director may
165 modify this requirement for projects not subject to site plan review.

166

167 **Sec. 2. Effective date.** This ordinance becomes effective 20 days
168 after the date of Council adoption.

169

170 This is a correct copy of Council action.

171

172

173

174 _____
Linda M. Lauer, Clerk of the Council

ATTACHMENT 3

Zoning Text Amendment No: 06-03
Concerning: Creating a new TDR Zone
Draft No. & Date: 1 – 1/20/06
Introduced: January 24, 2006
Public Hearing: 2/28/06; 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: District Council at the request of the Planning Board

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

- establishing a new Rural Neighborhood Cluster/TDR zone; and
- generally amending the Rural Density Transfer zone.

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

DIVISION 59-C-9 “AGRICULTURAL ZONES”
Section 59-C-9.4 “Development standards”
Section 59-C-9.5 “Cluster development-Options in Rural Cluster zone and Low
Density Rural Cluster zone”
Section 59-C-9.57 “Special regulations for development in the Rural Neighborhood
Cluster zone”
Add a new section:
Section 59-C-9.575 “Optional method using transferable development rights”

*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. Section 59-C-9.4 Agricultural Zones is amended as follows:**

2 **59-C-9.4. Development Standards.**

3 * * *

	<u>RNC-TDR</u>
<u>59-C-9.49. Development Standards – Transferable Development Rights Zones</u>	
<u>(a) Land uses. Uses allowed in the TDR zones are those uses allowed in the following zones:</u>	<u>RNC</u>
<u>The optional method of development may allow more residential uses. See subsection 59-C-9.54.1, chart.</u>	
<u>(b) Development standards – Standard method:</u>	
<u>Density limitations for cluster development (section 59-C-9.57) or MPDU development (section 59-C-9.574), applicable to the following zones, apply to similar development in the standard method TDR zones:</u>	<u>RNC</u>
<u>All other development standards must be in accord with the development standards applicable in the following zones:</u>	<u>RNC</u>
<u>(c) Development standards – Optional method:</u>	
<u>- Maximum density of development (maximum number of dwellings per acre)</u>	<u>1</u>
<u>- All other development standards as specified in the special regulation provisions of section 59-C-1.39.</u>	

4

5 **59-C-9.57. Special regulations for development in the Rural Neighborhood**
 6 **Cluster Zone.**

7 * * *

8 **59-C-9.574. Optional method development.**

9 * * *

10 **59-C-9.575. Optional method using transferable development rights.**

11 The use of transferable development rights including applicability,
 12 general provisions, development approval procedures, and
 13 development standards shall be governed by the provisions within
 14 Section 59-C-1.39 of this Chapter. Special additional provisions for

use in TDR developments are noted below. The following development standards for the development of a property under the optional method apply to the TDR density shown on the master plan for that area. Where moderately priced dwelling units are included in accordance with the requirements of chapter 25A of this Code, as amended, the MPDU development standards apply. The increase in density must not exceed 22 percent of the TDR density.

<u>TDR Density per Acre Shown on Master Plan</u>	<u>Development Standards and Permitted Residential Uses</u>	
	<u>Without MPDU's</u>	<u>With MPDU's</u>
<u>1</u>	<u>RNC</u>	<u>RNC</u>

<u>TDR Density per Acre Shown on Master Plan</u>	<u>Size of Development</u>	<u>Minimum (Maximum) percentage required</u>		
		<u>One-Family Detached</u>	<u>One-Family Townhouse and Attached</u>	<u>Green Area</u>
<u>1</u>	<u>All sizes</u>	<u>P</u>	<u>P</u>	<u>65-85%</u>

59-C-9.57[5]6. Off-street parking.

Parking must be provided in accordance with the provisions of Division 59-E except as follows: All parking must be located on the same lot as the use with which it is associated.

59-C-9.57[6]7. Site plan review.

Site plan approval is required under the optional method of the Rural Neighborhood Zone as set forth in Division 59-D-3.

35 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
36 date of Council adoption.

37

38 This is a correct copy of Council action.

39

40

41

42

43 _____
Linda M. Lauer, Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Chairman, Montgomery County Planning Board

January 19, 2006

The Honorable George Leventhal, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

SUBJECT: Planning Board Action on Zoning Text Amendments to fulfill the recommendations of the Planning Board Draft of the Damascus Master Plan

Dear Mr.  Leventhal:

At their January 19 meeting, the Planning Board authorized the transmittal of three zoning text amendments to the Council in fulfillment of the recommendations of the Planning Board Draft of the Damascus Master Plan. The attached zoning text amendments (ZTAs) support the Master Plan recommendations for a mixed-use zone for the Damascus Town Center, a zone for use in three designated rural villages, and a transferable development rights option in the Rural Neighborhood Cluster Zone. For the reasons noted in the attached staff report, the Planning Board recommends the following zones:

1. Adaptations to the *Mixed Use Town Center Zone (MXTC)* originally created for the Olney Master Plan with modifications that allow the intent of the Damascus Master Plan to be reflected without undermining the intentions for the Olney Master Plan.
2. The use of the *Rural Village Center Overlay Zone* originally created for the Darnestown community in the Potomac Master Plan is proposed for three rural villages in the Damascus Master Plan area, with modifications allowing the intent of protecting these very small rural villages from incompatible development without undermining the intentions for the Darnestown community.
3. The creation of a transfer of development rights option in the *Rural Neighborhood Cluster Zone* for use on six property groups in the Damascus transitional areas – or ultimately on other properties in other master plans. This zone will add to the tools available to create TDR receiving capacity, allowing smaller lots and greater preservation of open space.

The Honorable George Leventhal

Page 2

January 19, 2006

The recommendations for approval of these zoning text amendments, were approved on a 4-1 vote, on a motion from Commissioner Bryant, seconded by Commissioner Robinson, with Commissioners Bryant, Robinson, Perdue and Chairman Berlage voting for the motion and with Commissioner Wellington voting against the motion.

Commissioner Wellington stated that her no vote was only against the option in the Rural Neighborhood Cluster/transferable development rights Zone recommended in the Master Plan. She believes the Rural Neighborhood Cluster Zone should not be used as a receiving zone for transferable development rights, because she believes that it undermines the original "rural" intent for the zone.

Chairman Berlage noted that his vote reflected his support for creating the RNC/TDR Zoning category as a tool for creating receiving areas for TDRs, but that he does not support the extent or density of its use in the Master Plan.

Sincerely,



Derick P. Berlage
Chairman

DPB:JD:ha

Attachments:

1. Staff Report
2. Zoning Text Amendment – MXTC Zone
3. Zoning Text Amendment – Rural Village Center Overlay Zone
4. Zoning Text Amendment – RNC/TDR Zone