



# MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**

**Item # 11**  
**7/17/08**

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief, Development Review *RK*

**FROM:** Ralph D. Wilson, Zoning Supervisor *RDW*

**DATE:** July 17, 2008

**SUBJECT:** ZTA -08-14, Transit Station Mixed-Use (TMX) Zone – Transmit Comments to District Council

## Recommendation

Approve ZTA 08-14, with an amendment to allow site-planned development approved before the SMA adoption date to be completed no later than 5 years after the SMA adoption date. Under the proposed amendment, the Board could grant a onetime only, 3 year extension of the 5 year validity period, if: (1) at least 50 percent of the approved development was built or under construction, and (2) an extended validity period would promote the public interest.

## TMX Zone Provisions

The TMX zone was transmitted to the District Council on June 20, 2008 for introduction. The Council will hold a public hearing on July 29, with worksessions in the fall. The new zone will replace the TOMX zones as the primary zoning tool for development in Twinbrook, White Flint, Germantown, and other designated transit station development areas.

An important element of the new TMX zone would be its use as a receiving area for buildable lot termination (BLT) development rights. Under the TMX zone, 12.5 percent of any density above the maximum allowed under the standard method of development, as set in the applicable master or sector plan, would require the purchase of BLTs or a proportional contribution to the Agricultural Land Preservation Fund. One BLT will be the equivalent of 9,000 square feet of residential space, or 7,500 square feet of non-residential space. Supporting legislation and an Executive Regulation will be needed for

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the BLT program to be fully effective. The standard method density under the TMX zone ranges from 0.25 to 0.50 FAR and will be set in each master plan. The maximum optional method density is 3.0 FAR with no minimum. The TMX zone provides the same amenity fund provisions applicable in the CBD and RMX zones. Site plans submitted for projects in the TMX zone must address general design principles recommended by the applicable sector plan and design guidelines adopted by the Board.

### Issues

The Board carefully reviewed the TMX zone line by line at its June 18 meeting, and clarified and tightened-up many of the TMX zone provisions. The one issue left unresolved was the status of development under a site plan approved before the SMA effective date. Property owners who have approved site plans would like to be able to complete development under the approved site plan. The Board, in discussing this issue at its June 18 meeting, asked staff to look at a recertification option for approved site plans. Staff believes the following grandfather provision is a reasonable balance of private and public interests:

### Existing Site Plans

Any site plan approved under a zone that existed for the site before adoption of the applicable SMA remains valid for 5 years after the SMA adoption date. Development approved under the site plan may take place during the site plan validity period. The Planning Board may grant a onetime only extension of the validity period for no more than 3 years, if: (1) at least 50 percent of the approved development has been built, is under construction, or building permits have been issued such that the cumulative amount of development meets or exceeds 50 percent of the total approved development, and (2) an extended validity period would promote the public interest. After construction of all phases of the approved site plan, buildings and uses will be subject to 59-C-14.29 "Existing buildings and uses".

Staff will try to get an accounting for the Committee worksessions of all approved site plans for those sites likely to be reclassified to the TMX zone. The Germantown planning team compiled a representative list of six projects that will be designated for reclassification to the TMX zone, as shown in the table.

Representative Germantown Properties Affected by TMX Zoning  
July 9, 2008

Project	Size (ac)	Current Zone	Status	Plan Approvals	Approved Density (0.5 FAR)	APF Status	Proposed Zone	Increased Density (1.0 FAR)
Century Technology Park	55.8	I-3	Redevel existing	1-02095 8-03007	1,215 m office	Expired	TMX	2,430 m office, hotel, retail, 800 du
Matan	12.7	I-3	Vacant	1-07055 pending 8-07015 pending	264,000 office 12,000 retail	N/A	TMX	264,000 sf office, retail
Trevion	16.1	C-O	Partially complete	1-82013 8-84011A	640,000 office	Expired	TMX	30,435 sf with 244 du
Symmetry	24.4	I-3	Vacant	1-88156 1-95086 8-02028	529,540 Office. Site plan is inactive	Either expired 06/01/06 or expires 07/23/08	TMX	287,210 sf * additional office, retail, 265 du
Milestone Business Park	43.9	I-3	Partially complete	1-87271R 8-01009	944,750 sf office, industrial, retail, restaurant	Expires 07/22/08	TMX	478,507 sf* additional office 20,000 retail 225 du

- Master Plan recommendation (Public Hearing Draft, May 2008) for 0.75 FAR

Zoning Text Amendment No: 08-14  
Concerning: Transit Mixed-Use (TMX) Zone-  
Establishment  
Draft No. & Date: 2 -6/23/08  
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: District Council at Request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- establish a Transit Mixed-Use (TMX) Zone; and
- establish allowable land uses, development standards, use of buildable transferable development rights, and approval procedures for development under the Transit Mixed-Use Zone.

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

DIVISION 59-A-2 "DEFINITIONS"  
Section 59-A-2.1 "Definitions"  
DIVISION 59-D-2 "PROJECT PLAN FOR OPTIONAL METHOD OF  
DEVELOPMENT, CBD ZONES, AND RMX ZONES."  
Section 59-D-2.0 "Zones enumerated"

And by adding the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-14 "TRANSIT MIXED-USE ZONES (TMX)"  
Sections 59-C-14.1 through 59-C-14.32

*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- is amended as follows:**

2 **Division 59-A-2. Definitions and Interpretation.**

3 **59-A-2.1. Definitions**

4 \* \* \*

5 **Building Lot Termination Easement Program:** A program by which a BLT is  
6 purchased or donated in exchange for terminating some or all of the residential  
7 building lots. A transferable development right that is eligible for transfer into a  
8 designated TDR receiving area that is not a residential building lot on a parcel in  
9 the RDT Zone is not eligible for use under the Building Lot Termination Easement  
10 Program.

11  
12 **Buildable lot Termination (BLT) Transferable Development Right:** A  
13 transferable development right in the Rural Density Transfer (RDT) Zone that can  
14 be used for building one dwelling for each 25 acres in that zone; distinguished  
15 from a transferable development right that is in excess of the density allowed in the  
16 RDT zone.

17 \* \* \*

18 **Transferable Development Right (TDR):** The right to transfer the residential  
19 buildable capacity in the Rural Density Transfer (RDT) Zone to other designated  
20 zones at the rate of one transferable development right (TDR) for each full five  
21 acres owned in the RDT Zone.

22  
23 **Transfer of development rights:** The conveyance of development rights by deed,  
24 easement, or other legal instrument authorized by local law to another parcel of  
25 land and the recordation of that conveyance among the land records of  
26 Montgomery County, Maryland.

27

28 **Sec. 2. Division 59-C- is amended as follows:**

29 \* \* \*

30 **DIVISION 59-C-14. TRANSIT MIXED-USE (TMX) ZONE**

31 **59-C-14.1. Zone permitted.**

32 The TMX zone is for use in a transit station development area.

33 **Sec. 59-C-14.2. Transit Mixed-Use (TMX) Zone.**

34 **59-C-14.21. Description, purpose, and general requirements**

35 **59-C-14. 21.1. Description.**

36 The TMX Zone permits moderate through intensive mixed-use  
37 development in a Transit Station Development Area. The TMX zone  
38 must be shown on a master or sector plan and applied by Sectional Map  
39 Amendment. The zone establishes density, uses, and standards, for  
40 standard and optional methods of development which may be limited by  
41 the recommendations of the applicable master or sector plan.

42 **59-C-14.2.2. Purpose.**

43 The TMX zone fosters transit-oriented development by permitting  
44 increased density and height consistent with the recommendations of an  
45 approved and adopted master plan or sector plan. The purpose of the  
46 TMX zone is to:

47 (a) Implement the land use and density recommendations of approved and  
48 adopted master or sector plans for Transit Station Development Areas  
49 by:

50 (1) facilitating mixed-use development with a compatible network of  
51 interconnecting streets, open squares, plazas, defined  
52 streetscapes, and civic and community oriented uses ; and

53 (2) providing incentives and flexible development standards that  
54 foster innovative design and technology.

55 (b) Encourage land assembly in a compact and efficient form.

56 (c) Provide a variety of housing opportunities, including affordable  
57 housing, near transit stations.

58 (d) Encourage sustainable and efficient design.

59 (e) Improve multi-modal access to transit from the communities  
60 surrounding transit station development areas.

61 (f) Provide receiving capacity for buildable lot terminations (BLT).

62 **59-C-14.22. Location.**

63 Land classified in the TMX Zone must be located in a Transit Station  
64 Development Area.

65 **59-C-14.23. Methods of development.** Two methods of development are  
66 available.

67 (a) **Standard Method of Development:** The standard method requires  
68 compliance with a specific set of development standards and permits a  
69 range of uses and a density compatible with these standards. Site plan  
70 review is required under section 59-D-3. If residential uses are included  
71 in a development, Moderately Priced Dwelling Units must be provided  
72 as required under Chapter 25A and workforce housing units must be  
73 provided as required under Section 59-A-6.18 and Chapter 25B. The  
74 maximum dwelling unit density or residential FAR may be increased in  
75 proportion to any MPDU density bonus provided on-site.

76 (b) **Optional Method of Development:** The Optional Method of  
77 Development allows greater densities and encourages innovative  
78 design and building technologies to create pedestrian-oriented and  
79 mixed-use development patterns and an environment capable of  
80 supporting the greater densities. Approval of the Optional Method of  
81 Development is dependent upon providing required public use space,



82 public amenities and facilities, and participation in the BLT program.  
 83 Public use space and public facilities and amenities are required to  
 84 support the additional densities permitted under the Optional Method of  
 85 Development. If residential uses are included in a development,  
 86 Moderately Priced Dwelling Units must be provided as required under  
 87 Chapter 25A and workforce housing units must be provided as required  
 88 under Section 59-A-6.18 and Chapter 25B. The maximum dwelling  
 89 unit density or residential FAR may be increased in proportion to any  
 90 MPDU density bonus provided on site. The procedure for the approval  
 91 of the Optional Method of Development is under Section 59-D-2. Site  
 92 plans review is required under Section 59-D-3.

93 **59-C-14.24. Land uses.**

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

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

97 **-Special Exception Uses.** Uses designated by the letters "SE" may be  
 98 authorized as special exceptions under Article 59-G.

	TMX	
	Standard	Optional
<b>(a) Residential:</b>		
<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>Hotel or motel.</u>	<u>P</u>	<u>P</u>
<u>Housing and related facilities for senior adults or 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>(b) Transportation, communication and utilities:</b>		
<u>Parking garages, automobile.</u>	<u>P</u>	<u>P</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>

	<b>TMX</b>	
	<b>Standard</b>	<b>Optional</b>
<b>(c) Commercial:</b>		
<u>Antique shops, handicrafts or art sales and supplies.</u>	<u>P</u>	<u>P</u>
<u>Automobile sales, retail showroom.</u>	<u>P</u>	<u>P</u>
<u>Book store.</u>	<u>P</u>	<u>P</u>
<u>Convenience food and beverage store, without fuel sales.</u>	<u>P</u>	<u>P</u>
<u>Department stores.</u>		<u>P</u>
<u>Drug store.</u>	<u>P</u>	<u>P</u>
<u>Eating and drinking establishment, excluding drive-in.</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>Hardware store.</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).</u>	<u>P</u>	<u>P</u>
	<b>Standard</b>	<b>Optional</b>
<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 and art 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>
<b>(d) Services:</b>		
<u>Adult foster care homes.</u>	<u>P</u>	<u>P</u>
<u>Ambulance or rescue squad, public 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 shop.</u>	<u>P</u>	<u>P</u>
<u>Charitable and philanthropic institutions.</u>	<u>P</u>	<u>P</u>
<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>P</u>	<u>P</u>
<u>- Child day care center.</u>	<u>P</u>	<u>P</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>

	<b>TMX</b>	
	<b>Standard</b>	<b>Optional</b>
<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 shop.</u>	<u>P</u>	<u>P</u>
<u>Universities and colleges teaching and research facilities.</u>	<u>P</u>	<u>P</u>
<b>(e) <u>Research and Development and Biotechnology</u></b>	<u>P</u>	<u>P</u>
<u>Laboratories.</u>	<u>P</u>	<u>P</u>
<u>Advanced Technology and Biotechnology.</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>
<b>(f) <u>Cultural, entertainment and recreational:</u></b>		
<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>P</u>	<u>P</u>
<u>Recreational or entertainment establishments, commercial.</u>	<u>P</u>	<u>P</u>
<u>Theater, legitimate.</u>	<u>P</u>	<u>P</u>
<u>Theater, indoor.</u>	<u>P</u>	<u>P</u>

99

100 **59-C-14.25. Development standards.**

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

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	<b>TMX</b>	
	<b>Standard</b>	<b>Optional</b>
<b>59-C-14.25.1. Minimum net lot area required for any development (in square feet):</b> <sup>1</sup>		18,000
<b>59-C-14.25.2. Maximum Building Coverage (percent of net lot area):</b>	75	
<b>59-C-14.25.3. Minimum Public Use Space (percent of net lot area):</b>	10 <sup>2</sup>	20 <sup>3</sup>
<b>59-C-14.25.44. Maximum Building Height (in feet):</b>	28	
- If adjoining or directly across the street from land recommended for or developed in a residential zone with a maximum of 15 dwelling units per acre or less (in feet)	35	
<b>59-C-14.25.5. Minimum Setbacks (in feet):</b>		
- From an adjacent TMX Zone <sup>4</sup>	15	
- From an adjacent commercial or industrial zone	20	
- From an adjacent single family residential zone	25	
- From a public right-of-way	10	
<b>59-C-14.25.6. Minimum and Maximum Density of Development</b> <sup>5</sup> (floor area ratio)	.25 - .5 <sup>6</sup>	3.0 <sup>6</sup>
12.5% of any density above the maximum of the standard method, as set in the applicable master or sector plan, must be through the purchase of BLTs or through a contribution to the BLT Land trust, as described in Section 59-C-14.30.		

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<sup>1</sup> A smaller lot may be approved if the lot is located adjacent to or confronting another lot either classified in or under application for the same zone, or the combined lots are subject to a single project plan. The minimum area requirement does not prohibit a lot of less than 18,000 square feet for purposes of subdivision or record plat approval.

<sup>2</sup> The required standard method public use space may be reduced to 5% if the Planning Board finds that the reduction is necessary to accommodate the construction of MPDU's, including any bonus units, on-site.

<sup>3</sup> The required optional method public use space may be reduced or eliminated on-site, if an equivalent amount of public use space is provided off-site in the same transit station development area within a reasonable time. A payment instead of all or some of the required public use space may be made if approved under Division 59-D-2.

<sup>4</sup> If the proposed building or the adjacent building has windows or apertures facing the lot line that provides light, access, or ventilation to a habitable space, the setback shall be 15 feet. If the adjacent building does not have windows or apertures, no setback is required.

<sup>5</sup> The maximum dwelling unit density or residential FAR may be increased in proportion to any MPDU density bonus provided on-site.

<sup>6</sup> Master or sector plan recommendations may limit the maximum density within these ranges.

108 **59-C-14.26. Special standards for development under the TMX zone.**

109 (a) **Public facilities and amenities.** Public facilities and amenities are  
110 required for approval of a standard or optional method development project.

111 (b) **Design Principles.** Site plans submitted for projects in the TMX zone  
112 must follow general design principles recommended by the applicable  
113 master or sector plan and design guidelines adopted by the Planning Board  
114 to implement the applicable master or sector plan. Unless those general  
115 principles or design guidelines recommend otherwise, or the Planning  
116 Board finds that it is infeasible to follow the design principles due to site  
117 constraints or other reasons, any project developed in the TMX zone  
118 should:

- 119 (1) use sustainable design principles;
- 120 (2) orient all buildings to streets;
- 121 (3) locate off-street parking to the side, rear, or below grade;
- 122 (4) create a continuous building line to accentuate open space and  
123 building entrances; blank building facades must be avoided or  
124 minimized;
- 125 (5) provide pedestrian-oriented activity at street level with uses  
126 such as storefront retail, residential entrances, office lobbies,  
127 and restaurants;
- 128 (6) promote pedestrian safety with safety-oriented environmental  
129 design and clearly designated crosswalks and sidewalks;
- 130 (7) include street trees and landscaping on all streets;
- 131 (8) provide continuous, direct and convenient connections to transit  
132 stations for pedestrians and bicyclists;
- 133 (9) locate and screen service and loading areas to reduce visibility  
134 from any street;

- 135           (10) for any building other than a one-family residential building,  
136           locate mechanical equipment within buildings or within a  
137           mechanical equipment penthouse; however if mechanical  
138           equipment is located on a roof or is freestanding, it must be  
139           effectively screened;
- 140           (11) design street lighting to avoid an adverse impact on surrounding  
141           uses, while also providing a sufficient level of illumination for  
142           access and security;
- 143           (12) provide tree canopy along each street;
- 144           (13) provide street furniture such as benches, trash receptacles and  
145           planters;
- 146           (14) enhance crosswalk areas with accessible curb ramps.

147           **59-C-14. 27.Off-street parking.** As required under Article 59-E.

148           **59-C-14.28. Special Standards for Optional Method of Development**  
149           **projects.**

- 150           (a) **Density and mix of uses.** In approving the mix of uses and the proposed  
151           densities, the Planning Board must consider the size of the parcel, and the  
152           relationship of the existing and proposed building or buildings to its  
153           surrounding uses. The mix of uses and the proposed densities must  
154           substantially conform to the recommendations of an approved and adopted  
155           master plan or sector plan.
- 156           (b) **Building height and setbacks.** The maximum height permitted for any  
157           building and the minimum building setback requirements must be  
158           determined during project plan review. In approving height limits or  
159           setback requirements, the Planning Board must consider the size of the lot  
160           or parcel, the relationship of existing and proposed buildings to  
161           surrounding uses, the need to preserve light and air for the residents of the

162 development and residents of surrounding properties, and any other factors  
163 relevant to the height or setback of the building. The proposed building  
164 height and the proposed setbacks must substantially conform to the  
165 recommendations of an approved and adopted master plan or sector plan.

166 (c) **Transfer of public use space, density, and mix of uses.** The Planning  
167 Board may approve the transfer of density, the mix of uses, and the public  
168 use space, between parcels classified in the TMX zone in the same transit  
169 station development area. The transfer of density must not result in an  
170 increase of density or height on parcels that abut or confront properties  
171 recommended for one-family residential development by an approved  
172 and adopted master plan or sector plan. Any transfer of public use space,  
173 density, or mix of uses must not result in a change in the total combined  
174 amount of public use space, density, or mix of uses otherwise attributable  
175 to the relevant parcels , and such transfers must be approved as part of a  
176 combined project plan for all relevant parcels under Section 59-D-2 and  
177 Section 59-D-3.

178 **59-C-14.29. Existing buildings and uses.**

179 Any lawful structure, building or established use that existed before the  
180 applicable Section Map Amendment adoption date, is a conforming structure  
181 or use and may be continued, structurally altered, repaired, renovated, or  
182 enlarged up to 10 percent of the gross building floor area or 7,500 square feet,  
183 whichever is less. However, any enlargement of the building that is more than  
184 10 percent of the gross floor area or 7,500 square feet or construction of a new  
185 building must comply with the standards of the TMX Zone.

186 **59-C-14.30. Special regulations for use of a Buildable Lot Termination**  
187 **(BLT) Development Right.**

- 188 (a) 12.5 percent of any floor area above the maximum allowed under the  
189 standard method of development, as recommended in the applicable  
190 master or sector plan, must be supported through the purchase by the  
191 applicant of a BLT or through a contribution to the Agricultural Land  
192 Preservation Fund under Chapter 2B for purchase of an easement on real  
193 property to preserve agricultural land in the County.
- 194 (b) One BLT must be required for 9,000 square feet of residential space,  
195 and 7,500 square feet of non-residential space for the amount of floor  
196 area supported through the purchase of BLTs .
- 197 (c) A BLT must be created, transferred and extinguished only by means of a  
198 recordable easement in perpetuity approved by the Planning Board,  
199 including appropriate releases. The BLT easement must extinguish the  
200 right to construct a dwelling unit on each 25 acres in the RDT zone  
201 subject to the easement.
- 202 (d) If the applicant for optional method of development under the TMX  
203 zone cannot purchase an easement, or if the amount of density to be  
204 attributed to BLT easement is a fraction of the applicable floor area  
205 equivalent, the Planning Board must require the applicant to pay the  
206 Agricultural Land Preservation Fund an amount equal to the average  
207 annual market rent for class A office space or multi-family residential  
208 space in the applicable master or sector plan area for the amount of floor  
209 area required to be supported by buildable rights termination.

210 **59-C-14.31. Development approval procedures under the standard and**  
211 **optional method of development.**

- 212 (a) In the standard method, APF validity will be determined at  
213 subdivision or at site plan if subdivision is not required.



- 214 (b) In the optional method, APF validity will be determined at the time of  
215 project plan if subdivision is not required.
- 216 (c) Under both standard and optional method, if subdivision is not  
217 required, the applicant must record a plat under Sec. 50-35A.
- 218 (d) The Planning Board must find that the proposed development:
- 219 (1) satisfies the provisions of this chapter;
- 220 (2) substantially conforms to any numeric limits recommended in the  
221 applicable master or sector plan concerning floor area ratio,  
222 dwelling units per acre, building heights, and setbacks; and is in  
223 substantial conformance with the recommendations of the  
224 applicable master or sector plan; and
- 225 (3) achieves a desirable development compatible with site conditions,  
226 surrounding existing development, and anticipated future  
227 development.

228 **59-C-14.32. Development standards applicable to the standard and**  
229 **optional method of development.**

230 In making the determination as to the final density, the Planning Board  
231 must consider whether the proposal:

- 232 (a) substantially conforms to any numeric limits recommended in the  
233 applicable master or sector plan concerning floor area ratio,  
234 dwelling units per acre, building heights, and setbacks; and  
235 substantially conforms with the recommendations in the  
236 applicable approved master or sector plan;
- 237 (b) preserves environmentally sensitive and priority forest areas, and  
238 mitigates unavoidable impacts on the natural environment;
- 239 (c) facilitates good transit serviceability and creates a desirable and  
240 safe pedestrian environment; and

241 (d) is compatible with surrounding land uses and promotes  
 242 harmonious development of the planning area.

243 \* \* \*

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

245 **ARTICLE 59-D. ZONING DISTRICTS—APPROVAL**  
 246 **PROCEDURES.**

247 **INTRODUCTION**

248 \* \* \*

249 The following table is provided for the convenience of the public, citing the  
 250 appropriate sections of article 59-C and indicating the types of plans  
 251 required in each zone. In event of conflict between this table and the  
 252 provisions of article 59-C, the latter must govern.

253 **Plan Approvals Required**

254

<u>Zone</u>	<u>Section Number</u>	<u>Development Plan (Division 59-D-1)</u>	<u>Project Plan Optional Method (Division 59-D-2)</u>	<u>Site Plan (Division 59-D-3)</u>	<u>Diagrammatic Plan (Division 59-D-4)</u>
* * *					
<i>Standard Method</i>					
* * *					
<u>TMX</u>				<u>X</u>	
<i>Optional Method</i>					
* * *					
<u>TMX</u>			<u>X</u>	<u>X</u>	

255 \* \* \*

256 **Sec. 3. Division 59-D-2 is amended as follows:**

257 \* \* \*

258 **Division 59-D-2. Project plan for optional method of development in the**  
 259 **CBD, TOMX, TMX, AND RMX ZONES.**

260 **Sec. 59-D-2.0. Zones enumerated.**

263  
264 The Planning Board is authorized to approve development under the optional  
265 method of development procedures described in Section 59-C-6.2 of the CBD  
266 zones, Section 59-C-10 of the RMX Zones, Section 59-C-13 of the TOMX Zones,  
267 Section 59-C-14 of the TMX zone, and the approval procedure set forth in this  
268 Division, for the following zones:

269 \* \* \*

270 [TOMX-1-Transit Oriented Mixed-Use, 1.0]

271 \* \* \*

272 [TOMX-1/TDR-Transit Oriented Mixed-Use/Transferable Development  
273 Rights, 1.0]

274

275 \* \* \*

276 TMX- Transit Mixed-Use

277 \* \* \*

278

279 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the date of  
280 Council adoption.

281

282 This is a correct copy of Council action.

283

284

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285 Linda M. Lauer

286 Clerk of the Council

287